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.

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

Defendants.

Civil Action No. 3:12-CV-00182(SRU)

JURY TRIAL DEMANDED

FIRST AMENDED 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")[1] 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 First Amended Complaint against Victor Chong ("Chong"), 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 $35.3 million, were transferred to

[1] The Receivership Entities include: HVP Partners; MK Master Investments LP; MK Investments, Ltd.; MK Oil Ventures LLC; the MK Group; Michael Kenwood Capital Management, LLC ("MKCM"); 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"); and Short Term Liquidity Fund, I, Ltd. ("STLF").

the Defendants from Receivership Entities under a variety of guises, including "bonus" payments and investments in entities controlled by the Defendants.

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. Additionally, the Receiver 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 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"), Highview Point L.P. and Highview Point Master Fund, Ltd. (the "Master Fund" and together with the Offshore Fund and Highview Point L.P., the "HVP Funds"). 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 $35,299,161 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 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. On information and belief, at all times relevant to this complaint, Lopez was a resident of New York County with a last known address of 308 East 72nd Street, Apartment 19B, New York, New York, 10021. On information and belief, Lopez also owns a residence located at 19333 Collins Avenue, Sunny Isles Beach, Florida, 33160. 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, CONN. GEN. STAT. § 52-552 ("CUFTA"). Lopez has refused to cooperate with the Receiver's investigation and, when deposed, invoked his Fifth Amendment right 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 right not to incriminate himself.

14. Chong is a resident of New York County, New York. He was serving as Chief Financial Officer of HVP Partners at least as early as August of 2005 and became Chief Compliance Officer in 2006. 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 right not to incriminate himself.

15. Peláez 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, Peláez holds a bank account with her husband Araya at a Credit Suisse in Florida to which transfers were made from Receivership Entities and holds an account in her own name at a Wachovia in New York to which transfers were made from Receivership Entities. The account opening paperwork for the Florida account indicates that Lopez had discretion over the account. In addition, copies of statements from the Florida account were sent to Lopez. As a relative of Lopez, Peláez is an insider of the HVP Partners within the meaning of section 52-552(b)(7) of CUFTA.

16. Araya is Peláez's husband and is, on information and belief, a resident of San Jose, Costa Rica. On information and belief, Araya holds a joint bank account with his wife Peláez at a Credit Suisse in Florida to which transfers were made from Receivership Entities and over which Lopez had discretion.

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 and under applicable state law.

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 alleged that 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.[2] 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.

[2] The SEC complaint has subsequently been amended to include HVP Partners as a defendant and to allege additional fraudulent acts by Illarramendi, among other things.

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.[3] 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 "Amended Receiver Order"), 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. Pursuant to the Amended Receiver Order, 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.

[3] 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.

25. The Amended Receiver Order grants the Receiver authority to bring claims that the Receivership Entities could have brought in their own behalf. This includes, among other things, the right to "seek…avoidance of fraudulent transfers" (Amended Receiver Order at 14) and "bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver" (*Id.* at 6) on behalf of the Receivership Entities and for the ultimate benefit of their creditors.

26. At all relevant times, the Receivership Entities were under Illarramendi's domination and control as Illarramendi and his accomplices diverted their corporate assets and deepened their insolvency in furtherance of the Ponzi scheme.

27. Illarramendi's Ponzi scheme, and Defendants' participation in it, caused harm to the Receivership Entities' businesses and property. Pursuant to the Amended Receiver Order, the Receiver has standing to bring the claims alleged herein.

28. The Receiver has standing to bring these claims pursuant to, among other things, CUFTA, and Connecticut common law.

29. As alleged herein, at all relevant times the Receivership Entities were creditors of Illarramendi because they each had a claim to the funds that Illarramendi diverted and misappropriated in furtherance of the Ponzi scheme. Because Illarramendi routinely commingled funds between and among the Receivership Entities, the Entities are creditors of one another. Accordingly, the Receiver has standing to recover fraudulent transfers made from the Receivership Entities.

30. 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

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

CRIMINAL PROCEEDINGS

31. 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 supplied primarily by foreign institutional and individual investors.

