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; MKCM MERGER SUB, LLC; MK SPECIAL OPPORTUNITY FUND; MK VENEZUELA, LTD.; SHORT TERM LIQUIDITY FUND, I, LTD. Plaintiff, v. JUAN S. MONTES, a.k.a. "BLACK," Defendant.	Case No. 12-CV-00183-SRU **JURY TRIAL DEMANDED**

SECOND AMENDED COMPLAINT

John J. Carney, Esq. (the "Receiver"),[1] as court-appointed receiver for the Michael Kenwood Group LLC (the "MK Group") and certain affiliated entities (the "Receivership Entities")[2] in *Securities and Exchange Commission v. Illarramendi, Michael Kenwood Capital Management, LLC et al.*, No. 3:11-cv-00078 (JBA) (the "SEC Action"), by and through his undersigned counsel, alleges the following:

SUMMARY OF CLAIMS

1. This lawsuit is part of the Receiver's continuing efforts to trace, recapture and return investor proceeds stolen from investment funds managed and operated as a Ponzi scheme by Francisco Illarramendi ("Illarramendi") and other individuals affiliated with the MK Group and Highview Point Partners, LLC ("HVP Partners") (the "Fraudulent Scheme"). Through this second amended complaint (the "Complaint"), the Receiver seeks the avoidance and recovery of bribes or other transfers totaling at least $30,664,490 (collectively, the "Transfers"), as set forth on Exhibit A attached hereto, and other damages. Illarramendi made payments, directly or indirectly, to defendant Juan S. Montes ("Montes" or "Defendant"), a senior pension fund investment manager and official at Petróleos de Venezuela, S.A. ("PDVSA"), who managed and controlled the investment portfolios of at least three of PDVSA's pension funds. As described in

[1] Unless otherwise explicitly 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 (Docket #423).

[2] The Receivership Entities include: Highview Point Partners, LLC; MK Master Investments LP; MK Investments, Ltd.; MK Oil Ventures LLC; The Michael Kenwood Group, 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; MKCM Merger Sub, LLC; MK Special Opportunity Fund; MK Venezuela, Ltd.; Short Term Liquidity Fund, I, Ltd. The term also includes any additional entities that may, in the future, become Receivership Entities, pursuant to court order.

further detail below, Defendant Montes negotiated for, and received, bribes or other transfers in exchange for his approval of certain bond-swap and investment transactions amongst PDVSA's pension funds and Receivership Entities. Montes knowingly conspired with Illarramendi and participated in and substantially facilitated Illarramendi's numerous breaches of his fiduciary duties to the Receivership Entities for Montes' personal benefit.[3] Montes was an instrumental part of the Fraudulent Scheme. Working with Illarramendi and getting paid by him, Montes funneled PDVSA's assets for use in the Receivership Entities' illegitimate investment activities.

2. In an attempt to conceal the true nature of the bribes to Montes, Illarramendi falsely and fraudulently described these payments variously as investments or payments for professional fees. In addition, Illarramendi transferred $5,080,161 from the Short Term Liquidity Fund, I, Ltd. ("STLF"), a Receivership Entity, for the benefit of Montes to Movilway S.L. ("Movilway"), a technology and communications company headquartered in Spain. According to a July 25, 2012 article in the Latin American Herald Tribune, Moris Beracha ("Beracha"), a Movilway co-founder and a prominent Venezuelan businessman and financier, explained that this transfer "was meant to be an investment in … Movilway on behalf of Juan Montes, but was incorrectly sent from one of Francisco Illarramendi's hedge funds in July 2011." This transfer to Movilway represented an additional kickback to Montes made with money misappropriated from the MK Group and HVP Partners. Defendant Montes benefitted, either directly or indirectly, from the Transfers alleged herein.

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[3] The Receiver has separately filed a complaint against Illarramendi (the "Illarramendi Complaint"). The allegations contained in the Illarramendi Complaint, and any subsequently amended complaint, are incorporated herein by reference. *See Carney v. Illarramendi*, No. 3:12-cv-00165 (D. Conn. filed Feb. 2, 2012).

3. Illarramendi made these bribe payments and other fraudulent transfers to Montes in exchange for the opportunity to have PDVSA's pension funds participate in various bond-swap and investment transactions. These transactions gave Illarramendi the temporary financial liquidity he needed to sustain the Fraudulent Scheme and continue to conceal massive losses. These transactions also allowed Illarramendi the opportunity to lure investors in exchange for bribe payments to Montes. Montes personally benefitted from the Fraudulent Scheme and looted the Receivership Estate.

4. These illicit payments, despite their excessive and unreasonable amount, were, for Illarramendi, a cost of doing business. The deals struck by Illarramendi with PDVSA, or those deals in which he sought to participate, could not go forward without the necessary bribe payments to individuals like Montes who made investment decisions on behalf of PDVSA's pension funds. It was a measure of Illarramendi's desperation to maintain and conceal his fraud, and his fanciful belief that a financial windfall was right around the corner, that he was willing to pay bribes and kickbacks to ensure that he was able to attract investments from and participate in transactions with PDVSA's pension funds. Illarramendi made the bribe payments with Receivership Entities' assets in order to hinder, delay or defraud his creditors because the transactions in which PDVSA participated helped keep the Fraudulent Scheme undetected.

5. Defendant Montes received the Transfers in exchange for nothing of value to the Receivership Entities. The Transfers represent monies properly belonging to the Receivership Estate, and ultimately to investors and victims of the fraud. The Transfers were made for the improper benefit of Defendant Montes with no value returned to the Receivership Entities or to investors. The Receiver seeks the return of these Transfers and other illicit payments from Defendant Montes.

RELEVANT RECEIVERSHIP ENTITIES

6. HVP Partners is a Delaware limited liability company organized on August 27, 2004. HVP Partners was founded by Illarramendi and two other individuals and managed the Highview Point Master Fund (the "Master Fund") and two feeder funds, Highview Point Offshore, Ltd. (the "Offshore Fund") and Highview Point LP ("HVP LP") (collectively, the "HVP Funds").

7. Illarramendi also served as an owner and a principal of affiliated entities organized under the MK Group. MK Group was formed on January 26, 2007 as a Connecticut limited liability company and served as the holding company for MK Consulting, Michael Kenwood Capital Management, LLC ("MK Capital"), and other MK entities (collectively, the "MK Entities"[4]).

8. MK Capital is a Delaware limited liability company organized on December 19, 2006, and served as an unregistered investment adviser for several hedge funds, including the MK Special Opportunities Fund Ltd. ("SOF"), STLF, and the MK Venezuela Fund Ltd. ("MKV") (collectively the "MK Funds"). The investors in the MK Funds were primarily offshore individuals and entities, including employee pension funds for PDVSA.

