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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF PIMA

DERRY DEAN SPARLIN, SR., a single man,

Plaintiff;

v.

MICHAEL N. FIGUEROA, a single man; JEFFREY S. UTSCH and IBON MARITZA UTSCH, husband and wife; GREGG T. SASSE and LESLEY CAROLE SASSE, husband and wife; PAUL Y. SORENSEN and ANGELA B. SORENSEN, husband and wife; TERRA RANCHO GRANDE, L.L.C., an Arizona limited liability company; and WESTERN RECOVERY SERVICES, L.L.C., an Arizona limited liability company; LCS LAND HOLDING CO., L.L.C., an Arizona limited liability company; WESTERN ASSOCIATES DEVELOPMENT CO., L.L.C., an Arizona limited liability company; WESTERN MANAGEMENT SERVICES, L.L.C., an Arizona limited liability company; POLLUX PROPERTIES, L.L.C., an Arizona limited liability company; ANTARES PROPERTIES, L.L.C., an Arizona limited liability company; OLD PUEBLO INVESTMENTS, INC., an Arizona corporation; TUCSON ACQUISITION AND DEVELOPMENT CORPORATION, an Arizona corporation; HADRIANUS

No. C2011-7971

SECOND AMENDED COMPLAINT

(Securities Fraud/Common Law Fraud/Breach of Fiduciary Duties)

(Assigned to The Honorable Gus Aragón)

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TERRA, L.L.C., an Arizona limited liability company; D'ESPRIT INC., an Arizona corporation; D'ESPRIT INC. PROFIT SHARING PLAN; and DOES I through XXX,

Defendants.

The Plaintiff, Derry Dean Sparlin, Sr., by and through his attorney undersigned, for his claim against the Defendants, hereby alleges as follows:

GENERAL ALLEGATIONS

1. The Plaintiff, Derry Dean Sparlin, Sr. was, at all times relevant hereto, a resident of the county of Pima, state of Arizona, and is currently a resident of Springfield, Virginia.

2. The Defendant, Michael N. Figueroa was, at all times relevant hereto, a resident of the county of Pima, state of Arizona. Furthermore, the Defendant, Michael N. Figueroa, was, at all times relevant hereto, either individually or acting through entities under his control and/or management, either a member, manager, director, officer, trustee, employee, agent, and/or representative of the Defendants, Terra Rancho Grande, L.L.C., Western Recovery Services, L.L.C., LCS Land Holding Co., L.L.C., Western Associates Development Co., L.L.C., Western Management Services, L.L.C., Pollux Properties, L.L.C., Antares Properties, L.L.C., Old Pueblo Investments, Inc., Hadrianus Terra, L.L.C., D'Esprit, Inc., and the D'Esprit, Inc. Profit Sharing Plan, and was, at all relevant times, acting for, on behalf, and in furtherance of the business of the said Defendants, with respect to the wrongful acts hereinafter alleged.

3. The Defendants, Jeffrey S. Utsch and Ibon Maritza Utsch were, at all times relevant hereto, husband and wife, and residents of the county of Pima, state of Arizona, and, at all times relevant hereto, the Defendant, Jeffrey S. Utsch, was acting for, on behalf, and in

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furtherance of his marital community with the Defendant Ibon Maritza Utsch. Furthermore, the Defendant, Jeffrey S. Utsch, was, at all times relevant hereto, either individually or acting through entities under his control and/or management, either a member, manager, director, officer, employee, agent, and/or representative of the Defendants, Terra Rancho Grande, L.L.C., Western Recovery Services, L.L.C., LCS Land Holding Company, L.L.C., Western Associates Development Co., L.L.C., Western Management Services, L.L.C., Pollux Properties, L.L.C., Antares Properties, L.L.C., and Tucson Acquisition and Development Corporation, and was, at all relevant times, acting for, on behalf, and in furtherance of the business of the said Defendants, with respect to the wrongful acts hereinafter alleged.

4. The Defendants, Gregg T. Sasse and Lesley Carole Sasse were, at all times relevant hereto, husband and wife, and residents of the county of Pima, state of Arizona, and, at all times relevant hereto, the Defendant, Gregg T. Sasse, was acting for, on behalf, and in furtherance of his marital community with the Defendant Lesley Carole Sasse. Furthermore, the Defendant, Gregg T. Sasse, was, at all times relevant hereto, either individually or acting through entities under his control and/or management, either a member, manager, director, officer, employee, agent, representative, and/or otherwise affiliated with the Defendants, Terra Rancho Grande, L.L.C., Western Recovery Services, L.L.C., LCS Land Holding Co., L.L.C., Western Associates Development Co., L.L.C., Antares Properties, L.L.C., and was, at all relevant times, acting for, on behalf, and in furtherance of the business of the said Defendants, with respect to the wrongful acts hereinafter alleged.

5. The Defendants, Paul Y. Sorensen and Angela B. Sorensen were, at all times relevant hereto, husband and wife, and residents of the county of Pima, state of Arizona, and, at all times relevant hereto, the Defendant, Paul Y. Sorensen, was acting for, on behalf, and in

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furtherance of his marital community with the Defendant Angela B. Sorensen. Furthermore, the Defendant, Paul Y. Sorensen, was, at all times relevant hereto, either individually or acting through entities under his control and/or management, either a member, manager, director, officer, employee, agent, representative, and/or otherwise affiliated with the Defendants, Terra Rancho Grande, L.L.C., Western Recovery Services, L.L.C., LCS Land Holding Co., L.L.C., Western Associates Development Co., L.L.C., Pollux Properties, L.L.C., Antares Properties, L.L.C., and was, at all relevant times, acting for, on behalf, and in furtherance of the business of the said Defendants, with respect to the wrongful acts hereinafter alleged.

6. The Defendant, Terra Rancho Grande, L.L.C. (hereinafter "TRG") was, at all times relevant hereto, a limited liability company duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona.

7. The Defendant, Western Recovery Services, L.L.C. (hereinafter "Western Recovery" or "WRS") was, at all times relevant hereto, a limited liability company duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona.

8. The Defendant, LCS Land Holding Co., L.L.C. (hereinafter "LCS") was, at all times relevant hereto, a limited liability company duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona.

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9. The Defendant, Western Associates Development Co., L.L.C. (hereinafter "Western Associates" or "WAD") was, at all times relevant hereto, a limited liability company duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona. Furthermore, at all relevant times, it was a manager of Defendants Western Management Services, L.L.C., TRG, Pollux Properties, L.L.C., Antares Properties, L.L.C.

10. The Defendant, Western Management Services, L.L.C. (hereinafter "Western Management") was, at all times relevant hereto, a limited liability company duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona. Furthermore, at all relevant times, it was a manager of Defendants LCS and Pollux Properties, L.L.C.

11. The Defendant, Pollux Properties, L.L.C. (hereinafter "Pollux") was, at all times relevant hereto, a limited liability company duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona.

12. The Defendant, Antares Properties, L.L.C. (hereinafter "Antares") was, at all times relevant hereto, a limited liability company duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona.

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13. The Defendant, Old Pueblo Investments, Inc. ("Old Pueblo") was, at all times relevant hereto, a corporation duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona. Furthermore, at all relevant times, it was a manager of Defendants Western Associates and Western Management.

14. The Defendant, Tucson Acquisition and Development Corporation was, at all times relevant hereto, a corporation duly formed and existing pursuant to the laws of the state of Nevada and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona. Furthermore, at all relevant times, it was a manager of Defendants Western Associates, and Western Management.

15. The Defendant, Hadrianus Terra, L.L.C. (hereinafter "Hadrianus") was, at all times relevant hereto, a corporation duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona.

16. The Defendant, D'Esprit, Inc. (hereinafter "D'Esprit") was, at all times relevant hereto, a corporation duly formed and existing pursuant to the laws of the state of Arizona and was, at all times relevant hereto, doing and transacting business within the county of Pima, state of Arizona, with its principal place of business located in Tucson, Arizona. Furthermore, at all relevant times, it was the plan sponsor of the D'Esprit, Inc. Profit Sharing Plan.

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17. The Defendant, D'Esprit, Inc. Profit Sharing Plan (hereinafter "D'Esprit PSP") was, at all times relevant hereto, an employee benefit plan duly formed and existing pursuant to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.*, doing and transacting business within the county of Pima, state of Arizona, through its Trustee, Michael N. Figueroa, with its principal place of business located in Tucson, Arizona.

18. Upon information and belief, the Defendants Does I through XXX, are persons and/or corporations or limited liability companies, and/or other types of entities whose true names are not presently known to the Plaintiff. Alternatively, it is alleged that each of the Defendants has caused an event to occur within the state of Arizona out of which the Plaintiff's claims arise. When the true names of the said fictitious Defendants become known to the Plaintiff, he will seek leave of the Court to amend this Complaint to reflect such true names, together with appropriate charging allegations. However, at this time, Does 1 through 20 are particularly designated as persons acting as officers, directors, members, employees, agents, servants, representatives, or otherwise on behalf, in furtherance, and/or for the benefit, of each of the Defendants, and who assisted or otherwise participated in one of more of the acts alleged herein and out of which the Plaintiff's claims arise. Does 21 through 30 are designated as other corporations, partnerships, limited liability companies, trusts, or other such business or artificial entities and their shareholders, members, partners, officers, directors, employees, agents, servants, or other representatives who assisted or otherwise participated in one or more of the acts alleged herein, and out of which the Plaintiff's claims arise.

19. All of the acts, events, and occurrences hereinafter complained of, occurred and arose, or emanated from or within, the county of Pima, state of Arizona.

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FACTUAL HISTORY

20. The Plaintiff, Derry Dean Sparlin, Sr. (hereinafter "Sparlin"), is an 80-year old retired scientist and oil industry consultant, whose acquired wealth came primarily from the estate of his late second wife. It is this inherited fund of money that became the source for the investments which the Plaintiff made with the Defendants, subject of this Complaint.

21. Plaintiff's first introduction to the Defendants came through his third wife, Elaine Evans Bromley (now deceased), sometime in 2002, prior to their marriage on January 1, 2003. Sparlin was introduced to Michael N. Figueroa, a friend of Elaine's, who identified himself as a real estate broker and investor.

22. Although Figueroa was, in fact, a licensed real estate broker, he was neither licensed nor, at any time, authorized by any federal or state regulatory agency to act as a securities broker, dealer, trader, or salesperson.

23. Despite the scope of his unlicensed status, Figueroa utilized his close relationship with the Plaintiff's third wife to ingratiate himself to the Plaintiff and to gain the Plaintiff's trust and confidence by touting his successes and accomplishments, including, but not limited to, his successful accumulation of wealth as a result of his investment acumen. As a direct result of Figueroa's efforts to cultivate a close relationship with the Plaintiff, he persuaded Sparlin to disclose to him the nature and extent of his assets which, at the time, had a value of approximately three million dollars ($3,000,000.00).

24. Despite the Plaintiff's apparent wealth, however, Sparlin was not a sophisticated investor, having little experience in either stock or real estate investment over the course of his seventy plus years. This fact, which was made very clear to Figueroa at the outset, became the

springboard to Figueroa's opportunity, and the fraudulent investment scheme which he carried out and directed over the next six plus years.

25. Beginning with $750,000.00 in investments over an initial three-week period between March 21, 2003, and April 10, 2003, the Plaintiff was persuaded by Figueroa to make a succession of investments over the next 6½ years, comprised of either loans, stock purchases, or acquisitions of membership interests in various limited liability companies owned or controlled by, or otherwise affiliated with, Figueroa.

26. In order to facilitate the investments, Figueroa persuaded the Plaintiff to execute a Power of Attorney on September 23, 2003, granting Figueroa broad authority to invest and contract on the Plaintiff's behalf. The Plaintiff executed this Power of Attorney after having previously executed a similar Power of Attorney with his wife, permitting Figueroa to arrange financing for the purchase of their personal residence, an arrangement that proved successful.

27. Beginning in approximately December 2003 and continuing throughout the remaining period pertinent to this Complaint, Figueroa persuaded the Plaintiff to transfer the majority of his investments from his own personal ownership to the ownership of Hadrianus, which was managed and controlled by Figueroa in his capacity as Trustee of the D'Esprit PSP. At all times relevant hereto, the D'Esprit PSP had at least 90 percent legal ownership of Hadrianus while the Plaintiff had only 10 percent ownership or less.

28. Acting in his capacity as Trustee of the D'Esprit PSP, Figueroa represented to the Plaintiff that the D'Esprit PSP, as a tax-exempt entity, would absorb tax liability for at least 90 percent of all ordinary income earned through the Plaintiffs' investments.

29. Acting in his capacity as Trustee of the D'Esprit PSP, Figueroa promised the Plaintiff that the D'Esprit PSP, upon the conclusion of each project for which it had held at

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least 90 percent of the Plaintiffs' investment, would pay the Plaintiff the entire 100 percent amount of his capital and investment returned. Figueroa represented to the Plaintiff that this arrangement would limit the Plaintiffs' tax liability for each investment to any capital gains that were generated.

30. Each of the successive investments made by the Plaintiff, either personally or through Hadrianus, had, among other common elements, one prominent trait: each of the entities and investment vehicles into which Figueroa directed the Plaintiff's money were either owned, wholly or in part, or controlled by Figueroa or one of his sixty plus entities, corporations, or limited liability companies, which he owned in whole or in part either directly or indirectly, or which he controlled or was otherwise formally associated with. In other words, the various investments in which the Plaintiff was persuaded to participate, or in which the Plaintiff entered solely through Figueroa's liberal use of the authority granted to him by the Power of Attorney or by means of his authority over assets that the Plaintiff had entrusted to him through Hadrianus, were in entities and investments in which Figueroa or one of his entities would be a direct beneficiary.

31. Following the initial investments, the pattern of a scheme developed in which Figueroa used either his Power of Attorney or his control over Hadrianus to convert or transfer initial investment funds to other investments, either promissory notes, stock, or limited liability company membership interests. Likewise, the Plaintiff's investment stakes continued to grow, at its peak reaching more than two million one hundred thousand dollars ($2,100,000.00), before collapsing to a loss of well over one million dollars ($1,000,000.00).

32. During the course of these Figueroa-directed investments, there was one constant: each of the investments continued to be directed to Figueroa-controlled or affiliated

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entities in which Figueroa and his partners received direct financial benefit, despite the continuous financial losses suffered by the Plaintiff.

TRG TRANSACTION

33. The largest and most conspicuous of these investments, and clearly illustrative of the self-dealing and fraud perpetrated by Figueroa and his associates, including the Defendants Jeffrey S. Utsch, Gregg T. Sasse, and Paul Y. Sorensen, was a highly touted, but wholly misrepresented real estate development project through the vehicle known as the Defendant TRG.

34. On August 13, 2004, TRG purchased a 72.3 acre parcel of land in Pima County, Arizona for two million five hundred thousand dollars ($2,500,000.00).

35. On August 11, 2004, Figueroa solicited an investment from the Plaintiff in the form of a percentage interest in a purported loan to be used for the acquisition and residential development of that 72.3 acre parcel.

36. The loan transaction was described as a four million two hundred thousand dollar ($4,200,000) extension of credit from Western Recovery to TRG, supported by a Deed of Trust executed by TRG that conveyed a security interest in the full 72.3 acre parcel to Western Recovery. Investors, including the Plaintiff, received an Assignment from Western Recovery of a percentage interest in this loan and Deed of Trust, calculated by dividing the amount of the investor's contribution by the purported $4.2 million face value of the loan. The investment solicitation, in the form of a two-page memorandum dated August 4, 2004, represented that the full value of the land, after improvements, would be six million three hundred thousand dollars ($6,300,000.00) and that the loan-to-value ratio, based on the purported $4.2 million loan amount, would be 67%.

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37. Accompanying the two-page memorandum was an "independent evaluation" of the property by the Defendant, Gregg T. Sasse, dated August 6, 2003, which was used to support the $6.3 million dollar valuation contained in the solicitation memorandum. Sasse was neither an appraiser nor independent, since he was affiliated with the Defendant, Western Recovery, a fact not disclosed in the solicitation memorandum or otherwise made known to the Plaintiff.

38. Western Recovery never loaned $4.2 million to TRG. According to TRG's internal records, which were not shared with the Plaintiff until discovery in this matter, the net amount that Western Recovery had advanced to TRG as of August 13, 2004, when the purchase transaction was consummated, was twenty thousand dollars ($20,000.00). Various transfers between Western Recovery and TRG took place between that date and July 1, 2005, but the balance loaned by Western Recovery to TRG never exceeded three hundred thirty-nine thousand dollars ($339,000.00) at any point. The purported "loan" balance during significant portions of this period was negative, meaning that Western Recovery owed money to TRG. After July 1, 2005, the loan balance was reduced to zero and no further loan advances were made, despite the fact that the Defendants continued after that date to sell additional percentage interests in the sham $4.2 million loan to the Plaintiff and other investors.

39. Based upon the documents provided to him, and the representations made by Figueroa, the Plaintiff initially invested $500,000.00 in exchange for a purported 11.905% interest in the debt secured by a Deed of Trust on the property.

40. Figueroa then persuaded Sparlin to convey this interest to Hadrianus in a transaction that was consummated, with Figueroa's assistance, on August 14, 2004.

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41. On July 15, 2005, Sparlin, through Hadrianus, invested another $150,000.00 in TRG, and on June 26, 2006, Sparlin, again through Hadrianus, invested another $150,000.00 to his TRG investment, thereby increasing his total stake in the TRG project to $800,000.00.

42. While Sparlin was increasing his investment in TRG based upon the Defendants continued positive representations of its value, the Defendants Figueroa, Utsch, Western Recovery, and other entities related to the Defendants, were systematically withdrawing their own investments coincidental with the infusion of new investor funds.

43. At the same time, TRG's management, through the Defendant, Western Associates, was slowly depleting TRG's available capital through management fees they paid to themselves.

44. By draining TRG's capital as investor funds came in, these insiders succeeded in both reducing their stake in TRG, as well as their financial risk. Equally as important, by their capital withdrawals, these insiders succeeded in ensuring that insufficient funds were available to TRG to be able to accomplish its development plan, even if that plan were capable of success.

45. These insiders, the Defendants named herein, were clearly operating on knowledge not disclosed to, or otherwise known by, the non-insider investors, including the Plaintiff, Sparlin. In fact, the extent of the non-disclosed knowledge was profound, material, and wholly damning for the TRG project.

46. These insiders, Defendants Figueroa, Utsch, Western Recovery, and their related entities, had ample motivation to limit their own financial exposure by shifting the substantial investment risk to other outside investors who were not privy to the same knowledge about TRG's dubious prospects.

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47. From the outset, the proposed TRG development faced serious if not insurmountable hurdles, the nature and risks of which were wholly omitted from the solicitation memorandum given to the Plaintiff.

48. The land for the development of the proposed subdivision by TRG was located in a Class AE flood zone established by the Federal Emergency Management Agency ("FEMA").

