

MARC Y. LAZO, SBN: 215998
WILSON KEADJIAN BROWNDORF LLP
1900 Main Street, Suite 600
Irvine, CA 92614
Phone No.: (949) 333-0178
Fax No.: (949) 234-6254

Attorneys for Plaintiff Marc Harris and Proposed Class Members

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

MARC HARRIS, an individual; on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

DEAN MEILING, an individual;
MADYLON MEILING, an individual;
JAMES PROCTOR, an individual; JANET
CHUBB, an individual; TIFFANY
SCHWARTZ, an individual; CHEMEON
SURFACE TECHNOLOGY, LLC, a
Nevada Limited Liability Company; DSM
PARTNERS, LP, a Nevada Limited
Partnership; DSM P GP LLC, a Nevada
Limited Liability Company; SUITE B
LLC, a Nevada Limited Liability
Company; ARMSTRONG TEASDALE,
LLP, a Missouri Limited Liability
Partnership; KAEMPFER CROWELL,
LTD., a Nevada Professional Corporation;
MERIDIAN ADVANTAGE, and unknown
entity; and DOES 1-100, inclusive,

Defendants.

CASE No.: 30-2019-01058061-CU-NP-CXC

Judge William Claster

CX-104

COMPLAINT FOR:

- 1. FINANCIAL ELDER ABUSE –
WELFARE & INSTITUTIONS CODE
§15610.30**
- 2. BREACH OF FIDUCIARY DUTY**
- 3. CONSTRUCTIVE FRAUD**
- 4. INTENTIONAL
MISREPRESENTATION**
- 5. PROFESSIONAL NEGLIGENCE**
- 6. CONSTRUCTIVE TRUST**
- 7. VIOLATION OF BUSINESS &
PROFESSIONS CODE §17200**
- 8. MISAPPROPRIATION**
- 9. CONVERSION**

1 Plaintiff (hereinafter referred to as “Plaintiff”), on behalf of himself and all Proposed Class
2 Members, alleges against Defendants, and Does 1 through 100, inclusive (hereinafter collectively
3 referred to as “Defendants”), and each of them, as follows:

4 **BRIEF STATEMENT OF CASE**

5 1. This action arises from the surreptitious greed of the Defendants, acting in conspiracy
6 with their attorneys and a receiver to take over an established, specialized metal coatings and finishes
7 company, Metalast International, LLC (referred to herein as the “Investment LLC”), into which
8 Plaintiff and hundreds of other elderly individuals had poured their life savings. The Meiling
9 Defendants (as hereinafter defined) feigned furthering their investments in the company in order to
10 acquire confidential and privileged financial information which they then shared with their attorneys
11 and the receiver, without any of the investors’ (or the company’s owner’s) knowledge or consent. They
12 thereafter used that information in unnoticed court proceedings to gain ownership and control of the
13 company, to the detriment of all the investors, who have since had their retirements depleted and
14 investments eradicated through a premeditated sham “credit bid” sale, which stripped away all of the
15 assets in the company, to the tune of \$90M. The company is now being run by the Meiling Defendants
16 and their co-conspirators, who continue to reap all the profits and benefits.

17 **PARTIES**

18 2. Class representative, Plaintiff (“Plaintiff”) Marc Harris is an individual residing in the
19 State of California and County of Orange and was at least 65 years old at the time of the conduct alleged
20 herein, which has continued to date.

21 3. Plaintiff is informed and believes, and thereon alleges, that Defendant Dean Meiling, an
22 individual, was at all times relevant herein, an investor and member of Investment LLC, who actively
23 plotted a conspiracy meant to injure and harm Plaintiff, as set forth below.

24 4. Plaintiff is informed and believes, and thereon alleges, that Defendant Madylon
25 Meiling, an individual, was at all times relevant, an active participant and co-conspirator in the acts
26 meant to injure and harm Plaintiff, as set forth below.
27
28

1 5. Plaintiff is informed and believes, and thereon alleges, that Defendant James Proctor,
2 an individual, was at all times relevant herein, an active participant and co-conspirator in the acts meant
3 to injure and harm Plaintiff, as set forth below.

4 6. Plaintiff is informed and believes, and thereon alleges, that Defendant Janet Chubb, an
5 individual, was at all times relevant herein, an active participant and co-conspirator in the acts meant
6 to injure and harm Plaintiff, as set forth below.

7 7. Plaintiff is informed and believes, and thereon alleges, that Defendant Tiffany Schwartz,
8 an individual, was at all times relevant herein, an active participant and co-conspirator in the acts meant
9 to injure and harm Plaintiff, as set forth below.

10 8. Plaintiff is informed and believes, and thereon alleges, that Defendant Chemeon Surface
11 Technology, LLC (formerly D&M-MI, LLC) is a duly formed Nevada limited liability company.

12 9. Plaintiff is informed and believes and thereon alleges, that Defendant Armstrong
13 Teasdale, LLP is a duly formed Missouri limited liability partnership and law firm.

