STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

BRUCE MALOTT,

Plaintiff,

vs. No. D-101-CV-2011-03315

ANTHONY CORRERA; MARC CORRERA; GARY BLAND; SAUL MEYER; ALDUS EQUITY PARTNERS, L.P., a/k/a RENAISSANCE PRIVATE EQUITY PARTNERS, L.P.; ALDUS MANAGEMENT CO., LLC; ALDUS EQUITY LLC; ALDUS CAPITAL, LLC; GSS HOLDINGS (NMERB), INC.; ERASMUS CAPITAL MANAGEMENT, L.P.; ERASMUS CAPITAL GP, LLC; MATTHEW O'REILLY; RICHARD ELLMAN; DEUTSCHE BANK A.G.; DEUTSCHE BANK AMERICAS HOLDING CORP., d/b/a REEF PRIVATE EQUITY, a unit of REEF ALTERNATIVE INVESTMENTS, a management business of DEUTSCHE BANK'S ASSET MANAGEMENT DIVISION; DBAH CAPITAL, LLC; THE TOPIARY TRUST c/o Caledonian Bank and Trust Limited; DB INVESTMENT MANAGERS, INC.; KEVIN PARKER; CHARLES B. LEITNER; TIMOTHY B. KEITH; THOMAS CURTIS; CESAR A. BAEZ; BRIAN RICE; JOHN STIMSON; DEUTSCHE BANK JOHN DOES 1 through 5; VANDERBILT FINANCIAL TRUST; VANDERBILT CAPITAL ADVISORS, LLC; VANDERBILT FINANCIAL, LLC; PIONEER INVESTMENT MANAGEMENT U.S.A., INC.; PATRICK LIVNEY; KURT WILHELM FLORIAN, JR.; MARTIN CABRERA; CABRERA CAPITAL MARKETS, INC.; AJAX INVESTMENTS, LLC; AJAX ADVISORS, LLC; ARLENE RAE BUSCH; DAV/WETHERLY FINANCIAL, L.P.; WETHERLY MANAGEMENT LLC; DANIEL WEINSTEIN; VICKY LEE SCHIFF; JULIO RAMIREZ; SDN ADVISERS, LLC; L2 CAPITAL MANAGEMENT, LLC; L2 INVESTMENT ADVISERS, LLC; L2 ASSET MANAGEMENT, LLC; and JOHN DOES 1 through 50,

Defendants.

SECOND AMENDED COMPLAINT TO RECOVER MONEY DAMAGES FOR PERSONAL, BUSINESS, AND PROPERTY INJURY FROM RACKETEERING, FRAUD, BREACH OF FIDUCIARY DUTY, AND OTHER TORTIOUS CONDUCT

INTRODUCTION

1. Plaintiff Bruce Malott brings this Complaint to seek redress for damages he sustained by Defendants' misconduct. As pleaded below, Defendants played a variety of roles in a complex web of corruption that spanned the United States from coast-to-coast, including New Mexico, and resulted in illegal payoffs totaling far in excess of $ 100,000,000 ($ 100 Million). The Defendants' shared criminal objective was to steer the investments of public trust funds nationwide – with assets totaling hundreds of billions of dollars – to firms that were willing to pay bribes to influence-peddlers. Defendants' criminal misconduct in New Mexico secretly corrupted the integrity of New Mexico State Government including the New Mexico Educational Retirement Board ("ERB"), and resulted in at least $ 22,000,000 ($ 22 Million) in illegal payoffs in New Mexico alone.

2. As pleaded below, the majority of Defendants had direct, personal, and repeated dealings with Plaintiff, who was the ERB Chairman, and they intentionally put Plaintiff in harm's way by knowingly, maliciously, and fraudulently targeting him for deception. They did so in the course and scope of Defendants' criminal scheme, and as a necessary and integral part of concealing, perpetuating, and furthering Defendants' fraudulent scheme. As a direct and proximate result thereof, Plaintiff suffered exactly the sorts of injuries to be expected from Defendants doing so. That is, Plaintiff was damaged in precisely the manner foreseeable and in fact foreseen by Defendants.

3. In addition to Defendants who had direct dealings with Plaintiff, all Defendants – including the minority of Defendants who lacked direct dealings with Plaintiff – combined together, conspired, confederated, and agreed to participate in the Defendants' concerted criminal misconduct, including the fraudulent concealment of that misconduct. Accordingly, each and every Defendant was legally responsible for the misconduct of each and every other Defendant committed within the course and scope of the Defendants' conspiracy, including the fraudulent targeting of Plaintiff for deception.

4. Moreover, upon information and belief to be confirmed by pretrial discovery, many if not all of the minority of Defendants who lacked direct dealings with Plaintiff had actual knowledge that Plaintiff was the ERB Chairman, as well as a duty to disclose Defendants' fraudulent misconduct, rather than concealing it from Plaintiff and other loyal State officials. If any of the Defendants had honored this duty, the ERB would have taken appropriate action to protect the integrity of the ERB and the harm to Plaintiff would have been prevented. But rather than doing so, all of the Defendants knowingly, intentionally, maliciously, and fraudulently concealed their concerted criminal misconduct.

5. The ERB is responsible for the administration and investment of the Educational Retirement Fund ("ERB Fund"). At the time this lawsuit was commenced, the Fund's portfolio had approximately ($ 9.5 Billion) in pension assets for the benefit of approximately 95,000 active and retired New Mexico teachers, custodians, school nurses, university professors, bus drivers, and other education employees ("educators"). From June 1999 to August 2004 Plaintiff was a volunteer member of the ERB Board of Directors, and from August 2004 until September 2010 he was the volunteer ERB Chairman. During his tenure as Chairman, Plaintiff devoted thousands of uncompensated hours to remedying the Fund's multibillion dollar unfunded

pension liability, which existed at the time Plaintiff became ERB Chairman and which threatened the Fund's long term solvency.

6. Under Plaintiff's leadership, the Fund's performance improved dramatically, resulting in billions of additional dollars for educators' retirement benefits. However, unbeknownst to Plaintiff – despite these remarkable financial gains – the Defendants had corrupted the Fund's investment process for their own selfish interests.

7. The Defendants' concerted criminal misconduct in New Mexico ("Defendants' scheme") began in 2003 at the New Mexico State Investment Council ("SIC"), which is responsible for the administration and investment of two permanent investment funds maintained for the benefit of the citizens of New Mexico. At the time this lawsuit was commenced, the SIC's combined portfolio had a value of approximately $ 14,000,000,000 ($ 14 Billion). Once the Defendants got their collective foot in New Mexico's door at the SIC, Defendants expanded their scheme to the ERB beginning in 2006.

8. As pleaded below, Defendant Aldus Partners was the SIC's and ERB's private equity investment advisor. Defendant Saul Meyer had a leading role in that firm's relationship with the New Mexico Funds.

9. Defendants Aldus Partners and Meyer, as well as all of the other representatives of Aldus Partners, were "fiduciaries" to the New Mexico Funds. That is, they were bound by the highest duty of loyalty to the Funds, and they were legally required to act solely and exclusively in the best interests of the Funds. As Defendant Meyer explained in a secretly-recorded Aldus Partners meeting, however, their real goal in making investment recommendations to the SIC and ERB was to further the Defendants' unlawful scheme and generate illegal payoffs:

> I think we really have to step back and understand that at places like New Mexico . . . we have to work a process . . . way in advance. We have all

> kinds of interested parties, and we have to find a way to construct the best possible portfolio that achieves certain goals. And those certain goals are certain people getting their funds done.

September 16, 2006 Audio Recording (at approximately 1:56:32 through 1:57:04). The so-called "process" Defendant Meyer admitted he and Defendant Aldus Partners were following was in direct violation of their fiduciary duties.

10. As pleaded in this Complaint – and as Plaintiff will prove in more detail at trial following the pretrial discovery process – each and every one of the persons and entities named as Defendants in this case combined together, conspired, confederated, and agreed to pursue the Defendants' common criminal objective. That is, all of the Defendants agreed to profit, both individually and collectively, by falsely claiming to provide the ERB with loyal and independent financial services in the best interests of the ERB Fund. In truth of fact, however, the Defendants were deceiving, misleading, and manipulating the ERB – including Plaintiff, the ERB's full-time professional staff, and other loyal public servants – by secretly providing financial services intended to enrich the Defendants.

11. The Defendants' agreement constituted a partnership in crime, also known as a "criminal conspiracy." Each of the Defendants was a partner in this criminal conspiracy, and therefore each also is known as a "conspirator" or "coconspirator." In a criminal conspiracy, each and every conspirator is an agent of each and every one of its coconspirators. That is, as long as the partnership in crime continues, each partner in the criminal conspiracy acts for each other partner in carrying the conspiracy forward. Where, as here, the Defendants agree to pursue the same criminal objective, each conspirator is responsible for the acts of each and every one of its coconspirators in furtherance of the conspiracy. This is true notwithstanding the fact that the conspirators divide up both the work and the spoils.

12. Moreover, upon joining a conspiracy, each partner in crime remains a conspirator unless and until that party affirmatively withdraws from the conspiracy; that is, unless and until that conspirator (a) takes affirmative and unequivocal action inconsistent with the goals of the conspiracy, and (b) communicates the withdrawal in a manner reasonably calculated to reach each and every coconspirator. In this case, the Defendants' criminal conspiracy continued throughout the time period pleaded in this Complaint and none of the Defendants ever withdrew from the conspiracy. Accordingly, each and every Defendant is responsible for each and every act performed in furtherance of the criminal conspiracy, as pleaded in this Complaint. This is true whether a particular Defendant personally performed the act, or instead vicariously was responsible because the act was performed by one or more of the other Defendants; *i.e.*, one of the partners in crime.

13. As with any criminal conspiracy, the Defendants' misconduct necessarily was characterized by secrecy. Specifically, these Defendants knew their scheme would have been brought to a screeching halt if the truth had been disclosed to Plaintiff, the ERB staff, law enforcement, or any other loyal State official. Therefore, it was as an integral and essential part of the Defendants' scheme to do everything possible to conceal and otherwise avoid detection of their scheme. Accordingly, since Plaintiff was the ERB's Chairman and a member of its investment committee when the Defendants' conspiracy expanded to the ERB, it was a necessary, intended, and integral part of the Defendants' scheme to target Plaintiff for deception, by concealing their ongoing fraudulent misconduct from him by affirmatively lying to Plaintiff about their intentions and by failing to disclose material fact they were under a duty to disclose.

14. As pleaded herein, the Defendants did do everything possible to deceive Plaintiff, by word and by deed, and by affirmative misrepresentations as well as fraudulent failures to

disclose, in order to conceal, perpetuate, and further their scheme. Moreover, Defendants recognized that – by duping Plaintiff and violating his trust for the purpose of concealing and furthering their crimes – Defendants were putting Plaintiff in jeopardy of suffering grievous injury if and when the Defendants' crimes were exposed. As the Defendants well knew, Plaintiff's position as Chairman and his relationship to various Defendants likely would leave the false but severely damaging impression that Plaintiff was complicit in Defendants' crimes and thereby cause grievous damage to Plaintiff.

15. When Defendants' concerted criminal misconduct ultimately was exposed, Plaintiff was damaged in precisely the manner foreseeable and in fact foreseen by the Defendants. That is, Plaintiff suffered grievous injury as a result of the community reaction from the false but severely damaging impression that he was complicit in Defendants' scheme. As a result, Defendants caused Plaintiff to lose the nationally-recognized accounting firm he spent nearly three decades building, as well as his job as the firm's managing partner. In addition, as pleaded below, Defendants caused Plaintiff to suffer grievous damage to his professional reputation and goodwill, opportunities, earning capacity, personal reputation, standing in the community, and overall wellbeing.

16. Plaintiff unfairly suffered this damage, even though (a) Plaintiff provided loyal, extraordinary, and uncompensated service to the ERB, (b) Plaintiff was completely unaware of the Defendants' scheme, (c) it was an integral and necessary part of the Defendants' scheme to keep Plaintiff in the dark about the Defendants' wrongdoing, and (d) Defendants specifically targeted Plaintiff for deception.

THE PARTIES

17. Plaintiff Bruce Malott is a resident of Bernalillo County, New Mexico. Plaintiff is a Certified Public Accountant (CPA) and a Certified Valuation Analyst (CVA), and he is certified in Financial Forensics (CFF). Before Defendants ruined Plaintiff's reputation and standing in the community, he was the managing principal and an owner of a preeminent New Mexico accounting firm, and the Chairman of the ERB. In addition, at various times Plaintiff had served as the Chairman of the New Mexico State Board of Accountancy, and as a member of a variety of prestigious committees and boards.

18. Plaintiff also took a deep interest in Government, and Plaintiff's longtime involvement in the democratic process was a source of great personal satisfaction to him. Plaintiff was associated with the political campaigns of, among others, a United States President, Governors, Federal and State legislators, and members of the State Judiciary, and he served as Treasurer for the political campaigns of a number of high-ranking governmental officials.

19. Defendant Anthony Correra ("Defendant Correra, Sr.") is a resident of Bernalillo County, New Mexico. At all times material to this Complaint, Defendant Correra, Sr., had a close and highly conspicuous relationship with then New Mexico Governor Bill Richardson. Defendant Correra, Sr., also was as an expert in economic analysis and investments. Defendant Correra, Sr., served as a personal financial adviser to Governor Richardson, as well as an informal adviser to the Governor on official State economic, financial and investment matters. Indeed, before the Defendants' criminal scheme was exposed, the Governor considered Defendant Correra, Sr., to be an "economic guru" and a "dear friend." Defendant Correra, Sr., widely trumpeted these and similar statements by the Governor to Plaintiff and many others, in order to develop credibility and further the Defendants' scheme. *See* Exhibit A, hereto (two

December 31, 2008 e-mail chains beginning with Defendant Correra, Sr.'s 10:06:43 a.m. economic forecast e-mail to the Governor, Plaintiff, and others), pp. 1-2.

20. Ironically, before Defendants' scheme was exposed, Defendant Correra, Sr., often was known to say publicly: "I am the only real friend the Governor has, because I do not make any money off the State."

21. Defendant Marc Correra ("Defendant Correra, Jr.") was, at all times material to this Complaint, a resident of Santa Fe County, New Mexico. Defendant Correra, Jr., is the son of Defendant Correra, Sr., and he was the primary recipient of the payoffs generated in New Mexico by Defendants' scheme.

22. Upon information and belief, Defendant Correra, Jr., currently can be found in Paris, France. In a 2010 Texas divorce proceeding, Defendant Correra, Jr.'s estranged wife swore that Defendant Correra, Jr., had admitted to leaving the United States "temporarily until things died down," because he was "facing substantial financial and legal problems." Defendant Correra, Jr.'s flight from the United States is disregarded for domicile purposes. Accordingly, for the purposes of this lawsuit Defendant Correra, Jr., retains his Santa Fe County residency, which was his last domicile before he fled the jurisdiction.

23. Moreover, although Defendant Correra, Jr., has sought the assistance of courts in the United States for his own purposes, he has hopscotched locations in this country and abroad to attempt to evade lawful service of process in this case. Although this lawsuit was filed in 2011 and Plaintiff has made repeated attempts to serve him, including by employing international conventions for service of process, Defendant Correra, Jr., has succeeded in evading process as of the date of this filing. And, of course, despite the fact that Defendant Correra, Jr., is represented by multiple lawyers in multiple actions pending in courts in the

United States – including lawsuits he himself initiated – he has refused to authorize his lawyers to accept service on his behalf. Defendant Correra, Jr.'s conduct in evading service is evidence of his consciousness of guilt.

24. Defendant Gary Bland is a resident of Santa Fe County, New Mexico. Defendant Bland was hired as the New Mexico State Investment Officer ("SIO") and the Chair of the State Investment Council ("SIC") on or about January 14, 2003, after a long private-sector career in which he managed an approximately $ 50 billion pension fund.

25. Defendant Correra, Sr., was instrumental in Defendant Bland's hiring as SIO. Defendant Bland's resume was transmitted to Governor Richardson's office from the Correra Defendants' facsimile number, and Defendant Correra, Sr. – as a member of the SIO selection committee – successfully championed Defendant Bland's hiring to Governor Richardson.

26. Shortly after Defendant Bland became SIO, he provided Defendant Correra, Sr., with office space at the New Mexico State Investment Office building, where Defendant Correra, Sr., attended meetings on potential investments of the SIC, received mail, met with SIC staff regarding investments, and was provided with a state-issued telephone number. Likewise shortly after Bland became SIO, and unbeknownst to any State Official other than Defendant Bland, Defendant Correra, Jr., promptly began soliciting payoffs in connection with SIC investments. As a result, although discovery may show even earlier payoffs, Defendant Vanderbilt formalized an agreement to pay a company "owned and/or controlled by Marc Correra" a fraudulent $ 645,000 "fee" in connection with one SIC investment in January 2004; that is, approximately one year after Defendant Bland became SIO. And only five months later, Defendant Vanderbilt agreed to an additional $ 866,000 payoff to Defendant Correra, Jr., using the same ruse. *See* Exhibit B hereto.

27. Defendant Bland was appointed by Governor Richardson as an ERB trustee in or about August 2005. In addition, completely apart from that appointment, the ERB's governing statute explicitly authorized the ERB to make investment decisions based on the recommendations of Defendant Bland, in his capacity as the SIO.

28. During Defendant Bland's terms with the SIC and the ERB, he was a fiduciary to both funds. Accordingly, Defendant Bland legally was bound by the highest duty of loyalty to these funds, and was required to act solely and exclusively in the best interests of the Funds.

29. On January 21, 2003, Defendant Bland executed an oath stating, among other things: "I Gary B. Bland, do solemnly swear that I will . . . faithfully and impartially discharge the duties of the office of State Investment Officer on which I am about to enter to the best of my ability, SO HELP ME GOD." *See* Exhibit C hereto (filed January 27, 2003).

30. On August 31, 2005, Defendant Bland executed an oath stating, among other things: "I Gary B. Bland, do solemnly swear that I will . . . faithfully and impartially discharge the duties of the office of Educational Retirement Board on which I am about to enter to the best of my ability, SO HELP ME GOD." *See* Exhibit D hereto (filed September 12, 2005).

31. Defendant Bland falsely executed these oaths of office, knowingly and with the intent to deceive, because he intended all along to serve his own selfish interests and the selfish interests of his coconspirators, including the Correra Defendants. Rather than honor these oaths, Defendant Bland knowingly, intentionally, willfully, maliciously, and purposefully steered New Mexico Fund assets to investments that would generate fraudulent payoffs to Defendant Correra, Jr. Defendant Bland went so far as to direct investment management firms already in contact with the SIC to Defendant Correra, Jr., for "marketing help," and to suggest to those firms that hiring Correra, Jr., would increase their chances of receiving New Mexico investment money.

32. Once Defendant Bland's duplicity was exposed, as pleaded below, he resigned as the SIO on or about October 21, 2009, and as a Trustee of the ERB the following day.

33. Defendant Saul Meyer is a resident of the State of Texas. Defendant Meyer is an attorney, and he was an investment advisor with Defendant Aldus Equity Partners, L.P., a/k/a Renaissance Private Equity Partners, L.P. ("Aldus Partners"). Defendant Aldus Partners served as the "private equity" investment advisor to the SIC beginning in or about late 2003, which means that Defendant Aldus Partners was responsible for recommending private equity investments to the SIC. Defendant Aldus Partners began to serve as the private equity investment advisor for the ERB on or about October 13, 2006. Defendant Meyer is the person speaking at the September 16, 2006 Aldus Partners meeting quoted above, which was secretly recorded by other owners of Defendant Aldus Partners in attendance at the meeting.

34. "Private equity" refers to investments that are not publicly traded on stock exchanges, and typically (a) require a minimum of multimillion dollar investments, (b) have the potential for higher investment returns, (c) carry higher risk of losses, and (d) are more complex and difficult to evaluate. Large institutional investors like the SIC and ERB are typical of the types of investors in private equity funds.

35. Defendants Meyer and Aldus Partners were part of the nationwide web of corruption that already had resulted in huge payoffs in New York and elsewhere to a variety of conspirators, including but not limited to conspirators named as Defendants in this Complaint. Defendant Correra, Sr., was instrumental in bringing Defendants Meyer and Aldus Partners here, for the purpose of extending their concerted criminal activity into New Mexico.

36. At all times material to this Complaint, as pleaded above, Defendants Meyer and Aldus Partners were fiduciaries to both the SIC and the ERB. Like Defendant Bland and all other fiduciaries identified in this Complaint, Defendants Meyer and Aldus Partners legally were bound by the highest duty of loyalty to act solely and exclusively in the best interests of the funds. And like Defendant Bland, Defendants Meyer and Aldus Partners violated their fiduciary duties by acting in their own selfish interests and the selfish interests of their coconspirators, including the Correra Defendants.

37. The SIC fired Defendants Meyer and Aldus Partners on or about April 30, 2009, following the initial public disclosures of their concerted criminal misconduct in New York. The ERB fired those Defendants shortly thereafter.

38. Defendant Aldus Partners, referenced above, is a Texas limited partnership. As pleaded above, at all times material to this Complaint Defendant Aldus Partners was a fiduciary to the SIC and the ERB.

39. Defendant Aldus Management Co., LLC ("Aldus GP"), is a Texas limited liability company. Defendant Aldus GP is the General Partner of Defendant Aldus Partners, and therefore is jointly responsible for its financial obligations. Defendant Aldus GP acted in concert with Defendant Aldus Partners in executing Defendants' scheme.

40. Defendants Aldus Equity LLC ("Aldus Equity") and Aldus Capital LLC ("Aldus Capital") are limited liability companies organized in the State of Texas. Upon information and belief, Defendants Aldus Equity and Aldus Capital both have the same management and ownership as Defendant Aldus GP and operate as its alter egos. Accordingly, Defendants Aldus Equity and Aldus Capital both are jointly responsible for the financial obligations of Defendants Aldus Partners and Aldus GP.

41. Defendant GSS Holdings (NMERB), Inc. ("Aldus-GSS"), is a Delaware corporation. Defendant Aldus-GSS is an Aldus affiliate specially created to be the General Partner of a limited partnership in which the ERB was a limited partner, and at all times material to this Complaint was a fiduciary to the ERB.

42. Defendants Erasmus Capital Management, L.P. ("Aldus-Erasmus L.P."), is a Delaware limited partnership. Defendant Aldus-Erasmus L.P. is an Aldus affiliate, was a Special Limited Partner of a limited partnership in which the ERB was a limited partner, and at all times material to this Complaint was a fiduciary to the ERB.

43. Erasmus Capital GP, LLC ("Aldus-Erasmus GP") is a Delaware limited liability company. Defendant Aldus-Erasmus GP is the General Partner of Defendant Aldus-Erasmus L.P, and therefore is jointly responsible for its financial obligations.

44. Defendants Aldus-GSS, Aldus-Erasmus L.P., and Aldus-Erasmus GP were created by one or more of the above-named Aldus entities. These Defendants acted in concert with, and were instruments of, the other Aldus Defendants in Defendants' scheme.

45. Defendants Aldus Partners, Aldus GP, Aldus Equity, Aldus Capital, Aldus-GSS, Aldus-Erasmus L.P., and Aldus-Erasmus GP hereinafter are referred to collectively as "the Defendant Aldus Entities."

46. Defendant Matthew O'Reilly is a resident of the State of Texas. Defendant O'Reilly is a founding member of Defendant Aldus Partners, and at all times material to this Complaint he was a fiduciary to both the SIC and the ERB.

47. Defendant Richard Ellman is a resident of the State of Texas. Defendant Ellman played a lead role for the Defendant Aldus Entities regarding the ERB, he is an attorney, and at all times material to this Complaint he was a fiduciary to both the SIC and the ERB.

48. The Defendant Aldus Entities, Meyer, O'Reilly, and Ellman at times hereinafter are referred to collectively as "the Aldus Defendants."

49. Defendant Deutsche Bank A.G. is an investment bank headquartered in Frankfurt, Germany. In or about January 2007, Deutsche Bank A.G. acquired indirect ownership of a controlling interest in Defendant Aldus Partners and assumed ultimate responsibility for the conduct of its business, including Defendant Aldus Partners' obligation to comply with the law.

50. Defendant Deutsche Bank Americas Holding Corp., d/b/a REEF Private Equity, a unit of REEF Alternative Investments, a management business of Deutsch Bank's Asset Management Division ("Deutsche Bank Americas"), is a Deutsche Bank A.G. subsidiary that acquired the controlling interest in Defendant Aldus Partners.

51. Defendant DBAH Capital, LLC ("Deutsche Bank DBAH"), is a limited liability company owned by Deutsche Bank Americas. Defendant Deutsche Bank Americas acquired its interest in Defendant Aldus Partners through Defendant Deutsche Bank DBAH. Defendants Deutsche Bank A.G., Deutsche Bank Americas, and Deutsche Bank DBAH, hereinafter are referred to collectively as "Deutsche Bank."

52. Defendant The Topiary Trust c/o Caledonian Bank and Trust Limited ("Deutsche Bank-Topiary Trust"), is a Cayman Islands Trust incorporated under the laws of the Cayman Islands. Defendant Deutsche Bank-Topiary Trust is hedge fund of funds, and at all times material to this Complaint was a fiduciary to the ERB.

53. Defendant DB Investment Managers, Inc. ("Deutsche Bank-DB"), is a subsidiary of Deutsche Bank. Defendant Deutsche Bank-DB is the investment adviser for Defendant Deutsche Bank-Topiary Trust, was responsible for obtaining investors for that Defendant, and at all times material to this Complaint was a fiduciary to the ERB.

54. Defendant Kevin Parker is a nonresident of the State of New Mexico. At all times material to this Complaint, Defendant Parker was an employee of Deutsche Bank, a member of its Group Executive Committee, and its Head of Asset Management.

55. Defendant Charles B. Leitner is a nonresident of the State of New Mexico. At all times material to this Complaint, Defendant Leitner was as an employee of Deutsche Bank, and he reported to Defendant Parker. Defendant Leitner also was the Global Head of Alternative Investments, and he was in charge of Deutsche Bank's Topiary Fund Management.

56. Defendant Timothy B. Keith is a nonresident of the State of New Mexico. At all times material to this Complaint, Defendant Keith was an employee of Deutsche Bank, and upon information and belief, he reported to Defendant Leitner. Defendant Keith was a Deutsche Bank managing director, and at various times was identified as the Chief Executive Officer and the Global Chief Investment Officer of REEF.

57. Defendant Thomas Curtis is a nonresident of the State of New Mexico, and he is an attorney. At all times material to this Complaint, Defendant Curtis was an employee of Deutsche Bank and the Global Head of Business Development.

58. Defendant Cesar A. Baez is a nonresident of the State of New Mexico. At times material to this Complaint, Defendant Baez was an employee of Deutsche Bank. Defendant Baez was the Head of Strategy of Institutional Business Development and Private Equity at Deutsche Bank Alternative Investments.

59. Defendants Brian Rice and John Stimson are residents of the State of New York. At all times material to this Complaint, Defendants Rice and Stimson were employees of Deutsche Bank working in DB Absolute Return Strategies, which is a business unit and/or trade name and/or affiliate of Defendant Deutsche Bank, and fiduciaries to the ERB.

60. Defendants Deutsche Bank John Does 1 through 5 are related Deutsche Bank entities and present and former employees of Defendant Deutsche Bank and/or related entities. Plaintiff may move to further amend this Second Amended Complaint to identify these additional parties at a later time.

61. Defendants Deutsche Bank A.G., Deutsche Bank Americas, Deutsche Bank DBAH, Deutsche Bank-Topiary Trust, Deutsche Bank-DB, Parker, Leitner, Keith, Curtis, Baez, Rice, Stimson, and the Deutsche Bank John Does 1 through 5 at times hereinafter are referred to collectively as "the Deutsche Bank Defendants." At least as early as the summer of 2006, the Deutsche Bank Defendants assumed fiduciary relationships with the SIC and ERB and thereafter legally were bound by the highest duty of loyalty to act solely and exclusively in the best interests of both Funds.

62. Defendant Vanderbilt Financial Trust ("Vanderbilt Trust") is a Delaware trust. Defendant Vanderbilt Trust's ownership apparently permitted it to be administratively dissolved in 2006, but nonetheless Defendant Vanderbilt Trust and its successors in interest remain responsible for the misconduct pleaded herein.

63. Defendant Vanderbilt Financial, LLC ("Vanderbilt Financial"), is a Delaware limited liability company, which was formed as a holding company to own all or a majority of the equity interests in the Defendant Vanderbilt Trust.

64. Defendant Vanderbilt Capital Advisors, LLC ("Vanderbilt Capital"), is a Delaware limited liability company. Defendant Vanderbilt Capital manages and owns substantially all of the common membership interests of Defendant Vanderbilt Financial through Defendant Vanderbilt Trust.

65. Defendant Vanderbilt Capital apparently dissolved Defendant Vanderbilt Financial after the time period relevant to this Complaint, and Defendant Vanderbilt Capital continues to operate Defendant Vanderbilt Financial's business. Vanderbilt Financial and its successors in interest remain responsible for the misconduct pleaded in this Complaint.

66. Defendant Pioneer Investment Management U.S.A., Inc. ("Vanderbilt-Pioneer") is a Delaware corporation. Defendant Vanderbilt-Pioneer is the corporate parent of Defendant Vanderbilt Capital and Defendant Vanderbilt Financial, and it directed and controlled the actions of those subsidiaries.

67. Defendants Vanderbilt Trust, Vanderbilt Financial, Vanderbilt Capital, and Vanderbilt-Pioneer hereinafter are referred to collectively in this Complaint as "Vanderbilt." At all times material to this Complaint, these Defendants were fiduciaries to the ERB and the SIC.

68. Defendant Patrick A. Livney is a resident of the State of Illinois. Defendant Livney was the Chief Executive Officer of Defendant Vanderbilt Financial, and a director of Defendant Vanderbilt Capital. He also was a Senior Managing Partner of the Structured Finance Group of Defendant Vanderbilt Capital. At all times material to this Complaint, Defendant Livney was a fiduciary to the ERB.

69. Defendant Kurt Wilhelm Florian, Jr., is a resident of State of Illinois, and he is an attorney. Defendant Florian was the Chief Operating Officer and Counsel of Defendant Vanderbilt Financial, and the Chief Operating Officer and Counsel of the Structured Financial Group of Defendant Vanderbilt Capital. At all times material to this Complaint, Defendant Florian was a fiduciary to the ERB.

70. Defendants Vanderbilt Trust, Vanderbilt Financial, Vanderbilt Capital, Vanderbilt-Pioneer, Livney and Florian at times hereinafter are referred to collectively as "the Vanderbilt Defendants."

71. Defendant Martin Cabrera is a resident of the State of Illinois, and the President of Defendant Cabrera Capital Markets, Inc. ("Cabrera Capital"). Defendant Cabrera indirectly controls Defendant Cabrera Capital, and he directs the management and policies of that firm.

72. Defendant Cabrera Capital is an Illinois corporation that was a front for unlawful payoffs to Defendant Correra, Jr.

73. Defendant Ajax Investments, LLC ("Ajax Investments"), is an Illinois limited liability company that was a front for unlawful payoffs to Defendant Correra, Jr.

74. Defendant Ajax Advisors, LLC ("Ajax Advisors"), is an Illinois limited liability company and an affiliate of Ajax Investments, which acted in concert with Defendant Ajax Investors and was complicit in unlawful payoffs to Defendant Correra, Jr.

75. Defendant Arlene Rae Busch is a managing director, principal and chief compliance officer of Defendant Ajax Investments. Defendant Busch also controls Defendant Ajax Advisors, and she controls Defendant Ajax Investments both by her direct ownership and by her indirect ownership through her controlling interest in Defendant Ajax Advisors.

76. Defendant DAV/Wetherly Financial, L.P. ("DAV/Wetherly"), is a California limited partnership that was a front for unlawful payoffs to Defendant Correra, Jr.

77. Defendant Wetherly Management, LLC ("Wetherly GP"), is California limited liability company. Defendant Wetherly GP is the General Partner of Defendant DAV/Wetherly, and therefore is jointly responsible for its financial obligations. Defendant Wetherly GP acted in

concert with Defendant DAV/Wetherly, and was complicit in the fraudulent payoffs to Defendant Correra, Jr.

78. Defendant Daniel Weinstein is a resident of the State of California. At all times material to this Complaint, Defendant Weinstein directed the management and policies of Defendant DAV/Wetherly, which he owned and controlled through other entities including Wetherly GP.

79. Defendant Vicky Lee Schiff is a resident of the State of California. At all times material to this Complaint, Defendant Schiff was the Managing Director, CEO, CFO and COO of Defendant DAV/Wetherly. Defendant Schiff also was an owner of Defendant DAV/Wetherly, and she directed the management and policies of Defendant DAV/Wetherly.

80. Defendant Julio Ramirez is a resident of the State of California. Defendant Ramirez pled guilty to securities fraud in New York resulting from his involvement in the nationwide web of corruption, of which the New Mexico scheme pleaded herein was a part. Defendant Ramirez was the intended beneficiary of a number of kickbacks paid on New Mexico investments, and he also acted as a front for unlawful payments to Defendant Correra, Jr. At certain times material to this Complaint, Defendant Ramirez was an employee of Defendant DAV/Wetherly.

81. At all times material to this Complaint, Defendant SDN Advisers, LLC ("SDN Advisers"), was a Florida limited liability company controlled by Defendant Correra, Jr., which was a front for unlawful payoffs to him. The State of Florida administratively dissolved SDN Advisers on or about September 26, 2008. Defendant Correra, Jr., is the successor in interest to Defendant SDN Advisers and therefore is personally responsible for its financial obligations.

82. Defendants L2 Capital Management, LLC ("L2 Capital"), and L2 Investment Advisers, LLC ("L2 Investment"), are Delaware limited liability companies controlled by Defendant Correra, Jr., which were fronts for unlawful payoffs to him.

83. Defendant L2 Asset Management, LLC ("L2 Asset"), is a New Mexico Domestic Limited Liability Company controlled by Defendant Correra, Jr., which was a front for unlawful payoffs to him.

84. Defendants John Does 1 through 50 are additional persons and entities who participated in the scheme pleaded in this Complaint. Plaintiff may move to further amend this Second Amended Complaint to identify these additional parties at a later time.

VENUE AND JURISDICTION

85. Venue is proper in this District pursuant to NMSA 1978, Section 38-3-1(A).

86. All of the Defendants have submitted themselves to the jurisdiction of this Court, because (a) the causes of action alleged herein arise out of the Defendants' commission of jurisdictional acts pursuant to NMSA 1978, Section 38-1-16, and (b) Defendants' conduct establishes the Constitutionally-required minimum contacts.

87. Each and every one of the Defendants knowingly, intentionally, willfully, maliciously, and purposefully aimed and directed their fraudulent activity toward State of New Mexico, in order to derive improper benefits from their New Mexico victims as a result of the Defendants' wrongful interstate activities. In doing so, the Defendants engaged in tortious acts targeting and causing harm within the State of New Mexico, as alleged herein. Accordingly, the Defendants purposefully availed themselves of potentially lucrative business relationships in New Mexico and derived fraudulent benefits therefrom.

88. In addition, each of the Defendants engaged in a conspiracy calculated to cause harm within the State of New Mexico and conducted with knowledge of the harmful effects in New Mexico. Moreover, all of the Defendants reasonably could have and should have foreseen, and in fact did foresee, harm occurring in the State of New Mexico as a result of their tortious conduct, including the harm to Plaintiff pleaded herein that was a direct and proximate result of Defendants' misconduct.

89. Many of the Defendants committed tortious acts within the course and scope of their criminal conspiracy and in furtherance thereof while physically in the State of New Mexico. And all of the Defendants engaged in concerted action with their coconspirators that contemplated and authorized their agents – including but not limited to Defendants Correra, Sr., Correra, Jr., Bland, Meyer, and Aldus Partners – to commit such acts within New Mexico's physical borders.

90. For all of these reasons, the Defendants should have expected that if their misconduct were exposed they would be sued in New Mexico. Accordingly, none of the Defendants has a legitimate objection to the exercise of jurisdiction by the New Mexico Courts.

FACTS

The ERB Was In A Funding Crisis When Plaintiff Was Elected Chairman.

91. The Educational Retirement Fund ("Fund") is a defined benefit pension plan, which means that beneficiaries of the Fund legally are entitled to pension benefits in the specific amounts and at the specific times defined in the Educational Retirement Act ("Act").

92. The ERB, by its board of trustees, is responsible for ensuring that the ERB Fund is financially sound, so that it can fulfill its responsibility to retired educators. In order to do so,

the Fund must have sufficient assets to pay current and future pension benefits in the amounts and at the times defined in the Act, in perpetuity.

93. Evaluating the financial soundness of defined benefit pension plans such as the ERB Fund requires extensive financial analysis of the plan's assets, pension obligations and other costs, as well as projections regarding the plan's expected future contributions, investment returns and obligations over many generations. Since future events are uncertain – such as investment returns, life expectancy, salary increases, retirement patterns, etc. – this analysis necessarily is based in part on statistics and projections. The services of highly-specialized financial professionals known as actuaries are required to perform the complex calculations necessary to conduct this analysis, in conformity with generally recognized professional principles and standards applicable to all defined benefit plans throughout the United States.

94. In order to ensure that defined benefit plans can meet their obligations to future generations, they must have a "Funding Period" that complies with Governmental Accounting Standards Board ("GASB") Statement No. 25. The "Funding Period" is the number of years the actuaries calculate will be required for the plan's assets to grow – by contributions and investment returns – to an amount equal to the value of the beneficiaries' earned benefits.

95. The ERB's goal is to maintain a Funding Period of no longer than 25 years, which would be in compliance with the 2004 GASB 25 requirement (40 years) and the current GASB 25 requirement (30 years).

96. As of June 2004, however, the ERB's actuaries concluded that the plan's Funding Period was "infinite." In other words, the ERB Fund was not in compliance with ERB policy or GASB 25, and absent fundamental changes it never would be fully funded. While the Fund would have had the assets necessary to meet its obligations for at least a generation, it would not

have remained solvent in perpetuity. That is, unless the ERB's funding shortfall were fixed, the Fund would run out of money to pay benefits to the young educators now contributing to the Fund when it came their turn to retire.

97. This dire actuarial report was the consequence of a dramatic change in the financial condition of the ERB Fund since 2001. The Funding Period reported by the ERB's actuaries as of June 2001 was 12.5 years, which more than complied with ERB policy and GASB 25. But the Fund's net assets dropped by more than $ 1,700,000,000 ($ 1.7 Billion) over the next two years. Accordingly, on the way to the Funding Period reaching its dismal "infinite" status in 2004, the Funding Period deteriorated annually, from its beginning level in 2001 of 12.5 years, to 27.2 years in 2002, and to 78 years in 2003.

98. By the spring of 2004, it was apparent to Plaintiff, the ERB's actuaries, and the New Mexico Legislature that – absent the ERB implementing major changes – the ERB Fund was on a path to insolvency. Accordingly, the Legislature urged the ERB to hire expert pension fund consultants to identify the causes of the crisis and to recommend the changes necessary to return the Fund to a financially sound course.

99. In June 2004, the ERB hired Mellon's Human Resources & Investor Solutions ("Mellon") to find a solution to the ERB's funding crisis. In July 2004, Plaintiff publicly disclosed both the crisis and the steps the ERB was taking to devise a corrective plan and that disclosure was reported in the media.

100. By sharing this information with the people the ERB serves, Plaintiff incurred the wrath of some longtime ERB leaders who preferred to keep their failures and the ERB Fund's financial crisis out of the public eye. For example, the then Vice Chair of the ERB – who was a key member of the leadership that presided over the Fund's $ 1,700,000,000 in losses – was

furious about Plaintiff's decision to go public. She angrily told Plaintiff that, by exposing the ERB's problems to scrutiny, he had "publicly abused board members" and "created a divide on the board that can't be repaired." The then Vice Chair bitterly insisted that Plaintiff should have kept the discussion "private," rather than "running his mouth off" and "air[ing] all the dirty laundry in public." Moreover, she admonished Plaintiff that, in the future, he should "keep [his] mouth shut."

101. But Plaintiff did not keep his mouth shut. To the contrary, Plaintiff continued to share information openly about ERB business with the Fund's beneficiaries, government officials, the media, and the taxpayers who ultimately are responsible for the Fund's solvency. Plaintiff considered it his duty to respect the declared public policy of New Mexico that "all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of public officers," and he firmly believed that transparency in the ERB's operations was essential to its mission. Accordingly, although Plaintiff apologized to the then Vice Chair for causing hurt feelings, he remained convinced that ERB's work was public business that should not be conducted in secret. Accordingly, Plaintiff insisted on the full and prompt disclosure of information, in order to encourage public debate about possible solutions to the crisis.

102. In spite of the negative reactions by the then Vice Chair and others to Plaintiff's open disclosure of ERB information to the public, in August 2004 Plaintiff was elected unanimously to serve as ERB Chairman and to lead the ERB's efforts to reform the Fund.

Plaintiff Led The ERB In Devising A Solution To Its Funding Crisis.

103. Upon being elected ERB Chairman, Plaintiff immediately devoted himself to solving the funding crisis. Plaintiff typically devoted without compensation approximately 15 or

more hours of his professional time per week to the ERB. Based on the billing rate for Plaintiff's professional services during his more than six years as Chairman, a conservative estimate of the value of Plaintiff's volunteer work for the ERB exceeds $ 1 million.

104. Plaintiff became integrally involved in the nuts and bolts of the ERB's operations, in order to further the Fund's interests in countless ways. For example, Plaintiff assumed an active role in, among other things:

(a) Resolving constituent complaints;

(b) Working with the University of New Mexico, as it considered changing its retirement benefit policies and its affiliation with the ERB for UNM Foundation employees;

(c) Contributing his expertise to the ERB's application of its formulas for the calculation of member benefits;

(d) Advocating technical legislative fixes to ensure that the Act permitted the ERB to comply with tax and other legal pension fund requirements;

(e) Participating in hiring decisions, to increase the professionalism and expertise of the ERB's staff;

(f) Ensuring that salary ranges for staff were within an appropriate and competitive range, in order to attract and retain qualified staff;

(g) Resolving discrepancies in the beneficiary salary information required to calculate benefits;

(h) Working closely with ERB staff to define audits of financial, policy and control issues;

(i) Spearheading the creation of an audit committee, as well as successfully lobbying the Legislature for the funding to employ an internal auditor; and

(j) Directing the ERB's General Counsel and staff, to the extent reasonably possible, to promote New Mexico's policy of openness in Government by fully and promptly disclosing information about ERB business and official acts of ERB officers and employees, at the request of ERB beneficiaries, the press, and the public at large.

105. Most importantly, Plaintiff also assumed a hands-on role in the ERB's efforts to solve the financial crisis it faced when he was elected Chairman.

106. Mellon completed its Funding Study and recommendations ("Report") to the ERB on September 13, 2004, and presented its Report to the ERB at a public meeting on October 29, 2004. In order to solve the funding shortfall, Mellon recommended both an increase in payroll contributions to the Fund and a change in the types of investments made by the Fund.

107. Both of Mellon's recommended changes required Legislative action. Plaintiff participated in the ERB's efforts to seek the necessary Legislation.

108. The ERB's efforts were successful. The 2005 New Mexico Legislature passed a bill providing for additional recurring annual State and employee payroll contributions to the Fund of more than $ 110,000,000 per year. The bill also provided for the changes in the ERB's investment authority recommended in the Mellon Report.

109. Plaintiff personally lobbied for the support of the Governor's Office. Again Plaintiff's efforts were successful, and the Governor signed the ERB's bill into law. Since Plaintiff and the ERB's professional staff worked closely with all constituencies to devise a law that was fair to everyone, the new statute received wide support. Accordingly, despite the required increases in contributions by all, the law was implemented without any legal challenges by anyone.

110. Under prior New Mexico law, the ERB's investment authority was limited to a statutorily defined list that included stocks, bonds, treasury inflation protected securities, and real estate investment trusts. Mellon concluded that the statutory list (a) did not permit the ERB adequate flexibility, (b) restricted sound diversification, (c) potentially increased portfolio risk, and (d) hindered the opportunity for higher investment return. Under the new Legislation, the

ERB received the authority to invest in accordance with the Prudent Investor Rule, which is the investment model followed by the majority of large public pension funds nationwide.

111. Under the Prudent Investor Rule, the ERB was authorized to acquire "alternative investments" such as private equity funds, hedge funds and direct real estate investments.

112. Investing in the newly permitted alternative asset classes required specialized skill and analysis. In order to implement the new Legislation, as Mellon recommended, it was necessary for the ERB to employ various investment managers and consultants with the required expertise. Therefore, as the Mellon Report recognized, the ERB would incur additional fees and expenses to comply with the amended Act.

113. In addition, some individual alternative investments would carry more risk than traditional investments such as stocks and bonds, when viewed in isolation. But, as Mellon explained, the investments should be judged "not in isolation but in the context of the trust portfolio as a part of an overall investment strategy." In other words, the Fund's performance should be judged by its success as a whole, totaling all gains, losses, fees and expenses. The Prudent Investor Rule recognizes that a strategically invested multibillion dollar fund will have both winning investments and losing investments, but the overall investment returns are highly likely to exceed the low investment returns that could be expected from a portfolio of the most risk-free investments.

114. Plaintiff led the ERB's implementation of the amended Act, which required reallocating the Fund's investment portfolio to include the new, alternative asset classes. Doing so required a lengthy process that included, among other things, (a) issuing requests for proposals, (b) selecting the necessary financial professionals to analyze potential investments, (c)

obtaining specific recommendations from those professionals, (d) deciding whether to adopt the recommendations, and (e) negotiating the investment contracts.

115. Plaintiffs' leadership resulted in a dramatic improvement both in the Fund's investment performance and in its financial soundness. For example, among other things:

(a) In the 5 years before Plaintiffs' Chairmanship, the Fund's investment performance ranked in the bottom 25% of all large public funds nationwide.

(b) When Plaintiff was elected Chairman, the Fund had a portfolio value of approximately $ 6,900,000,000 ($ 6.9 Billion), which followed a period of catastrophic losses.

(c) As of September 2010, when Plaintiff resigned as ERB Chairman, the Fund's investment performance ranked in the top 3% of all large public funds nationwide. That is, the Fund's performance improved from a ranking below 75% of comparable funds to a ranking higher than 96% of all such funds.