49. Because FEMA requires local governments to restrict the approval of new developments in Class A flood zones in order to participate in the Federal Flood Insurance Program, the land which TRG proposed to develop would face a steep uphill battle to not only change its zoning status, but to overcome the FEMA restrictions on new developments.

50. Compounding the already significant problems posed by the FEMA regulations, the entire proposed development parcel fell within an "important riparian area" regulated by local Pima County ordinances, and classified in the most restrictive possible category as a "Hydro-meso riparian habitat".

51. Pima County's Comprehensive Lands System adopted as part of its 2000 Comprehensive Land Use Plan, directs that "at least 95% of the total acreage of lands within this designation shall be conserved in a natural or undisturbed condition."

52. To assist in implementing this directive, the applicable Pima County ordinance (Pima County Code of Ordinances §16.30.040), first adopted in 1997, requires developers to demonstrate "that no reasonably practicable alternative exists to the proposed impact" on the habitat. "Avoidance" is the preferred alternative, and is "required whenever feasible." Onsite mitigation also may be acceptable if the developer can "provide new habitat of similar value to that which was removed as a result of the construction of physical improvements on the developed or subdivided site."

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53. Neither avoidance nor onsite mitigation was possible for the TRG project, however, because the parcel did not include any non-riparian land. As a result, the only conceivable alternative would have been to obtain approval from the Pima County Board of Supervisors for an offsite mitigation plan, which would have involved a monetary contribution to a "mitigation bank" used to acquire and preserve riparian lands and other locations.

54. Upon information and belief, Pima County has never approved an offsite mitigation plan for a Hydro-meso riparian impact even approaching the scale of the TRG project.

55. Even if the mitigation bank alternative had been available, TRG would have owed a substantial sum of money to Pima County as a condition of its approval. Based upon guidelines used to calculate mitigation contributions, the amount would have exceeded the price per acre that TRG paid when it acquired the subject property. Likewise, even if TRG were inclined to make such a payment to Pima County, the systematic and repeated capital withdrawals by TRG's insiders, the Defendants herein, left TRG financially unable to pay such a fee.

56. Prior to all three of the Plaintiff's investments in TRG, the Defendants had acquired actual knowledge of the flood zone, riparian, and zoning problems faced by the proposed development. Among other things, the Defendants and/or their agents had

a. conducted research into a condemnation proceeding brought against the prior owner of the TRG parcel in which Pima County contended that the construction of an adjacent bridge had adversely affected the parcel's availability for development, which culminated in a settlement that placed restrictions on the conditions under which future development would be allowed;

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b. communicated with Pima County personnel charged with enforcing flood and riparian mitigation requirements, who made the Defendants aware of serious objections to the Defendants' development plans;

c. learned of failed attempts by the prior landowner to obtain approval to build an equestrian facility on the same land due to several factors including, but not limited to, the inability to meet objections raised by Pima County with respect to flood control and riparian mitigation along with crowd and traffic concerns; and

d. retained the same lawyer, Thomas M. Parsons, who had represented the prior landowner in her unsuccessful development attempts, in the vain hope that Mr. Parsons would be able to overcome these same objections for their proposed residential development.

57. The existence of a prior condemnation proceeding, the restrictions imposed by the condemnation settlement, the previously expressed objections of Pima County flood and riparian regulators, the historical failure of prior owners of the TRG property to develop the land, and the decision to retain a lawyer to help overcome these problems were neither addressed nor disclosed to the Plaintiff prior to his $800,000.00 investment.

58. Moreover, on May 18, 2004, Pima County voters approved a bond referendum "for the purchase in fee simple or the acquisition of conservation easement on lands identified as "Habitat Protection Priorities" in the Tucson Basin Project Area. Notably, the Habitat Protection Priorities specifically identified the TRG parcel as a "secondary" priority, the same category assigned to nearly all of the tracts covered by the bond referendum.

59. As early as February 22, 2005, the Pima County Conservation Acquisition omission had referred to the TRG parcel as "a high priority habitat protection priority."

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60. Despite actual knowledge of Pima County planning officials' strong objections to their development plans, the Defendants initiated the formal approval process for a 48-lot tentative plat on November 26, 2004.

61. Predictably, the Defendants encountered strong objections to their proposal during a face-to-face meeting with Pima County planning officials on December 12, 2004 and in a written memorandum dated January 14, 2005.

62. Rather than attempting to overcome these objections, the Defendants withdrew the initial tentative plat and discontinued all further efforts to obtain approval for the 48-lot subdivision plan they had touted to investors. They then commenced work on a scaled down 30-lot plan, culminating in the submission of a revised tentative plat on February 9, 2006.

63. The loss of more than a third of the lots from the original plat had a substantial negative impact on the value of the Plaintiff's investment.

64. On April 17, 2006, the Defendants received written notice from the Pima County Regional Flood Control District of "major deficiencies" in the smaller 30-lot plan relating to flood control and riparian mitigation.

65. Once again, instead of seeking to overcome the objections, the Defendants further scaled down the proposed subdivision to just 21 lots, less than half of the original project size. This had a further substantial and material negative impact on the value of the Plaintiff's investment.

66. The 21-lot proposal still was insufficient to overcome objections regarding flood control and riparian impact, prompting two further sets of written objections from Pima County during October through November of 2007 and March through April 2008. After receiving the

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second set of objections, the Defendants abandoned further efforts to obtain approval for the development.

67. Even if the Defendants somehow could have overcome the serious and consistent objections of Pima County planning officials, TRG would not have had the financial resources to complete the project. From the very beginning, and long before any economic downturn, TRG lacked the assets and capitalization that Defendants had represented to be available. Without this funding, no TRG development plan could have succeeded.

a. For the reasons stated in paragraph 40, which is incorporated herein by reference, the $4.2 million loan from WRS described in the Defendants' investment solicitation was a sham. Without access to the $4.2 million credit source that had been described in the solicitation, TRG had to rely almost exclusively on money contributed by individual investors.

b. As of the August 13, 2004 acquisition date for TRG, a combined total of three million three hundred fifty thousand dollars ($3,350,000) had been contributed by the Plaintiff and other investors. Of this amount, more than two million five hundred seventy-five thousand dollars ($2,575,000) was immediately spent to acquire the land and pay closing costs, leaving TRG with less than $775,000 in net cash.

c. Unbeknownst to the Plaintiff, the Defendants had promised to pay back one million three hundred thousand ($1,300,000) of the $3,350,000 in the initial investment pool, returning funds that Robert Barnitt had committed to TRG only on a short-term basis. Net of this amount, TRG had only two million fifty

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thousand dollars ($2,050,000) in long-term investments, more than five hundred thousand dollars ($500,000) less than it had already spent just to acquire the land.

d. Without significant additional loan revenue from Western Recovery, TRG had no ongoing source of money to fund engineering studies, professional fees, or other work that would be necessary to prepare the project for development.

e. Despite its own serious shortage of capital, TRG, without informing the Plaintiff, diverted $150,000 in September 2004 to Corona Acres, LLC, another project controlled by the Defendants that was experiencing its own financial difficulties. The interest rate for this loan to Corona Acres, LLC was 10 percent, as low as or lower than the interest rate that TRG was paying to the sources from which it had acquired the same funds. Thus, even if Corona Acres, LLC fully paid back the loan with interest, TRG went into this transaction knowing that the best result it could possibly achieve was to break even.

f. By December 2004, just four months into the project and long before any economic downturn, the balance in TRG's checking account had declined to less than ten thousand dollars ($10,000). At this point, TRG did not have enough money to meet its December 2004 interest commitments to existing investors, let alone to fund further development expenses. TRG also still owed two hundred forty thousand dollars ($240,000.00) as of December 2004 pursuant to its undisclosed agreement to return Robert Barnitt's $1,300,000 initial short-term contribution. Without any help from the purported $4.2 million WRS loan, TRG could remain afloat from this point forward only by soliciting new investments in

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an amount sufficient to pay ongoing debt service obligations to existing investors.

g. To avoid defaulting on its obligations to existing investors, and to create a false impression of financial stability, the Defendants caused related entities, including WAD, to make periodic short-term transfers of money to TRG during 2005 and 2006 sufficient to cover interest payments and ongoing expenses. These short-term transfers to satisfy old investment obligations were repaid as new investments came in.

h. The Defendants were successful in obtaining more than six hundred thousand dollars ($600,000) in new investments during 2005 and 2006, including three hundred thousand dollars ($300,000) in new money invested by the Plaintiff. These funds, however, were exhausted nearly immediately. They were spent primarily to repay earlier transfers from related entities including WAD, to repay Barnitt, or to make interest payments or return principal to previous investors.

i. Due to this capital shortage, TRG routinely operated throughout 2005 and 2006 with less than $50,000 in the bank. It often had much less than that. On several occasions, TRG had to make deposits with borrowed funds after it had already issued its investors' monthly interest checks to prevent those checks from bouncing.

j. On September 26, 2006, just three months after the Plaintiff made the last of his three investments in the project, TRG issued the last interest check for the Plaintiff's holdings. TRG defaulted on all of its subsequent interest obligations

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to the Plaintiff from October 2006 forward, although it continued to pay interest to some other investors until as late as March 2008.

k. By February 2008, TRG's cash reserves had dwindled to approximately two thousand dollars ($2,000). Despite this dire financial situation, the Defendants still were pursuing the tentative plat approval process with Pima County and Figueroa and his associates were telling the Plaintiff and other investors that they were getting close to final approval.

68. The TRG property history, each of the material facts regarding it, and the true financial structure and tenuous capitalization of the project were never disclosed to the Plaintiff in the solicitation memorandum or any other written material. In the face of the parcel's history, the severe restrictions to its development, and the absence of financing for development activities, the ultimate failure of the TRG project was conspicuously foreseeable to anyone with access to this knowledge, including, specifically, to the insider Defendants named herein.

69. Despite the parcel's history and the foreseeable regulatory and legal hurdles facing the TRG project, the Defendants were not deterred from siphoning their own investments in the project from newly acquired investor funds. At the same time, however, the Defendants were assuring the Plaintiff, as well as other outside investors, that the investment was not only safe, but, in April 2007 and May of 2008, both Figueroa and Glen Kerslake, who assisted with management of TRG under Figueroa's direction, reaffirmed their confidence that approval for the project would be obtained.

70. However, despite the repeated reassurances and representations of the Defendants, the TRG project was doomed from the outset, culminating in the sale of the

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property by TRG on December 9, 2009 for the total sum of $1,375,000.00, representing a loss of more than one million one hundred thousand dollars ($1,100,000.00) from TRG's original purchase price.

71. Following the receipt of the meager sale proceeds, the Plaintiff received distributions in December 2009 totaling $248,198.89, representing a principal loss of approximately $552,000.00, as well as a loss of accumulated interest of more than $400,000.00.

LCS TRANSACTION

72. Also in December 2009, approximately the same time the TRG project was winding up, the Plaintiff incurred further large financial losses from a second project in which he was induced to invest by the Defendants. That project, called Las Colinas Sagradas or "LCS" for short, was a proposed subdivision of about one thousand residential lots on approximately 370 acres in Santa Cruz County, Arizona, northwest of the City of Nogales.

73. The Plaintiff's initial LCS investment occurred on August 22, 2005, when two hundred thousand dollars ($200,000) of the Plaintiff's funds were transferred to Antares. On the advice of Figueroa, this transfer was accomplished through a check written to Antares from the Hadrianus bank account, funded by money that the Plaintiff had previously contributed to Hadrianus.

74. As documentation for this investment, the Plaintiff received a Promissory Note, signed by Sasse, which promised that Antares would repay the Plaintiff's $200,000 investment with 14 percent interest. This Promissory Note stated that the debt was secured by a previously recorded Deed of Trust dated May 27, 2005. The referenced Deed of Trust, in turn, conveyed a security interest in the LCS property to Capella Properties, LLC ("Capella") to

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secure a loan in the amount of two million seven hundred forty-five thousand nine hundred seventeen dollars ($2,745,917.00) that Capella had purportedly made to Antares.

75. Capella was an "empty" LLC that Figueroa incorporated in March 2005 under the management of Western Associates. No assets from Capella ever were loaned to Antares, to LCS, or to any other entity for purposes of the LCS project.

76. Continuing their pattern of promoting new investments through various methods, including the conversion of current investors' existing investment funds and interests, on October 6, 2006, the Defendants, through the Defendant Sasse, provided Sparlin with a Private Offering Memorandum dated September 19, 2006. This Private Offering Memorandum solicited Sparlin's consent to convert his existing debt investment through Antares into equity in a newly formed company called LCS Land Holding Co., also commonly referred to as "LCS."

77. On December 11, 2006, in order to further induce Sparlin to invest in LCS, Sparlin was provided with a supplement to the Private Offering Memorandum as well as an Amended Operating Agreement for LCS.

78. These documents, in conjunction with the original Private Offering Memorandum, describe an equity conversion scheme creating two classes of ownership: Class A membership comprised of corporate management and their associated profit sharing plans, and Class B membership comprised of investors such as the Plaintiff whose existing debt interests were converted into equity or who contributed additional cash through the offering.

79. Class A members, who contributed less than $25,000 in capital, were given the equivalent of three million dollars ($3,000,000.00) in membership interests, although subordinated to Class B members for distribution purposes.

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80. The Private Offering Memorandum presented a set of financial projections representing that, if certain assumptions were satisfied, Class B investors at the end of six years would receive a full return of their principal plus a profit of more than eighty-two percent: an aggregate of three million seven hundred twenty one thousand thirteen dollars ($3,721,013) on combined investments of four million five hundred thousand dollars ($4,500,000).

81. At the time the Defendants presented these projections to the Plaintiff, they had actual and present knowledge that the profits and distributions to Class B investors portrayed in the projections could never be achieved because of existing and new debt that LCS planned to accept as part of the initial transaction.

a. The projections in the Private Offering Memorandum stated that the project would have zero debt if a total of four million five hundred thousand dollars ($4,500,000) in equity was raised in response to the solicitation.

b. This representation was untrue because the Defendants and entities related to them had decided not to covert one million six hundred twenty thousand dollars ($1,620,000) in debt that they held, which thus became debt owed by LCS pursuant to the initial transaction without regard to how much equity could be raised. This included (i) seven hundred fifty thousand dollars ($750,000) in debt held by the Defendant Western Associates; (ii) five hundred seventy-five thousand dollars ($575,000) in debt held by the Prosperity Investments, L.L.C. ("Prosperity") profit sharing plan under the control of Robert Barnitt, who at the time was a partner in Western Associates; (iii) two hundred fifty thousand dollars ($250,000) in debt held by an entity controlled by Douglas Gratzer, who was identified in the Private Offering Memorandum as the "Project Manager" for

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LCS; (iv) twenty-five thousand dollars ($25,000) in debt held by a profit sharing plan controlled by Sorensen; and (v) twenty thousand dollars ($20,000) in debt held by a trust controlled by Utsch. Even if $4,500,000 in equity could have been raised from other sources, which did not happen, the projected profits for Sparlin and other Class B equity holders could not have materialized because the Defendants' priority debt positions would have had to be satisfied first.

c. In addition to the debt interests owned directly by the Defendants and related individuals and entities, other parties held four hundred ten thousand dollars ($410,000) of further interests that were not converted to equity and thus immediately became added LCS debt that took priority over the equity positions held by the Plaintiff and other Class B investors. At a minimum, the Defendants must have known of these decisions not to convert when they provided Sparlin with the Supplement to the Private Offering Memorandum on December 11, 2006, one day before Sparlin executed the paperwork agreeing to the Class B equity conversion and four days before the full LCS transaction was consummated.

d. On top of the two million thirty thousand dollars ($2,030,000) of existing debt that the Defendants knew would not be converted to equity, the Defendants, as part of the same transaction, caused LCS to incur an additional three hundred thousand dollars ($300,000) in debt to Antares as a condition of the acquisition. This further added debt, evidenced in a Promissory Note from LCS to Antares signed by Figueroa on December 15, 2006, was never disclosed to the Plaintiff or other Class B investors.

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82. The Defendants also falsely represented that LCS would be able to sell lots in its development to builders at prices starting at nine thousand three hundred dollars ($9,300) per unit and escalating by eight percent each year. According to the Private Offering Memorandum, LCS expected builders to pay this price even though they would be assuming the full obligation and cost to "complete the entitlement process, construct the spine road and install the trunk line utilities to the future block platted subdivisions." At the time the Defendants made this representation, they knew that the lot sale price they were promoting to investors was completely unrealistic and unachievable.

a. The Defendants' appraiser, Burke Weisenborn, L.L.C. ("Burke Weisenborn"), had advised Sasse in a written appraisal report that the value of the LCS property to builders would be six thousand two hundred thirty two dollars ($6,232) per lot, approximately thirty-three percent below the price shown in the Private Offering Memorandum.

b. In its written report, Burke Weisenborn made clear that it had made this appraisal based on the assumption that sales would occur after "completion of the spine road, extension of all utilities within the spine road, and platting and engineering of the individual lots." According to Burke Weisenborn, the "as is" value of the lots, for which the buyer would have to absorb the cost of these development activities, was lower than this appraisal.

c. The Defendants' internal financial projections, which are inconsistent with the Private Placement Memorandum but were not shared with the Plaintiff, reflect their understanding and knowledge that LCS would need to incur expenses for

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platting, engineering, utilities, and spine road construction before it could market lots at the price levels reflected in the solicitation.

d. Even if LCS could have sold "as is" lots at the fully engineered $6,232 price estimated by its appraiser, the net distributable profit after return of principal would have been reduced by almost two-thirds in comparison to the inflated $9,300 value shown in the Private Offering Memorandum.

83. In full reliance upon the documents provided to him, on December 12, 2006, Sparlin executed the LCS Class B Equity Conversion Agreement, thereby converting his $200,000.00 debt interest in an existing investment into a Class B equity membership interest in LCS.

84. On February 7, 2007, LCS entered into, what was represented to be, a short-term one year financing agreement with Prosperity. In return for a 12% interest rate and 2% consulting fee, Prosperity loaned LCS one million seven hundred forty-four thousand dollars ($1,744,000.00), which was to be repaid by February 15, 2008.

85. The Private Offering Memorandum described LCS as a "passive land investment" company whose only expenses, aside from commissions and closing costs incurred upon the ultimate sale of its real estate holdings, would be real estate taxes, insurance, accounting, and miscellaneous costs associated with land ownership. Aside from commissions and closing costs, the materials provided to the Plaintiff stated that LCS' expenses would total only ten thousand dollars ($10,000) annually. If managed and operated as described in the investment solicitation, therefore, LCS would have had no business need for an operating loan of this size.