9. SOF is a fund registered in the Cayman Islands. SOF was formed on September 12, 2007, with the purported purpose of operating a fund of funds while "making direct investments on an opportunistic basis."

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[4] The term MK Entities includes: MK Master Investments LP; MK Investments, Ltd.; MK Oil Ventures LLC.; The Michael Kenwood Group, 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; and MK Capital Merger Sub, LLC.

10. STLF is a fund registered in the Cayman Islands and was formed in or about June 2008.

11. MKV is a fund registered in the Cayman Islands. MKV was formed in or about August 2008.

12. Michael Kenwood Asset Management, LLC ("MKAM") is a Delaware limited liability company organized on December 19, 2006. MKAM is a wholly-owned subsidiary of the MK Group and its principal place of business is located in Stamford, Connecticut.

THE DEFENDANT

Juan S. Montes

13. Montes, also known as "Black," was the corporate manager of finance, investments, and property insurance at PDVSA and its pension funds, as well as a member of PDVSA's investment committee. Upon information and belief, Montes was personally involved and was responsible for negotiating, recommending and approving numerous financial transactions amongst PDVSA's pension funds and the Receivership Entities in exchange for millions of dollars in bribe payments.

14. Over the course of the almost five years spanning the fraud, Montes regularly communicated with Illarramendi in Connecticut to negotiate and execute the transactions described below on behalf of PDVSA and its pension funds. In addition, Montes negotiated the payments of bribes for himself and on behalf of other PDVSA officials for approval of the bond-swap transactions and PDVSA's pension funds' investments in the MK Funds. Montes and Illarramendi worked together to loot Receivership property and to breach Illarramendi's fiduciary duties to the Receivership Entities.

15. Upon information and belief, Montes resigned from his position at PDVSA and the PDVSA pension funds in August 2010. Montes currently resides in Sunny Isles Beach, Florida.

16. On January 24, 2012, Montes appeared for a deposition taken by the Receiver's counsel. At his deposition, Montes asserted his Fifth Amendment right against self-incrimination and refused to answer questions about his relationship with Illarramendi, his role and responsibilities at PDVSA and its pension funds or whether he received any bribe payments, among other things.

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*, C.A. No. 3:11-cv-00078 (JBA), Amended Order Appointing Receiver (January 4, 2012) (Docket #423).

18. This Court has personal jurisdiction over Montes pursuant to 28 U.S.C. §§ 754 and 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 as the acts and transfers alleged herein occurred in the District.

RECEIVER'S STANDING

20. On January 14, 2011, the Securities and Exchange Commission ("SEC") commenced a civil enforcement action against Illarramendi, MK Capital, and various relief defendants (the "SEC Defendants"). The SEC's complaint alleges that Illarramendi and others 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 also 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. 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, MKV and STLF.

23. On June 22, 2011, the Court entered a second 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 another modified Receiver Order to include additional reporting requirements. On February 2, 2012, the Receiver filed a Motion to Expand the Receivership to include the HVP funds; this Motion is currently pending before this Court. On August 10, 2012, the Receiver, the HVP Funds, and various investors in those Funds signed a stipulation consenting to bringing the HVP Funds into the Receivership and withdrawing any objections concerning the Motion to Expand the Receivership. The parties to the stipulation filed a joint motion seeking approval of the stipulation.

24. Pursuant to the Court's Amended Order Appointing Receiver of January 4, 2012 ("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.

25. The Amended Receiver Order grants the Receiver authority to bring, among other things, claims that the Receivership Entities could have brought on their own behalf. This includes, among other things, the right to "seek…avoidance of fraudulent transfers" (Amended Receiver Order, Docket #423 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 control and dominion as Illarramendi and his accomplices diverted their corporate assets and deepened their insolvency in furtherance of the Fraudulent Scheme.

27. The Fraudulent Scheme and, specifically, Defendant's receipt of fraudulent transfers and other payments originating from the fraud caused harm to the Receivership Entities' business and property. Pursuant to the Amended Receiver Order, the Receiver has standing to bring the claims alleged herein. Because the Receivership Entities were under Illarramendi's domination and control while Illarramendi diverted their assets, causing them harm, the Receivership Entities are tort creditors of Illarramendi.

28. The Receiver has standing to bring these claims pursuant to, among other things, Connecticut Uniform Fraudulent Transfer Act ("CUFTA"), CONN. GEN. STAT. § 55-552, CONN. 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 Fraudulent Scheme. Because Illarramendi routinely commingled funds between and among Receivership Entities, each such entity is a creditor of one another. Accordingly, the Receiver has standing to avoid and recover the Transfers made to the Defendant.

THE FRAUDULENT SCHEME

I. ILLARRAMENDI'S NETWORK OF ENTITIES AND FUNDS

30. The Fraudulent Scheme at the center of this action involves the misappropriation and misuse of investor assets by Illarramendi through his domination and control over two Stamford, Connecticut-based investment advisers—namely, HVP Partners and MK Capital.

31. To perpetrate and prolong the Fraudulent Scheme, Illarramendi fabricated entire transactions and manipulated actual transactions in an effort to conceal the Fraudulent Scheme and defraud creditors. To hide the ever-growing shortfall, Illarramendi played a shell game with the remaining investor funds, constantly shuffling funds from one entity or fund to the next, pervasively commingling, misappropriating and looting funds and giving the false appearance of profitability. Illarramendi showed no regard whatsoever for corporate form or formalities while operating the Receivership Entities and HVP Funds.

32. Illarramendi was the managing member and one-third owner of HVP Partners, which he co-founded with Christopher Luth and Frank Lopez in 2004. Beginning in or about

2006, Illarramendi was also the majority owner of and control person for a group of affiliated entities, the MK Entities, which would eventually become organized as the MK Group.

33. In blatant disregard for his duties as a fiduciary, both to the funds he managed and to investors, Illarramendi not only used money provided by new investors to pay the returns he promised to earlier investors, but also: (a) created fraudulent documents to mislead and deceive investors, creditors, and the SEC about the existence and amount of the HVP and MK Funds' assets; (b) made false representations to investors and creditors (and those of the HVP and MK Funds) in an effort to obtain new investments from them and to prevent them from seeking to liquidate their investments; (c) commingled the investments in each individual hedge fund with investments in the other hedge funds and other third parties without regard to their structure, stated purpose, or investment limitations; (d) engaged in transactions that were not in the best interests of the HVP and MK Funds and agreed to pay bribes and kickbacks to certain persons connected with those transactions; and (e) diverted funds for his own personal benefit. As a result of these fraudulent activities, Illarramendi left a gap between the liabilities owed to the HVP and MK Funds' investors and assets actually possessed by the HVP and MK Funds. In testimony before this Court, Illarramendi estimated that this gap exceeded $300 million.