32. 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.

33. On March 7, 2011, Illarramendi pleaded guilty to a much larger fraud than was alleged in the initial complaint in the SEC Action. He pleaded guilty to felony violations of wire fraud (18 U.S.C. § 1343), securities fraud (15 U.S.C. §§ 78j(b) and 78ff), investment advisor fraud (15 U.S.C. §§ 80b-6 and 80b-17), and one count of conspiracy to obstruct justice (18 U.S.C. § 371).

34. As Illarramendi publicly acknowledged as part of his guilty plea, 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 (SRU). He also admitted to disregarding corporate formalities and commingling investments in various HVP Funds. *Id.*

THE GENESIS OF THE FRAUD

35. 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.

36. 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 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.

37. 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 HVP Defendants were aware of this transaction. 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.

38. 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 failed to properly oversee Illarramendi's activities.

39. 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 the Offshore Fund 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.

40. To fund the fraudulent transfer from Ontime, which made it falsely appear that a redemption had occurred, Illarramendi, through the Receivership Entities, 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, Illarramendi caused HVP Partners to fund these fraudulent transfers primarily through a loan from BCT Bank International ("BCT Bank")—a Central American bank of which Lopez was a director—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."

41. 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 and the HVP Funds, Illarramendi used various bank accounts, including accounts in the names of offshore companies, such as Naproad Finance S.A. ("Naproad"). At all relevant times, those bank accounts were under the control of Illarramendi and HVP Partners and contained commingled funds from Receivership Entities, the HVP Funds and third parties.

42. 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.

43. Illarramendi, in an effort to conceal the fraud, engaged in various transactions in the unofficial Venezuelan currency market. Upon information and belief, the "permuta market" or "swap market" was a parallel currency market in operation in Venezuela in which government bonds could be bought in bolivars and then sold for dollars. Upon information and belief, it was possible to purchase a bolivar-denominated bond through brokerage houses, swap it for a dollar-denominated bond (clearable through Euroclear), and then sell it to receive U.S. dollars offshore. As a result, the relation between the prices of these two bonds became a proxy for the quasi-free market currency exchange rate.

44. Upon information and belief, this market was abolished by the Venezuelan government in or about May 2010. In its place, Venezuelan authorities created the Sistema de Transaccion con Titulos en Moneda Extranjera (SITME), essentially a bond-trading system run by the Venezuelan central bank, which sells dollars at a fixed rate.

45. Upon information and belief, Illarramendi relied on access to the permuta market to assist in his operation of the Ponzi scheme.

46. 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 losses of more than $300 million.

47. 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 that they 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

48. 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.

49. 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.

A. HVP Defendants' Positions Should Have Led To Discovery Of Fraud

50. Luth, in addition to his role as a founding member and principal, served as a 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 responsibility for making investment decisions. Luth also had unfettered access to the financial information of HVP Partners and the HVP Funds. His role as a portfolio manager required him to determine whether each portfolio needed more exposure or less in a particular area. Luth was also the "Head Trader" at HVP Partners, giving him further visibility into the financial transactions in which HVP Partners engaged. Because of his positions, 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.

51. 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 that 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.

52. 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.

B. The Fraudulent Concealment Of Astronomical Losses From Speculative Options Trades

53. 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 Securities Ltd. ("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 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.

54. On information and belief, Luth purportedly vetted investment opportunities at HVP Partners and managed the investment portfolio of the HVP Funds. Despite that, he did nothing to monitor Illarramendi's activities and prevent him from engaging in the off-book schemes described above in an attempt to hide the Fraud that resulted in approximately $28 million of additional losses.

55. Chong similarly failed in his duties 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, permitted him to betray both the HVP Funds and HVP Partners by encouraging the fraud to continue.

C. HVP Defendants Were Aware Of "Off The Books" Accounts And Improper Transactions

56. An account was maintained at BCT Bank, a bank controlled by Lopez discussed *infra*, in the name of the Offshore Fund (the "BCT Account") of which all of the HVP Defendants were aware. The BCT Account was not recorded in the books or records of the HVP Funds and was used by Illarramendi to commingle funds from the HVP Funds and various third party sources in an attempt to conceal and perpetrate the fraud.