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86. LCS' internal financial records, which were not shared with the Plaintiff, reveal that the $1,744,000 borrowed from Prosperity was not used for any operating or management expenses as described in the investment solicitation. Instead, all of these funds were used to finance various side transactions that benefitted the Defendants and Prosperity at the expense of LCS:

a. The first five hundred seventy-five thousand dollars ($575,000) of the Prosperity loan proceeds were applied to buy out the existing $575,000 debt interest held by the Prosperity profit sharing plan. This transaction had no net financial benefit for LCS, but it subjected LCS to a higher interest rate and less favorable payment and default terms than had applied before the buyout.

b. Another three hundred thousand dollars ($300,000) was used to pay off a debt, unrelated to LCS, that had previously been owed to Prosperity by Western Associates. This transaction conferred a $300,000 financial benefit to the Defendant, WAD, at LCS' expense. It also subjected LCS to future interest payments and the risk of default to satisfy obligations that were not its own.

c. A further three hundred thousand dollars ($300,000) was transferred to Antares to pay off the promissory note from LCS to Antares that Figueroa had executed on December 15, 2006. This transaction had no net financial benefit for LCS, but it subjected that debt to a higher interest rate and less favorable payment and default terms than had applied when the debt was owed to Antares.

d. Fifteen thousand dollars ($15,000) was given to Antares as reimbursement for development expenses that this entity had incurred. This contradicted the

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promise made to investors in the initial solicitation that LCS would be a "passive" entity and would not fund any further development activities.

e. One hundred sixty-nine thousand dollars ($169,000) was given to Western Associates to buy out LCS debt interests held by that entity. This benefitted the Defendants and had no net financial benefit for LCS. It also subjected that portion of the former WAD debt to a higher interest rate and less favorable default terms than had applied when the debt was owed to WAD.

f. The remaining three hundred eighty-five thousand dollars ($385,000) was used to buy out LCS debt interests held by three other individuals and entities: $75,000 to an entity called "Dancing Girl Trust," $60,000 to G.M. Randall, and $250,000 to Douglas Gratzer, whom the original investment solicitation identified as the "Project Manager" for LCS. These transactions had no net financial benefit for LCS, but they subjected that debt to a higher interest rate and less favorable payment and default terms than had applied when the debt was owed to Dancing Girl Trust, G.M. Randall, and Douglas Gratzer.

87. On April 30, 2008, Prosperity declared a default when LCS failed to repay the loan. However, after some apparent negotiation, rather than taking action to enforce the loan default, Prosperity agreed to allow LCS time to obtain additional capital, in order to satisfy Prosperity's demand for increased capital reserves in exchange for an extended loan repayment term.

88. On October 10, 2008, in an apparent effort to satisfy Prosperity's loan extension requirements, LCS issued a new Private Offering Memorandum, soliciting capital investments from a new class of investors, offering Class C membership interests in LCS in return.

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89. This attempt at attracting new LCS investors failed and, as a result, LCS negotiated a Settlement Agreement with Prosperity in November 2009. The draft Settlement Agreement was distributed to LCS members, and provided for a complete transfer of all of the LCS property for, what turned out to be, a small fraction of its actual value.

90. In exchange for the LCS property and $11,475.49 in cash, the LCS Class B members received a $280,000.00 equity membership interest in Defendant Pollux.

91. As a result, Sparlin's proportionate equity membership interest in Pollux was reduced to $24,944.32, less than 13% of his original investment in LCS.

92. However, buried in the Settlement Agreement's fine print were two brief additional provisions neither discussed nor mentioned in the summary of the Agreement's terms (the first three pages of the Agreement) or in any prior or subsequent documents provided to LCS investors.

93. The first provision provided for LCS to assign its membership interest in Hermes Properties, LLC (hereinafter "Hermes"), (including its land holdings) to Prosperity. The second provision provided for the conveyance to LCS insiders, the Defendant Western Associates, its current and former management team and associated profit sharing plans, a two-acre parcel of commercial property owned by Prosperity Investments III, L.L.C., a separate entity controlled by Defendant Barnitt, that was not a party to the Settlement Agreement, plus an additional equity interest in Pollux (equivalent to 4.34783% of Prosperity's interest in Pollux). The Settlement Agreement with these provisions was fully executed and finalized on December 31, 2009.

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94. In soliciting the settlement approval of LCS Class B members, including the Plaintiff, Sparlin, the Defendants represented in the Settlement Agreement, among other things, that:

> 1. ... the fair market value of the LCS property has been substantially reduced due to general adverse market conditions and debt affecting the LCS property, and that the only assets of LCS are the LCS property and a small amount of cash.... As a result ... their membership interests and investments in LCS currently have insubstantial value.... [and] that the Prosperity proposal represents the best method of maximizing the value of the membership interests and investments (as to LCS members)....

95. However, the Defendants failed to disclose to the LCS membership that LCS held substantial value in real estate through its wholly controlled entity, Hermes, including three contiguous parcels separate from the LCS property. Not only had LCS failed to disclose these real estate holdings, it failed to ever disclose the existence of any LCS interest in Hermes.

96. The Defendants also falsely represented that LCS had granted an enforceable security interest to Defendant Prosperity, citing the recorded Deed of Trust, dated May 27, 2005, by which Antares had conveyed a security interest to Capella. At the time that Defendant Prosperity made the loan to LCS, as previously alleged, Antares did not hold title to the property described in the Deed of Trust. Capella, moreover, was an "empty" LLC that had never made a loan to Antares or LCS and had never assigned any part of the security interest described in the cited Deed of Trust to Prosperity.

97. In order to further induce the LCS members to approve the Prosperity settlement, the Defendants circulated false and misleading descriptions of the Pollux owned assets, including a project known as Ridgeline Estates.

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98. The Defendants made material misrepresentations of fact or omitted material facts that were critical to any evaluation of the Prosperity settlement offer, and particularly to the representation of value to be received by the LCS membership.

99. Among the material factual misrepresentations and/or omissions, the Defendants falsely implied or represented:

1. that the Ridgeline Estates' property was fully accessible, and that access through a right-of-way over Arizona State Trust Land had already been assured when, in fact, it had not;

2. that approvals for water service to the property were imminent, without disclosing the fact that at least $2.8 million in equity funding was required by the Arizona Corporation Commission before such approval would even be considered; and

3. the Defendants wholly omitted disclosure of the fact that any development of the property would face a substantial risk of failure due to the historic successful opposition to such development proposals in the past by the Whipple Observatory, as well as from local and neighboring residents, and environmentalists.

100. As a result of the Defendants' material misrepresentations and omissions, the LCS membership was presented with a false and misleading picture of the proposed settlement, and particularly of the extent and value of the consideration being exchanged between LCS and Prosperity.

101. Had the Defendants fully and truthfully disclosed all of the material facts and risks, the LCS membership, including the Plaintiff Sparlin, would have known that the

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consideration offered to them, i.e., the Pollux membership interest, had little if any value, and certainly insignificant enough value to support settlement approval.

102. Even more significant than the accumulated misrepresentations and omissions already alleged, was the Defendants' factual representation that, based upon the facts and circumstances as represented and presented by the Defendants, the proposed settlement was "the best method of maximizing the value" for the Class B LCS members.

103. In fact, and to the contrary, the only true winners were the Defendants who proposed and supported this settlement, including, specifically, the Class A members who, at least legally and theoretically, held distribution positions subordinate to the Class B members, including the Plaintiff Sparlin.

104. In successfully touting the settlement as they did, the Defendants were able to improperly divert the most substantial portion of the consideration received from Prosperity (i.e., the two-acre commercial property plus the additional equity membership interest in Pollux) to their own benefit despite their subordinate position, and to the financial detriment of the Class B members, including the Plaintiff, Sparlin.

105. In fact, the Defendants' material misrepresentations and omissions, as alleged, were calculated to provide the Defendants and Prosperity with a significant economic benefit based upon the value of the LCS property alone.

106. Despite a weakened real estate market, the value of the LCS property was both substantial, substantially greater than the Defendants represented, substantially greater than the debt purportedly encumbering the property, and substantially greater than the meager consideration conveyed to the LCS members, including the Plaintiff, Sparlin.

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107. Based upon the authority that was granted by the Class B LCS members, including the Plaintiff Sparlin, in full reliance upon the Defendants' material misrepresentations and omissions as alleged herein, the Defendants conveyed to Defendant Prosperity all of the real estate owned by LCS, all of the beneficial rights to the real estate held by Title Security Agency of Arizona for the benefit of LCS, and all of the real estate held by Hermes. Upon information and belief, the combined real estate holdings transferred to Defendant Prosperity totaled more than 447 acres.

108. Even by conservative valuation standards, and conceding an "as is" forced liquidation sale due to an LCS default, the LCS property had a fair market value, at the time of the settlement with Prosperity, of $12,500.00 per acre, and a liquidation value at that time of $7,500.00 per acre.

109. The Defendants self-serving misrepresentations to the LCS members, as to the "insubstantial value" of their investment, together with the Defendants' other material misrepresentations and omissions of material fact, as hereinbefore alleged, were calculated to induce, and did in fact induce, the Plaintiff Sparlin to authorize, and consent to, the recommended Settlement Agreement with the Defendant, Prosperity.

110. As a direct and proximate result of the Defendants' material misrepresentations and omission of material facts, the Plaintiff's $200,000.00 investment into LCS virtually dissipated, with a loss of more than 87%, and a continuing uncertainty as to whether even his residual interest exists or exists at its represented value.

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INVESTMENT FRAUD PERPETRATED THROUGH HADRIANUS

111. Figueroa persuaded the Plaintiff to surrender exclusive legal control over most of his investments with the Defendants, including but not limited to the TRG and LCS investments described above, by transferring these investments to Hadrianus.

112. The transfers to Hadrianus effectively caused the D'Esprit PSP to acquire at least ninety percent legal ownership interest in each of the transferred investment assets. The Plaintiff's legal ownership of his own investments was correspondingly reduced to no more than ten percent.

113. For each tax year from 2004 through 2008, the Plaintiff received Form K-1 documents for Hadrianus, prepared by accountants or employees working under the Defendants' direction. Each of these documents stated that the Plaintiff held title to ten percent of the investment capital held by Hadrianus.

114. Upon information and belief, Form K-1 documents issued to the D'Esprit PSP for each tax year from 2004 through 2008 would show that ninety percent of the investment capital held by Hadrianus throughout this period belonged to the D'Esprit PSP.

115. For each of the investments transferred to and held by Hadrianus, Figueroa promised the Plaintiff that, upon the completion of the underlying project, all investment earnings plus the full principal amount would be distributed to the Plaintiff.

116. As trustee of the D'Esprit PSP, Figueroa had authority to cause that plan to pay principal amounts and investment earnings to the Plaintiff from investments that the D'Esprit PSP held as plan assets for the Plaintiff's benefit.

117. As purported protection in the event that Figueroa became unable to direct the D'Esprit PSP to make distributions of investment principal and earnings on investments that it

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held for the Plaintiff's benefit, Figueroa prepared legal documents that would transfer one hundred percent ownership of Hadrianus to the Plaintiff. After signing but not dating these documents, Figueroa gave these documents to the Plaintiff. He instructed the Plaintiff not to sign the documents at that time, but instead to file them away so the Plaintiff could sign and date them later "if anything should happen" to Figueroa.

118. The D'Esprit PSP paid back only a small portion of the principal that Figueroa induced the Plaintiff to transfer to Hadrianus. Some of these payments were made to the Plaintiff directly from the D'Esprit PSP, while other payments to the Plaintiff came directly from the entities in which the funds were invested.

119. Most of the principal that Figueroa induced the Plaintiff to transfer to Hadrianus, as well as the entire amount of investment interest and earnings that had been paid to Hadrianus on the Plaintiff's behalf, was never paid to the Plaintiff. Instead, these assets were unlawfully taken by Figueroa, by other Defendants, or by other entities related to the Defendants. In some cases, Figueroa or the other Defendants converted these assets by wrongfully transferring them to other unrelated individuals or entities.

120. Significant additional amounts of interest and other earnings that were owed to Hadrianus by the Defendants for the investments that it held on the Plaintiff's behalf were never paid at all, either to Hadrianus or directly to the Plaintiff.

121. The Plaintiff does not have access to all of the financial records that would be necessary to account for the entire amount of investment principal and earnings taken from him through the Hadrianus scheme. At a minimum, however, the Plaintiff was deprived of principal and interest from the following investments held by Hadrianus:

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a. On December 27, 2003, Sparlin transferred a note to Hadrianus that evidenced a $250,000 debt owed to him by Corona Acres, L.L.C.

i. The Corona Acres, L.L.C. note carried a ten percent interest rate and included provisions imposing a ten percent late payment penalty and an eighteen percent penalty interest rate for late payment. Full payment on the note, with interest, was due on April 1, 2004.

ii. If the debt and interest due under the Corona Acres, L.L.C. note was paid to Hadrianus at the times specified in the note, Hadrianus would have received a total cash payment of $256,588.25. The Plaintiff never received any of this money.

b. Between August 13, 2004 and June 26, 2006, as described in paragraphs 41 through 43 of this Complaint, Sparlin invested a total of $800,000 in the TRG project. The entire TRG investment was held by Hadrianus on Sparlin's behalf.

i. Sparlin's initial $500,000 TRG investment carried a twelve percent interest rate for the first two months, after which all of his TRG investments carried a ten percent interest rate. For one year beginning on November 15, 2006, the interest rate on the full $800,000 investment increased to fourteen percent pursuant to a Modification Agreement signed by Utsch on behalf of TRG. After this one-year period had passed, the interest rate reverted back to ten percent.

ii. Two partial principal repayments totaling $248,198.89 were received by the Plaintiff in December 2009. No further TRG principal was repaid.

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iii. A total of $125,041.75 in interest on the Plaintiff's TRG holdings was paid to Hadrianus during the life of this investment. None of this interest ever was turned over to the Plaintiff. As of April 30, 2013, an additional $481,699.27 in interest due under the terms of this investment was owed but never paid.

c. On October 28, 2004, Hadrianus made an investment on behalf of Sparlin in which it purchased debt that certain lot owners owed to the New Tucson Unit No. 8 Homeowners Association, Inc. ("Unit No. 8"). The face value of the Unit No. 8 debt that Hadrianus purchased on behalf of Sparlin was $23,115.

i. The Unit No. 8 investment returned an interest rate of nine percent.

ii. On April 25, 2007, a $22,535 payment was received by Hadrianus, accounting for all but $580 of the face principal value of Sparlin's Unit No. 8 investment. None of this money was turned over to Sparlin and the remaining $580 principal value of the investment was never paid.

iii. Despite the unpaid balance on this investment, Figueroa signed a document as "authorized agent" of Hadrianus on June 18, 2007 that reassigned the full amount of the Unit No. 8 debt interest to Western Recovery.

iv. A total of at least $2,535.15 in interest on the Plaintiff's Unit No. 8 investment was paid to Hadrianus during the life of that investment. All of this interest was retained by Hadrianus and never turned over to the Plaintiff. As of April 30, 2013, in addition to this $2,535.15 interest amount, a further $2,967.47 in interest was due under the terms of this

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investment was owed but either was never paid or was paid to and wrongfully retained by Hadrianus during periods for which the Plaintiff lacks access to financial records for that entity.

d. Between January 18, 2005 and July 18, 2006, Hadrianus made a series of investments on behalf of Sparlin in which Hadrianus loaned money to another entity controlled by Figueroa, Romanvs Properties, L.L.C. ("Romanvs"). The aggregate amount of these loan investments was $83,000.

i. The Romanvs loans earned an interest rate of ten percent with the exception of one $13,000 portion of the loan that carried a twelve percent interest rate.

ii. On April 24, 2006, Romanvs paid Hadrianus $45,000 in partial satisfaction of the principal amount of the loans made with Sparlin's funds. On March 16, 2007, Romanvs made an additional $25,000 principal repayment to Hadrianus. To the best of the Plaintiff's knowledge, Romanvs never paid back the remaining $13,000 it owed on the loans made with Sparlin's funds. None of the partial principal payments that Romanvs made to Hadrianus ever were turned over to Sparlin.

iii. A total of at least $4,139.91 in interest on the Plaintiff's Romanvs investments was paid to Hadrianus during the life of these investments. This interest also was retained by Hadrianus and never turned over to the Plaintiff. As of April 30, 2013, in addition to this $4,139.91 interest amount, a further $13,951.57 in interest due under the terms of these

loans was owed but either was never paid or was paid to and wrongfully retained by Hadrianus during periods for which the Plaintiff lacks access to financial records for that entity.

e. On July 12, 2005, Hadrianus made an investment on behalf of Sparlin in which it purchased debt that certain lot owners owed to the New Tucson Unit No. 2 Homeowners Association, Inc. ("Unit No. 2"). The face value of the Unit No. 2 debt that Hadrianus purchased on behalf of Sparlin was $156,660.

i. The Unit No. 2 investment returned an interest rate of twelve percent.

ii. On August 29, 2005, a $156,660 payment was received by Hadrianus in satisfaction of the full principal value of Sparlin's Unit No. 2 investment. None of this money ever was turned over to Sparlin.

iii. In addition, a total of at least $2,425.70 in interest on the Plaintiff's Unit No. 2 investment was owed during the life of that investment but either was never paid or was paid to and wrongfully retained by Hadrianus during periods for which the Plaintiff lacks access to financial records for that entity.

f. On August 22, 2005, as described in paragraph 75 of this Complaint, the Plaintiff invested $200,000 in the LCS project in the form of a loan to Antares made with funds contributed to Hadrianus by Sparlin.

i. The Antares loan earned an interest rate of fourteen percent, with an additional five percent penalty for late payment. The entire LCS investment was held by Hadrianus on Sparlin's behalf.