(d) At the conclusion of Plaintiff's Chairmanship, the Fund had a portfolio value of approximately $ 8,800,000,000 ($ 8.8 Billion), which was an increase in asset value of nearly $ 2,000,000,000 ($ 2 Billion). That amounts to an increase of approximately $ 20,000 for each ERB member, including all current and future retirees. In addition, during the last three years of Plaintiff's Chairmanship, the funding period fluctuated between 45 years and 62 years. While those funding periods failed to comply with the ERB's goals or GASB 25, they were a significant improvement for the Fund, which previously had an infinite funding period (meaning, absent reform, the Fund never would have reached full funding). This positive step in the financial soundness of the Fund reflected the dramatic improvement in investment performance.

(e) The Fund's achievements are even more remarkable than the numbers alone demonstrate, given both the significant startup time required to reallocate the Fund's investment portfolio and the fact that they occurred in a time period in which investment performance suffered from an economic downturn more severe than any since the Great Depression.

(f) In addition, the reforms to the Fund implemented during Plaintiff's Chairmanship continued to result in outstanding investment performance in the time period immediately following Plaintiff's departure, particularly given the continuing poor domestic and international economic conditions. On the day this case was filed, the most current data available showed that

> the Fund's portfolio value had climbed to approximately $ 9,500,000,000 ($ 9.5 Billion), which was an increase in asset value from the beginning of Plaintiff's Chairmanship of approximately $ 2,700,000,000 ($ 2.7 Billion). This was a particularly substantial feat considering it took place during a time period in which most people's retirement accounts were hard hit by the economy. The increase in value amounted to approximately $ 28,000 for each ERB member, including all current and future retirees.

The Defendants Schemed To Corrupt The Investment Process.

116. But an unintended consequence of implementing the Mellon recommendation of investing in alternative asset classes was that the Fund was subjected to a greater risk of fraud by unscrupulous investment professionals and others.

117. Despite the success of the ERB's reform efforts – unbeknownst to Plaintiff, ERB Board members (other than Defendant Bland), and the ERB staff – the Fund was victimized by fraud. Defendants took advantage of the ERB's reallocation of assets to corrupt the investment process for their own selfish interests, in order to generate illegal payoffs. While the Defendants' misconduct did not prevent the Fund from achieving the outstanding investment performance pleaded above, their misconduct did betray the trust of ERB members and undermine their confidence in the integrity and security of their pension fund. Defendants also knowingly, intentionally, willfully, maliciously, and fraudulently betrayed Plaintiff, violated his trust, and put him in harm's way, causing the injuries to Plaintiff pleaded in this Complaint.

118. The illegal payoffs were made under the guise of "third-party marketing" fees, also known as "placement" fees. Genuine "third-party marketing" agents, also known as "placement" agents, can earn legitimate fees by providing services involving (a) marketing research and strategy, (b) market positioning, (c) fund raising, (d) preparation of marketing materials, (e) client services, (f) project management, and (g) logistical support. But, as discussed below, neither Defendant Correra, Jr., nor his "fronts" performed legitimate services

for the approximately $ 22,000,000 ($ 22 Million) in fraudulent "fees" they received. Indeed, putting aside the other evils associated with the Defendants' hiding Defendant Correra, Jr.'s receipt of the supposed "fees," no placement agent could provide proper placement services anonymously, let alone legitimately earn the lottery-winner-like fortune received by Defendant Correra, Jr., in a capacity invisible to the purchaser. Accordingly, these supposed "fees" in truth of fact were bribes.

Defendants Correa, Sr., Correra, Jr., Bland and Meyer Extended The Nationwide Corruption to New Mexico.

119. Defendant Correra, Sr., is the consummate con artist, and he played that role to perfection throughout the course of Defendants' scheme. He callously employed his shrewdness, charisma, charm, and wealth to ingratiate himself to his victims, so that he could deceive and manipulate them for his own selfish purposes. Defendant Correra, Sr., did so in the most convincing manner, without a hint of hesitation, guilt, conscience or remorse.

120. Defendant Correra, Sr., first targeted former Governor Bill Richardson, by volunteering to work on the then candidate's 2002 Gubernatorial campaign, and rising through the ranks of the campaign volunteers. As discussed above, Defendant Correra, Sr., ultimately developed a close and well-known relationship with the Governor, and Defendant Correra, Sr., played on that relationship to hold himself out as having the power to influence State decisions.

121. In 2004, the Governor's Chief of Staff David Contarino introduced Defendant Correra, Sr., to Plaintiff. Mr. Contarino described Defendant Correra, Sr., to Plaintiff as a close friend and financial advisor to the Governor, who was conducting an analysis of New Mexico Funds at the Governor's request. Defendant Correra, Sr., requested this introduction to begin targeting Plaintiff as one of his victims.

122. Thereafter, Defendant Correra, Sr., falsely represented himself to Plaintiff as a friend and financial expert offering independent investment advice solely for the benefit of the ERB. In fact, however, Defendant Correra, Sr., was serving his own and his coconspirators' selfish, undisclosed interests by recommending Defendants Bland and Meyer to Plaintiff, and by touting investments that would result in fraudulent payoffs to his son Defendant Correra, Jr., in furtherance of Defendants' criminal scheme.

123. Defendant Correra, Sr.'s criminal acts in furtherance of the conspiracy included, among many other things, bribing Defendant Meyer. Defendant Meyer discussed one example of this bribery in a secretly-recorded telephone conversation on September 24, 2006, a transcript of which is attached hereto as Exhibit E. Specifically, Defendant Meyer acknowledged in this conversation having received $ 10,000 in cash from Defendant Correra, Sr. Exhibit E, transcript pp. 2-5. In addition, Defendant Meyer implicitly acknowledged that this bribe was small potatoes in the context of the Defendants' overall scheme, by commenting: "I wish we could undo it now that we are closer to the Correras, you know. . . . I mean, if I could [expletive deleted] give it -- dude, we would find a way to give it back." Exhibit E, transcript pp. 6-7.

124. Defendant Correra, Sr.'s bribery was committed in furtherance of the Defendants' criminal conspiracy. Accordingly, each and every Defendant is responsible for the bribe – either personally or vicariously – as an integral part of the Defendants' partnership in crime.

125. In specifically targeting Plaintiff for deception, Defendant Correra, Sr., used his close and influential relationship with the Governor, as well as with other prominent New Mexicans who were among Plaintiff's friends, colleagues, clients, and acquaintances.

126. Defendant Correra, Sr., also played on a variety of other facts and circumstances to enhance his credibility with Plaintiff, including but not limited to (a) Defendant Correra, Sr.'s

former position with a respected Wall Street brokerage firm, (b) his prior ownership of a seat on the New York Stock Exchange, (c) the fact that he authored a widely-circulated and respected investment newsletter during his Wall Street career, which he explicitly referenced in his periodic economic e-mails to the Governor, (d) the Governor's reliance on and praise for the periodic economic reports Defendant Correra, Sr., prepared for the Governor, *see* Exhibit A hereto, and (e) Defendant Correra, Sr.'s involvement in official New Mexico State economic business, including (among other things) his participation in a 2007 meeting in New York City between the Governor and Standard & Poor's concerning the State's bond rating.

127. In addition, Defendant Correra, Sr. – who is a generation older than Plaintiff – seized on the terminal illness of Plaintiff's father, which began in late December 2005, as an opportunity to insert himself deeply in Plaintiff's personal life. Defendant Correra, Sr., ingratiated himself to Plaintiff by feigning genuine concern for Plaintiff during his father's last illness, as well as for Plaintiff's mother, fiancée, and children, and he portrayed himself as a source of comfort and support. Following the death of Plaintiff's father on April 17, 2006, Defendant Correra, Sr. not only attended the funeral, but he also visited with grieving family and friends at the home of Plaintiff's mother multiple days during the mourning period.

128. Defendant Correra, Sr., continued thereafter falsely to portray himself as a dear personal friend of Plaintiff and Plaintiff's family. For example, Defendant Correra, Sr., pretended to be genuinely concerned for one of Plaintiff's children, when she suffered from a gravely serious health problem shortly after the death of Plaintiff's father. Defendant Correra, Sr., made repeated hospital visits to Plaintiff's daughter, expressed his daily concern to Plaintiff, and made suggestions about how he could assist with possible treatment options. Defendant Correra, Sr., even went so far as to befriend Plaintiff's mother after her husband's death, by

visiting with her privately and personally delivering holiday cakes to her door. All the while, in the course and scope of the Defendants' criminal scheme and in furtherance thereof, Defendant Correra, Sr., falsely presented himself as a highly accomplished and wealthy senior who had retired to New Mexico and was seeking nothing but friendship, political excitement, and intellectual stimulation.

129. In order to further Defendants' scheme, Defendant Correra, Sr., pretended that he had great affection for Plaintiff and his family, and that Plaintiff was one of a handful of his closest friends. In August 2008, Defendant Correra, Sr., and his wife were among the fewer than sixty guests who attended Plaintiff's wedding.

130. But in truth of fact, Defendant Correra, Sr., was not Plaintiff's friend. To the contrary, Defendant Correra, Sr., deceived and manipulated Plaintiff to further Defendant Correra, Sr.'s and his coconspirators' own greedy interests. Defendant Correra, Sr., used Plaintiff with cold and callous disregard for the wellbeing of Plaintiff and his family, knowing full well that, while the Correras were recent transplants to New Mexico, Plaintiff had spent his entire adult life here building a life, an excellent personal and professional reputation, and a successful business for himself and his family. Nevertheless, Defendant Correra, Sr. -- for his own selfish and greedy benefit as well as for the benefit of his coconspirators – knowingly, intentionally, willfully, recklessly and maliciously jeopardized everything Plaintiff had spent decades building. And as soon as Defendant Correra, Sr.'s duplicity was exposed in May 2009, he abruptly disappeared without so much as a word of explanation and never communicated with Plaintiff again.

131. It was an integral part of Defendants' scheme that Defendant Correra, Sr., target Plaintiff – the ERB Chairman – for deception, and provide supposedly honest advice in favor of

investments on which his son Defendant Correra, Jr., would receive a kickback. Defendant Correra, Sr., did so, fraudulently and intentionally, by word and deed, including by making false and misleading statements to Plaintiff, and failing to disclose facts Defendant Correra, Sr., had a duty to disclose, all of which were calculated to dupe Plaintiff, violate Plaintiff's trust, and conceal the Defendants' ongoing fraudulent misconduct from Plaintiff. Many of Defendant Correra, Sr.'s fraudulent words and deeds occurred within the physical borders of the State of New Mexico, in face-to-face dealings, telephone conversations, and e-mail communications. In each instance, Defendant Correra, Sr., acted in furtherance of the Defendants' criminal conspiracy, and he was well-aware of the harm to Plaintiff that likely would result if and when the Defendants' concerted criminal misconduct were exposed.

132. All of Defendant Correra, Sr.'s fraudulent words and deeds to Plaintiff were made within the course and scope of the Defendants' partnership in crime, and in furtherance of the Defendants' criminal conspiracy. As such, each and every Defendant was vicariously responsible for Defendant Correra, Sr.'s fraudulent conduct and the consequences thereof.

133. On August 13, 2010, Defendant Correra, Sr., was compelled by subpoena to appear before the United States Securities and Exchange Commission ("SEC"), to produce documents and to testify in the SEC's two investigations regarding the New Mexico Public Investment Funds and Vanderbilt Capital Advisors, LLC. The transcripts from that appearance are attached hereto collectively as Exhibit F.

134. Defendant Correra, Sr., refused to produce even a single document to the SEC, based on his Fifth Amendment privilege against self-incrimination. Exhibit F, p. 7. Defendant Correra, Sr., also refused to answer a single substantive question, likewise based on his self-incrimination privilege. For example, Defendant Correra, Sr., broadly asserted his Fifth

Amendment privilege to decline to answer questions about (a) his employment history (*id.*, pp. 8-9), (b) his financial accounts and professional activities (*id.*, p. 9), (c) the SIC (*id.*, pp. 11-12), (d) Gary Bland (*id.*, p. 12), (v) the ERB (*id.*), (e) Plaintiff (*id.*, pp. 12-13), (f) his son Defendant Correra, Jr. (*id.*, p. 14), (g) Defendants Aldus Equity, Saul Meyer, L2 Capital, SDN Advisers. Ajax Investments, Cabrera Capital, Vanderbilt Capital, Vanderbilt Financial, and (h) other Defendant coconspirators (*id.*, pp. 13-15 and 38-43). Moreover, the SEC explicitly advised Defendant Correra, Sr., that as a result of his refusal to answer "a judge or a jury would be permitted to infer that your answer to the questions might incriminate you." Defendant Correra, Sr., through his counsel, agreed with that assessment but nevertheless persisted in his refusals to answer. *Id.*, pp. 44-45.

135. Defendant Correra, Sr.'s blanket refusal to provide any evidence to the SEC was intended to continue to maintain secrecy regarding unknown aspects of the Defendants' criminal conspiracy, and was in furtherance thereof. Accordingly, Defendant Correra, Sr.'s assertion of his Fifth Amendment privilege was within the scope and course of the Defendants' partnership in crime, and each and every coconspirator was vicariously responsible for Defendant Correra, Sr.'s refusals. Therefore, Defendant Correra, Sr.'s assertion of his self-incrimination privilege likewise is evidence of consciousness of guilt against all Defendants.

136. Defendant Correra, Sr.'s consciousness of guilt further is evidenced by, among other things, his attempt to evade lawful service of process in this case. Specifically, after turning to face Plaintiff's process server when she said "Mr. Correra," Defendant Correra, Sr., looked at the paperwork and then said, "Oh no, that's not me," or similar language denying his identity. When the process server responded, "yes it is," Defendant Correra threw the papers at her. Thereafter, Defendant Correra, Sr., turned to his attorney Chip Loewenson of Morrison &

Foerster, a global law firm of exceptional credentials with more than 1,000 lawyers in 16 offices around the World. But rather than accept the papers honestly and peacefully as required by law and rely on his counsel to defend him, Defendant Correra, Sr., attempted to embroil his lawyers in his ongoing attempt to evade service by stating, multiple times: "Chip, she thinks I am somebody else."

137. Defendant Correra, Sr., introduced Defendant Correra, Jr., to Plaintiff in or about June 2005 on the false pretenses that the introduction was strictly social, and that Correra, Jr., was a hedge fund manager who lived in Santa Fe. In truth, however, Defendant Correra, Jr., was not a hedge fund manager and the introduction was not social. Rather, the introduction was an integral part of the Defendants' scheme. The Correra Defendants intentionally kept Plaintiff in the dark about the true facts; namely, that Defendant Correra, Jr., corruptly was playing on his father's relationships and influences to garner multimillion-dollar unlawful payoffs in connection with New Mexico public investments.

138. Defendant Correra, Jr., in concert with Defendant Correra, Sr., and others, succeeded in convincing financial services firms selling billions of dollars of investment opportunities that – if they wanted to do business with New Mexico public investment funds – they had no choice but to payoff Defendant Correra, Jr. As a result, Defendant Correra, Jr., succeeded in extracting the $ 22,000,000 ($ 22 Million) in unlawful and undisclosed payoffs, some portion of which he shared with various other Defendants including Defendant Meyer.

139. Defendant Correra, Jr., knowingly, intentionally, and fraudulently deceived Plaintiff in each and every one of their interactions, by misrepresenting himself and concealing the Defendants' scheme. Defendant Correra, Jr., did so knowing full well that he was jeopardizing everything Plaintiff had spent his entire adult life building.

140. All of Defendant Correra, Jr.'s fraudulent words and deeds to Plaintiff were within the course and scope of the Defendants' partnership in crime, and in furtherance thereof. As such, each and every Defendant coconspirator was vicariously responsible for Defendant Correra, Jr.'s fraudulent misconduct and the consequences thereof.

141. Defendant Correra, Sr., introduced Defendant Meyer to Plaintiff in New Mexico in or about September 2005. Defendant Correra, Sr., described Defendant Meyer to Plaintiff as a private equity advisor rising star. Defendant Correra, Sr., told Plaintiff that Defendant Bland had selected Defendant Meyer's firm as the SIC's private equity advisor, and that Defendant Bland liked Defendant Meyer. Defendant Correra, Sr., did not disclose – but rather knowingly, intentionally, willfully, maliciously, and fraudulently concealed – that he, his son, Defendant Meyer, the Aldus Defendants, Defendant Bland and others were conducting and participating in a pattern of racketeering activity to generate tens of millions of dollars of illegal payoffs, and that they were plotting to extend that concerted criminal activity to the ERB's investment process.

142. On May 25, 2006, Defendants Meyer, O'Reilly and Ellman personally appeared on behalf of the Aldus Defendants at a meeting of the ERB's investment committee in Albuquerque, New Mexico, and made a fraudulent presentation in support of Defendant Aldus Partners' proposal to be hired as the ERB's private equity advisor. The presentation was fraudulent, because (a) it falsely claimed that the Aldus Defendants would make recommendations based on a process designed to fulfill their proposed role as fiduciaries solely for the benefit the ERB, and (b) it failed to disclose the fact that the recommendations would be based on generating fraudulent "fees" for Defendant Correra, Jr., and others, in furtherance of the Defendants' criminal scheme. In other words, in furtherance of the Defendants' scheme, Defendants Meyer, O'Reilly, and Ellman came to New Mexico on behalf of the Aldus

Defendants and lied to the faces of Plaintiff and the other members of the investment committee, at the official meeting of a New Mexico State agency publicly held and recorded in accordance with the New Mexico Open Meetings Act.

143. At a June 16, 2006 meeting of the ERB Board in Albuquerque, New Mexico, in reliance on the fraudulent misrepresentations of Defendants Meyer, O'Reilly, Ellman, and Aldus Partners, the ERB selected Defendant Aldus Partners as the ERB's private equity investment advisor. Defendant Aldus Partners was selected from a field of candidates in a competitive process. Plaintiff supported Defendant Aldus Partners in reliance on (a) Defendant Aldus Partners' fraudulent proposal, (b) the fact that the SIC previously had selected Defendant Aldus and had reported to be pleased with its services, (c) Defendant Correra, Sr.'s strong recommendation, (d) Defendant Bland's strong recommendation (particularly in light of ERB's statutory authority to rely on the SIO for advice and recommendations), and (e) the recommendations of other SIC members. At that time, Plaintiff gave great weight to the opinions of Defendants Bland and Correra, Sr., whom Plaintiff believed were highly knowledgeable investors acting in the best interests of the ERB Fund.

144. If Plaintiff had known the true facts, however, he would have opposed Defendant Aldus Partners. In addition, Plaintiff would have disclosed the true facts to all of the ERB's Board members. Upon information and belief, if the true facts had been disclosed all of the ERB Board members other than Defendant Bland likewise would have opposed hiring Defendant Aldus Partners.

145. Defendant Meyer discussed his and the Aldus Defendants' role in the scheme at the secretly-recorded September 16, 2006 meeting referenced above. In the course of that meeting, among other things:

- Defendant Meyer stated that (unbeknownst to ERB trustees other than Defendant Bland) the Aldus Defendants would be selecting the investments to recommend to the ERB from "the list that Correras gave me." (September 16, 2006 Audio Recording, at approximately 1:47:55 - 1:48:07.)

- Defendant Meyer complained that, to the extent participants urged making recommendations based on an analysis of the merits of the investments, "I think we're taking this process thing a little bit too seriously." (*Id.*, at approximately 1:58:05 - 1:58:12.)

- And therefore, Defendant Meyer asked rhetorically, "Can we agree that we are going to be doing a couple of funds that aren't good funds?" (*Id.*, at approximately 2:03:00 - 2:03:08.)

146. Defendant Meyer further explained, in essence, that the Defendants' criminal conspiracy created an "ecosystem," in which the goal of the criminal partnership to generate payoffs to Defendant Correra, Jr., benefitted all of the Defendants:

- "I think we really have to step back and understand that at places like New Mexico. Like, New York City is wide open and we can do whatever we want. OK? But places like New Mexico it's not wide open. We have to work a process . . . way in advance. We have all kinds of interested parties, and we have to find a way to construct the best possible portfolio that achieves certain goals. And those certain goals are certain people getting their funds done." (*Id.*, at approximately 1:56:32 – 1:57:04.)

- "Julio [Ramirez] and Anthony [Correra] and Marc [Correra], Julio feeds Anthony and Marc good deals. Okay? So that we don't have heartburn and don't get fired, so that we can then go and get other mandates. And in return in this ecosystem, Anthony and Mark give Julio the ability to do a couple of deals a year. That's it. That's the whole way it works. Okay? So outside of this little ecosystem, they'll let me do stuff, but just so you are aware, I've got [expletive deleted] over because . . . they were pissed. . . . You have to do these but the person who knows the client, you gotta, we have to remember, we got them in as our clients, you know. To not think that Anthony and Marc have a stranglehold over this thing is crazy." (*Id.*, at approximately 2:06:55 – 2:08:06.)

- "You know we're going to have to do another Julio somewhere . . . . You know we gotta do two, I think, at least. . . . It's really important to Julio to do it, and he cut a deal with Anthony and

Marc that they give them things and specific funds he wanted above all others is Halyard. . . . I mean, I know it's not very good, but we've done, you know, it looks to me pretty [expletive] good versus last year . . . ." (*Id.*, at approximately 1:54:18 – 1:54:30 and 2:03:50 – 2:04:13.)

- "Lehman," "They are top quartile, they are paying Marc, and they're giving us two co-deals. I can't ask for anything more. . . . Lehman Brothers, it pays Marc, supposedly if it doesn't pay Marc we're not going to be allowed to do it because they paid him the first time. They crammed that one down us originally, but they performed really well and are giving us two co-investment deals so I really can't complain." (*Id.*, at approximately 2:02:13 - 2:02:34 and 2:09:28 - 2:09:44.)

147. When Defendant Meyer was asked how Defendant Gary Bland fits into this," he responded: "He listens to Mark or Anthony." (*Id.*, at approximately 2:08:12 - 2:08:18.) In contrast, there was no mention of Plaintiff, because all of the participants knew that Plaintiff was unaware of the Defendants' criminal partnership and that indeed keeping Plaintiff in the dark was a necessary aspect of Defendants' scheme.

148. Defendant Meyer and all of his coconspirators hid Defendants' fraudulent conduct from Plaintiff, because they knew Plaintiff would have put a stop to the Defendants' criminal activity if he found out about it. Indeed, Defendant Meyer falsely and repeatedly confirmed to Plaintiff that Defendant Meyer was the "gatekeeper" for the ERB, and that he supposedly would ensure all of the Aldus Defendants' investment recommendations were based on the merits of the investments, in accordance with the strict investment process Defendant Meyer assured the ERB would be followed before Defendant Aldus Partners was selected by the Board.

149. On October 2, 2009, Defendant Meyer pled guilty in New York to a felony fraud charge for his participation in the nationwide corruption scheme pleaded herein. Defendant Meyer's guilty plea was made pursuant to a multi-jurisdictional plea agreement. In connection with that plea agreement, Defendant Meyer agreed to cooperate with State and federal

prosecutors and to provide testimony regarding the unlawful conduct of other participants in Defendants' scheme.

150. Regarding Defendants' scheme in New Mexico, Defendant Meyer admitted that – directly contrary to his fraudulent misrepresentations to the Plaintiff and the ERB and in violation of the Aldus Defendants' strict fiduciary duties – he made recommendations calculated in part to benefit politically-connected individuals or their associates. That is, Defendant Meyer and the Aldus Defendants knowingly, intentionally, willfully, maliciously, and fraudulently made investment recommendations to the SIC and the ERB with the intention and effect of furthering Defendants' criminal objective; namely, to steer billions of dollars in New Mexico investments to private equity investment firms willing to make unlawful and undisclosed payoffs to Defendant Correra, Jr., and others, rather than investing those funds based solely on an independent and unbiased analysis of the merits of the investments. The Wall Street Journal's transcript of Defendant Meyer's guilty plea allocution illustrating these facts is attached hereto as Exhibit G.

151. In retrospect, it now is evident that the Defendants' scheme was in full gear at the SIC years before Defendant Correra, Sr.'s September 2005 introduction of Defendant Meyer to Plaintiff. And Defendant Correra, Sr., well knew that if Defendants Meyer and Aldus Partners were hired as the ERB's private equity advisor they would expand Defendants' scheme to generate millions of additional dollars in unlawful payoffs from ERB investments.

152. It was an integral part of Defendants' scheme that Defendant Meyer join together with the Correras to target Plaintiff – the ERB Chairman – for deception. Defendant Meyer did so, fraudulently and intentionally, by word and deed, including by making false and misleading statements to Plaintiff, and failing to disclose facts Defendant Meyer had a duty to disclose, all of

which were calculated to dupe Plaintiff, violate Plaintiff's trust, and conceal the Defendants' ongoing fraudulent misconduct from Plaintiff.

153. Many of Defendant Meyer's fraudulent words and deeds were in the State of New Mexico, in face-to-face dealings, as well as telephone conversations and e-mail communications directed to Plaintiff in New Mexico. These interactions – including the fraudulent May 25, 2006 presentation to the ERB's investment committee – occurred both before and after Defendant Aldus Partners was selected as the ERB's private equity investment advisor. In each such instance, Defendant Meyer knowingly, intentionally, willfully, maliciously, and fraudulently deceived Plaintiff by pretending to fulfill his strict fiduciary duty to act solely in the best interests of the ERB and by concealing Defendants' scheme. Defendant Meyer did so knowing full well that he was jeopardizing everything Plaintiff had spent his entire adult life building.

154. In addition, following Defendant Aldus Partners' selection as the ERB's private equity advisor, Defendants Meyer and the other Aldus Defendants knowingly, intentionally, willfully, maliciously, and fraudulently deceived the ERB staff and Board about the payoffs being made under the guise of "placement agent" fees. Defendant Aldus Partners' "Professional Services Agreement" with the ERB explicitly required that Defendant Aldus Partners "shall send written notice to [the ERB] of any transaction that involves a placement agent," and to do so "within thirty (30) days." The Agreement also required that the disclosure "include at a minimum the name of the placement agent and a list of any other public funds that may be involved in the transaction." Defendants Meyer and Aldus Partners, however, fraudulently breached this disclosure obligation.

155. Defendants Meyer and Aldus Partners initially violated their disclosure obligation by knowingly, intentionally, willfully, maliciously, and fraudulently providing false responses to

the ERB denying that any "placement agents" were involved in transactions, when they well knew Defendant Correra, Jr., was receiving bribes on those transactions under the guise of "placement agent" fees. Defendants Meyer and Aldus Partners then presented the documents containing these fraudulent disclosures to the ERB Board in public meetings at which the Board considered and voted on the investments Defendants Meyer and Aldus Partners recommended.

156. When the ERB staff later became aware of discrepancies and demanded supplemental disclosures, Defendants Meyer and Aldus Partners knowingly, intentionally, and fraudulently provided false responses identifying fakes and fronts as the "placement agents," in order to hide the payments to Defendant Correra, Jr., and to perpetuate Defendants' scheme.

157. All of Defendant Meyers' and the other Aldus Defendants' fraudulent words and deeds to Plaintiff were within the course and scope of the Defendants' partnership in crime, and in furtherance of the Defendants' criminal conspiracy. As such, each and every Defendant coconspirator was vicariously responsible for Defendant Meyers' and the other Aldus Defendants' fraudulent conduct within the borders of the State of New Mexico and elsewhere, as well as the consequences thereof.

158. Plaintiff met Defendant Bland in or about January 2005, when they both served on the ERB Solvency Task Force ("Task Force"). Governor Richardson created the Task Force to address the Fund's deteriorating financial position and he appointed the task force, including Defendant Bland as a member and Plaintiff as Chairman. Plaintiff observed Defendant Bland's apparent investment expertise in the course of the Task Force's work, and Plaintiff learned that Defendant Bland had spent two decades running a pension fund many times larger than the ERB Fund. One of the final recommendations of the Task Force was to increase the number of ERB Board members with investment expertise.

159. Plaintiff met Defendant Bland again in 2005 at several political and social events. Based on the Mellon Report, the ERB Solvency Task Force recommendations, and Plaintiff's observations – and being unaware of Defendants' scheme – Plaintiff wrongly concluded that Defendant Bland would be a valuable addition to the ERB Board. Accordingly, Plaintiff contacted the Governor's Chief of Staff to request that Defendant Bland be appointed to the ERB Board. In accordance with Plaintiff's hands-on leadership of the ERB, Plaintiff took this step on his own initiative. Defendant Bland became an ERB Board member in October 2005.

160. Many of the ERB Board members considered Defendant Bland to be the smartest person in the room when it came to investing, and they respected his experience with and opinions on alternative asset classes and investment allocations. But Plaintiff, and upon information and belief the other Board members, lost their respect for Defendant Bland on or about July 1, 2009, when Defendant Bland admitted to the Albuquerque Journal that he knew Defendant Correra, Jr., had received at least some of the previously undisclosed $ 22,000,000 ($ 22 Million) in fraudulent "fees."

161. As a fiduciary, Defendant Bland had a strict duty to disclose his knowledge of these payments – as well as any potential payments – to his fellow ERB Board members when the investments came before the ERB for approval. But, in order to conceal, further, and perpetuate the Defendants' scheme, Defendant Bland knowingly, intentionally, willfully, maliciously, and fraudulently kept the payments a secret, in violation of his fiduciary duties and the trust placed in him by his fellow Board members.

162. Plaintiff had many meetings and conversations with Defendant Bland in New Mexico about ERB business, including investment options and decisions. Defendant Bland knowingly, intentionally, and fraudulently deceived Plaintiff in each and every one of those

meetings and conversations, by pretending to honor his strict fiduciary duty to act solely in the best interests of the ERB, and by concealing the Defendants' scheme. Defendant Bland did so knowing full well that he was jeopardizing everything Plaintiff had spent his entire adult life building.

163. In retrospect, it now is apparent that – unbeknownst to Plaintiff – Defendant Correra, Sr., used his influence to push for Defendant Bland's hiring as the State Investment Officer and SIC Chair, in order to further the Defendants' scheme and as an integral part thereof. That is, Defendant Correra, Sr., began plotting Defendants' scheme with Defendant Bland from the outset; before Defendant Bland was hired as SIC Chair. Moreover, Defendant Bland's participation in Defendants' scheme had been underway for years before Defendant Bland was appointed to the ERB. Accordingly, Defendant Bland's ongoing unlawful and tortious conduct began before Defendant Bland became a New Mexico State official of any kind, and years before he began acting in his official capacity as an ERB Board member.

164. All of Defendant Bland's fraudulent words and deeds to Plaintiff were within the course and scope of the Defendants' partnership in crime, and in furtherance of the Defendants' partnership in crime. As such, each and every Defendant coconspirator was vicariously responsible for Defendant Bland's fraudulent conduct in New Mexico and elsewhere, and the consequences thereof.

Defendant Deutsche Bank Joined The Plot.

165. In early 2006, Defendant Deutsche Bank was the only major global investment banking firm without a substantial private equity consulting practice in the United States. Defendant Deutsche Bank sought to change that by acquiring a controlling interest in Aldus.

166. In spring of 2006, Defendant Baez initiated the discussion with Defendant Meyer regarding Defendant Deutsche Bank's acquisition of Defendant Aldus Partners.

167. Defendant Baez and Defendant Meyer had a personal relationship that predated Baez's employment by Defendant Deutsche Bank. Defendant Ramirez introduced Meyer to Baez. At the time of the introduction, Baez was the Head of Alternative Investments at the State of New Jersey Investment Division.

168. During the summer of 2006, Defendant Aldus Partners negotiated the acquisition agreement with Deutsche Bank. Defendant Curtis became the primary Deutsche Bank contact for these negotiations. In addition, Defendants Parker, Leitner, and Keith were personally involved in the negotiations, and they met with the owners of Defendant Aldus Partners on multiple occasions. Defendant Curtis stated throughout the negotiations that all critical aspects of the deal required the approval of Defendants Parker, Leitner, and Keith.

169. By the end of summer 2006, Defendant Deutsche Bank's acquisition negotiations with Aldus were nearing completion, and Defendant Deutsche Bank was preparing to finalize a contract to acquire a substantial ownership interest in Defendant Aldus Partners.

170. When Plaintiff became aware of Defendant Deutsche Bank's proposed acquisition of Defendant Aldus Partners, the news enhanced Plaintiff's confidence in the ERB's selection of Defendant Aldus Partners as its private equity advisor. Plaintiff believed, among other things, that Defendant Deutsche Bank's ownership would benefit the ERB by providing Defendant Aldus Partners with increased access to private equity investments.

171. In early October 2006, however, before Defendants Deutsche Bank and Aldus Partners had reached a final acquisition agreement, a group of owners of Defendant Aldus Partners voted to terminate Defendant Meyer's position. They did so because they became

aware that Defendant Meyer was involved in corrupt and criminal misconduct. While this group of other owners may not have known every detail about Defendants' scheme, they knew enough to stop it in its tracks. Indeed, the evidence supporting their decision to remove Defendant Meyer included, among other things, the secretly-recorded telephone conversation transcribed in Exhibit E hereto, demonstrating that Defendant Meyer took a $ 10,000 cash bribe from Defendant Correra, Sr.

172. On or about the day following Defendant Meyer's termination by the other owners, Defendant Aldus Partners owners Marcellus Taylor and Defendant O'Reilly requested and later attended a meeting with Defendant Curtis, to notify Deutsche Bank of Defendant Meyer's termination and to attempt to move forward in finalizing an agreement. At the meeting, which occurred at the Pierre Hotel in New York City, Taylor and Defendant O'Reilly disclosed the evidence of Defendant Meyer's wrongdoing to Defendant Curtis.

173. Defendant Curtis told Taylor and Defendant O'Reilly that he would need to consult with his colleagues to determine whether Defendant Deutsche Bank would proceed with the transaction, and that he would respond within a week.

174. If Defendant Deutsche Bank promptly had disclosed what it knew in October 2006 to Plaintiff, the ERB's professional staff, or any other loyal State official, Defendants' scheme would have come to an immediate halt. And if Defendant Deutsche Bank had done so, the ERB would have learned of Defendants' misconduct in sufficient time to avoid acting on even one single recommendation by the Aldus Defendants. Moreover, if Defendant Deutsche Bank promptly had disclosed its knowledge – although it would have been too late to prevent all of the SIC investments recommended by the Aldus Defendants – the SIC could have avoided investing an additional approximately $ 1,500,000,000 ($1.5 Billion) based on fraudulent advice.

175. But, instead of disclosing Defendants' criminal scheme, Defendant Deutsche Bank joined it.

176. At 2006 year-end, Defendant Deutsche Bank's assets totaled approximately $ 1,410,000,000,000 ($ 1.4 Trillion), and its total shareholder equity was approximately $ 43,300,000,000 ($ 43.3 Billion). Nevertheless, to enhance its vast wealth by an imperceptible margin, Defendant Deutsche Bank was prepared to participate in defrauding the State of New Mexico, without regard to the welfare of its victims. In fact, Defendant Deutsche Bank not only was willing to join Defendants' scheme, it eagerly insisted upon doing so.

177. After Defendant Curtis consulted with his colleagues, in order to ensure Defendant Deutsche Bank's ability to profit from Defendants' scheme, Deutsche Bank insisted that Defendant Meyer be reinstated. In particular, shortly after the meeting at the Pierre Hotel, Deutsche Bank's lawyer threatened to abandon the acquisition agreement and sue for damages if Defendant Meyer were not reinstated. Defendant Curtis then met with the other owners of Defendant Aldus Partners and reiterated Defendant Deutsche Bank's insistence that Defendant Meyer be reinstated as a partner in order to proceed with the deal.

178. At about the time the other owners of Defendant Aldus Partners first contacted Defendant Deutsche Bank regarding Defendant Meyer's termination, they also notified the ERB and Plaintiff as its Chairman of the termination. But they did not disclose the true facts about the termination to the ERB or Plaintiff. Indeed, the other owners of Defendant Aldus Partners did not breathe a word to Plaintiff or any other loyal State official about Defendant Meyers' corrupt and criminal misconduct. In fact, in an interstate telephone call to Plaintiff in New Mexico, an owner of Defendant Aldus Partners affirmatively lied to Plaintiff about the circumstances; stating

that Defendant Meyer was leaving the firm simply because he and the other Aldus owners decided to go in different directions.

179. After Defendant Meyer was reinstated he visited Plaintiff at Plaintiff's office in Albuquerque, New Mexico. Defendant Meyer well knew that Plaintiff would have blown the whistle if he had learned the true facts, and therefore Defendant Meyer once again specifically and immediately targeted Plaintiff for further deception. Accordingly, in this meeting in Plaintiff's office, Defendant Meyer once again lied to Plaintiff's face about the true facts. That is, Defendant Meyer claimed he had been terminated merely because the other owners were (a) having trouble dealing with his management style, and (b) attempting to avoid his claim to a large share of the Deutsche Bank sale proceeds. Neither he nor anyone else breathed a word to Plaintiff or any other loyal State official about the corrupt and criminal misconduct that was the real reason for Defendant Meyer's termination. Nor did they disclose that Defendant Meyer only was reinstated because the Deutsche Bank Defendants insisted upon it, so that they could join and profit from Defendants' plot.

180. Thereafter, at the ERB Board's direction, Plaintiff and ERB Portfolio Manager Steve Neel traveled to Dallas, Texas, to perform additional due diligence before deciding whether to proceed with Defendant Aldus Partners as its private equity investment advisor. Allan Martin of the ERB's general investment advisor NEPC also participated in the due diligence process by interstate telephone communication.

181. Throughout this additional due diligence process, in order to maintain the ERB as a client and otherwise perpetuate Defendants' criminal conspiracy, Defendant Meyer and the other Aldus Defendants once again lied to Plaintiff's face, as well as to Messrs. Neel and Martin, about the true facts. In addition, Defendant Meyer and other owners of Defendant Aldus

Partners fraudulently failed to disclose either the past corrupt and criminal misconduct that in fact led to Defendant Meyer's termination, or their intention in the future – at Defendant Deutsche Bank's insistence – to continue to commit corrupt and fraudulent acts in the course of Defendants' ongoing conspiracy. These fraudulent misrepresentations and omissions were within the course and scope of the Defendants' partnership in crime, and they were committed in order to conceal, perpetuate, and further Defendants' criminal conspiracy. Accordingly, each and every Defendant coconspirator was vicariously responsible for this fraudulent misconduct and the consequences thereof.

182. Defendant Deutsche Bank has claimed in its publications and Internet presence to care about "more than money," and has held itself out as a pillar of corporate social responsibility. Indeed, Defendant Deutsche Bank has claimed to be devoted to advancing lawful and ethical conduct and maintaining its integrity and reputation by preventing and detecting violations of law. But talk is cheap. Defendant Deutsche Bank's corporate conduct tells an entirely different story.

183. The other owners of Defendant Aldus Partners could have honored their fiduciary duties in spite of the Deutsche BankDefendants outrageous misconduct by acting loyally and in the best interests of the ERB and the SIC, as they legally were obligated to do. But instead, they acted in their own selfish interests and (a) reinstated Defendant Meyer, (b) went through with the Deutsche Bank Defendants' acquisition agreement, (c) took the Deutsche Bank Defendants' money, (d) kept their mouths shut, (e) joined in Defendants' scheme, and (f) continued to profit from the ongoing scheme.

184. Defendants Parker, Leitner, and Keith thereafter remained integrally involved in the negotiations to acquire Defendant Aldus Partners, and they personally attended multiple

meetings with the owners of Defendant Aldus Partners in connection with the acquisition. Moreover, it was clear both from Defendant Curtis's statements and from the negotiation process before and after the Pierre Hotel meeting that (a) Defendant Curtis fully-informed Defendants Parker, Leitner, and Keith of the disclosures of Defendant Meyer's wrongdoing, and (b) Defendants Parker, Leitner, and Keith approved and/or ratified Defendant Deutsche Bank's decision to join Defendants' criminal scheme.

185. As a result of the acquisition in January 2007, Defendant Deutsche Bank became the single largest and the controlling owner of Defendant Aldus Partners. Defendant Deutsche Bank used its controlling interest to join Defendant Aldus Partners' compliance, investment and audit committees, which are the committees responsible for detecting and preventing precisely the sort of criminal misconduct the Aldus and Deutsche Bank Defendants already knew was occurring. Predictably, those committees served as window dressing only, and the Deutsche Bank Defendants did nothing to remedy or even disclose the Aldus Defendants' wrongdoing. But that came as no surprise to any of the Aldus or Deutsche Bank Defendants.

186. If the Deutsche Bank Defendants had wanted to put a stop to Defendants' scheme rather than join and profit from it, they never would have insisted that Defendant Meyer be reinstated in the first place. The Deutsche Bank Defendants knowingly, intentionally, willfully, maliciously, and fraudulently brought Defendant Meyer back to perpetuate the Defendants' concerted criminal misconduct, so that the Deutsche Bank Defendants could profit by getting in on it.

187. Defendant Deutsche Bank also used its controlling interest in Defendant Aldus Partners to cause Defendant Aldus Partners to file a false disclosure statement with the U.S. Securities and Exchange Commission ("SEC") representing that Defendant Aldus Partners

would adhere to Defendant Deutsche Bank's published ethics code. Violations of fiduciary duty, payoffs, and kickbacks are not authorized by Defendant Deutsche Bank's ethics code, any more than such unlawful conduct is authorized by the ethics code of any global financial giant.

188. After Defendant Deutsche Bank's acquisition of Defendant Aldus Partners, it did not stop at merely profiting from third-parties' dirty deals. To the contrary, the Deutsche Bank Defendants agreed to make a payoff, in order to grease the skids for a dirty deal of their own.

Defendant Deutsche Bank-Topiary Trust Agreed To Make A Payoff.

189. Defendant Deutsche Bank-Topiary Trust, a $ 250,000,000 ($ 250 Million) hedge fund Defendant Deutsche Bank was promoting, agreed with Defendant Martin Cabrera to pay Defendant Cabrera Capital a "third-party marketing" fee. But the Deutsche Bank Defendants knew that, in fact, the agreed-upon "fee" was a fraudulent payoff to Defendant Correra, Jr., and that the Cabrera Defendants were fronts for that bribe.

190. Defendant Deutsch Bank-Topiary Trust's agreement to pay Defendant Cabrera Capital was not disclosed to the ERB when the ERB approved the investment in November 2006. The proposed payment to Defendant Cabrera Capital later was included in the paperwork the Deutsch Bank Defendants submitted to ERB staff for approval, but even then the paperwork did not disclose the true facts; namely, (a) that the intended beneficiary was Defendant Correra, Jr., (b) that Defendant Cabrera Capital merely was a front, as pleaded in more detail below, and (c) the supposed "fee" actually was a bribe. The Deutsche Bank Defendants knowingly, intentionally, willfully, maliciously, and fraudulently hid the true facts from Plaintiff and the ERB's professional staff, in order to further and perpetuate the Defendants' scheme. The Deutsche Bank Defendants did so in concert with the Cabrera and Correra Defendants, and within the course and scope of the Defendants' criminal conspiracy. Accordingly, each and

every Defendant coconspirator was vicariously responsible for the Deutsche Bank Defendants' fraudulent conduct and the consequences thereof.

191. Notwithstanding Defendants' deception, however, the ERB staff refused to approve the payment.

192. Thereafter, on or about November 28, 2006, Plaintiff received telephone calls to New Mexico from Defendant Martin Cabrera and Defendant Correra, Sr., as well as the Deutsche Bank Defendants' representative Defendant Rice, all urging Plaintiff to intervene and direct the ERB's staff to approve the payment of a "third-party marketing" fee to Defendant Cabrera Capital. Plaintiff was surprised by the calls. The first reason Plaintiff was surprised was that, to the best of Plaintiff's knowledge, Defendant Cabrera Capital had no apparent role whatsoever in ERB's Deutsche Bank-Topiary Trust investment. The second reason was that Plaintiff never before had heard of "third-party marketing" fees. And the third reason was that Defendant Correra, Sr., never before had contacted Plaintiff concerning anyone profiting from ERB investments.

193. Plaintiff found the call from Defendant Correra, Sr., in particular to be disturbing. From that point forward, although Plaintiff still had no idea that the Correra Defendants were scheming to profit personally from New Mexico investments, Plaintiff no longer considered Defendant Correra, Sr., to be a completely independent and disinterested resource regarding ERB investments. Instead, from that point forward Plaintiff believed Defendant Correra, Sr., had some motive to try to help his friends profit from the ERB.

194. Defendant Rice was the representative of Defendant Deutsche Bank who called Plaintiff and urged him to intervene. Defendant Rice also was one of the Deutsche Bank representatives who negotiated the agreement to pay Defendant Cabrera Capital. Defendant Rice

knew, or at the very least should have known, that the agreement was for an unearned and unlawful payoff rather than a legitimate "third-party marketing" fee.

195. Nevertheless, in Defendant Rice's telephone conversation with Plaintiff, he fraudulently attempted to persuade Plaintiff that the payment was legitimate. In addition, as a vehicle to mislead Plaintiff, Defendant Rice e-mailed Plaintiff an article about third-party marketing agents that Defendant Rice falsely claimed supported the propriety of the requested payment, when in fact the article demonstrates precisely the opposite.

196. In order to increase his odds of deceiving Plaintiff, Defendant Rice sent Plaintiff a highlighted copy of the article that emphasized isolated vague and ambiguous language seemingly justifying the payment, while failing to emphasize other language demonstrating the payment was unjustified. For example, Defendant Rice failed to highlight the sentence explaining that a genuine third-party marketing agent would be "meeting with the manager during the due diligence phase and [would] be closely involved in discussing strategy, all marketing decisions, and attending investor presentations." As Defendant Rice well knew, neither Defendant Cabrera Capital nor Defendant Correra, Jr., performed those or any other services legitimate placement agents would be expected to perform.

197. Defendant Rice told Plaintiff that, absent the ERB's written approval of the payment of a third-party marketing fee, the securities laws of the United States would not allow the "third party marketing fee" to be paid.

198. Defendant Stimson is the other representative of Defendant Deutsche Bank who negotiated the agreement to pay Cabrera Capital. Defendant Stimson also is the representative who placed the misleading highlights on the article forwarded to Plaintiff by Defendant Rice. Defendant Stimson knew, or at the very least should have known, that the agreement was for an

unearned and unlawful payoff, rather than a legitimate "third-party marketing" fee. Nevertheless, Defendant Stimson knowingly, intentionally, and fraudulently prepared the deceptively highlighted article for the purpose of misleading Plaintiff, knowing that it would be transmitted to Plaintiff by an interstate e-mail.