34. Defendant Montes provided Illarramendi with substantial assistance in carrying out the Fraudulent Scheme and aided and abetted Illarramendi's breach of his fiduciary duties to the Receivership Entities by, among other things: (a) steering assets and monies from the PDVSA pension funds to the HVP and MK Funds to further the Ponzi-type activity of paying out old investors with money from new investors; (b) soliciting bribes on behalf of himself and other PDVSA officials in exchange for approval of these financial transactions; (c) disguising the

payment of these bribes as legitimate transfers; and (d) attempting to cover up his correspondence with Illarramendi through use of an alias and a non-identifying email handle.

35. From at least 2005 through the fall of 2010, Illarramendi caused HVP Partners, the MK Group, the MK Funds, and the HVP Funds to engage in scores of extraordinarily complex and multi-layered transactions as part of the Fraudulent Scheme to conceal investment losses and misappropriated investor assets. Illarramendi conducted the fraud using the HVP Funds and the MK Funds in tandem, engaging in many related transactions between the two groups, which included purported loans and investments, and extensive, undocumented transfers of cash between them for the purpose of concealing massive losses in order to hinder, delay or defraud the Receivership Entities and the HVP Funds, their investors and creditors. For example, at the end of 2010, the purported value of one of the MK Funds, STLF, was as high as $540 million. In fact, however, STLF was insolvent because many of its assets were used during 2010 to improperly pay redemptions to investors in MKV, other MK Funds, and other third parties.

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

37. According to the Information, Illarramendi engaged in or caused multiple acts in furtherance of the 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 a much larger fraud than was originally alleged 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 adviser fraud (15 U.S.C. §§ 80b-6 and 80b-17) and conspiracy to obstruct justice (18 U.S.C. § 371).

38. 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 and the massive discrepancy that existed between the commingled assets and liabilities and the funds. Illarramendi has admitted as part of his plea agreement to operating the hedge funds he managed as a Ponzi scheme in which he used money provided by new investors to pay out returns he had previously promised to old investors. *See United States v. Illarramendi*, No 3:11-cr-00041-SRU (Docket No. 10).

II. THE GENESIS OF THE FRAUD

39. As noted above, in August 2004, Illarramendi and two others formed HVP Partners with each holding a one-third ownership share. According to the Limited Liability Corporation Agreement, 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 Illarramendi through HVP Partners) 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.

40. 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, absolute investment and contracting powers over the fund were handed to HVP Partners.

41. In October of 2005, Illarramendi brokered a deal on behalf of the Offshore Fund and others to purchase and then immediately sell a Credit Lyonnais bond (the "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 fraudulently conceal them. 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 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.

42. To cover up the $5.2 million shortfall or "hole," 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.

43. 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.

44. 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, Illarramendi caused HVP Partners to fund these fraudulent transfers primarily through a loan from BCT Bank International ("BCT Bank") 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."

45. 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 Fraudulent Scheme culminated in losses of more than $300 million.

III. "OFF THE BOOKS" BANK ACCOUNTS

46. In order to fraudulently conceal the hole, perpetuate the Fraudulent Scheme, and engage in transactions that were not recorded in the books and records of HVP Partners and MK Capital, Illarramendi used various bank accounts, including accounts in the names of shell companies such as Naproad Finance S.A., ("Naproad") and HPA, Inc. ("HPA"). As described further below, Illarramendi used the HPA and Naproad bank accounts to make the Transfers and other fraudulent payments to Defendant Montes.

47. At all relevant times, those bank accounts were under the control of Illarramendi and HVP Partners and contained commingled funds from the Receivership Entities, the HVP Funds and other third party entities. Illarramendi used these accounts as an extension of the Fraudulent Scheme that began at HVP Partners.

48. HPA was incorporated in Panama in July 2005 and was dissolved in May 2008. In August 2005, HVP Partners was provided with full power of attorney over HPA. In 2007, HPA filed documents to effect a corporate name change from HPA to HIGHVIEWPOINT CST, INC. Bank statements for accounts opened in the name of HPA (the "HPA Account") were addressed to the HVP Partners' office in Stamford, Connecticut. In order to effectuate transactions using the HPA Account, Illarramendi repeatedly sent wire instructions, on HVP

Partners letterhead, to HPA's bank. In these wire authorization letters, Illarramendi referred to the HPA Account as "our" (i.e. HVP Partners) bank account. Thus, the HPA Account was, in reality, an HVP Partners bank account opened under a false name.

49. Naproad was also 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 the 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 Naproad's 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.

50. As described below and detailed on Exhibit A, Illarramendi used the HPA Account and the Naproad Account to make bribes and other fraudulent payments, including the Transfers, to Montes.

IV. THE "PERMUTA" MARKET

51. Upon information and belief, Illarramendi used the "permuta market" or "swap market"—a type of currency exchange market in operation in Venezuela at all relevant times—to engage in a complicated series of transactions with PDVSA's pension funds. Upon information and belief, Montes arranged these permuta transactions with Illarramendi on behalf of PDVSA's pension funds in return for the Transfers and other fraudulent payments.

52. Upon information and belief, Illarramendi relied on access to the permuta market to assist in his operation of the Fraudulent Scheme. The permuta market functioned as an unofficial currency exchange market that operated in parallel to the official government currency

exchange in which Venezuelan government bonds could be bought in Bolivars and then sold for U.S. dollars. Upon information and belief, it was possible to purchase a Bolivar-denominated bond through Venezuelan brokerage firms, swap it for a dollar-denominated bond, clearable through Euroclear, and then sell it to receive U.S. currency offshore from Venezuela. As a result, the relation between the prices of the two bonds became a proxy for the quasi-free market currency exchange rate.

53. 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 Transacciones con Títulos en Moneda Extranjera (SITME), essentially a bond-trading system run by the Venezuelan Central Bank, which sells dollars at a fixed exchange rate.

54. As described more fully below, Illarramendi raised dollars through the Receivership Entities and other third parties, and used these dollars in transactions with local Venezuelan permuta brokers to purchase Bolivar-denominated securities which were then transferred to PDVSA pension funds. The PDVSA pension funds, in turn, would exchange these bonds for dollar-denominated bonds at the official exchange rate. Typically, Illarramendi then used HPA to sell the dollar-denominated bonds on the open market.

55. In theory, such permuta transactions could achieve substantial profits by leveraging Venezuelan investors' thirst for dollars rather than Bolivars, and the difference between the "official" Dollar/Bolivar exchange rate and the rate that could be found on the unofficial permuta market. However, in practice, Illarramendi paid most if not all of the proceeds he received to pay bribes and kickbacks to Montes and other middlemen for facilitating the permuta transactions.