57. For example, in July 2009, Illarramendi caused the Master Fund to make a $15 million payment fictitiously characterized as an investment in MK Venezuela. The cash was actually wired to the BCT Account on July 13, 2009 and, by July 16, 2009, was used by Illarramendi to pay a third party and to repay a $11.9 million promissory note issued by HVP Partners for the benefit of BCT Bank. Funds from the promissory note had been used to repay a previous promissory note obligation owed by Highview Point Partners to an entity controlled by Victor Vargas, and IVP Overseas, an entity controlled by Piero Montelli.

58. In a July 28, 2009 email exchange, the HVP Funds' administrator asked Luth to "… please advise what what [sic] your intentions are with this money which is sitting in the BCT account. Do you plan to buy something or book deals with this?" Luth responded on the same day by stating "yes, ultimately we will buy a note or notes or credit linked note… when that happens we will set up and book the trade in Kondor/CSM as per normal operating procedures."

59. When pressed for more information by the HVP Funds' administrator on July 30, 2009, Luth responded stating "we used the $15mm at BCT to buy more of the MKV credit linked note…" This demonstrates that Luth (1) knew about the unrecorded, commingled BCT Account, (2) was aware of at the least some of the "investments" that Illarramendi was making with money from the Funds, (3) knew or should have known that on July 28, 2009 the $15 million was not available to buy a credit linked note because the funds were already used to make payments to the third party and BCT, and (4) ultimately misled the HVP Funds' administrator by stating on July 30, 2009 that the $15 million was used to buy a MK Venezuela credit linked note when in fact the $15 million was not available after July 16, 2009.

60. Email correspondence confirms that each of the HVP Defendants was aware of the BCT account. The HVP Defendants each breached their fiduciary duties by not requiring that the account be recorded on the books and records of the HVP Funds and by allowing this account to be utilized by Illarramendi to conceal fictitious transactions and commingle funds.

61. The HVP Defendants also used the MK Funds to engage in improper transactions to evade scrutiny from auditors. During August 2009, the auditor of the Master Fund, Eisner LLP, questioned the valuation of an unlisted security, referred to as Indogreen, which was carried on the Master Fund's books at $10 million or approximately 6% of the Fund's investment portfolio as of August 2009. In order to avoid having the investment on the books at

the end of the year, which would have raised further questions from their auditors, the HVP Defendants attempted to sell the Indogreen investment prior to December 31, 2009, and were actively negotiating the sale with a third party.

62. However, when it became clear that the sale was not going to be completed by December 31, 2009, Illarramendi caused the Master Fund to "sell" the Indogreen investment to MK for a purchase price of more than $13 million (an amount representing over a 30% profit). In an email to Illarramendi, Luth acknowledged that the Indogreen sale would not be finalized in time and, by default, the investment would be transferred to an MK entity. Luth stated "am in the office and don't see any final docs on [Indogreen], so more than likely we will sell them to MK before the week ends."

63. During February 2010, the Master Fund "repurchased" the Indogreen investment from an MK entity at a fictitious "profit" to the MK entity. Shortly thereafter, the Master Fund consummated the sale of the Indogreen investment to the third party that they had been negotiating with prior to December 31, 2009. Therefore, the non-arm's length transfer of the Indogreen investment to the MK entity inappropriately parked the investment off the books of the Master Fund to mislead its auditors. Email correspondence reveals that all of the HVP Defendants were aware of the Indogreen transaction. This is just one example of how Illarramendi, with the HVP Defendants' knowledge, used the entities under his control interchangeably, with no consideration of their separate legal identities.