14 10. Plaintiff is informed and believes, and thereon alleges that Defendant Kaempfer
15 Crowell, Ltd. is a duly formed Nevada professional corporation and law firm.

16 11. Plaintiff is informed and believes and thereon alleges that the Defendant Meridian
17 Advantage is business entity of unknown form in the State of Nevada.

18 12. Plaintiff is informed and believes, and thereon alleges, that Defendant DSM Partners,
19 LP is a duly formed Nevada Limited Partnership.

20 13. Plaintiff is informed and believes, and thereon alleges, that Defendant DSM P GP LLC
21 is a duly formed Nevada Limited Liability Company.

22 14. Plaintiff is informed and believes, and thereon alleges, that Defendant SUITE B LLC is
23 a duly formed Nevada Limited Liability Company.

24 15. Plaintiff will refer to Defendants Janet Chubb, Tiffany Schwartz, Armstrong Teasdale,
25 LLP and Kaempfer Crowell, Ltd. as “Attorney Defendants” throughout this complaint whenever
26 referring to them collectively.

27 16. Plaintiff will refer to Defendants James Proctor and Meridian Advantage as “Receiver
28 Defendants” throughout this complaint whenever referring to the collectively.

1 17. Plaintiff will refer to Defendants Dean Meiling, Madylon Meiling, Chemeon Surface
2 Technology, LLC, DSM Partners, LP, DSM P GP LLC and Suite B LLC as the “Meiling Defendants”
3 throughout this complaint whenever referring to them collectively.

4 18. The true names and capacities, whether individual, corporate, associate or otherwise of
5 the Defendants names herein as Does 1 through 100, inclusive, are currently unknown to Plaintiff who
6 therefore sues said Defendants by such fictitious names. Plaintiff is informed and believes that each of
7 these fictitiously named defendants is in some manner responsible for the events and damages alleged
8 herein and Plaintiff will seek leave of Court to amend this Complaint to show the true names and
9 capacities when the same have been ascertained.

10 19. Plaintiff is informed and believes and thereon alleges that at all times relevant herein
11 each and every Defendant: (a) was the agent, servant, employee, joint venturer, partner, affiliate and/or
12 conspirator of each other co-Defendant; (b) in performing or failing to perform the acts herein alleged,
13 was acting individually and in the foregoing alleged capacity within the course and scope of such
14 agency, employment, joint venture, partnership, affiliation and/or conspiracy; (c) ratified and affirmed
15 the acts and omissions of the other Defendants; (d) in taking the actions alleged herein, acted for their
16 own financial and individual advantage; and (e) was an alter ego for the other Defendants. Plaintiff
17 further believes that there may be others, including attorneys, law firms, entities, and individuals, that
18 participated in the wrongful acts complained of herein. Plaintiff reserves the right to amend this
19 Complaint to add such additional parties when said actions and identities become known.

20 JURISDICTION AND VENUE

21 20. Jurisdiction in California is proper since: (1) Defendants, and each of them, have
22 purposefully availed themselves of the benefits and protections of California laws through their acts
23 alleged herein, including but limited to solicitation of the agreements alleged herein in California,
24 and receipt of investment funds from elderly California investors’ bank accounts; (2) the
25 controversy is related to and arises out of the Defendants’ contacts with this state since the
26 conspiracy alleged herein, and the acts, omissions and misrepresentations alleged herein, were made
27 to and directed at the Plaintiff Class of California residents; and (3) the assertion of personal
28 jurisdiction would comport with fair play and substantial justice since Defendants, and each of

1 them, sought to maliciously, fraudulently, and tortiously deprive Plaintiffs, most of whom are
2 residents of the state of California, of their financial livelihoods and existences, and retirement
3 funds, as set forth herein. *See Cal. Code Civ. Proc.*, § 410.10; *Snowney v. Harrah's Entertainment,*
4 *Inc.*, 35 Cal. 4th 1054, 1062 (Cal. 2005); *Fireman's Fund Ins. Co. v. National Bank of Coops*, 103 F.
5 3d 888, 894 (9th Cir. 1996).

6 21. Venue in Orange County is proper because Plaintiff Marc Harris was one of the original
7 Metalast International, LLC (“Investment LLC”) investors and the most knowledgeable Class member
8 regarding the acts and omissions alleged herein. He resides here, and is the primary contact for all
9 Class members, who can effectively communicate with them all and manage their common interests.

10 **CLASS ACTION ALLEGATIONS**

11 22. As to all representative claims requiring class action certification under Code of Civil
12 Procedure § 382, Plaintiff brings this action on behalf of himself, and all investors who were at least
13 65 years old at the time of the tortious acts alleged herein, all of whom have all been damaged by
14 Defendants’ conduct, and who are referred to herein as “Class Members”. The Class Members will be
15 defined as follows:

16
17 **CLASS DEFINITION:** All members, investors, and their successors, in Metalast
18 International, LLC subsequently named MI94, LLC, (“Investment LLC”) who owned membership
19 interests and were at least 65 years old at the time of the conduct alleged herein, which has continued
20 to date.