199. Defendants Deutsche Bank A.G., Deutsche Bank Americas, Deutsche Bank DBAH, Deutsche Bank-Topiary Trust, Deutsche Bank-DB, Parker, Leitner, Keith, Curtis, Baez, Rice, Stimson, and Deutsche Bank John Does 1 through 5 are referred to collectively as "the Deutsche Bank Defendants."

200. Despite the best efforts of the Deutsche Bank, Cabrera, and Correra Defendants to deceive and manipulate Plaintiff, Plaintiff did not intervene and the ERB's staff persisted in its refusal to pay. Nevertheless, the Defendants did succeed in continuing to conceal their fraudulent scheme.

201. Based on the representations of Defendants Rice and Correra, Sr., Plaintiff believed that the "third-party marketing" fee would not be paid, because the ERB refused to sign the approval. Moreover, as a result of these misrepresentations, Plaintiff believed that no such fees ever would be paid on ERB investments, absent the ERB's advance written approval.

202. Accordingly, while the Deutsche Bank, Cabrera, and Correra Defendants' fraudulent misconduct failed to cause the supposed "third party marketing" fee to be approved in this instance, the Defendants nevertheless accomplished their most important goal; namely, continuing to conceal, perpetuate, and further their ongoing criminal conspiracy. They did so by continuing to hide Defendants' criminal scheme and by lulling Plaintiff into the belief that no "third-party marketing" fees on ERB investments would be paid absent prior written approval.

203. All of the Deutsche Bank, Cabrera, and Correra Defendants' fraudulent words and deeds as pleaded above were made within the course and scope of the Defendants' partnership in crime, and in furtherance of the Defendants' criminal conspiracy. Accordingly, each and every Defendant coconspirator was vicariously responsible for this fraudulent misconduct and the consequences thereof.

204. Notwithstanding its lip service to integrity, Defendant Deutsche Bank has a long and sordid history of corporate irresponsibility that demonstrates devotion to one thing only: money. Defendant Deutsche Bank's misconduct here is characteristic of a corrupt corporate culture eager to exploit every opportunity – including fraudulent opportunities – to increase corporate profits.

205. For example, one of Defendant Deutsche Bank's tentacles is Deutsche Bank Securities, Inc. ("Deutsche Bank Securities"), which indirectly is owned and controlled by Defendant Deutsche Bank A.G. Deutsche Bank Securities' "FINRA" report discloses more than 150 regulatory actions in the last decade against this one Deutsche Bank tentacle alone, and the report also discloses that Defendant Deutsche Bank A.G. directs Deutsche Bank Securities' management or policies. "FINRA" is the acronym for the Financial Industry Regulatory Authority, which is the largest independent regulator for all securities firms doing business in the United States. FINRA's mission is to protect America's investors by making sure the industry operates fairly and honestly.

206. One of the events disclosed in Deutsche Bank Securities' FINRA report is a 2004 SEC enforcement action regarding fraudulent conflicts of interest. Deutsche Bank Securities agreed to an injunction in that SEC action, on behalf of its "officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice,"

prohibiting the specific fraudulent activity in that case. Nevertheless, just two years later, Defendant Deutsche Bank joined the even more outrageous and blatant fraudulent scheme pleaded in this Complaint.

The Vanderbilt Defendants Paid Off Defendant Correra, Jr., And Deceived Plaintiff.

207. Notwithstanding Defendants' scheme pleaded above, and although this fact in no way excuses the Defendants' misconduct, many of the ERB investments recommended by the Aldus Defendants have performed well. Unfortunately, the same cannot be said for the ERB's investment with the Vanderbilt Defendants. Specifically, the ERB invested $ 40 Million in Defendant Vanderbilt Trust, and today the investment is virtually worthless. This approximately $ 40 Million loss was a direct result of Defendants' scheme.

208. The Vanderbilt loss is a component of the Fund's total performance discussed above, and therefore is included in the approximately $ 2,700,000,000 portfolio value increase amounting to approximately $ 28,000 per ERB member, as pleaded above. If the Vanderbilt loss had not been incurred, the portfolio value would have increased during the same time period by an additional $ 40,000,000, amounting to an additional approximately $ 420 per member.

209. Following the statutory Prudent Investor Rule to achieve a relatively high rate of return – and in this instance a $ 28,000 per ERB member increase in value – necessarily involves risk. One of the risks is that a particular investment will be hurt or even lost as a result of securities fraud. These risks only can by avoided completely by investing entirely in the most risk free securities such as United States Treasury notes, which pay relatively low yields. But it would be contrary to both the Mellon Report's recommendations and the ERB's governing statute – as well as disastrous to the financial soundness of any defined benefits plan – to invest the Fund's entire portfolio in the most risk free and low-yielding investments.

210. Regardless of the Fund's multibillion-dollar gains under Plaintiff's watch, however, Defendants' scheme resulted in the $40 Million Vanderbilt loss and a fraud costing that amount of educators' retirement assets is both inexcusable and gravely serious. Notwithstanding the Fund's overall success during this time period, the Vanderbilt loss shook ERB members' confidence in their pension Fund, undermined their sense of financial security, and damaged their view of State officials in general and Plaintiff in particular.

211. The ERB's investment committee and Board both approved the Vanderbilt investment at back-to-back special meetings on May 12, 2006, in New Mexico, which were publicly held and recorded in accordance with the New Mexico Open Meetings Act. That approval was based on, among other things, (a) the Vanderbilt Defendants' fraudulent presentation, (b) Defendant Bland's enthusiastic endorsement, and (c) the recommendation of Frank Foy, the then Chief Investment Officer of the Fund. But Plaintiff never would have called the special meetings if the Vanderbilt Defendants had not deceived Plaintiff. Moreover, if Defendant Bland had honored his fiduciary duties and publicly disclosed his knowledge that Defendant Correra, Jr., would be paid a supposed "fee" on the Vanderbilt investment – and that the Vanderbilt Defendants fraudulently were concealing that "fee" – this public disclosure would have derailed the proposed investment.

212. Defendant Livney, the Chief Executive Officer of Defendant Vanderbilt Financial, made Vanderbilt's first contact with the ERB by telephoning Mr. Foy in New Mexico in January 2006. But rather than act professionally as expected of a high-ranking official of the State of New Mexico responsible for investing Billions of dollars in public funds, Mr. Foy by his own admission told Defendant Livney: "I don't have time to screw with it, dude."

213. Mr. Foy's unprofessional behavior led directly to Defendant Livney contacting Plaintiff and seeking Plaintiff's direct intervention. At Defendant Bland's suggestion, Defendant Livney telephoned Plaintiff in New Mexico to report his conversation with Mr. Foy, and Defendant Livney represented that his firm had a time-sensitive investment that was an excellent opportunity for the ERB. Defendant Livney knowingly, intentionally, willfully, maliciously, and fraudulently failed to disclose to Plaintiff, then or at any time, that the Vanderbilt Defendants previously had paid kickbacks to Defendant Correra, Jr., in connection with SIC investments, and that Defendant Livney had agreed on behalf of the Vanderbilt Defendants to an additional $ 2,000,000 payoff to Defendant Correra, Jr., on the proposed ERB investment. Instead, Defendant Livney said only that Defendant Bland had told him to call Plaintiff and that Defendant Bland was, on behalf of the SIC, a large investor in Vanderbilt products.

214. Plaintiff called Defendant Bland immediately after his telephone conversation with Defendant Livney to inquire about Vanderbilt, and Defendant Bland had glowing praise for the investment. Defendant Bland told Plaintiff that Vanderbilt investment was a great opportunity, and he would likely be buying a $100,000,000 stake on behalf of the SIC. Defendant Bland also told Plaintiff that he had a lot of experience with Vanderbilt, that he found it to be an outstanding organization, and that he believed the ERB should invest in Vanderbilt. Like Defendant Livney, Defendant Bland knowingly, intentionally, willfully, maliciously, and fraudulently failed to disclose to Plaintiff, then or at any time, that the Vanderbilt Defendants previously had paid kickbacks to Defendant Correra, Jr., in connection with SIC investments

215. Plaintiff already was deeply concerned about Mr. Foy's performance during the Fund's recent multibillion-dollar losses, and Plaintiff doubted Mr. Foy's competence to serve as the Chief Investment Officer presiding over the ERB's reallocation of investments into

alternative asset classes. Learning about Mr. Foy's unprofessional behavior was disturbing to Plaintiff, and it further diminished Plaintiff's opinion of Mr. Foy's suitability for his job.

216. Based upon Defendant Bland's recommendation, and given the information available to Plaintiff at the time, Plaintiff considered it his responsibility as ERB Chairman to provide Defendant Livney with the sort of fair and professional consideration that a financial firm had the right to expect from the ERB, and to give careful consideration to a potential investment that reportedly was an excellent investment for the ERB. Accordingly, Plaintiff agreed to meet with Defendant Livney to discuss the Vanderbilt investment. But if Defendant Livney had been honest with Plaintiff and disclosed the true facts pleaded above, Plaintiff would not have met with Defendant Livney or taken any action other than to disclose that information to the ERB Board and recuse himself from consideration of the Vanderbilt investment.

217. Instead, as a direct consequence of Defendant Livney's deception, Plaintiff met with Defendant Livney in New Mexico, and Defendant Livney provided a compelling presentation in support of the Vanderbilt investment. Plaintiff then directed Mr. Foy to attend a seminar to learn about the investment and to make a recommendation to the ERB Board.

218. Based on the fraudulent misrepresentations and omissions of Defendants Livney and the Vanderbilt Defendants, Plaintiff scheduled special meetings of the investment committee and the Board to consider the Vanderbilt investment on an expedited basis. Plaintiff scheduled the expedited meetings because Defendant Livney represented that the ERB would miss the opportunity to invest if it did not act quickly.

219. Defendant Florian likewise communicated with Plaintiff and other representatives of the ERB in New Mexico, and he likewise affirmatively misled Plaintiff and others. In

addition, Defendant Florian failed to disclose complete and accurate information he had a duty to disclose, and in particular he failed to disclose the payoff to Defendant Correra, Jr.

220. At the May 12, 2006 investment committee meeting in New Mexico, before a vote on the Vanderbilt investment was held, an ERB Board member asked Defendant Livney point blank: "Could I ask how it came about that you came to us?" As the audio recording of that public meeting reflects, Defendant Livney responded deceptively by referring only to the Vanderbilt Defendants' prior relationship with the SIC and again knowingly, intentionally, willfully, maliciously, and fraudulently concealing the promised payoff to Defendant Correra, Jr. Defendant Livney lied to the ERB Board, because he knew that if he answered truthfully and disclosed the Vanderbilt Defendants' fraudulent payments to Correra, Jr., the ERB would not have invested in Vanderbilt.

221. Defendant Livney's fraudulent words and deeds to Plaintiff and the Board were made on behalf of the Vanderbilt Defendants, within the course and scope of the Defendants' partnership in crime, and in furtherance of the Defendants' criminal conspiracy. As such, each and every Defendant coconspirator was vicariously responsible for Defendant Livney's fraudulent conduct and the consequences thereof. Indeed, had Defendant Livney answered the ERB Board member's question truthfully at the May 12, 2006 investment committee meeting, the ERB and Plaintiff would not have suffered any consequences from the Defendants' scheme, because all of the ERB investments affected by the Defendants' fraudulent misconduct occurred after that meeting.

222. Although Defendant Livney and the Vanderbilt Defendants knowingly, intentionally, willfully, maliciously, and fraudulently concealed their agreement to pay Defendant Correra, Jr., they were well aware of both the agreement and the fact that it provided

for an unlawful payoff. In fact, their agreement not only contemplated that Defendant Correra, Jr., would not perform any of the services legitimate placement agents perform to earn their fee; it explicitly prohibited Defendant Correra, Jr., from doing so.

223. The Vanderbilt Defendants agreed to pay Defendant Correra, Jr., the fraudulent $ 2,000,000 "fee" for (a) providing publicly available contact information for two State agencies, (b) keeping out of sight, and (c) otherwise doing nothing. The Vanderbilt Defendants then formalized this agreement in a remarkable contract dated November 28, 2006, and styled "Introduction Agreement," which is attached hereto as Exhibit H.

224. The parties to the "Introduction Agreement" were Defendant Vanderbilt Capital and Defendant SDN Advisers, which the Vanderbilt Defendants knew was controlled by Defendant Correra, Jr., and served as a vehicle for him to receive and obscure his illegal payoffs. In fact, Defendant Livney signed the "Introduction Agreement" on behalf of the Vanderbilt Defendants, and Defendant Correra, Jr., signed it on behalf of Defendant SDN Advisors.

225. The "Introduction Agreement" is fraudulent on its face. The only purpose the "Introduction Agreement" served was to provide a paper trail for the Vanderbilt Defendants' payment of a $ 2,000,000 bribe to Defendant Correra, Jr. This document – standing alone – proves that the Vanderbilt Defendants knowingly, intentionally, and fraudulently joined Defendants' scheme.

226. By fraudulently failing to disclose the agreed-upon payoff to Defendant Correra, Jr., Defendant Livney knowingly, intentionally, and fraudulently deceived the ERB, for the purpose of concealing, perpetuating and furthering Defendants' scheme. Defendant Livney did so for his own benefit and, as a representative of the Vanderbilt Defendants, for the benefit of all of the Vanderbilt Defendants. The Vanderbilt Defendants' fraudulent misconduct was calculated

to serve their own selfish interests, in violation of their fiduciary duties, by obtaining ERB funds on fraudulent pretenses.

227. There is substantial evidence that, in addition to deceiving the ERB about the payoff to Defendant Correra, Jr., Defendant Livney and the Vanderbilt Defendants further defrauded the ERB regarding the value of the investment, including the risk and the expected return. But for the purposes of this lawsuit that is beside the point. Whether or not the underlying investment was fraudulent, the Vanderbilt Defendants participated in Defendants' scheme by (a) agreeing to payoff Defendant Correra, Jr., (b) failing to disclose the payoff contemporaneously to the ERB, (c) specifically misrepresenting the circumstances to Plaintiff and the ERB, and ultimately (d) making the payoff. By doing so, the Vanderbilt Defendants ratified the prior misconduct of the other Defendants and joined Defendants' scheme.

228. The Vanderbilt Defendants, by their fraudulent misconduct, assumed joint and several responsibility for all of the damages to Plaintiff identified in this Complaint, and exacerbated those damages. Moreover, all of the Vanderbilt Defendants' fraudulent misconduct pleaded above was within the course and scope of the Defendants' partnership in crime, and in furtherance of the Defendants' criminal conspiracy. As such, each and every Defendant coconspirator was vicariously responsible for Vanderbilt Defendants' misconduct and the consequences thereof.

229. Whether or not the Vanderbilt investment had little or no genuine value at the time of the investment, it ultimately was virtually worthless. Under the circumstances, the community reaction to the media reports about the $ 40,000,000 ($ 40 Million) loss and accompanying unlawful payoff was a direct and proximate cause of grievous injury to Plaintiff.

Defendant Correra, Sr., Provided A Mortgage Loan To Plaintiff Under False Pretenses.

230. In the summer of 2006, Plaintiff decided to take out an additional $ 350,000 mortgage on his home. Plaintiff had a number of other options for raising the funds he required, including the alternative of liquidating his investment accounts, but he decided to keep his investments in place and borrow the money instead.

231. At the time, as a result of Defendant Correra, Sr.'s fraud and deception, Plaintiff believed Defendant Correra, Sr., was a very close personal friend. And according to Defendant Correra, Sr., he had approximately $ 20,000,000 ($ 20 Million) in his personal investment trading account, which made him Plaintiff's wealthiest friend by a very wide margin. Requesting the mortgage loan from Defendant Correra, Sr., rather than applying for a bank loan, appeared at the time to be Plaintiff's best and simplest option. Unbeknownst to Plaintiff, however, what appeared to be the best option was, in fact, the worst by far.

232. Defendant Correra, Sr., confided that he had a disabled son from an extra-marital affair, and that the loan to Plaintiff would be an opportunity to provide for his disabled son. Defendant Correra, Sr., went on to say that he wanted to take his son out of his will, in order to spare his wife from unnecessary discomfort upon his death, and to provide for his son by giving him a large gift. Defendant Correra, Sr., said that he planned to gift his disabled son a total of $ 600,000; the $ 350,000 loan proceeds plus an additional $250,000.

233. Because Defendant Correra, Sr., told Plaintiff these assets were gifts to his son, Plaintiff, being a CPA, told Defendant Correra, Sr., he was required to file a federal gift tax return reflecting the gift to Defendant Correra, Sr.'s son. Defendant Correra, Sr., did so.

234. The loan was accomplished by an interest-bearing note and mortgage in favor of Defendant Correra, Sr.'s disabled son, secured by Plaintiff's home. The transaction was handled

professionally, and the loan proceeds were not released to Plaintiff until the mortgage was filed with the Bernalillo County Clerk.

235. The note provided for a 6% annual interest rate, monthly payments, and a balloon payment requiring that the outstanding balance be paid within five years. Plaintiff fully and timely satisfied his obligations under the note to Defendant Correra, Sr.'s disabled son, even after Defendants' scheme had been exposed and Plaintiff had suffered the grievous damages pleaded in this Complaint. Specifically, Plaintiff paid each monthly payment as due, and paid the entire outstanding balance in full within the five-year term.

236. When Plaintiff requested the loan from Defendant Correra, Sr., Plaintiff anticipated that the paperwork would reflect Defendant Correra, Sr., as the lender. The mortgage and note were prepared in favor of Defendant Correra, Sr.'s son, however, at Defendant Correra, Sr.'s request. All of the payments were paid to his son's custodial account.

237. Plaintiff did not know, and could not have discovered based on the information available to him at the time, that the Correra Defendants were profiting from the ERB's reallocation of its investments, or otherwise were participating in corrupt, criminal, or immoral conduct of any kind. To the contrary, at the time Plaintiff had the highest regard, respect, and even affection for Defendant Correra, Sr., and Plaintiff considered Defendant Correra, Jr., to be a legitimate and successful professional. If Plaintiff had known the truth about Defendant Correra, Sr., however, he never would have entered into this or any other business transaction with him.

238. When Defendants' criminal conspiracy was exposed and Plaintiff began learning the true facts, he requested and passed a polygraph examination from Charles A. Honts, Ph. D., a nationally preeminent polygraph examiner. This polygraph examination confirmed that Plaintiff had no knowledge whatsoever of the "third-party marketing" fees paid on ERB investments until

he received the information from ERB staff in the Spring of 2009. The polygraph examination also confirmed that, as far as Plaintiff knew, the mortgage was nothing more than an innocent loan and security agreement requiring repayment in accordance with its terms. A copy of Dr. Honts' report is attached hereto as Exhibit I.

239. Defendant Correra, Sr., entered into this transaction with Plaintiff in order to further ingratiate himself to Plaintiff, and as a vehicle to continue to conceal Defendants' ongoing scheme from Plaintiff. Given Defendant Correra, Sr.'s wealth and the false pretense of a close friendship that he carefully had constructed, it would have been odd for him to decline Plaintiff's request. Moreover, by entering into the transaction, Defendant Correra, Sr., solidified the false impression that he carefully had constructed; namely, that he was Plaintiff's close and loyal friend. Accordingly, Defendant Correra, Sr., entered into the transaction for his own selfish purposes, knowing that by doing so Plaintiff would be ruined by the false impression it would create if the Defendants' scheme were exposed.

240. Defendant Correra, Sr.'s fraudulent misconduct in connection with the mortgage transaction was within the course and scope of the Defendants' partnership in crime, and in furtherance of the Defendants' criminal conspiracy. That is, it was intended to (a) perpetuate the Defendants' conspiracy by continuing to conceal Defendants' plot from Plaintiff, (b) solidify the false impression Defendant Correra, Sr., carefully had constructed regarding his purported friendship with Plaintiff, and (c) further the conspiracy by reinforcing the false impression that Defendant Correra, Sr.'s motives were altruistic and pure. Accordingly, each and every Defendant coconspirator was vicariously responsible for Defendant Correra, Sr.'s fraudulent misconduct and the consequences thereof.

241. If, rather than agreeing to payoff Defendant Correra, Jr., the Vanderbilt Defendants had honored their fiduciary duties and disclosed the circumstances to Plaintiff or any loyal ERB official, Plaintiff would have become aware of Defendants' scheme before Plaintiff entered into the mortgage transaction. If the Vanderbilt Defendants had done so, as they were obligated to do, Plaintiff would not have entered into the mortgage transaction and thereby avoided the damage resulting from that transaction.

242. If the Deutsche Bank Defendants had disclosed Defendants' scheme after the Pierre Hotel meeting, as they were obligated to do, the damage to Plaintiff likewise would have been prevented. Although the disclosure to the Deutsche Bank Defendants was after the mortgage transaction, it was before the ERB acquired any of the investments recommended by Defendants Meyer and Aldus. Moreover, while the disclosure to the Deutsche Bank Defendants was after the Vanderbilt transaction, it was before the November 28, 2006 "Introduction Agreement" and before the Vanderbilt Defendants paid any portion of the payoff to Defendant Correra, Jr., through Defendant SDN Advisers or otherwise.

243. Accordingly, if the Deutsche Bank Defendants had disclosed the misconduct, Plaintiff could have taken appropriate action to protect the ERB and himself before any payments were made to Defendant Correra, Jr., on any ERB investments. But instead, since Plaintiff did not know and could not have known about Defendants' scheme until after the payoffs were made, the Deutsche Bank Defendants' misconduct ensured that the damage to Plaintiff was unavoidable.

244. The Vanderbilt Deutsche Bank Defendants, by their failure to disclose these facts, which they had a duty to disclose, knowingly, intentionally, willfully, recklessly and maliciously put Plaintiff at risk for precisely the sort of injuries Plaintiff in fact suffered when the

Defendants' concerted criminal conduct was exposed. Moreover, the Vanderbilt Defendants' and Deutsche Bank Defendants' fraudulent misconduct was within the course and scope of the Defendants' partnership in crime, and in furtherance of the Defendants' criminal conspiracy. That is, it was intended to continue to conceal Defendants' plot from Plaintiff, and to perpetuate and further the Defendants' criminal conspiracy. As such, each and every Defendant coconspirator was vicariously responsible for the Vanderbilt Defendants' and Deutsche Bank Defendants' fraudulent misconduct and the consequences thereof.

Other Defendants Acted As Fronts for Defendant Correra, Jr.

245. It was essential to the Defendants' scheme that Defendant Correra, Jr.'s receipt of the fraudulent "fees" from SIC and ERB investments be kept secret. Accordingly, Defendant Correra, Jr., used a variety of fronts as the disclosed recipients of the fees. The Fronts' role in the Defendants' scheme was to hide the payments to Defendant Correra, Jr., and thereby further and perpetuate the scheme.

246. Initially the fronts for the ERB transactions were controlled by third parties and operated like high-end "bagmen;" that is, they received a relatively small cut of the supposed "fees" as compensation for passing the payoffs on to Defendant Correra, Jr.

247. As identified above, the fronts not wholly controlled by Defendant Correra, Jr., included at least the following "bagmen:" Defendants Martin Cabrera, Cabrera Capital, Ajax Investments, Ajax Advisors, Arlene Rae Busch, DAV/Wetherly, Wetherly GP, Daniel Weinstein, Vicky Lee Schiff, and Julio Ramirez (hereinafter referred to collectively as the "Bagman Defendants").

248. Defendant Correra, Jr., filed a lawsuit in the United States District Court for the Northern District of Illinois (Eastern Division, Case 1:10-cv-01048) brazenly seeking the

assistance of the federal courts to collect more than $ 1 million in payoffs that Defendant Correra, Jr., claimed to be "fees" TAG Associates LLC (hereinafter "TAG") was required to pay him through one of the Bagman Defendants; Defendant Cabrera Capital. A copy of Defendant Correra, Jr.'s complaint in the TAG lawsuit is attached hereto as Exhibit J (omitting its fifty (50) pages of appendices). *See, id.,* ¶ 36.

249. Defendant Correra, Jr., had the audacity to file the TAG case, notwithstanding the fact that TAG already had paid him more than $ 2.3 million in fraudulent "fees" through two of the Bagman Defendants. *Id.,* ¶¶ 26-27.

250. Defendant Correra, Jr.'s Complaint contains admissions regarding the Bagman Defendants' role in the Defendants' scheme. For example, Defendant Correra, Jr., admits that TAG's agreement was to pay Defendant Correra, Jr., and that this agreement originally was structured as a payment to Defendant Cabrera Capital, which in turn "was contractually bound to pay ninety percent (90%) of the fees" to Defendant Correra, Jr. Furthermore, Defendant Correra, Jr., effectively admitted that Defendant Cabrera Capital was nothing more than a front, alleging that "CORRERA is an intended third party beneficiary of TAG's Agreement with Cabrera," and therefore the real party in interest to bring the lawsuit against TAG. *Id.,* pp. 1-2 (Introduction). Indeed, Defendant Correra, Jr., admits that his lawsuit seeks payment of the supposed fees TAG "owes CORRERA," that the payments by TAG were "for the benefit of CORRERA," and that therefor the fees merely were made "through Cabrera." *Id.,* ¶¶ 13, 20, 27, and 30. Accordingly, there was no reason for Defendant Cabrera Capital's involvement other than to act as a 'bagman," hiding Defendant Correra, Jr., as the true recipient of the fraudulent "fees."

251. Defendant Correra, Jr., further alleges that his subsequent agreement with Defendant Ajax required to pay Correra "ninety-seven and one-half percent (97.5%) of all fees,

commissions, and compensation that Ajax receive[d] from Cabrera with respect to work" Defendant Correra, Jr., supposedly "performed during CORRERA'S tenure with Cabrera." *Id.*, ¶ 18. As was true regarding Defendant Cabrera Capital, there was no reason for Defendant Ajax's involvement other than to act as a 'bagman," hiding Defendant Correra, Jr., as the true recipient of the fraudulent "fees."

252. Each and every one of the Bagman Defendants played this same integral role in Defendants' scheme, by secreting, covering-up, and otherwise hiding that Defendant Correra, Jr., was the recipient of all but a small percentage of the fraudulent "fees" received by the Bagman Defendants. The Bagman Defendants knowingly, intentionally, willfully, maliciously, and fraudulently concealed the true facts from the New Mexico SIC and ERB, by – among other things – not breathing a word about Defendant Correra, Jr.'s involvement to Plaintiff or any other loyal State servant, and by negotiating and executing contract and "disclosure" documents that omitted any reference to Defendant Correra, Jr., as the recipient of the fraudulent "fees." There was no reason for the Bagman Defendants' involvement other than to conceal Defendant Correra, Jr.'s role in the Defendants' criminal conspiracy.

253. Each and every one of the Bagman Defendants could have prevented damage to Plaintiff and Defendants' other victims by disclosing the plot to Plaintiff or any other loyal State official, or simply by honestly including Defendant Correra, Jr.'s name in the contracts and/or disclosure documents. The Bagman Defendants' purposefully failed to do so, however, and instead knowingly, intentionally, willfully, recklessly and maliciously concealed the true facts from the New Mexico SIC and ERB in order to further and perpetuate the Defendants' criminal partnership. Accordingly, each Bagman Defendant is liable for the fraudulent acts of each and every one of its coconspirators performed within the course and scope of the Defendants'

partnership in crime and in furtherance of the Defendants' criminal conspiracy, as pleaded throughout this Complaint.

254. Defendant Correra, Jr., later decided to avoid sharing any part of his payoffs on the ERB transactions by using entities he created and wholly controlled as fronts, rather than the Bagman Defendants or any other third-parties. As identified above, these fronts wholly-controlled by Defendant Correra included at least the following Defendants: SDN Advisers, L2 Capital, L2 Investment, and L2 Asset. Each and every one of these front Defendants was an alter ego of Defendant Correra, Jr. (hereinafter referred to collectively as "Alter Ego Defendants"). Each Alter Ego Defendant played an integral role in Defendants' scheme, and like the Bagman Defendants each could have prevented damage to Plaintiff and Defendants' other victims by disclosing the true facts to Plaintiff or any other loyal State official. As entities wholly controlled by Defendant Correra, Jr., however, these alter egos obviously did not do so. Accordingly, each Alter Ego Defendant is liable for the fraudulent acts of each and every one of its coconspirators performed within the course and scope of the Defendants' partnership in crime and in furtherance of the Defendants' criminal conspiracy, as pleaded throughout this Complaint.

255. All of the "fronts" named as Defendants, including the Bagman Defendants and Alter Ego Defendants, at times hereinafter are referred to collectively as the "Front Defendants."

256. Following a fair opportunity for discovery in accordance with the applicable Rules, Plaintiff will prove the detailed facts supporting his allegations against the Front Defendants at trial, including but not limited the following:

(a) ***The Cabrera Defendants***

- Defendant Martin Cabrera directed multiple telephone calls to Plaintiff in the State of New Mexico in the course and scope of the Defendants' criminal partnership, and in furtherance thereof.

- These calls included the call on or about November 28, 2006, pleaded above, in which Defendant Martin Cabrera made intentionally false representations as well as fraudulent omissions calculated to induce Plaintiff's assistance in procuring payment of a purported "fee," that in fact was a bribe.

- Defendant Martin Cabrera's telephone calls also included a call to Plaintiff in New Mexico, requesting that Plaintiff speak at an investment conference Cabrera Capital was planning to hold in Santa Fe, New Mexico. This conference thereafter was held within the course and scope of the Defendants' criminal conspiracy. Plaintiff did speak at the conference, during which he met with, had lunch with, and regularly spoke with Defendant Martin Cabrera. During this conference, Defendant Martin Cabrera, by word and deed, furthered and perpetuated Defendants' criminal partnership by representing that he and Defendant Cabrera Capital were providing legitimate and valuable investment services to the State of New Mexico and by continuing to conceal Defendants' fraudulent scheme.

- Defendant Martin Cabrera likewise physically was present in the State of New Mexico on multiple other occasions during the Defendants' criminal conspiracy, in order to further and perpetuate Defendants' scheme. This activity by Defendant Martin Cabrera in New Mexico included one meeting with Steve Neel of the ERB's professional staff. During this meeting with Mr. Neel Defendant Martin Cabrera, by word and deed, furthered and perpetuated the Defendants' criminal partnership by representing that he and Defendant Cabrera Capital were providing legitimate and valuable investment services to the State of New Mexico and by continuing to conceal the Defendants' fraudulent scheme.

- Defendant Martin Cabrera also placed multiple telephone calls to his coconspirators Defendant Correra, Sr., and Defendant Correra, Jr., in the State of New Mexico, all of which were in the course and scope of the Defendants' criminal conspiracy and in furtherance thereof.

- All of Defendant Martin Cabrera's fraudulent words and deeds were on his own behalf and on behalf of Defendant Cabrera Capital, the management and policies of which are directed by Defendant Martin Cabrera, who indirectly controls Defendant Cabrera Capital. Accordingly, all of Defendant Cabrera Capital's fraudulent acts likewise were committed on its own behalf and on behalf of Defendant Martin Cabrera.

- In addition to targeting Plaintiff personally to further and perpetuate Defendants' scheme by misleading Plaintiff, the Cabrera Defendants directed their fraudulent misconduct toward the State of New Mexico by plotting to profit from corrupting the investment processes of the New Mexico SIC and ERB, as alleged herein. *See* Exhibit J, ¶ 7. *See also* Exhibit K hereto (letter agreement attached as pages 25-26 of the TAG Complaint appendices,

extending the "fee" agreement to the ERB, and calling for disclosure of the Front Defendant Cabrera Capital but not the real party in interest; *i.e.*, Defendant Marc Correra, Jr.).

(b) The Ajax Defendants

- The Ajax Defendants received and/or shared in a minimum of approximately $ 8 million in fraudulent kickbacks paid on investments by the New Mexico SIC and New Mexico ERB.

- As the Managing Director, Principal, and Chief Compliance Officer of Defendant Ajax Investments, as well as the person who controls Defendant Ajax Advisors and indirectly controls Defendant Ajax Investments through her control of Ajax Advisors, Defendant Busch personally and directly participated in the Defendants' criminal conspiracy. Likewise, she caused the other Ajax Defendants to do so. *See* Ajax Investments, LLC's FINRA report, attached hereto as Exhibit L.

- Defendant Arlene Busch, employing her control of Ajax Advisors to exercise control over Ajax Investments, signed multiple Ajax Investments agreements calculated to (a) hide Defendant Correra, Jr.'s fraudulent receipt of payoffs from the New Mexico ERB and the SIC, (b) corrupt the process of those New Mexico agencies, and (c) further and perpetuate the Defendants' criminal partnership. One such agreement is attached hereto as Exhibit M. It was no accident that the Ajax Defendants did not breathe a word in these agreements or otherwise to any loyal New Mexico official about Defendant Correra, Jr. As a necessary part of Defendants' scheme, Defendant Correra, Jr., explicitly instructed Defendant Busch to conceal his involvement. With the intention of furthering and perpetuating the Defendants' partnership in crime, and with the specific intent to defraud, the Ajax Defendants scrupulously followed that fraudulent instruction.

- The Ajax Defendants executed these agreements with the specific intent to defraud, and they knowingly, intentionally, maliciously and purposefully aimed, directed, and targeted their fraudulent activity toward the State of New Mexico. The Ajax Defendants did so in order to derive improper benefits from their New Mexico victims, with knowledge that their fraudulent activity was corrupting the investment process of the State of New Mexico and otherwise causing harm and/or potential harm in New Mexico. Accordingly, the Ajax Defendants purposefully engaged in wrongful interstate activity to avail themselves of potentially lucrative business relationships in New Mexico and derive benefits therefrom.

- Defendant Busch filed an affidavit with this Court wrongfully seeking to avoid jurisdiction in New Mexico by falsely implying a lack of minimum contacts with the State of New Mexico. But that affidavit did not deny that (a)

the Ajax Defendants have transacted business in New Mexico, (b) Defendant Busch has traveled to New Mexico on business, (c) the Ajax Defendants have solicited business in New Mexico, or (d) Defendant Busch has directed business communications into New Mexico, including telephone calls, facsimiles, e-mails, mailings, and other deliveries. Accordingly, upon information and belief, Plaintiff alleges that the Ajax Defendants in fact did engage in all of these activities, which further demonstrate the Ajax Defendants' more than minimum contacts with the State of New Mexico.

- All of Defendant Busch's fraudulent words and deeds were on her own behalf and on behalf of the Ajax Defendants, the management and policies of which are directed by Defendant Busch. Accordingly, all of Ajax Defendants' fraudulent acts likewise were committed on their own behalf and on behalf of Defendant Busch.

*(c) **Defendants Weinstein, Schiff, DAV/Wetherly, Wetherly GP, and Ramirez.***

- Defendant Weinstein is referenced repeatedly by Defendant Meyer in the secretly-recorded September 16, 2006 Aldus partners meeting, quoted in paragraphs 127 and 128, above. Defendant Meyer emphasized the necessity of recommending Defendant Weinstein's deals – not based on the investments' merits – but instead based on the "ecosystem" of the Defendants' scheme that required recommendations to be based on the goal of "certain people getting their funds done." (September 16, 2006 Audio Recording, at approximately 1:56:32 - 1:57:04 and 206:54 - 2:07:06.)

- When other Aldus partners opposed recommending Defendant Weinstein's deal, Defendant Meyer asks: "But what should I tell Dan?" Defendant Meyer then quickly adds: "I know Dan's got a venture fund that means we're, we really are going to have to do his venture fund." (*Id.*, at approximately 0:28:12 – 0:28:23.) Defendant Meyer went so far as to acknowledge being afraid not to recommend an investment being pushed by Defendant Weinstein, and on which Defendant Weinstein would receive a fraudulent "fee." (*Id.*, at approximately 0:30:12 - 0:30:18.)

- Defendants Weinstein, Schiff, DAV/Wetherly, Wetherly GP, and Ramirez were participants in the complex web of corruption that spanned the United States from coast-to-coast, as pleaded herein, even before the Defendants' criminal conspiracy expanded to New Mexico. Indeed, in order to obtain a discontinuance of the New York Attorney's investigation and thereby avoid prosecution, Defendant DAV/Wetherly and its parent company agreed to pay $1,000,000 to compensate New York for the fraudulent misconduct of these Defendants in New York State alone. *See* February 2010 Agreement, attached hereto as Exhibit N, ¶¶ 41-43.

- In addition, (a) Defendant DAV/Wetherly and its parent company agreed to "immediately and permanently cease acting as a Placement agent in connection with Public Pension Fund investments in the United States" (*id.*, ¶ 39), (b) Defendant DAV/Wetherly's parent company agreed to end operations by approximately August 2011 (*id.*), and (c) Defendants Weinstein and Schiff agreed to comply with the New York Attorney General's Public Pension Fund Reform Code of Conduct, established in response to the "widespread corruption in public pension fund management and the recent national crisis of public corruption involving widespread misuse of placement agents, lobbyists, and other politically-connected intermediaries to improperly gain access to and influence the investment decision-making of state and local Public Pension Fund trustees."

- Nevertheless, in order to use their wealth and power to attempt to intimidate Plaintiff, Defendants Weinstein, Schiff, DAV/Wetherly, and Wetherly GP threatened to sue Plaintiff and his counsel – and further to seek professional sanctions against Plaintiff's counsel – unless Plaintiff "immediately dismissed" his claims pleading the same type of misconduct. The letter delivering that threat is attached hereto as Exhibit O. This letter identifies three law firms representing Defendants Weinstein and Schiff and the Wetherly Defendants, including two of the largest and most powerful law firms in the world with approximately 4,800 lawyers in 30+ offices in the United States and 70+ more across the Globe. The attempt by these Defendants to bully Plaintiff (but not the New York Attorney General or other more powerful parties) into abandoning valid claims is further evidence of consciousness of guilt.

- Also, Exhibit O brags that Defendant DAV/Wetherly is "one of the most successful independent placement firms in the country," with an "excellent reputation," which has had "strong success" and is sought after by "a substantial number of top-rated funds . . . each year." This letter further boasts that Defendant DAV/Wetherly has (a) "offices in Los Angeles, New York and Chicago," (b) an "experienced team of financial services professionals, (c) "more than 500 institutional investors" domestically, in "20 states," and (d) "nearly 1,000 institutional investors" internationally, "across the globe." These admissions demonstrate that there was no conceivably legitimate reason for these Bagman Defendants to use Defendant Correra, Jr., as their subagent and share their "fee" with him. The only explanation for them doing so was to attempt to do exactly what they did in New York; namely, to corrupt the investment processes of public funds with payoffs in the form of fraudulent "placement fees."

- Based on these admissions regarding their resources and prowess, these Bagman Defendants likewise would have no legitimate reason to use and share their supposed "fees" with unlicensed subagents, or to hide those subagents from their investor clients. But that is precisely what they did. *See*

Exhibit N hereto, ¶¶ 22-34. For example, they used Defendant Julio Ramirez as an unlicensed subagent and shared their fees with him. This is the same Julio repeatedly referenced by Defendant Saul Meyer in the secretly-recorded September 16, 2006 meeting. ("You know we're going to have to do another Julio somewhere . . . . You know we gotta do two, I think, at least. . . . It's really important to Julio to do it, and he cut a deal with Anthony and Marc that they give them things and specific funds he wanted above all others is Halyard. . . . I mean, I know it's not very good, but we've done, you know, it looks to me pretty [expletive] good versus last year . . . " (at approximately 1:54:18 – 1:54:30 and 2:03:50 – 2:04:13).)

- Moreover, although Defendant DAV/Wetherly's contract with at least one institutional investor client expressly required "prior written approval" of any subagent, Defendant DAV/Wetherly violated that agreement and failed even to disclose to the client its use of subagents. Indeed, Defendant DAV/Wetherly's client has reported that (1) unbeknownst to it, Defendant DAV/Wetherly breached its agreement by improperly hiring subagents, including Defendants Ajax and Correra, Jr., (b) the client was unaware that its fees were shared with others, and (c) upon discovering that Defendant DAV/Wetherly had breached its agreement, the client terminated the relationship. The only explanation for these Bagman Defendants purposefully deceiving their client in this manner is that they were concealing, furthering, and perpetuating the Defendants' partnership in crime. *See* Exhibit P, ¶ 4(a).

- As the direct and indirect owners of Defendant DAV/Wetherly who directed their firm's management and policies, Defendants Weinstein and Schiff personally and directly participated in the Defendants' criminal conspiracy as pleaded herein. Likewise, they caused the Wetherly entities to do so. *See* DAV/Wetherly Financial, L.P.'s FINRA report, attached hereto as Exhibit Q.

- Defendant Ramirez and at least one other unlicensed and undisclosed subagent used by these Bagman Defendants subsequently were indicted and convicted for fraud, based on precisely the sort of fraudulent misconduct pleaded in this Complaint.

- All of Defendants Weinstein's and Schiff's fraudulent words and deeds were committed on their own behalf and on behalf of Defendant DAV/Wetherly, which they owned and controlled. In addition, Defendant Wetherly G.P. – Defendant DAV/Wetherly's general partner, which was controlled by Defendant Weinstein – was complicit in all of the fraudulent misconduct of these Bagman Defendants, as pleaded herein. Accordingly, all of the fraudulent acts of Defendants DAV/Wetherly and Wetherly, G.P., likewise were committed on their own behalf and on behalf of Defendants Weinstein and Schiff.

257. In addition, all of the Front Defendants combined together, conspired, confederated, and agreed with each and every other Defendant named herein to participate in Defendants' criminal scheme. Therefore, all of the Front Defendants are responsible for all of the criminal misconduct committed by their coconspirators in and directed toward New Mexico, because all of that activity was within the course and scope of the Defendants' criminal partnership and in furtherance thereof.

258. Moreover, given the complexity of Defendants' criminal scheme, each and every Defendant necessarily committed more than two fraudulent acts, as pleaded herein. Moreover, Defendants combined together, conspired, confederated, and agreed to pursue the common criminal objective pleaded herein, which necessarily required the commission of hundreds of such acts within the course and scope of the conspiracy and in furtherance thereof. Accordingly, each conspirator is responsible for all of these criminal acts, notwithstanding the fact that the Defendant conspirators divided up both the work and the spoils.

The Defendants' Scheme Was Exposed.

259. A number of diligent, skilled, and loyal professionals employed by the SIC and the ERB began in late 2008 to uncover information they considered suspicious concerning Aldus's business practices, and they began investigating the circumstances. While Defendant Meyer and others attempted to obstruct those efforts, professionals at the SIC and ERB continued to uncover more and more information confirming their suspicions.

260. On March 19, 2009, as these New Mexico professionals were on the verge of gathering sufficient evidence to disclose their findings, the New York Attorney General announced criminal charges against New York State Officials and alleged that Defendants Meyer and Aldus Partners were involved in the corruption of New York's public investment process.

261. On April 17, 2009, the SIC released a spreadsheet disclosing that millions of dollars in purported "third-party marketing" fees had been paid on investments recommended by Aldus. Even after this spreadsheet was released, however, Plaintiff remained convinced that no such fees had been paid in connection with any ERB investments. Plaintiff's belief was based on Defendant Correra, Sr.'s and the Deutsche Bank Defendants' representations – made on behalf of all of the conspirators – that "third-party marketing" fees could not be paid without the ERB's written approval and Plaintiff's confidence that no such approvals had been signed by the ERB.

262. Shortly before the information was publicly released by the ERB on May 9, 2009, ERB staff informed Plaintiff that huge "third-party marketing" fees had been paid in connection with ERB investments, and that Defendant Correra, Jr., had shared in many millions of dollars of those fees. Plaintiff was stunned by this disclosure.

263. As of the filing of this lawsuit, the SIC and ERB investigations disclosed that Defendant Correra, Jr., had shared in approximately $ 22,000,000 ($ 22 Million) in supposed "third-party marketing" fees.

The Mortgage Was Disclosed And The False Impression Ruined Plaintiff.

264. As Dr. Honts' polygraph report confirms, (a) Plaintiff had no knowledge whatsoever of the "third-party marketing" fees paid on ERB investments until he received the information from ERB staff in the Spring of 2009, and (b) the mortgage was nothing more than an innocent loan and security agreement requiring repayment in accordance with its terms. *See* Exhibit I. Nevertheless, Plaintiff understood very well that the Defendants had put him in an impossible position, and that the circumstances inevitably would create a false impression that would hurt him and his family.

265. The SEC and the U.S. Department of Justice ("DOJ") both commenced investigations regarding the investment practices at the SIC and ERB, and both requested that Plaintiff produce documents and agree to be interviewed.

266. Plaintiff produced tens of thousands of documents requested by the agencies, at considerable effort and expense. Plaintiff also voluntarily appeared for interviews by both agencies. Plaintiff first spent approximately a day and a half answering the SEC's questions. Plaintiff fully disclosed everything about the mortgage, which he first disclosed to the SEC in the course of producing documents, and he answered all of the SEC's questions.

267. In contrast to Plaintiff's truthful cooperation with the SEC, Defendants Bland and Correra, Jr., both testified falsely under oath before the SEC, in an attempt to hinder and obstruct the SEC's investigation into Defendants' scheme. Defendant Bland's and Defendant Correra, Jr.'s perjury before the SEC was intended to continue to cover-up and perpetuate the Defendants' criminal conspiracy. Accordingly, their false testimony was within the scope and course of the conspiracy and in furtherance thereof, and each and every coconspirator was vicariously responsible for their perjury. Therefore, Defendant Bland's and Defendant Correra, Jr.'s perjured testimony is evidence of consciousness of guilt against all Defendants.

268. As with Defendant Bland's coconspirator Defendant Correra, Sr., Defendant Bland's consciousness of guilt further is evidenced by, among other things, his attempt to evade service of process in this case. Specifically, Defendant Bland moved residences and attempted thereafter to keep his new address secret, and he refused to respond to voicemail messages calculated to locate his whereabouts. When Plaintiff's process server nevertheless was able to track down Defendant Bland in a relatively remote location in Santa Fe, rather than accept the papers honestly and peacefully as required by law, Defendant Bland did and said the following:

- Defendant Bland grabbed the pleadings, pointed his finger in the process server's face, and angrily screamed at her, claiming that she had followed another vehicle through a locked gate to his house.

- Defendant Bland then (i) demanded her contact information, (ii) turned around in the foyer of his residence to look for something, (iii) shouted that he is a "deputy," (iv) and shouted to his dog: "Get her."

- Defendant Bland thereafter (i) approached Plaintiff's process server, (ii) screamed, "Look what I have," (iii) held a badge close to his thigh, and (iv) shouted, "I'm a deputy! I'm a deputy."

- When Plaintiff's process server ignored Defendant Bland's conduct, he asked: "How do you think you are getting out of here?" Plaintiff's process server understood that to be a threat, and asked: "What do you mean, how am I getting out of here?" Defendant Bland stood quietly for a moment, and then sneered and said: "If you come up here again, the other dog will get you."