64. In a similar breach of fiduciary duties, Luth repeatedly manipulated investment valuations of fictitious transactions such as with Naproad, Ontime and Pamac to fictitiously increase the earnings of HVP Partners and the HVP Funds. For example, on August 1, 2006, Luth sent Illarramendi an email notifying Illarramendi that he "jacked up the Ontime and Pamac

up to 102.5…so that we would have a good quick start to the month." In another example, Illarramendi sent an email to Luth, Lopez and Chong on September 7, 2007 which stated "I have also asked Pier to get the Naproad statement in today with a 104 mark. Let me know if you need it to incorporate all of the gain (105) so that I can tell him in time." Thus, Luth, with the knowledge of the other HVP Defendants, manipulated earnings by taking advantage of the fabricated valuations applied to the fictitious Naproad, Ontime and Pamac investments.

65. Finally, Illarramendi, through HVP Partners, secured various loans with third parties by pledging the assets of HVP Funds without disclosing of the arrangement to HVP Funds' investors. The proceeds of these loans were used to conceal and perpetuate the fraud. For example, during January 2009, HVP Partners entered into two promissory notes with Moris Beracha (connected to a fictitious bond transaction recorded by the Master Fund) that included the Master Fund as guarantor. Both promissory notes include the following guarantee:

> **SECURITY PROVISION:** The Borrower certifies that it is presently engaged as Fund Manager by Highview Point Master Fund, and as such has full legal and operational control over the assets of such fund. At present, under the independently-calculated Net Asset Value for September 30, 2008, the assets of the Fund totaled approximately $200 million in gross holdings and $160 million in net holdings. Under terms of the present note, the Borrower hereby grants a full guarantee to the Lender over the full net holdings of the Fund, up to an amount sufficient to cover both principal and interest due on the Maturity Date as long as there has not occurred an Event of Default under the reference Credit Suisse note. In the occurrence of default the Borrower hereby guarantees the delivery of Bolivarian Republic of Venezuela Bonds due 2027.

66. Email correspondence indicates that at least Lopez was aware of this practice which put the HVP Funds' assets at risk with no corresponding benefit to HVP Funds' investors. Notwithstanding this knowledge, Lopez did not disclose the collateral arrangement or HVP Partners' benefit from the arrangement to HVP Funds' investors, violating his fiduciary duties. Luth and Chong knew or should have known about this practice and their failure to prevent the pledge of assets of HVP Funds also constitutes a breach of fiduciary duties. The guarantees were

only partially disclosed to investors in September 2010 after an inquiry from the SEC that ultimately led to Illarramendi's guilty plea. The disclosure was not complete because it only referenced two of several guarantees provided to investors (and did not disclose the guarantee given to Beracha excerpted above, among others).

D. Luth And Lopez Improperly Authorized Early Redemptions

67. In or about September 2008, an investor sought an immediate redemption of investments in the Offshore Fund, which was not permissible under the Fund's 90-day redemption policy. On or about September 23, 2008, Luth informed Illarramendi of the investor's redemption request, despite knowing such immediate redemption requests were not allowed, and asked Illarramendi to confirm that enough cash was available for the redemption.

68. To prevent GlobeOp, the HVP Funds' administrator, from learning of the improper early redemption, Lopez made an agreement with the investor, whereby he would cancel the September 2008 redemption request, would receive a secret, off-the-books redemption of his investment and would thereafter reapply for a December 31, 2008 withdrawal.

69. On or about October 20, 2008, Ontime transferred approximately $2.8 million to a bank account held by the investor which appears to be the functional equivalent of an early redemption of the investor's investment in the Offshore Fund.

70. On or about December 22, 2008, Lopez sent an email to the investor instructing him to transfer the money that he would subsequently receive from the conforming 90-day Offshore Fund redemption in January 2009 to an account at BCT Bank in the name of Flight Services, Inc., an entity owned or controlled by the Lopez family, apparently to prevent the investor from being compensated twice for its investment in the Offshore Fund.

71. On or about January 15, 2009, the Offshore Fund transferred approximately $2.3 million to a bank account held by the investor. On or about January 16, 2009, the investor

confirmed that he would transfer those funds to Flight Services, Inc., as instructed. On or about January 22, 2009, Flight Services, Inc. transferred approximately $2.3 million to Ontime.

72. This convoluted series of transactions, designed to circumvent HVP Funds redemption policy, provide a secret, off-the-books redemption and prevent GlobeOp from learning such a redemption occurred, demonstrates that Lopez and Luth were at the very least aware of, and in Lopez's case was a participant in, improper corporate activities.