21 23. Excluded from the Class are Defendants, Defendants' officers, members, owners,
22 directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and
23 assigns, and any entity in which any Defendant has a controlling interest, as well as all judicial officers
24 and staff presiding over this matter and counsel of record. Plaintiff reserves the right to revise the Class
25 Definition as a result of discovery proceedings and further investigation.

26 24. **Common Questions of Law and Fact Predominate:** Plaintiff and the Class Members
27 share a community of interest in that there are numerous common questions of law and fact which
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1 predominate over questions, if any, that may affect individual Class members. Questions of law and
2 fact common to the Plaintiff and Class that predominate include, but are not limited to, *inter alia*:

- 3 a. Whether any or all of the Defendants breached Investment LLC's Operating
4 Agreement;
- 5 b. Whether any or all of the Defendants breached fiduciary duties owed to Investment
6 LLC and Plaintiffs;
- 7 c. Whether Receiver Defendants were Professionally Negligent in the performance of
8 their duties as receiver;
- 9 d. Whether any or all of the Defendants engaged in a civil conspiracy to commit the
10 wrongful conduct;
- 11 e. Whether any or all of the Defendants converted Plaintiffs' funds and assets for their
12 own benefit;
- 13 f. Whether Defendants' misrepresentations and concealments were made intentionally,
14 with the intent to defraud Plaintiffs;
- 15 g. Whether Defendants were unjustly enriched because of their misrepresentations and
16 collusion;
- 17 h. Whether Plaintiffs are entitled to the imposition of a constructive trust on the assets
18 they have acquired by virtue of their participation in the takeover of Investment
19 LLC;
- 20 i. Whether the Defendants violated the Unfair Competition Law under Business and
21 Professions Code §17200;
- 22 j. The amount of compensatory and incidental damages to which the Class members
23 are entitled, and whether the Class members are entitled to treble or punitive
24 damages;
- 25 k. Whether the members of the Class are entitled recovery of attorneys' fees; and
- 26 l. Whether the members of the Class are entitled to the requested equitable relief, and
27 if so, the nature of such relief.

28

1 Defendants' conduct was applied uniformly to all members of the Class so that questions of law
2 and fact are common to the Plaintiff and all members of the Class.

3 25. **Numerosity:** Based on the number of elderly investors in Investment LLC harmed by
4 Defendants, which is believed to exceed 500 individuals, trusts, and other entities, joinder of all the
5 Class members individually would be impractical, if not impossible. Membership in the Class is easily
6 distinguishable from the records in possession of all the parties.

7 26. **Typicality:** The claims asserted by Plaintiff in this action are typical of, and in fact,
8 mirror the claims of the Class. The claims arise from the same course of conduct by Defendants, and
9 the relief sought by the Class is common to each of the Class members.

10 27. **Adequacy:** Plaintiff will fairly and adequately represent and protect the interests of
11 the Class. Plaintiff has no interests which are contrary to, or in conflict with, other Class Members.
12 Plaintiff is not subject to any individual defenses unique from those conceivably applicable to the Class
13 as a whole. Plaintiff has retained counsel competent and experienced in business litigation and class
14 action litigation. Plaintiff anticipates no management difficulties in this litigation.

15 28. **Superiority:** Class litigation is superior to any other alternative because:

- 16 a. Questions of law or fact common to the Plaintiff and respective members of the
17 Class predominate over questions of law or fact affecting only individual members
18 of the Class;
- 19 b. Absent a class action, it would be highly unlikely that members of the Class would
20 be able to protect their own interests because the cost of litigation through individual
21 lawsuits might exceed expected recovery. This point is especially pronounced
22 herein because Defendants' chicanery has wiped out the Class Member's
23 retirements and they have no means of income;
- 24 c. Given the large number of the Class, allowing individual actions to proceed in lieu
25 of a class action would run the risk of yielding inconsistent and conflicting
26 adjudications;
- 27 d. A class action will permit a large number of claims to be resolved in a single forum
28 simultaneously, efficiently, and without the unnecessary hardship that would result

1 from the prosecution of numerous individual actions and the duplication of
2 discovery, efforts, expenses and the tremendous burden on the courts that individual
3 actions would engender; and

- 4 e. The benefits of proceeding as a class action, including providing a method for
5 obtaining redress for claims that would not be practical to pursue individually,
6 outweigh any difficulties that may be contended regarding to the management of
7 this class action.

8 **BACKGROUND REGARDING THE MEMBERSHIP INTERESTS OF PLAINTIFF AND**
9 **THE CLASS MEMBERS**

10 29. Plaintiff realleges, and incorporates by reference, all preceding paragraphs as though
11 fully set forth herein.

12 30. Plaintiff, including all others similarly situated, invested significant sums of money,
13 including but not limited to, retirement funds and funds from family trusts, in Metalast International,
14 LLC, which subsequently became known as MI94, LLC (hereinafter collectively referred to as the
15 "Investment LLC"). The total amount of the investments, including from Plaintiff and others similarly
16 situated members, exceeds ninety million dollars (\$90,000,000).