- Finally, Defendant Bland followed Plaintiff's process server as she left and repeatedly screamed, "You have no right to be here! You have no right!"

269. Shortly after Plaintiff's SEC interview, the mortgage was reported in the media. The false but severely damaging impression left by the disclosure of the mortgage was that Plaintiff received $ 350,000 from Defendant Correra, Sr., as some sort of a payoff. The truth – that it was a loan Plaintiff accepted in good faith and paid back according to its terms – was drowned out by the enormity of Defendants' wrongdoing.

270. The consequences for Plaintiff were catastrophic. The evidence at trial will show that, as a direct and proximate result of Defendants' scheme, which specifically targeted Plaintiff as one of its victims, Plaintiff lost his business, his job, and his place in New Mexico's democratic process and politics. In addition, Plaintiff suffered immense damage to his professional reputation and goodwill, opportunities, earning capacity, personal reputation, standing in the community, and overall wellbeing.

271. Plaintiff suffered these damages following his interview with the SEC, but before his interview with the DOJ. Nevertheless, Plaintiff continued to cooperate fully with the

investigating authorities and voluntarily appeared for an interview with the DOJ to answer its questions as well.

COUNT I

Violations Of The Racketeering Act, NMSA 1978, § 30-42-4(C) By All Defendants

272. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 271 as if fully set forth herein.

273. The ERB constitutes an "enterprise," as that statutory term is defined by NMSA 1978, § 30-42-3(C), to include legitimate legal entities.

274. In the alternative, at all times material to this Complaint the ERB staff and Board constituted an associated-in-fact "enterprise," as that statutory term is defined by NMSA 1978, § 30-42-3(C), to include legitimate associations.

275. Each of the Defendants is a "person," as that statutory term is defined by NMSA 1978, § 30-42-3(B), to include persons and entities capable of holding a legal or beneficial interest in property.

276. At all times material to this Complaint, each of the Defendants was employed by and/or associated with the enterprise.

277. At all times material to this Complaint, each of the Defendants conducted and/or participated, directly or indirectly, in the conduct of the enterprise's affairs by engaging in a "pattern of racketeering activity," as that statutory phrase is defined by NMSA 1978, § 30-42-3(D).

278. Defendants agreed to conduct, did conduct, and participated, directly or indirectly, in the conduct of the enterprise's affairs – to wit, the carrying out the enterprise's lawful function of administering and investing the Fund – by engaging in at least two incidents of racketeering as

that term is defined in NMSA 1978, § 30-42-3(A). In particular, these racketeering acts included the following crimes chargeable under the laws of New Mexico and punishable by imprisonment of more than one year:

(a) Multiple acts of fraud, as proscribed by NMSA 1978, § 30-16-6, the factual basis for which is pleaded above.

(b) Multiple acts of bribery of a public officer, including demanding and receiving bribes, as proscribed by NMSA 1978, §§ 30-24-1 and 30-24-2, the factual basis for which is pleaded above.

(c) Multiple acts of soliciting, receiving, offering, and paying kickbacks, as proscribed by NMSA 1978, §§ 30-41-1 and 30-41-2, the factual basis for which is pleaded above.

(d) Multiple acts of extortion, as proscribed by NMSA 1978, § 30-16-9, the factual basis for which is pleaded above.

(e) Multiple acts of criminal solicitation, as proscribed by NMSA 1978, § 30-28-3, the factual basis for which is pleaded above.

(f) Multiple acts of fraudulent securities practices, as proscribed by NMSA 1978, §§ 58-13B-30 and 58-13B-33 (effective for violations committed through December 31, 2009), the factual basis for which is pleaded above.

(g) Multiple acts of money laundering, as proscribed by NMSA 1978, § 30-51-4, the factual basis for which is pleaded above.

In accordance with NMSA 1978, § 30-42-3(D), at least one of these acts occurred after February 28, 1980, and the last such act occurred within five years after the commission of a prior incident of racketeering.

279. Defendants directly and indirectly have conducted and participated in conduct of the enterprise's affairs through the pattern of racketeering pleaded above, in violation of NMSA 1978, § 30-42-4(C).

280. The pattern of racketeering set forth above continued during the closed period between in or about January 2003 and in or about July 2009.

281. As the direct and proximate result of Defendants' racketeering activities and violations of NMSA 1978, § 30-42-4(C), Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT II

Violations Of The Racketeering Act, NMSA 1978, § 30-42-4(C) By Defendants Correra, Sr., Correra, Jr., Bland, Meyer, Aldus GP, Aldus Equity, Aldus Capital, Aldus-GSS, Aldus-Erasmus L.P., Aldus-Erasmus GP, O'Reilly, Ellman, and the Deutsche Bank Defendants

282. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 281 as if fully set forth herein.

283. Aldus Partners constitutes an "enterprise," as that statutory term is defined by NMSA 1978, § 30-42-3(C), to include illicit entities.

284. Defendants Correra, Sr., Correra, Jr., Bland, Meyer, Aldus GP, Aldus Equity, Aldus Capital, Aldus-GSS, Aldus-Erasmus L.P., Aldus-Erasmus GP, O'Reilly, Ellman, Deutsche Bank A.G., Deutsche Bank Americas, Deutsche Bank DBAH, Deutsche Bank-Topiary Trust, Deutsche Bank-DB, Parker, Leitner, Keith, Curtis, Baez, Rice, Stimson, and Deutsche Bank John Does 1 through 5 ("Count II Defendants") all are "person[s]," as that statutory term is defined by NMSA 1978, § 30-42-3(B), to include persons and entities capable of holding a legal or beneficial interest in property.

285. At all times material to this Complaint, each of the Count II Defendants was employed by and/or associated with the enterprise.

286. At all times material to this Complaint, each of the Count II Defendants conducted and/or participated, directly or indirectly, in the conduct of the enterprise's affairs by engaging in a "pattern of racketeering activity," as that statutory phrase is defined by NMSA 1978, § 30-42-3(D).

287. The Count II Defendants agreed to conduct, did conduct, and participated, directly or indirectly, in the conduct of the enterprise's affairs by engaging in at least two incidents of racketeering as that term is defined in NMSA 1978, § 30-42-3(A). In particular, these racketeering acts included the following crimes chargeable under the laws of New Mexico and punishable by imprisonment of more than one year:

(a) Multiple acts of fraud, as proscribed by NMSA 1978, § 30-16-6, the factual basis for which is pleaded above.

(b) Multiple acts of bribery of a public officer, including demanding and receiving bribes, as proscribed by NMSA 1978, §§ 30-24-1 and 30-24-2, the factual basis for which is pleaded above.

(c) Multiple acts of soliciting, receiving, offering, and paying kickbacks, as proscribed by NMSA 1978, §§ 30-41-1 and 30-41-2, the factual basis for which is pleaded above.

(d) Multiple acts of extortion, as proscribed by NMSA 1978, § 30-16-9, the factual basis for which is pleaded above.

(e) Multiple acts of criminal solicitation, as proscribed by NMSA 1978, § 30-28-3, the factual basis for which is pleaded above.

(f) Multiple acts of fraudulent securities practices, as proscribed by NMSA 1978, §§ 58-13B-30 and 58-13B-33 (effective for violations committed through December 31, 2009), the factual basis for which is pleaded above.

(g) Multiple acts of money laundering, as proscribed by NMSA 1978, § 30-51-4, the factual basis for which is pleaded above.

In accordance with NMSA 1978, § 30-42-3(D), at least one of these acts occurred after February 28, 1980, and the last such act occurred within five years after the commission of a prior incident of racketeering.

288. The Count II Defendants directly and indirectly have conducted and participated in conduct of the enterprise's affairs through the pattern of racketeering pleaded above, in violation of NMSA 1978, § 30-42-4(C).

289. The pattern of racketeering set forth above continued during the closed period between in or about January 2003 and in or about July 2009.

290. As the direct and proximate result of the Count II Defendants' racketeering activities and violations of NMSA 1978, § 30-42-4(C), Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT III

Violations Of The Racketeering Act, NMSA 1978, § 30-42-4(D) By All Defendants (Conspiracy To Violate NMSA 1978, § 30-42-4(C))

291. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 290 as if fully set forth herein.

292. Defendants conspired to violate NMSA 1978, § 30-42-4(C). Among other things, Defendants conspired to conceal and perpetuate their scheme intentionally to defraud Plaintiff and Defendants' other victims for their own monetary benefit.

293. Defendants conspired to defraud their victims and operate the enterprise (the ERB, or in the alternative, the associated-in-fact enterprise comprised of the ERB staff and Board) through a pattern of racketeering activity. Defendants knew that their predicate acts and the predicate acts of their co-conspirators were a pattern of racketeering activity and agreed to the commission of those acts to further their scheme. The conduct is a conspiracy to violate NMSA 1978, § 30-42-4(C), in violation of NMSA 1978, § 30-42-4(D).

294. As a direct and proximate result of Defendants' racketeering conspiracy and violations of NMSA 1978, § 30-42-4(D), Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT IV

Violations Of The Racketeering Act, NMSA 1978, § 30-42-4(B) By All Defendants

295. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 294 as if fully set forth herein.

296. The ERB constitutes an "enterprise," as that statutory term is defined by NMSA 1978, § 30-42-3(C), to include legitimate legal entities.

297. In the alternative, at all times material to this Complaint the ERB staff and Board constituted an associated-in-fact "enterprise," as that statutory term is defined by NMSA 1978, § 30-42-3(C), to include legitimate associations.

298. Each of the Defendants is a "person," as that statutory term is defined by NMSA 1978, § 30-42-3(B), to include persons and entities capable of holding a legal or beneficial interest in property.

299. Defendants acquired and maintained an interest in and control of the enterprise through a "pattern of racketeering activity," as that statutory phrase is defined by NMSA 1978, § 30-42-3(D), and as pleaded above.

300. Pursuant to and in further of their fraudulent scheme, Defendants committed multiple racketeering acts as pleaded above.

301. Defendants, directly and indirectly, acquired and maintained interests in and control of the enterprise through the pattern of racketeering activity pleaded above, in violation of NMSA 1978, § 30-42-4(B).

302. The pattern of racketeering set forth above continued during the closed period between in or about January 2003 and in or about July 2009.

303. As a direct and proximate result of Defendants' racketeering activity and violations of NMSA 1978, § 30-42-4(B), Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT V

Violations Of The Racketeering Act, NMSA 1978, § 30-42-4(B) By Defendants Correra, Sr., Correra, Jr., Bland, Meyer, Aldus GP, Aldus Equity, Aldus Capital, Aldus-GSS, Aldus-Erasmus L.P., Aldus-Erasmus GP, O'Reilly, Ellman, and the Deutsche Bank Defendants

304. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 303 as if fully set forth herein.

305. Aldus Partners constitutes an "enterprise," as that statutory term is defined by NMSA 1978, Section 30-42-3(C), to include illicit entities.

306. Defendants Correra, Sr., Correra, Jr., Bland, Meyer, Aldus GP, Aldus Equity, Aldus Capital, Aldus-GSS, Aldus-Erasmus L.P., Aldus-Erasmus GP, O'Reilly, Ellman, Deutsche Bank A.G., Deutsche Bank Americas, Deutsche Bank DBAH, Deutsche Bank-Topiary Trust, Deutsche Bank-DB, Parker, Leitner, Keith, Curtis, Baez, Rice, Stimson, and Deutsche Bank John Does 1 through 5 ("Count V Defendants") all are "person[s]," as that statutory term is defined by NMSA 1978, § 30-42-3(B), to include persons and entities capable of holding a legal or beneficial interest in property.

307. Each of the Count V Defendants is a "person," as that statutory term is defined by NMSA 1978, § 30-42-3(B), to include persons and entities capable of holding a legal or beneficial interest in property.

308. The Count V Defendants acquired and maintained an interest in and control of the enterprise through a "pattern of racketeering activity," as that statutory phrase is defined by NMSA 1978, § 30-42-3(D), and as pleaded above.

309. Pursuant to and in further of their fraudulent scheme, the Count V Defendants committed multiple racketeering acts as pleaded above.

310. The Count V Defendants, directly and indirectly, acquired and maintained interests in and control of the enterprise through the pattern of racketeering activity pleaded above, in violation of NMSA 1978, § 30-42-4(B).

311. The pattern of racketeering set forth above continued during the closed period between in or about January 2003 and in or about July 2009.

312. As a direct and proximate result of the Count V Defendants' racketeering activity and violations of NMSA 1978, § 30-42-4(B), Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT VI

Violations Of The Racketeering Act, NMSA 1978, § 30-42-4(D) By All Defendants (Conspiracy To Violate NMSA 1978, § 30-42-4(B))

313. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 312 as if fully set forth herein.

314. Defendants conspired to violate NMSA 1978, § 30-42-4(B). Among other things, Defendants conspired to conceal and perpetuate their scheme to acquire and maintain interests in and control of the enterprise (the ERB, or in the alternative, the associated-in-fact enterprise comprised of the ERB staff and Board) through a pattern of racketeering activity. In furtherance of the agreement, defendants engaged in the acts pleaded above.

315. Defendants conspired to acquire or maintain their interests in the enterprise through a pattern of racketeering activity. Defendants knew that their predicate acts and the predicate acts of their co-conspirators were a pattern of racketeering activity and agreed to the

commission of those acts to further their scheme. The conduct is a conspiracy to violate NMSA 1978, § 30-42-4(B), in violation of NMSA 1978, § 30-42-4(D).

316. As a direct and proximate result of Defendants' racketeering conspiracy and violations of NMSA 1978, § 30-42-4(D), Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT VII

Violations Of The Unfair Practices Act By All Defendants

317. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 316 as if fully set forth herein.

318. As pleaded above, Defendants committed unfair and deceptive trade practices by knowingly making false and misleading statements in connection with the sale of goods or services that tended to deceive and mislead, or did deceive and mislead. In particular, Defendants (a) caused confusion and misunderstanding as to the source, sponsorship, and approval of goods or services, (b) caused confusion and misunderstanding as to affiliation, connection or association, and (c) used innuendo and ambiguity as to a material fact and failed to state a material fact, which deceived and tended to deceive Plaintiff and others.

319. As pleaded above, Defendants committed unconscionable trade practices by knowingly taking advantage of the lack of knowledge of Plaintiff and others regarding Defendants' scheme in connection with the sale and the offering for sale of goods and services.

320. Plaintiff reasonably relied on Defendants' unfair and unconscionable trade practices.

321. As a direct and proximate result of Defendants' unfair and unconscionable trade practices, plaintiff has suffered a loss of money and property, real and personal, remediable in accordance with NMSA 1978, § 57-12-10.

COUNT VIII

Fraud By All Defendants

322. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 321 as if fully set forth herein.

323. Based on the misconduct pleaded above, Defendants are liable to Plaintiff for fraud.

COUNT IX

Breach Of Fiduciary Duty By Specified Defendants

324. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 323 as if fully set forth herein.

325. Based on the misconduct pleaded above, Defendants Bland, Meyer, Aldus Partners, Aldus GP, Aldus Equity, Aldus Capital, Aldus-GSS, Aldus-Erasmus L.P., Aldus-Erasmus GP, O'Reilly, Ellman, Deutsche Bank A.G., Deutsche Bank Americas, Deutsche Bank DBAH, Deutsche Bank-Topiary Trust, Deutsche Bank-DB, Parker, Leitner, Keith, Curtis, Baez, Rice, Stimson, Deutsche Bank John Does 1 through 5, Vanderbilt Trust, Vanderbilt Financial, Vanderbilt Capital, Vanderbilt-Pioneer, Livney, and Florian ("Count IX Defendants") breached their fiduciary duties to the ERB, including Plaintiff in his capacity as ERB Chair.

326. Plaintiff personally and justifiably relied on the Count IX Defendants' duty to honor their fiduciary duties as well as their representations – explicit, implicit, and by omission – that they would honor their fiduciary duties.

327. As a direct and proximate result of the Count IX Defendants' breaches, Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT X

Aiding And Abetting Breach Of Fiduciary Duty By Specified Defendants

328. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 327 as if fully set forth herein.

329. Defendants Correra, Sr., Correra, Jr., Martin Cabrera, Cabrera Capital, Julio Ramirez, Ajax Investments, Ajax Advisors, Arlene Rae Busch, DAV/Wetherly, Wetherly GP, Daniel Weinstein, Vicky Lee Schiff, SDN Advisers, L2 Capital, L2 Investment, and L2 Asset ("Count X Defendants") knew or should have known that the Count IX Defendants owed fiduciary duties to the ERB and Plaintiff in his capacity as ERB Chair.

330. The Count X Defendants aided and abetted the Count IX Defendants in their breaches of their fiduciary duties, by knowingly and intentionally providing substantial assistance and encouragement to the Count IX Defendants to violate their fiduciary duties.

331. The Count X Defendants' misconduct was willful, wanton, reckless and oppressive.

332. As a direct and proximate result of the Count X Defendants' misconduct, Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT XI

Negligent Misrepresentation

333. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 332 as if fully set forth herein.

334. To the extent that any Defendants' misrepresentations are not found to be intentionally fraudulent, in the alternative those misrepresentations were made recklessly and Plaintiff seeks damages for such negligent misrepresentations.

335. Plaintiff has been injured in his person, business and property by any such negligent misrepresentations, as pleaded above.

COUNT XII

Civil Conspiracy By All Defendants

336. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 335 as if fully set forth herein.

337. Defendants by words and deeds agreed and conspired together to participate in, further, and perpetuate Defendants' scheme pleaded above.

338. As a direct and proximate result of the Defendants' conspiracy, Plaintiff has been injured in his person, business and property, as pleaded above.

COUNT XIII

Prima Facie Tort By All Defendants

339. Plaintiff repeats and realleges each allegation contained in paragraphs 1 through 338 as if fully set forth herein.

340. Defendants intended to cause Plaintiff harm by their intentional conduct, and they succeeded in doing so as set forth in detail above. Their misconduct was the direct and proximate cause of harm to Plaintiff, and their conduct was not justified under all the circumstances.

341. To the extent that any of the causes of action stated above is held not to be actionable by Plaintiff in the State of New Mexico, in the alternative Plaintiff seeks damages for such misconduct as a prima facie tort.

WHEREFORE, Plaintiff demands judgment as follows:

A. Granting judgment against each and every defendant jointly and severally for the amount of actual damages sustained by Plaintiff as a result of the actions, inactions, representations, omissions, and breaches of each Defendant.

B. Awarding treble damages against Defendants on Plaintiffs' claims under the Racketeering Act.

C. Awarding treble damages against Defendants on Plaintiffs' claims under the Unfair Practices Act.

D. Awarding punitive damages against Defendants on Plaintiffs' remaining claims.

E. Awarding to Plaintiff the attorneys' fees, costs and disbursements incurred in this action, including but not limited to experts' fees.

F. Awarding to Plaintiff pre- and post-judgment interest to the full extent permitted by law; and

G. Granting such other and further relief as the Court may deem just and proper.

FALLICKLAW, LTD.

By _____

Gregg Vance Fallick
100 Gold Avenue, S.W., Suite 205
Albuquerque, New Mexico 87102
(505) 842-6000

Attorney for Plaintiff Bruce Malott

DATED: August 28, 2013.

CERTIFICATE OF SERVICE

I, Gregg Vance Fallick, hereby certify that on the 28th day of August, 2013, I caused a true and correct copy of this Second Amended Complaint to be served electronically by the Court's Notice of Electronic Filing (NEF) system, upon:

Monnica Garcia, monnica@bowlesandcrow.com,
B.J. Crow, bj@crow-law-firm.com,
Jason Bowles, jason@Bowles-Lawfirm.com,
Rebecca S. Kenny, rsk@madisonlaw.com,
William C. Madison, wcm@madisonlaw.com,
Peter A. Silverman, psilverman@fslegal.com,
Joseph A. Donado, jdonado@fslegal.com,
Stephen S. Hamilton, shamilton@montand.com,
Andrew G. Schultz, aschultz@rodey.com,
Peter L. Simmons, Peter.Simons@friedfrank.com,
David B. Hennes, David.Hennes@friedfrank.com,
David F. Cunningham, dfc@catchlaw.com,
Daniel S. Hefter, DHefter@fhslc.com,
Brian J. Wilson, bwilson@fhslc.com,
Lisa C. Tulk, lt@kesslercollins.com,
Gary S. Kessler, GSK@kesslercollins.com,
Daniel P. Callahan, dpc@kesslercollins.com,
William J. Arland III, warland@thearlandfirm.com,
K. Stephen Royce, sroyce@thearlandlawfirm.com, and
Aletheia V. P. Allen, aallen@thearlandlawfirm.com.

In addition, I hereby certify that I caused a true and correct copy to be served by First Class Mail, postage prepaid, upon the following:

Saul Meyer
4239 Shorecrest Drive
Dallas, TX 75209.

Gregg Vance Fallick

From: Bruce F. Malott

To: ajc@sandia.com;

CC:

Subject: RE: FYI

Date: Wednesday, December 31, 2008 11:39:56 PM

Attachments:

Going to alabama at 6am on new years day. Back monday. Lets have dinner.
Happy new year.
b

Sent Via Wireless
Bruce F. Malott, CPA.CFP,CVA
Managing Principal
Meyners + Company,LLC
500 Marquette, NW
Suite 800
Albuquerque, NM 87102
505-222-3519

-----Original Message-----
From: ajc@sandia.com <ajc@sandia.com>
Sent: Wednesday, December 31, 2008 2:33 PM
To: Bruce Malott <BMalott@meyners.com>
Subject: Fw: FYI

Maybe i will go to washington.
Working on a HUGE casino deal in Maryland which just approved gambling
Tried to call you. Call me later
Sent via BlackBerry by AT&T

-----Original Message-----
From: "Gov. Bill Richardson" <20gborv08@gbr.mailstreet.com>

Date: Wed, 31 Dec 2008 12:17:18
To: <ajc@sandia.com>
Subject: Re: FYI

Do need you. You are dear friend and economic guru to me. So climb out of the bed

----- Original Message -----
From: ajc@sandia.com <ajc@sandia.com>
To: Gov. Bill Richardson
Sent: Wed Dec 31 12:15:22 2008
Subject: Re: FYI

Simple Dont know if you need me although hiding under the bed not a bad idea
------Original Message------
From: Governor Richardson
To: ajc@sandia.com
Sent: Dec 31, 2008 9:32 AM
Subject: Re: FYI

Why won't you be sending more. Are you planning on passing away or simply staying under the bed in the future

----- Original Message -----
From: Anthony Correra <ajc@l2capital.com>
To: Gov. Bill Richardson
Sent: Wed Dec 31 10:06:43 2008
Subject: FYI

Stock market finishing its worst year since 1931 - Hoover was Presiden

This will probably be my last news flash to you Have sent hundreds to you past six years to keep you current and prepared for questions -hope some were helpfull

Sent via BlackBerry by AT&T

Sent via BlackBerry by AT&T

From:	Anthony Correra
To:	Governor Richardson; ZZzzzGaryG Bland; Bruce F. Malott;
CC:	
Subject:	Now What?
Date:	Sunday, October 05, 2008 8:11:45 AM
Attachments:	

This is my fourth recession/bear market of this magnitude.
We are obviously in a recession, and not plain vanilla. As a matter of fact we are still melting.
The problem started Aug 07. I became bearish on housing in Nov not realizing that a credit crunch would ensue. This coupled with high energy badly sapped disposable income.
The bailout will NOT reverse the downtrend but rather curb the slope. It will take one month to implement and four more to
have any effect. It takes six months for fund injections to have any effect This dovetails with my thought the recession will last through the first quarter of 09. 15 to 18 months is normal
As with most Gov t
programs there will be widespread abuses as many homeowners try to get interest, principal and time reduced on their mortgages. This will slow the foreclosure processs
In the spring it looked like unmployment would go from 5 to 6 percent-I now believe it will hit 7
The real brake in the slide will be easy money. With little fanfare Bernake flooded the world with 700 Billion dollars Last Week-as much as the bailout
ECB must do the same However, the money flow must trickle down and so the next step is for the new President to summon bankers to Washington to stop the hoarding. The consumer is tapped out and needs easy money and low interest rates
Residential real estate has not stabilized yet, but the decline is slowing
Now is the time to shop for deep price discounts, especially in Las Vegas. This is the first downturn to really hit Casinos.
A decline in commercial real estate is just beggining I believe crude oil will average 115 bbl next year as OPEC puts a 100 floor and the recession ends.
New York City previously untouched, will soon be hard hit as much Wall Street related commercial space comes on the market (consolidation), high unemployment and a stronger dollar discourages foreign spending(now holding up the city)
States and municipilities are scrambling and will be well into next year as revenues falter.

We can expect overall improvement beginning in the first quarter. However, it will be years before heady growth returns as deep wounds heal, and the Democrats impose. much needed draconion regulations on the financial institutions
One should plan on "steady as she goes growth"
The grinch has already stolen this Christmas, but there is light at the end of the tunnel and it is not an oncoming train

The stock market is a horse of another color. As a forward looking animal it is nearing this phase of the decline and will probably do so this week. Trillions of dollars have been lost and the hedge fund cemetary is sold out
A weak monday and the psychological break of 10000 on the Dow should do it,
and set the stage for a year end rally. Get out your buy pencils This is where we separate the men from the boys

Thanks for your patience if you got this far. I wrote a Wall Street letter every day for years
and cant break old habits.

Anthony
Sent via BlackBerry by AT&T

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May 15, 2009

BY EMAIL

FRIED FRANK

Bryan Agustin Otero, Esq.
Chief General Counsel & Compliance Officer
State of New Mexico
State Investment Council
41 Plaza La Prensa
Santa Fe, New Mexico 87507

Re: SIC's Information Request Dated March 24, 2009

Dear Mr. Otero:

As you know, this law firm represents Vanderbilt Capital Advisors, LLC ("Vanderbilt"). This letter follows up on our prior discussion and responds to the State Investment Council's ("SIC's") information request dated March 24, 2009, which you sent to Vanderbilt by email on April 7, 2009.

I apologize for the delay in providing this substantive response but as you know, given the passage of time, some of the individuals who were involved in the transactions in which the SIC invested no longer work for Vanderbilt, and Vanderbilt itself has changed corporate ownership over the years. As a result, it has taken us some time to find the information you requested and be sure that what we report to you is accurate. Our inquiries are still ongoing; the information below is based upon inquiries to date.

As an initial matter, we note that the information request is addressed to "SIC Investment Manager/Consultant/Contractor." However, as you know, Vanderbilt does not have an investment advisory agreement with the SIC; has not received any compensation from the SIC; and was never hired or retained to provide independent investment advice to the SIC. Rather, Vanderbilt is the manager of certain financial products in which SIC made investments, and Vanderbilt received fees only through certain of those investment vehicles, but was never paid a fee by the SIC.

Nonetheless, because you specifically addressed your inquiry to Vanderbilt, we are happy to provide the requested responses.

Vanderbilt entered into a Consultancy Agreement dated as of January 27, 2004 with Crosscore Management, LLC ("Crosscore"), a company which it understood to be owned and/or controlled by Marc Correra, whom it understood to be a Santa Fe-based financier and investor who ran his own hedge fund, and who was familiar with the investment policies and goals of various state and municipal investors. A copy of that agreement is attached as ***Exhibit A***. Pursuant to that agreement, Crosscore agreed to introduce Vanderbilt to the SIC. Crosscore was paid $645,000 in connection with the closing of the Lakeside II CDO transaction in which the SIC invested, and $950,000 in connection with the closing of the Streeterville CDO transaction in which it invested.

Vanderbilt entered into a second Consultancy Agreement with Crosscore, dated as of June 4, 2004, a copy of which is attached as ***Exhibit B***. Under the June 4, 2004 agreement, Crosscore consulted with Vanderbilt concerning the SIC's investment parameters, constraints, objectives and restrictions. The June 4, 2004 agreement related to the Dunhill CDO transaction in which the SIC invested, and terminated on December 16, 2004. Crosscore was paid $866,000 under this agreement.

Vanderbilt believes that additional payments were made to Mr. Correra via Cabrera Capital Markets, LLC on August 4, 2005 in the amount of $674,382 in connection with the closing of the Fort Dearborn CDO transaction in which the SIC invested, and on September 29, 2005 in the amount of $438,750 in connection with the closing of the Monroe Harbor CDO transaction in which the SIC invested.

In addition, Vanderbilt entered into an Introduction Agreement dated as of November 28, 2006 with SDN Advisers, LLC ("SDN"), a company which it understood to be owned and/or controlled by Mr. Correra. A copy of that agreement is attached as ***Exhibit C***. Based on its inquiries to date, Vanderbilt believes that the Introduction Agreement was intended to cover multiple investments made by the SIC, as well as the New Mexico Educational Retirement Board's investment in Vanderbilt Financial, LLC. The Introduction Agreement terminated by its terms on September 1, 2008. SDN was paid a total of $2 million over two years under the Introduction Agreement.

We trust this letter adequately responds to your inquiry.

Very truly yours,

Peter L. Simmons

cc: Kurt W. Florian, Jr.

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Oath

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OFFICE OF
SECRETARY OF STATE

I GARY B. BLAND, do solemnly swear that I will support the Constitution of the United States and the Constitution and the laws of the State of New Mexico and that I will faithfully and impartially discharge the duties of the office of STATE INVESTMENT OFFICER on which I am about to enter, to the best of my ability, SO HELP ME GOD.

APPOINTEE'S SIGNATURE

Subscribed and sworn to before me this 21st day of January, 2003.

(SEAL)

SIGNATURE

Notary Public State of Washington
TITLE

My commission/term expires 8/25/2004

(This oath, when executed, must be forwarded immediately to the Secretary of State at Santa Fe, New Mexico, accompanied by a recording fee of $3.00.)

Exhibit C

Invoice #
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Oath

I GARY B. BLAND, do solemnly swear that I will support the Constitution of the United States and the Constitution and the laws of the State of New Mexico and that I will faithfully and impartially discharge the duties of the office of EDUCATIONAL RETIREMENT BOARD on which I am about to enter, to the best of my ability, SO HELP ME GOD.

APPOINTEE'S SIGNATURE

Subscribed and sworn to before me this 31 day of August, 2005.

(SEAL)

SIGNATURE

Notary
TITLE

My commission/term expires 7/28/07

(This oath, when executed, must be forwarded immediately to the Secretary of State at Santa Fe, New Mexico, accompanied by a recording fee of $3.00.)

Exhibit D

TRANSCRIPTION OF TELEPHONE CONVERSATION

BETWEEN SAUL MEYER AND MATTHEW O'REILLY

SEPTEMBER 24, 2006

MR. MEYER: Hello.

MR. O'REILLY: Hey, sorry about that.

MR. MEYER: That's all right. What's going on?

MR. O'REILLY: I don't -- it's just a weird, weird conversation. I was -- I was talking to Marcellus like Friday. And we were just kind of teasing around, you know, about stupid stuff. And all of a sudden he -- we were talking about the watches, and --

MR. MEYER: Yeah.

MR. O'REILLY: -- he said something kind of weird. And I just -- I changed subjects because I didn't want to get down this path. But I think he -- and he said it straight enough where I was like, hmm, he's got to know -- but he mentioned like cash receipt from -- from the Correras I think, or something like that. I was like --

MR. MEYER: What?

MR. O'REILLY: -- what? And I --

MR. MEYER: What did he say?

MR. O'REILLY: I was like -- well, we were joking about the watches, and he's like, "Aw, it's probably just -- you know, probably just some of that leftover cash from the Correras, or whatever."

I was like, "Oh, well, you know, we've got -- we got to worry about this Ferrari thing," blah, blah, blah, and I just quickly like switched subjects.

MR. MEYER: What the fuck?

MR. O'REILLY: Well, remember when I was in -- I was in San Francisco -- this is like two years ago.

MR. MEYER: Yeah.

MR. O'REILLY: In fact, I kind of had even totally forgot. But remember when I was in -- I was in San Francisco and you called me and you said, "Hey, the Correras handed me an envelope"?

MR. MEYER: Yeah.

MR. O'REILLY: And I was just like, "Oh, just don't accept it," or whatever.

MR. MEYER: Yeah.

MR. O'REILLY: And all of a sudden I'm like, hmm. So I was -- I just wanted to call and say did you tell Marcellus about it, because if you did, fine, but hopefully, you know -- hopefully it doesn't go any further than just the three of us.

MR. MEYER: I think I did. I think I told both of you because I was like, "Dude, what are we going to do with this fucking thing?"

MR. O'REILLY: Okay. I was just like, as long -- you know, I was just -- because it's kind of sensitive stuff, so I just didn't want it to go past the three of us.

MR. MEYER: Yeah, it really is sensitive. Next time he brings it up, if he ever does, you should say,

"Dude, you really shouldn't even talk about that."

MR. O'REILLY: Well, I just -- I just totally switched subjects, because I was like -- look --

MR. MEYER: That's a fucked up thing to talk about.

MR. O'REILLY: Well, you know what's even funnier, though? I totally forgot about it.

MR. MEYER: I did too.

MR. O'REILLY: I was just like, "What are you talking about?"

MR. MEYER: That was such (inaudible) scary thing. I was like, now what do I do?

MR. O'REILLY: Yeah, but actually --

MR. MEYER: I was like what the fuck am I going to do now?

MR. O'REILLY: But the scare -- the scary part to me, actually, was when he actually mentioned 10,000. Because actually, I was like (inaudible).

MR. MEYER: Oh.

MR. O'REILLY: I remember when I was in San Francisco, I was like, "If it's over 2500, don't tell me about it."

MR. MEYER: Yes.

MR. O'REILLY: So I was just like --

MR. MEYER: I remember like having him being like,

"What the fuck am I going to do with all this shit because (inaudible) paying cash for hotels.

MR. O'REILLY: Yeah. No, I remember, because you went to like -- you know, I was just like, hey --

MR. MEYER: (Inaudible) left for Italy.

MR. O'REILLY: Right. Now I remember --

MR. MEYER: (Inaudible) supposedly what he was saying was "I'm giving you this trip to Italy," or whatever.

And I'm like, "Dude, really, I don't want one."

MR. O'REILLY: No. I --

MR. MEYER: And that was all after I refused (inaudible). He like tried to like -- I've got so many people offering me shit that I've never taken, and that was the only time I was scared (inaudible) --

MR. O'REILLY: No, I --

MR. MEYER: -- and I was like, fuck.

MR. O'REILLY: Well, I remember --

MR. MEYER: (Inaudible).

MR. O'REILLY: Yeah, I remember because you called me because you were freaking out. I was like, "Oh, boy. You know, don't take it," weird situation. But yeah, I was just -- when Marcellus said something, though, kind of -- you know, some weird joking about how it was just him and I, and (inaudible), I never told him anything.

MR. MEYER: Yeah. I think -- I think -- I think I

told (inaudible) like what am I supposed to do with this.

MR. O'REILLY: Okay. Okay. I just -- I just was like I don't want to beat around the bush with Marcellus, you know, like just -- you know, just in case.

MR. MEYER: (Inaudible). I honestly -- you know, I have a bad memory.

MR. O'REILLY: Yeah, well --

MR. MEYER: We probably talked about it together.

MR. O'REILLY: Who? The three of us?

MR. MEYER: You, me and Marcellus.

MR. O'REILLY: Oh, no. This is -- because I was in San Francisco, and I've never told a soul. In fact, the last a couple of years, I even forgot all about it. And when --

MR. MEYER: (Inaudible).

MR. O'REILLY: -- he said something, I was like, hmm.

MR. MEYER: I wish -- I wish you could -- I wish we could undo it now that like we're closer to the Correras, you know.

MR. O'REILLY: Yeah.

MR. MEYER: Like I don't even know that Marc knows, so I haven't even -- (inaudible) never mentioned it.

MR. O'REILLY: Yeah.

MR. MEYER: I mean, if I could fucking give it --

dude, we would find a way to give it back.

MR. O'REILLY: Yeah.

MR. MEYER: That would just -- that's just better off left -- never happened.

MR. O'REILLY: Well, that's why I kind of freaked out when I knew that he knows. I was just like --

MR. MEYER: Yeah.

MR. O'REILLY: Well, and I didn't even know, because the way he said it was kind of -- you know, kind of off the cuff.

MR. MEYER: Well, what does that have to do with the watches?

MR. O'REILLY: Well, no, we were just talking about the watches, and I'm like -- and he was just like, "Didn't you buy like Arus and Deo like Panerais?"

I was like, "Yeah, yeah, yeah. That was -- that was like the first deal. That feels like pre, you know, anyone."

I said, "That just came out of (inaudible) and I.

And he's just like, "Didn't you buy someone else some watches?"

I was like, "Oh, you know, there's like -- they were like a thousand bucks. One was like Julio or Cesar or something like that."

And he's like --

MR. MEYER: Yeah, (inaudible) one for Julio, one for (inaudible).

MR. O'REILLY: He was like, "Wow, you know, you spent a lot of money on watches."

I was like, "Hey," I said, "the first round was the expensive part." I said, "This one was nothing."

MR. MEYER: Dude, nothing.

MR. O'REILLY: And then he's just like, "Oh, it must be -- maybe we should use up some of the leftover cash," whatever.

And I'm like, "Oh, well, yeah." I said --

MR. MEYER: What is with him? That's a fucked up thing to say.

MR. O'REILLY: I know, I just -- that's --

MR. MEYER: I don't like that. I don't like that at all.

MR. O'REILLY: I know, that's why I was kind of like --

MR. MEYER: Dude, does that have to do with the fact I got me a fucking suit?

MR. O'REILLY: Yeah. Well, that's why I was like kind of wigged out. And that's why I was -- like I just -- I'm like maybe he just said something that I wasn't -- wasn't putting the two and two together, but I was just like -- I just want to -- I just wanted to ask you if you

told him, because then I was just like, well, all right.

MR. MEYER: I messed up. But you know what? If I -- like I have a hard time saying it, but I can -- but that may deserve a follow-up conversation with Marcellus.

MR. O'REILLY: You know what? Let me just talk to him and be like -- since now I know that he knows, I'll just go like, "Hey, you know what? I totally forgot all about that. Don't ever say, you know, anything. It never happened" type thing.

MR. MEYER: You know, the thing with Marcellus that scares me is every time we think we can trust him, he does some bullshit to us.

MR. O'REILLY: Yeah. This is just weird. You know, this is just kind of left field, and I didn't know -- I just -- yeah, I was kind of taken off balance. I was just like, does he know? Does (inaudible) statement?

MR. MEYER: I mean, I think you should follow up. And, I mean, the other thing we should follow up with is "And Dude, what's your resentment with this watch thing?"

MR. O'REILLY: Oh, I couldn't care less -- well, the first one was the expensive one.

MR. MEYER: Yeah, before he even got there.

MR. O'REILLY: Yeah.

MR. MEYER: A year before he joined us.

MR. O'REILLY: Oh, no. No. No. He was --

actually, the watches weren't the thing. Because he was just like, "How much did we spend on those watches?" Because like --

MR. MEYER: (Inaudible) fishing around a little bit (inaudible)?

MR. O'REILLY: Well, no. No. No. But the Panerais were like 25 --

MR. MEYER: Yeah.

MR. O'REILLY: -- you know, across the table. But that's when he wasn't even there. And those were just --

MR. MEYER: Right --

MR. O'REILLY: -- you know, like Arus and Deo, you know, and people (inaudible) where it doesn't matter. It's not like you're trustees.

MR. MEYER: Right.

MR. O'REILLY: But no, I remember, because one time we were talking to Arus, and Arus was like -- or Marcellus said, "Hey, nice watch."

He's like, "Dude, you got it for me."

And I was like, "Well, technically, Saul and I did." I said, "If you want to go back in time," just to make sure Marcellus wasn't like, "What do you mean?"

MR. MEYER: Right. (Inaudible).

(Noise in background.)

Max, Max, do you want that too?

MR. O'REILLY: Is he just playing or is he crying? Sounds like he's playing.

MR. MEYER: He's asking for water.

MR. O'REILLY: Agua?

MR. MEYER: Yeah.

MR. O'REILLY: You know, I just --

MR. MEYER: So I don't like it. You know why I don't like it? I don't like it because, you know, after all the shit we do, you know, how much --

MR. O'REILLY: No. No. Well, that's why I didn't want to talk to him until I knew like he knew.

MR. MEYER: Yeah.

MR. O'REILLY: You know what I'm saying?

MR. MEYER: I've talked about it. I'm sure I said something about it.

MR. O'REILLY: Yeah, so --

MR. MEYER: (Inaudible.)

MR. O'REILLY: I want to talk to him and just kind of sit him down and say, "Hey, man, you know" -- kind of the whole story of out of sight, out of mind.

MR. MEYER: Yeah.

MR. O'REILLY: We're right here, like --

MR. MEYER: I want to say that to him. And I'd also say, "Dude, you know, you need to tell me (inaudible). It just seems like you might have some resentment or

something. What's up?"

MR. O'REILLY: Yeah. Is it, hey, we're just spending money on just stuff? Is it -- what? Is he bent out of shape about, you know, just the offer of the Ferrari? You know, what is it?

MR. MEYER: Dude, if anyone else gets bent out of shape about the Ferrari, I'm going to kill them.

MR. O'REILLY: Yeah. So --

MR. MEYER: I mean, we went from (inaudible) million to $64,000,000.

MR. O'REILLY: In one day.

MR. MEYER: (Inaudible). And I mean, I just don't want to hear it from anyone.

MR. O'REILLY: Yeah. No.

MR. MEYER: You know? That's the best 200 grand we've ever -- we've ever invested.

MR. O'REILLY: Dude, the IR on that is like --

MR. MEYER: Yeah. What is with these people that they're like so --

MR. O'REILLY: 12 times. 12 times.

MR. MEYER: What -- why am I getting all that from them?

MR. O'REILLY: You know, sometimes I just think that maybe they just don't feel all that involved sometimes.

MR. MEYER: You know, maybe we should all sit down

and talk at some point about -- you know, they have a lot of fucking say for people who have never fucking got -- brought in any business or helped the firm.

MR. O'REILLY: You know what? Especially Thomas.

MR. MEYER: Yes.

MR. O'REILLY: Thomas --

MR. MEYER: And I think --

MR. O'REILLY: (Inaudible) non-stop.

MR. MEYER: Yeah. You know, maybe we need to have a talk with them, like next time I bring up the Ferrari with the intent of having this talk, and talk about, you know, for a bunch of people who didn't have anything to do with getting any clients, you sure do have a big opinion about what -- all this other shit. Did anyone understand how it works, like how you develop business?

MR. O'REILLY: Well, obviously since they haven't brought anything in.

MR. MEYER: Yeah. I mean, stupid shit like this is the stuff that actually gets people excited.

MR. O'REILLY: Yeah.

MR. MEYER: Those fucking watches we gave were a wicked investment too. Well, with Neil, (inaudible) pissed it away.

(Inaudible). Worked with Ardus.

MR. O'REILLY: I was like -- you hit that nail on

the head with Neil and --

MR. MEYER: Yeah. I mean, with normal people, it makes them more loyal to you --

MR. O'REILLY: Yeah.

MR. MEYER: -- you know?

MR. O'REILLY: No. I wondered -- you know, before I want to have this conversation with -- talk to Marcellus, I just wanted to double-check --

MR. MEYER: All right.

MR. O'REILLY: -- because I'm going --

MR. MEYER: We --

MR. O'REILLY: I want -- I have to talk to him.

MR. MEYER: Let me know what happens out of the talk and if I should talk. Because we can't let this get out of hand and turn into one of -- I mean, what he did with Reed, I have a hard time stomaching.

MR. O'REILLY: Yeah.

MR. MEYER: Do you understand? I certainly don't. I still do not understand it.

MR. O'REILLY: Oh, his conversation with Reed? No. I'll never understand it.

MR. MEYER: Because Dude, you almost brought down the firm, and you certainly cost it a lot of money.

MR. O'REILLY: Yeah. No. No. I mean, I will never understand that -- those conversations.

MR. MEYER: That doesn't make any sense. Why would you do that?

MR. O'REILLY: He was just -- you know, I think he -- you know, he was only there for probably like less than the year. Reed was telling him this bullshit like, "Hey, come with me and we'll do this," and yada yada yada.

So Marcellus is like, "Well, maybe." And just started (inaudible) -- that's still fucked up.

MR. MEYER: Well, I think that the other thing I don't like is -- you know that last time we talked and Marcellus had so much to say about like what we should or shouldn't be doing and why are you guys giving away all this money. Again, a lot of fucking conversation for guys who didn't land the accounts. I don't understand how they work.

MR. O'REILLY: That's the truth.

MR. MEYER: You know what I'm saying? That whole time, it felt to me like -- you know, guys, you don't understand why we're still maintaining this account. You don't know how this shit works, so shut up and fucking learn this stuff.

MR. O'REILLY: Well, I could see Richard really like get it -- you know, really learning it and really bringing --

MR. MEYER: Yeah.

MR. O'REILLY: -- some accounts in. Not

Marcellus, dude, he's like got a shit load pipeline.

MR. MEYER: Yeah.

MR. O'REILLY: Thomas -- kind of scratch my head a lot. I'll be honest with you.

MR. MEYER: Next time -- next time we do that, maybe Monday when we're going through that stuff, maybe we stop and say, "Guys, time to learn about how you build a business versus how you just are an employee in a business."

MR. O'REILLY: And I'm not even worried about any of them, to be honest with you, except for Thomas. Thomas is just --

MR. MEYER: Yeah.

MR. O'REILLY: -- Thomas is like Richard Holbein.

MR. MEYER: Well, although, man, Marcellus was being pretty vocal at the last meeting, arguing -- what was he arguing with me about? (Inaudible). Which, by the way, dude, I'm still a little bit -- I'm still not sure I agree with him on any of that. I think that it's a little deal to be done to keep someone on the side for another year.

MR. O'REILLY: Well --

MR. MEYER: You know what I'm saying? We're not like done, man. I mean, I really, really want (inaudible) and (inaudible) and all these others. And it's not like you can get them, but I don't want them against us.

MR. O'REILLY: Well, I was saving this information

until I find out what the official word is, because I didn't say shit to anyone yet, but --

MR. MEYER: Yeah.

MR. O'REILLY: -- Weaver called me up and he goes, "Hey, do you know Joe Silver?"

I said, "Yeah, I know Joe Silver."

MR. MEYER: What happened?

MR. O'REILLY: Well, you know, that Oklahoma (inaudible) comes out, and he's like forwarding me on questions to help him respond to them, like --

MR. MEYER: Yeah.

MR. O'REILLY: (Inaudible) confidentiality agreement. He's like, "Hey" --

MR. MEYER: What did he do? Did he try to get in?