E. Chong Commingled Funds And Disregarded Corporate Entities

73. Chong facilitated transactions for entities other than the one which employed him with full knowledge that he was commingling funds and disregarding corporate identities. During March 2010, the PDVSA pension funds invested approximately $100 million in SOF. This investment was initially contemplated as a three-way transaction between PDVSA, the Master Fund and SOF wherein PDVSA would invest $100 million in SOF, and the Master Fund would purchase $35 million of an investment held by PDVSA referred to as Harewood. Correspondence confirming the terms of this transaction was signed by Chong as Chief Financial Officer of HVP Partners, which was identified as an "arranger" of the transaction.

74. At the time the transaction was negotiated, Illarramendi believed that the Harewood shares had little to no value, but he agreed to cause entities under his control to purchase the shares as a concession to induce PDVSA to invest $100 million in SOF, so as to create liquidity for the Ponzi scheme. The initial terms of the transaction required the Master Fund to purchase the Harewood investment for $33 million, which was later increased to $35 million. Illarramendi complained to Chong in an email when the terms of the deal were changed "[t]hese guys end up getting a better deal than what I want to give them."

75. Ultimately, MKV transferred $25 million and the Master Fund transferred $10 million to the PDVSA pension funds to pay for the purchase of the Harewood investment, and the Harewood position was transferred to STLF. Although the Harewood shares eventually were sold by principals of MK for approximately $18 million, the proceeds from this sale were not paid to MKV or the Master Fund, the entities that financed the transaction, nor retained by the STLF. Instead the proceeds from the redemption were misappropriated and paid to certain principals of the MK Group.

76. Chong's involvement in and coordination of this deal highlights his participation in the commingling of MK and HVP assets and a disregard for their existence as separate legal entities. Chong was aware that the Master Fund had advanced funds to purchase the Harewood shares, yet he did not question why the Harewood shares were transferred to STLF.

77. 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.

78. The fiduciary duties owed by the HVP Defendants included duties of care and loyalty to HVP Partners and the HVP Funds who entrusted their assets into its care, as well as a duty to act in good faith. Each of the HVP Defendants also had a duty not to waste or divert the assets of HVP Partners, a duty not to exploit corporate opportunities for their own benefit, and to

act in furtherance of their own personal interests at the expense of HVP Partners. The HVP Defendants grossly failed to satisfy these most basic corporate standards.

THE FRAUDULENT SCHEME WAS A WINDFALL FOR THE DEFENDANTS

79. From 2005 through January of 2011, the HVP Defendants were well rewarded for failing to do the jobs that were expected 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 $35,299,161 directly or indirectly in transfers as set out in Exhibit A attached hereto and incorporated herein (the "Transfers"). Excluding salary and partnership distributions, HVP Defendants received at least $28,531,995 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. These Transfers were themselves in furtherance of the Fraudulent Scheme because they ensured that it was in the Defendants' financial interest to continue to facilitate the scheme by turning a blind eye to Illarramendi's fraudulent conduct. The specifics of certain of these transactions are described in the following sections. Immediately below is a snapshot of certain Transfers to the Defendants.

80. Exclusive of salary and partnership draws, Lopez received at least $12,117,428, directly or indirectly, from Receivership Entities including, but not limited to the following Transfers made for his benefit:

a. $1,833,188 as a series of distributions of Receivership property through an entity controlled by Lopez called Argenta Management.

b. $2,904,080 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.

81. 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.

82. Exclusive of salary and partnership distributions, Luth received at least $5,553,700, 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.

b. $133,000 in 2008 as a purported "bonus" from HVP Partners paid off-the-books using money transferred from the Naproad Account 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.

83. Exclusive of salary, Chong received at least $617,639, 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.

84. Peláez and Araya jointly received at least $10,243,227 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 the Naproad Account in 2006.

c. $1,257,477 from the Naproad Account in 2007.

85. At the very least, as noted above, the fact that so many of the Transfers described above came from entities other than HVP Partners should have put the HVP Defendants on notice of the Fraudulent Scheme.

