

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

JOHN J. CARNEY, IN HIS CAPACITY AS COURT-APPOINTED RECEIVER, FOR HIGHVIEW POINT PARTNERS, LLC, MICHAEL KENWOOD GROUP, LLC, MK MASTER INVESTMENTS LP, MK INVESTMENTS, LTD., MK OIL VENTURES LLC., MICHAEL KENWOOD CAPITAL MANAGEMENT, LLC; MICHAEL KENWOOD ASSET MANAGEMENT, LLC; MK ENERGY AND INFRASTRUCTURE, LLC; MKEI SOLAR, LP; MK AUTOMOTIVE, LLC; MK TECHNOLOGY, LLC; MICHAEL KENWOOD CONSULTING, LLC; MK INTERNATIONAL ADVISORY SERVICES, LLC; MKG-ATLANTIC INVESTMENT, LLC; MICHAEL KENWOOD NUCLEAR ENERGY, LLC; MYTCART, LLC; TUOL, LLC; MK CAPITAL MERGER SUB, LLC; MK SPECIAL OPPORTUNITY FUND; MK VENEZUELA, LTD.; SHORT TERM LIQUIDITY FUND, I, LTD.

Plaintiff,

v.

FRANCISCO LOPEZ, CAROLINA LOPEZ PELÁEZ, CARLOS MANUEL BARRANTES ARAYA, CHRISTOPHER LUTH, and VICTOR CHONG,

Defendants.

Civil Action No.

**JURY TRIAL DEMANDED**

**COMPLAINT**

John J. Carney, Esq. (the “Receiver”), as Receiver to Highview Point Partners, LLC (“HVP Partners”), the Michael Kenwood Group, LLC (the “MK Group”) and certain affiliated

entities (the “Receivership Entities”)<sup>1</sup> and the assets thereof (the “Receivership Estate”) in *Securities and Exchange Commission v. Illarramendi, Michael Kenwood Capital Management, LLC et al. C.A.*, No. 3:11-cv-00078 (JBA), (the “SEC Action”) by and through his undersigned counsel, for his Complaint against Victor Chong (“Chong”), Francisco “Frank” Lopez (“Lopez”), Carolina Lopez Peláez (“Peláez”), Carlos Manuel Barrantes Araya (“Araya”) and Christopher Luth (“Luth”) (collectively the “Defendants”), alleges the following:

### **SUMMARY OF CLAIMS**

1. In the shadow of the massive Ponzi scheme (the “Fraudulent Scheme” or “Fraud”) orchestrated by Francisco Illarramendi (“Illarramendi”) over a five year period resided a network of individuals who were integral in helping to sustain and conceal the fraud. Lopez, Luth and Chong (the “HVP Defendants”) – financially sophisticated individuals charged with a fiduciary duty to safeguard investor funds entrusted to HVP Partners – are among this group.

2. This action represents an additional step in the Receiver’s continuing efforts to recapture and return investor proceeds misappropriated as part of the Fraudulent Scheme. By this action, the Receiver seeks to recover assets entrusted to investment manager HVP Partners that were improperly diverted to the Defendants by Illarramendi and others to sustain and conceal the Fraud. These payments, totaling approximately \$29.7 million, were transferred to the Defendants from Receivership Entities under a variety of guises, including “bonus” payments and investments in entities controlled by the Defendants.

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<sup>1</sup> The Receivership Entities include: Highview Point Partners, MK Master Investments LP, MK Investments, Ltd., MK Oil Ventures LLC, The MK Group, Michael Kenwood Capital Management, LLC; Michael Kenwood Asset Management, LLC (“MKAM”); MK Energy and Infrastructure, LLC (“MKE&I”); MKEI Solar, LP (“MKEI Solar”); MK Automotive, LLC; MK Technology, LLC; Michael Kenwood Consulting, LLC (“MK Consulting”); MK International Advisory Services, LLC; MKG-Atlantic Investment, LLC; Michael Kenwood Nuclear Energy, LLC; MyTcart, LLC; TUOL, LLC; MK Capital Merger Sub, LLC; MK Special Opportunity Fund (“SOF”); MK Venezuela, Ltd. (“MK Venezuela”); Short Term Liquidity Fund, I, Ltd. (“STLF”)

3. Each of the HVP Defendants profited from the Fraudulent Scheme by ignoring and at times concealing conduct wholly inconsistent with legitimate or credible securities business activities. In the case of Lopez, even more egregiously, Illarramendi specifically informed him of the fraudulent concealment of millions of dollars of losses. Lopez instructed Illarramendi to continue the fraudulent scheme to conceal the losses. While doing so, the HVP Defendants looted funds to enrich themselves. These funds, and other damages, are recoverable because, but for the HVP Defendants' actions, the fraud would have quickly ceased. The Receiver is also seeking to recover funds transferred to Lopez's sister Peláez and her husband Araya, both of whom benefitted handsomely from the Fraudulent Scheme through the receipt of transfers for which little or no consideration was provided.

4. The Receiver additionally seeks the return of salaries paid to the HVP Defendants by HVP Partners, and damages on account of the HVP Defendants' gross violations of the fiduciary duties each owed to HVP Partners and related entities. Specifically, the Receiver seeks to recover from the HVP Defendants the full cost of the fraud perpetrated. But for the indefensible conduct of the HVP Defendants, the Fraudulent Scheme would have come to an end much sooner, saving many millions of dollars.

5. The Fraudulent Scheme began at least as early as October of 2005, as a result of a major trading loss which Illarramendi chose to conceal. From that date, Illarramendi, with the complicity of the HVP Defendants, embarked on an elaborate scheme to conceal the "hole" between the real assets held by the funds containing the investors' moneys entrusted to HVP Partners and the liabilities owed as a result of trying to conceal losses.

6. The Fraudulent Scheme involved the use of various offshore entities and bank accounts and a complex web of transfers, loans and transactions with numerous persons and

entities that were often poorly or falsely documented on the books and records of HVP Partners and the hedge funds. When the one unified Fraudulent Scheme was ultimately uncovered, the “hole” stood at more than \$300 million.

7. All of the HVP Defendants worked closely with Illarramendi – HVP Partners was at most a five-person operation, made up of only Illarramendi, the HVP Defendants and another HVP Partners employee. Along with Illarramendi, Defendants Lopez and Luth were founders, principals and managing members of HVP Partners and Chong was both Chief Financial Officer and Chief Compliance Officer. Peláez, Lopez’s sister, and her husband, Araya, clearly benefited from their familial relationship with Lopez, since they received numerous transfers for which no value was given.

8. In addition, Lopez was not merely a founder and managing member of HVP Partners, but a director of the three funds managed by HVP Partners: Highview Point Offshore Fund, Ltd. (the “Offshore Fund”) and Highview Point Master Fund, Ltd. (the “Master Fund” and together with the Offshore Fund and Highview Point L.P., the “HVP Funds”), hedge funds that were managed by HVP Partners. In fact, all of the HVP Defendants had an intimate connection to the HVP Funds, as Illarramendi and they used HVP Partners to completely dominate these entities, making all of the HVP Funds’ management and investment decisions. As a result of their vast visibility into the operations of both HVP Partners and the HVP Funds, as well as their close relationship with Illarramendi, the HVP Defendants had a clear view of the improper flow of money among the Receivership Entities and other third party individuals and entities, and in some cases, facilitated these transactions.

9. The alleged transfers and damages that the Receiver seeks to recover through this action include unspecified “bonuses”, and fictitious “investment profits” paid to the

Defendants both directly from HVP Partners and indirectly through various offshore entities in an apparent effort to obfuscate the true origin of the monies and to conceal the Fraudulent Scheme. The HVP Defendants also received hundreds of thousands of dollars in so-called “compensation,” while turning a blind eye to a fraud that was perpetrated right under their noses on a daily basis.

10. The Receiver’s investigation is ongoing. To date, in total, the Receiver has identified at least \$29,737,649 in transfers and salary paid to the Defendants, comprising investor proceeds and other monies looted and diverted from the Receivership Entities that must be recovered by the Receivership Estate.

11. Each of the HVP Defendants also owed HVP Partners a fiduciary duty to act in the company’s best interest and in the best interest of the HVP Funds whose investors’ money HVP Partners managed. The HVP Defendants were, however, completely derelict in their duties and responsibilities, thereby enabling and facilitating a Ponzi scheme which, in turn, permitted the scheme to continue and the damages suffered by its victims to mount. If the HVP Defendants had been doing their jobs, instead of personally enriching themselves, Illarramendi’s scheme would have never succeeded or continued for as long as it did. Therefore, the Receiver seeks to hold the HVP Defendants accountable for, at minimum, the entire amount of victim losses.

### **THE DEFENDANTS**

12. Lopez is a resident of New York County and resides at 308 East 72<sup>nd</sup> Street, Apartment 19B, New York, New York, 10021. He was a managing member and one-third owner of HVP Partners which he founded in 2004, with Luth and Illarramendi. Prior to forming HVP Partners, Lopez worked at Credit Suisse First Boston for almost twenty years, serving in various capacities including: head of Investment Banking for Latin America; head of the

Andean/Central America/Caribbean region; head of Merger and Acquisition Advisory Business and the Financial Institutions Practice in Latin America; member of the Chairman's Board and member of the Executive Board of the Investment Banking Division of Credit Suisse First Boston. At various times, Lopez was a supervisor of Illarramendi who was also employed at Credit Suisse First Boston. Lopez held licenses as a General Securities Representative and General Securities Principal. Lopez is an insider of the HVP Partners within the meaning of section 52-552(b)(7) of the Connecticut Uniform Fraudulent Transfers Act ("CUFTA"). Lopez has refused to cooperate with the Receiver's investigation and, when deposed, invoked his Fifth Amendment rights not to incriminate himself.