17 31. Plaintiff is informed and believes, and thereon alleges, that at all times relevant herein,
18 Investment LLC was established in 1994 for the primary purposes of marketing and licensing a
19 patented and proprietary aluminum surface treatment technology, enhancing computer software for
20 related process control systems, researching and developing additional uses for the technology, and
21 creating additional products including proprietary and patented environmentally friendly specialty
22 chemical products, such as TCP-HF. Additionally, Investment LLC licensed intellectual property and
23 invented, created and developed specialized coatings and metal finishes, many of which are sold to,
24 and applied within, the defense, aerospace and automotive industries.

25 32. Over 900 investors, including Plaintiff and the Class Members, made capital
26 investments in Investment LLC totaling over \$90,000,000, and upon making said investments, each
27 investor became a member of Investment LLC, and became subject to Investment LLC's operating
28 agreement, and the various duties, rights, and obligations contained therein.

1 33. The Meiling Defendants, either through direct investments in Investment LLC, or
2 through transfers amongst each other, were members of Investment LLC, and otherwise subject to its
3 Operating Agreement.

4 34. The managers and members of Investment LLC, all times herein, had a duty of loyalty
5 and good faith to one another.

6 35. Plaintiff is informed and believes, and thereon alleges, that the Meiling Defendants
7 loaned money and made capital contributions, either directly, or through transfers amongst each other,
8 in Investment LLC. In addition to these defendants, Investment LLC's managing member and other
9 investors also contributed additional capital infusions to Investment LLC as needed.

10 **DEFENDANTS CONSPIRE TO TAKE OVER THE COMPANY, AND THEREBY COMMIT**
11 **ELDER ABUSE, FRAUD, AND NUMEROUS BREACHES OF FIDUCIARY DUTY**

12 36. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
13 planned, schemed and conspired to use the Meiling Defendants' contributions and usurious loans
14 to Investment LLC, to fraudulently convert, overtake, and acquire the assets of Investment LLC
15 (hereinafter the "Fraudulent Scheme"). The Fraudulent Scheme was perpetrated by the Meiling
16 Defendants and by the contrived efforts of their legal counsel, Attorney Defendants and Receiver
17 Defendants, who were supposed to be neutral and detached - but in actuality concealed their
18 allegiance to the Meilings and facilitated their scheme in advancement of their own pecuniary
19 interests.

20 37. In furtherance of the Fraudulent Scheme, the Meiling Defendants concocted a plan
21 to feign interest in making an additional \$3M investment in Investment LLC in order to
22 surreptitiously access private and confidential financial information ("Insider Information") about
23 the company and its impending profitability to procure the appointment of Receiver Defendants,
24 who facilitated the takeover of Investment LLC under entirely false pretenses. Specifically, in
25 reliance upon, and as a result of the Meiling Defendants' false promises of additional investment
26 funding for Investment LLC, and acts feigned in furtherance thereof, Investment LLC ceased
27 efforts to obtain funding from other sources, as it had successfully done on many prior occasions.
28

1 38. Under the Fraudulent Scheme, the Meiling Defendants feigned negotiating and
2 entering into an additional funding arrangement, and defendant Janet Chubb misrepresented that
3 Defendant James Proctor was the Meilings’ “Accountant,” using the guise of conducting “due
4 diligence” to infiltrate Investment LLC’s business and financial affairs in purported furtherance
5 of the additional funding agreement. As such, Defendants obtained access to the Insider
6 Information, which they secretly and improperly used to designate a receiver to assume control of
7 Investment LLC on the false premise that the company could not “make payroll.” This occurred
8 without notice to Investment LLC’s majority owner and managing member David Semas,
9 Plaintiff, or any of the Class members, and resulted in the Meiling Defendants taking over and
10 ultimately acquiring the assets of Investment LLC, with their righthand man Proctor becoming the
11 Receiver, and Attorney Defendants earning substantial legal fees at Plaintiff’s and the Class
12 members’ ultimate expense.

13 39. In furtherance of the Fraudulent Scheme, Receiver Defendants removed and
14 prevented Mr. Semas from contacting Investment LLC’s 900 plus members (or any vendors or
15 partners), many of whom were elderly, which precluded said members from protecting their
16 interests in Investment LLC, or from being notified of, or participating in any proceedings.

17 40. Further, Receiver Defendants improperly, and to the detriment of Plaintiff and the
18 Class, and under the guise of being “advisors” to the company, appointed the Meiling Defendants
19 to take over the operations of Investment LLC – even prior to their surreptitious “credit bid” sale
20 discussed below - for the purpose of causing its devaluation so as to misrepresent that the
21 company could no longer continue as a going concern, and artificially lower the sale price to the
22 Meilings.