MR. O'REILLY: -- "is this normal?"

And I said, "No." I said, "Well" -- I said, "It's normal, but don't sign it." You know, like -- oh, gosh -- Pantheon and stuff like that. That's like --

MR. MEYER: He's doing what? Wait. Stop. I'm sorry. Stop. Start over. What is he doing?

MR. O'REILLY. No. No. No. I'm going off. I'll come back to Joe, but --

MR. MEYER: Okay.

MR. O'REILLY: -- this is a separate thing where --

MR. MEYER: Okay.

MR. O'REILLY: -- Weaver just started asking me questions. This is the chronological order of the conversation with Weaver.

MR. MEYER: All right.

MR. O'REILLY: It was, "Hey, here's Pantheon. They have this, this, this and this. And they want me to sign this confidentiality agreement." And I told -- you know we talked about that.

And then he brings up -- you know, so he was pretty open about all this stuff. And he's like, "Hey, do you know Joe Silver?"

I'm like, "Yeah."

He goes, "Well, he was asking me about -- you know, what we're looking for and he might have some private equity funds."

MR. MEYER: Yeah.

MR. O'REILLY: And I said just -- "Well, find out who like he's repping, and just forward it on to me."

He's like, "Oh, yeah." He's like. "Done." He goes, "Yeah, if Joe e-mails me, I'll forward it on to you."

MR. MEYER: Uh-huh.

MR. O'REILLY: So he hasn't -- that was just a conversation we had Friday.

MR. MEYER: With funds or actual groups?

MR. O'REILLY: Well, here's what -- you know, here's the deal, though, it is a fund-to-funds RFP. The RFP is out, everyone knows about it.

MR. MEYER: Uh-huh.

MR. O'REILLY: So I don't see -- Joe is not that stupid to say --

MR. MEYER: Right.

MR. O'REILLY: -- "I'm just going to push a direct fund" when he knows it's an RFP fund to funds.

MR. MEYER: You think he's going to go grab some fund to fund and put it in there? Well, I can't wait to see it, you know, when it happens. It'll give me some ammunition.

MR. O'REILLY: Oh, huge. That's why I'm like, you know what? Maybe Joe is confused. Maybe he thinks, hey, Weaver is going to do direct funds. So I didn't want to throw him under the bus yet. But if he brings up a fund to funds, under the bus.

MR. MEYER: Right. That's fine.

MR. O'REILLY: So -- but hopefully I find out soon, dude, because that like just stirred me right there.

MR. MEYER: Yeah. I mean, we'll just say, "Dan, I can't do it, you know, I can't give it."

I was like, "I can't. Your group -- I don't know if it's you or your group, we can't do it between Levine

Leichtman and all of that, there's a lot of repairing that needs to be done."

MR. O'REILLY: Yeah. And I wonder -- I wonder if it is Levine Leichtman's quote/unquote, fund to funds. (Inaudible) I doubt it.

MR. MEYER: We'll see.

MR. O'REILLY: I doubt it, but we'll see.

MR. MEYER: I don't think so. I mean, we'll see what all this is. I mean, it could be nothing. It could be --

MR. O'REILLY: Right. That's why I didn't want to bring it up. I'm like you know what? Joe could be just an idiot and saying hey --

MR. MEYER: Joe is an idiot. Joe is an idiot.

MR. O'REILLY: No. Well, that's true. But as far as (inaudible) product, he may be pushing a direct fund when it's a fund to funds search.

MR. MEYER: I just don't like Joe. I just don't like him at all.

MR. O'REILLY: He's just not helpful. He's got -- (inaudible) --

MR. MEYER: No.

MR. O'REILLY: -- (inaudible) where he's coming from.

MR. MEYER: I think he's the opposite of helpful.

MR. O'REILLY: Yeah. You don't know where his alliance is. You just (inaudible).

MR. MEYER: No. (Inaudible) trust him.

MR. O'REILLY: No.

MR. MEYER: I really would just rather not speak to him. Like I don't even -- like if he e-mails me, I don't respond to him.

MR. O'REILLY: Yeah.

MR. MEYER: Like that Venture fund, Radius, I told Dan, "Yeah, Dan, make sure they're in there." And apparently, they were already scheduled or whatever.

MR. O'REILLY: Yeah.

MR. MEYER: Joe e-mails me all this shit, and I'm like, dude, I'm not going to respond to you.

MR. O'REILLY: Yeah. I think they're coming in a couple of weeks or something.

MR. MEYER: Yeah. Well, look, I just want to be careful. I don't want to lose any business. I want to make sure that there's no one saying bad shit about us to Rita or anyone else.

MR. O'REILLY: Yeah.

MR. MEYER: For Rita, to Shawn Harrigan. And you know, to close your eyes and think that Dan doesn't have any stroke, it's foolish.

MR. O'REILLY: No. No. No. Absolutely.

MR. MEYER: And you know, if we can get just a little bit out there because we do something, then okay. If we can find an easy way to get out of it, I'm for that in a minute, you know.

MR. O'REILLY: Well, this might be the easy way out.

MR. MEYER: What?

MR. O'REILLY: But we'll find out.

MR. MEYER: Saying, "Dude, you didn't support us. You pissed everyone off. We just can't get there."

MR. O'REILLY: Yeah.

MR. MEYER: You know, you and -- you know -- but how does that even work?

MR. O'REILLY: Well, if Joe is pushing other fund to funds --

MR. MEYER: Yeah. And so we'll just like call Dan?

MR. O'REILLY: -- it's just like --

MR. MEYER: Dan will just say, "I'll make sure it's us."

MR. O'REILLY: Like that's not the point. (Inaudible) supposed to start. But anyway. All right.

MR. MEYER: Do you know what I'm saying?

MR. O'REILLY: Yeah. No, I hear you.

MR. MEYER: So we've got to -- we've got to come

up with something that's -- I don't know (inaudible).

MR. O'REILLY: Yeah. All right. Well, I'm going to jump here. I'm going to grab some food and --

MR. MEYER: All right. I don't know what to think on that thing, by the way. I just -- I'm not -- I don't know.

MR. O'REILLY: What thing? The Oklahoma or --

MR. MEYER: I'm not there yet. I'm just not convinced one way or the other on this.

MR. O'REILLY: Yeah.

MR. MEYER: (Inaudible). My gut is that if we can't find anything, you know, and people don't like Pangia, that report on Pangia, then, you know, (inaudible) get a point out of this thing. But if not, you know, I don't (inaudible) fund, we'll tell them, well -- we'll tell Levine -- we'll tell him that it's because we can't get Levine Leichtman or the (inaudible) don't want to do it or whatever.

MR. O'REILLY: Yeah. There's always a million excuses we can use, so -- all right, man, I'm going to start rolling.

MR. MEYER: All right. Later.

MR. O'REILLY: All right. Bye.

3:38, Sunday, September 24th, is it? 24th.

(Audio concluded.)

TRANSCRIPTION OF TELEPHONE CONVERSATION
BETWEEN SAUL MEYER AND MATTHEW O'REILLY
SEPTEMBER 24, 2006

REPORTER'S CERTIFICATE

I, KATHERINE L. GORDON, New Mexico #P-400, working under the direct supervision of Debra L. Williams, New Mexico CCR License Number 92, hereby certify that I did, in stenographic shorthand, transcribe the audiotaped proceedings set forth herein, and the foregoing pages are a true and correct transcription, to the best of my ability. The CD was of good quality.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with (unless excepted by the rules) any of the parties or attorneys in this matter, and that I have no interest whatsoever in the final disposition of this matter.

KATHERINE L. GORDON
NEW MEXICO COURT REPORTER #P-400
License Expires: 1/07/13

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. D-03035-A
NEW MEXICO PUBLIC INVESTMENT FUNDS)

WITNESS: Anthony J. Correra
PAGES: 1 through 31
PLACE: Securities and Exchange Commission
Denver Regional Office
1801 California Street, Suite 1500
Denver, Colorado
DATE: Friday, August 13, 2010

The above-entitled matter came on for hearing, pursuant to notice, at 10:00 a.m.

Diversified Reporting Services, Inc.
(202) 467-9200

APPEARANCES:

On behalf of the Securities and Exchange Commission:

JEFFREY R. THOMAS, ESQ.
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(303) 844-1082

On behalf of the Witness:

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C O N T E N T S

EXHIBITS:	DESCRIPTION	IDENTIFIED
65	Subpoena	6
66	Document Subpoena	7

P R O C E E D I N G S

MR. THOMAS: Let's go on the record at 10:00 a.m. on August 13th, 2010.

Mr. Correra, please raise your right hand.

Whereupon,

ANTHONY J. CORRERA

was called as a witness and, having been first duly sworn,

was examined and testified as follows:

MR. THOMAS: Please state and spell your full name for the record.

THE WITNESS: Anthony J. Correra, A-n-t-h-o-n-y J. Correra, C-o-r-r-e-r-a.

MR. THOMAS: Thank you. My name is Jeff Thomas. And I am an officer of the commission for purposes of this proceeding. This is an investigation by the United States Securities and Exchange Commission in the matter of New Mexico Public Investment Funds.

THE WITNESS: And what is --

MR. FONS: That's what that is --

THE WITNESS: No, no, I know that. I don't even know what the investigation is. New Mexico Public Investment. Okay. I've never seen that.

MR. THOMAS: Again, it's an investigation by the United States Securities and Exchange Commission in the matter of New Mexico Public Investment Funds to determine whether there have been violations of certain provisions of the federal securities laws. However, the facts developed in this investigation might constitute violations of other federal or state civil or criminal laws.

Prior to the opening of the record, you were provided with a copy of the formal order of investigation in this matter. Have you had an opportunity to review the formal order?

THE WITNESS: I have.

MR. THOMAS: Thank you. Prior to the opening of the record you were also provided with a copy of the

Commission's Supplemental Information Form. I believe that a copy of that has been pre marked as Exhibit No. 1. Have you had an opportunity to read Exhibit No. 1?

THE WITNESS: I have.

MR. THOMAS: Thank you. Do you have any questions concerning Exhibit No. 1?

THE WITNESS: No.

MR. THOMAS: Mr. Correra, are you represented by counsel?

THE WITNESS: Yes.

MR. THOMAS: Would counsel please identify himself stating his name, firm name, address, and telephone number.

MR. FONS: Randall Fons from the law firm of Morrison & Foerster, 5200 Republic Plaza, Denver, Colorado 80202. Phone number is (303) 592-1500.

MR. THOMAS: Mr. Fons, are you representing Mr. Correra as his counsel today?

MR. FONS: I am.

MR. THOMAS: Thank you. Please mark that.

(SEC Exhibit No. 65 was marked for identification.)

EXAMINATION

BY MR. THOMAS:

Q Great. This is a copy of a subpoena. It's been marked as Exhibit No. 65. Is this a copy of the subpoena pursuant to which you are appearing here?

A Yes, and that's why I'm here.

MR. THOMAS: Okay. Would you please mark that.

(SEC Exhibit No. 66 was marked for identification.)

MR. THOMAS: Randy, this is the document subpoena that was issued some time ago, and I'm not even sure if you're aware of it or not.

MR. FONS: Did we produce any documents under it?

MR. THOMAS: No. And I'll let you -- you know, I'm happy to kind of walk through the standard questions about it, but if you want, you can make a statement about it. Let me go ahead and --

MR. FONS: Okay.

MR. THOMAS: -- put it in front of him.

BY MR. THOMAS:

Q Mr. Correra, I'm handing you what's been marked Exhibit No. 66, which is a document subpoena. It calls for the production of certain documents. Have you tendered to the staff all documents called for by the subpoena?

MR. FONS: Wait. Can we go off the record one second?

MR. THOMAS: Yeah, we can go off the record. Let's go off the record at 10:04.

(A brief recess was taken.)

MR. THOMAS: Let's go back on the record at 10:06 a.m.

BY MR. THOMAS:

Q Mr. Correra, I'm going to ask you a standard question that I'm going to ask after --

A I'm just shutting my phone off.

Q -- every time that we go off the record. During

the break, did you have any substantive conversations with him?

MR. FONS: With him. Did you talk with him?

THE WITNESS: No.

BY MR. THOMAS:

Q Okay. Thank you. Before the break I put in front of you a document that's been marked as Exhibit No. 66, and it's a document subpoena. Have you tendered to the staff all documents called for by the subpoena?

MR. FONS: We did receive the subpoena. It is my understanding that documents have not been turned over to the staff pursuant to this subpoena based upon Mr. Correra's Fifth Amendment rights.

BY MR. THOMAS:

Q Okay. Great. Mr. Correra, I don't know if you've been in a proceeding like this before.

A No.

Q Just to make things go more smoothly, I'll go over a few ground rules. Please speak audibly.

A Okay.

Q Try to avoid nods and head shakes, that type of thing. Please avoid interrupting me. Wait until I'm done asking the question before responding, and I'll do the same. I'll wait until you're done responding before --

A Okay.

Q -- moving on to my next question. If at any point you don't understand a question, please say so.

A Okay.

Q If you don't, otherwise I'll assume that you did understand the question. I control the record, which means that I'm the only one who can ask the court reporter to go off the record. Having said that, if you need a break for any reason, please just say so, and I'm sure that we can accommodate that.

Mr. Correra, is there any reason you won't be able to answer my questions fully and accurately today?

MR. FONS: You can answer that. Is there any reason you wouldn't be able to answer his questions?

THE WITNESS: No.

BY MR. THOMAS:

Q Okay. Thank you. Okay. Mr. Correra, will you provide testimony to the SEC staff relating to your educational history?

A I respectfully decline to answer based on my rights under the Fifth Amendment to the United States Constitution.

BY MR. THOMAS:

Q Okay. Can you specify a particular clause or provision within the Fifth Amendment on which you are relying?

A The right not to be a witness against myself.

Q Okay. Will you provide testimony to the SEC staff relating to your employment history?

MR. FONS: Right here (indicating).

THE WITNESS: I respectfully decline to answer based on my rights under the Fifth Amendment to the United States Constitution.

MR. FONS: Go ahead.

THE WITNESS: The right not to be a witness against myself.

MR. FONS: And just to expedite the proceeding, Jeff, if it's okay for Mr. Correra to respond to your questions just by saying Fifth Amendment, what he'll mean by that is he's exercising his right not to be a witness against himself under the Fifth Amendment to the U.S. Constitution, if that's okay with you.

MR. THOMAS: That is fine.

MR. FONS: From now on you just do that.

THE WITNESS: I'm sorry.

MR. FONS: From now on you just --

THE WITNESS: Just say Fifth Amendment.

MR. FONS: Uh-huh.

THE WITNESS: Okay.

BY MR. THOMAS:

Q Okay. Mr. Correra, I'm not authorized to compel you to give evidence or testimony as to which you assert your privilege against self-incrimination, and I have no intention of doing so. In addition, I do not have the authority to compel your testimony by granting you immunity from prosecution.

Any question that I ask hereafter will be with the understanding that if you wish to assert your privilege, you need merely state that you refuse to answer on the grounds

that your answer may tend to incriminate you. In other words, you are not compelled to answer any further questions if you believe that a truthful answer to the question would tend to show that you committed a crime, and you wish to assert your privilege against self-incrimination.

Accordingly, if you answer any questions, you will be doing so voluntarily. Do you understand this?

MR. FONS: Yes.

THE WITNESS: Yes.

BY MR. THOMAS:

Q Okay. Will you provide testimony to the SEC staff relating to your securities accounts?

A The Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to your bank accounts?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to your business or professional activities?

A The Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to your political activities?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to New Mexico Governor Bill Richardson or anyone in Bill Richardson's administration?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to communications between you and Bill Richardson or anyone in Bill Richardson's administration?

A Fifth Amendment.
Q Will you provide testimony to the SEC staff relating to the New Mexico state investment council or its members, staff, or consultants?
A Fifth Amendment.
Q Will you provide testimony to the SEC staff relating to communications between you and the -- and the state investment council or its members, staff, or consultants?
A Fifth Amendment.
Q Will you provide testimony to the SEC staff relating to the private equity investment advisory council or its members?
A Fifth Amendment.
MR. FONS: Can you hear okay?
THE WITNESS: Yeah, I can hear. I'm fine.
MR. FONS: Okay.
MR. THOMAS: I'll try to speak up.
THE WITNESS: It's all right, Jeff. Your throat is more important.
MR. THOMAS: It's not that. It's --

MR. FONS: Did you say private equity investment advisors?
THE WITNESS: Yes.
MR. THOMAS: Private equity investment advisory council.
MR. FONS: Right.
BY MR. THOMAS:

Q Will you provide testimony to the SEC staff relating to communications between you and the private equity investment advisory council or its members?

A The Fifth Amendment.

Q Okay. Will you provide testimony to the SEC staff relating to investments by the state investment council?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to former New Mexico State Investment Officer Gary Bland?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to communications between you and Gary Bland?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to the New Mexico educational retirement board or its members, staff, or consultants?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to communications between you and the educational retirement board or its members, staff, or consultants?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to investments by the -- by the educational retirement board?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to communications between you and Bruce Malott?

A Fifth Amendment.

Q I'm sorry, I misspoke the question. Will you provide testimony to the SEC staff relating to Educational Retirement Board Chairman Bruce Malott?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to communications between you and Bruce Malott?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to funds in which the state investment council or educational retirement board invested?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to people associated with those funds?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to funds that sought investments from the state investment council or educational retirement board?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to people associated with those funds?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to Aldus Equity Partners?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to communications between you and Aldus Equity Partners?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to Saul Meyer?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to communications between you and Saul Meyer?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to payments to Saul Meyer?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to your son, Marc Correra?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to communications between you and Marc Correra?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to Marc Correra's business or professional activities?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to your role, if any, with respect to Marc Correra's business or professional activities?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to placement agent fees paid to Marc Correra?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to Sandia Asset Management?

A Fifth Amendment.

Q Will you provide testimony to the SEC staff relating to L2?
A Fifth Amendment.
Q Will you provide testimony to the SEC staff relating to SDN Advisors?
A Fifth Amendment.
Q Will you provide testimony to the SEC staff relating to CrossCore?
A Fifth Amendment.
Q Will you provide testimony to the SEC staff relating to Ajax Investments?
A Fifth Amendment.
Q Will you provide testimony to the SEC staff relating to Cabrera Capital Markets?
A Fifth Amendment.
Q Mr. Correra, please describe your role, if any, with respect to the government of the State of New Mexico.
A Fifth Amendment.
Q Describe your role, if any, with respect to Bill Richardson's administration.
A Fifth Amendment.
Q Describe your role, if any, with respect to the state investment council.
A Fifth Amendment.
Q Describe your role, if any, with respect to the educational retirement board?
A Fifth Amendment.
Q Describe your relationship with Bill Richardson.

A Fifth Amendment.
Q Describe all communications with Bill Richardson relating to investments by the state investment council or educational retirement board.

A Fifth Amendment.
Q Did you ever represent to others that you had some authority over investment decisions by the state investment council or educational retirement board?
A Fifth Amendment.
Q Did you ever try to give others the impression that you had some authority over investment decisions by the state investment council or educational retirement board?
A Fifth Amendment.
Q Did you ever influence an investment decision at the state investment council or educational retirement board?
A Fifth Amendment.
Q Describe your relationship with Gary Bland.
A Fifth Amendment.
Q Describe all communications with Gary Bland relating to investments by the state investment council or educational retirement board.
A Fifth Amendment.
Q Describe your relationship with Bruce Malott.
A Fifth Amendment.
Q Describe all communications with Bruce Malott relating to investments by the state investment council or educational retirement board.
A Fifth Amendment.
Q Describe all communications with Marc Correra

relating to investments by the state investment council or educational retirement board.

A Fifth Amendment.

Q Describe your role, if any, with respect to Marc Correra's placement agent business.

A Fifth Amendment.

Q Did you ever participate, in any way, in Marc Correra's placement agent business?

A Fifth Amendment.

Q Did you ever plan to act as a placement agent in New Mexico?

A Fifth Amendment.

Q Did you ever tell anyone that you planned to act as a placement agent in New Mexico?

A Fifth Amendment.

Q Did you ever pressure any fund or fund manager to use Marc Correra as a placement agent?

A Fifth Amendment.

Q Did you ever tell Saul Meyer to meet Marc Correra?

A Fifth Amendment.

Q Did you ever use or try to use your relationship with Bill Richardson to benefit you or Marc Correra?

A Fifth Amendment.

Q Did you ever meet with Saul Meyer and Marc Correra?

A Fifth Amendment.

Q Did you ever meet with Saul Meyer and Marc Correra at an Elephant Bar in New Nexico?

A Fifth Amendment.

Q If so, please describe that meeting.

A Fifth Amendment.

Q Did you ever meet with Barrett Wissman and Marc Correra?

A Fifth Amendment.

Q Did you ever tell Barrett Wissman to pay Marc Correra a placement agent fee?

A Fifth Amendment.

Q Did you ever share in any placement agent fees paid to Marc Correra?

A Fifth Amendment.

Q Did you ever receive any monetary benefit from Marc Correra's placement agent business?

A Fifth Amendment.

Q Describe all communications with Aldus Equity advisors relating to investments by the state investment council or educational retirement board.

A Fifth Amendment.

MR. THOMAS: And I believe that's Aldus Equity Partners.

BY MR. THOMAS:

Q Did you ever pressure Aldus Equity Partners to recommend that the state investment council or educational retirement board invest in certain funds that were represented by Marc Correra?

A Fifth Amendment.

MR. FONS: Do you want a pad of paper?
THE WITNESS: Huh?
MR. FONS: You want a pad of paper?
THE WITNESS: No, I was just making a note of something I wanted to remember.
MR. FONS: No, feel free. That's why I was wondering. Okay.
BY MR. THOMAS:
Q Did you ever pressure Aldus to recommend that the state investment council or educational retirement board make investments from which Marc Correra would benefit?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend that the state investment council or educational retirement board make or not make certain investments based on political conversations?
A Fifth Amendment.
Q Did you ever pressure Aldus Equity to recommend investments in GKM Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus Equity to recommend investments in Rizvi Fund, R-i --
A I'm sorry, I didn't hear you.
Q R-i-z-v-i Fund.
A Fifth Amendment.
Q Okay. Did you ever pressure Aldus to recommend investments in Perseus Fund?
A Fifth Amendment.

Q Did you ever pressure Aldus to recommend investments in Carlyle Mexico Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in Intermedia Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in GSC Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in NGN Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in Quadrangle Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in GF Capital Fund?
A Fifth Amendment.

Q Did you ever pressure Aldus to recommend investments in Psilos, P-s-i-l-o-s, Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in Halyard, H-a-l-y-a-r-d, Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in Clayton, Dublier & Rice? D-u-b-l-i-e-r is how you spell Dublier.
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend

investments in Newstone Fund?
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in HM Capital Fund?
A HM?
Q HM.
A Fifth Amendment.
Q Did you ever pressure Aldus to recommend investments in any other funds?
A Fifth Amendment.
Q Please describe all meetings between you and Saul Meyer.
A Fifth Amendment.
Q Describe all communications with Saul Meyer

relating to investments by the state investment council or educational retirement board.
A Fifth Amendment.
Q Did you ever tell Saul Meyer that Bill Richardson wanted the state investment council or educational retirement board to invest in a certain fund?
A Fifth Amendment.
Q Did you ever tell Saul Meyer that certain investments were important to Bill Richardson?
A Fifth Amendment.
Q Did you ever tell Saul Meyer that Bill Richardson was pushing investments in certain funds?
A Fifth Amendment.
Q Did you ever tell Saul Meyer that Bill Richardson

was upset because Aldus was resisting recommending investments in certain funds?

A Fifth Amendment.

Q Did you ever get upset with Saul Meyer for recommending investments in funds for which Marc Correra was not the placement agent?

A Fifth Amendment.

Q Did you ever tell Saul Meyer that Bill Richardson was expensive to take care of?

A Fifth Amendment.

Q Did you ever transfer money to Saul Meyer?

A Fifth Amendment.

Q Did you ever meet with Saul Meyer at the Albuquerque airport?

A Fifth Amendment.

Q Did you ever give Saul Meyer $10,000 at the Albuquerque airport?

A Fifth Amendment.

Q Did you ever try to give Saul Meyer the impression that you could get Aldus's contract with either the state investment council or the educational retirement board terminated?

A Fifth Amendment.

Q Did you ever meet with Saul Meyer, Marc Correra, Gary Bland, and Michael Moldenhauer at Rio Chama in Santa Fe?

A Fifth Amendment.

Q If so, please describe that meeting.

A Fifth Amendment.

Q Did you ever tell Saul Meyer outside the Rio Chama

to stop doing political deals?
A Fifth Amendment.
Q Did you ever ask Barrett Wissman to raise money for Bill Richardson?
A Fifth Amendment.
Q Did you ever tell or imply to Barrett Wissman that New Mexico's investment in Hunt Financial Ventures could be pulled if Wissman didn't raise money for Bill Richardson?
A Fifth Amendment.
MR. FONS: Are you running out of room?
BY MR. THOMAS:
Q Did you ever ask Saul Meyer for the names of funds in which the state investment council or educational retirement board had invested?
A I'm sorry, can you say that again?
Q I sure can, sir. Did you ever ask Saul Meyer for the names of funds in which the state investment council or educational retirement board had invested?
A Fifth Amendment.
Q Did you ever ask Saul Meyer for the names of funds that had been approved or were being considered for investment?
A Fifth Amendment.
Q Did you ever ask Saul Meyer for the names of people associated with the funds referred to in the two preceding questions?
A Fifth Amendment.
Q Did you ever ask Saul Meyer for the names of the

placement agents for those funds?
A Fifth Amendment.
Q Did you ever tell Saul Meyer that Dave Contarino or Amanda Cooper wanted the names of private equity managers with which New Mexico had done business?
A Fifth Amendment.
Q Did you ever demand that Richie Brower of the Clinton Group pay you in exchange for an investment from the State of New Mexico?
A What was the name of that group?
Q The Clinton Group.
A Clinton?
Q Right.
A To pay me what?
Q The question is, did you ever demand that Richie Brower of the Clinton Group pay you in exchange for an investment from the State of New Mexico?
A Fifth Amendment.
Q Did you ever tell Saul Meyer to keep Julio Ramirez happy?
A Fifth Amendment.
Q Did you ever demand to be part of a co-investment deal involving Sun Mountain Capital and Aldus?
A Fifth Amendment.
Q Mr. Correra, if called as a witness to testify again before the commission staff or in any legal proceeding, is it your intention to continue to assert your privilege against self-incrimination pursuant to the Fifth Amendment to the United States Constitution as to each of the matters we

just discussed?

MR. FONS: Can you ask that again?

MR. THOMAS: Yeah.

BY MR. THOMAS:

Q If called to testify again before the commission staff or in any legal proceeding, is it your intention to continue to assert your privilege against self-incrimination pursuant to the Fifth Amendment to the United States Constitution as to each of the matters we just discussed?

MR. FONS: Well, at the present time, certainly Mr. Correra's intent is to assert his rights under the Fifth Amendment. But I can't tell you that at some future date he may come to a different decision.

MR. THOMAS: The question asked for his present intention.

MR. FONS: Okay. In that case --

BY MR. THOMAS:

Q Can you answer that, Mr. Correra?

MR. FONS: -- you could answer yes.

THE WITNESS: Yes.

MR. THOMAS: Okay. Mr. Correra, we have no further -- I have no further questions at this time. We may, however, call you again to testify in this investigation. And if that's necessary, we'll contact you through your lawyer.

Mr. Correra, do you wish to clarify anything or add anything to the statements you've made today?

THE WITNESS: No.

MR. THOMAS: Counsel, do you wish to ask any clarifying questions?

MR. FONS: No.

MR. THOMAS: Let's go off the record at 10:28 a.m. Okay.

(Whereupon, at 10:28 a.m., the examination was adjourned.)

* * * * *

REPORTER'S CERTIFICATE

I, Alan E. Bjork, reporter, hereby certify that the foregoing

transcript of 29 pages is a complete, true and accurate transcript of the testimony indicated, held on August 13, 2010, at 10:00 a.m. in the matter of: New Mexico Public Investment Funds.

I further certify that this proceeding was recorded by me, and that the foregoing transcript has been prepared under my direction.

Date: _____

Official Reporter: _____

Diversified Reporting Services, Inc.

PROOFREADER'S CERTIFICATE

In the Matter of:	NEW MEXICO PUBLIC INVESTMENT FUNDS
Witness:	Anthony J. Correra
File Number:	D-03035-A
Date:	Friday, August 13, 2010
Location:	Denver, Colorado

This is to certify that I, Robert T. Moser (the undersigned), do hereby swear and affirm that the attached proceedings before the U.S. Securities and Exchange Commission were held according to the record and that this is the original, complete, true and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

_____ _____

(Proofreader's Name) (Date)

Diversified Reporting Services, Inc.
1101 Sixteenth Street, N.W.
2nd Floor
Washington, DC 20036

In the Matter of: NEW MEXICO PUBLIC INVESTMENT FUNDS
Witness: Anthony J. Correra
File Number: D-03035-A
Date: Friday, August 13, 2010
Location: Denver, Colorado

This is a letter to inform you that we do not release our tapes and notes. I do maintain them for a period of one (1) year.

Sincerely,

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. D-03128-A
VANDERBILT CAPITAL ADVISORS, LLC)

WITNESS: Anthony J. Correra
PAGES: 1 through 21
PLACE: Securities and Exchange Commission
1801 California Street, Suite 1500
Denver, Colorado
DATE: Friday, August 13, 2010

The above-entitled matter came on for hearing, pursuant to notice, at 10:40 a.m.

Diversified Reporting Services, Inc.
(202) 467-9200

APPEARANCES:

On behalf of the Securities and Exchange Commission:

ZACHARY T. CARLYLE, ESQ.
Central Regional Office
Securities and Exchange Commission
1801 California Street, Suite 1500
Denver, Colorado 80202
(303) 844-1082

On behalf of the Witness:

RANDALL J. FONS, ESQ.
Morrison & Foerster LLP
5200 Republic Plaza
370 - 17th Street
Denver, Colorado 80203-5638
(303) 592-2257

C O N T E N T S

P R O C E E D I N G S

(SEC Exhibit No. 1 was marked for identification.)

MR. CARLYLE: All right. On the record on August 13th, 2010, at approximately 10:40 a.m. Please raise your

right hand.

Whereupon,

ANTHONY J. CORRERA

was called as a witness and, having been first duly sworn, was examined and testified as follows:

MR. CARLYLE: Please state and spell your full name for the record.

THE WITNESS: Anthony Correra, C-o-r-r-e-r-a, middle initial J, sorry.

MR. CARLYLE: I'm Zach Carlyle, and I'm an officer of the commission for the purposes of this proceeding. This is an investigation by the United States Securities and Exchange Commission in the matter of Vanderbilt Capital Advisors, LLC to determine whether there have been violations of certain provisions of the federal securities laws. However, the facts developed in this investigation might constitute violations of other federal or state civil or criminal laws.

Prior to the opening of the record, you were provided with a copy of the formal order of investigation in

this matter. It will be available for your examination during the course of this proceeding. Have you had an opportunity to review the formal order?

THE WITNESS: I have.

MR. CARLYLE: Prior to the opening of the record, you were also provided with a copy of the commission's supplemental information form also know as SEC Form 1662, which has been marked as Exhibit No. 1. Have you had an

opportunity to review Exhibit No. 1?

THE WITNESS: I have.

MR. CARLYLE: Do you have any questions concerning Exhibit No. 1?

THE WITNESS: No.

MR. CARLYLE: Okay. Is there any reason you cannot provide complete and accurate testimony today?

THE WITNESS: No.

MR. CARLYLE: Mr. Correra, you're representing by counsel today, correct?

THE WITNESS: Yes.

MR. CARLYLE: Would counsel please identify himself.

MR. FONS: Randall Fons, law firm of Morrison & Foerster, 5200 Republic Plaza, Denver, Colorado 80202, Phone No. (303) 592-1500.

MR. CARLYLE: And Mr. Fons, you are representing

Mr. Correra as his counsel today?

MR. FONS: Correct.

(SEC Exhibit No. 2 was marked for identification.)

EXAMINATION

BY MR. CARLYLE:

Q I'm handing you, Mr. Correra, what has been marked as Exhibit No. 2.

MR. FONS: This is the subpoena that I sent you yesterday.

THE WITNESS: And what -- what's the answer?

MR. FONS: You can answer, yes, this is the subpoena.

THE WITNESS: I'm sorry, I misunderstood. I didn't hear it.

MR. FONS: That's okay. That's okay. You can say that this is the subpoena to which you're appearing. That's what he's going to ask you.

THE WITNESS: Okay.

BY MR. CARLYLE:

Q Mr. Correra, is this a copy of the subpoena pursuant to which you are appearing here today?

A Yes. It was that easy. I didn't realize it, I'm sorry. I have trouble hearing, Zach. I'm sorry, Zach.

Q Okay. I'll try to speak up.

A No, that's okay.

THE WITNESS: This thing only costs $4,000, and I still can't hear.

MR. FONS: My mother has two of them. She likes hers.

THE WITNESS: I'll talk to you about it later.

MR. FONS: Okay.

THE WITNESS: Let's not bother him.

BY MR. CARLYLE:

Q Please describe your educational background.

A I respectfully decline to answer based on my right under the Fifth Amendment to the United States Constitution.

Q All right. And please clarify which provision of the Fifth Amendment you're asserting.

A The right not to be a witness against myself.

Q Okay.

MR. FONS: Now, I just need you to make sure that he's done asking the question before you answer it.

THE WITNESS: Oh.

BY MR. CARLYLE:

Q All right. Do you assert your Fifth Amendment right against self-incrimination and refuse to testify in response to any questions regarding your educational background?

A I respectfully decline to answer based on my rights

under the Fifth Amendment to the United States Constitution.

Q Okay. Please describe your employment history.

MR. FONS: If we could, Zach, just to expedite things, if Mr. Correra could just respond to your questions by saying Fifth Amendment, what he will mean by that is he's respectfully declining to answer -- or to answer your questions based upon his Fifth Amendment right not to be a witness against himself, if that's okay.

MR. CARLYLE: That is fine.

MR. FONS: So from now on you can just respond --

THE WITNESS: Like I did before?

MR. FONS: -- by saying Fifth Amendment.

THE WITNESS: Okay.

MR. FONS: You want to read --

MR. CARLYLE: And I'm not sure if that question was still pending or not, but . . .

MR. FONS: Why don't you reask it.

BY MR. CARLYLE:

Q Please describe your employment background.

MR. FONS: Fifth Amendment.

THE WITNESS: Fifth Amendment.

BY MR. CARLYLE:

Q Okay. Please describe all sources of compensation that you've received over the last three years.

A Fifth Amendment.

Q Please describe any interests you have in any businesses.

A Fifth Amendment.

Q Okay. Please list your -- any securities accounts under your name.

A Fifth Amendment.

Q Okay. Please describe any bank accounts in your name.

A Fifth Amendment.

Q Have you ever been a defendant or respondent in an action or proceeding brought by the SEC or any other federal agency, state agency, securities exchange, or self-regulatory organization?

A Fifth Amendment.

Q Okay. Have you ever been a defendant in any action alleging violations of the federal securities laws?

A Fifth Amendment.

Q Okay. Please describe any personal or professional relationship you may have with New Mexico Governor Bill Richardson.

A Fifth Amendment.
Q Please describe any personal or professional relationship you may have had with anyone in the Richardson administration.
A Fifth Amendment.

Q Okay. Do you intend to assert your Fifth Amendment privilege against self-incrimination in response to all questions regarding any relationship with Bill Richardson or anyone in his administration -- administration?
MR. FONS: Just say Fifth Amendment. Just say Fifth Amendment.
A Fifth Amendment.
BY MR. CARLYLE:
Q Please describe any role you may have with the New Mexico state investment council?
A Fifth Amendment.
Q And for the record, when I refer to that organization from here on out, I'm just going to use the acronym SIC.
Please describe any role you have with the New Mexico educational retirement board.
A Fifth Amendment.
Q And from here on out I'm going to refer to that organization as the ERB.
Have you ever had any personal or professional relationship with any members of the SIC or the ERB or members of their staffs?
A Fifth Amendment.

Q Do you assert your Fifth Amendment right against self-incrimination and refuse to testify in response to any

questions regarding your role with the SIC or the ERB or any personal or professional relationships you may have with individuals affiliated with those institutions?

A Fifth Amendment.

Q Have you ever influenced any investment decision by the SIC or the ERB?

A Fifth Amendment.

Q Have you ever communicated with anyone from Vanderbilt Capital Advisors?

A Fifth Amendment.

Q Have you ever communicated with anyone affiliated with the SIC or ERB regarding investments offered by Vanderbilt Capital Advisors?

A Fifth Amendment.

Q Have you ever directly or indirectly received any compensation from Vanderbilt Capital Advisors?

A Fifth Amendment.

Q Did you ever direct anyone affiliated with the Vanderbilt Capital Advisors to directly or indirectly pay your son, Marc Correra, in connection with investments made by the SIC or ERB in any securities offered by Vanderbilt Capital Advisors?

A Fifth Amendment.

Q Did you ever communicate with anyone from Vanderbilt Capital Advisors about a securities offering

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involving Vanderbilt Financial Trust?
A Fifth -- can you repeat that, because I didn't even understand the question?
Q Okay. Did you ever communicate with anyone from Vanderbilt Capital Advisors about a securities offering involving Vanderbilt Financial Trust?
A Fifth Amendment.
Q Did you conduct any due diligence or perform any other services in connection with the investments in Vanderbilt Financial Trust by the SIC or ERB?
A Fifth Amendment.
Q Did Marc Correra, to your knowledge, conduct any due diligence or perform any other services in connection with the investments in Vanderbilt Financial Trust by the SIC or ERB?
A Fifth Amendment.
Q Did you ever recommend to Bruce Malott or Gary Bland that the ERB or SIC make investments in Vanderbilt Financial Trust?
A Fifth Amendment.
Q Did you ever recommend to anyone affiliated with the SIC or the ERB that those entities invest in Vanderbilt Financial Trust?
A Fifth Amendment.
Q Did you direct, pressure, or influence Bruce Malott

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or Gary Bland to approve investments in Vanderbilt Financial

Trust by the SIC or the ERB?

A Fifth Amendment.

Q Did you ever direct, pressure, or influence anyone affiliated with the SIC or the ERB to approve investments in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Did you ever communicate with Bruce Malott or Gary Bland regarding investments in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Did you ever communicate with anyone affiliated with the SIC or the ERB regarding investments in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Did you ever communicate with New Mexico Governor Bill Richardson or anyone in Bill Richardson's administration regarding investments in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Do you assert your Fifth Amendment privilege against self-incrimination and refuse to testify in response to any questions regarding any communications or actions by you in connection with investments by the SIC and the ERB in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Did you directly or indirectly receive any

compensation related to investments by the SIC and the ERB in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Did you direct anyone from Vanderbilt Capital

advisors to compensate Marc Correra or his affiliated companies in connection with investments by the SIC or ERB in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Did you have any communications with anyone affiliated with Vanderbilt Capital Advisors regarding compensation to be paid by Vanderbilt to you, Marc Correra, or any third parties in connection with investments by the SIC or ERB in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Did you have any communications with anyone affiliated with the SIC or ERB regarding compensation to be paid by Vanderbilt to you, Marc Correra, or any third parties in connection with investments by the SIC or ERB in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Do you assert your Fifth Amendment right against self-incrimination and refuse to testify in response to any questions regarding any compensation paid to you, Marc Correra, or any other parties in connection with investments by the SIC and ERB in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Did you elicit contributions to the Bill Richardson for president exploratory committee from individuals affiliated with Vanderbilt Capital Advisors?

A Fifth Amendment.

Q Did you direct Marc Correra or anyone else to solicit contributions to the Bill Richardson for president

exploratory committee from individuals affiliated with Vanderbilt Financial Advisors?

A Fifth Amendment.

Q Were the donations to the Bill Richarson for president exploratory committee by individuals affiliated with Vanderbilt Capital Advisors in any way tied to the investments by the SIC and the ERB in Vanderbilt Financial Trust?

A Fifth Amendment.

Q Do you assert your Fifth Amendment right against self-incrimination and refuse to testify in response to any questions regarding contributions by individuals affiliated with Vanderbilt Capital Advisors to the Bill Richardson for president exploratory committee?

A Fifth Amendment.

Q Did you solicit anyone affiliated with Vanderbilt Capital Advisors to attend, host, or organize any fund raisers for Bill Richardson?

A Fifth Amendment.

Q Did you direct Marc Correra or anyone else to solicit individuals affiliated with Vanderbilt Capital Advisors to attend, host, or organize any fund raisers for Bill Richardson?

A Fifth Amendment.

Q Were the fund-raising activities on behalf of Bill Richardson by individuals affiliated with Vanderbilt Capital Advisors in any way tied to the investments by the New Mexico state investment council and ERB and Vanderbilt Financial

Trust?

A Fifth Amendment.

MR. CARLYLE: I have no further questions at this time. You may be called to testify again in this investigation. If that's necessary, I will contact your counsel.

Do you have any questions you'd like to ask at this point in time, Counsel?

MR. FONS: No.

THE WITNESS: No.

MR. CARLYLE: Do you have anything that you'd --

THE WITNESS: No, thank you.

MR. CARLYLE: -- like to add to your testimony?

THE WITNESS: When he finishes.

MR. FONS: No, he says no. Yes, exactly.

THE WITNESS: No.

MR. CARLYLE: All right. All right. We will go off the record at 10:55.

(Recess from 10:55 to 10:55 a.m.)

MR. CARLYLE: Back on the record at approximately 10:55.

BY MR. CARLYLE:

Q As you're aware, you asserted your Fifth Amendment privilege against self-incrimination in response to any of my questions today. There's some important aspects and implications of doing that that I want to go over with you and just make sure that we're -- we're clear on.

I'm not authorized to compel you to give evidence

or testimony as to which you assert your privilege against self-incrimination. And I've had no intention of doing so through your testimony today.

In addition, I do not have the authority to compel your testimony by granting you immunity from prosecution. The questions that I've asked have been with the understanding that if you wish to assert your privilege, you needed merely to state that you refuse to answer on the grounds that your answer might incriminate you. In other words, as is evident, you have not been compelled to answer any further questions if you believe that a truthful answer to the question could show that you committed a crime.

And accordingly, if you answer any questions -- or answered any of my questions, you would have been doing so voluntarily. Obviously that didn't happen today. But you should also be aware that on the basis of your refusal to answer my questions based on your Fifth Amendment privilege, a judge or a jury could take an adverse inference against you in a civil action that the SEC may determine to bring against you.

That means that the judge or jury would be permitted to infer that your answer to the questions might incriminate you. Do you understand the information that I've just given you?

A Yes.

Q Now, in light of the information that we've just gone over, would you now like to substantively testify to any of the questions in response to which you have previously

asserted your Fifth Amendment privilege against self-incrimination?

MR. FONS: And just for the record, we were working under the understanding of exactly what you had just talked about, Zach --

MR. CARLYLE: Okay.

MR. FONS: -- because we had just been through another testimony session where those rights and responsibilities were outlined. So while I appreciate you

going over them, and I know you have to do that so the record shows it, we did have an understanding of that. Mr. Correra took -- or asserted his rights under the Fifth Amendment knowingly and knowing all those things that you had just said. So we're good to go.

THE WITNESS: Yes.

MR. CARLYLE: Very good. With that we will again go off the record at about 11:00 a.m.

(Whereupon, at 11:00 a.m., the examination was adjourned.)

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PROOFREADER'S CERTIFICATE

In the Matter of: VANDERBILT CAPITAL ADVISORS, LLC
Witness: Anthony J. Correra
File Number: D-03128-A
Date: Friday, August 13, 2010
Location: Denver, Colorado

This is to certify that I, Don R. Jennings (the undersigned), do hereby swear and affirm that the attached proceedings before the U.S. Securities and Exchange Commission were held according to the record and that this is the original, complete, true and accurate transcript that has been compared to the reporting or recording accomplished at the hearing.

_____ _____

(Proofreader's Name) (Date)

STATE OF COLORADO)
) ss. REPORTER'S CERTIFICATE
COUNTY OF DENVER)

I, Alan E. Bjork, do hereby certify that I am a Certified Shorthand Reporter and Notary Public within the State of Colorado; that previous to the commencement of the examination, the deponent was duly sworn to testify to the truth.

I further certify that this deposition was taken in shorthand by me at the time and place herein set forth, that it was thereafter reduced to typewritten form, and that the foregoing constitutes a true and correct transcript.

I further certify that I am not related to, employed by, nor of counsel for any of the parties or attorneys herein, nor otherwise interested in the result of the within action.

In witness whereof, I have affixed my signature and seal this 19th day of August, 2010.

My commission expires July 8, 2011.

_____

Alan E. Bjork, CSR
216 - 16th Street, Suite 1280
Denver, Colorado 80202

Diversified Reporting Services, Inc.
1101 Sixteenth Street, N.W.
2nd Floor
Washington, DC 20036

In the Matter of:	VANDERBILT CAPITAL ADVISORS, LLC
Witness:	Anthony J. Correra
File Number:	D-03128-A
Date:	Friday, August 13, 2010
Location:	Denver, Colorado

This is a letter to inform you that we do not release our tapes and notes. I do maintain them for a period of one (1) year.

Sincerely,

THE WALL STREET JOURNAL.
WSJ.com

OCTOBER 6, 2009, 3:19 P.M. ET

Saul Meyer Allocution

From in or about 2003 through in or about 2009, I was a principal and founding partner of Aldus Equity ("Aldus"), a private equity services firm. During that time, Aldus served as a private equity advisor to numerous public pension funds throughout the United States, including the New York State Common Retirement Fund. In this capacity, Aldus analyzed proposed investments, conducted due diligence, and advised public pension funds on the merit, suitability and integrity of proposed investments. A public pension fund advisor such as Aldus is meant to protect public money by safeguarding the integrity of the public pension fund investment process. Aldus also earned fees by managing and investing pools of public pension fund money on behalf of public pension funds. Aldus had fiduciary duties towards the pension funds it advised and was obligated to provide objective investment advice, free from conflicts, politics and other improper pressures. However, with respect to certain investments relating to the New York State Common Retirement Fund and New Mexico public pension funds, to generate business and fees for Aldus, I violated my fiduciary obligations and succumbed to pressures exerted upon me by pension fund officials and other politically connected individuals who I understood were motivated for personal, financial and political gain.