13. Luth is a resident of Fairfield County, Connecticut and resides at 1 Pond Ridge Lane, Norwalk, Connecticut 06852. He was a managing member and one-third owner of HVP Partners which he founded in 2004, along with Lopez and Illarramendi. Prior to forming HVP Partners, Luth was a Director in the Global Financial Markets Group of ABN Amro, Vice-President and head of the emerging markets syndicate at Deutsche Bank Securities, head of an emerging market syndicate at Dresdner Kleinwort Wasserstein in London, and was employed at Credit Suisse First Boston. Luth has passed General Securities Representative and Uniform Securities Agent State Law examinations. Luth is an insider of the HVP Partners within the meaning of section 52-552(b)(7) of CUFTA. Luth has refused to cooperate with the Receiver's investigation and, when deposed, invoked his Fifth Amendment rights not to incriminate himself.

14. Chong is a resident of New York County, New York. He began serving as Chief Compliance Officer of HVP Partners in 2006, and Chief Financial Officer in 2007. Prior to joining HVP Partners, on information and belief, Chong was employed by Violy, Byorum & Partners Holdings, an independent investment bank that serves clients throughout Latin America. Chong also worked with Illarramendi at PDV-USA, the U.S. affiliate of Petroleos de Venezuela S.A.,

Venezuela's state owned oil company ("PDVSA"). Chong is an insider of HVP Partners within the meaning of section 52-552(b)(7) of CUFTA. Chong has refused to cooperate with the Receiver's investigation and, when deposed, invoked his Fifth Amendment rights not to incriminate himself.

15. Pelález is Lopez's sister and is, on information and belief, a resident of San Jose, Costa Rica. On information and belief, she is a control person of Underhill Investments, S.A. ("Underhill"), a corporation located in Panama City, Panama, which served as an intermediary in various transactions with Receivership Entities. On information and belief, Pelález holds one or more joint bank accounts with her husband Araya in the United States to which transfers were made from Receivership Entities. As a relative of Lopez, Pelález is an insider of the HVP Partners within the meaning of section 52-552(b)(7) of CUFTA.

16. Araya is Pelález's husband and is, on information and belief, a resident of San Jose, Costa Rica. On information and belief, Araya holds one or more joint bank accounts with his wife Pelález in the United States to which transfers were made from Receivership Entities.

#### **JURISDICTION AND VENUE**

17. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1367 in that this is an action brought by the Receiver appointed by this Court concerning property under this Court's exclusive jurisdiction. *See Securities and Exchange Commission v. Illarramendi, Michael Kenwood Capital Management, LLC et al. C.A., No. 3:11-cv-00078 (JBA), Amended Order Appointing Receiver (January 4, 2012) (Docket #423).*

18. This Court has personal jurisdiction over the Defendants pursuant 28 U.S.C. § 754 and 28 U.S.C. § 1692.

19. The District of Connecticut is the appropriate venue for any claims brought by the Receiver pursuant to 28 U.S.C. § 754 because the acts and transfers alleged herein occurred in the District.

### **RECEIVER'S STANDING**

20. On January 14, 2011, the Securities and Exchange Commission (the "SEC") commenced a civil enforcement action against Illarramendi, MK Capital, and various Relief Defendants (the "SEC Defendants"). The SEC's complaint alleges that the Illarramendi and certain of the SEC Defendants misappropriated investor assets in violation of Section 206(1), (2) and (4) of the Investment Advisers Act of 1940 and Rule 206(4)-(8) thereunder. The SEC sought equitable relief, including injunctions against future violations of the securities laws, disgorgement, prejudgment interest, and civil monetary penalties.

21. Simultaneously with the filing of its complaint, the SEC sought emergency relief, including a preliminary injunction, in the form of an order freezing the assets of the SEC Defendants. The SEC also sought the appointment of a receiver over those assets.

22. On February 3, 2011, the Court appointed Plaintiff John J. Carney, Esq. as Receiver over all assets "under the direct or indirect control" of Defendant MK Capital and various Relief Defendants MKAM, MKE&I, and MKEI Solar, LP. A motion to expand the scope and duties of the Receivership was filed on March 1, 2011, and the Amended Receiver Order was entered on March 1, 2011, expanding both the duties of the Receiver and the definition of the Receivership Estate to include the MK Funds, namely SOF, MK Venezuela and STLF.

23. On June 22, 2011, the Court entered a further Amended Receiver Order, which, *inter alia*, expanded the scope of the Receivership Estate to include HVP Partners as a Receivership Entity. By additional order of the Court, the Receivership was again expanded on



July 5, 2011 to include MK Master Investments LP, MK Investments, Ltd. and MK Oil Ventures, LLC. On January 4, 2012, the Court entered a further Amended Receiver Order which revised certain reporting requirements contained in the earlier Orders.<sup>2</sup> The Receiver is presently seeking to bring the HVP Funds into the Receivership.

24. Pursuant to the Court's Amended Order Appointing Receiver dated January 4, 2012, the Receiver has the duty of, among other things, identifying and recovering property of the Receivership Entities to ensure the maximum distribution to the Receivership Entities' defrauded creditors and to maximize the pool of assets available for distribution. To accomplish this goal, the Receiver must take control of all assets owned by or traceable to the Receivership Estate, including any funds that were stolen, misappropriated, or fraudulently transferred as alleged herein.

25. The Receiver has standing to bring these claims pursuant to, among other things, Connecticut Uniform Fraudulent Transfers Act ("CUFTA"), CONN. GEN. STAT. § 52-552, CUTPA, CONN. GEN. STAT. § 42-110a, *et seq.*, and Connecticut common law.

26. The Receiver has standing to bring claims that the Receivership Entities could have brought on their own behalf. As alleged herein, Illarramendi freely commingled proceeds between and among the Receivership Entities such that, at all relevant times, at least one of the Receivership Entities was a creditor of another, giving the Receiver standing to recover fraudulent transfers made from the Receivership Entities.

27. The Receiver also has standing to bring common law claims on behalf of the Receivership Entities based upon certain of the Defendants' insider status, as a result of their

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<sup>2</sup> Unless otherwise expressly defined herein, the Receiver adopts for purposes of this Complaint the defined terms as set forth in the Amended Receiver Order dated January 4, 2012.

breaches of fiduciary duty to HVP Partners, and due to the unjust enrichment from which each Defendant benefitted.

### **CRIMINAL PROCEEDINGS**

28. On or about March 7, 2011, the United States Attorney's Office for the District of Connecticut filed a Criminal Information (the "Information") against Illarramendi alleging that Illarramendi, with others, had engaged in a massive Fraudulent Scheme involving hundreds of millions of dollars of money supplied primarily by foreign institutional and individual investors.

29. According to the Information, Illarramendi engaged in multiple acts in furtherance of his Fraudulent Scheme, including but not limited to: (1) making false statements to investors, creditors and employees of the Receivership Entities, the SEC and others to conceal and continue the scheme; (2) creating or causing fraudulent documents to be created; (3) engaging in multiple transactions without documentation in an effort to conceal and continue the scheme; (4) transferring millions of dollars of assets across the Receivership Entities and other entities he controlled to make investments in private equity companies; and (5) commingling assets across the Receivership Entities and other affiliated entities. On March 7, 2011, Illarramendi pleaded guilty to two counts of wire fraud, and one count of conspiracy to obstruct justice, to obstruct an official proceeding and to defraud the SEC.

30. As Illarramendi publicly acknowledged during his plea allocution, he began engaging in the Fraudulent Scheme years earlier to hide from investors and creditors the losses he had incurred in a failed bond transaction and he used money provided by new investors to the HVP Funds to pay out returns he promised to old investors. *See* Stipulation of Offense Conduct at 2; Criminal Information, *United States v. Illarramendi*; 3:11 Cr. 41 (SUR). He also admitted to disregarding corporate formalities and commingling investments in various HVP Funds. *Id.*

**THE GENESIS OF THE FRAUD**

31. As noted above, in August 2004, Luth, Lopez and Illarramendi formed HVP Partners as a Delaware limited liability company, each holding a one-third ownership share. According to the LLC agreement signed by Luth, Lopez and Illarramendi, the stated purpose of HVP Partners was to act as the investment manager of the Offshore Fund, a hedge fund to be nominally based in the Cayman Islands (in fact, the fund was completely dominated and controlled from its inception by HVP Partners and one of its directors was Lopez) and for engaging in any other lawful act or activity for which a limited liability company may be formed under the Delaware Limited Liability Company Act.

32. By January 2006, with over \$72 million of assets in the Offshore Fund under the exclusive control of HVP Partners, the hedge fund's structure was changed to a "master-feeder" structure by creating the Master Fund, turning the Offshore Fund into an offshore feeder fund, and creating another entity called Highview Point L.P., as a domestic feeder fund. As part of this change in structure, the Master Fund was incorporated in the Cayman Islands in January 2006. Again Lopez was made a director of the fund, and again absolute investment and contracting power over the fund was handed to HVP Partners, and thus the HVP Defendants.

33. In October of 2005, Illarramendi brokered a deal on behalf of the Offshore Fund and others to purchase and then immediately sell at a profit a Credit Lyonnais bond ("Calyon Bond"). The Calyon Bond deal went awry from the beginning and generated losses which should have been disclosed to and recognized by the investors. Rather than disclose these losses, Illarramendi decided to conceal them fraudulently. Despite the fact that the Calyon Bond transaction resulted in a loss, Illarramendi caused proceeds received in the transaction to be transferred to each investor, other than the Offshore Fund, in amounts greater than each investor's initial investment. These transfers made it fraudulently appear that those investors had

received profits from the transaction rather than sustaining a significant loss. This caused a substantial cash shortfall that was absorbed by the Offshore Fund and fraudulently concealed on the fund's books and records along with falsely reported fictitious profits to the Offshore Fund from the deal. The difference between the actual proceeds distributed to the Offshore Fund and what was fraudulently recorded on the funds' books and records was approximately \$5.2 million and was the beginning of the "hole." At the end of October 2005, this \$5.2 million hole constituted roughly ten percent of the \$52 million net asset value reported in the falsified books and records of the Offshore Fund. The HVP Defendants, in violation of their fiduciary duties to HVP Partners, failed to properly oversee Illarramendi's activities, the investments of the Offshore Fund and the maintenance of the books and records of the Offshore Fund. Lopez and Peláez received approximately \$50,000 in false profits from this transaction.