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ii. On December 13, 2006, the debt associated with this investment was converted to a Class B equity interest in LCS with a face value of $200,000.

iii. Prior to this equity conversation, a total of $36,866.62 in interest on Antares' debt to the Plaintiff was paid to Hadrianus. None of this interest ever was turned over to the Plaintiff.

g. On September 12, 2005, Hadrianus made an investment on behalf of Sparlin in which it purchased debt that certain lot owners owed to the New Tucson Unit No. 5 Homeowners Association, Inc. ("Unit No. 5"). The face value of the Unit No. 5 debt that Hadrianus purchased on behalf of Sparlin was $156,660.

i. The Unit No. 5 investment returned an interest rate of twelve percent.

ii. On March 19, 2006, a $44,760 payment was received by Hadrianus in partial repayment of the principal value of Sparlin's Unit No. 5 investment. On July 13, 2006, Hadrianus received a further payment of $111,900 in satisfaction of the remaining principal value of the Unit No. 5 investment. No portion of either payment ever was turned over to Sparlin.

iii. A total of at least $5,235.23 in interest on the Plaintiff's Unit No. 5 investment was paid to Hadrianus during the life of that investment. This interest also was retained by Hadrianus and never turned over to the Plaintiff. In addition to this $5,235.23 interest amount, a further $9,331.74 in interest due under the terms of this investment was owed but either was never paid or was paid to and wrongfully retained by

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Hadrianus during periods for which the Plaintiff lacks access to financial records for that entity.

h. On October 28, 2005, Hadrianus made an investment on behalf of Sparlin in which it loaned $125,000 to Western Associates, secured by an interest in a Deed of Trust covering land for a proposed development known as Countryside Manor.

i. The Countryside Manor loan investment carried an interest rate of ten percent.

ii. On April 12, 2006, Hadrianus received a payment returning the full $125,000 principal amount of the Countryside Manor loan. None of this money ever was turned over to Sparlin.

iii. A total of at least $2,465.28 in interest on the Plaintiff's Countryside Manor investment was paid to Hadrianus during the life of that investment. This interest also was retained by Hadrianus and never turned over to the Plaintiff. In addition to this $2,465.28 interest amount, a further $3,225.83 in interest due under the terms of Sparlin's Countryside Manor investment was owed but either was never paid or was paid to and wrongfully retained by Hadrianus during periods for which the Plaintiff lacks access to financial records for that entity.

i. On July 26, 2006, Hadrianus made an investment on behalf of Sparlin in which it transferred $100,000 to Western Associates for the renovation of an office building at 2601 North Campbell in the City of Tucson. This transaction was

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accomplished through a check signed by Figueroa that was paid out of funds that Sparlin had contributed to Hadrianus.

i. Although the Plaintiff is unaware of any loan documentation evidencing the indebtedness or conveying any security for the Campbell office building loan, investment lists provided to Sparlin by the Defendants list the Campbell office building loan among Sparlin's investments and state that the loan carried an interest rate of twelve percent.

ii. On May 8, 2007, Hadrianus received a payment of $106,000 in the form of a check written from the D'Esprit PSP to Hadrianus. This check was shown to Sparlin and represented as repayment of the $100,000 principal amount of the Campbell office building loan plus $6,000 in interest.

iii. Unbeknownst to the Plaintiff, however, Figueroa also simultaneously wrote and deposited a check from Hadrianus to the D'Esprit PSP in the identical amount of $106,000, nullifying the principal and interest payment that he had revealed to the Plaintiff. Bank deposit records for these two checks bear consecutive sequence numbers, indicating that the two checks were deposited at the same time. This eliminates the possibility that one could have been a subsequent correction of the other.

iv. The "round trip" transaction concocted by Figueroa could only have had one rational purpose, which was to deceive the Plaintiff into thinking that his Campbell office building investment had been cashed out when in truth the money paid to Hadrianus was immediately taken back.

v. In addition to the $100,000 in principal and $6,000 in interest that was taken from Sparlin by means of Figueroa's fraudulent "round trip" scheme, another $1,000 in interest on the Campbell office building loan was previously paid to Hadrianus but never turned over to Sparlin. An additional $2,419.25 in interest due under the terms of the Campbell office building loan was never paid at all.

j. The partial bank records that are available to the Plaintiff reveal two additional large checks that were written by Figueroa out of the Hadrianus account and paid with funds contributed to Hadrianus by Sparlin.

i. Both of these checks, one dated April 12, 2006 in the amount of $125,000 and the other dated May 15, 2006 in the amount of $30,000, were written to a trust account maintained by the Defendant Old Pueblo, an Arizona corporation domiciled at Figueroa's personal residence for which Figueroa serves as President and sole Director.

ii. Checks to Hadrianus in apparent repayment of these amounts were deposited on June 26, 2006 and June 28, 2006.

iii. Neither the $30,000 repayment on June 26, 2006 nor the $125,000 repayment on June 28, 2006 included any interest. Hadrianus' bank records, moreover, do not reflect any other payments of interest for Old Pueblo's use of the Plaintiff's invested funds.

k. According to Form K-1 filings, bank records, and other sources, Hadrianus received additional interest income during the period from 2004 through 2008

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beyond the interest returns earned on the investments described above in subparagraphs (a) through (j).

i. Because all of the funds and assets held by Hadrianus during this period were the product of the Plaintiff's investment contributions, all of this interest income rightfully belonged to the Plaintiff.

ii. Without access to Hadrianus' complete financial records, the Plaintiff cannot account for all of the interest that was earned by Hadrianus over this period but never paid to him. Based on the incomplete records that the Plaintiff has been able to obtain, however, at least $30,000 in additional interest earned by Hadrianus on investments made with Sparlin's money was never turned over to the Plaintiff.

122. Between January 13, 2006 and March 27, 2007, eleven checks totaling $194,000 were written to Sparlin from the Hadrianus bank account. Even though all of this money rightfully belonged to Sparlin, Figueroa required Sparlin to sign a series of Promissory Notes that treated these transactions as "loans" and required Sparlin to pay ten percent interest to Hadrianus for the use of his own money. The money for all eleven "loans" came from Hadrianus, but only five of the Promissory Notes identified Hadrianus as the payee. Everest Mortgage Company, Inc. ("Everest") was the designated payee for three of the other six Promissory Notes, while the payee for the remaining three Promissory Notes was Old Pueblo.

123. On January 1, 2007, Figueroa and Sparlin signed a Purchase and Sale Agreement under which the D'Esprit PSP promised to pay $250,000 to Sparlin in exchange for twenty-five percent of Sparlin's current ten percent interest in Hadrianus, which represents two and one-half percent (2.5 percent) of the total corporate ownership of Hadrianus. Although the

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Purchase and Sale Agreement specified that the closing would occur "on or before April 1, 2007," the D'Esprit PSP never made any such $250,000 payment to Sparlin.

124. On April 9, 2007, following Figueroa's instructions, Sparlin wrote a series of eleven checks from his personal bank account totaling $200,000. Figueroa accepted these checks as full repayment of the eleven Promissory Notes described in paragraph 124 of this Complaint, including interest. He then deposited all eleven checks in the Hadrianus bank account. Simultaneously, Figueroa wrote a $200,000 check from the Hadrianus account to the D'Esprit PSP, which he deposited, and a $200,000 check from the D'Esprit PSP to Sparlin, which he gave to the Plaintiff.

125. Figueroa told Sparlin that the $200,000 payment from the D'Esprit PSP represented partial satisfaction of his commitment to buy out Sparlin's interest in Hadrianus. In truth, however, the $200,000 payment was nothing more than a return of the $200,000 that Sparlin paid on the same day to expunge the eleven Promissory Notes evidencing "loans" of his own money.

126. On May 8, 2007, Figueroa delivered a memorandum to Sparlin, prepared in his capacity as Trustee of the D'Esprit PSP, which stated:

> Here is another payment due you under my agreement to buy out your interest in Hadrianus Terra. Further payments to follow.

127. Upon information and belief, the "payment" referenced in Figueroa's May 8, 2007 memorandum was the $106,000 check from the D'Esprit PSP to Hadrianus described in paragraph 123(i) of this Complaint, which also was written by Figueroa on May 8, 2007. Sparlin was deprived of this money, however, by a fraudulent "round trip" transaction that

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Figueroa completed on the same day by simultaneously depositing a check returning these funds to the D'Esprit PSP.

128. Figueroa's promise of "further payments" to buy out the Plaintiff's interest in Hadrianus was never fulfilled.

129. Sparlin currently remains a member and part owner of Hadrianus.

MISREPRESENTATIONS AND OMISSIONS OF DEFENDANT MICHAEL N. FIGUEROA

Misrepresentations Regarding Qualifications and Licensing.

130. Figueroa engaged in multiple misrepresentations or omissions of material facts regarding his background and qualifications to handle mortgage financing investments, including at least the following:

a. He stated during his initial meeting with Sparlin in 2002, and he reiterated on subsequent occasions, that he was in the business of arranging financing for real estate development projects and selling interests in these financing deals to private investors, who could realize large returns from these investments.

b. He stated during this same meeting, and on subsequent occasions, that he intended to establish his own bank so that he would not have to depend upon outside financial institutions to obtain loans for his development activities.

c. He stated in writing that he has "held an Arizona mortgage broker and a banker's license." This statement was made in a document titled "Management of the Companies" and provided to Sparlin by Figueroa at an investor meeting.

d. He stated in the same document that he "was a member of the Arizona Mortgage Brokers Association and was a past president of the group."

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e. He also stated in the same document that he "founded and was the sole shareholder of a large asset based mortgage brokerage and banking company . . . which brokered and serviced approximately $40,000,000 in equity loans," and that he had "reviewed and underwritten an additional $65,000,000 in asset-based loans" since 1996.

131. Figueroa knew that these statements were false or misleading for at least the following reasons:

a. The "mortgage brokerage and banking company" founded by Figueroa, to which he referred in his written biography, was Centuras Investment Company, Inc. ("Centuras"). Centuras held a mortgage banking license in Arizona until December 1987, when its license was revoked after the company was placed into receivership due to violations of the Arizona Mortgage Broker Act that included inadequate capitalization and a failure to maintain the required level of net worth.

b. Although Figueroa freely referenced the names of other companies he had run in the past, he never mentioned the name "Centuras" in his written biography or in any other oral or written communications to Sparlin, preventing Sparlin from learning about the circumstances that led to the failure of Centuras.

c. Figueroa also took other affirmative steps to prevent Sparlin and other investors from learning about Centuras. These steps included, but were not limited to, making false certifications regarding the absence of past bankruptcy or receivership proceedings in annual reports filed with the Arizona Corporations Commission for Old Pueblo, Everest, D'Esprit, and Terrion, Inc. ("Terrion"). Since 1998, Figueroa has been required to certify in each annual report that no

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person serving as an officer or director of the corporation for which the report was filed had ever served as an officer or director in any other corporation during the bankruptcy or receivership of that other corporation or to provide details regarding such past proceedings. Figueroa has signed and filed more than 30 certifications in annual reports for Old Pueblo, Everest, D'Esprit, and Terrion since 1998 falsely claiming that no such past bankruptcy or receivership has occurred, all of which fail to identify or describe the Centuras receivership. Each of these false certifications constitutes a separate class 6 felony pursuant to Ariz. Rev. Stat. 10-202(I).

d. While the Centuras receivership proceeding was ongoing, Figueroa entered into a plea bargain agreement to resolve criminal allegations arising from his activities and was found liable to the receiver for additional damages arising from his unlawful conversion to personal use and refusal to return assets belonging to the receivership.

e. As a result of an Order entered on December 7, 1987 by the Maricopa County Superior Court in the Centuras receivership proceeding, Figueroa has been permanently enjoined, at all times pertinent to this Complaint, from engaging in further violations of the Arizona Mortgage Broker Act, including, but not limited to, the conduct of mortgage banking or mortgage brokerage activities without a license or failure to meet minimum statutory requirements such as net worth and capitalization.

f. Figueroa has not been licensed as a mortgage banker or mortgage broker since 1987. Any attempt to apply for a license would have been subject to denial due to

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the findings made by the Court in the Centuras receivership. Ariz. Rev. Stat. §§ 6-905 and 6-945.

g. All of Figueroa's real estate financing activities that are the subject of this Complaint, including the loans and financing arrangements for Terra Rancho Grande and Las Colinas Sagradas ("LCS") in which Figueroa induced Sparlin to invest, constituted mortgage lending and/or mortgage brokerage activities as defined in the Arizona Mortgage Broker Act. Figueroa's involvement in these activities, without the benefit of a license, constituted continuing violations of both the Arizona Mortgage Broker Act and the permanent injunction entered in the Centuras receivership.

132. Sparlin relied on these misrepresentations or omissions by Figueroa in at least the following respects:

a. Had Sparlin known that Figueroa was unlicensed and unauthorized to sell the interests in mortgage financing that he was being encouraged to invest in, Sparlin would not have invested his money in these projects.

b. Had Sparlin known about Figueroa's history of past violations of law, including both civil and criminal violations, Sparlin would not have entrusted his money in investments in which Figueroa had any involvement.

Misrepresentations Regarding Financial Stability, Capitalization, and Risk.

133. Figueroa engaged in multiple misrepresentations or omissions of material facts regarding the adequacy of financial resources available to complete the projects in which he was soliciting investments, and regarding the associated level of investment risk:

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a. At a meeting of the "Capital Note Holders and Advisory Board" of Western Recovery Services ("WRS"), held April 12, 2003, Figueroa represented that WRS would adhere to a set of "operating principles" that included "conservative underwriting" based on "loan to value protection of 65% - 75% and alignment with a related company, Real Property Equity Lenders, LLC ("RPEL"), designed to ensure "0 losses."

b. At the "Board meeting" held on October 11, 2003, Figueroa distributed a written Board Meeting Summary representing that Western Recovery Services ("WRS") would conduct its business of "holding, developing and selling residential lots" by adhering to the "fundamental" practice of "own[ing] the real estate (lots) free and clear of debt," which he called "the safest and most prudent manner to own real estate over a six to eight year disposition period." The summary further represented that this could be accomplished by raising "approximately $6 million in cash equity," $4 million of which would be obtained from the conversion of existing capital notes. c. Figueroa subsequently represented in writing ("Management of the Company" document, and "Report by Michael N. Figueroa" for October 30, 2004 Board Meeting) that he had in fact "raised $6,000,000 to capitalize Western Recovery Services," which was the amount he said would be needed to accomplish its business plan.

c. Figueroa stated, both at informational meetings held at his house and at investor meetings held at local hotels, that he had assembled a group of experienced real estate professionals who had the capacity to raise sufficient funds to finance the projects in which he was seeking investments.

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d. Figueroa also represented, at these same informational meetings and investor meetings, that TRG, Antares, and LCS would be funded with sufficient capital to complete the work that would be needed to prepare the projects for development and sale.

e. Figueroa represented in the written solicitation he provided to Sparlin that the TRG project was backed by a $4.2 million loan from Western Recovery.

f. Figueroa, in concert with Sasse, prepared documentation provided to Sparlin in connection with his initial investment in the LCS project, which falsely stated that Capella, an entity controlled by Figueroa, was providing $2,745,917 in financing for the LCS project.

g. The LCS Private Offering Memorandum, which Figueroa authorized and approved for the purpose of soliciting the Plaintiff's investment, represented that the LCS project would be free of debt if $4,500,000 in equity could be raised.

h. Figueroa failed to tell Sparlin, until after he had already completed his investment, that the LCS project would be taking out a $1.7 million loan with an interest rate of 12% plus a 2% "consulting fee," which LCS Holding lacked the resources to pay back. Such a loan would not have been necessary if LCS, as represented in the Private Offering Memorandum authorized and approved by Figueroa, was a "passive land investment" that would depend on others to pay for development activates and thus would have no need for such large amounts of operating capital.

134. Figueroa knew that these statements were false or misleading for at least the following reasons:

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a. Instead of adhering to conservative underwriting principles with favorable loan to value ratios as Figueroa represented, WRS made loans in amounts that greatly exceeded the value of the security it obtained. This included the $4.2 million loan that WRS made to TRG in August 2004, on which Sparlin's TRG investment was based. WRS' $4.2 million loan to TRG was secured by a parcel that had a market value of approximately $1.2 million at the time it was made, evidenced by the arms' length transaction in which the parcel was acquired just six weeks earlier.

b. On information and belief, the $6 million in "cash" equity that Figueroa claimed, was not held exclusively in cash, but rather included assets such as receivables on notes from related parties that were unavailable to provide immediate funding as represented in the WRS financials.

c. Neither WRS nor any of the related entities holding the property for the TRG and LCS projects owned that real estate free of debt. To the contrary, both projects were saddled with high-interest loans that the entities could not afford to service for long enough to complete the developments, leading to foreclosure and losses for investors in each project.

d. In August 2004, when Figueroa solicited the first of Sparlin's TRG investments described in this Complaint, and in 2005 and 2006 when he solicited the further TRG investments made by Sparlin, Figueroa had actual knowledge that the capital he had raised was insufficient to accomplish his business plan:

i. Figueroa's representation in October 2003 that WRS could get by with $6 million in capital depended on two key assumptions: first, that it would

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focus "exclusively" on a project in the Corona de Tucson area of Pima County ("Corona"); and second, that by 2004 it would be selling lots to homebuilders at a rate of 233 per year, generating more than $8 million in annual income that would be used to make payments on the development loan and keep that debt at a constant balance of $5 million.

ii. No Corona lots were sold in 2004, putting the project more than $8 million in the hole as compared to the 2003 budget projection. This forced WRS and its successors in interest to incur additional debt on the development loan, increasing its debt far beyond the $5 million it had planned for and requiring a much greater future rate of lot sales to compensate for the added debt service.

iii. Only 54 Corona lots were sold in 2005, putting the project further in the hole: more than 400 lots behind its builder sales projections, creating a funding deficit of $14 million and requiring further draw-downs on the development loan.

iv. Corona lot sales totaled only 89 in 2006, creating further escalating debt.

v. On November 11, 2007, after repeated defaults on a development loan balance that had grown to more than $32 million, the National Bank of Arizona foreclosed on the entire Corona project, cutting off the only source of current revenue for the enterprise.

vi. None of the serious shortfalls in builder sales can be dismissed as the unforeseen result of adverse economic circumstances, since they occurred

during favorable real estate market conditions that preceded the subsequent real estate downturn.

e. Despite Figueroa's promise that WRS would focus exclusively on Corona and his actual knowledge that WRS lacked the capital required for its Corona business plan and had already incurred debt far beyond the level it was capable of servicing, WRS and its affiliated entities took on additional projects including TRG in 2004 and LCS in 2005. With each new project, these entities incurred obligations in excess of the additional revenue that was raised, making up the difference through high interest loans including the Prosperity Loan for the LCS project. Each new project thus plunged the operation even further into an insurmountable debt situation in which default was foreseeable and inevitable.

f. To cover for the lack of capital to satisfy the simultaneous funding needs of Corona and the other projects that were now being undertaken, Figueroa caused money to be moved between different projects in transactions that were never revealed to Sparlin. This included, but was not limited to, a $150,000 loan to TRG made on September 10, 2004 from the Trust holding the Corona lots, secured by liens on certain Corona lots held by the Trust. Such transactions prevented the encumbered lots from being freely marketed or sold to builders for the purpose of producing the income necessary to service the increasing debt load on both projects. They also contradicted Figueroa's October 2003 promise that the lots would be held "free and clear of debt."

g. Contrary to Figueroa's representation that TRG had the benefit of a $4.2 million loan from WRS to fund its capital needs, WRS never loaned more than $339,000

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to TRG at any point. WRS, moreover, loaned no money at all to TRG after July 1, 2005.

h. When TRG quickly ran out of money to pay its monthly interest obligations to Sparlin and other investors beginning just four months after the project commenced and recurring repeatedly thereafter, Figueroa or other Defendants working under his direction began temporarily moving money from other entities to cover these obligations on a short-term basis. Figueroa then solicited new investments of money that would be used to repay TRG's short-term debts and to satisfy ongoing interest obligations to the investors he already had.

i. Through his access to and control over Capella and its finances, Figueroa had to be aware at the time that Sparlin made his initial investment in LCS that Capella was an empty LLC that had not loaned and did not intend to loan any money for the LCS project.

j. At the time that the LCS Private Offering Memorandum and the Supplement to that memorandum were provided to Sparlin with Figueroa's authorization and approval, Figueroa had actual knowledge that the profits projected for Class B members in those documents could not possibly materialize because of the more than $2,000,000 in debt that the project would assume, most of which would be owed to entities controlled by or related to Figueroa and the other Defendants.

k. Even in 2007, while the Corona foreclosure was eminent or underway, Figueroa, through a memo dated April 9, 2007, was still assuring Sparlin that his investments in TRG and LCS were "safe."