ILLARRAMENDI AND PDVSA

I. ILLARRAMENDI'S HISTORY WITH PDVSA

56. In or around 1994, Illarramendi went to work for an investment bank as a financial analyst where he worked on corporate transactions on behalf of PDVSA Finance, an SEC-regulated financing vehicle for PDVSA.

57. In 2004, Illarramendi took a leave of absence from the investment bank to work as an independent consultant for PDVSA's U.S. affiliate, PDV-USA, in New York. Around this time, PDVSA hired Illarramendi to assist in retiring various note offerings issued by PDVSA Finance. Illarramendi and his team, which included future MKG principal Odo Habeck and Highview Point Chief Financial Officer, Victor Chong, came to PDV-USA under the auspices of Jose Rojas ("Rojas"), former Minister of Finance for Venezuela. However, Illarramendi's time working for PDV-USA was short-lived. Not long after Illarramendi and his team arrived and set up the New York office for PDV-USA, they were dismissed from their positions. Upon information and belief, after his termination from PDV-USA, Illarramendi's reputation at PDVSA was severely tarnished, partly due to his affiliation with Rojas, a controversial figure at PDVSA.

58. After Illarramendi's position with PDV-USA was terminated, Illarramendi and two business partners formed HVP Partners, which began operations in or about May 2005. Illarramendi sought to capitalize on his work for PDVSA and knowledge of PDVSA's financing activities and organizational structure. Illarramendi understood that PDVSA's pension funds held hundreds of millions of dollars available for investment. Specifically, these pension funds included: APJ International, Ltd. ("APJ International"), Asociación Civil Administradora de los Fondos de Pensíones de los Jubilados de Petróleos de Venezuela, S.A. y sus Filiales ("APJ-PDV") and Fondo de Previsión de los Trabajodores de Petróleos de Venezuela S.A. y sus Filiales

(the "Worker's Fund;" and collectively with APJ-PDV and APJ International, the "Pension Funds"). Upon information and belief, though these subsidiaries are separate legal entities, they operate at the direction of PDVSA, and share overlapping officers and directors. Defendant Montes was a member of this overlapping leadership group.

59. Illarramendi made it his goal to attract investments from the Pension Funds. However, as a result of the circumstances of his termination from PDVSA, Illarramendi found it difficult to directly seek business opportunities with PDVSA. Consequently, Illarramendi relied on introductions by middlemen, strategic bribes, kickbacks, personal relationships and deceptive tactics to further financial transactions with PDVSA entities.

60. Upon information and belief, Illarramendi was initially cautious not to use his real identity in correspondence between HVP Partners and PDVSA. In or around November 2006, Illarramendi created an alternate identity named "Tomasino Olson" (aka "Tony Olson") ("Olson") for use on such correspondence. Illarramendi, as Olson, frequently corresponded with Montes and other PDVSA Pension Fund employees for purposes of discussing trades between HVP Partners and the Pension Funds as well as making investments in the MK Funds. However, upon information and belief, Montes became aware of the charade and knew that Olson was really Illarramendi. In order to conceal his contacts with Illarramendi, Montes often communicated with him about transactions with the Pension Funds using his personal email accounts, rather than his business email account at PDVSA.

61. Montes often went by the nickname "Black" in his email correspondence with business associates, including Illarramendi. In addition, Illarramendi kept spreadsheets for the allocation of bribes and other payments among participants in various transactions involving the

Pension Funds. In these spreadsheets, Illarramendi listed bribe payments to Montes under the name "Black."

62. Illarramendi attempted to conceal his communications with Montes regarding bribe payments. For example, in 2010, in connection with the purchase of shares in the Harewood Fund ("Harewood") by certain Receivership Entities (the "Harewood Transaction," discussed further below) and an investment made by the Pension Funds in SOF, Illarramendi created Yahoo! email accounts linked to fictitious names for the purpose of making arrangements for the payment of bribes to Montes and other PDVSA officials. Specifically, in various emails dated around May and June of 2010, written in Spanish, Illarramendi and Montes used the names "Carmelo Luizo" and "Lisandro Cuevas," respectively, to exchange routing instructions to offshore bank accounts for the payment of bribes to Montes and other PDVSA officials. These bribes were intended to pay off these PDVSA officials for their approval of the Pension Funds' investment in SOF.

63. In addition to the use of false identities and covert email addresses, Illarramendi also relied on middlemen to gain access to, and arrange transactions with, the Pension Funds. One such strategic relationship Illarramendi developed was with Beracha. Upon information and belief, Beracha had deep connections within the Venezuelan finance community and to PDVSA officials, including Montes. By working with and through Beracha, Illarramendi secured various transactions with the Pension Funds.

64. Upon information and belief, Beracha arranged numerous transactions between HVP Partners and the MK Funds and Pension Funds and two other PDVSA subsidiaries, PDV Insurance Company, Ltd. ("PDVIC") and PDVSA Institucion Fondo de Ahorros ("IFA"). The price for Beracha's assistance in arranging these transactions was steep and required exorbitant

payments to Beracha as well as to PDVSA officials such as Montes. Illarramendi repeatedly caused HVP Partners and other Receivership Entities to transfer funds to entities controlled by Beracha in order to pay these kickbacks and bribes.

65. Montes received, directly or indirectly, the lion's share of these bribes, totaling approximately $31 million.

THE TRANSACTIONS

I. MONTES RECEIVES BRIBES FOR APPROVING PERMUTA TRANSACTIONS

A. Montes Receives Multiple Payments from the First Permuta Transaction

66. In or around November of 2006, Illarramendi, Montes and Beracha set the stage for the first permuta transaction involving the Pension Funds by arranging for the Pension Funds to purchase dollar-denominated notes issued by the Export Development Corporation of Canada ("EDC") from HPA (the "First Permuta Transaction"). The Pension Funds ultimately sold the EDC Notes back to HPA for Bolivar-denominated bonds. Upon information and belief, Montes received bribe payments on both the purchase and the exchange of the notes.

67. Upon information and belief, Montes was integrally involved in the First Permuta Transaction wherein he approved the purchase and sale of the EDC Notes on behalf of the Pension Funds.

68. On or about November 29, 2006, Illarramendi caused HPA to purchase medium term EDC notes (the "EDC Notes") for approximately $56,036,640. The EDC Notes had a nominal value of approximately $63,678,000.

69. On or about the same day, the Pension Funds purchased the EDC Notes from HPA for a total of approximately $63,678,000. Specifically the Worker's Fund paid approximately $5,179,000, APJ-PDV paid approximately $37,656,000, and APJ International paid approximately $20,843,000.