34. To cover up the \$5.2 million shortfall, Illarramendi instructed GlobeOp, the HVP Funds' administrator, to record entries in the books and records of the Offshore Fund falsely reflecting that approximately \$5.2 million in funds had been transferred to, and invested in Ontime Overseas Inc. ("Ontime"), an entity controlled by Illarramendi's brother-in-law, Rufino Gonzalez-Miranda. These falsifications of the books and records of the Offshore Fund made it appear that the Offshore Fund actually received a profit and caused the Offshore Fund's books and records to be fraudulently misstated. In reality, no proceeds of the Calyon Bond transaction were transferred to Ontime. Notwithstanding their fiduciary duties, the HVP Defendants did not contest the fraudulent record-keeping.

35. This initial fraudulent concealment of the \$5.2 million hole did not buy Illarramendi enough time to replace the missing funds. In order to ensure that the fraudulent transaction was removed from the books before the year-end audit, on or about December 15,

2005, Illarramendi arranged for Ontime to transfer \$7.4 million to HVP Offshore to make it appear that the falsely recorded phony investment in Ontime was being “redeemed.” In fact, no such investment had been made, and Ontime was merely serving as a shell to move funds at Illarramendi’s command.

36. To fund the fraudulent transfer from Ontime, which made it falsely appear that a redemption had occurred, Illarramendi, disregarding corporate form or conflicts of interest, transferred \$5.5 million to Ontime from the Wachovia bank account of HVP Partners in several transactions in November and December. Further disregarding corporate form, and failing to conduct business at arm’s length, HVP Partners funded these fraudulent transfers primarily through a loan from BCT Bank International (“BCT Bank”) – a Central American bank associated with Lopez – to HVP Partners. The use of money provided by others to conceal the hole, for the most part enlarged it, as others required compensation for the use of the funds. Thus began a series of convoluted transactions over the next five years designed to hide the “hole.”

37. The Fraudulent Scheme was overarching in nature and involved the massive commingling of funds and the operation and use of the HVP Funds and their bank accounts to facilitate the fraud. Corporate formalities were ignored and the monies invested in the HVP Funds, along with money from others, were used to engage in a huge Ponzi scheme. The Ponzi scheme culminated in fraudulent losses of more than \$300 million.

38. The HVP Defendants were aware of the blatant red flags surrounding the transfers described above and others like them but chose to ignore them. Given the fact that Lopez and Luth were members of HVP Partners and Chong was both the Chief Compliance Officer and Chief Financial Officer, and who all received the benefit of large off-the-books

transfers of money, they either knew of the chicanery or consciously and recklessly avoided inquiry as to the legitimacy of the transfers.

**HVP DEFENDANTS KNEW OR CONSCIOUSLY AVOIDED KNOWING OF  
ILLARRAMENDI'S FRAUD AND DISREGARDED THEIR FIDUCIARY DUTIES**

39. While the Ponzi scheme perpetrated by Illarramendi was continuous in nature, a series of specific transactions using investor funds for improper purposes were intended to prevent the discovery of the fraud and to disguise the ever-growing losses incurred. While these transactions made the Receivership Entities falsely appear outwardly profitable, the Receivership Entities and the HVP Funds were insolvent at all relevant times.

40. Because of the HVP Defendants' unique positions, holding various leadership and supervisory positions at HVP Partners, they would have been aware of many red flags in the transactions described herein that should have indicated that Illarramendi was engaged in a Ponzi scheme. At a minimum, the HVP Defendants knew that investor proceeds were being freely commingled and misappropriated for unintended uses. The HVP Defendants ignored these and other red flags to the detriment of the legitimate stakeholders while they personally profited.

41. Luth, in addition to his role as a founding member and principal, served as portfolio manager of HVP Partners. Upon information and belief, on a day-to-day basis, he would, with another HVP Partners employee's assistance, purportedly analyze potential investments and he held final responsibility for making investment decisions. Luth also had unfettered access to the financial information of HVP Partners and the HVP Funds. His role as portfolio manager required him to determine whether each portfolio needed more exposure or less in a particular area. Because of his position, Luth had a fiduciary obligation to ensure that the funds entrusted to HVP Partners were safeguarded and invested appropriately. Instead, at the very least, he abdicated responsibilities over the investments to Illarramendi.

42. In his role as Chief Financial Officer and Chief Compliance Officer for HVP Partners, Chong had access to all of the financial information of HVP Partners and the HVP Funds they controlled and was charged with ensuring that HVP Partners satisfied all regulatory requirements. As such, he had an affirmative obligation to ensure that investor proceeds were safeguarded and invested in accordance with the terms of the relevant investment documents provided to investors. Instead, Chong did nothing to confirm the profits Illarramendi reported or the trades Illarramendi claimed to execute actually took place. Chong failed to take any meaningful action to monitor Illarramendi, prevent the fraud, or carry out the duties expected of him as an officer.

43. Most egregiously, Lopez, who was a director of the HVP Funds being looted, had actual knowledge of the fraud and willingly became a co-conspirator in the fraud. Illarramendi has testified that, in or about late summer 2006, he revealed the existence of the fraud to Lopez, informing him of the hole that was falsely recorded on the books and records of the HVP Funds, which Illarramendi estimated to be \$30 million. Rather than disclose the losses, Lopez conspired with Illarramendi to conceal the fraud. Claiming that disclosure would hurt his reputation, Lopez told Illarramendi to fix the situation and the two agreed not to inform investors or anyone else about the existence of the Fraudulent Scheme. In truth and fact, absent contemporaneous disclosure to investors of the losses and the actual financial condition of the HVP Funds, there was no non-fraudulent method of “fixing” the situation. While possessing actual knowledge of the fraud, Lopez continued to benefit from funds transferred to him, his family and entities he controlled at the expense of the HVP Funds’ investors. There could not be a more clear violation of fiduciary duties than such blatant self-dealing.

44. In sum, all of the HVP Defendants had access to the books and records of HVP Partners and the HVP Funds they controlled. As fiduciaries of these entities, the HVP Defendants had a duty to verify that the purported flow of funds into and out of these entities was accurately reported in the books and records of each, and that money from the HVP Funds was legitimately invested in securities transactions in accordance with the relevant fund documents. They similarly had duties to act in a manner to assure that HVP Partners fulfilled its fiduciary duties to the HVP Funds.

45. The fiduciary duties owed by the HVP Defendants included duties of care and loyalty to the HVP Partners, the HVP Funds who entrusted their assets into its care, and duties to act in good faith. Each of the HVP Defendants also had a duty not to waste or divert the assets of the HVP Partners, a duty not to exploit corporate opportunities for his own benefit, and to act in furtherance of his own personal interests at the expense of the HVP Partners. The HVP Defendants grossly failed to satisfy these most basic corporate standards.

**THE FRAUDULENT SCHEME WAS A WINDFALL FOR THE DEFENDANTS**

46. From 2005 through January of 2011, the Defendants were well rewarded for failing to do the jobs that were expected of certain of them, for violating their fiduciary duties, and for looking the other way as the Fraudulent Scheme expanded unchecked. In total, the Defendants received at least \$29,737,649 directly or indirectly in transfers as set out in Exhibit A attached hereto (the “Transfers”). Excluding salary and partnership distributions, HVP Defendants received at least \$25,987,049 directly or indirectly, from Receivership Entities. These Fraudulent Transfers were non-ordinary course payments, including some payments mischaracterized as “bonus” payments. Many of the non-ordinary course payments to or for the benefit of the Defendants resulted from complex transactions orchestrated by Illarramendi to allow him to continue his fraud. The specifics of certain of these transactions are described in



the following sections. Immediately below is a snapshot of certain Transfers to the Defendants. As noted, a complete listing of the Transfers to each Defendant is set out on Exhibit A attached hereto and is fully incorporated herein by reference.

47. Exclusive of salary and partnership draws, Lopez received at least \$11,915,387, directly or indirectly, from Receivership Entities including, but not limited to the following Transfers made for his benefit:

a. \$1,848,188 as a series of distributions of Receivership property through an entity controlled by Lopez called Argenta Management.

b. \$2,754,080 as a series of distributions of Receivership property through an entity controlled by Lopez called LP Ventures Group.

c. \$5,325,619 in 2010, as a series of distributions of Receivership property through an entity controlled by Lopez called Flight Services, Inc.

d. \$1,267,000 in 2010 as a distribution that originated from MK Venezuela.

48. LP Ventures Group, Argenta Management and Flight Services, Inc. are, on information and belief, entities controlled by Lopez to which he directed that payments be made for his benefit by Receivership Entities. For example, Lopez directed that a “bonus” payment paid from HVP Partners’ payroll be paid to him through Argenta Management.

49. Exclusive of salary and partnership distributions, Luth received at least \$5,283,796, directly or indirectly, from Receivership Entities including, but not limited to, the following:

a. \$100,000 payment in 2006 from a fraudulent transfer falsely recorded as an investment in Naproad Finance S.A. (“Naproad”), an entity used by Illarramendi to further the fraud.

b. \$133,000 in 2008 as a purported “bonus” from HVP Partners paid off-the-books using money transferred from Naproad using funds borrowed from a third party.

c. \$1,100,000 in 2009 as a payment that originated from MK Venezuela.

d. \$480,000 in 2009 from a fraudulent Venezuelan bond transaction.

e. \$1,267,000 in 2010 as a distribution that originated from MK Venezuela.

50. Exclusive of salary, Chong received at least \$614,639, directly or indirectly, from Receivership Entities including, but not limited to the following:

a. \$20,000 in 2007 from a fraudulent Naproad Transaction.

b. \$60,000 in 2008 as a purported “bonus” from HVP Partners paid off-the-books using money transferred from Naproad, which was borrowed from a third party.

c. \$50,000 in 2009 from a fraudulent Venezuelan bond transaction.