23 41. Additionally, in furtherance of the conspiracy, attorney Defendant Tiffany Schwartz
24 – an attorney with Chubb’s law firm at the time, Defendant Armstrong Teasdale, LLP –
25 fraudulently filed a forged document with the USPTO entitled “Amended Security Agreement”
26 (the “Fraudulent USPTO Filing”) with a purported date of June 17, 2013. This document was
27 represented as containing an Exhibit “B” that purportedly gave the Meilings a secured interest in
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1 seven (7) trademarks held in the name of Investment LLC’s former manager, Metalast
2 International, Inc., that the Meilings had purportedly received as collateral for a loan made to
3 Investment LLC in 2009. In actuality, the parties to the security agreement never executed any
4 Exhibit “B” to the agreement. In fact, it was impossible for an Exhibit “B” to exist in 2009 (when
5 the security agreement was executed) **because the very first trademark listed in Exhibit “B”**
6 **did not exist until April 17, 2012 [Registration No. 4128211].**

7 42. Additionally, prior to the submission of the Fraudulent USPTO Filing, Defendant
8 Dean Meiling, attorney Bruce Leslie (another attorney in Chubb’s office) and Defendants Chubb
9 and Receiver Defendants engaged in an email thread discussing the legal effect of the real security
10 agreement that the Meilings actually procured in exchange for their loans to Investment LLC,
11 which never gave them any interest in any trademark held by Metalast International, Inc. (the
12 “Real Security Agreement”). In fact, attorney Leslie informed Defendant Dean Meiling that the
13 Real Security Agreement conferred no secured interest in any trademarks because none was listed.
14 This was in fact, common sense because the borrower in the security agreement, Metalast
15 International, LLC, could not collateralize marks it did not own. (The “Leslie Email Exchange”.)

16 43. Shortly after the Leslie Email Exchange, Defendant Schwartz filed a Notice of
17 Recordation of Assignment with the USPTO. For good reason, the USPTO refused to
18 acknowledge this assignment. However, the conspiring Defendants did not relent.

19 44. Plaintiff and the Class did not - and could not - have discovered the conspiracy and
20 the plot to overtake Investment LLC until a late 2016 deposition of Defendant James Proctor in a
21 different lawsuit in Nevada, when a review of documents produced at the deposition revealed the
22 Leslie Email Exchange and other documents that demonstrated this conspiracy. It was not until
23 such documents were produced in that lawsuit that the nature and extent of Defendants’
24 conspiratorial conduct was revealed. Due to the “gag order” (in Receiver Defendants’ own terms),
25 neither Plaintiff, nor the Class members or Mr. Semas could have discovered the existence of the
26 Leslie Email Exchange, as they were all expressly prohibited from communicating or making any
27 inquiries whatsoever as to Defendants’ dealings.
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1 45. With the fix in, Receiver Defendants were ready to strip away the value in Plaintiff
2 and the Class members’ interests in Investment LLC. To that end, the Fraudulent Scheme
3 culminated with a rigged credit bid “sale,” whereby the company was sold for the debt, all of
4 Investment LLC’s assets were transferred to the Meiling Defendants. Receiver Defendants sought
5 no appraisal of the assets of Investment LLC, failed to advertise the sale, refused to give notice to
6 the members of the sale, sought no independent valuation services from any third parties, and did
7 nothing but use their powers to carry out the Meiling Defendants’ wishes. In fact, in conducting
8 the purported credit bid sale, Receiver Defendants had the purpose of allocating the entirety of the
9 proceeds from the alleged sale to pay off defendant Chemeon Surface Technology, LLC (then known
10 as D&M-MI, LLC) as a “secured creditor,” and ensuring that Chemeon would be the winning bidder.
11 The purported credit bid sale was an unlawful method of foreclosing on Chemeon’s alleged secured
12 interest, and was in total breach of the Uniform Commercial Code and adoptive Nevada Revised
13 Statutes, in that it was neither “commercially reasonable” nor sold at a maximized value. In fact, the
14 Receiver Defendants’ goal was to sell the company for the bare credit bid amount made by Chemeon,
15 effectively ensuring the company’s liquidation in the ultimate and exclusive favor of the Meiling
16 Defendants. The sale in fact proceeded in the face of complaints by disgruntled shareholders, who
17 were given no notice or opportunity to oppose the sale or attempt to seek legal representation as to why
18 the Sale should not be approved.