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135. Sparlin relied on these misrepresentations or omissions by Figueroa in at least the following respects:

a. Figueroa's misrepresentations regarding WRS' underwriting practices and loan to value ratios deprived Sparlin of the opportunity to understand the risk he was accepting. This caused Sparlin to believe that his initial $500,000 investment in TRG was fully secured by a 11.905% interest in a $4.2 million Deed of Trust and that his two subsequent $150,000 investments were fully secured by two 3.571% interests in the same $4.2 million Deed of Trust. Had Sparlin known that the loan for TRG did not have a 67% loan to value ratio as Figueroa represented, but rather was grossly undersecured, Sparlin would not have made any of his investments in TRG.

b. Sparlin understood that significant cash would be needed to complete the work necessary to prepare TRG and LCS for development and sale before he would realize any return on his investments in those projects. Had he known that WRS did not have $6 million in cash as was represented, that it was not adhering to its promise of generating revenue sufficient to service its developing loan debt, that its debt load was being allowed to escalate from the $5 million level described to him in 2003 to many times that amount, that the real estate was not owned free of debt as Figueroa had promised, that WRS had not loaned $4.2 million to TRG as described in the written solicitation he received from Figueroa, that TRG lacked sufficient cash even to pay the interest it owed to investors for more than a few months much less to fund the necessary development expenses, and that LCS was assuming millions of dollars of debt that would make the returns projected in

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the written solicitation that he received completely impossible, he would not have invested in the TRG and LCS projects.

Misrepresentations Regarding the Value of Real Estate Assets.

136. Figueroa engaged in multiple misrepresentations or omissions of material facts regarding the value of the real estate for the projects in which he solicited investments from Sparlin:

a. Figueroa represented in writing on August 4, 2004 that the $4.2 million Terra Rancho Grande loan, in which he was asking Sparlin to invest, had a "Loan to Value ratio [of] 67%," based on a purportedly "independent" appraisal from Sasse asserting a value of $6.3 million.

b. Figueroa represented in October 2006 that the real estate acquisition cost (and impliedly the value) of the land owned by LCS for the Las Colinas Sagradas project was approximately $4.5 million.

c. In the Private Offering Memorandum that Figueroa authorized and approved for the purpose of soliciting investments in LCS from Sparlin and other investors, Figueroa represented that the value of the lots that would be sold to builders would begin at $9,300 per lot, despite the fact that these lots would be sold before the plat approval process was complete, the spine road was built, utilities were in place, and individual lots had been fully engineered.

137. Figueroa knew that these statements were false or misleading for at least the following reasons:

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a. The Terra Rancho Grande parcel for which Figueroa claimed a value of $6.3 million as of August 4, 2004 had been sold for $1.2 million in an arms' length transaction between unrelated parties on June 21, 2004, just 6 weeks earlier.

b. The entire Terra Rancho Grande parcel was zoned "SR" and not partially "CR-1" as represented by Figueroa, precluding the smaller lot sizes and higher densities required to create 48 subdivided lots worth $6.3 million as claimed.

c. The purportedly "independent" appraisal that Figueroa provided to support his claim of $6.3 million in value for the property was not independent at all, but instead was the work product of Sasse, who was a partner of the enterprise and received a salary for his work.

d. The parcel owned by LCS Holding, for which Figueroa claimed an acquisition cost of $4.5 million in October 2006, had actually been acquired for $2,743,117 in May 2005. The $4.5 million figure was not an arm's length transaction, but rather was associated with a transfer between two entities, both of which were controlled by Figueroa.

e. Figueroa was in possession of an appraisal commissioned by LCS that set the value of the LCS lots at $6,232 per unit after full plat approval had been obtained, spine roads had been built, utilities were in place, and the lots had been engineered. This same appraisal report specifically noted that the lots would have less value if these conditions were not met.

138. Sparlin relied on these misrepresentations or omissions by Figueroa in at least the following respects:

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a. Had Sparlin known that the Terra Rancho Grande lot not only was worth less than Figueroa represented in its current undeveloped state, but also could not be subdivided in order to generate the $6.3 million fully developed value that Figueroa claimed, he would have understood that the project could not possibly produce the returns that Figueroa promised and, thus, he would not have invested in the project.

b. Had Sparlin known that the LCS property was worth significantly less than the value that was represented to him and that the lots did not have sufficient value to generate revenue anywhere near the levels projected in the Private Offering Memorandum, he would not have invested in that project.

Misrepresentations Regarding Property Characteristics That Materially Affected the Likelihood of Successful Development.

139. Figueroa engaged in multiple misrepresentations or omissions of material facts that were essential to informed judgments about the likelihood of success for the development projects in which he was soliciting investments:

a. Figueroa never told Sparlin that the entire tract of land where Terra Rancho Grande purportedly would be built was in a Zone AE flood plain subject to restrictions imposed by the Federal Emergency Management Agency and the Pima County Regional Flood Control District. This meant that portions of the land situated directly in the floodway could not be built upon at all and that development approval for the remaining area would require special clearances that may or may not be possible to obtain.

b. Figueroa never told Sparlin that the entire Terra Rancho Grande tract also was classified as an "important riparian area" subject to additional restrictions that

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either would preclude development of the land or, at best, would require the implementation of expensive mitigation measures that would drain capital and adversely affect any returns for TRG investors.

c. While telling Sparlin in writing that part of the Terra Rancho Grande tract was zoned under the CR-1 classification, which was not true, Figueroa failed to inform Sparlin that the property only could be rezoned from its current SR category to the less restrictive CR-1 classification if subdivision approval could be obtained pursuant to the Agua Caliente-Sabino Creek Zoning Plan, which was in doubt due to strong objections to the development from Pima County planning officials, and that absent approval through this process the land could not be rezoned from SR at all due to its protected status under the Pima County Comprehensive Lands System.

d. Figueroa failed to inform Sparlin prior to his investment decision that the Terra Rancho Grande tract had been the subject of a prior condemnation proceeding in which Pima County had contended that the construction of an adjacent bridge had adversely affected the ability to develop the land, or that this litigation had been settled through an agreement that imposed special restrictions on the conditions under which development could be approved.

e. Figueroa never told Sparlin that the prior owners of the tract had sold out after failing to obtain approval for their own plans to develop the property into an equestrian center, which triggered organized objections from neighboring property owners based on various factors including the land's sensitive riparian characteristics.

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f. Figueroa never told Sparlin about his communications with Pima County planning officials about the project prior to Sparlin's first investment and continuing throughout the project, in which these officials had expressed serious objections to the development plans.

g. Figueroa never told Sparlin that, even before the Terra Rancho Grande project had commenced, he and the other Defendants had deemed it necessary to hire a lawyer, Thomas M. Parsons, to help them overcome objections from Pima County planning officials. Nor did he tell Sparlin that this same lawyer had represented the prior landowner for the same purpose but had been unsuccessful in overcoming the same objections to development.

h. Figueroa failed to inform Sparlin that the size of the proposed development had been scaled down from 48 lots to 30 lots prior to Sparlin's third investment in Terra Rancho Grande on June 26, 2006, materially reducing the value of the project.

i. Figueroa failed to tell Sparlin that the 30-lot proposal had been rejected by Pima County planning officials on April 17, 2006, two months before Sparlin's third investment in Terra Rancho Grande, due to "major deficiencies." Figueroa also failed to inform Sparlin that he and the other Defendants were exploring further modifications to the development plan in light of these objections, which ultimately compelled them to shrink the project to only 21 lots.

j. Figueroa failed to tell Sparlin about several factors that adversely affected the value of shares in Pollux Properties, LLC ("Pollux"), even though he knew at the time that Sparlin was considering whether to approve a settlement that Figueroa

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and his associates had negotiated in which Sparlin would accept Pollux shares as the primary consideration for his surrender of LCS Holding equity rights that he had originally acquired at Figueroa's urging, including:

i. The fact that there was no currently available assured means of gaining access to the property that would purportedly be developed;

ii. The fact that the approval of water service for this development was subject to conditions that would require additional infusions of capital that Pollux did not currently have and which, if obtained, would dilute the value of the shares that Sparlin was being asked to accept; and

iii. The fact that the Pollux tract was subject to various environmental issues, including protections afforded to the habitat of the endangered Pima Pineapple cactus and restrictions on light pollution that could affect the nearby Whipple Observatory, all of which could adversely affect both the value of the land and the likelihood that it could be developed as proposed.

140. Figueroa knew that these statements were false or misleading for at least the following reasons:

a. A formal appraisal of the TRG parcel from Steven R. Cole, dated September 22, 2004 and addressed to Figueroa, reported that "the entire subject property" falls within Flood Zone AE pursuant to a Flood Insurance Rate Map dated February 8, 1989. According to a memo from Figueroa dated August 4, 2004, Cole's appraisal was in process prior to the initial TRG investment.

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b. Handwritten notes on the "Preliminary Lot Layout," which bears a date of July 2004 and was referenced and reportedly attached to a letter from Sasse to Figueroa dated August 6, 2004, establish Figueroa's actual knowledge of the flood zone and riparian restrictions at the time he was soliciting Sparlin's initial investment:

i. The Preliminary Lot Layout shows that the 48-lot design, described in the August 4, 2004 memorandum in which Figueroa solicited Sparlin's initial TRG investment, was designed to comply with Pima County's "Conservation Subdivision Ordinance."

ii. Handwritten notes on the Preliminary Lot Layout reflect that the design was based on information obtained from "Suzanne Shields." Shields was, and still is, Director of the Pima County Regional Flood Control District, which is the primary agency charged with enforcement of flood zone and important riparian area development restrictions.

iii. A bold dotted line is drawn on the Preliminary Lot Layout designating the area with "1000 [feet] from C [center] of Tanque Verde Wash," which places it within the non-buildable floodway. This area encompasses 41.07 acres, which is more than half of the total tract.

iv. A further handwritten note in the 32.58 acre area outside the floodway states shows the area that "can be filled," which would be possible under flood control regulations but would also create riparian impacts that would have to be mitigated.

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c. The title of the Preliminary Lot Layout refers to the tract as the "Sisson Property." Sisson was the last name of the prior owner who sold the tract after failing to obtain approval for her development plans due to neighborhood objections.

d. Prior to the Terra Rancho Grande land acquisition and Figueroa's solicitation of investments from Sparlin and other parties, a title search made Figueroa aware of prior condemnation proceedings and special development restrictions on the land arising from flood impacts caused by the construction of an adjacent bridge.

e. Before he solicited Sparlin's investment, Figueroa learned through meetings with Pima County planning officials attended by him personally or by individuals acting under his direction, and through written communications from these same officials, of the County's strong objections to the Terra Rancho Grande project due to its flood control and riparian impacts.

f. Figueroa and individuals acting under his direction already had retained a lawyer in an attempt to overcome the County's flood control and riparian mitigation objections before he solicited Sparlin's investments in Terra Rancho Grande.

g. Figueroa wrote, received, or was copied on emails, memoranda, and other internal communications, none of which were shared with Sparlin, in which objections to the Terra Rancho Grande proposals and hurdles to the development plans were discussed.

h. Having personally signed off on the initial development plans for Terra Rancho Grande, and being included in various internal communications in which changes to those plans were discussed, Figueroa was aware at the time he solicited

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Sparlin's second and third investments in Terra Rancho Grande that the number of lots had been scaled back from 48 to 30 and then to 21, significantly reducing the investment value of the project.

i. Figueroa, either personally or through entities under his control, served as manager and statutory agent of Pollux from its creation until January 24, 2011.

Misrepresentations Regarding Hadrianus.

141. Figueroa engaged in multiple misrepresentations or omissions of material facts regarding Hadrianus, including at least the following:

a. Figueroa told Sparlin that he would retain full access to and control over his investments while they were legally held in the name of Hadrianus.

b. Figueroa told Sparlin that he would not be liable for taxes arising from ordinary income generated by these investments.

c. Figueroa told Sparlin that the transfer of investments to Hadrianus was necessary to protect him from potential personal liability associated with holding title to real estate.

d. Figueroa told Sparlin that all of the money that Sparlin contributed to Hadrianus would be used to make investments on his behalf and not for any other purpose.

e. Instead of turning over money held by Hadrianus for Sparlin's benefit in the form of return of principal and distributions of investment earnings when Sparlin informed Figueroa at various times during 2006 and 2007 that he needed cash for personal reasons, Figueroa forced Sparlin to borrow his own money from Hadrianus and to pay interest for the use of his own funds.

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f. Figueroa told Sparlin that certain checks issued by the D'Esprit PSP to Sparlin or Hadrianus, including a $200,000 check written to Sparlin on April 9, 2007 and a $106,000 check written to Hadrianus on May 8, 2007, were in partial satisfaction of the D'Esprit PSP's commitment to buy out Sparlin's interest in Hadrianus.

g. Figueroa caused Hadrianus to issue a $106,000.00 check to the D'Esprit PSP on May 8, 2007 and deposited this check into the D'Esprit PSP's bank account at the exact same time the D'Esprit PSP's $106,000.00 check to Hadrianus was deposited into the Hadrianus bank account, completing a fraudulent "round trip" transaction whose only purpose could have been to deceive Sparlin into thinking that he had received the benefit of the D'Esprit PSP's $106,000 payment.

h. After 2008, Figueroa represented to Sparlin that Hadrianus had been wound down and held no more capital assets, and he caused his employees and accountants to cease providing Form K-1 documents and other financial information reflecting Sparlin's continued membership interest in Hadrianus.

142. Figueroa knew that these statements were false or misleading for at least the following reasons:

a. Figueroa, D'Esprit, and the D'Esprit PSP held at least ninety percent of the legal interest in all of these assets held by Hadrianus for Sparlin's purported benefit, giving Figueroa the ability to use these assets in any way he chose. Figueroa used this unfettered access to the Plaintiff's money for various purposes that were unrelated to Sparlin's investments or to any legitimate business activity of Hadrianus.

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b. Through the various classes and seminars on tax, real estate, and other legal issues that Figueroa attended and used as a basis for promoting his expertise in these areas to Sparlin, Figueroa would have learned that tax liability for ordinary income cannot be avoided through transfers of bare legal title that do not also surrender control of the asset that is purportedly transferred.

c. Because Hadrianus did not acquire title to any real estate as part of the investments that Figueroa induced Sparlin to transfer to that entity, the liability protection that Figueroa promoted to Sparlin was illusory.

d. Figueroa personally signed checks to and from the Hadrianus bank account that were not for the benefit of Sparlin's investment interests, had no legitimate relationship to the business activities of Hadrianus, and in some cases were purposely designed to deceive Sparlin with regard to the disposition of investment assets held by Hadrianus for his purported benefit.

e. Records maintained by the Arizona Corporation Commission, based on information provided to that Commission by Figueroa, reflect that Hadrianus remains an active limited liability corporation in good standing and that Sparlin remains a member of Hadrianus.

f. As late as December 2012, Figueroa was continuing to engage in business transactions involving assets held by Hadrianus, including real estate transfers in which Hadrianus acquired and sold title to certain property within Pima County.

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MISREPRESENTATIONS AND OMISSIONS OF DEFENDANT JEFFREY S. UTSCH

Defendant Utsch's Misrepresentations Regarding Qualifications and Licensing.

143. Utsch engaged in multiple misrepresentations or omissions of material facts regarding his background and qualifications to handle mortgage financing investments, including at least the following:

a. At the Board Meeting held on April 11, 2003, Utsch introduced himself as the "President/CEO" of WAD. Written materials distributed at that same meeting stated that WAD would "manage the acquisition of additional lots and development of the property for sale to builders," and that it would "be led by Utsch." Utsch represented at this meeting that he had handled hundreds of prior successful real estate transactions and projects since he became Figueroa's "partner" in 1993, which had given him the experience necessary to manage an enterprise of this magnitude.

b. In several written documents, including an information memorandum regarding WRS that was provided to Sparlin in 2003 and a memorandum regarding Pollux that Utsch delivered to Sparlin in 2009 in connection with his consideration of the LCS settlement, Utsch stated that he was Vice President of Real Property Equity Lenders, LLC ("RPEL"), which was described as an "Arizona mortgage banker."

144. Utsch knew that these statements were false or misleading for at least the following reasons:

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a. Between 1993 and 1998, Utsch conducted his real estate investment, financing, and development activities primarily through an entity known as Sandune Properties, Inc. ("Sandune"), in which he was President/CEO, his wife was Secretary, and he and his wife served as the two directors. Utsch's management of Sandune resulted in two bankruptcies and a history of transactions involving Utsch, Figueroa, and Old Pueblo Investments, Inc. that produced significant losses for the parties with whom they dealt:

i. Between April 18, 1993 and April 20, 1993, the first three days after Sandune was incorporated, three Tucson real estate parcels were transferred to Sandune, including Figueroa's personal residence at the time and a separate property that Utsch had personally acquired less than two weeks earlier.

ii. In the two weeks following these transactions, Utsch, Figueroa, and Sandune entered into and recorded six Deeds of Trust, Deed of Trust Assignments, and Collateral Assignments in Pima County involving the same properties.

iii. Between April 18, 1993 and May 11, 1993, Sandune also consummated and recorded a series of nine transactions, including a Warranty Deed and several Deeds of Trust and Deed of Trust Assignments, by which it acquired interests in property and real estate debt situated in Maricopa County, Arizona.

iv. On May 11, 1993, less than a month after Sandune had been incorporated and this series of transactions in Pima and Maricopa Counties had

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commenced, Sandune filed a Chapter 11 bankruptcy petition in the U.S. Bankruptcy Court for the District of Arizona. Sandune's creditors filed more than $780,000 in claims in this proceeding.

v. Sandune emerged from Chapter 11 bankruptcy pursuant to an Order entered January 30, 1995 approving its plan of reorganization over the objections of creditors including Suncost Savings & Loan Association, Lincoln Service Corporation, and All State Resources Corporation, but with the support of Figueroa, Sasse, and other individuals and entities affiliated with them.

vi. Sandune filed a second Chapter 11 bankruptcy petition in the U.S. Bankruptcy Court for the District of Arizona on June 18, 1999. This second bankruptcy culminated in an Order dated January 10, 2000 directing a final decree and accounting, effectively liquidating the company over the objection of Sandune's largest creditor, Liberty Savings Bank.

b. Utsch never told Sparlin about the existence of Sandune, his involvement in its two bankruptcies and ultimate liquidation, or the losses incurred by Sandune's investors and creditors.

c. RPEL, the "mortgage banker" for which Utsch served as Vice President, did business through referrals of equity loans from a related entity known as "Charter Funding," whose mortgage lending practices were characterized by the following illegal or improper activities that were never revealed to Sparlin:

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i. Charter Funding aggressively marketed and originated a book of business comprised primarily of high-risk loans such as "Alt-A" mortgages, which were not guaranteed by government-sponsored entities and commonly did not conform to underwriting standards such as loan-to-value ratio requirements.

ii. Losses from these high-risk loans forced Charter Funding to close and file for bankruptcy protection in August 2007, ultimately leading to its liquidation.

iii. Charter Funding was found to have arranged inflated real estate appraisals to facilitate a property "flipping" scheme, prompting the Illinois Department of Financial and Professional Regulation Division of Banking to impose a civil penalty.

iv. Charter Funding's practices and ultimate financial failure caused the Arizona Department of Financial Institutions to close Charter Funding's home office license on September 6, 2007.

v. Charter Funding's licenses also were revoked by regulatory authorities in other states where it operated.