51. Peláez and Araya jointly received at least \$8,173,227 directly or indirectly, from Receivership Entities including, but not limited to, the following:

a. \$1,623,750 in 2005 from HVP Partners.

b. \$800,000 from Naproad in 2006.

c. \$1,257,477 from Naproad in 2007.

52. In addition, the Transfers also consist of salary and partnership distributions paid to the HVP Defendants, totaling at least \$3,750,600, that they did not rightfully earn in their capacity as members, managers, and/or officers of HVP, discussed further below. These salary Transfers received by each HVP Defendant are set out on Exhibit A attached hereto and fully incorporated herein by reference.

#### **TRANSACTIONS BENEFITTING THE DEFENDANTS**

53. While the Receiver’s investigation into the Fraudulent Scheme continues, he has identified various transactions, from which the Defendants received fraudulent transfers.

Described below are several which illustrate the overarching nature of the common Fraudulent Scheme perpetrated by Illarramendi.

#### **NAPROAD**

54. In order to fraudulently conceal the “hole,” perpetuate the Ponzi scheme, and engage in transactions that were not recorded in the books and records of HVP Partners, Illarramendi used various bank accounts, including accounts in the names of offshore companies such as Naproad. At all relevant times, those bank accounts were under the control of Illarramendi and HVP Partners and contained commingled funds from Receivership Entities and the HVP Funds.

55. Naproad was incorporated in Panama in July 2005 and was dissolved in May 2008. In September 2005, HVP Partners was provided with full power of attorney over Naproad. In 2007, Naproad filed documents to effect a corporate name change from Naproad to HPP International S.A. Bank statements for accounts opened in the name of Naproad (the “Naproad Account”) were addressed to HVP Partners’ office in Stamford, Connecticut. In order to effectuate transactions using the Naproad Account, Illarramendi repeatedly sent wire instructions, on HVP Partners letterhead, to the bank. In these wire authorization letters, Illarramendi referred to the Naproad Account as “our” (i.e. HVP Partners) bank account. Thus, the Naproad Account was, in reality, an HVP Partners bank account opened under a false name.

56. One of several fraudulent transactions characterized on the Master Fund’s books as an investment in Naproad, in part disguised off-the-books gratuitous payouts to Luth and Illarramendi for which absolutely no consideration was provided. The Offshore Fund transferred approximately \$5.5 million to Naproad on or about January 5, 2006 and falsely characterized this transfer as an investment on its trade blotter. In reality, no investment was made with the \$5.5 million transferred. Instead, the bulk of the money (approximately \$5.2 million) was used to

repay an entity that had advanced funds used to conceal the Fraudulent Scheme. Significantly, however, about eight days after the transfer to Naproad, \$155,000 of the funds transferred to Naproad were deposited into bank accounts in the names of Illarramendi (\$50,000), his sister Adela Illarramendi (\$5,000), and Luth (\$100,000).

#### **THE FRAUDULENT CONCEALMENT OF ASTRONOMICAL LOSSES FROM SPECULATIVE OPTIONS TRADES**

57. During late 2005 and 2006, Illarramendi caused the diversion of millions of dollars from the HVP Funds to entities he effectively controlled such as Naproad and Pamac and also to a securities account in the name of HVP Partners. These funds were utilized to conduct unauthorized, off-the-books trading, including speculative trades in the securities of Google, Yahoo and other companies. For the most part, these trades were financially disastrous, causing losses of at approximately \$28 million. Through the continued execution of the Fraudulent Scheme, these losses were concealed and not reflected on the books and records of the HVP Funds. Because these losses continued to be concealed from investors, they caused the hole to grow dramatically. By the end of August 2006, the hole stood at over \$33 million, more than one third of the \$95 million falsely reported net asset value of the HVP Funds.

58. On information and belief, Luth purportedly vetted investment opportunities at HVP Partners. Despite that, he did nothing to object when Illarramendi engaged in the off-book schemes described above in an attempt to hide the Fraud that resulted in approximately \$28 million of additional losses.

59. Chong, similarly failed in his duties as Chief Compliance Officer by not objecting to the diversion of assets from the HVP Funds to engage in highly speculative, undisclosed and off-the-books securities trades. Worse yet, Lopez, who had heard Illarramendi's

confession, continued to permit him to betray both the HVP Funds and HVP Partners by encouraging the fraud to continue.

### **PERMUTA TRADES**

60. By late 2006, the size of the “hole” was more than one-third of all of the assets managed by HVP Partners. Notwithstanding Luth’s responsibility to vet investment opportunities, he did nothing to object when Illarramendi engaged in further off-book schemes, notably through a series of Venezuelan currency arbitrage transactions designed to take advantage of Venezuelan government restrictions that caused a sizeable discrepancy between the official Bolivar exchange rate and the rates available through a secondary “permuta” foreign exchange market in an attempt to hide the fraud.

61. Chong, clearly failing in his duties as Chief Compliance Officer, turned a blind eye to the fact that Illarramendi’s access to the “permuta” market required much of the profits to be paid to intermediaries and counter-parties, as well as apparently requiring the payment of expensive bribes to at least one Petroleos de Venezuela, S.A. (“PDVSA”) pension fund official. These payments of profits, kickbacks and bribes basically consumed the overwhelming portion of the alluring profits associated with the transactions making the transactions exceedingly risky, illegal and not very profitable for HVP Partners or the HVP Funds. Lopez, who had heard Illarramendi’s confession, continued to permit him to betray both the HVP Funds and HVP Partners by encouraging the fraud to continue.

62. Again in January 2008, Naproad made transfers in the following amounts to: Illarramendi (\$133,000), Luth (\$133,000), Lopez’s Argenta Management (\$133,000) and Chong (\$60,000), purportedly as bonus payments for their work at HVP Partners. These transfers were primarily funded with loans that were subsequently repaid using funds derived from Venezuelan currency arbitrage transactions utilizing money from the Master Fund.

## **MICHAEL KENWOOD ENTITIES**

63. The HVP Defendants' greed led them to loot other Receivership Entities as well. By late 2007, it became clear to Illarramendi that he needed to inject cash into the scheme through new channels in order to keep the scheme afloat. As a result, Illarramendi created several entities and funds under the Michael Kenwood name including, among others: MK Venezuela, SOF, STLF, and MKAM. Illarramendi had earlier created MK Consulting in 2006.

64. The creation of MK Venezuela created new opportunities for the HVP Defendants to siphon additional funds for personal use. In January 2009, the Master Fund fraudulently recorded the receipt of approximately \$25 million of Venezuelan bonds as an investment. In fact, these bonds had merely been provided to the HVP Funds as a loan from another entity pursuant to a six month promissory notes with HVP Partners which was signed by Illarramendi on behalf of HVP Partners. HVP Partners promised to pay a usurious 42% interest for the six-month loan to the HVP Funds. Eventually, the promissory notes were largely repaid with money fraudulently transferred from MK Venezuela and MK Consulting.

65. When the Master Fund sold the bonds, and falsely recorded the proceeds as profits from an investment, the proceeds were channeled to various third parties, including approximately \$5.8 million transferred from the Master Fund to Ontime during an eight-day period in January 2009. On January 15, the day of the last transfer from the Master Fund, Ontime transferred \$480,000 to a bank account in the name of Illarramendi, another \$480,000 to a bank account in the name of Luth, and \$50,000 to a bank account in the name of Chong, a total of over \$1 million in stolen funds.

66. The Defendants continued to receive payments from MK Venezuela throughout 2009 without providing benefit in return. On or about June 16, 2009, MK Venezuela transferred \$4 million to an entity called Fidevalores, an entity controlled by Illarramendi's brother-in-law,

Rufino Gonzalez-Miranda. Two days later, Fidevalores transferred \$1.1 million to an account in the name of Luth. In reaping the rewards from looting MK Venezuela, Luth provided no value in return for the payments he received.

67. Similarly, in March of 2010, MK Venezuela transferred approximately \$3.97 million to Underhill, an entity believed to be related to the Lopez family. Shortly thereafter, Underhill sent approximately \$1.27 million each to Luth, Lopez and Illarramendi.

**LOPEZ UTILIZES HIS NETWORK OF ENTITIES TO PROFIT FROM THE FRAUD**

68. Lopez was not only a director of HVP Partners and the HVP Funds, but also sat on the board of directors of BCT Bank's holding company. He used each of these entities to aid and profit from the fraud. Upon information and belief, Lopez, through BCT Bank, provided Illarramendi with a ready source of capital, in the form of a steady flow of funds transferred from BCT Bank pursuant to promissory notes with HVP Partners. These funds were utilized to both conceal and prolong the fraud. As early as November 2005, BCT Bank provided Illarramendi, on behalf of HVP Partners, with \$5 million as a short term loan. These funds were utilized to execute the Fraudulent Scheme at great cost to HVP Partners. In exchange for the loan of funds, Lopez's BCT Bank charged a fee equivalent to over 25% annually. Over the life of the fraud, Lopez's BCT Bank would earn substantial fees on the tens of millions of dollars in loans it provided to Illarramendi and HVP Partners to keep the fraud afloat.

69. In addition, Lopez also enlisted his family to aid him in receiving and concealing profits from the fraud. On at least one occasion in 2010, Lopez received an additional \$1,267,000 in Receivership property that was diverted through Underhill, an entity believed to be related to the Lopez family. In fact, over \$3.97 million was diverted to Luth, Lopez, and Illarramendi through Peláez's Underhill Investments.

**LUTH'S FAMILY USES THE HVP FUNDS TO COMPLETE PRIVATE TRANSACTIONS**

70. Lopez was not the only HVP Defendant to make his family members a part of the Fraudulent Scheme. In an apparent display of utter contempt for the independence of the HVP Funds, Luth, with the tacit agreement of the other HVP Defendants, permitted his family members to use the Master Fund to conduct a series of private bond transactions. In March 2009, Luth's family members were permitted to purchase a bond position from the Master Fund that was later sold privately. In May 2009, the Master Fund then purchased a bond position back from Luth's family, which the Master Fund was left to sell to a third party.