70. From the proceeds of the sale of the EDC Notes to the Pension Funds, Illarramendi made transfers to offshore financial institutions, including Davos International Bank ("Davos Bank") and Vaduz Financial Corp. ("Vaduz"), which, upon information and belief, were intended as bribe payments to Montes. On December 8, 2006, Illarramendi directed a transfer from the HPA Account to Davos Bank in the amount of $126,000. The reference for this transfer was for "Professional Fees" but failed to indicate an ultimate recipient. On the same day, Illarramendi directed a transfer of $2,241,548 from the HPA account to Vaduz, indicating that it was a "Highview Point Private Equity Investment." This transfer again failed to name an ultimate beneficiary and the Receiver has been unable to locate any such private equity investment.

71. Upon information and belief, Beracha arranged the Davos Bank and Vaduz transfers to conceal bribes paid by Illarramendi to Montes.

72. When asked about these transfers to Davos Bank and Vaduz at his deposition, Montes invoked his Fifth Amendment right against self-incrimination and refused to answer these questions.

73. On or about March 7, 2007, the Pension Funds sold the EDC Notes back to HPA in exchange for Bolivar-denominated notes worth a total of $66,900,000, converted at the official rate, thus completing the First Permuta Transaction.

74. On the same day as the Pension Funds' sale of the EDC Notes to HPA, Montes and Illarramendi sent each other several emails written in Spanish regarding the final terms of this transaction. In the email string, Montes, using his personal email address and not his official PDVSA email address, asked Illarramendi, in substance and in part, not to speak to anyone about him and not to acknowledge that they know each other.

75. In connection with this second part of the First Permuta transaction, Illarramendi made several transfers from the Naproad Account to entities controlled by Beracha, which were intended to pay bribes to Montes. These transfers were made on or about March 22, 2007 and include $1,445,183 to Dobson Management Corp., $2,632,534 to Northwestern International, Ltd., and $7,658,383 to East Coast Consultants, Corp.

76. The bribes paid out of the Naproad Account consisted of monies extensively commingled from the MK and HVP Funds and funds that were otherwise misappropriated from the Receivership Estate.

77. Therefore, upon information and belief, Montes received payments totaling $11,736,100 in connection with the second part of the First Permuta Transaction. In turn, Montes insured that the Pension Funds participated in the transactions which provided Illarramendi with the liquidity he desperately needed to sustain the Fraudulent Scheme. Montes received payments to personally enrich himself and his assistance came at a multi-million dollar price tag for Illarramendi.

78. In an email exchange originally written in Spanish, dated March 9, 2007, Beracha and Illarramendi discussed, in substance and in part, the exact amount owed to "Black" from this transaction, specifically discussing whether he was owed $11,736,100—the exact amount transferred to Beracha's entities as described above. In addition, Illarramendi drafted a spreadsheet calculating allocations of the proceeds from the First Permuta Transactions, which included a proposed distribution for "Black."

79. When asked about these transfers at his deposition, Montes invoked his Fifth Amendment right and refused to answer these questions.

80. Montes provided nothing of value to the Receivership Entities for receipt of transfers totaling $14,103,648 made in connection with the First Permuta Transaction. Montes provided no value, services, or other consideration to HVP Partners in return for these bribes that unjustly enriched Montes. Montes knew or should have known that receiving transfers for essentially no work, services, or value, was not indicative of Illarramendi's operation of a legitimate hedge fund. Montes' receipt of bribes put him, at minimum, on notice that Illarramendi was not engaged in legitimate business but instead operated a fraud.

B. Montes Receives a Payment from a Second Permuta Transaction

81. Desperate to cover the growing "hole" with further liquidity provided by the Pension Funds, Illarramendi engaged in a second permuta transaction. An entity affiliated with Beracha performed a second bond swap transaction in or around October 2007 with the Pension Funds (the "Second Permuta Transaction"). These entities received approximately $38,000,000 raised from the Master Fund and other sources to engage in a permuta transaction. This $38 million was used to purchase approximately $89,500,000 in Bolivar-denominated Venezuelan government bonds, converted at the official rate, for the Pension Funds. The Pension Funds, in turn, transferred $47,599,687 in dollar-denominated PDVSA bonds to HPA as payment for the Bolivar-denominated Venezuelan bonds.

82. Upon information and belief, Montes reviewed and approved these transactions in his capacity as the senior investment fund manager for the Pension Funds.

83. Again, Montes' approval and assistance of this transaction came at a very steep price. Upon information and belief, Illarramendi paid Montes $7,296,716 for his approval of the Second Permuta Transaction.

84. This payout represented nothing more than a bribe to personally enrich Montes for steering the investment to Illarramendi. The funds used to pay these bribes originated from

the HPA Account and consisted of commingled and misappropriated property of the Receivership Entities.

85. In an email chain originally written in Spanish, dated October 23, 2007, Illarramendi and Beracha discussed this payment to Montes, who they again referred to as "black," in connection with the Second Permuta Transaction. Beracha told Illarramendi, in substance and in part, that Illarramendi has "$7,296,716.50" which belongs to "black" and that Beracha will send Illarramendi instructions for a new bank account that Beracha is opening up on behalf of "black" at HSBC. In the same email, Illarramendi noted that Beracha had an additional $1,548,415 in his possession for "black."

86. On or around November 6, 2007, Illarramendi transferred $7,296,716 from the HPA Account to an account at HSBC Private Bank (Switzerland) S.A. (the "HSBC Account"). In the instructions, Illarramendi identified the beneficiary of the HSBC Account as Hermitage Consultants Inc. ("Hermitage"). Hermitage is a Panamanian company which, upon information and belief, is affiliated with and controlled by Beracha. Upon information and belief, Hermitage is a company used by Beracha to receive and conceal bribes paid by Illarramendi to Montes. Illarramendi's transfer request referenced an "HPA Purchase of Venezuelan Securities to be DFP[5] subsequently." The Receiver has found no evidence of such purchase of Venezuelan securities on behalf of HPA. This characterization disguised the true nature of this payment which was an illegal kickback paid from property belonging to the Receivership. Upon information and belief, Montes received all of this $7,296,716 transfer.

[5] Upon information and belief, "DFP" is an acronym for Delivery Free of Payment, a common method for delivering securities without a payment in return.

87. In addition, Illarramendi drafted a spreadsheet calculating allocations of revenue from the Second Permuta Transaction, which included a proposed distribution for "Black" which matched the $7,296,716 transfer.

88. When asked at his deposition whether he received anything of value in connection with the Second Permuta Transaction, Montes invoked his Fifth Amendment right and refused to answer the questions.

89. Montes provided nothing of value to the Receivership Entities for receipt of the transfer totaling $7,296,716 made in connection with the Second Permuta Transaction. Montes provided no value, services, or other consideration to HVP Partners in return for the receipt of bribes that unjustly enriched him. Montes knew or should have known that receiving a payment for essentially no work, services, or value, was not indicative of Illarramendi's operation of a legitimate hedge fund. Montes' receipt of this bribe put him, at minimum, on notice that Illarramendi was not engaged in legitimate business but instead operated a fraud.