From in or about January 2003 through in or about February 2009, acting in concert with others, I made false representations of material facts and concealed material information while engaged in inducing and promoting the exchange, sale, negotiation and purchase within and from New York of securities, to wit: the New York State Common Retirement Fund investments in Aldus/NY Emerging Fund and Strategic Co-Investment Fund, and other investment transactions involving the New Mexico State Investment Council and the New Mexico Educational Retirement Board in the State of New Mexico. As a result of this, I along with Hank Morris and others wrongfully obtained agreements and fees relating to these transactions.

In or about early 2004, an associate of Hank Morris told me that because of Hank Morris's political connections, Hank Morris could secure an investment mandate from the New York State Common Retirement Fund for Aldus. For that reason, acting on behalf of Aldus, I entered into an arrangement with Hank Morris pursuant to which Aldus agreed to pay Hank Morris 35% of management fees on the New York State Common Retirement Fund investment. David Loglisci, the chief investment officer of the pension fund at that time, was aware of my arrangement with Hank Morris. It was my understanding that David Loglisci recommended that the New York State Common Retirement Fund make the investment in the Aldus/NY Emerging Fund at least in part because of my arrangement with Hank Morris. As a result, in or about December of 2004, Aldus received an investment from the New York State Common Retirement Fund in the Aldus/NY Emerging Fund, and, thereafter, obtained millions of dollars in fees in connection with that investment, more than $300,000.00 of which was paid to Hank Morris pursuant to our arrangement. I did not disclose my understanding of the arrangement with Hank Morris in any filing or other submission made by Aldus to the New York State Common Retirement Fund.

Aldus/NY Emerging Fund, and, thereafter, obtained millions of dollars in fees in connection with that investment, more than $300,000.00 of which was paid to Hank Morris pursuant to our arrangement. I did not disclose my understanding of the arrangement with Hank Morris in any filing or other submission made by Aldus to the New York State Common Retirement Fund.

With respect to the New York State Common Retirement Fund investment in the Strategic Co-Investment Fund, David Loglisci asked me to have Aldus perform the due diligence on that fund - which was a fund in which a friend of David Loglisci had an interest. When I declined this request, David Loglisci made it clear to me that I had no choice, and indicated that he would pull the CRF investment in Aldus/NY Emerging Fund I if I did not perform the due diligence in a way that resulted in Aldus recommending the investment in the fund to CRF. On reviewing the proposed fund, I concluded that an investment in the fund was problematic and expressed my concerns about the proposed investment to David Loglisci. David Loglisci instructed me to prepare a diligence report on the proposed investment that concealed my concerns to facilitate CRF making the investment in the Strategic Co-Investment Fund. At David Loglisci's direction, and notwithstanding my concerns, I ensured that Aldus prepared such a report and that Aldus recommended the investment in the Strategic Co-Investment Fund. Thereafter, CRF made an investment in the Strategic Co-Investment Fund.

From in or about 2004 through in or about February 2009, Aldus also acted as an advisor to the New Mexico State Investment Council and the New Mexico Educational Retirement Board in the State of New Mexico. In that capacity, I had a fiduciary duty to act exclusively in the best interests of the State of New Mexico. On numerous occasions, however, contrary to my fiduciary duty, I ensured that Aldus recommended certain proposed investments that were pushed on me by politically-connected individuals in New Mexico. I did this knowing that these politically-connected individuals or their associates stood to benefit financially or politically from the investments and that the investments were not necessarily in the best economic interest of New Mexico.

INTRODUCTION AGREEMENT

THIS INTRODUCTION AGREEMENT, dated as of November 28 , 2006 by and between Vanderbilt Capital Advisors, LLC ("Vanderbilt") and SDN Advisers, LLC ("SDN").

WITNESSETH:

WHEREAS, Vanderbilt is an investment adviser registered with the Securities and Exchange Commission pursuant to Section 203 of the Investment Advisers Act of 1940, as amended (the "Act");

WHEREAS, SDN has introduced Vanderbilt to the New Mexico State Investment Council and the New Mexico Educational Retirement Board (collectively, "SDN Contacts") to inform the SDN Contacts of investment opportunities in products managed by Vanderbilt;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration. receipt of which is hereby acknowledged, the parties agree as follows:

I. INTRODUCTION

SDN has introduced Vanderbilt to the SDN Contacts by providing to Vanderbilt the name, address, telephone number and contact information of the SDN Contacts. The services to be provided by SDN in accordance with this Agreement have been communicated or delivered, either verbally or in writing, to Vanderbilt at its offices in Chicago for its initial use at that location. Vanderbilt has not made its initial use of the services provided by SDN at a place other than outside of New Mexico.

II. REPRESENTATIONS AND COVENANTS OF SDN

In connection with such introduction, SDN represents and warrants as follows:

A. SDN possesses, and has possessed at all times, all right, power and authority to make the introduction of the SDN Contacts to Vanderbilt provided for herein, and the introduction by SDN of the SDN Contacts to Vanderbilt does not and will not violate or conflict with any past, present or future agreement, whether written or oral, or any other arrangement to which SDN is or may become a party.

B. SDN has not solicited or performed, and covenants that it shall not solicit or perform, any services in connection with the introduction of the SDN Contacts to Vanderbilt, other than introducing the SDN Contacts to Vanderbilt in the manner described herein.

C. SDN has not participated, and will not participate, in any business negotiations between the SDN Contacts and Vanderbilt.

D. SDN's introduction described herein does not and will not conflict with or violate any federal or state law or the rules of any regulatory body.

E. SDN has not and shall not prescreen either SDN Contact to determine if such SDN Contact is creditworthy or a qualified investor, accept fees related to any services provided by Vanderbilt to the SDN Contacts or to any investments made in a Vanderbilt product by the SDN Contacts (other than the fees described in Section III of this Agreement), negotiate the terms or documentation relative to any such services or investments, make any recommendation as to terms or have any input into any decision as to whether a SDN Contact should enter into any advisory arrangement or invest in any product managed by Vanderbilt.

III. FEES AND PROCEDURES

To compensate SDN for its introductory services, Vanderbilt shall pay SDN an annual fee of $1 million during each year during the term of this Agreement. The fee shall be payable in quarterly installments of $250,000 on each March 1, June 1, September 1 and December 1, commencing December 1, 2006. If any such day is not a business day, then such quarterly installment shall be paid on the next business day following such date. Following the payment of the fee due on September 1, 2008, no fee shall be payable to SDN.

IV. ADDITIONAL OBLIGATIONS OF THE PARTIES

A. SDN and Vanderbilt will not, without the prior written consent of the other party, which consent may be granted or withheld in either party's sole discretion, use the other party's name or logo, including, without limitation, in any materials distributed to the SDN Contacts or to Vanderbilt or any of its affiliates' or successors' clients or to SDN or any of its affiliates' or successors' clients or in any advertising or promotional material.

B. Nothing herein shall preclude SDN from referring the SDN Contacts to other persons or entities engaged in the business of investment advisory services as SDN deems appropriate in its sole discretion. This Agreement is non-exclusive.

V. TERM

The term of this Agreement shall be from the date first set forth above to September 1, 2008; provided, however, that notwithstanding any termination hereof, the provisions of this Agreement with respect to indemnification shall survive any termination hereof.

VI. COMPLIANCE WITH APPLICABLE LAWS, RULES AND REGULATIONS

Each party hereto agrees that it shall perform its duties under this Agreement in full compliance with all applicable laws, rules and regulations. Each party represents and warrants to the other that each party and its agents, employees, contractors and representatives are duly licensed and hold all permits and licenses necessary to lawfully permit them to perform their obligations under this Agreement in all states in which the activities described in this Agreement shall be performed.

VII. INDEMNIFICATION

Each party hereto agrees to indemnify and hold the other party harmless from and against any damage, liability or expense (including reasonable attorneys' fees) incurred as a result of such party's breach of this Agreement or gross negligence or malfeasance in connection herewith.

VIII. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without giving effect to any choice of law provisions.

IX. INDEPENDENT CONTRACTOR

The relationship between the parties hereto shall be deemed to be that of independent contractors. Except as authorized herein, neither party shall have the power to act for the other in any respect whatsoever and neither party shall have any authority to commit or bind the other party in any manner whatsoever. Any person employed by either of the parties hereto in connection with the performance of this Agreement shall in no way, either directly or indirectly, be considered an employee of the other party hereto.

X. MISCELLANEOUS PROVISIONS

A. This document contains the entire agreement between the parties, and all prior agreements, whether oral or written, are merged herein. This Agreement may not be amended, altered or changed in any way except by a writing executed by both of the parties hereto.

B. The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope, meaning or intent of this Agreement.

C. The invalidation or unenforceability in any particular circumstance of any of the provisions of this Agreement shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

D. Any notice hereunder by either party to the other shall be given in writing by personal delivery or certified mail, return receipt requested. Each such notice shall be addressed:

If to Vanderbilt, to:

Vanderbilt Capital Advisors, LLC
233 South Wacker Drive, Suite 8630
Chicago, Illinois 60606
Telephone number: 312-463-9100
Facsimile number: 312-463-0116
Attention: Patrick Livney

If to SDN:

SDN Advisers, LLC
123 East Marcy Street, Suite 101
Santa Fe, New Mexico 87501
Telephone number: 505-820-1569
Facsimile number:
Attention: Marc Correra

Either party may change its address set forth above by giving the other notice of such change in accordance with the provisions of this Section.

A notice shall be deemed given, if by personal delivery, on the date of such delivery or, if by certified mail, on the date shown on the applicable return receipt.

E. This Agreement is for the sole benefit of the parties hereto, their respective successors and permitted assigns, and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement or any term hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

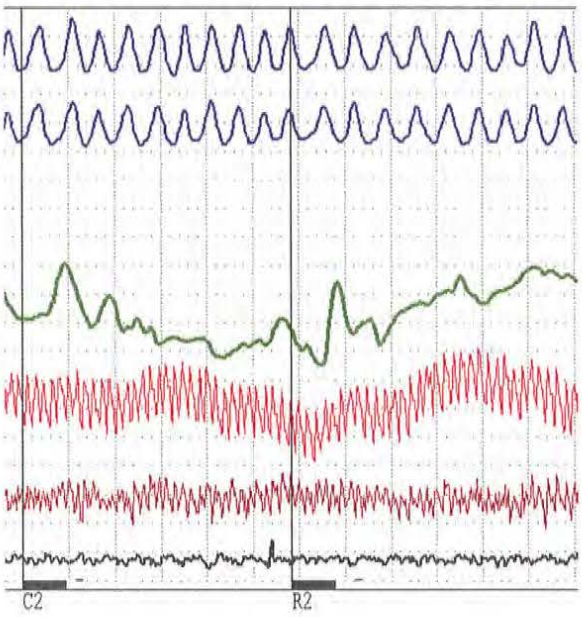
VANDERBILT CAPITAL ADVISORS, LLC

Patrick A. Livney

SDN ADVISERS, LLC

Marc Correra

Psychophysiological Credibility Assessment
of
Bruce Frederic Malott
conducted on
13 March 2010
in
Boise, Idaho



by
Charles R. Honts, Ph. D.
for

Gregg Vance Fallick
Suite 205, 100 Gold Avenue, SW
Albuquerque, New Mexico 87102

• 3105 Sweetwater Drive, Boise ID 83716-5664 •
• telephone: 208.867.2027 • fax: 208.38507754 • honts@mac.com •

16 March 2010

Gregg Vance Fallick
Suite 205, 100 Gold Avenue, SW
Albuquerque, New Mexico 87102

Re: Polygraph Examination of Bruce Frederic Malott

Mr. Fallick:

Context:

At your request, I conducted a psychophysiological detection of deception examination on Bruce Frederic Malott. The purpose of this examination was to assess Mr. Malott's credibility concerning the circumstances of some financial transactions. The examination was conducted in Boise, Idaho, on 13 March 2010.

At the beginning of the pretest interview, Mr. Malott signed a consent form giving his permission for the examination. At that time, Mr. Malott also gave his permission to have the examination recorded. Digital audio and digital audio-visual recordings were made of the entire examination. At the beginning of the pre-test interview I obtained information about Mr. Malott's physical and psychological health, education, and about his work. Then I discussed the above-mentioned issue with Mr. Malott. Mr. Malott denied any wrongdoing in any of the financial transactions we discussed. Full details of Mr. Malott's statements are preserved for review on the recordings of the examination.

At the conclusion of the pretest interview, an acquaintance test was conducted. That procedure was designed to demonstrate to the subject and to me that he was a suitable subject for a psychophysiological detection of deception examination. Adequate recordings of Mr. Malott's physiology were obtained during this procedure, and the examination was continued. A comparison question test was then conducted using the methods developed and validated at the University of Utah.

Relevant Questions

The test included the following relevant questions that were reviewed with Mr. Malott before the test:

R1. Did Anthony Correra ask you to do anything in exchange for the Lambson mortgage other then to repay the promissory note in accordance with its terms? Answered "No"

R2. Before seeing an ERB third-party marketing audit report in 2009, did you know Marc Correra was makking money as a result of investments by the ERB? Answered "No"

R3. Did Dave Contarino or Governor Richardson ask you to support the Vanderbilt investment? Answered "No"

Methods

Mr. Malott's physiological responses were monitored during the presentation of the questions by means of a Stoelting digital polygraph instrument running the Scientific Assessment Technologies Computerized Polygraph System II software, Version 4.32. The following physiological measures were recorded in digital form on the computer's hard disk: cardiovascular activity (Erlanger Method), skin conductance, vasomotor activity, abdominal and thoracic respiration. In addition, data were obtained from a movement sensor placed in the seat of the subject's chair. Data from three presentations of the questions were obtained. The digitized physiological data were displayed on the computer's monitor as analog waveforms and were then subjected to a standard numerical scoring analysis using the criteria developed and validated at the University of Utah.

Evaluation

Standard Numerical Scoring: This analysis is based on the criteria and procedures developed and validated at the University of Utah. That method of evaluation was the subject of numerous scientific studies and represents the evaluation method with the strongest scientific validation. The numerical scores after three charts on the above relevant questions were +5, +14, +4, for a total numerical score of +23. In the Utah Scoring System, when evaluating multiple issues, each score must have a positive score and the total score must be greater than +6 to conclude that the subject was truthful. Mr. Malott' scores were all positive and the total score of +23 greatly exceeds the criterion for a conclusion of truthful.

Conclusions

On the basis of the results of the numerical scoring, it is my opinion that Mr. Malott was truthful when he answered the above relevant questions. That opinion is held to a reasonable degree of scientific certainty. A copy of my Curriculum Vitae is provided with this report for your use.

Sincerely,

Charles Robert Honts, Ph. D.
Detection of Deception Examiner
Professor of Psychology

Enclosure: (1) Curriculum Vitae of Charles R. Honts, Ph. D.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MARC CORRERA, Plaintiff, - against - TAG ASSOCIATES LLC, Defendant.	Case No. **JURY TRIAL DEMANDED**

COMPLAINT

Plaintiff, by and through his attorneys, Sperling and Slater, P.C., and Foley Hoag LLP alleges as follows:

INTRODUCTION

This is an action to recover damages for Defendant TAG ASSOCIATES LLC's ("TAG") failure to pay fees that TAG agreed to pay for Plaintiff MARC CORRERA's ("CORRERA") services as a third party marketer. Specifically, pursuant to the terms of the Agreement, CORRERA referred two investors to TAG, TAG voluntarily accepted these investors, and received and continues to receive fees and profit allocations from their investments. TAG, however, breached the terms of the Agreement and has ceased paying the fees owed to CORRERA for his services under the Agreement. TAG agreed to pay these fees in an Agreement with Cabrera Capital Markets, Inc. ("Cabrera"), a broker-dealer that formerly employed CORRERA, with the intent that the fees would compensate CORRERA for his services. Cabrera, in fact, was contractually bound to pay ninety percent (90%) of the fees that it received from TAG to CORRERA to compensate him for his services. Cabrera's contractual

obligation to make these payments continued even after CORRERA terminated his employment relationship with Cabrera and became employed by another broker-dealer, Ajax Investments, LLC ("Ajax"). Because CORRERA is an intended third party beneficiary of TAG's Agreement with Cabrera, CORRERA may bring this suit for damages for TAG's breach of its Agreement with Cabrera. In the alternative, CORRERA is entitled to restitution for the value of his services under the equitable doctrines of unjust enrichment and quantum meruit, because TAG received and continues to receive financial benefits from CORRERA's services and has not paid for those services. CORRERA also seeks a declaratory judgment requiring TAG's ongoing compliance with the terms of the Agreement.

PARTIES, JURISDICTION AND VENUE

1. Plaintiff MARC CORRERA is an individual who during times relevant to this action resided in Santa Fe, New Mexico, Katy, Texas and Paris, France. CORRERA is a registered representative currently employed as an independent contractor with Ajax, a broker-dealer with its principal office located at 600 Central Avenue, Suite 3200, Highland Park, Illinois. CORRERA was previously employed as an independent contractor with Cabrera, a broker-dealer with its principal office located at 10 South LaSalle Street, Suite 1050, Chicago, Illinois. Plaintiff's work includes capital introduction, placement of securities and other brokerage activities.

2. Upon information and belief, TAG is a Delaware limited liability company, with its principal office located at 75 Rockefeller Plaza, New York, New York, and an investment advisor registered with the Securities and Exchange Commission.

3. Upon information and belief, David Basner is the President of TAG and Gary Fuhrman is the Chairman of TAG.

4. Jurisdiction is proper in this Court because there is complete diversity of citizenship and the amount in controversy exceeds the $75,000 threshold under 28 U.S.C. § 1332.

5. This Court has both general and specific personal jurisdiction over the Defendant TAG pursuant to Rule 4 of the Federal Rules of Civil Procedure and 735 ILCS 5/2-209(a) because, among other things, (1) TAG transacts business within Illinois, (2) TAG entered into and contracted to perform and pay for the services rendered under the Agreement within Illinois, and (3) TAG agreed that the Agreement "**SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS**" (bold and capitalization in original; *See* Section VII.A. of the Referral Agreement, Appendix B, hereto), all in such a manner that the contract is substantially connected with the State of Illinois.

6. Venue is proper in this Court under 28 U.S.C. § 1391(a) because a substantial part of the events giving rise to the claims herein occurred in this district, including Cabrera's entrance into the Agreement, payments made under the Agreement and communications related to the Agreement.

FACTUAL ALLEGATIONS

TAG's Agreement to Compensate CORRERA

7. In or about June 2008, TAG sought to enter into an Agreement whereby CORRERA would be compensated through Cabrera for his provision of services as a third party marketer with respect to investments made by the New Mexico State Investment Council ("NMSIC") and the New Mexico Educational Retirement Board ("NMERB") in two funds, namely the TAG Relative Value Offshore Fund, Ltd. ("TRVF") and the Vintage Classic Fund ("Vintage").

8. On or about June 6, 2008, David Basner sent an email to CORRERA and Robert Aguilar, then Chief Operating Officer of Cabrera, a copy of which is attached hereto as Appendix A, which attached "documents relating to your acting as third party marketer for NM SIC and NM ERB." In the email, Basner specifically referenced his conversations with CORRERA regarding TAG's compensation of CORRERA: "As we discussed with Marc [CORRERA], TAG will pay you going forward on the ERB investment in TRVF on our share of the fees."

9. Upon information and belief, after the email at Appendix A was sent, Basner and Aguilar executed the documents attached to that email. Three of those documents, a Referral Agreement dated as of June 6, 2008 and effective as of January 1, 2008, and two letters from TAG to Cabrera dated June 6, 2008, comprise the Agreement in dispute in this action and are collectively referred to as the "Agreement." The Agreement is attached hereto as Appendix B.

10. Under the Referral Agreement, Cabrera (the "Finder") provides services to TAG (the "Manager") by referring certain Finder Contacts desiring investment advisory services. *See* Section I.A. of the Referral Agreement.

11. Upon TAG's receipt of a referral of a Finder Contact, TAG is required to evaluate the Finder Contact and promptly accept or reject the Finder Contact. If the Finder Contact is accepted by TAG, the Finder Contact is added to the list of Finder Contacts on Exhibit A to the Referral Agreement. *See* Section I.B. of the Referral Agreement. "Exhibit A" attached to the Referral Agreement includes the name "New Mexico State Investment Council."

12. Under Section II. of the Referral Agreement, TAG is required to pay the following fees for CORRERA's services:

> With respect to each Finder Contact referred to Manager and accepted by Manager that appears on Exhibit A hereto, Manager will pay to Finder a

> referral fee (the "Fee") which shall be paid within thirty (30) days of receiving such fee. For amounts up to and including $250 million in Manager-advised assets for each Finder Contact, the Fee shall be equal to twenty-five percent (25%) of all fees or profit allocations earned by Manager (including, without limitation, all management fees, advisory fees, incentive fees and performance fees) with respect to any account introduced to Manager by Finder for as long as Manager maintains such investment, during the term of this Agreement and after its termination. The Fee shall increase to twenty-seven and five-tenths percent (27.5%) (including the first $250 million) of a particular Finder Contact if such Finder Contact engages Manager to advise on more than $250 million in assets.

13. The first letter made part of the Agreement was executed in conjunction with the Referral Agreement, contemporaneously with the Referral Agreement and by the parties to the Referral Agreement, David Basner on behalf of TAG and Robert Aguilar on behalf of Cabrera. In this letter, TAG agrees that as of January 1, 2008, it will pay the Fees it owes CORRERA in respect of NMERB, notwithstanding that Exhibit A to the Referral Agreement only lists NMSIC as a Finder Contact accepted by TAG.

14. The second letter made part of the Agreement was executed in conjunction with the Referral Agreement, contemporaneously with the Referral Agreement and by the parties to the Referral Agreement, David Basner on behalf of TAG and Robert Aguilar on behalf of Cabrera. In this letter, TAG agrees that it will not pay Fees to any third party that is not an employee or registered representative of Cabrera other than Ajax and confirms TAG's understanding that "Cabrera is paying a portion of the Fees that it receives from TAG to [CORRERA,] a former employee or registered representative of Cabrera that is now affiliated with Ajax."

15. The two letters dated June 6, 2008, in the alternative, may be found to have amended the Referral Agreement because they are written amendments to the Referral Agreement executed by both parties to the Referral Agreement.

16. Section VII.D. of the Referral Agreement specifically provides that "[t]his Agreement may not be amended, altered or changed in any way *except by a writing executed by both of the parties hereto.*" (Emphasis added.)

CORRERA's Agreements with Cabrera and Ajax

17. On or about February 2, 2005, CORRERA entered into an agreement to serve as an independent contractor with Cabrera to assist with capital introduction, placement of securities and other brokerage activities. Under this agreement, CORRERA is paid ninety percent (90%) of all fees, commissions and other compensation that Cabrera earns as a result of CORRERA's services. The parties terminated this agreement on or about November 27, 2006 with the express provision that all payments for work performed previously by CORRERA would be forwarded to the new broker-dealer with whom CORRERA formed a relationship.

18. On or about January 4, 2007, CORRERA entered into an agreement to serve as an independent contractor with Ajax to assist with capital introduction, placement of securities and other brokerage activities. Under this agreement, CORRERA is paid ninety-seven and one-half percent (97.5%) of all fees, commissions and compensation that Ajax receives from Cabrera with respect to work performed during CORRERA's tenure with Cabrera.

19. Accordingly, at the time that the Agreement between TAG and Cabrera was executed in June 2008, CORRERA was a former "registered representative of Cabrera that is now affiliated with Ajax," as described in the second letter part of the Agreement described in paragraph 14 above.

TAG Tells CORRERA of Payments to Cabrera

20. TAG ensured that CORRERA was kept apprised of the status of the payments it made under the Agreement for his benefit.

21. On or about June 25, 2008, David Basner sent an email to Robert Aguilar (Chief Operating Officer of Cabrera), copying CORRERA and Gary Fuhrman (believed to be Chairman of TAG): "I received the signed documents today so we should be all set. Please send me wire instructions." A copy of this email is attached hereto as Appendix C.

22. On or about June 30, 2008, David Basner sent another email to CORRERA and Robert Aguilar, copying Gary Fuhrman, a copy of which is attached hereto as Appendix D, which advised that a "wire in the amount of $151,093.74 will be sent out tomorrow" and that "[g]oing forward for Q2 and beyond, TAG will be paying you for the investments in TRVF and Vintage as per our agreement."

23. On or about August 15, 2008, David Basner sent an email directly to CORRERA regarding TAG's payments, copying Robert Aguilar and Gary Fuhrman, which advised: "A wire for $263,775.12 will be sent today as your share of Q2 fees for NM SIC's investment in TRVF, Vintage and TAG's portion of the fees for NM ERB's investment in TRVF." A copy of this email is attached hereto as Appendix E.

24. Similarly, on or about November 18, 2008, David Basner sent CORRERA a direct email, copying Robert Aguilar, a copy of which is attached hereto as Appendix F, which stated: "We will be wiring you $240,262.02 on Friday with regard to fees generated from SIC's investment in TRVF and Vintage and on TAG's share of fees generated from ERB's investment in TRVF."

TAG Informed NMSIC that It Paid CORRERA Fees

25. Upon information and belief, in early 2009, NMSIC requested TAG to disclose to NMSIC all fees paid to third party marketers with respect to its investments involving TAG.

26. Upon information and belief, in TAG's response to NMSIC's request TAG

admitted that with respect to TRVF, CORRERA was paid $1,294,000 from 2005 through December 31, 2008 through Cabrera.

27. Upon information and belief, in TAG's response to NMSIC's request TAG admitted that with respect to Vintage, CORRERA was paid $1,066,000 from 2005 through December 31, 2008 through Cabrera.

28. A copy of a spreadsheet prepared by NMSIC incorporating TAG's responses is attached hereto as Appendix G.

TAG's Breach of the Agreement

29. Upon information and belief, TAG made the following payments to Cabrera for the benefit of CORRERA after execution of the Agreement: (1) $151,093.74 in July 2008, (2) $263,775.12 in August 2008, (3) $240,262.02 in November 2008, and (4) $202,054.74 in February 2009. TAG ceased making payments required under the Agreement after February 2009 in breach of its obligations under the Agreement.

30. Since February 2009, TAG has continued to receive fees and profit allocations, including management fees, advisory fees, incentive fees and performance fees, with respect to the investments of NMSIC and NMERB, and therefore is contractually required to continue paying Fees to Cabrera for the benefit of CORRERA.

CLAIMS FOR RELIEF

Count I – Breach of Contract

31. CORRERA repeats and realleges the allegations in paragraphs 1 through 30 as though fully set forth herein.

32. The Agreement constitutes a valid contract binding TAG to pay Fees to Cabrera with the intended benefit of compensating CORRERA for his services as a third party marketer

with respect to investments by NMSIC and NMERB in TRVF on an ongoing basis.

33. Under the Agreement, for investments up to and including $250 million in assets, "the Fee shall be equal to twenty-five percent (25%) of all fees or profit allocations earned by [TAG} (including, without limitation, all management fees, advisory fees, incentive fees and performance fees) ...." For investments in excess of $250 million in assets, the Fee shall increase to twenty-seven and five-tenths percent (27.5%).

34. CORRERA is an intended third party beneficiary of TAG's contract with Cabrera.

35. TAG has breached the Agreement by failing to make payments after February 2009.

36. As a result of TAG's breach of the Agreement, CORRERA has suffered substantial damages in an amount to be determined at trial and believed to be in excess of $1 million.

WHEREFORE, Plaintiff CORRERA respectfully requests this Court:

a. enter judgment in favor of CORRERA;

b. award CORRERA damages in an amount to be determined at trial;

c. order TAG to resume making required payments under the Agreement; and

d. award to CORRERA such other and further relief as the Court deems just and proper.

Count II –Unjust Enrichment and Quantum Meruit

37. CORRERA repeats and realleges the allegations in paragraphs 1 through 4, 7 through 8, 17 through 18, 21, and 23 through 28 as though fully set forth herein.

38. This Court has both general and specific personal jurisdiction over the Defendant TAG pursuant to Rule 4 of the Federal Rules of Civil Procedure and 735 ILCS 5/2-209(a)

because, among other things, (1) TAG transacts business within Illinois, and (2) TAG made payments to Cabrera for the benefit of CORRERA in Illinois in connection with third-party marketing services provided by CORRERA.

39. Venue is proper in this Court under 28 U.S.C. § 1391(a) because a substantial part of the events giving rise to the claims herein occurred in this district, including payments made by TAG to Cabrera for the benefit of CORRERA in connection with third-party marketing services provided by CORRERA.

40. In the alternative, even if there is no enforceable contractual obligation on the part of TAG to pay money damages, CORRERA is entitled to recover restitution from TAG under the equitable doctrines of unjust enrichment and quantum meruit.

41. CORRERA provided valuable third party marketing services to TAG by referring NMSIC and NMERB to TAG as potential investors.

42. TAG voluntarily accepted NMSIC and NMERB as investors.

43. TAG benefitted and continues to benefit from the investments of NMSIC and NMERB by receiving fees and profit allocations, including management fees, advisory fees, incentive fees and performance fees.

44. TAG has ceased making payments for the third party marketing services provided by CORRERA since February 2009.

45. The third party marketing services provided by CORRERA that have benefitted TAG have a reasonable value in an amount to be determined at trial and believed to be in excess of $1 million.

46. It would violate the principles of justice, equity, and good conscience for TAG to retain the financial benefits of CORRERA's third party marketing services without paying

reasonable compensation to CORRERA for his provision of those services.

WHEREFORE, Plaintiff CORRERA respectfully requests that this Court:

a. enter judgment in favor of CORRERA;

b. order TAG to turn over to CORRERA the reasonable value of the financial benefits of CORRERA's third party marketing services it unjustly retained; and

c. award to CORRERA such other and further relief as the Court deems just and proper.

Count III –Declaratory Judgment

47. CORRERA repeats and realleges the allegations in paragraphs 1 through 30 as though fully set forth herein.

48. A controversy exists regarding TAG's obligation to continue making payments under the Agreement for the benefit of CORRERA.

49. This controversy has caused and will continue to cause substantial monetary loss to CORRERA.

50. CORRERA is entitled to a declaration that TAG must continue to make payments under the Agreement with respect to investments of NMSIC and NMERB into TRVF and Vintage.

WHEREFORE, Plaintiff CORRERA respectfully requests that this Court:

a. enter judgment in favor of CORRERA;

b. enter a declaratory judgment that TAG must continue to make payments under the Agreement with respect to investments of NMSIC and NMERB; and

c. award to CORRERA such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands trial by jury for all claims so triable as of right.

February 16, 2010

Respectfully submitted,

MARC CORRERA

/s/ Celiza P. Bragança
By: Celiza P. Bragança
SPERLING & SLATER, P.C.
55 W. Monroe Street, Suite 3200
Chicago, Illinois 60603
(312) 641-3200
(312) 641-6492 (fax)

Of Counsel:

Michele L. Adelman
FOLEY HOAG LLP
155 Seaport Boulevard
Boston, MA 02210-2600
(617) 832-1000
(617) 832-7000 (fax)

Attorneys for Plaintiff Marc Correra

PW Comments
06/06/08

June 6, 2008

Cabrera Capital Markets, Inc.
10 South LaSalle Street, Suite 1050
Chicago, IL 60603
Attn: Robert Aguilar
Chief Operating Officer

Re: Disclosure

Dear Robert:

Reference is made to the Referral Agreement, effective as of January 1, 2008 (the "Referral Agreement"), between TAG Associates LLC ("TAG") and Cabrera Capital Markets, Inc. ("Cabrera"). Capitalized terms used but not defined herein shall have the respective meanings assigned to them in the Referral Agreement.

As you are aware, Exhibit A to the Referral Agreement only lists the New Mexico State Investment Council as a Finder Contact accepted by TAG.

This letter is to confirm to you that, as of January 1, 2008, with regard to the New Mexico Educational Retirement Board ("ERB"), TAG will pay the Fees in respect of ERB, with such Fees calculated only on TAG's share of the fees or profit allocations earned by TAG in respect of ERB's investment in the TAG Relative Value Offshore Fund, Ltd. (the "Fund"), net of all payments payable by TAG to HFV Asset Management, LP ("HFV"), as sub-advisor to TAG, in respect of such investment. At such time that HFV agrees to compensate Cabrera on its portion of the fees received from ERB's investment in the Fund, then ERB shall be added to Exhibit A to the Referral Agreement.

TAG shall make the necessary disclosures to ERB relating to Cabrera and its receipt of finder's fees relating to ERB's investment in the Fund.

Very truly yours,

TAG ASSOCIATES LLC

By: _____
Name: David Basner
Title: President

Doc#: US1:5238450v2

Acknowledged and agreed:

CABRERA CAPITAL MARKETS, INC.

By: _____
Name: Robert Aguilar
Title: Chief Operating Officer

BrokerCheck Report

AJAX INVESTMENTS, LLC

CRD# 31799

Report #59964-73512, data current as of Monday, July 04, 2011.

Dear Investor:

FINRA has generated the following BrokerCheck report for **AJAX INVESTMENTS, LLC**. The information contained within this report has been provided by a FINRA member firm(s) and securities regulators as part of the securities industry's registration and licensing process and represents the most current information reported to the Central Registration Depository (CRD®) system.

FINRA regulates the securities markets for the ultimate benefit and protection of the investor. FINRA believes the general public should have access to information that will help them determine whether to conduct, or continue to conduct, business with a FINRA member firm or any of the member's associated persons. To that end, FINRA has adopted a public disclosure policy to make certain types of information available to you. Examples of information FINRA provides on currently registered individuals and individuals who were registered during the past ten years include: actions by regulators, investment-related civil suits, customer disputes that contain allegations of sales practice violations against brokers, all felony charges and convictions, misdemeanor charges and convictions relating to securities violations, and financial events such as bankruptcies, compromises with creditors, judgments, and liens. FINRA also provides on a permanent basis certain information on former registered individuals, if any of the following applies, as reported to CRD on a uniform registration form: (1) the person was the subject of a final regulatory event; (2) the person was convicted of or pled guilty or nolo contendere to a crime; (3) the person was the subject of a civil injunction or civil court finding involving a violation of any investment-related statute(s) or regulation(s); or (4) the person was named as a respondent or defendant in an arbitration or civil litigation that resulted in an award, decision or judgment for a customer.

When evaluating this report, please keep in mind that it may include items that involve pending actions or allegations that may be contested and have not been resolved or proven. Such items may, in the end, be withdrawn or dismissed, or resolved in favor of the firm or broker, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

The information in this report is not the only resource you should consult. FINRA recommends that you learn as much as possible about the individual broker or brokerage firm from other sources, such as professional references, local consumer and investment groups, or friends and family members who already have established investment business relationships.

FINRA BrokerCheck is governed by federal law, Securities and Exchange Commission (SEC) regulations and FINRA rules approved by the SEC. State disclosure programs are governed by state law, and may provide additional information on brokers and firms licensed by the state. Therefore, you should also consider requesting information from your state securities regulator. Refer to www.nasaa.org for a complete list of state securities regulators.

Thank you for using FINRA BrokerCheck.

Using this site/information means that you accept the FINRA BrokerCheck Terms and Conditions. A complete list of Terms and Conditions can be found at brokercheck.finra.org

For additional information about the contents of this report, please refer to the User Guidance or www.finra.org/brokercheck. It provides a glossary of terms and a list of frequently asked questions, as well as additional resources. For more information about FINRA, visit www.finra.org.

AJAX INVESTMENTS, LLC

CRD# 31799

SEC# 8-45555

Main Office Location

600 CENTRAL AVE. SUITE 322
HIGHLAND PARK, IL 60035
Regulated by FINRA Chicago Office

Mailing Address

600 CENTRAL AVE. SUITE 322
HIGHLAND PARK, IL 60035

Business Telephone Number

847-400-6221

Report Summary for this Firm

The report summary provides an overview of the firm's background. The firm and securities regulators have provided the information contained in this report as part of the securities industry registration and licensing process. More detailed information for this firm can be found in the firm's report. Select "Get Detailed Report" to view more detailed information about this firm. The information contained in this report was last updated by the firm via Uniform Application for Broker-Dealer Registration (Form BD), the Uniform Request for Broker-Dealer Withdrawal (Form BDW), or a securities regulator via a Uniform Disciplinary Action Reporting Form (Form U6) on 12/10/2010.

Firm Profile

This firm is classified as a limited liability company.

This firm was formed in Illinois on 05/11/2001.

Its fiscal year ends in December.

Firm History

Information relating to the firm's history such as Other Business Names, Other Business, and Successions (e.g., mergers or acquisitions) can be found in the firm's full report.

Firm Operations

This firm is registered with:

- the SEC
- 1 Self-Regulatory Organization
- 2 U.S. states and territories

Is this brokerage firm currently suspended with any regulator? **No**

This firm conducts 3 types of businesses.

This firm is affiliated with financial or investment institutions.

This firm has referral or financial arrangements with other brokers or dealers.

Disclosure of Arbitration Awards, Disciplinary, Financial, and Regulatory Events

This section includes details regarding disclosure events reported by or about this firm to CRD as part of the securities industry registration and licensing process. Examples of such disclosure events include certain disciplinary actions initiated by regulators, certain criminal charges and/or convictions, financial disclosures such as bankruptcies, and summary information regarding arbitration awards involving securities and commodities disputes between public customers and the firm.

Are there events disclosed about this firm? **Yes**

The following types of disclosures were reported:

Regulatory Event

Exhibit L -- page 3

Firm Profile

This firm is classified as a limited liability company.

This firm was formed in Illinois on 05/11/2001.

Its fiscal year ends in December.

Firm Names and Locations

This section includes details that were reported to CRD, regarding the firm's full legal name, business and mailing addresses, the firm's "Doing Business As" name (DBA) (if different from the full legal name), and any other name by which the firm conducts business and where such name is used.

AJAX INVESTMENTS, LLC

Doing business as AJAX INVESTMENTS, LLC

CRD# 31799

SEC# 8-45555

Main Office Location

600 CENTRAL AVE. SUITE 322
HIGHLAND PARK, IL 60035

Regulated by FINRA Chicago Office

Mailing Address

600 CENTRAL AVE. SUITE 322
HIGHLAND PARK, IL 60035

Business Telephone Number

847-400-6221

Exhibit L -- page 4

Firm Profile

This section provides information relating to all Direct Owners and Executive Officers as reported by the firm in CRD.

Direct Owners and Executive Officers

Legal Name & CRD# (if any):	AJAX ADVISORS, LLC
Is this a domestic or foreign entity or an individual?	Domestic Entity
Position	MEMBER
Position Start Date	02/2002
Percentage of Ownership	75% or more
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	BUSCH, ARLENE RAE 2588365
Is this a domestic or foreign entity or an individual?	Individual
Position	MANAGING DIRECTOR AND PRINCIPAL & CCO
Position Start Date	02/2002
Percentage of Ownership	Less than 5%
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	GERRARD, DOUGLAS ADAM 1145240
Is this a domestic or foreign entity or an individual?	Individual
Position	MANAGING DIRECTOR & PRINCIPAL & CCO
Position Start Date	05/2010

Firm Profile

Direct Owners and Executive Officers (continued)

Percentage of Ownership	Less than 5%
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	

Legal Name & CRD# (if any):	KIELY, JOHN JOSEPH 2862662
Is this a domestic or foreign entity or an individual?	Individual
Position	FINANCIAL AND OPERATIONS PRINCIPAL
Position Start Date	02/2002
Percentage of Ownership	Less than 5%
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Exhibit L -- page 6

Firm Profile

This section provides information relating to Indirect Owners, if any, as reported by the firm in CRD.

Indirect Owners

Legal Name & CRD# (if any):	BUSCH, ARLENE RAE 2588365
Is this a domestic or foreign entity or an individual?	Individual
Company through which indirect ownership is established	AJAX ADVISORS, LLC
Relationship to Direct Owner	MANAGER
Relationship Established	10/2001
Percentage of Ownership	50% but less than 75%
Does this owner direct the management or policies of the firm?	No
Is this a public reporting company?	No

Legal Name & CRD# (if any):	GERRARD, DOUGLAS ADAM
Is this a domestic or foreign entity or an individual?	Individual
Company through which indirect ownership is established	AJAX ADVISORS
Relationship to Direct Owner	MANAGER
Relationship Established	10/2001
Percentage of Ownership	25% but less than 50%
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

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Firm History

This section provides information relating to successions (e.g., mergers or acquisitions), if any, as reported by the firm in CRD.

No information reported.

Firm Operations

Registrations

This section provides information about the regulators (e.g., U.S. Securities and Exchange Commission (SEC), self-regulatory organizations, states and U.S. territories) in which the firm is currently registered and licensed, and the date the registration became effective, as well as certain information about the firm's SEC registration.

This firm is currently registered with the SEC, 1 SRO and 2 U.S. states and territories.

Federal Regulator	Status	Date Effective
SEC	Approved	04/22/1993

SEC Registration Questions

This firm is registered with the SEC as:

A broker-dealer: Yes

A broker-dealer and government securities broker or dealer: No

A government securities broker or dealer only: No

This firm has ceased activity as a government securities broker or dealer: No

Self-Regulatory Organization	Status	Date Effective
FINRA	Approved	06/30/1993

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Firm Operations

Registrations (continued)

U.S. States & Territories	Status	Date Effective
Illinois	Approved	07/25/2005
New York	Approved	01/17/2007

Exhibit L -- page 10

Firm Operations

Types of Business

This section provides the types of business and any other business or other non-securities business the firm is engaged in or is expected to be engaged in as reported by the firm in CRD.

This firm currently conducts 3 types of businesses.

Types of Business

Underwriter or selling group participant (corporate securities other than mutual funds)

Private placements of securities

Other

Other Types of Business

This firm does not affect transactions in commodities, commodity futures, or commodity options.
This firm does not engage in other non-securities business.

Non-Securities Business Description:

Firm Operations

Clearing Arrangements

This firm does not hold or maintain funds or securities or provide clearing services for other broker-dealer(s).

Introducing Arrangements

This firm does refer or introduce customers to other brokers and dealers.

Name:	RBC DOMINION SECURITIES CORPORATION
CRD #:	6579
Business Address:	287 BOWMAN AVENUE, 4TH FLOOR PURCHASE, NY 10577-2517
Effective Date:	11/27/2001
Description:	THE COMPANY MARKETS ALTERNATIVE INVESTMENT PRODUCTS TO QUALIFIED, ACCREDITED INVESTORS FOR RBC DOMINION SECURITIES CORPORATION.

Exhibit L -- page 12

Firm Operations

Industry Arrangements

This firm does not have books or records maintained by a third party.

This firm does not have accounts, funds, or securities maintained by a third party.

This firm does not have customer accounts, funds, or securities maintained by a third party.

Control Persons/Financing

This firm does not have individuals who control its management or policies through agreement.

This firm does not have individuals who wholly or partly finance the firm's business.

Exhibit L -- page 13

Firm Operations

Organization Affiliates

This section provides any information on control relationships the firm has with other firms in the securities, investment advisory, or banking business as reported by the firm in CRD.

This firm is, directly or indirectly:

- **in control of**
- **controlled by**
- **or under common control with**

the following partnerships, corporations, or other organizations engaged in the securities or investment advisory business.

CAPITAL INVESTMENT PARTNERS, LLC is under common control with the firm.

CRD #:	138846
Business Address:	920 STRATFORD DOWNERS GROVE, IL 60516
Effective Date:	12/09/2010
Foreign Entity:	No
Country:	
Securities Activities:	Yes
Investment Advisory Activities:	Yes
Description:	JOHN KIELY, FINOP IS A DIRECT OWNER

MVS TRADING LLC is under common control with the firm.

CRD #:	155279
Business Address:	401 S. LASALLE SUITE 606 CHICAGO, IL 60605
Effective Date:	12/09/2010
Foreign Entity:	No
Country:	
Securities Activities:	Yes
Investment Advisory Activities:	No
Description:	JOHN KIELY, FINOP, IS AN INDIRECT OWNER

Firm Operations

Organization Affiliates (continued)

CONTEGO CAPITAL PARTNERS, LLC is under common control with the firm.

Business Address:	1658 N. MILWAUKEE AVE. #261 CHICAGO, IL 60647
Effective Date:	06/01/2005
Foreign Entity:	No
Country:	
Securities Activities:	No
Investment Advisory Activities:	Yes
Description:	ARLENE BUSCH OWNS MORE THAN 25% OF THE VOTING SECURITES OF AJAX ADVISORS,LLC (OWNER OF AJAX INVESTMENTS, LLC) AND CONTEGO CAPITAL PARTNERS, LLC.

DEERE PARK CAPITAL, L.L.C. is under common control with the firm.

Business Address:	600 CENTRAL AVENUE HIGHLAND PARK, IL 60035
Effective Date:	01/01/2009
Foreign Entity:	No
Country:	
Securities Activities:	No
Investment Advisory Activities:	No
Description:	DOUGLAS GERRARD IS THE MANAGER AND MAJORITY MEMBER OF DEERE PARK CAPITAL, L.L.C., AND IS A MEMBER AND MANAGER OF AJAX ADVISORS, LLC (PARENT COMPANY OF AJAX INVESTMENTS, LLC)

This firm is not directly or indirectly, controlled by the following:

- **bank holding company**
- **national bank**
- **state member bank of the Federal Reserve System**
- **state non-member bank**
- **savings bank or association**
- **credit union**
- **or foreign bank**

Disclosure of Arbitration Awards, Disciplinary, Financial, and Regulatory Events

Firms are required to answer a series of disclosure questions on Form BD and provide corresponding details to certain events as part of the securities industry registration and licensing process. The disclosure questions concern certain criminal events, civil actions, financial disclosures (e.g., bankruptcy or liquidation proceedings filed within the past ten years), bond actions and unpaid judgments and liens. The firm must answer either "yes" or "no" to each question as it applies to the firm itself or to any of its control affiliates (i.e., an individual, partnership, corporation, trust, or other organization that directly or indirectly controls, is under common control with, or is controlled by the firm). This section lists the various disclosure questions and their corresponding answers as reported by the firm on Form BD.

Possible multiple reporting sources -- please note:

Disclosure event details may be reported by more than one source (i.e., regulator or firm). When this occurs, all versions of the reported event will appear in the firm's BrokerCheck report. The different versions of the same reported disclosure event are separated by a solid line with the reporting source clearly labeled.

	Pending	Final	On Appeal
Regulatory Event	0	5	0

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Disclosure Event Details

This section provides the specific details for each disclosure event that was reported in CRD which was reported as part of the securities industry registration and licensing process. It also includes summary information regarding arbitration awards in cases where the firm was named as a respondent in the consumer-initiated arbitration proceeding, if any.