71. The Receiver is still investigating and unraveling the fraudulent transactions that occurred. While the above clearly illustrates the enormity of the commingling of stolen funds and the failure to respect corporate structures, which the HVP Defendants failed to prevent, the Receiver reserves all rights with respect to any additional transactions involving the Defendants.

**HVP DEFENDANTS' SALARIES WERE PAID WITH INVESTOR MONEY AND WERE UNWARRANTED**

72. During the execution of the Fraudulent Scheme, HVP Partners received investment management fees based upon grossly and fraudulently inflated net asset values. HVP Partners was not entitled to receive these funds.

73. Over the course of their connection with HVP Partners, the HVP Defendants received \$3,750,600 in purported draws and salary.

74. These Transfers were all paid from HVP Partners to accounts controlled by the HVP Defendants during the time they regularly violated their fiduciary duties to HVP Partners and the HVP Funds.



75. The salary Transfers were paid to the HVP Defendants or for the benefit of the HVP Defendants, purportedly for their work in various capacities, as described above, for the Receivership Entities.

76. While some individual transactions engaged in by HVP Partners might have yielded a profit, upon information and belief, HVP Partners, and the HVP Funds they oversaw, were insolvent at all relevant times. Therefore, any transfers to the HVP Defendants were transfers of investor money, commingled with fraudulently-obtained monies, not profits from investments made on behalf of the HVP Funds.

77. Moreover, as detailed herein, the HVP Defendants did not carry out the duties required as members and officers of HVP Partners. The HVP Defendants repeatedly abdicated responsibility to Illarramendi, all the while ignoring the numerous red flags that would have alerted them to Illarramendi's misappropriation of investor funds in order to personally profit at HVP Partners' expense.

78. The HVP Defendants also did not earn this salary in their capacity as members, officers and/or employees of HVP Partners. The HVP Defendants knew or deliberately disregarded the extensive commingling of assets placed under HVP Partners control and other indicia of wrongdoing by Illarramendi.

79. As a result, the HVP Defendants breached the fiduciary duties they owed to HVP Partners, and must disgorge the compensation received.

80. The HVP Defendants were unjustly enriched by these Transfers because they did not provide equivalent value in exchange for the salaries and distributions.

81. As noted above, a complete schedule of these Transfers is attached as Exhibit A.

**THE NATURE OF THE CAUSES OF ACTION AGAINST THE DEFENDANTS**

82. At all times relevant hereto, HVP Partners, and all of its affiliated entities, including the HVP Funds, were insolvent in that (i) liabilities exceeded the value of assets; (ii) they could not meet their obligations as they came due; and/or (iii) at the time of the Transfers to Defendants described herein, HVP Partners was left with insufficient capital to pay its investors/creditors.

83. This action is being brought to recover misappropriated property of Receivership Entities paid to Defendants, as well as purported compensation and damages for, among other things, breaches of fiduciary duties as alleged herein, so that these recoveries can equitably be distributed among the victims of the Ponzi scheme.

84. Without regard to the extent to which they knew of Illarramendi's fraudulent scheme, HVP Defendants should have known that they were not entitled to receive these distributions of "free" company money or to receive salary and bonus payments while abdicating their responsibilities and failing miserably to meet even the most basic standard of care expected of a fiduciary and senior manager. HVP Defendants each held senior positions at HVP Partners and were, with Illarramendi, the only members of HVP Partners.

85. In addition to the detailed allegations set forth herein, HVP Defendants were also on notice of the following indicia of irregularity and fraud, but either failed to make sufficient inquiry or knew of the fraud, ignored it, and profited from it:

i. In plain view of the HVP Defendants, Illarramendi repeatedly transferred money from the HVP Funds' to execute the Ponzi Scheme and falsely characterized those transfers on the books and records of the HVP Funds as purported investments to hide their true nature from investors;

ii. Illarramendi and the Defendants accepted subscriptions into the HVP Funds without performing the necessary due diligence and without supporting documentation;

iii. Illarramendi moved funds between Receivership Entities as necessary to cover unrelated obligations and pay unwarranted loans and compensation;

iv. Illarramendi, on behalf of HVP Partners, took numerous “short-term loans” to obtain funds to utilize in executing the Ponzi Scheme and to make transfers to the HVP Funds that were falsely characterized in the HVP Funds’ books and records as “redemptions” of phony investments.

v. Illarramendi and the HVP Defendants received off-the-books compensation and “bonuses” from entities by which they were not employed.

86. Moreover, because of the HVP Defendants’ violations of their obligations to the HVP Partners, they were not entitled to the salary or any bonus that they received.

87. Peláez and Araya are not entitled to retain the Transfers that they received as part of the Fraudulent Scheme for which they provided little, if any, consideration and these Transfers must be returned.

88. Lopez, Luth and Chong were subpoenaed to give testimony in connection with the Receiver’s investigation into the Fraudulent Scheme. Each arrived with counsel at a deposition but rather than actually testify under oath, each chose to invoke their Fifth Amendment right not to incriminate themselves. During each of the three depositions, in response to hundreds of questions posed by Receiver’s counsel, each of the Defendants refused to answer every single substantive question posed to them.

89. The Receiver was only able to discover the fraudulent nature of the above-referenced Transfers after Illarramendi and his accomplices were removed from control of the Receivership Entities and after a time-consuming and extensive review of thousands upon thousands of paper and electronic documents relating to the Receivership Entities. No amount of reasonable diligence by the Receiver could have detected the fraudulent transfers sooner. The Receiver's investigation is still ongoing. As a result, there may be evidence of other assets belonging to the Receivership Estate or other fraudulent transfers of funds that the Receiver has yet to discover. If such transfers or assets are later discovered, the Receiver will seek to amend this Complaint to assert claims regarding such transfers or assets.

90. To the extent that any of the recovery counts that follow may be inconsistent with each other, they are to be treated as being pleaded in the alternative.

**FIRST CAUSE OF ACTION**  
**CUFTA Section 52-552e(A)(1) (Actual Fraud)**

91. The Receiver incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

92. The Transfers were (a) made on or within four years before the date of this action or were (b) discovered within one year of when the fraudulent transfers could have been reasonably discovered by the Receiver.

93. At the time of each of the Transfers, one or more of the Receivership Entities were each “creditors” of the relevant transferor within the meaning of section 52-552(b)(4) of CUFTA.

94. At the time of each of the Transfers, Lopez, Peláez, Luth and Chong were “insiders” of HVP Partners within the meaning of section 52-552(b)(7) of CUFTA.

95. Each of the Transfers constitutes a transfer of an interest of Receivership Entity property within the meaning of section 52-552(b)(12) of CUFTA. All of the Transfers occurred during the course of the Ponzi scheme, when investor money was commingled and all relevant entities were insolvent. Accordingly, multiple Receivership Entities are creditors for the various Transfers alleged herein.

96. Each of the Transfers was made without receipt of reasonably equivalent value from the Defendants.

97. Each of the Transfers was made with money misappropriated from Receivership Entities. At all times relevant herein, the Receivership Entities had a claim to the funds used for the Transfers.

98. Each of the Transfers was to, or for the benefit of, the Defendants.

99. Each of the Transfers were made to further the Ponzi scheme and was made with the actual intent to hinder, delay or defraud some or all of the Receivership Entities' then-existing creditors.

100. The Transfers constitute fraudulent transfers avoidable by the Receiver pursuant to section 52-552e(a)(1) of CUFTA and recoverable from the Defendants pursuant to section 52-552h of CUFTA.

101. As a result of the foregoing, pursuant to sections 52-552e(a)(1) and 52-552h of CUFTA, the Receiver is entitled to a judgment (i) avoiding and preserving the Transfers; (ii) directing that the Transfers be set aside; and (iii) recovering the Transfers, or the value thereof, from the Defendants for the benefit of the Receivership Estate.

**SECOND CAUSE OF ACTION**  
**CUFTA Section 52-522e(A)(2) (Constructive Fraud)**

102. The Receiver incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

103. The Receiver seeks to avoid those Transfers that were made on or within four years before the date of this action.

104. Each of the Transfers constitutes a transfer of an interest of Receivership Entity property within the meaning of section 52-552(b)(12) of CUFTA. All of the Transfers occurred during the course of the Ponzi scheme, when all investor money was hopelessly commingled and all relevant entities were insolvent. Accordingly, multiple Receivership Entities were “creditors” for the various Transfers alleged herein within the meaning of section 52-552(b)(4) of CUFTA.

105. Each of the Transfers was to, or for the benefit of, the Defendants.

106. Each of the Transfers was made with money misappropriated from Receivership Entities. At all relevant times herein, the Receivership Entities had a claim to the funds used for the Transfers.

107. Each of the Transfers was made without receipt of reasonably equivalent value from the Defendants.

108. At the time of each of the Transfers, the Receivership Entities were insolvent, were engaged in a business or transaction, or were about to engage in a business or a transaction, for which any property remaining with the Receivership Entities was unreasonably small capital.

109. At the time of each of the Transfers, the Receivership Entities, intended to incur, or believed that they would incur, debts that would be beyond their ability to pay as such debts matured.

110. The Transfers were not made by the Receivership Entities in the ordinary course of business.

111. The Transfers constitute fraudulent transfers avoidable by the Receiver pursuant to section 52-552e(a)(2) of CUFTA and recoverable from the Defendants pursuant to section 52-552h of CUFTA.

112. As a result of the foregoing, pursuant to sections 52-552e(a)(2) and 52-552h of CUFTA, the Receiver is entitled to a judgment (i) avoiding and preserving the Transfers made on or within four years before the date of this action; (ii) directing that the Transfers made on or within four years before the date of this action be set aside; and (iii) recovering the Transfers made on or within four years before the date of this action, or the value thereof, from the Defendants for the benefit of the Receivership Estate.