C. Montes Receives Multiple Payments from Third Permuta Transaction

90. In or around late October 2007, Illarramendi, Beracha and Montes orchestrated a third permuta transaction involving APJ-PDV, Worker's Fund and IFA (the "Third Permuta Transaction").

91. On or about October 18 and 19, 2007, an entity affiliated with Beracha received approximately $46,000,000 from HPA and the Master Fund. The transfer from HPA was directed by Illarramendi on HVP Partners letterhead and again referred to "our account"—completely blurring any line of distinction between HPA and HVP Partners.

92. Beracha's entity then used approximately $45,500,000 (keeping the remaining $500,000) to engage in permuta transactions to obtain Bolivar-denominated Venezuelan government bonds in the amount of $116,404,854, converted at the official rate, which it

provided to APJ-PDV, Worker's Fund and IFA. In turn, on or around October 25, 2007, APJ-PDV, Worker's Fund and IFA transferred approximately $60,900,000 million in dollar-denominated PDVSA bonds to HPA as payment for the Bolivar-denominated Venezuelan government bonds.

93. Upon information and belief, Illarramendi again needed to pay Montes and/or other PDVSA officials a kickback for arranging the Third Permuta Transaction. Therefore, on or about November 13, 2007, Illarramendi transferred approximately $2,500,000 from the HPA Account to an account at Davos Bank. In an email originally written in Spanish, dated November 2, 2007, Beracha explained to Illarramendi that the profit for the Third Permuta Transaction was reduced by a "peaje" (Spanish for "toll") in the amount of $2,500,000. Upon information and belief, this was a code word used to describe a kickback to be paid to a PDVSA official. Furthermore, in an email originally written in Spanish, dated November 6, 2007, Beracha sent Illarramendi instructions for sending a $2,500,000 transfer to Davos Bank with a reference to a "harbord inv." Upon information and belief, this explanation purportedly refers to a specific investment. However, the Receiver has not identified any such investment and this was, again, a thinly veiled attempt to conceal what was really a kickback for the approval and facilitation of the transaction. Upon information and belief, this transfer was in fact intended to pay off Montes and/or other PDVSA officials.

94. In addition, on or about December 6, 2007, SOF transferred $6,764,126 to the Hermitage account at HSBC—the same HSBC account that Beracha had previously directed Illarramendi to send payments for the benefit of Montes. Upon information and belief, this was an additional kickback meant for Montes for facilitating the Third Permuta Transaction.

95. When Montes was asked at his deposition whether he received anything of value in connection with the Third Permuta Transaction, Montes invoked his Fifth Amendment right and refused to answer the questions.

96. Montes' receipt of these transfers totaling $9,264,126 was in exchange for nothing of value to the Receivership Entities. Montes provided no value, services, or other consideration to HVP Partners or SOF in return for the receipt of bribes that unjustly enriched Montes. Montes knew or should have known that receiving transfers for essentially no work, services, or value, was not indicative of Illarramendi's operation of a legitimate hedge fund. Montes' receipt of bribe payments put him, at minimum, on notice that Illarramendi was not engaged in legitimate business but instead operated a fraud.

II. MONTES NEGOTIATES ILLICIT PAYMENTS FOR APPROVING PDVSA PENSION FUNDS' INVESTMENTS

A. The Harewood Transaction

97. In or around March 2010, in an effort to gain more liquidity to feed the Fraudulent Scheme, Illarramendi negotiated with the PDVSA Pension Funds, through Montes, for the purchase of underperforming securities in an investment fund known as Harewood. These securities had depreciated significantly and the Pension Funds had incurred unrealized losses on their books. Illarramendi agreed to purchase the securities for $35 million in return for a $100 million investment by the Pension Funds into SOF even though Illarramendi believed the shares were worth far less, if anything at all. The Pension Funds agreed not to withdraw the assets subscribed into SOF for one year when Illarramendi promised he would return the value of $100 million along with a guaranteed rate of return of 8%. Essentially, Illarramendi agreed to take the Harewood shares and the corresponding losses off of the Pension Funds' books allowing them to

realize a gain while simultaneously promising the Pension Funds he could guarantee an 8% return on their investment in SOF.

98. In or around March 30, 2010, MKV transferred $25 million to the Pension Funds for the purchase of the Harewood shares. An additional $10 million was also wired to the Pension Funds from HVP Partners for a total purchase price of $35 million.

99. Although MKV and HVP Partners paid for the Harewood shares, the shares were then transferred into STLF.

100. On or around August 4, 2010, STLF received approximately $18 million in proceeds from the redemption of Harewood. Thus, the amount the MK Funds paid for the Harewood shares was greatly in excess of the value the MK Funds received for the shares. The proceeds from this transaction were not paid to STLF, MKV, or HVP Partners, the entities that financed the purchase of the Harewood shares and bore the risk associated with the transaction. Instead, the proceeds from the redemption were misappropriated from the MK Funds and were paid to certain principals of the MK Group.

101. On or around August 9, 2010, approximately $5.5 million in bribe payments were made from STLF and, upon information and belief, intended to pay PDVSA officials, including Montes.

102. Montes played a significant role in this transaction which occurred to the detriment of the MK Funds and its investors but to the personal financial benefit of certain insiders of the MK Group. Upon information and belief, in exchange for his role in approving the Harewood transaction, Illarramendi promised Montes ten percent of the amount ultimately planned to be invested in SOF. Upon information and belief, Montes was aware that the MK Funds paid the Pension Funds significantly more than the actual value of the Harewood shares.

103. Upon information and belief, Montes understood that the purpose of the Harewood transaction was to remove under-performing assets from the books of PDVSA in exchange for an inflated purchase price. In addition, he also negotiated for himself a ten percent kickback of the purported investment in SOF by the PDVSA Pension Funds for which he provided no value to the Receivership Entities.

104. As discussed above, Illarramendi and Montes attempted to conceal their communications regarding these bribe payments. In connection with the Harewood Transaction and purported investments made by the Pension Funds in SOF, Illarramendi created fictitious names and web-based email accounts for the purpose of making arrangements for the payment of bribes to Montes and other PDVSA officials. Specifically, Illarramendi used the names "Carmelo Luizo" and "Lisandro Cuevas" to open up Yahoo! email accounts. In or around May of 2010, Illarramendi and Montes used these fictitious names and email accounts to exchange various emails, written in Spanish, regarding specific bribe amounts and routing instructions to offshore bank accounts. These bribes were intended to pay off Montes and other PDVSA officials for their approval of the Pension Funds' investment in SOF.