19 46. As part of the sham sale and their undivided loyalty to the Meilings, and despite
20 their knowledge of the Leslie Email Exchange (on which they were copied), Receiver Defendants
21 *misrepresented that Investment LLC owned the seven trademarks held by Metalast*
22 *International, Inc., and knowingly conducted the “sale” to the Meilings under those false*
23 *pretenses*. In doing so, Receiver Defendants assigned the “Metalast” name, brand and trademark
24 to the Meilings, without notifying the Plaintiffs. With the consummation of this sale, the Receiver
25 Defendants’ mission was accomplished, the Meiling Defendants took over the company, and
26 ownership and control (and all profits) remains with them to date, to the continuing detriment of
27 Plaintiff and all Class members.
28

1 47. In furtherance of the Fraudulent Scheme, immediately after the Receiver
2 Defendants were formally in place to “manage” the company, they realized Investment LLC had
3 an adequate monthly cashflow from between \$50,000 to \$100,000. The Receiver Defendants knew
4 they could have easily qualified the company for Chapter 11 reorganization protection, which was in
5 the best interest of the company as a whole. This would have protected the Plaintiff and Class, along
6 with the company’s employees, creditors and the secured and unsecured Lenders, but would have been
7 detrimental to Defendants Dean and Madylon Meiling because it would have prevented their takeover
8 of the company. As such, the decision was made to proceed with the “credit bid” sale, which only
9 benefited the Meilings, to whom the Receiver Defendants held their exclusively allegiance.

10 **FIRST CAUSE OF ACTION**

11 **FINANCIAL ELDER ABUSE UNDER WELFARE & INSTITUTIONS CODE**

12 **SECTIONS 15610.30**

13 **[Against All Defendants]**

14
15 48. Plaintiff re-alleges and incorporates all of the preceding paragraphs as though set
16 forth fully herein.

17 49. Through the Fraudulent Scheme, the Meiling Defendants, Receiver Defendants, and
18 Attorney Defendants wrongfully took, misappropriated, and retained the personal property of
19 Plaintiff and the Class, specifically Plaintiff and the Class equity and value of their membership
20 interests in Investment LLC.

21 50. At the time of the taking, secreting, appropriation, obtaining, and retention of
22 Plaintiff and the Class personal property, Plaintiff and the Class were all elders as defined in
23 Welfare & Institutions Code Section 15610.27.

24 51. At the time the Meiling Defendants, Receiver Defendants, and Attorney Defendants
25 engaged in, assisted in, or conspired to wrongfully take, misappropriate, and retain the personal
26 property of Plaintiffs, they each did so for a wrongful use or with an intent to defraud.
27 Additionally, all said Defendant knew, or should have known their conduct was likely to injure
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1 the elderly Plaintiffs.

2 52. All the Defendants' actions and course of conduct was a substantial factor in causing
3 damages to the Plaintiff and Class and the Plaintiff and the Class' losses will be subject of proof
4 at the time of trial, but are in excess of several hundred million dollars.

5 53. The Defendants' course of conduct, to conspire to, and to deprive an elderly Plaintiff
6 and the Class of their property, their life savings in many instances, was done with malice,
7 oppression, and with fraud, so that said despicable behavior must be deterred by awarding Plaintiff
8 and the Class punitive and exemplary damages under Civil Code Section 3294 for at least the
9 following particular reasons:

- 10 a. The Fraudulent Scheme was undertaken by the Defendants with the full
11 knowledge that the Plaintiff and Class were elderly and that many of them had
12 invested significant sums, in many instances their life savings;
- 13 b. The Fraudulent Scheme would culminate in the many of the Class in losing their
14 entire financial interest in a Company that was poised to reap significant gains
15 after years of research, toil and patience; and
- 16 c. The Fraudulent Scheme was perpetrated with levels of sophistication, deceit and
17 premeditated cunning such that it was malicious to wipe out the life savings of
18 the members of the Class just for Defendants' own personal gain. The constant
19 pattern of lies, including perjurious statements, and fraudulent filing with
20 numerous courts and administrative bodies, including the United States
21 Trademark and Patent Office make Defendants' behavior all the more grotesque
22 and reprehensible.

23
24 **SECOND CAUSE OF ACTION**

25 **BREACH OF FIDUCIARY DUTY**

26 **[Against All Defendants]**

27 54. Plaintiff re-alleges and incorporates all of the preceding paragraphs as though set
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1 forth fully herein.

2 55. Receiver Defendants were appointed as receivers of Investment LLC. Resultantly,
3 Receiver Defendants owed the company and all its investors, including Plaintiff and the Class, the
4 highest punctilio of good faith and fair dealing as fiduciaries.

5 56. Additionally, the Meiling Defendants, as members of Investment LLC owed
6 Investment LLC and all of its members duties of good faith and fair dealing pursuant to the
7 Investment, LLC operating agreement at paragraph 14.3.

8 57. At least beginning in April 2013 through December 2013, the Meiling Defendants
9 and the Attorney Defendants on the one hand, all conspired with, and aided and abetted the
10 Receiver Defendants in breaching their fiduciary duties to the Company and all investors and
11 members, including Plaintiff and the Class.