**THIRD CAUSE OF ACTION**  
**CUFTA Section 52-522f(A) (Constructive Fraud)**

113. The Receiver incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

114. The Receiver seeks to avoid those Transfers that were made on or within four years before the date of this action.

115. Each of the Transfers constitutes a transfer of an interest of property of the Receivership Entities within the meaning of section 52-552(b)(12) of CUFTA. All of the Transfers occurred during the course of a Ponzi scheme, when investor money was commingled and all Receivership Entities were insolvent. Accordingly, multiple Receivership Entities are creditors within the meaning of section 52-552(b)(4) of CUFTA for the various Transfers as specified in detail above alleged herein.

116. Each of the Transfers was to, or for the benefit of, the Defendants.

117. Each of the Transfers was made with money misappropriated from the Receivership Entities. At all relevant times herein, the Receivership Entities had a claim to the funds used for the Transfers.

118. Each of the Transfers was made without receipt of reasonably equivalent value from the Defendants.

119. At the time of each of the Transfers, the Receivership Entities were insolvent, or became insolvent, as a result of the transfer in question.

120. The Transfers constitute fraudulent transfers avoidable by the Receiver pursuant to section 52-552f(a) of CUFTA and recoverable from the Defendants pursuant to section 52-552h of CUFTA.

121. As a result of the foregoing, pursuant to sections 52-552f(a) and 52-552h of CUFTA, the Receiver is entitled to a judgment (i) avoiding and preserving the Transfers made on or within four years before the date of this action; (ii) directing that the Transfers made on or within four years before the date of this action be set aside; and (iii) recovering the Transfers made on or within four years before the date of this action, or the value thereof, from the Defendants for the benefit of the Receivership Estate.

**FOURTH CAUSE OF ACTION**  
**Common Law Fraudulent Transfer**

122. The Receiver incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

123. The Receiver seeks to recover those Transfers made on or within three years before the date of this action.

124. Each of the Transfers constitutes a transfer of an interest of Receivership Entity property. All of the Transfers occurred during the course of the Ponzi scheme, when all investor



money was hopelessly commingled and all Receivership Entities were insolvent. Accordingly, multiple Receivership Entities are creditors for the various Transfers alleged herein.

125. Each of the Transfers was to, or for the benefit of, the Defendants.

126. Each of the Transfers was made with money misappropriated from Receivership Entities. At all relevant times herein, the Receivership Entities had a claim to the funds used for the Transfers.

127. Each of the Transfers was made without receipt of reasonably equivalent value from the Defendants.

128. At the time of each of the Transfers, the Receivership Entities were insolvent, or became insolvent, as a result of the transfer in question.

129. The Transfers constitute fraudulent transfers avoidable by the Receiver and recoverable from the Defendants.

130. As a result of the foregoing, pursuant to Connecticut common law, the Receiver is entitled to a judgment (i) avoiding and preserving the Transfers made on or within three years before the date of this action; and (ii) recovering the Transfers made on or within three years before the date of this action, or the value thereof, from the Defendants for the benefit of the Receivership Estate.

**FIFTH CAUSE OF ACTION**  
**CUTPA, CONN. GEN. STAT. Section 42-110a, et seq.**

131. The Receiver incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

132. The claim for breach of the Connecticut Unfair Trade Practices Act (“CUTPA”) is asserted against Defendants Lopez, Luth and Chong, who, as detailed above, engaged in

numerous and repetitive unfair or deceptive acts and practices in their various management capacities for the Receivership Entities.

133. These unfair or deceptive acts were committed while Lopez, Luth and Chong were engaged in the conduct as members, managers, and/or officers of an investment manager.

134. As a result of deceptive acts by Lopez, Luth and Chong, the Receivership Entities, and HVP Partners in particular, suffered a loss.

135. By reason of the above, the Receiver is entitled to an award of compensatory damages, representing the total amount of victim losses, for the unfair or deceptive acts and practices in a specific amount to be determined at trial.

136. Because of the repetitive nature of the deceptive acts, the Receiver is also entitled to an award of punitive damages in an amount to be determined at trial.

137. As required by CUTPA, Conn. Gen. Stat. § 42-110(d), a copy of this Complaint is being sent to the Connecticut Attorney General and the Connecticut Commissioner of Consumer Protection.

**SIXTH CAUSE OF ACTION**  
**Breach Of Fiduciary Duty**

138. The Receiver incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

139. The claim for breach of fiduciary duty is asserted against Defendants Lopez, Luth and Chong, who had a relationship of trust and confidence with HVP Partners, each holding managerial and supervisory positions for HVP Partners during the relevant time period, and consequently had fiduciary duties to act in the best interests of, and for the benefit of, HVP Partners.

140. The fiduciary duties owed by Defendants Lopez, Luth and Chong included duties of care and loyalty to HVP Partners and duties to act in good faith. They also had the duty not to waste or divert the assets of the Receivership Entities, duties not to exploit corporate opportunities for their own benefit, and duties not to act in furtherance of their own personal interests at the expense of HVP Partners, the HVP Funds and their investors.

141. Defendants Lopez, Luth and Chong, advancing their own interests to the detriment of the Receivership Entities, breached the fiduciary duties owed through, among other things, the misuse of corporate assets, self-dealing, mismanagement, corporate waste, failure to prepare, implement and carry out compliance and supervisory responsibilities and policies, failure to heed red flags, and breaches of their duty to act with care, loyalty, and good faith and fair dealing as described above.

142. Defendants Lopez, Luth and Chong's breaches of their fiduciary duties was a continual course of conduct and continued until HVP Partners ceased operating.

143. As a direct and proximate result of Defendants Lopez, Luth and Chong's conduct, HVP Partners and related Receivership Entities were damaged.

144. By reason of the above, the Receiver is entitled to an award of compensatory damages, representing the total amount of victims' losses, and disgorgement of all sums received by Defendants Lopez, Luth and Chong from HVP Partners and other Receivership Entities, in an amount to be determined at trial.

**SEVENTH CAUSE OF ACTION**  
**Unjust Enrichment**

145. The Receiver incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

146. The Defendants each benefited from the receipt of money from the Receivership Entities in the form of loans, payments, bonuses, compensation, and other Transfers which were the property of the relevant Receivership Entity and its stakeholders, and for which the Defendants did not adequately compensate the relevant Receivership Entities or provide value.

147. The Defendants unjustly failed to repay the Receivership Entities for the benefits they received from the Transfers.

148. The enrichment was at the expense of HVP Partners or related Receivership Entities.

149. Equity and good conscience require full restitution of the monies received by Defendants from the Receivership Entities for distribution to the creditors.

150. Lopez, Luth and Chong's conscious, intentional, and willful tortuous conduct alleged herein also entitles the Receiver to recapture profits derived by the Defendants utilizing monies they received from Receivership Entities.

151. By reason of the above, the Receiver, on behalf of the Receivership Entities and their creditors, is entitled to an award in an amount to be determined at trial.

**EIGHTH CAUSE OF ACTION**  
**Constructive Trust**

152. The Receiver incorporates by reference the allegations contained in the previous paragraphs of the Complaint as if fully rewritten herein.

153. As set forth above, the assets of the Receivership Entities have been wrongfully diverted as a result of fraudulent transfers, unfair trade practices, unjust enrichment, breaches of fiduciary duty, and other wrongdoing of the Defendants for their own individual interests and enrichment.

154. The Receiver has no adequate remedy at law.

155. Because of the past unjust enrichment of the Defendants, the Receiver is entitled to the imposition of a constructive trust with respect to any transfer of funds, assets, or property from Receivership Entities, as well as to any profits received by the Defendants in the past or on a going forward basis in connection with the Receivership Entities.

156. In addition, the sums sent to or for the benefit of the Defendants Lopez and Luth, and received as fraudulent transfers and/or which were transferred directly for the purchase of the real property as alleged herein, should be held in trust for the Receiver's use, benefit, and account, specifically the real property located at: 1 Pond Ridge Lane, Norwalk, Connecticut 06853 (Defendant Luth) and 308 East 72<sup>nd</sup> Street, Apt. 19B, New York, New York 10021 (Defendant Lopez).

157. By reason of the above, the Receiver is entitled to an award of all sums received by Defendants from the HVP Partners and other Receivership Entities in an amount to be determined at trial.

**NINTH CAUSE OF ACTION**  
**Conversion**

158. The Receiver incorporates by reference the allegations contained in the previous of this Complaint as if fully rewritten herein.

159. The Receivership Entities had possessory rights and interests to their assets.

160. The Defendants converted the assets of the Receivership Entities when they received money originating from the Receivership Entities in the form of loans, payments, and other transfers. These actions deprived the relevant Receivership Entity and its creditors of the use of this money.

161. As a direct and proximate result paragraphs of this conduct, the Receivership Entities and there creditors have not had the use of the money converted by the Defendants.

162. By reason of the above, the Receiver, on behalf of the Receivership Entities and their creditors, is entitled to an award of compensatory damages in an amount to be determined at trial.

163. Defendants' Lopez, Luth and Chong's conscious, willful, wanton, and malicious conduct entitles the Receiver, on behalf of the Receivership Entities and their creditors, to an award of punitive damages in an amount to be determined at trial.

**TENTH CAUSE OF ACTION**  
**Accounting**

164. The Receiver incorporates by reference the allegations contained in the previous paragraphs of this Complaint as if fully rewritten herein.

165. As set forth above, the assets of the Receivership Entities have been wrongfully diverted as a result of fraudulent transfers breaches of fiduciary duties, conversions, and other wrongdoing of the Defendants for their own individual interests and enrichment.

166. The Receiver has no adequate remedy at law.

167. To compensate the Receivership Entities for the amount of monies the Defendants diverted these entities for their own benefit, it is necessary for the Defendants to provide an accounting of any transfer of funds, assets, or property received from the Receivership Entities, as well as to any profits in the past and on a going forward basis in connection with the Receivership Entities. Complete information regarding the amount of such transfers misused by the Defendants for their own benefit is within their possession, custody, and control.