86. In addition, the Transfers also consist of salary and partnership distributions paid to the HVP Defendants, totaling at least $6,767,166, 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

87. 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 and the personal benefits obtained by the Defendants from the Fraudulent Scheme.

A. Naproad

88. 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 the Naproad Account 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 the Naproad Account, $155,000 of the funds transferred to the Naproad Account were deposited into bank accounts in the names of Illarramendi ($50,000), his sister Adela Illarramendi ($5,000), and Luth ($100,000).

B. Permuta Trades

89. 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 schemes, notably through a series of permuta 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 market in an attempt to hide the fraud.

90. 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 expensive bribes to at least one 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.

91. Again in January 2008, Illarramendi used the Naproad Account to make 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.

C. Michael Kenwood Entities

92. 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.

93. 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 note with HVP Partners which was signed by Illarramendi on behalf of HVP Partners and which was guaranteed by the HVP Funds. HVP Partners promised to pay an excessive 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.

94. 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.

95. Luth was copied on emails to GlobeOp stating that cash was being wired to Ontime to settle the bond purchases when in reality the cash that went to Ontime was used, in part, to pay Luth. The emails and the timing of the payments evidence that Luth knew or should have known that GlobeOp was being misled for his personal benefit.

96. The Defendants continued to receive payments from MK Venezuela throughout 2009 without providing any 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.

97. 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.

D. Lopez Utilizes His Network Of Entities To Profit From The Fraud

98. 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.

99. During 2010 alone, over $7 million was paid by Receivership Entities to two entities controlled by Lopez, Flight Services Inc. and LP Venture Group, to repay a loan connected with an airplane owned by Lopez. Receivership Entities provided the funds to repay this loan but received no benefit. In fact, Lopez later sold the airplane for his own benefit.

100. Further, funds for HVP Partners were used to pay for legal expenses of ventures connected to Lopez and the other HVP Defendants, including Flight Services Inc. HVP Partners received no benefit from these transactions.

101. Finally, 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 $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 Underhill Investments.

E. Luth's Family Uses The HVP Funds To Complete Private Transactions

102. Lopez was not the only HVP Defendant to make his family members a part of the Fraudulent Scheme. In an apparent display of 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 without prior written consent from HVP Partners.

103. On March 31, 2009, HVP Master Fund trading records indicate the sale of 10.5% coupon bonds with a $3 million face value issued by Tristan Oil Ltd., due to mature on January 1, 2012. On that same date, a brokerage account in the name of Heather Luth, Luth's

wife, purchased and received $3 million face value bonds with the same issuer, coupon, and maturity.

104. On May 19, 2009, these securities were sold from Heather Luth's account and that same day, HVP Master Fund recorded a purchase of the same securities. Heather Luth's account realized a capital gain of approximately $271,000. Through this trading activity, Luth unjustly enriched the account in his spouse's name at the expense of HVP Master Fund and breached his fiduciary duty. This breach was not disclosed to investors until September 2010 after an inquiry from the SEC that ultimately led to Illarramendi's guilty plea.

105. 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

106. 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.

107. Over the course of their connection with HVP Partners, the HVP Defendants received $6,767,166 in purported draws and salary.

108. 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.

109. 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.

110. While some individual transactions engaged in by HVP Partners might have yielded a profit, upon information and belief, HVP Partners, and the HVP Funds it 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.

111. Moreover, as detailed herein, the HVP Defendants did not carry out the duties required as members and officers of HVP Partners and thus did not provide value for their salaries and draws. 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.

112. 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.

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

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

THE NATURE OF THE CAUSES OF ACTION AGAINST THE DEFENDANTS

115. 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.

116. 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 be distributed equitably among the victims of the Ponzi scheme.

117. 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, particularly from entities other that HVP Partners, 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.

118. 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 HVP 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; and

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

119. 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.

120. 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.

121. 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.

122. 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 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.

123. 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)

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

125. 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 Transfers could have been reasonably discovered by the Receiver.

126. 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.

127. 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.