12 58. As set forth above, the Receiver Defendants, conspired with, and aided and abetted
13 the Meiling Defendants in breaching their fiduciary duties to the Plaintiff and Class in acting as a
14 shill and a puppet for the Meiling Defendants, and failing to disclose Proctor's preexisting
15 relationship with the Meilings, and secret loyalties to Dean Meiling, as well as feigning that he
16 was a neutral receiver, as well as misrepresenting the financial wherewithal of Investment LLC in
17 order to procure his appointment under false pretenses, thus the Receiver Defendants breached
18 their duties of loyalty to the Plaintiff and the Class. The culmination of these breaches was a sham
19 "credit bid" which award the Meiling Defendants without any out of pocket expenditure on their
20 part, conducted without any prior notice to Plaintiff and the Class, without any appraisal of the
21 Investment LLC in further of the Fraudulent Scheme to hand over Investment LLC to the Meilings.
22 Even though the Receiver Defendants were to run the operations of Investment LLC, they allowed
23 the Meiling Defendants unfettered access to the company's financials, and gave them free reign
24 to run the day to day operations of the company, to the direct detriment of the Plaintiff and the
25 Class.

26 59. In doing so, the Meiling Defendants stripped all the assets from the Company,
27 virtually eradicating the Plaintiff and Class' ownership interests and ensuring their acquisition of
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1 the assets of Investment LLC.

2 60. Defendants' conspiracy, aiding and abetting, and breach of fiduciary duties was a
3 substantial factor in causing damages to the Plaintiff and the Class. Plaintiff and the Class' losses
4 will be subject of proof at the time of trial, but on information and belief are in excess of
5 \$100,000,000.

6 61. The Defendants' course of conduct, to conspire together, and aid and abet in the
7 breach of fiduciary duties and to deprive elderly Plaintiff and the Class of their property, their life
8 savings in many instances, was done with malice, oppression, and with fraud, so that said
9 despicable behavior must be deterred by awarding Plaintiff and the Class punitive and exemplary
10 damages under Civil Code Section 3294, for at least the following particular reasons:

- 11 a. The Fraudulent Scheme was undertaken by the Defendants with the full
12 knowledge that the Plaintiff and Class were elderly and that many of them had
13 invested significant sums, in many instances their life savings;
- 14 b. The Fraudulent Scheme would culminate in the many of the Class in losing their
15 entire financial interest in a Company that was poised to reap significant gains
16 after years of research, toil and patience; and
- 17 c. The Fraudulent Scheme was perpetrated with levels of sophistication, deceit and
18 premeditated cunning such that it was malicious to wipe out the life savings of
19 the members of the Class just for Defendants' own personal gain. The constant
20 pattern of lies, including perjurious statements, and fraudulent filing with
21 numerous courts and administrative bodies, including the United States
22 Trademark and Patent Office make Defendants' behavior all the more grotesque
23 and reprehensible.

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1 **THIRD CAUSE OF ACTION**

2 **CONSTRUCTIVE FRAUD**

3 **[Against All Defendants]**

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5 62. Plaintiff re-alleges and incorporates all of the preceding paragraphs as though set
6 forth fully herein.

7 63. The Receiver Defendants were appointed as receivers of Investment LLC in April
8 2013. Resultantly, the Receiver Defendants owed the Investment LLC members and all creditors,
9 including Plaintiff and the Class, the highest punctilio of good faith and fair dealing as fiduciaries,
10 which prohibited them from engaging in constructive fraud against Plaintiff and the Class.

11 64. Under the operating agreement of Investment LLC, the Meiling Defendants each
12 owed Investment LLC and its members, including the Plaintiff and the Class, duties of good faith
13 and fair dealing.

14 65. At least beginning in April 2013 through December 2013, the Meiling Defendants
15 and the Attorney Defendants each conspired with, and aided and abetted the Receiver Defendants
16 in breaching their fiduciary duties to the Company and the Plaintiff and Class and engaging in
17 constructive fraud.

18 66. Additionally, at least from April 2013 through December 2013, the Receiver
19 Defendants conspired with the Meiling Defendants to breach their fiduciary duties to the Plaintiffs
20 by engaging in constructive fraud.

21 67. From April 2013 through December 2013, Defendants James Proctor, Meridian,
22 Janet Chubb, Tiffany Schwartz, Armstrong Teasdale LLP, Kaempfer Crowell, Ltd., and the
23 Meiling Defendants concealed the following material facts from the Plaintiff and Class: (1) the
24 Receiver Defendants were not independent and neutral receivers working on behalf of all creditors
25 equally; (2) the Receiver Defendants allowed Meiling Defendants access to Investment LLC's
26 confidential information and financials and allowed them day to day control in flagrant
27 contradiction to their representations otherwise; (3) that Investment LLC was in receivership and
28 funds were needed to sustain operations; (4) that the Receiver Defendants made no publications

1 or announcements seeking offers at a bid for Investment LLC's assets; (5) that the Receiver
2 Defendants sought no independent valuation or appraisal of any assets of Investment LLC's assets.

3 68. Plaintiff and the Class reasonably relied on the nondisclosure of the above facts and
4 had they known of the true facts, they would have acted to raise additional funding to support
5 Investment LLC to protect their investment.

6 69. Defendants' conspiracy, aiding and abetting, and constructive fraud was a
7 substantial factor in causing damages to the Plaintiff and Class. Plaintiff and the Class's losses
8 will be subject of proof at the time of trial, but on information and belief are in excess of
9 \$100,000,000.