**WHEREFORE**, the Receiver respectfully requests that this Court enter judgment in favor of the Receiver and against Defendants as follows:

i. On the First Cause of Action; pursuant to sections 52-552e(a)(1) and 52-552h of the Connecticut Fraudulent Transfers Act: (i) avoiding and preserving the Transfers; (ii) directing that the Transfers be set aside; and (iii) recovering the Transfers, or the value thereof, from the Defendants for the benefit of the Receivership Estate.

ii. On the Second Cause of Action; pursuant to sections 52-552e(a)(2) and 52-552h of the Connecticut Fraudulent Transfers Act: (i) avoiding and preserving the Transfers made on or within four years before the date of this action; (ii) directing that the Transfers made on or within four years before the date of this action be set aside; and (iii) recovering the Transfers made on or within four years before the date of this action, or the value thereof, from the Defendants for the benefit of the Receivership Estate.

iii. On the Third Cause of Action; pursuant to sections 52-552f(a) and 52-552h of the Connecticut Fraudulent Transfers Act: (i) avoiding and preserving the Transfers made on or within four years before the date of this action ; (ii) directing that the Transfers made on or within four years before the date of this action be set aside; and (iii) recovering the Transfers made on or within four years before the date of this action , or the value thereof, from the Defendants for the benefit of the Receivership Estate.

iv. On the Fourth Cause of Action; pursuant to Connecticut common law, i) avoiding and preserving the Transfers made on or within three years before the date of this action; and (ii) recovering the Transfers made on or within three years before the date of this action, or the value thereof, from the Defendants for the benefit of the Receivership Estate.

v. On the Fifth Cause of Action, pursuant to sections 42-110(b) and (g) of the Connecticut Unfair Trade Practices Act, against Lopez, Luth and Chong for compensatory and punitive damages in an amount to be determined at trial;

vi. On the Sixth Cause of Action against Lopez, Luth and Chong for breaches of fiduciary duty, for compensatory damages, disgorgement of all sums received by Lopez, Luth and Chong from the Receivership Entities for the period in which Lopez, Luth and Chong were in breach of their fiduciary duties;

vii. On the Seventh Cause of Action against each of the Defendants for unjust enrichment, in an amount to be determined at trial;

viii. On the Eighth Cause of Action against each of the Defendants for imposition of a constructive trust upon any transfers of funds, assets, or property received from the Receivership Entities;

ix. On the Ninth Cause of Actions against each of the Defendants for conversion an award of compensatory damages in an amount to be determined at trial and against Lopez, Luth and Chong, an award of punitive damages in an amount to be determined at trial;

x. On the Tenth Cause of Action against each of the Defendants for an accounting of any transfer funds, assets, or property received from the Receivership Entities as well as to any profits in the past and on a going forward basis received by the HVP Defendants in connection with the Receivership Entities;

xi. On all Causes of Action, awarding the Receiver all applicable interest, costs, and disbursements of this action; and



xii. On all Causes of Action, granting the Receiver such other, further, and different relief as the Court deems just, proper and equitable.

The Receiver demands a jury trial on all of the foregoing Causes of Action.

Date: February 3, 2012

/s/Philip H. Bieler

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*Attorneys for Receiver John J. Carney*

## Exhibit A

## Transfers

**Frank Lopez**

<b>Salary</b>			
Date	Payment from	Beneficiary	Amount
2005	Highview Point Partners	Frank Lopez	\$ (153,483)
2006	Highview Point Partners	Frank Lopez	(36,000)
2007	Highview Point Partners	Frank Lopez	(109,493)
<b>Total Salary</b>			<b>\$ (298,975)</b>

<b>Partnership Distributions</b>			
Date	Payment from	Beneficiary	Amount
12/05/06	Highview Point Partners	Frank Lopez	\$ (180,000)
03/07/07	Highview Point Partners	Frank Lopez	(35,000)
12/09/08	Highview Point Partners	Frank Lopez	(228,385)
12/31/08	Highview Point Partners	Frank Lopez	(91,861)
12/31/08	Highview Point Partners	Frank Lopez	(78,139)
02/02/09	Highview Point Partners	Frank Lopez	(5,000)
02/26/09	Highview Point Partners	Frank Lopez	(5,000)
03/26/09	Highview Point Partners	Frank Lopez	(5,000)
04/24/09	Highview Point Partners	Frank Lopez	(11,000)
05/04/09	Highview Point Partners	Frank Lopez	(7,876)
05/26/09	Highview Point Partners	Frank Lopez	(11,000)
06/25/09	Highview Point Partners	Frank Lopez	(11,000)
07/24/09	Highview Point Partners	Frank Lopez	(11,000)
08/26/09	Highview Point Partners	Frank Lopez	(11,000)
09/24/09	Highview Point Partners	Frank Lopez	(11,000)
10/26/09	Highview Point Partners	Frank Lopez	(11,000)
11/25/09	Highview Point Partners	Frank Lopez	(11,000)
12/24/09	Highview Point Partners	Frank Lopez	(11,000)
12/31/09	Highview Point Partners	Frank Lopez	(225,000)
01/04/10	Highview Point Partners	Frank Lopez	(43,124)
01/05/10	Highview Point Partners	Frank Lopez	(69,490)
<b>Total Partnership Distributions</b>			<b>\$ (1,072,875)</b>

<b>Bonus</b>			
Date	Payment from	Beneficiary	Amount
2006	Highview Point Partners	Frank Lopez	\$ (35,759)
2007	Highview Point Partners	Frank Lopez	(18,000)
2008	Highview Point Partners	Frank Lopez	(60,000)
2008	Highview Point Partners	Frank Lopez	(165,003)
<b>Total Bonus</b>			<b>\$ (278,763)</b>

<b>Other</b>			
Date	Payment from	Beneficiary	Amount
09/27/05	Highview Point Partners	Argenta Management	\$ (45,000)
11/08/05	Highview Point Partners	Argenta Management	(15,000)
12/20/05	Highview Point Partners	Argenta Management	(30,000)
01/25/06	Highview Point Partners	Argenta Management	(115,000)
02/15/06	Highview Point Partners	Argenta Management	(155,037)
02/28/06	Highview Point Partners	Argenta Management	(24,000)
05/08/06	Highview Point Partners	Argenta Management	(12,000)
06/08/06	Highview Point Partners (HPA, Inc.)	Frank Lopez	(50,000)
08/02/06	Highview Point Partners	Argenta Management	(36,000)
09/05/06	Highview Point Partners (Naproad Finance S.A.)	Argenta Management	(100,000)
09/26/06	Highview Point Partners	Argenta Management	(24,000)
12/04/06	Highview Point Partners	Argenta Management	(36,000)
03/15/07	Highview Point Partners	LP Venture Group	(30,000)
05/16/07	Highview Point Partners	Argenta Management	(6,000)
05/16/07	Highview Point Partners	LP Venture Group	(20,000)
06/22/07	Highview Point Partners	Argenta Management	(18,000)
06/22/07	Highview Point Partners	LP Venture Group	(20,000)
09/14/07	Highview Point Partners	Argenta Management	(30,000)
09/14/07	Highview Point Partners	LP Venture Group	(20,000)
12/05/07	Highview Point Partners	Argenta Management	(15,000)
12/05/07	Highview Point Partners	LP Venture Group	(25,000)

## Exhibit A

## Transfers

## Frank Lopez (Cont.)

Other			
Date	Payment from	Beneficiary	Amount
01/10/08	Fractal to Highview Point Partners (Naproad Finance S.A.)	Argenta Management	(133,000)
01/17/08	Highview Point Partners	Argenta Management	(964,151)
04/08/08	Highview Point Partners	Argenta Management	(18,000)
04/08/08	Highview Point Partners	LP Venture Group	(30,000)
04/25/08	Highview Point Partners	Argenta Management	(6,000)
04/25/08	Highview Point Partners	LP Venture Group	(10,000)
05/23/08	Highview Point Partners	Argenta Management	(6,000)
05/23/08	Highview Point Partners	LP Venture Group	(10,000)
06/25/08	Highview Point Partners	Argenta Management	(6,000)
06/25/08	Highview Point Partners	LP Venture Group	(10,000)
07/25/08	Highview Point Partners	Argenta Management	(6,000)
07/25/08	Highview Point Partners	LP Venture Group	(10,000)
08/25/08	Highview Point Partners	Argenta Management	(6,000)
08/25/08	Highview Point Partners	LP Venture Group	(10,000)
09/25/08	Highview Point Partners	Argenta Management	(6,000)
09/25/08	Highview Point Partners	LP Venture Group	(10,000)
10/24/08	Highview Point Partners	Argenta Management	(6,000)
10/24/08	Highview Point Partners	LP Venture Group	(10,000)
11/25/08	Highview Point Partners	Argenta Management	(6,000)
11/25/08	Highview Point Partners	LP Venture Group	(10,000)
12/24/08	Highview Point Partners	Argenta Management	(6,000)
12/24/08	Highview Point Partners	LP Venture Group	(10,000)
01/26/09	Highview Point Partners	LP Venture Group	(10,000)
01/29/09	Highview Point Partners	Argenta Management	(6,000)
02/27/09	Highview Point Partners	Argenta Management	(6,000)
02/27/09	Highview Point Partners	LP Venture Group	(10,000)
03/27/09	Highview Point Partners	Argenta Management	(6,000)
03/27/09	Highview Point Partners	LP Venture Group	(10,000)
04/27/09	Highview Point Partners	LP Venture Group	(10,000)
05/27/09	Highview Point Partners	LP Venture Group	(10,000)
06/26/09	Highview Point Partners	LP Venture Group	(10,000)
07/27/09	Highview Point Partners	LP Venture Group	(10,000)
08/27/09	Highview Point Partners	LP Venture Group	(10,000)
10/02/09	Highview Point Partners	LP Venture Group	(10,000)
10/26/09	Highview Point Partners	LP Venture Group	(10,000)
11/25/09	Highview Point Partners	LP Venture Group	(10,000)
12/23/09	Highview Point Partners	LP Venture Group	(10,000)
01/15/10	MKV to HVPFM to Web Financial	LP Venture Group	(2,073,000)
01/15/10	MKV to HVPO	Flight Services, Inc.	(5,000,000)
01/26/10	Highview Point Partners	Frank Lopez	(9,625)
01/26/10	Highview Point Partners	LP Venture Group	(10,000)
02/11/10	Highview Point Partners	Frank Lopez	(216,151)
02/25/10	Highview Point Partners	Frank Lopez	(10,000)
02/25/10	Highview Point Partners	Frank Lopez	(9,625)
03/25/10	Highview Point Partners	Frank Lopez	(10,000)
03/25/10	Highview Point Partners	Frank Lopez	(9,625)
03/26/10	MKV to Underhill Investments	Frank Lopez	(1,267,000)
04/23/10	Highview Point Partners	Frank Lopez	(10,000)
04/23/10	Highview Point Partners	Frank Lopez	(9,625)
05/06/10	MK Consulting	LP Venture Group	(150,000)
05/19/10	Highview Point Partners	Frank Lopez	(8,373)
05/27/10	Highview Point Partners	Frank Lopez	(11,000)
05/27/10	Highview Point Partners	Frank Lopez	(2,589)
06/25/10	Highview Point Partners	Frank Lopez	(11,000)
06/25/10	Highview Point Partners	Frank Lopez	(2,589)
07/23/10	MK Consulting	LP Venture Group	(115,000)
07/27/10	Highview Point Partners	Frank Lopez	(11,000)
07/27/10	Highview Point Partners	Frank Lopez	(2,589)
08/26/10	Highview Point Partners	Frank Lopez	(11,000)
08/26/10	Highview Point Partners	Frank Lopez	(2,589)