145. Sparlin relied on these misrepresentations or omissions by Utsch in at least the following respects:

a. Had Sparlin known that Utsch had a history of managing real estate investment firms into bankruptcy and producing losses for his investors and creditors, Sparlin would not have invested his money in projects in which Utsch had any involvement.

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b. Had Sparlin known about the loan practices of the entities with which Utsch transacted business as a mortgage banker, it would have dissuaded Sparlin from investing in funding schemes that Utsch helped to arrange, including financing for TRG, LCS Holding, and Pollux.

Misrepresentations Regarding Financial Stability, Capitalization, and Risk.

146. Utsch engaged in multiple misrepresentations or omissions of material acts regarding the adequacy of financial resources available to complete the projects in which he was soliciting investments and regarding the associated level of investment risk:

a. During an in-person meeting between Utsch and Sparlin in August 2004 at the site of the proposed TRG project, arranged for the purpose of encouraging Sparlin to invest in TRG, Utsch told Sparlin that the money he would invest, together with funds contributed by other investors, would allow TRG to prepare the land for a 48-lot development as proposed in the written solicitation memorandum delivered to Sparlin.

b. Utsch failed to reveal to Sparlin, either during their in-person meeting or at any other time prior to Sparlin's investment decision, that Western Recovery would not be making a $4.2 million loan to Terra Rancho Grande as had been represented to Sparlin and other potential investors.

c. The LCS Private Offering Memorandum, which was prepared for the purpose of soliciting the Plaintiff's investment with the active participation of Utsch and the other individual Defendants, falsely represented that the LCS project would be free of debt if $4,500,000 in equity could be raised.

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d. During an in-person meeting between Utsch and Sparlin in November 2009, in which he delivered written materials describing a proposed settlement in which Sparlin's investment in LCS Holding would be exchanged for equity in Pollux, Utsch told Sparlin that Pollux was free of all debt as the result the equity conversion that took place earlier that year and that it had sufficient capital to bring the project to completion and generate a positive return for investors.

147. Utsch knew that these statements were false or misleading at the time they were made for at least the following reasons:

a. By August 2004, when Utsch made his representations to Sparlin regarding Terra Rancho Grande, WRS had failed to meet its October 11, 2003 projections regarding builder sales for the Corona project. Utsch had helped to develop and present the October 2003 projections, and as Executive Vice President of WRS had first hand information regarding its financial status. As of August 2004, WRS' sales shortfall had caused it to incur millions of dollars of additional debt that it had not planned for and had no means of paying back. This debt deprived WRS of the sole means by which it could generate short-term income for day-to-day management and development expenses, including but not limited to the needs of TRG.

b. Through his management roles in both WRS and TRG, Utsch would have been well aware when he had his face-to-face meeting with Sparlin that WRS was not loaning $4.2 million to TRG. Utsch's management role also would have supplied him with actual knowledge that WRS never loaned more than $339,000 to TRG at any point and that it loaned no money at all to TRG after July 1, 2005.

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c. At the time that the LCS Private Offering Memorandum and the Supplement to that memorandum were provided to Sparlin, Utsch had actual knowledge that the profits projected for Class B members in those documents could not possibly materialize because of more than $2,000,000 in debt that the project would assume, most of which would be owed to entities controlled by or related to Utsch and the other Defendants. This included debt interests that were held by a trust created by Utsch for the benefit of his children, which Utsch had personally decided not to convert to Class B equity.

d. By November 2009, Utsch had actual knowledge that Pollux faced future funding needs that were essential to the completion of the development plan described in the written materials, and that the limited cash possessed by Pollux was completely inadequate to meet these needs. These cash requirements included, but were not limited to, the need to raise additional capital to meet a $2.8 million minimum equity requirement imposed by the Arizona Corporation Commission in an Order dated February 6, 2009.

148. Sparlin relied on these misrepresentations or omissions by Utsch in at least the following respects:

a. Had Sparlin known that WRS did not have sufficient financial resources to complete the preparatory work for TRG and that the $4.2 million loan described in the investment solicitation would not be available to provide the necessary funding, Sparlin would not have invested in that project.

b. Had Sparlin known that LCS was assuming millions of dollars of debt that would make the returns projected in the written solicitation that he received completely

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impossible, he would not have agreed to his Class B equity investment in that project.

c. Had Sparlin known that Pollux had additional undisclosed funding needs that would prevent the completion of the business plan described in the documents that Utsch provided, Sparlin would not have accepted the proposed settlement by which he surrendered his LCS Holding investment in exchange for shares in Pollux.

Misrepresentations Regarding the Value of Real Estate Assets.

149. Utsch engaged in multiple misrepresentations or omissions of material facts regarding the value of the real estate for the projects in which he solicited investments from Sparlin:

a. Utsch told Sparlin during the August 2004 face-to-face meeting regarding TRG that the parcel, after development into the 48-lot subdivision described in the written materials provided to Sparlin, would have enough value to generate significant returns for investors who became part of the $4.2 million funding base for that project, based on a projected value of $6.3 million.

b. Through the Private Offering Memorandum that Utsch allowed to be used for the purpose of soliciting investments in LCS from Sparlin and other investors, Utsch and the remaining Defendants represented that the value of the lots that would be sold to builders would begin at $9,300 per lot, despite the fact that these lots would be sold before the plat approval process was complete, the spine road was built, utilities were in place, and individual lots had been fully engineered.

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c. During the November 2009 face-to-face meeting in which Utsch delivered materials regarding the LCS Holdings settlement, Utsch told Sparlin that his existing interests in LCS Holding were worthless due to the debt owed to Prosperity and that the Pollux equity that Sparlin would acquire was the best return he could possibly get.

150. Utsch knew that these statements were false or misleading for at least the following reasons:

a. As President of WAD and Executive Vice President of WRS, Utsch would have had knowledge of facts showing that the $6.3 million asserted value for TRG was vastly overstated. These included, but were not limited to, the tract's current SR zoning classification, which required a smaller and less dense development than the 48-lot plan that Utsch described, as well as flood zone and riparian habitat restrictions that precluded rezoning, jeopardized approval, and necessitated expensive mitigation activities if the project could move forward at all.

b. Utsch was in possession of or had access to an appraisal commissioned by LCS that set the value of the LCS lots at $6,232 per unit after full plat approval had been obtained, spine roads had been built, utilities were in place, and the lots had been engineered. This same appraisal report specifically noted that the lots would have less value if these conditions were not met.

c. Utsch was Managing Director of Pollux and a principal of LCS Holding, for which he also held himself out in a November 9, 2009 letter as a "Manager." Utsch also represented one or both entities in the negotiations that led to the settlement agreement he was describing to Sparlin. From these activities, Utsch

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would have known that he and other LCS Holding managers had a lower distribution priority than Sparlin and other Class B investors, but that the settlement improperly gave the LCS Holding managers (including Utsch) priority with respect to the value received in the settlement including exclusive title to a separate tract of commercial property.

d. As Managing Director of Pollux, Utsch also knew that equity in Pollux had less value than Utsch had represented, due to the absence of any current means of access, the additional equity requirements that would have to be satisfied before water service could commence, and environmental restrictions involving lighting and Pima Pineapple cactus habitat that jeopardized Pollux's development plans.

151. Sparlin relied on these misrepresentations or omissions by Utsch in at least the following respects:

a. Had Sparlin known that the Terra Rancho Grande lot could not be subdivided in order to generate the $6.3 million fully developed value that Utsch claimed, and that it faced additional obstacles that reduced its value, he would have understood that the project could not possibly produce the returns that Utsch promised and thus would not have invested in the project.

b. Had Sparlin known that the LCS property was worth significantly less than the value that was represented to him and that the lots did not have sufficient value to generate revenue anywhere near the levels projected in the Private Offering Memorandum, he would not have invested in that project.

c. Had Sparlin known that the LCS Holding settlement that Utsch encouraged him to sign deprived him of the opportunity for a larger return from the investment he

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was surrendering, and that the Pollux shares he was accepting did not have the value that Utsch claimed, he would not have accepted that settlement.

Misrepresentations Regarding Property Characteristics That Materially Affected the Likelihood of Successful Development.

152. Utsch engaged in multiple misrepresentations or omissions of material facts that were essential to informed judgments about the likelihood of success for the development projects in which he was soliciting investments:

a. Utsch never told Sparlin that the entire tract of land where Terra Rancho Grande purportedly would be built was in a Zone AE flood plain subject to restrictions imposed by the Federal Emergency Management Agency and the Pima County Regional Flood Control District. This meant that portions of the land situated directly in the floodway could not be built upon at all, and that development approval for the remaining area would require special clearances that may or may not be possible to obtain.

b. Utsch never told Sparlin that the entire Terra Rancho Grande tract also was classified as an "important riparian area" subject to additional restrictions that either would preclude development of the land or, at best, would require the implementation of expensive mitigation measures that would drain capital and adversely affect any returns for TRG investors.

c. While telling Sparlin in writing that part of the Terra Rancho Grande tract was zoned under the CR-1 classification, which was not true, Utsch failed to inform Sparlin that the property only could be rezoned from its current SR category to the less restrictive CR-1 classification if subdivision approval could be obtained pursuant to the Agua Caliente-Sabino Creek Zoning Plan, which was in doubt

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due to strong objections to the development from Pima County planning officials, and that absent approval through this process the land could not be rezoned from SR at all due to its protected status under the Pima County Comprehensive Lands System.

d. Utsch failed to inform Sparlin prior to his investment decision that the Terra Rancho Grande tract had been the subject of a prior condemnation proceeding in which Pima County had contended that the construction of an adjacent bridge had adversely affected the ability to develop the land, or that this litigation had been settled through an agreement that imposed special restrictions on the conditions under which development could be approved.

e. Utsch never told Sparlin that the prior owners of the tract had sold out after failing to obtain approval for their own plans to develop the property into an equestrian center, which triggered organized objections from neighboring property owners based on various factors including the land's sensitive riparian characteristics.

f. Utsch never told Sparlin about the Defendants' communications with Pima County planning officials about the project prior to Sparlin's first investment and continuing throughout the project, in which these officials had expressed serious objections to the development plans.

g. Utsch never told Sparlin that, even before the Terra Rancho Grande project had commenced, he and the other Defendants had deemed it necessary to hire a lawyer, Thomas M. Parsons, to help them overcome objections from Pima County planning officials. Nor did he tell Sparlin that this same lawyer had

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represented the prior landowner for the same purpose but had been unsuccessful in overcoming the same objections to development.

h. Utsch failed to inform Sparlin that the size of the proposed development had been scaled down from 48 lots to 30 lots prior to Sparlin's third investment in Terra Rancho Grande on June 26, 2006, materially reducing the value of the project.

i. Utsch failed to tell Sparlin that the 30-lot proposal had been rejected by Pima County planning officials on April 17, 2006, two months before Sparlin's third investment in Terra Rancho Grande, due to "major deficiencies." Utsch also failed to inform Sparlin that he and the other Defendants were exploring further modifications to the development plan in light of these objections, which ultimately compelled them to shrink the project to only 21 lots.

j. Utsch failed to tell Sparlin about several factors that adversely affected the value of shares in Pollux Properties, LLC ("Pollux"), including:

i. The fact that there was no currently available or assured means of gaining access to the property that would purportedly be developed;

ii. The fact that the approval of water service for this development was subject to conditions that would require additional infusions of capital that Pollux did not currently have and which, if obtained, would dilute the value of the shares that Sparlin was being asked to accept; and

iii. The fact that the Pollux tract was subject to various environmental issues, including protections afforded to the habitat of the endangered Pima Pineapple cactus and restrictions on light pollution that could affect the

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nearby Whipple Observatory, all of which could adversely affect both the value of the land and the likelihood that it could be developed as proposed.

153. Utsch knew that these statements were false or misleading for at least the following reasons:

a. Handwritten notes on the "Preliminary Lot Layout," which bears a date of July 2004, establish Utsch's actual knowledge of the flood zone and riparian restrictions at the time he was soliciting Sparlin's initial investment:

i. The Preliminary Lot Layout shows that the 48-lot design, which Utsch described to Sparlin in their face-to-face meeting at the TRG tract prior to Sparlin's first TRG investment, was designed to comply with Pima County's "Conservation Subdivision Ordinance."

ii. Handwritten notes on the Preliminary Lot Layout reflect that the design was based on information obtained from "Suzanne Shields." Shields was, and still is, Director of the Pima County Regional Flood Control District, which is the primary agency charged with enforcement of flood zone and important riparian area development restrictions.

iii. A bold dotted line is drawn on the Preliminary Lot Layout designating the area with "1000 [feet] from C [center] of Tanque Verde Wash," which places it within the non-buildable floodway. This area encompasses 41.07 acres, which is more than half of the total tract.

iv. A further handwritten note in the 32.58 acre area outside the floodway states shows the area that "can be filled," which would be possible under

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flood control regulations but would also create riparian impacts that would have to be mitigated.

v. The title of the Preliminary Lot Layout refers to the tract as the "Sisson Property." Sisson was the last name of the prior owner who sold the tract after failing to obtain approval for her development plans due to neighborhood objections.

b. Prior to the Terra Rancho Grande land acquisition and Utsch's face-to-face meeting with Sparlin regarding the proposed investment, a title search made Utsch aware of prior condemnation proceedings and special development restrictions on the land arising from flood impacts caused by the construction of an adjacent bridge.

c. Prior to Sparlin's investment, Utsch learned through meetings with Pima County planning officials attended by him personally or by other Defendants with whom he regularly communicated, and through written communications from these same officials, of the County's strong objections to the Terra Rancho Grande project due to its flood control and riparian impacts.

d. Utsch and the other Defendants already had retained a lawyer in an attempt to overcome the County's flood control and riparian mitigation objections before he solicited Sparlin's investments in Terra Rancho Grande.

e. Utsch wrote, received, or was copied on emails, memoranda, and other internal communications, none of which were shared with Sparlin, in which objections to the Terra Rancho Grande proposals and hurdles to the development plans were discussed.

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f. Having been included in various internal communications in which changes to the Terra Rancho Grande plans were discussed, Utsch was aware before Sparlin made his second and third investments in Terra Rancho Grande that the number of lots had been scaled back from 48 to 30 and then to 21, significantly reducing the investment value of the project.

g. Utsch, at all times pertinent to the events described in this Complaint, served as the Managing Director and controlled the day-to-day operations of Pollux.

Misrepresentations Regarding Hadrianus.

154. Utsch engaged in multiple misrepresentations or omissions of material facts regarding Hadrianus, including at least the following:

a. Utsch solicited various investments from Sparlin that he knew would be held by Hadrianus, making them subject to diversion for other purposes even though all of the underlying assets had been contributed by and rightfully belonged to the Plaintiff.

b. In approximately April 2009, Utsch falsely told Sparlin that Hadrianus had been "dissolved."

155. Utsch knew that these statements were false or misleading for at least the following reasons:

a. Utsch knew through his communications with Figueroa and other Defendants and his access to financial records for the various companies controlled by Utsch and the other Defendants that the D'Esprit PSP held ninety percent of the legal title to these investments.

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b. From his extensive prior business dealings with Figueroa, Utsch knew of numerous past instances in which Figueroa had misappropriated assets belonging to one entity for the benefit of a different entity and had failed to return investment principal and earnings to prior investors.

c. Utsch had access to business records showing not only that Hadrianus was an active business entity after 2007, but also that various investments made by the Plaintiff, including TRG and LCS, were still held by Hadrianus after that time.

MISREPRESENTATIONS AND OMISSIONS OF DEFENDANT GREGG T. SASSE

Misrepresentations Regarding Qualifications.

156. Sasse engaged in multiple misrepresentations or omissions of material facts regarding his background and qualifications to handle real estate projects and investments, including at least the following:

a. At a meeting on April 12, 2003, Sasse was introduced to Sparlin as a new member of WRS's senior management. Sasse represented that he had extensive experience managing new home construction and real estate development projects.

b. On August 6, 2004, Sasse prepared a memorandum requested by Figueroa for the purpose of soliciting investments in TRG from Sparlin and other potential investors, which purported to be a "Lenders independent evaluation" providing an "opinion of value . . . to assist the lender in making a fair and accurate determination of the property value and assist the lender in obtaining financing

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on that property." Sasse's opinion of value cited "sales comparison" techniques used by real estate appraisers.

c. Beginning with a letter to Sparlin dated October 6, 2006, and continuing through a series of subsequent emails, status reports, and other communications over the next three years, Sasse held himself out to Sparlin as the "Project Manager" for LCS Holding.

157. Sasse knew that these statements were false or misleading for at least the following reasons:

a. Sasse's background and training was as a real estate agent and broker. During his service in these positions, Sasse engaged primarily in the marketing and sale of real estate. Sasse did not have material experience managing large scale real estate developments.

b. Sasse was not, and never has been, licensed or qualified as a real estate appraiser. His only experience was a brief period of service as a researcher for another individual who was a qualified commercial real estate appraiser. Sasse did not meet the minimum qualifications established by the Arizona Board of Appraisal for an opinion of the scope he rendered with respect to TRG, which included 300 qualifying course hours specified by the Appraisers Qualifying Board, 3,000 hours of acceptable appraisal experience, and successful completion of the required Certified General Appraiser examination.

c. At the time that Sasse produced his appraisal, Sasse was employed by the group of related entities from which he purported to be "independent," receiving a salary of at least $6,000 per month. Sasse also had his own money invested in

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these entities, either personally or through corporations and/or profit sharing plans under his control. Sasse thus stood to gain financially from any decisions by Sparlin or other individuals to invest capital in the TRG project through WRS.

158. Sparlin relied on these misrepresentations or omissions by Sasse in at least the following respects:

a. Sparlin would not have relied on Sasse's appraisal opinion to support his decision to invest in TRG if he had known that Sasse was not qualified to produce such an opinion;

b. Had Sasse's lack of experience in managing large-scale real estate developments been disclosed to Sparlin, this information would have prompted Sparlin to reconsider his decision to invest in the LCS project, for which Sasse was entrusted with primary managerial authority over a proposed development of more than 1,000 homes.

c. Sparlin would not have relied on Sasse's appraisal opinion to support his decision to invest in TRG if he had known of his relationship with related entities or that he had a financial stake in the success of TRG through WRS.