105. When asked about negotiating bribes in connection with the Harewood Transaction at his deposition, Montes invoked his Fifth Amendment rights and refused to answer the questions.

106. Montes' actions in concert with Illarramendi perpetuated and helped to conceal the Fraudulent Scheme and deepened the insolvency of the Receivership Entities. Montes acted for his personal benefit at the expense of the Receivership Entities and other creditors. Montes knew or should have known that receiving payments for essentially no work, services, or value, was not indicative of Illarramendi's operation of a legitimate hedge fund.

B. The Movilway Transfer

107. In addition to the bribes discussed above, Illarramendi sought to compensate Montes in other ways. On or about July 21, 2010, Illarramendi caused STLF to transfer $5,080,161 to Movilway S.L. Illarramendi falsely identified this transfer as a capital contribution in Movilway. Movilway S.L. is a subsidiary of Celistics, which is chaired by Beracha. Beracha has admitted, as noted above, that the transfer was meant to be an investment in Movilway on behalf of Defendant Montes. The Receiver has found no evidence that Montes provided any value to STLF for such an investment and upon information and belief, this purported investment was actually another kickback intended for Montes, funneled through another entity to conceal its true nature. This payment to Movilway is not included among the Transfers that the Receiver is seeking to avoid in this Action.

108. When asked about Movilway at his deposition, Montes invoked his Fifth Amendment rights and refused to answer the questions.

109. Montes' actions in concert with Illarramendi perpetuated and helped to conceal the Fraudulent Scheme and deepened the insolvency of the Receivership Entities. Montes acted for his personal benefit at the expense of the Receivership Entities and other creditors. Montes knew or should have known that receiving a payment for essentially no work, services, or value, was not indicative of Illarramendi's operation of a legitimate hedge fund. Montes' indirect receipt of this bribe payment put him, at minimum, on notice that Illarramendi was not engaged in legitimate business but instead operated a fraud.

THE NATURE OF THE CAUSES OF ACTION AGAINST DEFENDANT

110. At all times relevant hereto, the Receivership Entities, including all of their affiliated entities and funds, were insolvent in that: (i) their liabilities exceeded the value of their assets by millions of dollars; (ii) they could not meet their obligations as they came due; and/or

(iii) at the time of the Transfers to Defendant described herein, the Receivership Entities were left with insufficient capital to pay their investors and/or creditors.

111. This action is being brought to recover misappropriated investor money and Receivership property of the Receivership Entities that was spent on bribes and other fraudulent transfers made to Defendant, as well as damages for unjust enrichment, so that these funds can be returned and equitably distributed among the investors and creditors of the Receivership Entities.

112. Without regard to the extent to which he knew of Illarramendi's Fraudulent Scheme, Montes knew or should have known that he was not entitled to these Transfers or anything else of value. Montes did not provide the Receivership Entities with any independent value for the bribes or other Transfers he received. Montes' actions, in concert with Illarramendi, perpetuated and helped conceal the Fraudulent Scheme and deepened the insolvency of the Receivership Entities. Furthermore, the illicit payments Montes sought for himself from Illarramendi substantially reduced the proceeds from the transactions Illarramendi hoped would get him out of the "hole."

113. At all relevant times, Illarramendi was involved in the Fraudulent Scheme with the transfers he made, including the bribes paid to Montes, designed to hinder, delay or defraud creditors and continue to conceal his fraudulent conduct.

114. The Receiver was only able to discover the fraudulent nature of the above-referenced Transfers made by Illarramendi and his accomplices through the Receivership Entities after Illarramendi and his accomplices were removed from control of the Receivership Entities upon the appointment of the Receiver. Moreover, the Receiver also had to undertake a time-consuming and extensive review of thousands upon thousands of paper and electronic

documents relating to the Receivership Entities to discover the fraudulent nature of the Transfers. This action was brought within one year of the Receiver's appointment. The Receiver's investigation is still ongoing. No amount of reasonable diligence by the Receiver could have detected the Transfers sooner. 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.

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

SUMMARY OF TRANSFERS

116. All of the Transfers alleged herein are set forth on Exhibit A hereto and the Receiver reserves his right to amend and revise this schedule as discovery warrants.

FIRST CAUSE OF ACTION

CUFTA SECTION 52-552e(a)(1) (ACTUAL FRAUD)

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

118. The Transfers were (a) made on or within four years before the date of this action or (b) were discovered, and could only have been reasonably discovered, by the Receiver within one year before the date of this action.

119. Each of the Transfers constitutes a transfer of an interest of property of the Receivership Entities improperly caused by Illarramendi in furtherance of the Fraudulent Scheme, within the meaning of section 52-552(b)(12) of CUFTA.

120. Each of the Transfers occurred during the course of the Fraudulent 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.

121. 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.

122. Each of the Transfers was made to, or for the benefit of, Defendant.

123. Each of the Transfers was made without the Receivership Entities receiving reasonably equivalent value from Defendant.

124. Each of the Transfers were made by Illarramendi and others through the Receivership Entities to further the Fraudulent Scheme and was made with the actual intent to hinder, delay or defraud the Receivership Entities and some or all of the Receivership Entities' then-existing creditors.

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

126. 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; and (ii) recovering the Transfers, or the value thereof, from Defendant for the benefit of the Receivership Estate.

SECOND CAUSE OF ACTION

UNJUST ENRICHMENT

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

128. Defendant benefited from the receipt of money provided by Illarramendi through the Receivership Entities in the form of payments and bribes and other Transfers alleged herein which were the property of the Receivership Entities and their investors, and for which Defendant did not adequately compensate the Receivership Entities or provide value.

129. Defendant unjustly failed to repay the Receivership Entities for the benefits received from the Transfers.

130. The enrichment was at the expense of the Receivership Entities and, ultimately, at the expense of the Receivership Entities' creditors.

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

132. Montes' conscious, intentional, and willful tortious conduct alleged herein entitles the Receiver to recapture monies received by Defendant from Illarramendi through the Receivership Entities.

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

THIRD CAUSE OF ACTION

PARTICIPATION IN AND AIDING AND ABETTING BREACH OF FIDUCIARY DUTY

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

135. Nearly from the beginning of the Fraudulent Scheme, Montes knowingly, or with reckless indifference, aided and abetted Illarramendi by furnishing indispensable assets and counter-parties necessary to engage in transactions which provided cover for Illarramendi's fraudulent activities. Montes' control of PDVSA's pension fund assets gave him the opportunity engage in transactions with the Receivership Entities. These transactions gave the Receivership Entities the appearance of legitimacy and profitability and helped Illarramendi recruit investors for the MK and HVP funds.