**Exhibit A**  
**Transfers**

**Frank Lopez (Cont.)**

<b>Other</b>			
<b>Date</b>	<b>Payment from</b>	<b>Beneficiary</b>	<b>Amount</b>
09/27/10	Highview Point Partners	Frank Lopez	(11,000)
09/27/10	Highview Point Partners	Frank Lopez	(2,589)
10/27/10	Highview Point Partners	Frank Lopez	(11,000)
10/27/10	Highview Point Partners	Frank Lopez	(2,589)
11/24/10	Highview Point Partners	Frank Lopez	(11,000)
11/24/10	Highview Point Partners	Frank Lopez	(2,589)
12/20/10	MK Asset Management	LP Venture Group	(41,080)
12/21/10	MK Asset Management	Flight Services, Inc.	(325,619)
12/27/10	Highview Point Partners	Frank Lopez	(11,000)
12/27/10	Highview Point Partners	Frank Lopez	(2,589)

**Other Transfers Total \$ (11,636,624)**

**Total \$ (13,287,237)**

**Carolina Lopez**

<b>Other</b>			
<b>Date</b>	<b>Payment from:</b>	<b>Beneficiary</b>	<b>Amount</b>
11/14/05	Highview Point Partners	Carolina Lopez / Carlos M. B. Araya	\$ (1,623,750)
02/15/06	Highview Point Partners	Carolina Lopez / Carlos M. B. Araya	(60,000)
02/28/06	HVPO to Highview Point Partners (Naproad Finance S.A.)	Carolina Lopez / Carlos M. B. Araya	(85,500)
03/16/06	Highview Point Partners (Naproad Finance S.A.)	Carolina Lopez / Carlos M. B. Araya	(1,102,500)
06/08/06	Highview Point Partners (HPA, Inc.)	Carolina Lopez / Carlos M. B. Araya	(1,000,000)
06/08/06	Highview Point Partners (Naproad Finance S.A.)	Carolina Lopez / Carlos M. B. Araya	(800,000)
03/15/07	PDVSA to Highview Point Partners (Naproad Finance S.A.)	Carolina Lopez	(2,244,000)
04/23/07	Highview Point Partners (Naproad Finance S.A.)	Carolina Lopez	(1,257,477)

**Other Transfers Total \$ (8,173,227)**

## Exhibit A

## Transfers

**Christopher Luth**

<b>Salary</b>			
Date	Payment from	Beneficiary	Amount
2005	Highview Point Partners	Christopher Luth	\$ (75,000)
2006	Highview Point Partners	Christopher Luth	(180,000)
2007	Highview Point Partners	Christopher Luth	(171,000)
2008	Highview Point Partners	Christopher Luth	(252,000)
<b>Total Salary</b>			<b>\$ (678,000)</b>

<b>Partnership Distributions</b>			
Date	Payment from	Beneficiary	Amount
03/14/07	Highview Point Partners	Christopher Luth	\$ (35,272)
10/15/08	Highview Point Partners	Christopher Luth	(239,488)
12/23/08	Highview Point Partners	Christopher Luth	(170,000)
02/02/09	Highview Point Partners	Christopher Luth	(21,000)
02/26/09	Highview Point Partners	Christopher Luth	(21,000)
03/26/09	Highview Point Partners	Christopher Luth	(21,000)
04/24/09	Highview Point Partners	Christopher Luth	(21,000)
05/26/09	Highview Point Partners	Christopher Luth	(21,000)
06/25/09	Highview Point Partners	Christopher Luth	(21,000)
07/24/09	Highview Point Partners	Christopher Luth	(21,000)
08/26/09	Highview Point Partners	Christopher Luth	(21,000)
09/24/09	Highview Point Partners	Christopher Luth	(21,000)
10/26/09	Highview Point Partners	Christopher Luth	(21,000)
11/25/09	Highview Point Partners	Christopher Luth	(21,000)
12/23/09	Highview Point Partners	Christopher Luth	(21,000)
12/31/09	Highview Point Partners	Christopher Luth	(225,000)
01/04/10	Highview Point Partners	Christopher Luth	(51,000)
01/05/10	Highview Point Partners	Christopher Luth	(69,490)
<b>Total Partnership Distributions</b>			<b>\$ (1,042,250)</b>

<b>Bonus</b>			
Date	Payment from	Beneficiary	Amount
2006	Highview Point Partners	Christopher Luth	\$ (178,796)
2007	Highview Point Partners	Christopher Luth	(530,647)
2008	Highview Point Partners	Christopher Luth	(964,151)
<b>Total Bonus</b>			<b>\$ (1,673,594)</b>

<b>Other</b>			
Date	Payment from	Beneficiary	Amount
11/02/05	Highview Point Partners	Christopher Luth	\$ (1,569)
01/13/06	HVPO to Highview Point Partners (Naproad Finance S.A.)	Christopher Luth	(100,000)
01/07/08	Fractal to Highview Point Partners (Naproad Finance S.A.)	Christopher Luth	(133,000)
01/15/09	MK to HVPMF to Ontime	Christopher Luth	(480,000)
02/20/09	Highview Point Partners	Christopher Luth	(960)
02/20/09	MKV to HVPMF to Ontime	Christopher Luth	(75,000)
06/18/09	MKV to Fidevalores	Christopher Luth	(1,100,000)
01/26/10	Highview Point Partners	Christopher Luth	(19,625)
02/11/10	Highview Point Partners	Christopher Luth	(216,151)
02/25/10	Highview Point Partners	Christopher Luth	(19,625)
03/25/10	Highview Point Partners	Christopher Luth	(19,625)
03/26/10	MKV to Underhill Investments	Christopher Luth	(1,267,000)
04/23/10	Highview Point Partners	Christopher Luth	(19,625)
05/27/10	Highview Point Partners	Christopher Luth	(19,625)
06/25/10	Highview Point Partners	Christopher Luth	(19,625)
07/27/10	Highview Point Partners	Christopher Luth	(19,625)
08/26/10	Highview Point Partners	Christopher Luth	(19,625)
09/27/10	Highview Point Partners	Christopher Luth	(19,625)
10/27/10	Highview Point Partners	Christopher Luth	(19,625)
11/24/10	Highview Point Partners	Christopher Luth	(19,625)
11/30/10	Highview Point Partners	Christopher Luth	(1,023)
12/27/10	Highview Point Partners	Christopher Luth	(19,625)
<b>Other Transfers Total</b>			<b>\$ (3,610,202)</b>

**Total** \$ (7,004,046)

Exhibit A  
Transfers

**Victor Chong**

<b>Salary</b>			
Date	Payment from	Beneficiary	Amount
2005	Highview Point Partners	Victor Chong	\$ (57,000)
2006	Highview Point Partners	Victor Chong	(84,000)
2007	Highview Point Partners	Victor Chong	(114,000)
2008	Highview Point Partners	Victor Chong	(120,000)
2009	Highview Point Partners	Victor Chong	(120,000)
2010	Highview Point Partners	Victor Chong	(126,000)
2011	Highview Point Partners	Victor Chong	(37,500)
<b>Total Salaries</b>			<b>\$ (658,500)</b>

<b>Bonus</b>			
Date	Payment from	Beneficiary	Amount
2008	Highview Point Partners	Victor Chong	\$ (81,500)
2009	Highview Point Partners	Victor Chong	(157,500)
2010	Highview Point Partners	Victor Chong	(241,500)
<b>Total Bonus</b>			<b>\$ (480,500)</b>

<b>Other</b>			
Date	Payment from	Beneficiary	Amount
04/03/07	Highview Point Partners (Naproad Finance S.A.)	Victor Chong	\$ (20,000)
02/15/08	HVPMF to Highview Point Partners (Naproad Finance S.A.)	Victor Chong	(60,000)
01/15/09	MK to HVPMF to Ontime	Victor Chong	(50,000)
06/25/10	Highview Point Partners	Victor Chong	(2,584)
06/28/10	Highview Point Partners	Victor Chong	(125)
12/23/10	Highview Point Partners	Victor Chong	(1,430)
<b>Other Transfers Total</b>			<b>\$ (134,139)</b>

**Total** **\$ (1,273,139)**