Misrepresentations Regarding Financial Stability, Capitalization, Risk, and the Value of Real Estate Assets.

159. Sasse engaged in multiple misrepresentations or omissions of material facts regarding the adequacy of financial resources available to complete the projects in which he was soliciting investments, the associated level of investment risk, and the value of the real estate for the projects in which Sparlin invested:

a. Sasse stated in his appraisal report for TRG that the "highest and best use of the land will be custom home sites which will support custom homes ranging in

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value from $500,000 to $600,000." Sasse then developed his opinion of value for those sites by assuming that it the subdivision would yield 48 total lots including "36 CR-1 zoned lots," even though the property was not and likely could not be zoned in this manner.

b. Sasse, in concert with Figueroa, prepared and provided Sparlin with documentation for his initial investment in the LCS project, which falsely stated that Capella was providing $2,745,917 in financing for the LCS project.

c. Through the Private Offering Memorandum that Sasse helped to write and provided to Sparlin and other investors for the purpose of soliciting investments in LCS, Sasse and the remaining Defendants represented that the LCS project would be free of debt if $4,500,000 in equity could be raised.

d. The Private Offering Memorandum that Sasse helped to write and provided to Sparlin also represented that the value of the lots that would be sold to builders would begin at $9,300 per lot, despite the fact that these lots would be sold before the plat approval process was complete, the spine road was built, utilities were in place, and individual lots had been fully engineered.

e. In a memorandum dated April 30, 2008 signed by Sasse and Utsch, which Sasse transmitted to Sparlin by email in May 2008, Sasse revealed that LCS Holding had received a default notice on its loan from Prosperity. Sasse also represented in this same memorandum, however, that the project still had significant value that could be realized if new capital could be raised "to keep the interest current and pay for operating expenses each year." Sasse claimed that "interest in the property has increased over the last few months" and that the "strongest leads"

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were a "Mexican investor/business owner" and a "low income subsidy developer." He also cited "a shortage of affordable housing in the area" as evidence of positive short-term opportunities for successful marketing.

f. After Sparlin, and other investors who were solicited, declined Sasse's plea for additional capital, Sasse ceased communicating his positive assessments of LCS value to Sparlin. Instead, Sasse allowed his co-manager, Utsch, to make the inconsistent and conflicting claim that Sparlin's interests in LCS Holdings were essentially worthless.

160. Sasse knew that his statements were false or misleading for at least the following reasons:

a. As Project Manager, Sasse would have had knowledge of facts showing that the $6.3 million value asserted in his appraisal was vastly overstated. These included, but were not limited to, the tract's current SR zoning classification, which required a smaller and less dense development than the 48-lot plan on which Sasse's appraisal was based, as well as flood zone and riparian habitat restrictions that precluded rezoning, jeopardized approval, and necessitated expensive mitigation activities if the project could move forward at all.

b. The Uniform Standards of Professional Appraisal Practice, which establish generally accepted principles for real estate appraisals prepared for the purpose of making lending decisions, would have required Sasse to ascertain all characteristics relevant to the property's value using sources he believed to be reasonably reliable. This included, but was not limited to, the property's zoning and its status under other regulations that could affect its use or development.

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c. Through correspondence with Figueroa, who controlled Capella and its finances, Sasse had actual knowledge that Capella was an empty LLC that had not loaned and did not intend to loan any money for the LCS project.

d. At the time that Sasse provided Sparlin with the LCS Private Offering Memorandum and the Supplement, Sasse had actual knowledge that the profits projected for Class B members in those documents could not possibly materialize because of more than $2,000,000 in debt that the project would assume, most of which would be owed to entities controlled by or related to Figueroa and the other Defendants.

e. Sasse was in possession of an appraisal commissioned by LCS and personally addressed to Sasse that set the value of the LCS lots at $6,232 per unit after full plat approval had been obtained, spine roads had been built, utilities were in place, and the lots had been engineered. This same appraisal report specifically noted that the lots would have less value if these conditions were not met.

f. Sasse knew, based on his own efforts to market the LCS property, that a sale of the land held by LCS was likely to yield significantly more than the amount required to pay off the Prosperity loan, which would have left significant value that would have been distributed on a priority basis to Sparlin and other Class B investors.

161. Sparlin relied on these misrepresentations or omissions by Sasse in at least the following respects:

a. Had Sparlin known that the Terra Rancho Grande tract could not be subdivided in order to generate the $6.3 million fully developed value that Sasse claimed in

his appraisal, and that it faced additional obstacles that reduced its value, he would have understood that the project could not possibly produce the returns that he was promised and thus would not have made his TRG investment.

b. Had Sparlin known that the financing arrangement from Capella that had been described to him when he made his initial investment was a sham, that LCS was assuming millions of dollars of debt in the equity conversion transaction that would make the returns projected in the written solicitation that he received completely impossible, that the LCS property was worth significantly less than the value that was represented to him, and that the lots did not have sufficient value to generate revenue anywhere near the levels projected in the Private Offering Memorandum, he would not have invested in that project.

c. Had Sparlin known that the LCS Holding settlement deprived him of the opportunity for a larger return from the investment he was surrendering, he would not have accepted that settlement.

Misrepresentations Regarding Property Characteristics That Materially Affected the Likelihood of Successful Development.

162. Sasse engaged in multiple misrepresentations or omissions of material facts that were essential to informed judgments about the likelihood of success for the development projects in which Sparlin invested:

a. Sasse never told Sparlin that the entire tract of land where Terra Rancho Grande purportedly would be built was in a Zone AE flood plain subject to restrictions imposed by the Federal Emergency Management Agency and the Pima County Regional Flood Control District. This meant that portions of the land situated directly in the floodway could not be built upon at all and that development

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approval for the remaining area would require special clearances that may or may not be possible to obtain.

b. Sasse never told Sparlin that the entire Terra Rancho Grande tract also was classified as an "important riparian area" subject to additional restrictions that either would preclude development of the land or, at best, would require the implementation of expensive mitigation measures that would drain capital and adversely affect any returns for TRG investors.

c. While producing an appraisal placing a value on the TRG tract based on subdivision under the CR-1 classification, Sasse failed to reveal to Sparlin, and other investors whom he knew to be relying on his opinion, that the property only could be rezoned from its current SR category to the less restrictive CR-1 classification if subdivision approval could be obtained pursuant to the Agua Caliente-Sabino Creek Zoning Plan, which was in doubt due to strong objections to the development from Pima County planning officials, and that absent approval through this process the land could not be rezoned from SR at all due to its protected status under the Pima County Comprehensive Lands System.

d. Sasse failed to inform Sparlin prior to his investment decision that the Terra Rancho Grande tract had been the subject of a prior condemnation proceeding in which Pima County had contended that the construction of an adjacent bridge had adversely affected the ability to develop the land, or that this litigation had been settled through an agreement that imposed special restrictions on the conditions under which development could be approved.

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e. Sasse never told Sparlin that the prior owners of the tract had sold out after failing to obtain approval for their own plans to develop the property into an equestrian center, which triggered organized objections from neighboring property owners based on various factors including the land's sensitive riparian characteristics.

f. Sasse never told Sparlin about the Defendants' communications with Pima County planning officials about the project prior to Sparlin's first investment and continuing throughout the project, in which these officials had expressed serious objections to the development plans.

g. Sasse never told Sparlin that, even before the Terra Rancho Grande project had commenced, he and the other Defendants had deemed it necessary to hire a lawyer, Thomas M. Parsons, to help them overcome objections from Pima County planning officials. Nor did he tell Sparlin that this same lawyer had represented the prior landowner for the same purpose but had been unsuccessful in overcoming the same objections to development.

h. Sasse failed to inform Sparlin that the size of the proposed development had been scaled down from 48 lots to 30 lots prior to Sparlin's third investment in Terra Rancho Grande on June 26, 2006, materially reducing the value of the project.

i. Sasse failed to tell Sparlin that the 30-lot proposal had been rejected by Pima County planning officials on April 17, 2006, two months before Sparlin's third investment in Terra Rancho Grande, due to "major deficiencies." Sasse also failed to inform Sparlin that he and the other Defendants were exploring further

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modifications to the development plan in light of these objections, which ultimately compelled them to shrink the project to only 21 lots.

163. Sasse knew that these statements were false or misleading for at least the following reasons:

a. As a member of senior management, Sasse would have ascertained the current zoning of the property as part of the process by which the initial proposed design for the project was developed. Sasse also had a duty, in appraising the value of the land, to ascertain zoning and other regulatory requirements affecting the actual and potential use of this parcel.

b. The Preliminary Lot Layout, which Sasse's appraisal opinion shows that he examined, contains handwritten notations from which the TRG tract's AE flood zone and important riparian area classifications can be ascertained.

c. Prior to the Terra Rancho Grande land acquisition, a title search made Sasse aware of prior condemnation proceedings and special development restrictions on the land arising from flood impacts caused by the construction of an adjacent bridge.

d. Prior to Sparlin's investment, Sasse learned through meetings with Pima County planning officials attended by him personally or by other Defendants with whom he regularly communicated, and through written communications from these same officials, of the County's strong objections to the Terra Rancho Grande project due to its flood control and riparian impacts.

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e. Sasse and the other Defendants already had retained a lawyer in an attempt to overcome the County's flood control and riparian mitigation objections before he solicited Sparlin's investments in Terra Rancho Grande.

f. Sasse wrote, received, or was copied on emails, memoranda, and other internal communications, none of which were shared with Sparlin, in which objections to the Terra Rancho Grande proposals and hurdles to the development plans were discussed.

g. Having been included in various internal communications in which changes to the Terra Rancho Grande plans were discussed, Sasse was aware before Sparlin made his second and third investments in Terra Rancho Grande that the number of lots had been scaled back from 48 to 30 and then to 21, significantly reducing the investment value of the project.

Misrepresentations Regarding Hadrianus.

164. Sasse engaged in multiple misrepresentations or omissions of material facts regarding Hadrianus, including his solicitation of various investments from Sparlin knowing that they would be held by Hadrianus, making them subject to diversion for other purposes even though all of the underlying assets had been contributed by and rightfully belonged to the Plaintiff.

165. Sasse knew that these statements were false or misleading for at least the following reasons:

a. Sasse knew through his communications with Figueroa and other Defendants and his access to financial records for the various companies controlled by Sasse and

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the other Defendants that the D'Esprit PSP held ninety percent of the legal title to these investments.

b. From his extensive prior business dealings with Figueroa, Sasse knew of numerous past instances in which Figueroa had misappropriated assets belonging to one entity for the benefit of a different entity and had failed to return investment principal and earnings to prior investors.

MISREPRESENTATIONS AND OMISSIONS OF DEFENDANT PAUL SORENSEN:

Misrepresentations Regarding Financial Stability, Capitalization, Risk, and the Value of Real Estate Assets.

166. Sorensen engaged in multiple misrepresentations or omissions of material facts regarding the adequacy of financial resources available to complete the projects, the associated level of investment risk, and the value of the real estate for the projects in which Sparlin invested:

a. Sorensen failed to reveal to Sparlin at any time prior to Sparlin's investment decisions regarding TRG that Western Recovery would not be making a $4.2 million loan to Terra Rancho Grande as had been represented to Sparlin and other potential investors.

b. Sorensen failed to reveal to Sparlin at any time prior to Sparlin's investment decisions regarding the LCS project that Capella was an "empty" LLC that would not be providing $2,745,917 in financing for the LCS project shown in the legal documentation received by Sparlin in conjunction with his investment.

c. Through the Private Offering Memorandum that Sorensen helped to write for the purpose of soliciting investments in LCS from Sparlin and other investors,

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Sorensen and the remaining Defendants represented that the LCS project would be free of debt if $4,500,000 in equity could be raised.

d. The Private Offering Memorandum that Sorensen helped to write for the purpose of soliciting investments in LCS from Sparlin and other investors also represented that the value of the lots that would be sold to builders would begin at $9,300 per lot, despite the fact that these lots would be sold before the plat approval process was complete, the spine road was built, utilities were in place, and individual lots had been fully engineered.

e. Sorensen failed to tell Sparlin, until after he had already completed his investment in LCS, that the LCS project would be taking out a $1.7 million loan with an interest rate of 12% plus a 2% "consulting fee," which LCS Holding lacked the resources to pay back. Such a loan would not have been necessary if LCS, as represented in the Private Offering Memorandum, was a "passive land investment" that would depend on others to pay for development activities and thus would have no need for such large amounts of operating capital.

167. Sorensen knew that his statements were false or misleading for at least the following reasons:

a. As Chief Financial Officer for Western Associates, which oversaw TRG, LCS, and other projects in which Sparlin invested, and as the individual primarily responsible for bookkeeping and accounting for all of the various entities related to these projects including but not limited to TRG, Antares, LCS, and Western Recovery, Sorensen created and maintained financial records showing that

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Western Recovery did not make a $4.2 million loan to TRG and lacked the financial resources to make a loan of this size.

b. Acting in the same capacity and performing the same functions, Sorensen created and maintained financial records showing that neither Antares nor LCS received any money from Capella at all, much less the $2,745,917 amount that had been represented to Sparlin.

c. At the time that the LCS Private Offering Memorandum that Sorensen helped to write and the Supplement to that memorandum were provided to Sparlin, Sorensen had actual knowledge that the profits projected for Class B members in those documents could not possibly materialize because of more than $2,000,000 in debt that the project would assume, most of which would be owed to entities controlled by or related to Sorensen and the other Defendants. This included debt interests that were held by the Monument Capital Investments, Inc. Profit Sharing Plan, for which Sorensen served both as trustee and as beneficiary.

d. Sorensen was in possession of or had access to an appraisal commissioned by LCS that set the value of the LCS lots at $6,232 per unit after full plat approval had been obtained, spine roads had been built, utilities were in place, and the lots had been engineered. This same appraisal report specifically noted that the lots would have less value if these conditions were not met.

e. In his capacity as Chief Financial Officer and the individual primarily responsible for creating and maintaining financial records for LCS, and through his direct communications with other Defendants regarding financing arrangements for the LCS transaction, Sorensen knew that LCS lacked the

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financial means to repay a $1.7 million loan from Prosperity that called for twelve percent interest and a two percent "consulting fee." He also knew that LCS, which had been represented to Sparlin and other investors in the Private Offering Memorandum that Sorensen helped to write as a "passive land investment," had no operating expenses of a magnitude sufficient to justify such a loan.

168. Sparlin relied on these misrepresentations or omissions by Sorensen in at least the following respects:

a. Had Sparlin known that the $4.2 million loan from Western Recovery that had been described in the investment solicitation would not be available to provide the necessary funding for TRG, Sparlin would not have invested in that project.

b. Had Sparlin known that the financing arrangement from Capella that had been described to him when he made his initial investment was a sham, that LCS was assuming millions of dollars of debt in the equity conversion transaction that would make the returns projected in the written solicitation that he received completely impossible, that the LCS property was worth significantly less than the value that was represented to him, that the lots did not have sufficient value to generate revenue anywhere near the levels projected in the Private Offering Memorandum, and that LCS was arranging a $1.7 million operating loan even though the Private Offering Memorandum had described it as a "passive" investment that would not have operating expenses of this magnitude, he would not have invested in that project.

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Misrepresentations Regarding Property Characteristics That Materially Affected the Likelihood of Successful Development.

169. Sorensen engaged in multiple misrepresentations or omissions of material facts that were essential to informed judgments about the likelihood of success for the development projects in which Sparlin invested:

a. Sorensen never told Sparlin that the entire tract of land where Terra Rancho Grande purportedly would be built was in a Zone AE flood plain subject to restrictions imposed by the Federal Emergency Management Agency and the Pima County Regional Flood Control District. This meant that portions of the land situated directly in the floodway could not be built upon at all and that development approval for the remaining area would require special clearances that may or may not be possible to obtain.

b. Sorensen never told Sparlin that the entire Terra Rancho Grande tract also was classified as an "important riparian area" subject to additional restrictions that either would preclude development of the land or, at best, would require the implementation of expensive mitigation measures that would drain capital and adversely affect any returns for TRG investors.

c. Sorensen failed to inform Sparlin that the property only could be rezoned from its current SR category to the less restrictive CR-1 classification if subdivision approval could be obtained pursuant to the Agua Caliente-Sabino Creek Zoning Plan, which was in doubt due to strong objections to the development from Pima County planning officials, and that absent approval through this process the land could not be rezoned from SR at all due to its protected status under the Pima County Comprehensive Lands System.

d. Sorensen failed to inform Sparlin prior to his investment decision that the Terra Rancho Grande tract had been the subject of a prior condemnation proceeding in which Pima County had contended that the construction of an adjacent bridge had adversely affected the ability to develop the land, or that this litigation had been settled through an agreement that imposed special restrictions on the conditions under which development could be approved.

e. Sorensen never told Sparlin that the prior owners of the tract had sold out after failing to obtain approval for their own plans to develop the property into an equestrian center, which triggered organized objections from neighboring property owners based on various factors including the land's sensitive riparian characteristics.

f. Sorensen never told Sparlin about the Defendants' communications with Pima County planning officials about the project prior to Sparlin's first investment and continuing throughout the project, in which these officials had expressed serious objections to the development plans.

g. Sorensen never told Sparlin that, even before the Terra Rancho Grande project had commenced, the Defendants had deemed it necessary to hire a lawyer, Thomas M. Parsons, to help them overcome objections from Pima County planning officials. Nor did he tell Sparlin that this same lawyer had represented the prior landowner for the same purpose but had been unsuccessful in overcoming the same objections to development.

h. Sorensen failed to inform Sparlin that the size of the proposed development had been scaled down from 48 lots to 30 lots prior to Sparlin's third investment in

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Terra Rancho Grande on June 26, 2006, materially reducing the value of the project.

i. Sorensen failed to tell Sparlin that the 30-lot proposal had been rejected by Pima County planning officials on April 17, 2006, two months before Sparlin's third investment in Terra Rancho Grande, due to "major deficiencies." Sorensen also failed to inform Sparlin that the Defendants were exploring further modifications to the development plan in light of these objections, which ultimately compelled them to shrink the project to only 21 lots.

170. Sorensen knew that his statements were false or misleading for at least the following reasons:

a. Prior to the Terra Rancho Grande land acquisition, a title search made Sorensen aware of prior condemnation proceedings and special development restrictions on the land arising from flood impacts caused by the construction of an adjacent bridge.

b. Prior to Sparlin's investment, Sorensen learned through meetings with Pima County planning officials attended by him personally or by other Defendants with whom he regularly communicated, and through written communications from these same officials, of the County's strong objections to the Terra Rancho Grande project due to its flood control and riparian impacts.

c. Sorensen and the other Defendants already had retained a lawyer in an attempt to overcome the County's flood control and riparian mitigation objections before he solicited Sparlin's investments in Terra Rancho Grande.