Nothing will be displayed in this section of the firm's BrokerCheck Report when the firm has no reported disclosure information.

If the firm does have reported disclosure events, please keep the following in mind when evaluating the disclosure event details. Items may involve pending actions or allegations that may be contested and have not been resolved or proven. In the end, the items may be withdrawn, dismissed, or otherwise resolved in favor of the firm, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

This report provides the information exactly as it was reported to CRD by the firm and/or by regulators. Some of the specific data fields contained in this section of the report may be blank if the information was not provided to CRD.

Disclosure events may be reported by more than one source (i.e., regulator and firm). When this occurs, all versions of the event will appear on the firm's BrokerCheck report. A solid line separates the different versions of the same disclosure event with the reporting source labeled (e.g., Source: Firm or Source: Regulator).

Regulatory - Final

This section provides information regarding any final, regulatory action as reported by the firm and/or a securities regulator to CRD as part of the securities industry registration and licensing process. Such event may include a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, a self-regulatory organization, a federal regulator such as the U.S. Securities and Exchange Commission (SEC) or the Commodity Futures Trading Commission (CFTC), or a foreign financial regulatory body) for a violation of investment-related rules or regulations. In addition, a revocation or suspension of the authority of a firm's control affiliate to act as an attorney, accountant or federal contractor, if any, will appear here.

Disclosure 1 of 5

Reporting Source:	Regulator
Current Status:	Final
Allegations:	FAILURE TO REMIT ASSESSMENT FEE.
Initiated By:	CALIFORNIA
Date Initiated:	02/07/2005
Docket/Case Number:	
Principal Product Type:	No Product
Other Product Type(s):	

Principal Sanction(s)/Relief Sought:	Revocation
Other Sanction(s)/Relief Sought:	
Resolution:	Order
Resolution Date:	02/07/2005
Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?	No
Sanctions Ordered:	Revocation/Expulsion/Denial
Other Sanctions Ordered:	
Sanction Details:	BROKER-DEALER CERTIFICATE SUMMARILY REVOKED FOR NON-PAYMENT OF ASSESSMENT FEE.

Reporting Source:	Firm
Current Status:	Final
Appealed To and Date Appeal Filed:	N/A
Allegations:	NON-PAYMENT OF 2005 ANNUAL MINIMUM ASSESSMENT PAYABLE TO CALIFORNIA DEPARTMENT OF CORPORATIONS IN THE AMOUNT OF $75.00.
Initiated By:	CALIFORNIA DEPARTMENT OF CORPORATIONS.
Date Initiated:	02/07/2005
Docket/Case Number:	N/A
Principal Product Type:	No Product
Other Product Type(s):	N/A
Principal Sanction(s)/Relief Sought:	Revocation
Other Sanction(s)/Relief Sought:	N/A
Resolution:	Order
Resolution Date:	02/07/2005

Sanctions Ordered:	Revocation/Expulsion/Denial
Other Sanctions Ordered:	N/A
Sanction Details:	ON FEBRUARY 7, 2005, THE STATE OF CALIFORNIA ISSUED TO THE FIRM AN ORDER SUMMARILY REVOKING THE FIRM'S LICENSE IN CALIFORNIA FOR THE FIRM'S FAILURE TO PAY THE 2005 ANNUAL MINIMUM ASSESSMENT IN THE AMOUNT OF $75.00.
Summary:	ON FEBRUARY 7, 2005, THE STATE OF CALIFORNIA ISSUED TO THE FIRM AN ORDER SUMMARILY REVOKING THE FIRM'S LICENSE IN CALIFORNIA FOR THE FIRM'S FAILURE TO PAY THE 2005 ANNUAL MINIMUM ASSESSMENT IN THE AMOUNT OF $75.00. AT SUCH TIME, THE FIRM WAS NOT CONDUCTING ANY BUSINESS IN THE STATE OF CALIFORNIA AND DID NOT INTEND TO MAINTAIN LICENSURE IN SUCH STATE.

Disclosure 2 of 5

Reporting Source:	Regulator
Current Status:	Final
Allegations:	NASD RULES 1031 AND 2110 - RESPONDENT MEMBER FIRM PERMITTED AN INDIVIDUAL, WHO WAS NOT REGISTERED WITH THE MEMBER FIRM IN ANY CAPACITY, TO ENGAGE IN THE INVESTMENT BANKING OR SECURITIES BUSINESS OF THE MEMBER FIRM.
Initiated By:	NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
Date Initiated:	09/27/2001
Docket/Case Number:	C8A010062
Principal Product Type:	No Product
Other Product Type(s):	
Principal Sanction(s)/Relief Sought:	
Other Sanction(s)/Relief Sought:	
Resolution:	Acceptance, Waiver & Consent(AWC)
Resolution Date:	09/27/2001
Sanctions Ordered:	Censure Monetary/Fine $25,000.00
Other Sanctions Ordered:	
Sanction Details:	CENSURED AND FINED $25,000 JOINTLY AND SEVERALLY.

Reporting Source:	Firm
Current Status:	Final
Allegations:	THE MEMBER WAS ALLEGED TO HAVE VIOLATED NASD MEMBERSHIP AND REGISTRATION RULE 1031 AND CONDUCT RULE 2110 BY PERMITTING AN INDIVIDUAL NOT REGISTERED WITH THE MEMBER TO ENGAGE IN INVESTMENT BANKING OR SECURITIES BUSINESS, BY, INTER ALIA, CONSTRUCTING A POWER POINT PRESENTATION, CONTACTING AND MEETING WITH VC FUNDS AND FOLLOWING UP REGARDING INVESTMENT.
Initiated By:	NASDR, INC.
Date Initiated:	10/25/2001
Docket/Case Number:	C8A010062
Principal Product Type:	Other
Other Product Type(s):	PRIVATE EQUITY SOLD TO INSTITUTIONS.
Principal Sanction(s)/Relief Sought:	Civil and Administrative Penalt(ies) /Fine(s)
Other Sanction(s)/Relief Sought:	CENSURES
Resolution:	Acceptance, Waiver & Consent(AWC)
Resolution Date:	09/27/2001
Sanctions Ordered:	Censure Monetary/Fine $25,000.00
Other Sanctions Ordered:	
Sanction Details:	FINE WAS LEVIED JOINTLY AND SEVERALLY AGAINST MEMBER AND CONTROL AFFILIATE. FINE WAS PAID BY MEMBER ON 10/31/2001.
Summary:	UNREGISTERED INDIVIDUAL'S REGISTRATION WAS PENDING WITH NASD AT TIME INVESTMENT WAS MADE; REGISTRATION SUBSEQUENTLY WAS APPROVED.

Disclosure 3 of 5

Reporting Source:	Regulator
Current Status:	Final
Allegations:	10/08/1999JJM -- THE RESPONDENT MEMBER, ACTING THROUGH WEBER,

	IN CONTRAVENTION OF THE NASD'S FREE-RIDING AND WITHOLDING INTERPRETATION, IM-2110-1, SOLD SHARES, OF A NEW ISSUE OF SECURITIES WHICH COMMENCED TRADING AT AN IMMEDIATE PREMIUM IN THE SECONDARY MARKET, TO ONE CUSTOMER WHO WAS A REGISTERED BROKER-DEALER. (NASD RULE 2110; IM 2110-1)
Initiated By:	NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
Date Initiated:	10/05/1999
Docket/Case Number:	C8A990069
Principal Product Type:	Other
Other Product Type(s):	
Principal Sanction(s)/Relief Sought:	
Other Sanction(s)/Relief Sought:	
Resolution:	Acceptance, Waiver & Consent(AWC)
Resolution Date:	10/05/1999
Sanctions Ordered:	Censure Monetary/Fine $4,500.00
Other Sanctions Ordered:	
Sanction Details:	$4,500.00 FINE, J&S, CENSURE
Summary:	09-05-00, $4,500 PAID J&S ON 11/01/99, INVOICE #99-08-839

Reporting Source:	Firm
Current Status:	Final
Allegations:	MEMBER, ACTING THROUGH AFFILIATE, IN CONTRAVENTION OF NASD FREE-RIDING AND WITHHOLDING INTERPRETATION, IM-2110-1, SOLD 500 SHARES OF NEW ISSUE OF SECURITIES WHICH COMMENCED TRADING AT IMMEDIATE PREMIUM IN SECONDARY MARKET TO CUSTOMER WHO WAS REGISTERED BROKER-DEALER (OPTIONS MARKET MAKER AT CBOE), IN VIOLATION OF CONDUCT RULE 2110.
Initiated By:	NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
Date Initiated:	10/05/1999
Docket/Case Number:	C8A990069
Principal Product Type:	Equity - OTC

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Other Product Type(s):	
Principal Sanction(s)/Relief Sought:	Censure
Other Sanction(s)/Relief Sought:	JOINT AND SEVERAL FINE OF $4,500.00.
Resolution:	Acceptance, Waiver & Consent(AWC)
Resolution Date:	10/05/1999
Sanctions Ordered:	Censure Monetary/Fine $4,500.00
Other Sanctions Ordered:	
Sanction Details:	FINE LEVIED JOINTLY AND SEVERALLY AGAINST APPLICANT AND CONTROL AFFILIATE, PAID CONTEMPORANEOUSLY WITH ACCEPTANCE BY NASD REGULATION, INC. ON OCTOBER 5, 1999.
Summary:	FIRM AND CONTROL AFFILIATE, IN STATEMENT OF MITIGATING CIRCUMSTANCES (NASD REFERENCE NO. E8A980305), WROTE TO CLARIFY UNINTENTIONAL NATURE OF TRANSACTION, AS NEITHER APPLICANT NOR CONTROLLING ENTITY WAS AWARE THAT TRADERS ON CBOE (REGULATED BY NFA, NOT NASD) ARE SUBJECT TO RULES PRECLUDING BROKER-DEALERS FROM PARTICIPATING IN HOT ISSUES.

Disclosure 4 of 5

Reporting Source:	Regulator
Current Status:	Final
Allegations:	
Initiated By:	NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
Date Initiated:	06/09/1995
Docket/Case Number:	CA8A950044
Principal Product Type:	
Other Product Type(s):	
Principal Sanction(s)/Relief Sought:	
Other Sanction(s)/Relief Sought:	
Resolution:	Consent

Resolution Date:	06/09/1995
Sanctions Ordered:	Censure Monetary/Fine $500.00
Other Sanctions Ordered:	
Sanction Details:	
Summary:	ON JUNE 9, 1995, DISTRICT NO. 8 NOTIFIED RESPONDENT MERRILL WEBER & CO., INC. THAT THE LETTER OF ACCEPTANCE, WAIVER AND CONSENT NO. C8A950044 WAS ACCEPTED; THEREFORE, THE FIRM IS CENSURED AND FINED $500 - (ARTICLE III, SECTION 1 OF THE RULES OF FAIR PRACTICE - RESPONDENT MEMBER SUBMITTED A LATE FOCUS I REPORT). **$500.00 PAID ON 10/16/95, INVOICE# 95-8A-541**

Reporting Source:	Firm
Current Status:	Final
Allegations:	FAILURE TO FILE FOCUS I REPORT WITHIN 10 BUSINESS DAYS OF MONTH END THREE TIMES WITHIN 12-MONTH PERIOD, IN VIOLATION OF RULE 17A-5.
Initiated By:	NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.
Date Initiated:	09/05/1995
Docket/Case Number:	C8A950044
Principal Product Type:	No Product
Other Product Type(s):	
Principal Sanction(s)/Relief Sought:	Censure
Other Sanction(s)/Relief Sought:	FINE OF $500.00
Resolution:	Acceptance, Waiver & Consent(AWC)
Resolution Date:	09/05/1995
Sanctions Ordered:	Censure Monetary/Fine $500.00
Other Sanctions Ordered:	
Sanction Details:	$500.00 FINE PAID IN FULL SHORTLY AFTER ACCEPTANCE, WAIVER AND

	CONSENT DATED SEPTEMBER 5, 1995.
Summary:	FIRST LATE FILING DUE TO DIFFICULTIES IN INSTALLING "NASDNET" AND "FOCUS" SOFTWARE. SECOND LATE FILING DUE TO OFFICE HOLIDAY ON YOM KIPPUR (10TH BUSINESS DAY OF MONTH). THIRD LATE FILING BELIEVED LATE BECAUSE FILING ATTEMPTED VIA "WINDOWS" VERSION (USED FOR PRINTER), NOT "DOS" VERSION (USED FOR SUBMISSION).

Disclosure 5 of 5

Reporting Source:	Regulator
Current Status:	Final
Allegations:	FAILED TO FILE TIMELY FINANCIALS.
Initiated By:	IOWA SECURITIES BUREAU
Date Initiated:	05/24/1994
Docket/Case Number:	C94-04-420
Principal Product Type:	
Other Product Type(s):	
Principal Sanction(s)/Relief Sought:	
Other Sanction(s)/Relief Sought:	
Resolution:	Decision
Resolution Date:	05/24/1994
Sanctions Ordered:	Monetary/Fine $500.00
Other Sanctions Ordered:	
Sanction Details:	FOLLOWING HEARING ALJ LEVIED A $500.00 FINE. FINE WAS PAID 8/17/94.
Summary:	CONTACT: GARY L. MARQUETT, ENFORCEMENT DIRECTOR, 515-281-4441

Reporting Source:	Firm
Current Status:	Final
Allegations:	THE FIRM FAILED TO FILE ITS FINANCIAL REPORT TO THE IOWA SECURITIES BUREAU IN A TIMELY MANNER.

Initiated By:	IOWA SECURITIES BUREAU
Date Initiated:	05/24/1994
Docket/Case Number:	C94-04-420
Principal Product Type:	No Product
Other Product Type(s):	
Principal Sanction(s)/Relief Sought:	Civil and Administrative Penalt(ies) /Fine(s)
Other Sanction(s)/Relief Sought:	
Resolution:	Decision
Resolution Date:	05/24/1994
Sanctions Ordered:	Monetary/Fine $500.00
Other Sanctions Ordered:	
Sanction Details:	FINE OF $500.00 PAID 08/17/1994.
Summary:	ON MAY 24, 1994, THE FIRM WAS ASSESSED A FINE IN THE AMOUNT OF $500.00 FOR FAILURE TO FILE THE FIRMS' FINANCIAL STATEMENTS WITH THE STATE REGULATORY AUTHORITY IN IOWA. THE FINANCIAL STATEMENTS HAD BEEN FILED WITH REGULATORY AUTHORITIES OF OTHER STATES AND THE NASD. THE FIRM WAS ASSESSED, AND PAID, THE FINE ON AUGUST 17, 1994.

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About this BrokerCheck Report

BrokerCheck reports are part of a FINRA initiative to disclose information about FINRA-registered firms and individual brokers to help investors determine whether to conduct, or continue to conduct, business with these firms and brokers. The information contained within these reports is collected through the securities industry's registration and licensing process.

Who provides the information in BrokerCheck?
Information made available through BrokerCheck is obtained from CRD as reported through the industry registration and licensing process.

The forms used by brokerage firms, to report information as part of the firms registration and licensing process, Forms BD and BDW, are established by the SEC and adopted by all state securities regulators and SROs. FINRA and the North American Securities Administrators Association (NASAA) establish the Forms U4 and U5, the forms that are used for the registration and licensing process for individual brokers. These forms are approved by the SEC. Regulators report disciplinary information for firms and individual brokers via Form U6.

How current is the information contained in BrokerCheck?
Brokerage firms and brokers are required to keep this information accurate and up-to-date (typically not later than 30 days after learning of an event). BrokerCheck data is updated when a firm, broker, or regulator submits new or revised information to CRD. Generally, updated information is available on BrokerCheck Monday through Friday.

What information is NOT disclosed through BrokerCheck?
Information that has not been reported to CRD and certain information that is no longer required to be reported through the registration and licensing process is not disclosed through BrokerCheck. Examples of events that are not required to be reported or are no longer reportable include: judgments and liens originally reported as outstanding that have been satisfied and bankruptcy proceedings filed more than 10 years ago.

Additional information not disclosed through BrokerCheck includes Social Security Numbers, residential history information, and physical description information. On a case-by-case basis, FINRA reserves the right to exclude information that contains confidential customer information, offensive and potentially defamatory language or information that raises significant identity theft or privacy concerns that are not outweighed by investor protection concerns. FINRA Rule 8312 describes in detail what information is and is not disclosed through BrokerCheck.

Under FINRA's current public disclosure policy, in certain limited circumstances, most often pursuant to a court order, information is expunged from CRD. Further information about expungement from CRD is available in FINRA notices 99-09, 99-54, 01-65, and 04-16 at www.finra.org.

For further information regarding FINRA's BrokerCheck program, please visit FINRA's Web site at www.finra.org/brokercheck or call the FINRA BrokerCheck Hotline at (800) 289-9999. This hotline is open Monday through Friday from 8:00 a.m. to 8:00 p.m., Eastern Time (ET).

For more information about the following, select the associated link:

- About BrokerCheck Reports: http://www.finra.org/brokercheck_reports
- Glossary: http://www.finra.org/brokercheck_glossary
- Questions Frequently Asked about BrokerCheck Reports: http://www.finra.org/brokercheck_faq
- Terms and Conditions: http://brokercheck.finra.org/terms.aspx

SELLING AGREEMENT

This Selling Agreement (this "Agreement") is made and entered into as of the 16th day of August, 2007 by and between Newstone Capital Partners, LLC, a Delaware limited liability company ("Newstone") and Ajax Investments, LLC, a Delaware limited liability company ("Ajax").

WHEREAS, Newstone is the managing member of Newstone Partners, LP, a Delaware limited partnership (the "General Partner"), which is the general partner of Newstone Capital Partners, L.P., a Delaware limited partnership (the "Partnership"); and

WHEREAS, for the purpose of assisting Newstone in obtaining capital commitments for the Partnership through private placements in accordance with Regulation D ("Regulation D") promulgated under the Securities Act of 1933, as amended (the "Securities Act") to the persons and entities set forth in Schedule A hereto (individually, an "Investor" and collectively, the "Investors"), Newstone desires to appoint Ajax as a non-exclusive selling agent of the Partnership for the period of time set forth herein; and

WHEREAS, the subscribers for limited partner interests in the Partnership (the "Interests"), each of whom will be required to enter into a subscription agreement (the "Subscription Agreement") substantially similar to the form of subscription agreement accompanying the Confidential Private Placement Memorandum relating to the offer of the Interests, as supplemented and amended from time to time, (the "PPM"), have been and will be admitted to the Partnership as limited partners (the "Limited Partners") at the discretion of the General Partner.

NOW, THEREFORE, in consideration of the premises and the covenants and representations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

Newstone represents, warrants and covenants to Ajax that: (a) Newstone has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and the execution, delivery and performance of this Agreement has been duly authorized by all necessary action and this Agreement constitutes a valid and binding obligation, enforceable against it in accordance with its terms; and (b) all Limited Partners have entered into a Subscription Agreement with the General Partner and the Partnership. In addition, Newstone further confirms the representations and warranties made by the Partnership in the Subscription Agreements and confirms that it has received from each Limited Partner of the Partnership representations and warranties in substantially the form set forth in the Subscription Agreement.

Ajax represents, warrants and covenants to Newstone that Ajax: (a) has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder, and the execution, delivery and performance of this Agreement has been duly authorized by all necessary action and this Agreement constitutes a valid and binding obligation, enforceable against it in

accordance with its terms; (b) will not engage in any activities pursuant hereto with respect to the Partnership or its affiliates, with regard to any person other than the Investors; (c) is registered (and will maintain registration) as a broker-dealer with the U.S. Securities and Exchange Commission (and applicable state securities regulators); (d) is (and shall remain) a member in good standing with the NASD; and (e) is registered or qualified (and will maintain such registration or qualification) in all jurisdictions required by any offers or sales made pursuant to this Agreement.

Ajax further represents and warrants that it, its affiliates and anyone acting on its behalf shall offer the Interests to the Investors, only to the extent (i) the Investors are "accredited investors" as that term is defined in Rule 501 of Regulation D, and such Interests are offered in a manner consistent with the exemption from registration pursuant to Regulation D, and (ii) the Investors are "qualified purchasers" as such term is defined in the Investment Company Act of 1940, as amended (the "Investment Company Act"). Newstone shall require at the time of any sale of Interests that each Investor provide evidence satisfactory to Newstone and the General Partner as to the foregoing. None of Ajax or any of its respective affiliates or any person acting on behalf of any of them (i) shall offer to sell the Interests by any form of general solicitation or general advertising, including, without limitation, the methods described in Rule 502(c) of Regulation D or (ii) otherwise take any action, directly or indirectly (or omit to take any action) that would cause the sale of Interests to fail to qualify for the exemption from registration provided by Section 4(2) of the Securities Act and Regulation D thereunder or would cause the Interests or the Partnership to be required to be registered under the Investment Company Act.

2. OFFERING AND SALE OF INTERESTS - TERM.

(a) On the basis of the representations, warranties and covenants herein contained, but subject to the terms and conditions herein set forth, Ajax hereby is appointed, for the purpose of finding subscribers for the Interests through a private offering pursuant to Regulation D solely to the Investors set forth on Schedule A attached hereto, as a non-exclusive placement agent of the Partnership commencing on the date hereof until the date of the final Closing of the Partnership (the "Term"); *provided that* either Newstone or Ajax may terminate the Agreement at any time: (a) upon 30 day's notice to the other party, (b) immediately upon notice following a material breach of any agreement, covenant, representation or warranty made by the other party herein, (c) immediately upon notice following an act constituting gross negligence, fraud, willful misconduct or criminal acts by the other party or its respective affiliate and agents, or (d) immediately upon notice following a material change to the team of the other party (defined as the departure of more than one senior executive or a "partner" level personnel, and in the case of Ajax, the departure of Marc A. Correra). Termination of this Agreement shall not affect the respective rights and obligations of the parties with respect to unpaid compensation that has been theretofore earned pursuant to this Agreement (calculated only for such prospective Investors with which Ajax has distributed the PPM and has had a material and substantial conversation via telephone and/or in person regarding the Partnership and the sale of Interests), which shall survive the termination of this Agreement; provided that in the case of a termination in accordance with clause (b) and (c) (as a result of a breach or an act by Ajax as determined by a court or arbitrator of competent jurisdiction), no Success Fees shall be owed hereunder with respect to the Partnership. This Agreement may be extended by mutual written agreement. This

Agreement shall terminate immediately upon notice to all parties hereto if its continuation would otherwise violate Applicable Law (as defined below).

(b) Ajax agrees to use its best efforts to introduce the Investors to Newstone; however Ajax shall not contact any person or entity other than the Investors without the prior written consent of Newstone.

(c) Based on information contained in the Subscription Agreements, Newstone shall have sole responsibility for determining whether Investors are qualified to become Limited Partners in the Partnership and for accepting subscriptions and determining their validity. Ajax shall promptly furnish to Newstone copies of any written communications it receives from the Investors in connection with the Interests and shall promptly notify Newstone of any oral communications it receives from the Investors in connection with the Interests. Newstone reserves the right to reject any subscriptions for Interests at its sole and absolute discretion and shall be under no obligation to accept subscriptions from any Investors or take any other action to maximize the amounts payable to Ajax hereunder.

(d) Ajax shall deliver or shall cause to be delivered to each prospective Investor, prior to the time of any purchase of Interests, a copy of the PPM. Ajax shall not make any representations concerning the Interests, Newstone or the Partnership other than those contained in the PPM or in any supplementary promotional materials or sales literature furnished to Ajax by Newstone. Ajax shall maintain complete and accurate records of all persons and entities contacted by Ajax in respect of the Partnership, including a complete list of the name, address, date of distribution and number of copies of the PPM distributed, in each case, with respect to each Investor and shall provide such list to Newstone upon request by Newstone.

(e) This Agreement contemplates and creates an independent contractor relationship between Newstone and Ajax, and Ajax is not, and does not have the authority to act as an agent, employer, employee, partner, co-venturer, affiliate or associate of Newstone, the General Partner, the Partnership or their affiliates. This Agreement confers no power upon Ajax legally to bind or commit Newstone, the General Partner, the Partnership, their affiliates, or others. Ajax shall be responsible for payment of all national, state and other taxes with respect to all payments made to Ajax hereunder. Ajax is solely responsible for its own conduct, for the employment, control and conduct of its employees and agents and for injury to such employees and agents or to its employees and agents and agrees to pay all employer taxes and comply with all other applicable laws relating thereto.

(f) As full and complete compensation for the services provided by Ajax hereunder, Ajax shall receive the amounts set forth on Schedule A attached hereto at the times and in the manner specified on Schedule A.

3. COVENANTS.

Newstone covenants that it shall (or cause the General Partner to) deliver to Ajax, as soon as available, and from time to time during the Term, such number of copies of (a) the PPM, as the same may be revised or supplemented from time to time and (b) selling or marketing

materials that have been prepared by Newstone for use in connection with the sale of the Interests as Ajax shall reasonably request.

4. PAYMENT OF EXPENSES.

Newstone promptly shall reimburse Ajax for all its reasonable out-of-pocket expenses (business class for airfare, train, car services and hotel accommodations, e.g.) that are documented and incurred in reasonable connection with its duties hereunder, upon delivery of written and itemized expense reports. Ajax shall submit monthly expense reports (if out-of-pocket expenses are incurred) to Newstone providing reasonable documentation of such expenditures.

5. CONDITIONS OF OBLIGATIONS.

(a) Either party's obligations hereunder are subject to the accuracy of and compliance with the representations and warranties of the other party and to the performance by the other party of its obligations hereunder.

(b) If any of the foregoing conditions shall not have been reasonably fulfilled when and as required by this Agreement to be fulfilled, and the failure to fulfill any such condition has a material adverse effect on the performance by a party of its obligations hereunder, this Agreement may be terminated by such party in accordance with Section 2 hereof, by provision of written notice from such party to the other.

6. INDEMNIFICATION.

Newstone agrees to defend, indemnify and hold harmless Ajax and its members, managers, officers, employees and agents from and against any and all loss, liability, claim, damage and expense whatsoever (including, without limitation, reasonable legal fees and expenses) arising out of (a) any untrue statement of a material fact contained in the PPM or any omission therefrom of a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; and (b) the material breach by Newstone of any of its representations, warranties or covenants under this Agreement.

Ajax agrees to defend, indemnify and hold harmless the Partnership, Newstone and its members, managers, officers, employees and agents from and against any and all loss, liability, claim, damage and expense whatsoever (including, without limitation, reasonable legal fees and expenses) arising out of (a) an act constituting gross negligence, fraud, willful misconduct or criminal acts by Ajax, its affiliate or agents; and (b) the material breach by Ajax of any of its representations, warranties or covenants under this Agreement.

This Section 6 shall survive the termination of this Agreement.

7. NOTICES AND AUTHORITY TO ACT.

All communications hereunder shall be in writing and sent to the following addresses:

If to Selling Agent:

Ajax Investments, LLC
1866 Sheridan Road
Suite 220
Highland Park, IL 60035
Attn: Arlene Busch, Managing Director

If to Newstone:

Newstone Capital Partners, LLC
1111 Santa Monica Boulevard
Suite 1100
Los Angeles, CA 90025
Attn: Managing Director

8. PARTIES.

This Agreement shall inure to the benefit of the parties hereto and their respective successors and assigns. The rights and obligations of the parties under this Agreement are not assignable; except that the rights and obligations of Newstone hereunder may be assigned by Newstone to an affiliate of Newstone, including without limitation, the Partnership; provided that such assignee shall have the economic capability to perform such obligations.

9. ENTIRE AGREEMENT; AMENDMENT.

This Agreement constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes any prior agreement or understandings among them. No waiver of any provision of this Agreement shall be effective, binding or enforceable unless in writing and signed by the party against which it is sought to be enforced and no waiver by any party of any default with respect to any provision, condition or requirement hereof shall be deemed to be a waiver of any other provision, condition or requirement hereof; nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right accruing to it hereafter. This Agreement may be amended only by written instrument signed by the parties hereto.

10. SEVERABILITY; CONSTRUCTION.

Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of this Agreement.

To the fullest extent permitted by law, the parties hereto intend that any ambiguities shall be resolved without reference to which party may have drafted this Agreement. All Article or Section titles or other captions in this Agreement are for convenience only, and they shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Unless the context otherwise requires: (a) a term has the meaning assigned to it; (b) an accounting term not otherwise defined has the meaning assigned to it in accordance with then-applicable generally accepted accounting principles; (c) "or" is not exclusive; (d) words in the singular include the plural, and words in the plural include the singular; (e) provisions apply to successive events and transactions; (f) "herein," "hereof" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision; (g) all references to "clauses," "Sections" or "Articles" refer to clauses, Sections or Articles of this Agreement; (h) any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms; and (i) the words "include" and "including" will be deemed to be followed by the phrase "without limitation.

11. GOVERNING LAW; JURISDICTION.

This Agreement shall be governed by and construed in accordance with the internal laws (as opposed to the conflicts of law provisions) of the State of California. Any litigation arising out of or related to this Agreement shall be instituted and prosecuted only in the appropriate state or federal court or other tribunal situated in Los Angeles, California. Each party hereto hereby submits to the exclusive jurisdiction of such courts and tribunals for purposes of any such action and the enforcement of any judgment or order arising therefrom. Each party hereto hereby waives any right to a change of venue and any and all objections to the jurisdiction of the state and federal courts and other tribunals located in Los Angeles, California.

12. PREVAILING PARTY ENTITLED TO LEGAL FEES AND EXPENSES.

In the event of any suit or other proceeding among any parties hereto related to this Agreement or any rights or obligations hereunder, the non-prevailing party shall pay the prevailing party's reasonable legal fees and expenses, in addition to such other damages as may be awarded.

13. COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but both of which together shall constitute one and the same instrument.

14. CONFIDENTIALITY.

(a) General. Ajax agrees to keep all non-public and proprietary information ("Confidential Information") concerning the Partnership, the General Partner, Newstone, their affiliates and each of their respective operations, investment track record, partners, members, methods, strategies and business prospects, including the PPM and the Partnership's limited partnership agreement, subscription documents and other offering materials, in strict confidence and will not use or disclose Confidential Information other than as reasonably required in

connection with the performance of its duties under this Agreement. Ajax will furnish the PPM to the Investors or their representatives with the understanding that the recipients will keep such PPM confidential and not use the PPM other than for the purpose of evaluating an investment in the Partnership. Ajax may furnish, solely with the prior written consent of Newstone, such additional Confidential Information as has been requested by prospective Investors upon the same understanding. Additionally, for purposes hereof, Confidential Information shall not include information that is or becomes generally known by the public, absent breach by Ajax of its obligations hereunder, or otherwise known or developed by Ajax without using the Confidential Information. For the avoidance of doubt, Confidential Information disclosed to prospective Investors pursuant to Ajax's activities hereunder or by Newstone shall not, in and of itself, be deemed to be information generally known to the public. Both parties agree to keep the terms of this Agreement confidential. This paragraph shall survive the termination of this Agreement.

(b) Confidentiality Agreements. Ajax acknowledges that Newstone or its affiliates may be required to execute confidentiality agreements from time to time in respect of proposed transactions. Ajax agrees to promptly execute a copy of any such confidentiality agreement, to the extent reasonably applicable to it, upon request by Newstone.

15. LEGAL COMPLIANCE.

Ajax shall, at all times, comply in all material respects with (a) all applicable statutes, laws, by-laws, rules, rulings, regulations, ordinances, codes of practice, licenses, permits (including requirements to receive and maintain in force all required licenses, permits, approvals and registrations) of all governmental agencies and entities and all self-regulatory and similar organizations in any jurisdiction ("Applicable Law") in connection herewith and strictly comply with (b) Newstone's instructions, policies and procedures ("Instructions") provided in writing to Ajax. For the avoidance of doubt, "Applicable Law" includes, without limitation, (i) U.S., federal and state, and foreign securities and other laws relating to the sale of Interests in any jurisdiction including state lobbying and similar laws, the Securities Act and the Securities Exchange Act of 1934, as amended, (ii) the regulations of the National Association of Securities Dealers, Inc. ("NASD"), and (iii) applicable anti-money laundering rules and regulations. In addition to the foregoing, Ajax hereby confirms, represents and warrants that at all relevant times during the term of this Agreement, Ajax (and its affiliates and agents, as applicable, including, without limitation Marc A. Correra, who will be primarily responsible for this engagement on behalf of Ajax) is and will be duly licensed, authorized and empowered under, and in compliance with, Applicable Law including without limitation, applicable reporting and code of conduct rules or regulations, if any, respecting prospective Investors, and Ajax shall provide evidence of the foregoing to Newstone from time to time upon Newstone's reasonable request. Ajax shall at all relevant times hereunder act as placement agent to Newstone and not as a broker or other conduit on behalf of others.

Ajax covenants and agrees that it will not offer Interests, or solicit offers for Interests or contact any prospective Investor with respect to the Partnership (a) by means of any written or oral materials or representations unless such materials or representations have been previously approved by Newstone pursuant; and (b) except in a manner consistent with the Instructions of

Newstone and Applicable Law. Ajax hereby represents, warrants and acknowledges that any disclosures required by Applicable Law have been and will be made and that receipt of payments hereunder do not violate Applicable Law.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

NEWSTONE CAPITAL PARTNERS, LLC

By: _____
Name:
Title: JOHN C. ROCCHIO
MANAGING DIRECTOR

AJAX INVESTMENTS, LLC

By: _____
Arlene Busch
Managing Director

SCHEDULE A

Compensation Payable to Ajax

1. Success Fees. As compensation for the services provided under the Selling Agreement, Ajax shall receive:

(a) A "success fee" (the "Success Fee") equal to the applicable percentage listed in Section 2 below of the Capital Commitment (as defined in the Partnership's limited partnership agreement) of each entity listed in Section 2 that are accepted by Newstone as a limited partner of the Partnership at Newstone's sole and absolute discretion, but only if such Investor has executed all necessary subscription documents in connection with the purchase of Interests and has been admitted as a limited partner of the Partnership, provided that such Section 2 to be updated with the written consent of both parties hereto. Success Fees will be paid in four (4) equal quarterly installments over a one year period commencing on the date that is 30 days following the date that such Investor is admitted to the Partnership.

(b) If an Investor withdraws or is removed from the Partnership in accordance with the Partnership's limited partnership agreement or defaults on its obligations to the Partnership, the Success Fee with respect to that Investor shall only be payable with respect to the portion of the Investor's capital commitment actually invested in the Partnership and Ajax shall promptly refund any Success Fees to the extent paid by Newstone in excess of such amount, it being understood that Newstone may offset such amounts (to the extent not refunded by Ajax) against any amounts Newstone owes Ajax hereunder. Unless limited by the foregoing, Success Fees shall be payable with respect to all Capital Commitments made by the Investors in the Partnership, including additional subscriptions to the Partnership by the Investors.

2. Investors Introduced to Newstone by Ajax.

Investor	Fee Percentage
New Mexico State Investment Office	2.0%
New Mexico Educational Retirement Board	2.0%

ATTORNEY GENERAL OF THE STATE OF NEW YORK

IN THE MATTER OF WETHERLY CAPITAL GROUP, LLC AND DAV/WETHERLY FINANCIAL, L.P.	:	Investigation No. 2009-172

ASSURANCE OF DISCONTINUANCE
PURSUANT TO EXECUTIVE LAW § 63(15)

In March 2007, the Office of the Attorney General of the State of New York (the "Attorney General"), commenced an industry-wide investigation (the "Investigation"), pursuant to Article 23-A of the General Business Law (the "Martin Act"), into allegations of "pay-to-play" practices and undisclosed conflicts of interest at public pension funds, including the New York State Common Retirement Fund. This Assurance of Discontinuance ("Assurance") contains the findings of the Attorney General's Investigation and the relief agreed to by the Attorney General and Wetherly Capital Group and its wholly-owned subsidiary DAV/Wetherly Financial, L.P. (together "Wetherly").

WHEREAS, the Attorney General finds that trillions of dollars in public pension funds in the United States are held in trust for millions of retirees and their families and these funds must be protected from manipulation for personal or political gain;

WHEREAS, the Attorney General finds that public pension fund assets must be invested solely in the best interests of the beneficiaries of the public pension fund;

WHEREAS, the Attorney General finds that the New York State Common Retirement Fund in particular is the largest asset of the State and, having been valued at

$150 billion at the time of the events described in this Assurance, was larger than the entire State budget this year;

WHEREAS, the Attorney General finds that public pension funds are a highly desirable source of investment for private equity firms and hedge funds;

WHEREAS, the Attorney General finds that private equity firms and hedge funds frequently use placement agents, finders, lobbyists, and other intermediaries (herein, "placement agents") to obtain investments from public pension funds;

WHEREAS, the Attorney General finds that these placement agents are frequently politically-connected individuals selling access to public money;

WHEREAS, the Attorney General finds that the use of placement agents to obtain public pension fund investments is a practice fraught with peril and prone to manipulation and abuse;

WHEREAS, the Attorney General finds that the legislature has designated the New York State Comptroller, a statewide elected official, as the sole trustee of the Common Retirement Fund, vesting the Comptroller with tremendous powers over the Common Retirement Fund, including the ability to approve investments and contracts worth hundreds of millions of dollars;

WHEREAS, the Attorney General finds that persons and entities doing business before the State Comptroller's Office are frequently solicited for and in fact make political contributions to the Comptroller's campaign before, during, and after they seek and obtain business from the State Comptroller's Office;

WHEREAS, the Attorney General finds that this practice of making campaign contributions while seeking and doing business before the Comptroller's Office creates at

least the appearance of corrupt "pay to play" practices and thereby undermines public confidence in State government in general and in the Comptroller's Office in particular;

WHEREAS, the Attorney General finds that the system must be reformed to eliminate the use of intermediaries selling access to public pension funds, and to eliminate the practice of making campaign contributions to publicly-elected trustees of public pension funds while seeking and doing business before those public pension funds;

WHEREAS, the Attorney General is the legal adviser of the Common Retirement Fund under New York's Retirement and Social Security Law §14;

WHEREAS, Wetherly and its principals, Daniel Weinstein and Vicky Schiff (together, the "Principals"), acknowledge the problems with "pay-to-play" practices and conflicts of interest inherent in the use of placement agents and other third-party intermediaries to obtain public pension fund investments;

WHEREAS, Wetherly and its Principals recognize the need for reform, and endorse the Attorney General's Public Pension Reform Code of Conduct, which, among other things, bans the use of third-party placement agents in connection with public pension fund investments in the United States;

WHEREAS, Wetherly has fully cooperated with the Attorney General's investigation.

I. WETHERLY

1. Wetherly Capital Group is a placement agent firm whose principal offices are located in Los Angeles, California. Wetherly Capital Group's wholly-owned subsidiary, DAV/Wetherly Financial, L.P. is a registered broker-dealer. Wetherly was founded in 1998.

II. THE NEW YORK OFFICE OF THE STATE COMPTROLLER

2. The New York Office of the State Comptroller (the "OSC") administers the New York State Common Retirement Fund (the "CRF"). The CRF is the retirement system for New York State and many local government employees. Most recently valued at $122 billion, the CRF is by far the single largest monetary fund in State government and the third-largest public employee pension fund in the country. The New York State Comptroller is designated by the legislature as the sole trustee responsible for faithfully managing and investing the CRF for the exclusive benefit of over one million current and former State employees and retirees.

3. The Comptroller is a statewide elected official and is the State's chief fiscal officer. The Comptroller is the sole trustee of the CRF, but typically appoints a Chief Investment Officer and other investment staff members who are vested with authority to make investment decisions. The Comptroller, the Chief Investment Officer and CRF investment staff members owe fiduciary duties and other duties to the CRF and its members and beneficiaries.

4. The primary functions of the OSC are to perform audits of state government operations and to manage the CRF. The CRF invests in specific types of assets as set forth by statute. The statute's basket provision allows a percentage of the CRF portfolio's investments to be held in assets not otherwise specifically delineated in the statute. From 2003 through 2006, the CRF made investments that fell into this "basket" through its Division of Alternative Investments. This division was primarily comprised of staff members or investment officers who reported through the Director

of Alternative Investments to the Chief Investment Officer, who reported to the Comptroller with respect to investment decisions.

5. During the administration of Alan Hevesi, who was Comptroller from January 2003 through December 2006 ("Hevesi"), the CRF invested the majority of its alternative investments portfolio in private equity funds. Beginning in approximately 2005, the CRF also began to invest in hedge funds. The CRF generally invested in private equity funds as one of various limited partners. In these investments, a separate investment manager generally served as the general partner which managed the day-to-day investment. The alternative investment portfolio also included investments in fund-of-funds, which are investments in a portfolio of private equity or hedge funds. The CRF invested as a limited partner in fund-of-funds. In other words, the CRF would place a lump sum with a fund and that fund would essentially manage the investment of these monies by investing in a portfolio of other sub-funds.

6. The CRF was a large and desirable source of investments funds. Gaining access to and investments from the CRF was a competitive process, and frequently the investment manager who served as the general partner of the funds retained third parties known as "placement agents" or "finders" (hereinafter "placement agents") to introduce and market them to CRF. If an investment manager paid a fee to the placement agent in connection with an investment made by the CRF, the CRF required that the investment manager make a written disclosure of the fee and the identity of the placement agent to the Chief Investment Officer or to the manager of the fund-of-funds.

7. Once the CRF was introduced to and interested in the fund, the fund was referred to one of CRF's outside consultants for due diligence. At the same time, a CRF investment officer was assigned to review and analyze the transaction. If the outside consultant found the transaction suitable, the investment officer then determined whether to recommend the investment to the Director of Alternative Investments.

8. If the investment officer recommended a proposed private equity investment, and the Director of Alternative Investments concurred, then the recommendation was forwarded to the Chief Investment Officer for approval. If the Chief Investment Officer approved, he recommended the investment to the Comptroller, whose approval was required before the CRF would make a direct investment. There was a similar process for hedge fund investments, which required the recommendation of the senior investment officer to the Chief Investment Officer and the Chief Investment Officer's approval and recommendation to the Comptroller. Given this process, the Chief Investment Officer could not make an investment unless the proposed investment had been vetted by an outside consultant and recommended by multiple levels of investment staff, including the Director of Alternative Investments, the Chief Investment Officer and the Comptroller.

9. Placement agents and other third parties who are engaged in the business of effecting securities transactions and who receive a commission or compensation in connection with that transaction are required to be licensed and affiliated with broker-dealers regulated by an entity now known as the Financial Industry Regulatory Authority ("FINRA"). To obtain such licenses, the agents are required to pass the "Series 7" or equivalent examination administered by FINRA.

III. THE MORRIS/LOGLISCI INDICTMENT

10. As a result of the Investigation, a grand jury returned a 123-count indictment (the "Indictment") of Henry "Hank" Morris, the chief political officer to Hevesi, and David Loglisci, the CRF's Director of Alternative Investments and then Chief Investment Officer. The Indictment charges Morris and Loglisci with enterprise corruption and multiple violations of the Martin Act, money laundering, grand larceny, falsifying business records, offering a false instrument for filing, receiving a reward for official misconduct, bribery, rewarding official misconduct and related offenses. The Indictment alleges the following facts in relevant part as set forth in this Part III of the Assurance.

11. Morris, the chief political advisor to Hevesi, and Loglisci, joined forces in a plot to sell access to billions of taxpayer and pension dollars in exchange for millions of dollars in political and personal gain. Morris steered to himself and certain associates an array of investment deals from which he drew tens of millions of dollars in so-called placement fees. He also used his unlawful power over the pension fund to extract vast amounts of political contributions for the Comptroller's re-election campaign from those doing business and seeking to do business with the CRF.

12. In November 2002, Hevesi was elected to serve as Comptroller, and took office on January 1, 2003. Prior to and after the 2002 election, Morris served as Hevesi's paid chief political consultant and advisor. Upon Hevesi taking office in 2003, Morris began to exercise control over certain aspects of the CRF, including the alternative investment portfolio.

13. Morris asserted control over CRF business by recommending, approving, securing or blocking alternative investment transactions. Morris also influenced the CRF to invest for the first time in hedge funds, an asset class that was perceived to be riskier than private equity funds, so that Morris and his associates could reap fees from hedge fund transactions involving the CRF.

14. Morris participated in discussions to remove and promote certain executive staff at the CRF. In or about April 2004, for example, Morris and certain other high-ranking OSC officials determined that the original Chief Investment Officer of the CRF was not sufficiently accommodating to Morris and his associates. Morris participated in the decision to remove the original Chief Investment Officer and promote Loglisci to that position.

15. Beginning in 2003, Morris also began to market himself as a placement agent to private equity and hedge funds seeking to do business with the CRF. At the same time that Morris was profiting through investment transactions involving the CRF, Morris participated with Loglisci in making decisions about investments. In particular, during the Hevesi administration, Morris occupied three conflicting roles at the CRF although he had no official position there: (1) he advised and helped manage the CRF's alternative investments, acting as a de facto Chief Investment Officer; (2) he brokered deals between the CRF and politically-connected outside investment funds offering investment management services, earning millions in undisclosed fees as a placement agent; and (3) he had a commercial, personal and political relationship as the Comptroller's chief political strategist and fundraiser.

16. Through his role at the CRF, Morris became a de facto and functional fiduciary to the CRF and its members and beneficiaries, and owed a fiduciary duty to act in the best interests of the CRF and its members and beneficiaries. However, Morris breached this duty and used his influence over the CRF investment process to enrich himself and other associates. Morris's multiple roles generated conflicts of interest, which Loglisci had knowledge of and failed to disclose.

17. Loglisci ceded decision-making authority to Morris regarding particular investments and investment strategies to be pursued and approved by the CRF. During this time, Loglisci was also aware that Morris had an ongoing relationship with the Comptroller. Loglisci was a fiduciary to the CRF and a public officer with duties pursuant to the Public Officers Law and therefore had a duty to disclose his own and others' actual and potential conflicts of interests. Loglisci failed to disclose Morris's role to members and beneficiaries of the CRF through the CRF's annual report or otherwise. Loglisci and Morris concealed their corrupt arrangement and Morris's role in investment transactions from the investment staff, ethics officers, and lawyers at CRF. Additionally, Loglisci failed to disclose his own conflicts of interest involving the financing and distribution of his brother's film, "Chooch," by Morris and other persons receiving an investment commitment from the CRF.