128. Each of the Transfers occurred during the course of a Ponzi scheme, when Illarramendi diverted and misappropriated the Receivership Entities' corporate assets and

commingled investor money among the insolvent Receivership Entities. Illarramendi thus directed the Transfers through the Receivership Entities at a time when such entities were insolvent. Accordingly, at all relevant times herein, the Receivership Entities had a claim to the funds used for the Transfers.

129. At all relevant times, the Receivership Entities were "creditors" of Illarramendi and his accomplices within the meaning of section 52-552(b)(4) of CUFTA for the various Transfers alleged herein.

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

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

132. Each of the Transfers was made by Illarramendi and others to further the Ponzi scheme and was made with the actual intent to hinder, delay or defraud the Receivership Entities and their then-existing creditors.

133. 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.

134. 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)

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

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

137. 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.

138. Each of the Transfers occurred during the course of a Ponzi scheme, when Illarramendi diverted and misappropriated the Receivership Entities' corporate assets and commingled investor money among the insolvent Receivership Entities. Illarramendi thus directed the Transfers through the Receivership Entities at a time when such entities were insolvent. Accordingly, at all relevant times herein, the Receivership Entities had a claim to the funds used for the Transfers.

139. At all relevant times, the Receivership Entities were "creditors" of Illarramendi and his accomplices within the meaning of section 52-552(b)(4) of CUFTA for the various Transfers alleged herein.

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

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

142. 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.

143. 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.

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

145. 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.

146. 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)

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

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

149. 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.

150. Each of the Transfers occurred during the course of a Ponzi scheme, when Illarramendi diverted and misappropriated the Receivership Entities' corporate assets and commingled investor money among the insolvent Receivership Entities. Illarramendi thus directed the Transfers through the Receivership Entities at a time when such entities were

insolvent. Accordingly, at all relevant times herein, the Receivership Entities had a claim to the funds used for the Transfers.

151. At all relevant times, the Receivership Entities were "creditors" of Illarramendi and his accomplices within the meaning of section 52-552(b)(4) of CUFTA for the various Transfers alleged herein.

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

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

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

155. 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.

156. 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

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

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

159. Each of the Transfers constitutes a transfer of an interest in property of Receivership Entities.

160. Each of the Transfers occurred during the course of the Ponzi scheme, when Illarramendi diverted and misappropriated the Receivership Entities' corporate assets and commingled investor money among the insolvent Receivership Entities. Illarramendi thus directed the Transfers through the Receivership Entities at a time when such entities were insolvent. Accordingly, at all relevant times herein, the Receivership Entities had a claim to the funds used for the Transfers.

161. At all relevant times, the Receivership Entities were "creditors" of Illarramendi and his accomplices for the various Transfers alleged herein.

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

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

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

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

166. 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
Breach Of Fiduciary Duty

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

168. 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.

169. 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.

170. 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.

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

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

173. 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.

SIXTH CAUSE OF ACTION
Unjust Enrichment

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

175. 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.

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

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

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

179. 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.

180. 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.

SEVENTH CAUSE OF ACTION
Constructive Trust

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

182. 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.

183. The Receiver has no adequate remedy at law.

184. 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.

185. 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.

EIGHTH CAUSE OF ACTION
Conversion

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

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

188. The Defendants converted the assets of the Receivership Entities when they received money misappropriated from the Receivership Entities in the form of loans, payments,

and other transfers. These unauthorized actions deprived the relevant Receivership Entity and its creditors of the use of this money.

189. 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.

190. 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.

191. 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.

NINTH CAUSE OF ACTION
Accounting

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

193. 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.

194. The Receiver has no adequate remedy at law.

195. To compensate the Receivership Entities for the amount of monies the Defendants diverted from 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 Uniform 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 Uniform 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 Uniform 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 against Lopez, Luth and Chong for breaches of fiduciary duty, for compensatory damages representing the total amount of victims' losses and, 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;

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

vii. On the Seventh 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;

viii. On the Eighth Cause of Action 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;

ix. On the Ninth 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;

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

xi. 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: June 22, 2012

/s/*Jonathan B. New*

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