136. Montes' knowing extraction of bribes and other Transfers from the MK Funds and HVP Funds, his acceptance of those bribes and other Transfers, the use of his position of authority at PDVSA for personal gain and the many other deceptive acts detailed above demonstrate that Montes knew or acted with reckless indifference to Illarramendi's illegal, faithless, and tortious conduct as described above.

137. At all relevant times, Illarramendi was a dominant and controlling owner of the Receivership Entities, served as their agent, and held managerial and supervisory positions for HVP Partners and in the MK Entities, and consequently had fiduciary duties to act in the best interest of, and for the benefit of, the HVP Partners and the MK Entities.

138. The fiduciary duties owed by Illarramendi included duties of care and loyalty to HVP Partners and the MK Entities and duties to act in good faith. Illarramendi also had the duty

not to waste or divert the assets of the Receivership Entities, and the duty not to act in furtherance of his own personal interests at the expense of HVP Partners and the MK Entities.

139. Illarramendi breached the fiduciary duties he owed to HVP Partners and the Receivership Entities by, among other things, looting, misappropriation, mismanagement, dissipation and waste of corporate assets, self-dealing, and engaging in the other wrongful acts and failures to act described above.

140. Illarramendi's breach of his fiduciary duties has been a continual course of conduct and continued until he was removed from his management positions.

141. As a direct and proximate result of Illarramendi's breaches of fiduciary duty, the Receivership Entities were harmed.

142. Montes knew that Illarramendi was a fiduciary and owed the foregoing fiduciary duties to the Receivership Entities.

143. Montes, knowingly or with reckless indifference, substantially assisted and participated in, Illarramendi's breaches of duty.

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

FOURTH CAUSE OF ACTION

CONSPIRACY TO BREACH FIDUCIARY DUTY

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

146. At all relevant times, Illarramendi was a dominant and controlling owner of the Receivership Entities, served as their agent, and held managerial and supervisory positions for HVP Partners and in the MK Entities, and consequently had fiduciary duties to act in the best interests of, and for the benefit of, the HVP Partners and the MK Entities.

147. The fiduciary duties owed by Illarramendi included duties of care and loyalty to HVP Partners and the MK Entities and duties to act in good faith. Illarramendi also had the duty not to waste or divert the assets of the Receivership Entities, and the duty not to act in furtherance of his own personal interests at the expense of HVP Partners and the MK Entities.

148. Montes and Illarramendi, together with other individuals and entities, willfully and knowingly combined, conspired, confederated and agreed to breach one or more fiduciary duties owed by Illarramendi to the Receivership Entities. Montes and Illarramendi each acted pursuant to a common scheme and in furtherance of their common objective to exploit the Receivership Entities for their own personal benefit and to maintain the Receivership Entities as an ongoing concern despite its deepening insolvency.

149. In furtherance of the conspiracy, Illarramendi breached the fiduciary duties he owed to HVP Partners and the Receivership Entities by, among other things, his looting, misappropriation, mismanagement, dissipation and waste of corporate assets, his self-dealing, and his engaging in the other wrongful acts and failures to act described above.

150. In furtherance of the conspiracy, Montes' knowingly extracted bribes and other payments from the MK Funds and HVP Funds, knowingly received those bribes and other payments directly or indirectly, knowingly used his position of authority at PDVSA for personal gain and engaged in many other deceptive acts as detailed above.

151. The conspiracy, and Illarramendi's breach of his fiduciary duties in furtherance of the conspiracy, has been a continual course of conduct and continued until Illarramendi was removed from his management positions.

152. As a direct and proximate result of Illarramendi's breaches of fiduciary duty, and Montes' actions, the Receivership Entities were harmed.

153. By reason of the above, the Receiver, on behalf of the Receivership Entities is entitles to an award of compensatory and punitive damages in an amount to be determined at trial.

FIFTH CAUSE OF ACTION

MONEY HAD AND RECEIVED

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

155. Defendant received money from the Receivership Entities in the form of the Transfers and other payments, as alleged herein, which were the property of the Receivership Entities and their investors, and for which Defendant did not adequately compensate the Receivership Entities or provide value.

156. Defendant benefited from receipt of this money.

157. The Receivership Entities had no legal or moral obligation to make any such Transfers or other payments.

158. Defendant possesses money to which he is not entitled and in good conscience has no right to retain.

159. The receipt and possession of this money by Defendant was at the expense of the Receivership Entities and, ultimately, at the expense of the Receivership Entities' creditors.

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

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

SIXTH CAUSE OF ACTION

CONSTRUCTIVE TRUST

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

163. As alleged herein, the assets of the Receivership Entities have been wrongfully diverted as a result of fraudulent transfers, unjust enrichment, participation in and aiding and abetting breach of fiduciary duty, conspiracy to breach fiduciary duty, money had and received, and other wrongdoing by Defendant for Defendant's individual interests and enrichment.

164. The Receiver has no adequate remedy at law.

165. Because of the past unjust enrichment and the fraudulent transfers made to Defendant, 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 monies received by Defendant in the past or on a going forward basis from transfers derived from the Receivership Entities.

166. The Receiver is entitled to and demands title, possession, use and/or enjoyment of the foregoing property for the benefit of the Receivership Estate.

SEVENTH CAUSE OF ACTION

ACCOUNTING

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

168. As set forth above, the assets of the Receivership Entities have been wrongfully diverted as a result of fraudulent transfers, unjust enrichment, participation in and aiding abetting breach of fiduciary duty, conspiracy to breach fiduciary duty, money had and received, and other wrongdoing of the Defendant for his own individual interests and enrichment.

169. The Receiver has no adequate remedy at law.

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

WHEREFORE, the Receiver respectfully requests that this Court enter judgment in favor of the Receiver and against Defendant 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; and (ii) recovering the Transfers, or the value thereof, from Defendant for the benefit of the Receivership Estate;

ii. On the Second Cause of Action for unjust enrichment against Defendant, for damages in an amount to be determined at trial;

iii. On the Third Cause of Action against Defendant for participation in and aiding and abetting breach of fiduciary duty, for damages in an amount to be determined at trial;

iv. On the Fourth Cause of Action against Defendant for conspiracy to breach fiduciary duty, for damages in an amount to be determined at trial;

v. On the Fifth Cause of Action against Defendant for money had and received, for damages in an amount to be determined at trial;

vi. On the Sixth Cause of Action against Defendant for imposition of a constructive trust upon any transfer of funds, assets, or property received from the Receivership Entities;

vii. On the Seventh Cause of Action against Defendant for an accounting of any transfer of funds, assets, or property of the Receivership Entities;

viii. On all Causes of Action, awarding the Receiver all applicable pre-judgment and post-judgment interest, costs, and disbursements of this action; and

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

The Receiver respectfully requests a jury trial for all of the preceding causes of action.

Date: August 31, 2012

/s/ Jonathan B. New

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