18. In sum, from 2003 through 2006, through Morris's and Loglisci's actions as described above, the process of selecting investments at the CRF – investments of billions of dollars – was skewed and corrupted to favor political associates, family and friends of Morris and Loglisci, and other officials in the Office of the State Comptroller. Morris and Loglisci corrupted the alternative investment selection

process by making investment decisions based on the goal of rewarding Morris and his associates, rather than based exclusively on the best interests of the CRF and its members and beneficiaries. Morris and Loglisci favored deals for which Morris and his associates acted as placement agents, or had other financial interests, which interests were often concealed from investment staff and others. The scheme was manifested in several ways:

a. In some instances, Morris and Loglisci blocked proposed CRF investments where the private equity fund or hedge fund would not pay them or their associates.

b. In yet others, Morris inserted his associates as placement agents, who then shared fees with Morris and on others, Morris, Loglisci and their associates inserted placement agents into proposed transactions as a reward for past political favors.

c. On one transaction, Morris was a principal of an investment in which Morris served as placement agent.

d. On some transactions, Morris was the placement agent through a broker/dealer, Searle & Company ("Searle") or another entity controlled by Morris and Morris shared fees with an associate. On certain other transactions, the structure was reversed, so that an associate of Morris was the placement agent, who shared fees with Morris. These fee sharing arrangements were often not disclosed to fund managers or to the CRF investment staff, other than Loglisci.

19. Morris concealed his conflicting roles as political consultant, CRF gatekeeper and CRF placement agent from the CRF alternative investment staff and others. Morris also concealed financial relationships he had with Loglisci and another OSC official. At times, Morris concealed his role as CRF investment gatekeeper from funds that hired him as a placement agent. In some instances, Morris obtained placement agreements and fees for himself and others from certain fund managers through false

and misleading representations and material omissions, including claims that Searle was the official placement agent for the CRF.

20. Loglisci helped to conceal his and Morris's scheme by maintaining exclusive custody of letters to the CRF that disclosed the use of placement agents and fees paid relating to certain CRF investment transactions.

21. As a result of Morris and Loglisci's scheme, Morris and his associates earned fees on more than five billion dollars in commitments to more than twenty private equity funds, hedge funds, and fund-of-funds during the Hevesi administration. These deals generated tens of millions of dollars in fees to Morris and his associates.

IV. FINDINGS AS TO WETHERLY

A. FS Equity Partners V

22. The Investigation revealed that Wetherly was retained by Freeman Spogli & Co. ("Freeman Spogli") as of February 15, 2002. The "consulting agreement" between Wetherly and Freeman Spogli listed a group of targeted investors to whom Wetherly would market FS Equity Partners V. Their agreement was amended on or about January 8, 2003 to include three additional targeted investors, including the CRF. According to the placement agreement, Freeman Spogli would pay Wetherly a placement fee equivalent to 1% of any capital committed to FS Equity Partners V by an enumerated targeted investor.

23. Julio Ramirez, Jr., ("Ramirez"), who worked as an unlicensed placement agent at Wetherly, took the lead in marketing FS Equity Partners V to the CRF. Wetherly entered into an agreement with Morris, whereby Morris would receive 40% of fees received by Wetherly in connection with any CRF investment in Freeman Spogli.

Morris agreed to help Wetherly place Freeman Spogli at the CRF. Morris's agreement with Wetherly was not reduced to writing, and Morris was not a licensed placement agent at the time that he entered into this arrangement.

24. Freeman Spogli was not aware that Morris would be involved in the FS Equity Partners V placement with the CRF, or that Wetherly had entered into an arrangement with Morris.

25. On or about December 29, 2003, the CRF invested $50 million in FS Equity Partners Fund V. In accordance with its agreement with Wetherly, Freeman Spogli paid Wetherly 1% of CRF's $50 million commitment, or $500,000, in or about January 2004. As agreed upon by Morris and Wetherly, and without Freeman Spogli's knowledge, Wetherly paid Morris 40% of its fee indirectly through Ramirez. Upon receipt of the $500,000 fee, Wetherly paid Ramirez $200,000 on or about February 2, 2004. Ramirez in turn wrote a $200,000 check dated February 5, 2004 to PB Placement LLC, a shell company controlled by Morris. The post-closing disclosure letter did not inform the CRF of the payments to Morris.

B. Ares Corporate Opportunities Fund

26. In or about August of 2002, Ares Management, LLC ("Ares") retained a California-based lobbying firm (the "California Lobbyist") as a placement agent. Although the California Lobbyist was registered as a lobbyist in California, the California Lobbyist was not a broker-dealer, and nobody at the California Lobbyist was properly registered to buy and sell securities until at least 2006. The placement agreement between Ares and the California Lobbyist contemplated a limited number of institutional investors to whom the California Lobbyist would market the Ares

Corporate Opportunities Fund ("ACOF"). The original August 2002 agreement between Ares and the California Lobbyist included an enumerated list of targeted investors. A February 2003 amendment to that agreement added the CRF as a potential investor.

27. In or about February of 2003, Wetherly entered into a sub-finder arrangement with the California Lobbyist with respect to the ACOF. Wetherly represented to the California Lobbyist and Ares that it had relationships with principals at a number of institutional investors, including the CRF. According to its agreement, the California Lobbyist was to receive 1.5% of capital committed to ACOF by the CRF. The California Lobbyist in turn agreed to pay Wetherly either 50% or 85% of its placement fee, depending on the institutional investor. Although the CRF does not appear either on the February 2003 sub-finding agreement between the California Lobbyist and Wetherly, or a subsequent amendment to that agreement, the investigation revealed that Ares ultimately agreed to pay Wetherly directly on its share of any CRF investment in ACOF.

28. As with FS Equity Partners V, Ramirez took the lead in marketing ACOF to the CRF. Wetherly entered into an agreement with Morris, whereby Morris would receive 40% of fees received by Wetherly in connection with any CRF investment in the ACOF. Morris agreed to help Wetherly place the ACOF at the CRF. As with FS Equity Partners V, Morris's agreement with Wetherly was not reduced to writing, and Morris was not a licensed placement agent at the time that he entered into this arrangement.

29. Ares was not aware that Morris would be involved in the CRF placement, or that Wetherly had entered into an arrangement with Morris.

30. On or about December 31, 2003, CRF invested $50 million in the ACOF. In accordance with its agreements with the California Lobbyist and Wetherly, over the next two years, Ares paid the California Lobbyist $112,500 and Ares paid Wetherly $637,500, totaling $750,000 or approximately 1.5% of CRF's $50 million commitment. As agreed upon by Morris and Wetherly, Wetherly paid Morris 40% of fees received by it indirectly through Ramirez. Upon receipt of each fee payment from Ares, Wetherly paid Ramirez, who in turn wrote checks to PB Placement LLC, a shell company controlled by Morris. In total, Wetherly paid Ramirez $225,000 intended for Morris. The post-closing disclosure letter did not inform the CRF of the payments to Morris.

C. Levine Leichtman Capital Partners Fund III

31. In or about February 2004, Levine Leichtman Capital Partners ("LLCP") retained Wetherly as a placement agent for Levine Leichtman Capital Partners Fund III ("LLCP III"). LLCP agreed to pay Wetherly the equivalent of 1% of any capital committed by CRF or its affiliates to LLCP III. An express provision of the retention letter executed by LLCP and Wetherly provided that Wetherly "may separately engage, at its own expense and with the prior written approval of [LLCP], sub-agents as it may deem necessary or appropriate." However, at no time did Wetherly seek LLCP's consent to the hiring of any sub-agents.

32. Wetherly began marketing LLCP III to Aldus Equity ("Aldus") starting in or about early 2005. On behalf of the CRF, Aldus managed the Aldus/NY Emerging

Fund, a discretionary fund of funds. Pursuant to that marketing effort, Wetherly entered into a written sub-agent agreement with Searle & Co. ("Searle"), a registered broker/dealer with which Hank Morris was affiliated. The agreement between Wetherly and Searle was dated as of March 1, 2005, though Searle did not execute the agreement until on or about August 6, 2005. As indicated in the agreement, Wetherly was to pay Searle 40% of all placement fees Wetherly received in connection with any CRF investment in LLCP III. LLCP was not aware of the fact, or the details, of Wetherly's arrangement with Searle and Morris.

33. Wetherly assisted in the placement of LLCP III with the Aldus/NY Emerging Fund. Morris, through a wholly-owned entity, received 35% of management fees the CRF paid to Aldus with respect to the Aldus/NY Emerging Fund. In or about March 2005, Aldus invested $20 million of the Aldus/NY Emerging Fund into LLCP III.

34. LLCP paid Wetherly $200,000 in placement fees (an amount equal to 1% of the Aldus/NY Emerging Fund capital commitment to LLCP III). Wetherly then paid Searle $80,000 or 40% of the amount it received from LLCP. Morris received $76,000 from Searle. Wetherly did not disclose to LLCP the fact of these payments to Searle or Morris.

D. Campaign Contributions

37. Ramirez solicited the other Wetherly Principals for campaign contributions for Hevesi, and on or about June 20, 2003, Wetherly contributed $2,500 to Hevesi's re-election campaign. Subsequently, Wetherly was solicited for campaign contributions by Hevesi's campaign fundraiser. Wetherly contributed an additional $11,500 to

Hevesi's re-election campaign on or about December 6, 2004 and April 15, 2005. In total, Wetherly contributed $14,000 to the Hevesi campaign.

AGREEMENT

WHEREAS, Wetherly wishes to resolve the Investigation and is willing to abide by the terms of this Agreement set forth below;

WHEREAS, Wetherly does not admit or deny the Attorney General's findings as set forth in this Assurance;

WHEREAS, the Attorney General is willing to accept the terms of the Assurance pursuant to New York Executive Law § 63(15), and to discontinue, as described herein, the Investigation of Wetherly;

WHEREAS, the parties believe that the obligations imposed by this Assurance are prudent and appropriate;

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the parties, as follows:

I. CONDUCT

38. The Attorney General and Wetherly hereby enter into the attached Public Pension Fund Reform Code of Conduct, which is hereby incorporated by reference as if fully set forth herein.[1]

39. Wetherly hereby agrees to immediately and permanently cease acting as a Placement Agent in connection with Public Pension Fund investments in the United States. Wetherly Capital Group, LLC further agrees to wind down within the 18 months following entry of this Assurance of Discontinuance.

[1] Capitalized terms are as defined in the Attorney General's Public Pension Fund Code of Conduct.

40. The Principals of Wetherly further agree to comply with the Attorney General's Public Pension Fund Code of Conduct as it pertains to them with respect to any activities they participate in apart from Wetherly. The Code precludes the Principals from being engaged by an Investment Firm to provide advice, consulting and/or marketing services in connection with potential investments by a Public Pension Fund, other than where acting as a principal, shareholder, or bona fide employee of the investment firm, where the engagement involves direct or indirect communications by the Principals with any Official, Public Pension Fund Official, Public Pension Fund Advisor, or other Public Pension Fund fiduciary or employee with respect to the investment.[2]

II. PAYMENT

41. Upon the signing of this Assurance, Wetherly agrees to pay a total of ONE MILLION ($1,000,000) DOLLARS to the Office of the Attorney General. Payment shall be effectuated as follows:

a. Within 180 days of the signing of this Assurance, Wetherly shall make a payment of FOUR HUNDRED THIRTY THOUSAND ONE HUNDRED NINETY THREE DOLLARS AND EIGHTY TWO CENTS ($430,193.82) to the State of New York, which will in turn be returned by the Attorney General to the CRF for the benefit of its members, and shall not be used for any other purpose.

b. Within 360 days of the signing of this Assurance, Wetherly shall make a payment of THREE HUNDRED THOUSAND ($300,000) DOLLARS to

[2] By its terms, the Public Pension Fund Reform Code of Conduct does not prohibit signatories from advising private equity firms regarding marketing strategies concerning Public Pension funds.

the State of New York, which will in turn be returned by the Attorney General to the CRF for the benefit of its members, and shall not be used for any other purpose.

c. Wetherly is hereby credited with a payment in an amount equal to TWO HUNDRED THOUSAND ($200,000) DOLLARS that it previously paid LLCP, which LLCP turned over to the Office of the Attorney General upon the signing of its own Assurance of Discontinuance on or about September 17, 2009, and which has been returned by the Attorney General to the CRF for the benefit of its members.

d. Within 30 days of the signing this assurance, Wetherly shall make a payment of SIXTY NINE THOUSAND EIGHT HUNDRED SIX DOLLARS AND EIGHTEEN CENTS ($69,806.18), which payment shall be designated as costs incurred by the Attorney General in its investigation. This payment shall be made by certified or bank check directly to Stroz Friedberg LLC, 32 Avenue of the Americas, Fourth Floor, New York, New York, 10013, Attn: Ed Stroz.

42. Except as otherwise provided in paragraph 41, each payment shall be in the form of a certified or bank check made out to "State of New York" and mailed or otherwise delivered to: Office of the Attorney General of the State of New York, 120 Broadway, 25th Floor, New York, New York 10271, Attn: Linda Lacewell, Special Counsel.

43. Wetherly agrees that it shall not, collectively or individually, seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to,

payment made pursuant to any insurance policy, with regard to any or all of the amounts payable pursuant to paragraph 42 above.

III. GENERAL PROVISIONS

44. Wetherly admits the jurisdiction of the Attorney General. Wetherly is committed to complying with relevant laws to include the Martin Act, General Business Law § 349, and Executive Law § 63(12).

45. The Attorney General retains the right under Executive Law § 63(15) to compel compliance with this Assurance. Evidence of a violation of this Assurance proven in a court of competent jurisdiction shall constitute prima facie proof of a violation of the Martin Act, General Business Law § 349, and/or Executive Law § 63(12) in any civil action or proceeding hereafter commenced by the Attorney General against Wetherly.

46. Should the Attorney General prove in a court of competent jurisdiction that a material breach of this Assurance by Wetherly has occurred, Wetherly shall pay to the Attorney General the cost, if any, of such determination and of enforcing this Assurance, including without limitation legal fees, expenses and court costs.

47. If Wetherly defaults on any obligation under this Assurance, the Attorney General may terminate this Assurance, at his sole discretion, upon 10 days written notice to Wetherly. Wetherly agrees that any statute of limitations or other time-related defenses applicable to the subject of the Assurance and any claims arising from or relating thereto are tolled from and after the date of this Assurance. In the event of such termination, Wetherly expressly agrees and acknowledges that this Assurance shall in no way bar or otherwise preclude the Attorney General from commencing, conducting or prosecuting any investigation, action or proceeding, however denominated, related

to the Assurance, against Wetherly, or from using in any way any statements, documents or other materials produced or provided by Wetherly prior to or after the date of this Assurance, including, without limitation, such statements, documents or other materials, if any, provided for purposes of settlement negotiations, except as otherwise provided in a written agreement with the Attorney General.

48. Except in an action by the Attorney General to enforce the obligations of Wetherly in this Assurance or in the event of termination of this Assurance by the Attorney General, neither this Assurance nor any acts performed or documents executed in furtherance of this Assurance: (a) may be deemed or used as an admission of, or evidence of, the validity of any alleged wrongdoing, liability or lack of wrongdoing or liability; or (b) may be deemed or used as an admission of or evidence of any such alleged fault or omission of Wetherly in any civil, criminal or administrative proceeding in any court, administrative or other tribunal. This Assurance shall not confer any rights upon persons or entities who are not a party to this Assurance.

49. Wetherly has fully and promptly cooperated in the Investigation, shall continue to do so, and shall use its best efforts to ensure that all the current and former officers, directors, trustees, agents, members, partners and employees of Wetherly (and any of Wetherly's parent companies, subsidiaries or affiliates) cooperate fully and promptly with the Attorney General in any pending or subsequently initiated investigation, litigation or other proceeding relating to the subject matter of the Assurance. Such cooperation shall include, without limitation, and on a best efforts basis:

a. Production, voluntarily and without service of a subpoena, upon the request of the Attorney General, of all documents or other tangible

evidence requested by the Attorney General, and any compilations or summaries of information or data that the Attorney General requests that Wetherly (or Wetherly's parent companies, subsidiaries or affiliates) prepare, except to the extent such production would require the disclosure of information protected by the attorney-client and/or work product privileges;

b. Without the necessity of a subpoena, having the current (and making all reasonable efforts to cause the former) officers, directors, trustees, agents, members, partners and employees of Wetherly (and of Wetherly's parent companies, subsidiaries or affiliates) attend any Proceedings (as hereinafter defined) in New York State or elsewhere at which the presence of any such persons is requested by the Attorney General and having such current (and making all reasonable efforts to cause the former) officers, directors, trustees, agents, members, partners and employees answer any and all inquiries that may be put by the Attorney General to any of the them at any proceedings or otherwise; "Proceedings" include, but are not limited to, any meetings, interviews, depositions, hearings, trials, grand jury proceedings or other proceedings;

c. Fully, fairly and truthfully disclosing all information and producing all records and other evidence in its possession, custody or control (or the possession, custody or control of Wetherly's parent companies, subsidiaries or affiliates) relevant to all inquiries made by the Attorney General concerning the subject matter of the Assurance, except to the extent such inquiries call for the disclosure of information protected by the attorney-client and/or work product privileges; and

d. Making outside counsel reasonably available to provide comprehensive presentations concerning any internal investigation relating to all matters in the Assurance and to answer questions, except to the extent such presentations call for the disclosure of information protected by the attorney-client and/or work product privileges.

50. In the event Wetherly fails to comply with paragraph 49 of the Assurance, the Attorney General shall be entitled to specific performance, in addition to other available remedies.

51. The Attorney General has agreed to the terms of this Assurance based on, among other things, the representations made to the Attorney General and his staff by Wetherly, its counsel, and the Attorney General's Investigation. To the extent that

representations made by Wetherly or its counsel are later found to be materially incomplete or inaccurate, this Assurance is voidable by the Attorney General in his sole discretion.

52. Wetherly shall, upon request by the Attorney General, provide all documentation and information reasonably necessary for the Attorney General to verify compliance with this Assurance.

53. All notices, reports, requests, and other communications to any party pursuant to this Assurance shall be in writing and shall be directed as follows:

If to Wetherly:

Andrew E. Tomback
Milbank, Tweed, Hadley & McCloy LLP
One Chase Manhattan Plaza
New York, NY 10005

If to the Attorney General:

Office of the Attorney General of the State of New York
120 Broadway, 25th Floor
New York, New York 10271
Attn: Linda Lacewell

54. This Assurance and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.

55. Wetherly consents to the jurisdiction of the Attorney General in any proceeding or action to enforce this Assurance.

56. Wetherly agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in this Assurance or creating the impression that this Assurance is without factual basis. Nothing in this paragraph affects Wetherly's: (a) testimonial obligations; or (b) right to take legal or factual

positions in defense of litigation or other legal proceedings to which the Attorney General is not a party.

57. This Assurance may not be amended except by an instrument in writing signed on behalf of the parties to this Assurance.

58. This Assurance constitutes the entire agreement between the Attorney General and Wetherly and supersedes any prior communication, understanding or agreement, whether written or oral, concerning the subject matter of this Assurance. No representation, inducement, promise, understanding, condition or warranty not set forth in this Assurance has been relied upon by any party to this Assurance.

59. In the event that one or more provisions contained in this Assurance shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

60. This Assurance may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by each of the parties hereto.

61. Upon execution by the parties to this Assurance, the Attorney General agrees to suspend, pursuant to Executive Law § 63(15), this Investigation as and against Wetherly, its employees, and its beneficial owners solely with respect to its marketing of investments to public pension funds in New York State.

62. Any payments and all correspondence related to this Assurance must reference AOD # 09-172

WHEREFORE, the following signatures are affixed hereto on the dates set forth below.

ANDREW M. CUOMO
Attorney General of the State of New York

By: _____
Andrew M. Cuomo

120 Broadway
25th Floor
New York, New York 10271
(212) 416-6199

Dated: February 8, 2010

WETHERLY CAPITAL GROUP, LLC
DAV WETHERLY FINANCIAL, L.P.

By: _____
Daniel Weinstein

By: Vicky Schiff
Vicky Schiff

Dated: February 2, 2010

Stelzner, Winter, Warburton
Flores, Sanchez & Dawes, P.A.

Jaime L. Dawes
Juan L. Flores
Sara N. Sanchez
Luis G. Stelzner
Robert P. Warburton
Nann M. Winter

November 7, 2011

VIA FACSIMILE and FEDEX

Gregg Vance Fallick
100 Gold Avenue, SW, Suite #205
Albuquerque, NM 87102

Re: *Malott v. Correra, et al.*

Dear Mr. Fallick:

I am writing on behalf of my clients, Dan Weinstein and Vicky Schiff, concerning the lawsuit you recently filed in First Judicial District Court for your client, Bruce Malott. I have reviewed Mr. Malott's complaint and have shared it with my clients. I called your office concerning this matter last week but have not received a call back.

The purpose of this letter is to put you and Mr. Malott on notice that my clients will vigorously pursue claims against both Mr. Malott and you personally for malicious abuse of process if they are not immediately dismissed with prejudice from Mr. Malott's lawsuit. We also intend to seek sanctions against you and Mr. Malott pursuant to Rule 1-011 NMRA, as you could not have had a good faith belief that there were good grounds for the allegations in the complaint concerning my clients. While I would normally hesitate to bring such claims against another attorney, the allegations about my clients contained in your complaint are so blatantly false that I have concluded such an action against Mr. Malott and you would be both appropriate and successful.

Of the 266 paragraphs that constitute Mr. Malott's complaint, only six (6) of them mention my clients. Four of them, paragraphs 54-57, simply identify Mr. Weinstein, Ms. Schiff and the two Wetherly entities. The only allegation of purported wrongdoing by my clients in the entire complaint is a single sentence in which you assert – with no factual basis or support whatsoever – that the Wetherly entities, Mr. Weinstein and Ms. Schiff exist as "fronts" for a scheme to funnel payoffs to Marc Correra. Complaint at ¶ 184. This allegation demonstrates a total disregard for the truth.

302 8th Street
Albuquerque New Mexico 87102
P.O. Box 528
Albuquerque, New Mexico 87103
505-938-7770
505-938-7781 FAX
www.stelznerlaw.com

If you had conducted even a minimal amount of research prior to drafting and filing the complaint, you would have learned that DAV/Wetherly was one of the most successful independent placement firms in the country, with offices in Los Angeles, New York and Chicago. DAV/Wetherly worked with more than 500 institutional investors, did business in over 20 states and had an international practice encompassing nearly 1,000 institutional investors across the globe. As a result of DAV/Wetherly's strong success, excellent reputation, and experienced team of financial services professionals, a substantial number of top-rated funds sought to be represented by DAV/Wetherly each year. You also would have learned that, in the few transactions in which DAV/Wetherly used Marc Correra as a licensed sub-agent in New Mexico, DAV/Wetherly paid Mr. Correra's fees properly through his licensed broker/dealer, Ajax, and complied with full disclosure requirements under FINRA.

Not only is Mr. Malott's complaint devoid of any factual basis for including my clients as defendants, but the legal theories posited as to my clients are preposterous. You assert that my clients – who have never met, spoken to, or done business with Mr. Malott – somehow owed a fiduciary duty to him personally, and that Mr. Malott's close friendship with Anthony Correra – and his decision to accept $350,000 from Mr. Correra, which was subsequently revealed by the media and caused Mr. Malott great embarrassment – was a "direct and proximate result" of my clients' purported conduct. These theories are so far-fetched as to be not only dismissible, but sanctionable.

We hope that you and Mr. Malott will take this opportunity to correct your error and immediately dismiss my clients from your lawsuit, with prejudice. If not, please be aware that we will pursue any and all available remedies against you and Mr. Malott for including these irresponsible allegations in your complaint.

Sincerely,

STELZNER, WINTER, WARBURTON,
FLORES, SANCHEZ & DAWES, P.A.

BY: _____
SARA N. SANCHEZ

cc: Robert D. Weber, DLA Piper US LLP
Perry Weiner, DLA Piper US LLP
Nicolos Morgan, DLA Piper US LLP
Tawfiq Rangwala, Millbank, Tweed, Hadley & McCloy LLP

State of New Mexico
Educational Retirement Board
Response to NMERB Monitoring Inquiry - Levine Leichtman Capital Partners ("LLCP")

LLCP's responses below are based on our review of the files and to the best of our recollection, are as follows:

1) Yes, LLCP has retained and paid a placement agent in connection with the investment/allocation made by NMERB with respect to Levine Leichtman Capital Partners Deep Value Fund L.P. and Levine Leichtman Capital Partners IV, L.P.

2) DAV/Wetherly Financial, L.P. ("Wetherly") was hired as a placement agent. Principals – Dan Weinstein, Vickey Schiff
   a. Wetherly provides services that include:

      i) advice to the respective fund with respect to the form and structure of the fund;
      ii) assistance to the respective fund in the preparation of the offering materials;
      iii) identification of prospective investors;
      iv) consultation with the respective fund as to strategy and tactics for initiating discussions and negotiations with investors as well as to general market conditions;
      v) arranging presentation materials between investors who have received offering materials and representatives of the respective fund;
      vi) forwarding to the respective fund any requests for additional information by investors; and
      vii) such other services in connection with a respective fund as may be manually agreed upon in writing from time to time with Wetherly and the respective fund.

   b. Wetherly was hired by the respective funds for the respective funds to benefit from their skill, knowledge and advice with respect to the fund raising marketplace.
   c.. Levine Leichtman Capital Partners Deep Value Fund, L.P.:
   Date of Hire: July 28, 2005
   Engagement: July 28, 2005
   Retention: July 28, 2005 – December 31, 2006
   Termination: December 31, 2006
   Five equal payments were made to Wetherly in the aggregate amount of $400,000.

Levine Leichtman Capital Partners IV, L.P.:
Date of Hire: September 1, 2007
Engagement: September 1, 2007
Retention: September 1, 2007 - ongoing
Termination: Services are ongoing.
The placement-agent contract sets forth a payment schedule whereby a monthly retainer is offset against a 2.0% placement fee on the NMERB capital commitment. The contract states that the placement fee is payable over five semi-annual periods. As of March 31, 2009, one payment of $200,000 has been made to Wetherly.

d. The contract requires Wetherly to comply with all applicable laws and regulations. It also requires Wetherly to obtain LLCP's written consent prior to hiring any sub-agents. Wetherly has never made a request of LLCP to hire any sub-agent. LLCP was recently informed that Wetherly used Ajax Investments, LLC, a licensed broker/dealer in Illinois, as a sub placement agent in connection with NMERB's investment with LLCP.

3) Vicky Schiff
11601 Wilshire Boulevard
Suite 300
Los Angeles, California 90025
(310) 339-5690
vschiff@wetherlycapital.com

4) The agreement between Wetherly and LLCP sets forth a payment schedule whereby a monthly retainer is offset against a 2.0% placement fee on the NMERB capital commitment. The contract states that the placement fee is payable over five semi-annual periods.

a. LLCP was recently informed that Wetherly used Ajax Investments, LLC, a licensed broker/dealer in Illinois, as a sub placement agent in connection with NMERB's investment with LLCP. LLCP also recently learned that the placement fee paid to Wetherly was split 50/50 with Ajax Investments, LLC. LLCP was unaware of the Wetherly/Ajax agreement as the placement agent contract between Wetherly and LLCP requires Wetherly to obtain LLCP's written consent prior to hiring any sub-agents and Wetherly never made a request of LLCP to hire any sub-agent.

b. Not applicable
c. Not applicable

5) The agreement between Wetherly and LLCP was not exclusive and did not provide that the agent be remunerated for all investment commitments made in the fund. The agreement did provide that Wetherly would be remunerated for all investment commitments made by NMERB.

6) Wetherly received remuneration for investment commitments made that were not in connection with NMERB. The names of these relationships are confidential but the related remuneration is a standard 2.0% of the underlying capital commitment.

7) See the attached agreements between Wetherly and LLCP.
LLCP does not have a copy of the agreement between Weatherly and Ajax Investments, LLC.

LLCP respectfully requests confidential treatment of these responses and the information contained therein. The responses contain sensitive financial and commercial information, proprietary in nature, which is not available to the public from any other source. Disclosure of this information to the public, including competitors of LLCP, would provide the recipient with information regarding business and financial plans, potential profitability, proposed operations and/or competitive strategies of LLCP. From this information, competitors could make inferences about the operations and competitive strategies of LLCP that could result in altering their own competitive strategies and relationships, a result that could be harmful to the competitive position of LLCP.

LLCP does not believe that the responses contained herein are subject to disclosure under New Mexico's Inspection of Public Records Act, N.M. Stat. Ann. § 14-2-1, *et seq.*, and therefore LLCP believes that they may not be disclosed to third persons without LLCP's prior written consent. In the event that any of the responses are deemed to be subject to a required disclosure, LLCP requests confidential treatment for such materials as well as an opportunity to contest disclosure prior to any of the responses or materials being disclosed to third persons.

BrokerCheck Report

DAVIWETHERLY FINANCIAL, L.P.

CRD# 119951

Report #52290-38881, data current as of Friday, September 23, 2011.

Dear Investor:

FINRA has generated the following BrokerCheck report for **DAV/WETHERLY FINANCIAL, L.P.**. The information contained within this report has been provided by a FINRA member firm(s) and securities regulators as part of the securities industry's registration and licensing process and represents the most current information reported to the Central Registration Depository (CRD®) system.

FINRA regulates the securities markets for the ultimate benefit and protection of the investor. FINRA believes the general public should have access to information that will help them determine whether to conduct, or continue to conduct, business with a FINRA member firm or any of the member's associated persons. To that end, FINRA has adopted a public disclosure policy to make certain types of information available to you. Examples of information FINRA provides on currently registered individuals and individuals who were registered during the past ten years include: actions by regulators, investment-related civil suits, customer disputes that contain allegations of sales practice violations against brokers, all felony charges and convictions, misdemeanor charges and convictions relating to securities violations, and financial events such as bankruptcies, compromises with creditors, judgments, and liens. FINRA also provides on a permanent basis certain information on former registered individuals, if any of the following applies, as reported to CRD on a uniform registration form: (1) the person was the subject of a final regulatory event; (2) the person was convicted of or pled guilty or nolo contendere to a crime; (3) the person was the subject of a civil injunction or civil court finding involving a violation of any investment-related statute(s) or regulation(s); or (4) the person was named as a respondent or defendant in an arbitration or civil litigation that resulted in an award, decision or judgment for a customer.

When evaluating this report, please keep in mind that it may include items that involve pending actions or allegations that may be contested and have not been resolved or proven. Such items may, in the end, be withdrawn or dismissed, or resolved in favor of the firm or broker, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

The information in this report is not the only resource you should consult. FINRA recommends that you learn as much as possible about the individual broker or brokerage firm from other sources, such as professional references, local consumer and investment groups, or friends and family members who already have established investment business relationships.

FINRA BrokerCheck is governed by federal law, Securities and Exchange Commission (SEC) regulations and FINRA rules approved by the SEC. State disclosure programs are governed by state law, and may provide additional information on brokers and firms licensed by the state. Therefore, you should also consider requesting information from your state securities regulator. Refer to www.nasaa.org for a complete list of state securities regulators.

Thank you for using FINRA BrokerCheck.

FINRA

Using this site/information means that you accept the FINRA BrokerCheck Terms and Conditions. A complete list of Terms and Conditions can be found at

brokercheck.finra.org

For additional information about the contents of this report, please refer to the User Guidance or www.finra.org/brokercheck. It provides a glossary of terms and a list of frequently asked questions, as well as additional resources. For more information about FINRA, visit www.finra.org.

DAV/WETHERLY FINANCIAL, L.P.

CRD# 119951

SEC# 8-65235

Main Office Location

11601 WILSHIRE BLVD., SUITE 300
LOS ANGELES, CA 90025

Mailing Address

11601 WILSHIRE BLVD., SUITE 300
LOS ANGELES, CA 90025

Business Telephone Number

310-773-0074

Report Summary for this Firm

The report summary provides an overview of the firm's background. The firm and securities regulators have provided the information contained in this report as part of the securities industry registration and licensing process. More detailed information for this firm can be found in the firm's report. Select "Get Detailed Report" to view more detailed information about this firm. The information contained in this report was last updated by the firm via Uniform Application for Broker-Dealer Registration (Form BD), the Uniform Request for Broker-Dealer Withdrawal (Form BDW), or a securities regulator via a Uniform Disciplinary Action Reporting Form (Form U6) on 10/20/2010.

Firm Profile

This firm is classified as a partnership.

This firm was formed in California on 07/03/2001.

Its fiscal year ends in December.

Firm History

Information relating to the firm's history such as Other Business Names, Other Business, and Successions (e.g., mergers or acquisitions) can be found in the firm's full report.

Firm Operations

This firm is no longer registered with FINRA.

Disclosure of Arbitration Awards, Disciplinary, Financial, and Regulatory Events

This section includes details regarding disclosure events reported by or about this firm to CRD as part of the securities industry registration and licensing process. Examples of such disclosure events include certain disciplinary actions initiated by regulators, certain criminal charges and/or convictions, financial disclosures such as bankruptcies, and summary information regarding arbitration awards involving securities and commodities disputes between public customers and the firm.

Are there events disclosed about this firm? **Yes**

The following types of disclosures were reported:

Regulatory Event

Exhibit Q -- page 3

Registration Withdrawal Information

This section provides information relating to the date the firm ceased doing business and information relating to the firm's financial obligations upon notifying CRD of the firm's intent to voluntarily withdraw its FINRA registration, as reported by the firm in CRD.

This firm terminated or withdrew registration on:	10/20/2010
Does this brokerage firm owe any money or securities to any customer or brokerage firm?	No

Exhibit Q -- page 4

Firm Profile

This firm is classified as a partnership.

This firm was formed in California on 07/03/2001.

Its fiscal year ends in December.

Firm Names and Locations

This section includes details that were reported to CRD, regarding the firm's full legal name, business and mailing addresses, the firm's "Doing Business As" name (DBA) (if different from the full legal name), and any other name by which the firm conducts business and where such name is used.

DAV/WETHERLY FINANCIAL, L.P.

Doing business as DAV/WETHERLY FINANCIAL, L.P.

CRD# 119951

SEC# 8-65235

Main Office Location

11601 WILSHIRE BLVD., SUITE 300
LOS ANGELES, CA 90025

Mailing Address

11601 WILSHIRE BLVD., SUITE 300
LOS ANGELES, CA 90025

Business Telephone Number

310-773-0074

Exhibit Q -- page 5

Firm Profile

This section provides information relating to all Direct Owners and Executive Officers as reported by the firm in CRD.

Direct Owners and Executive Officers

Legal Name & CRD# (if any):	WETHERLY CAPITAL GROUP, LLC
Is this a domestic or foreign entity or an individual?	Domestic Entity
Position	LIMITED PARTNER
Position Start Date	07/2001
Percentage of Ownership	75% or more
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	RUSSO, GEORGE MICHAEL 2603116
Is this a domestic or foreign entity or an individual?	Individual
Position	FINOP/CFO
Position Start Date	12/2002
Percentage of Ownership	Less than 5%
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	SCHIFF, VICKY LEE 4515461
Is this a domestic or foreign entity or an individual?	Individual
Position	MANAGING DIRECTOR,CFO,CCO,CEO, EXECUTIVE REPRESENTATIVE
Position Start Date	07/2001

Firm Profile

Direct Owners and Executive Officers (continued)

Percentage of Ownership	Less than 5%
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	WETHERLY MANAGEMENT, LLC
Is this a domestic or foreign entity or an individual?	Domestic Entity
Position	GENERAL PARTNER
Position Start Date	07/2001
Percentage of Ownership	Less than 5%
Does this owner direct the management or policies of the firm?	No
Is this a public reporting company?	No

Exhibit Q -- page 7

Firm Profile

This section provides information relating to Indirect Owners, if any, as reported by the firm in CRD.

Indirect Owners

Legal Name & CRD# (if any):	DAV CAPITAL, LLC
Is this a domestic or foreign entity or an individual?	Domestic Entity
Company through which indirect ownership is established	WETHERLY CAPITAL GROUP, LLC
Relationship to Direct Owner	SHAREHOLDER
Relationship Established	05/2001
Percentage of Ownership	75% or more
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	SCHIFF, VICKY LEE
Is this a domestic or foreign entity or an individual?	Individual
Company through which indirect ownership is established	REARDON CAPITAL, LLC
Relationship to Direct Owner	SHAREHOLDER
Relationship Established	05/2001
Percentage of Ownership	75% or more
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	WETHERLY CAPITAL GROUP LLC
Is this a domestic or foreign entity or an individual?	Domestic Entity

Firm Profile

Indirect Owners (continued)

Company through which indirect ownership is established	WETHERLY MANAGEMENT LLC
Relationship to Direct Owner	PARTNER
Relationship Established	07/2001
Percentage of Ownership	75% or more
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	WEINSTEIN, DANIEL 4474998
Is this a domestic or foreign entity or an individual?	Individual
Company through which indirect ownership is established	DAV CAPITAL, LLC
Relationship to Direct Owner	SHAREHOLDER
Relationship Established	05/2001
Percentage of Ownership	50% but less than 75%
Does this owner direct the management or policies of the firm?	Yes
Is this a public reporting company?	No

Legal Name & CRD# (if any):	REARDON CAPITAL, LLC
Is this a domestic or foreign entity or an individual?	Domestic Entity
Company through which indirect ownership is established	DAV CAPITAL, LLC
Relationship to Direct Owner	OWNER

Exhibit Q -- page 9

Firm Profile

Indirect Owners (continued)

Relationship Established	10/2001
Percentage of Ownership	25% but less than 50%
Does this owner direct the management or policies of the firm?	No
Is this a public reporting company?	No

Firm History

This section provides information relating to successions (e.g., mergers or acquisitions), if any, as reported by the firm in CRD.

No information reported.

Firm Operations

Registrations

This section provides information about the regulators (e.g., U.S. Securities and Exchange Commission (SEC), self-regulatory organizations, states and U.S. territories) in which the firm is currently registered and licensed, and the date the registration became effective, as well as certain information about the firm's SEC registration.

This firm is no longer registered with FINRA.

The firm's registration with FINRA was from 09/12/2002 to 12/20/2010.

SEC Registration Questions

This firm is registered with the SEC as:

A broker-dealer: Yes

A broker-dealer and government securities broker or dealer: No

A government securities broker or dealer only: No

This firm has ceased activity as a government securities broker or dealer: No

Exhibit Q -- page 12

Firm Operations

Types of Business

This section provides the types of business and any other business or other non-securities business the firm is engaged in or is expected to be engaged in as reported by the firm in CRD.

This firm currently conducts 1 type of business.

Types of Business

Private placements of securities

Firm Operations

Clearing Arrangements

This firm does not hold or maintain funds or securities or provide clearing services for other broker-dealer(s).

Introducing Arrangements

This firm does not refer or introduce customers to other brokers and dealers.

Firm Operations

Industry Arrangements

This firm does not have books or records maintained by a third party.

This firm does not have accounts, funds, or securities maintained by a third party.

This firm does not have customer accounts, funds, or securities maintained by a third party.

Control Persons/Financing

This firm does not have individuals who control its management or policies through agreement.

This firm does not have individuals who wholly or partly finance the firm's business.

Exhibit Q -- page 15

Firm Operations

Organization Affiliates

This section provides any information on control relationships the firm has with other firms in the securities, investment advisory, or banking business as reported by the firm in CRD.

This firm is not, directly or indirectly:

- **in control of**
- **controlled by**
- **or under common control with**

the following partnerships, corporations, or other organizations engaged in the securities or investment advisory business.

This firm is not directly or indirectly, controlled by the following:

- **bank holding company**
- **national bank**
- **state member bank of the Federal Reserve System**
- **state non-member bank**
- **savings bank or association**
- **credit union**
- **or foreign bank**

Exhibit Q -- page 16

Disclosure of Arbitration Awards, Disciplinary, Financial, and Regulatory Events

Firms are required to answer a series of disclosure questions on Form BD and provide corresponding details to certain events as part of the securities industry registration and licensing process. The disclosure questions concern certain criminal events, civil actions, financial disclosures (e.g., bankruptcy or liquidation proceedings filed within the past ten years), bond actions and unpaid judgments and liens. The firm must answer either "yes" or "no" to each question as it applies to the firm itself or to any of its control affiliates (i.e., an individual, partnership, corporation, trust, or other organization that directly or indirectly controls, is under common control with, or is controlled by the firm). This section lists the various disclosure questions and their corresponding answers as reported by the firm on Form BD.

Possible multiple reporting sources -- please note:

Disclosure event details may be reported by more than one source (i.e., regulator or firm). When this occurs, all versions of the reported event will appear in the firm's BrokerCheck report. The different versions of the same reported disclosure event are separated by a solid line with the reporting source clearly labeled.

	Pending	Final	On Appeal
Regulatory Event	0	1	0

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Disclosure Event Details

This section provides the specific details for each disclosure event that was reported in CRD which was reported as part of the securities industry registration and licensing process. It also includes summary information regarding arbitration awards in cases where the firm was named as a respondent in the consumer-initiated arbitration proceeding, if any.

Nothing will be displayed in this section of the firm's BrokerCheck Report when the firm has no reported disclosure information.

If the firm does have reported disclosure events, please keep the following in mind when evaluating the disclosure event details. Items may involve pending actions or allegations that may be contested and have not been resolved or proven. In the end, the items may be withdrawn, dismissed, or otherwise resolved in favor of the firm, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

This report provides the information exactly as it was reported to CRD by the firm and/or by regulators. Some of the specific data fields contained in this section of the report may be blank if the information was not provided to CRD.

Disclosure events may be reported by more than one source (i.e., regulator and firm). When this occurs, all versions of the event will appear on the firm's BrokerCheck report. A solid line separates the different versions of the same disclosure event with the reporting source labeled (e.g., Source: Firm or Source: Regulator).

Regulatory - Final

This section provides information regarding any final, regulatory action as reported by the firm and/or a securities regulator to CRD as part of the securities industry registration and licensing process. Such event may include a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, a self-regulatory organization, a federal regulator such as the U.S. Securities and Exchange Commission (SEC) or the Commodity Futures Trading Commission (CFTC), or a foreign financial regulatory body) for a violation of investment-related rules or regulations. In addition, a revocation or suspension of the authority of a firm's control affiliate to act as an attorney, accountant or federal contractor, if any, will appear here.

Disclosure 1 of 1

Reporting Source:	Regulator
Current Status:	Final
Allegations:	FAILED TO FILE ANNUAL AUDITED REPORT FOR 2003.
Initiated By:	NASD
Date Initiated:	05/12/2004
Docket/Case Number:	02-119951
Principal Product Type:	No Product
Other Product Type(s):	

Principal Sanction(s)/Relief Sought:	Suspension
Other Sanction(s)/Relief Sought:	
Resolution:	Other
Resolution Date:	06/18/2004
Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct?	No
Sanctions Ordered:	
Other Sanctions Ordered:	
Sanction Details:	SUSPENSION LIFTED UPON COMPLIANCE AS OF JUNE 18, 2004.
Summary:	NASD REGISTRATION SUSPENDED MAY 12, 2004 PURSUANT TO NASD RULE 8221 FOR FAILURE TO FILE ANNUAL AUDITED REPORT.

Reporting Source:	Firm
Current Status:	Final
Allegations:	LATE FILING OF AUDIT FINANCIAL STATMENTS
Initiated By:	NASD
Date Initiated:	05/12/2004
Docket/Case Number:	02-119951
Principal Product Type:	Direct Investment(s) - DPP & LP Interest(s)
Other Product Type(s):	
Principal Sanction(s)/Relief Sought:	Suspension
Other Sanction(s)/Relief Sought:	FINE
Resolution:	Withdrawn
Resolution Date:	06/18/2004
Sanctions Ordered:	Monetary/Fine $2,000.00

Other Sanctions Ordered:

Sanction Details: THE FINE WAS PAID 11/10/2004

Summary: THE AUDITOR COULD NOT COMPLETE THE 2003 AUDIT IN A TIMELY MANNER (FIRST FULL YEAR OF ACTIVITY). THE AUDIT WAS COMPLETED BEYOND THE GRANTED EXTENSION DATE AND FORAWADRED AT THAT TIME. NOTE THE 2004 AUDIT WAS FILED IN TIMLEY MANNER.

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About this BrokerCheck Report

BrokerCheck reports are part of a FINRA initiative to disclose information about FINRA-registered firms and individual brokers to help investors determine whether to conduct, or continue to conduct, business with these firms and brokers. The information contained within these reports is collected through the securities industry's registration and licensing process.

Who provides the information in BrokerCheck?
Information made available through BrokerCheck is obtained from CRD as reported through the industry registration and licensing process.

The forms used by brokerage firms, to report information as part of the firms registration and licensing process, Forms BD and BDW, are established by the SEC and adopted by all state securities regulators and SROs. FINRA and the North American Securities Administrators Association (NASAA) establish the Forms U4 and U5, the forms that are used for the registration and licensing process for individual brokers. These forms are approved by the SEC. Regulators report disciplinary information for firms and individual brokers via Form U6.

How current is the information contained in BrokerCheck?
Brokerage firms and brokers are required to keep this information accurate and up-to-date (typically not later than 30 days after learning of an event). BrokerCheck data is updated when a firm, broker, or regulator submits new or revised information to CRD. Generally, updated information is available on BrokerCheck Monday through Friday.

What information is NOT disclosed through BrokerCheck?
Information that has not been reported to CRD and certain information that is no longer required to be reported through the registration and licensing process is not disclosed through BrokerCheck. Examples of events that are not required to be reported or are no longer reportable include: judgments and liens originally reported as outstanding that have been satisfied and bankruptcy proceedings filed more than 10 years ago.

Additional information not disclosed through BrokerCheck includes Social Security Numbers, residential history information, and physical description information. On a case-by-case basis, FINRA reserves the right to exclude information that contains confidential customer information, offensive and potentially defamatory language or information that raises significant identity theft or privacy concerns that are not outweighed by investor protection concerns. FINRA Rule 8312 describes in detail what information is and is not disclosed through BrokerCheck.

Under FINRA's current public disclosure policy, in certain limited circumstances, most often pursuant to a court order, information is expunged from CRD. Further information about expungement from CRD is available in FINRA notices 99-09, 99-54, 01-65, and 04-16 at www.finra.org.

For further information regarding FINRA's BrokerCheck program, please visit FINRA's Web site at www.finra.org/brokercheck or call the FINRA BrokerCheck Hotline at (800) 289-9999. This hotline is open Monday through Friday from 8:00 a.m. to 8:00 p.m., Eastern Time (ET).

For more information about the following, select the associated link:

- About BrokerCheck Reports: http://www.finra.org/brokercheck_reports
- Glossary: http://www.finra.org/brokercheck_glossary
- Questions Frequently Asked about BrokerCheck Reports: http://www.finra.org/brokercheck_faq
- Terms and Conditions: http://brokercheck.finra.org/terms.aspx