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d. Sorensen wrote, received, or was copied on emails, memoranda, and other internal communications, none of which were shared with Sparlin, in which objections to the Terra Rancho Grande proposals and hurdles to the development plans were discussed.

e. Having been included in various internal communications in which changes to the Terra Rancho Grande plans were discussed, Sorensen was aware before Sparlin made his second and third investments in Terra Rancho Grande that the number of lots had been scaled back from 48 to 30 and then to 21, significantly reducing the investment value of the project.

Misrepresentations Regarding Hadrianus.

171. Sorensen engaged in multiple misrepresentations or omissions of material facts regarding Hadrianus, including his participation in the solicitation of various investments from Sparlin knowing that they would be held by Hadrianus, making them subject to diversion for other purposes even though all of the underlying assets had been contributed by and rightfully belonged to the Plaintiff.

172. Sorensen knew that his statements were false or misleading for at least the following reasons:

a. Sorensen knew through his communications with Figueroa and other Defendants and his access to financial records for the various companies controlled by Sorensen and the other Defendants that the D'Esprit PSP held ninety percent of the legal title to these investments.

b. From his extensive prior business dealings with Figueroa, Sorensen knew of numerous past instances in which Figueroa had misappropriated assets belonging

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to one entity for the benefit of a different entity and had failed to return investment principal and earnings to prior investors.

c. In April 2010, and again in December 2012, Sorensen, personally or through the Monument Capital Management Inc. Profit Sharing Plan, accepted transfers of title to real estate from Hadrianus, signed by Figueroa, despite his knowledge of Sparlin's interest in Hadrianus and the assets that were wrongfully taken from him by means of that entity.

LEGAL ENTITIES/CONTROL GROUPS

173. The misrepresentations and omissions previously alleged were made by the Defendants, Figueroa, Utsch, Sasse, and Sorensen, as alleged, both individually and in their capacities as managers, officers and directors, or trustees of the entities controlling the Defendants TRG, WRS, LCS, Pollux, Antares, Hadrianus, and the D'Esprit PSP.

174. The entity controlling the Defendant TRG was, at all relevant times, its manager, the Defendant, Western Associates Development Company, L.L.C. ("WAD") which, in turn, was managed by the Defendants Old Pueblo Investments, Inc. ("Old Pueblo") (whose president and director was the Defendant, Figueroa), Tucson Acquisition and Development Corporation ("Tucson Acquisition") (whose president, CEO, and director was the Defendant Utsch), and Defendant Western Recovery Services, L.L.C. ("Western Recovery") (whose manager, Equity Lenders & Consultants, L.L.C., was controlled by its managers, the Defendants Figueroa and Utsch).

175. The entity controlling the Defendant LCS was, at all relevant times, its manager, the Defendant Western Management which, in turn, was managed by the Defendants WAD, Old Pueblo, and Tucson Acquisition.

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176. The entities controlling the Defendant Pollux were, at all relevant times, its managers, the Defendant WAD (until May 1, 2006), the Defendant Western Management (from May 1, 2006 until January 24, 2011), and the Defendant Utsch (at all times since January 24, 2011).

177. The entity controlling the Defendant Antares was, at all relevant times, its manager, the Defendant WAD.

178. The entity controlling the Defendant Hadrianus was, at all relevant times, the D'Esprit PSP, which in turn was managed and controlled by Figueroa, acting in his capacity as plan trustee, and by D'Esprit (whose president and sole director was Figueroa), acting in its capacity as plan sponsor.

179. As controlling members of the entities to which the individual Defendants' misrepresentations and omissions are attributed, these controlling group entities are jointly and severally liable for the acts of the individual Defendants, as alleged herein and hereinafter (specifically pursuant to Counts Two, Five, and Six).

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COUNT ONE
(Primary Statutory Liability under A.R.S. §44-2003(A))

Paragraphs 1 through 182 of the Complaint are hereby incorporated by reference into this, Count One, as if fully set forth herein.

180. The various investments sold by the Defendants were securities under Arizona and federal law.

181. The Defendants jointly engaged in an unlawful sale of securities to the Plaintiff in violation of A.R.S. §44-1991(A)(1) and (3).

182. The Defendants individually and/or jointly made misleading representations and omissions in connection with the sale of securities in violation of A.R.S. §44-1991(A)(2).

183. The Defendants participated in, or induced, the unlawful security sales to the Plaintiff Sparlin, within the meaning of A.R.S. §44-2003(A).

184. Pursuant to A.R.S. §44-2001(A), the Defendants are liable for rescission or damages, plus costs, attorney's fees, and pre- and post-Judgment interest.

COUNT TWO
(Statutory Control Liability under A.R.S. §44-1999(B))

Paragraphs 1 through 187 of the Complaint are hereby incorporated by reference into this, Count Two, as if fully set forth herein.

185. The Defendants violated A.R.S. §44-1991(A).

186. Individually and/or as a group, the Defendants controlled the Defendants TRG and/or LCS within the meaning of A.R.S. §44-1991(B) when the Defendants' violations of A.R.S. §44-1991(A) occurred. As statutory controlling persons of the Defendants TRG and/or LCS, the Defendants are jointly and severally liable under A.R.S. §44-1999(B) for Defendants' TRG's and LCS' unlawful sales and violations of A.R.S. §44-1991(A).

187. As a result, the Defendants are liable as statutory controlling persons, for rescission and/or damages, plus costs, attorney's fees, and pre-Judgment and post-Judgment interest.

COUNT THREE
(Breach of Fiduciary Duties)

Paragraphs 1 through 190 of the Complaint are hereby incorporated by reference into this, Count Three, as if fully set forth herein.

188. The Defendant, Figueroa, exploited his relationship with the Plaintiff, Sparlin, as the holder of his Power of Attorney, by soliciting, persuading, advising, and convincing the

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Plaintiff, based upon his relationship with him, to trust him to invest his funds, purportedly on the Plaintiff's behalf and to the Plaintiff's beneficial interest.

189. By virtue of his relationship with the Plaintiff, the Defendant, Figueroa, was placed in a position of trust and confidence, and assumed, and was charged with, fiduciary duties and obligations which accompanied said relationship and position of trust.

190. Among the fiduciary duties and obligations undertaken by, charged to, and assumed by, the Defendant Figueroa, both express and implied, were the duties of good faith, disclosure, loyalty, candor and fairness.

191. By his actions and conduct, as previously alleged, the Defendant, Figueroa, breached his fiduciary duties and obligations owed to the Plaintiff.

192. As a direct and proximate result of Defendant Figueroa's breaches, as hereinbefore alleged, the Plaintiff has sustained significant economic and monetary damages and losses, all in an amount to be determined at the time of trial.

COUNT FOUR
(Aiding and Abetting Breach of Fiduciary Duties)

Paragraphs 1 through 195 of the Complaint are hereby incorporated by reference into this, Count Four, as if fully set forth herein.

193. The Defendants, Western Associates Development Co., L.L.C., Western Management, Figueroa, Sasse, Utsch, and Kerslake were managers or agents of the Defendants, TRG and/or LCS, and had fiduciary discretion to act on behalf of their investors, including the Plaintiff, Sparlin. The Defendants' investors were dependent upon the Defendants for the managerial skill needed to run the Defendant companies.

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194. As managers or agents of the Defendants companies, the Defendants owed their investors, including the Plaintiff, Sparlin, fiduciary duties of full disclosure, loyalty, good faith, and fairness.

195. Individually and/or jointly, the Defendants breached their fiduciary duties of disclosure, loyalty, good faith, and fairness by misrepresenting material facts, and omitting or otherwise failing to disclose material adverse facts, as previously alleged, to their investors, including the Plaintiff, Sparlin.

196. The Defendants each knowingly aided and abetted and participated in the fiduciary breaches by the Defendants TRG and/or LCS.

197. As a direct and proximate result of the Defendants' aiding and abetting and participation in the fiduciary misrepresentations, omissions, and non-disclosures of material facts, the Plaintiff, Sparlin, was induced to purchase, invest in, and/or retain, his various securities, investments, and membership interests, and was damaged thereby.

198. As a direct result of the Defendants' illegal conduct, the Plaintiff, Sparlin, is entitled to compensatory and punitive damages.

COUNT FIVE
(Common Law Fraud)

Paragraphs 1 through 201 of the Complaint are hereby incorporated by reference into this, Count Five, as if fully set forth herein.

199. Based upon the Defendants material misrepresentations, omissions, and non-disclosures of material fact, as previously alleged, the Plaintiff, Sparlin, was persuaded, convinced, and induced to purchase, invest in, and/or retain his interest in his various securities, investments, and membership interests, and to otherwise change his financial position to his detriment.

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200. The Plaintiff, Sparlin, reasonably relied upon the Defendants' statements and representations, as previously alleged.

201. The Defendants' statements and representations, as previously alleged, were made by the Defendants intending that the Plaintiff would act and rely upon them, and in order to induce him to do so.

202. The Defendants' statements and representations, as previously alleged, were false and untrue at the time that they were made to the Plaintiff, and the Defendants knew, or should have known, of the falsity of their statements and representations at the time that they made them.

203. The Plaintiff did not learn of the falsity of the Defendants' statements and representations until long after the losses represented by his purchases and investments were realized.

204. As a direct and proximate result of Defendants' false and fraudulent statements and representations, and omissions and non-disclosures of material facts, as previously alleged, the Plaintiff has suffered significant economic and monetary damages and losses, all in an amount to be determined at the time of trial.

COUNT SIX
(Negligent Misrepresentation and Non-Disclosure)

Paragraphs 1 through 207 of the Complaint are hereby incorporated by reference into this, Count Six, as if fully set forth herein.

205. In connection with the solicitation, investment, reinvestment, and maintenance of the Plaintiff's funds and interests in the securities and investments, as previously alleged, the Defendants were under a duty to exercise reasonable care to disclose all material facts, and not to misrepresent them, or otherwise omit from disclosure any material facts.

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206. The Defendants failed to exercise reasonable care, and breached their duty owed to the Plaintiff in this regard, by misrepresenting material facts to the Plaintiff, and by otherwise omitting and failing to disclose material facts to the Plaintiff, as previously alleged.

207. As a direct and proximate result of the Defendants' false and fraudulent statements and representations, and omissions and non-disclosure of material facts, as previously alleged, the Plaintiff has suffered significant economic and monetary damages and losses, all in an amount to be determined at the time of trial.

COUNT SEVEN

(Conversion – Defendants Figueroa, Hadrianus Terra, L.L.C., D'Esprit, Inc., and D'Esprit Inc. Profit Sharing Plan)

Paragraphs 1 through 207 of the Complaint are hereby incorporated by reference into this, Count Seven, as if fully set forth herein.

208. Based upon the fraudulent action and conduct of the Defendants Figueroa, Hadrianus Terra, L.L.C., D'Esprit, Inc., and D'Esprit Inc. Profit Sharing Plan, as previously alleged, these Defendants have obtained and wrongfully misappropriated to their own use and/or for their own benefit the assets and investment funds belonging to the Plaintiff.

209. These Defendants converted the Plaintiff's assets and investment funds as previously detailed and alleged in this Complaint, to their own use and/or for their own benefit, and they have failed to account for or return the principal and interest and/or revenue due the Plaintiff as previously detailed and alleged.

210. These Defendants have acted willfully, intentionally, fraudulently, and maliciously in converting the Plaintiff's assets and investment funds and revenues, which actions were taken in complete derogation of the Plaintiff's known rights and interests.

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211. As a direct and proximate result of the Defendants' conversion, the Plaintiff has sustained and suffered substantial economic losses and damages, as previously alleged.

COUNT EIGHT
(Equitable Accounting -- Defendants Figueroa, Hadrianus Terra, L.L.C., D'Esprit, Inc., and D'Esprit Inc. Profit Sharing Plan)

Paragraphs 1 through 211 of the Complaint are hereby incorporated by reference into this, Count Eight, as if fully set forth herein.

212. Based upon the Defendants' breaches of duty, statutory securities fraud, common law fraud, and conversion, as hereinbefore alleged, the Plaintiff has sustained substantial economic and financial losses and damages, as outlined above.

213. As the victim of the Defendants' wrongful conduct, as previously alleged, and in order to determine the full extent of the Plaintiff's damages and losses, the Plaintiff is entitled to a full and complete accounting from the Defendants of and for all of the funds entrusted to the Defendants, including, but not limited to, all of the investments, purchases, acquisitions, loans, and any and all other uses made of the Plaintiff's funds, and of all of the income and revenue generated, earned, and derived from the Defendants' use of said funds.

DEMAND FOR RELIEF

WHEREFORE, the Plaintiff, Derry Dean Sparlin, Sr., requests that this Court enter Judgment in his favor, and against the Defendants, jointly and severally, as follows:

A. For rescissionary or compensatory damages in an amount to be determined at the time of trial;

B. For punitive damages in an amount to be determined at the time of trial, based upon the Defendants intentional, fraudulent, and wrongful conduct;

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C. For actual damages as and for Defendants' conversion of Plaintiff's assets and investment funds and revenue, in an amount to be determined at the time of trial.

D. For a full and complete accounting of all of the Plaintiff's funds entrusted to and received by the Defendants.

E. For Plaintiff's reasonable attorney's fees, pursuant to statute as provided herein, and/or pursuant to A.R.S. §§ 12-341.01, 12-348, and 44-2001(A);

F. For Plaintiff s costs incurred herein;

G. For pre-Judgment and post-Judgment interest, at the highest legal rate; and

H. For such other and further relief as to this Court may seem just and proper in the premises in order to provide the Plaintiff with a complete remedy.

DATED this 23rd day of October, 2013.

KENNETH E. CHASE, P.C.

By _____
Kenneth E. Chase, Esq.
Attorney for Plaintiff

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Scottsdale, AZ 85250

C20117971

ORIGINAL of the foregoing **FILED**
this 25th day of October, 2013, with:

Clerk of the Court
PIMA COUNTY SUPERIOR COURT
110 W. Congress Street
Tucson, AZ 85701

COPY of the foregoing **HAND-DELIVERED**
this 25th day of October, 2013, to:

The Honorable Gus Aragón
PIMA COUNTY SUPERIOR COURT
110 W. Congress Street (Division 24)
Tucson, AZ 85701

COPY of the foregoing **EMAILED, MAILED & SERVED**
w/ ACCEPTANCE AND WAIVER OF SERVICE OF PROCESS
this 25th day of October, 2013, to:

Brian A. Laird, Esq.
LAIRD LAW FIRM, P.L.L.C.
La Paloma Corporate Center
3573 E. Sunrise Drive, Ste. 215
Tucson, Arizona 85718
Attorneys for Defendants Figueroa, Utsch, Sasse, Terra Rancho Grande, L.L.C., Western Recovery Service, L.L.C., LCS Land Holding Co., L.L.C., Western Associates Development Co., L.L.C., Western Management Services, L.L.C., Pollux Properties, L.L.C., Antares Properties, L.L.C., Old Pueblo Investments, Inc., and Tucson Acquisition and Development Corporation, Hadrianus Terra, L.L.C., D'Espirit, Inc., and D'Esprit Inc. Profit Sharing Plan

COPY of the foregoing **EMAILED, MAILED & SERVED**
w/ ACCEPTANCE AND WAIVER OF SERVICE OF PROCESS
this 25th day of October, 2013, to:

Robert M. Savage, Esq.
GUST ROSENFELD, P.L.C.
One South Church Avenue, Ste. 1900
Tucson, Arizona 85701-1627
Attorney for Paul Y. Sorensen and Angela B. Sorensen

BY: _____

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Scottsdale, AZ 85250

W.R.S.

Western Recovery Services
(520) 545-0108 Fax: (520) 545-0113

2102 N. Country Club Rd., Ste. 4
Tucson, AZ 85716

January 11, 2006

Hadrianus Terra, LLC/Sparlin
428 S. Third Avenue
Tucson, Arizona 85701

Our auditors, Keegan, Linscott & Kenon, P.C. are currently engaged in an audit of our financial statements as of December 31, 2005. In connection therewith, we ask that you confirm directly to them the total dollar amount of Special Assessments, and Lots, outstanding as of December 31, 2005, which you purchased under the "Special Assessment Purchase Agreement", According to our records, the amount is $156,660, Unit 5, Lot(s) 29,30, 31, 33, 34, 45, 46.

If the above amount is in agreement with your records, please sign in the space provided below and return this letter directly to Keegan, Linscott & Kenon, P.C., 33 N. Stone Ave, Suite 101, Tucson, AZ 85701. If the amount is not in agreement with your records, please provide full details of the difference. A stamped, addressed envelope is enclosed for your convenience.

Please note this is not a request for payment.

Sincerely,

Paul Sorensen
CFO

Name and Title DERRY SPARLIN (RETIRED)

Signature Derry Sparlin

Date 1/18/6

Details of differences:

BEST COPY

ASSIGNMENT

Michael N. Figueroa, Trustee of the D'Esprit, Inc. Profit Sharing Plan, ("Assignor"), hereby assigns, sells, transfers, sets over, grants, and conveys to **Derry D. Sparlin**, a married man in his sole and separate right, ("Assignee"), a ten (10.0%) percent of Assignor's right, title, and interest in and to **Hadrianus Terra, LLC,** an Arizona limited liability company, including the ownership interest therein as a Member, representing 10% membership interest therein.

DATED this 1st day of January 2004.

D'Esprit, Inc. Profit Sharing Plan

By: Michael N. Figueroa,
Its Trustee.

BEST COPY

ACCEPTANCE AND ACKNOWLEDGMENT

Assignee hereby accepts the terms of this Assignment and the property interest transferred to him hereunder, and acknowledges the terms and provisions of the Operating Agreement of **Hadrianus Terra, LLC,** and Assignee agrees to become a Substitute Member of said limited liability company, as to the interest transferred hereby, and to be bound by all the terms thereof.

DATED this 1st day of January 2004.

By:
Derry D. Sparlin

APPROVAL AND CONSENT

Hadrianus Terra, LLC, an Arizona limited liability company, hereby approves and consents to the above Assignment and to the admission of Assignee as a substitute Member in **Hadrianus Terra, LLC.**

APPROVED:
Hadrianus Terra, LLC

By:
Michael N. Figueroa, Trustee of the
D'Esprit, Inc. Profit Sharing Plan,
Its Manager.

Pima County Clerk of Superior Court
Tucson, Arizona

Receipt Number: 2224650

Received for: 666ISMONEY, LC
Received from: 666ISMONEY, LC
Amount Received: $ 57.50

Date: 11/14/2013
Case Number: C20117971
Clerk Number: 922

Caption: DERRY DEAN SPARLIN, SR VS. MICHAEL N FIGUEROA

Cash: $0.00 Check: $57.50 Charge: $0.00 ACH: $0.00

Begin Financial Docket

Photocopies ($0.50 Per Page) $57.50 PAID

End Financial Docket

Change Returned: $0.00

Amount Refunded: $0.00