10 70. The Defendants' course of conduct, to conspire together, and aid and abet in the
11 constructive fraud and to deprive elderly Plaintiff and Class of their property, their life savings in
12 many instances, was done with malice, oppression, and with fraud, so that said despicable behavior
13 must be deterred by awarding Plaintiffs punitive and exemplary damages under Civil Code Section
14 3294 for at least the following reasons:

- 15 a. The Fraudulent Scheme was undertaken by the Defendants with the full
16 knowledge that the Plaintiff and Class were elderly and that many of them had
17 invested significant sums, in many instances their life savings;
- 18 b. The Fraudulent Scheme would culminate in the many of the Class in losing their
19 entire financial interest in a Company that was poised to reap significant gains
20 after years of research, toil and patience; and
- 21 c. The Fraudulent Scheme was perpetrated with levels of sophistication, deceit and
22 premeditated cunning such that it was malicious to wipe out the life savings of
23 the members of the Class just for Defendants' own personal gain. The constant
24 pattern of lies, including perjurious statements, and fraudulent filing with
25 numerous courts and administrative bodies, including the United States
26 Trademark and Patent Office make Defendants' behavior all the more grotesque
27 and reprehensible.
28

1 **FOURTH CAUSE OF ACTION**

2 **INTENTIONAL MISREPRESENTATION**

3 **[Against All Defendants]**

4
5 71. Plaintiff re-alleges and incorporates all of the preceding paragraphs as though set
6 forth fully herein.

7 72. At least beginning in April 2013 through December 2013, the Meiling Defendants,
8 and Attorney Defendants conspired with the Receiver Defendants and aided and abetted each other
9 in committing fraud against the Plaintiff and Class members.

10 73. In particular, Defendants Dean Meiling and Madylon Meiling, both individually
11 and on behalf of the Meiling Defendants; Defendant Janet Chubb, individually and on behalf of
12 her law firm, Defendant Armstrong Teasdale; and Defendants James Proctor and Meridian
13 misrepresented the following material facts to David Semas, the manager of Investment LLC: (1)
14 Defendants Dean Meiling and Madylon Meiling, individually, and through their authority to act
15 on behalf of the Meiling Defendants, were willing to infuse more capital into Investment LLC in
16 order to keep Investment LLC afloat; (2) the Meilings needed their “accountant,” Defendant James
17 Proctor of Meridian, to access proprietary financial and accounting records and other documents
18 in order to conduct “due diligence”; (3) David Semas was prohibited from contacting any of the
19 members of Investment LLC, including Plaintiff and the Class members, in order to keep them at
20 bay and prevent them from discovering the facts underlying the Fraudulent Scheme; and (4) the
21 Company was in dire straits financially and needed to be “rescued” if it was going to continue as
22 a going concern.

23 74. All of the aforementioned statements of material fact were false when the
24 Defendants made them and Defendants made them knowing they were false.

25 75. When the Defendants made the false statements, they made them with the intention
26 that David Semas would rely on them, and with knowledge that Semas would repeat the
27 information to the Plaintiff and Class members, who would also act in reliance on them.

28 76. Defendants appeared to be acting in good faith and seemed sincere; thus the Plaintiff

1 and Class members had no reason to suspect otherwise, particularly because Plaintiff and the Class
2 members did not receive notice of any of the fraudulent acts alleged herein until much later. As
3 such, David Semas and Plaintiff and Class members reasonably relied on the aforementioned
4 misrepresentations of fact to their detriment.

5 77. The Plaintiff and Class members' reasonable reliance on Defendants' fraudulent
6 representations was a substantial factor in causing damages to Plaintiff and Class. The Plaintiff
7 and Class' losses will be subject of proof at the time of trial, but on information and belief are in
8 excess of \$100,000,000.

9 78. The Defendants' tortious conduct to deprive Plaintiff and the elderly Class members
10 of their investment monies was done with malice, oppression, and with fraud, so that said
11 despicable behavior must be deterred by awarding the Plaintiff and Class members punitive and
12 exemplary damages under Civil Code Section 3294, for at least the following reasons:

- 13 a. The Fraudulent Scheme was undertaken by the Defendants with the full
14 knowledge that Plaintiff and the Class members were elderly and that many of
15 them had invested significant sums, in many instances their life savings, that
16 Defendants' conduct ensured would inure to only Defendants' benefit;
- 17 b. The Fraudulent Scheme would culminate in the Class in losing their entire
18 financial interest in a company that was poised to reap significant gains after
19 years of research, toil and patience; and
- 20 c. The Fraudulent Scheme was perpetrated with levels of sophistication, deceit and
21 premeditated cunning with the purpose and intent of placing Defendants' own
22 pecuniary interests ahead of Plaintiff's and the Class members' interests, in
23 furtherance of a willful scheme to deprive Plaintiff's and the Class Members' of
24 their life savings, retirement funds and livelihood. The conduct of perpetrating the
25 aforementioned lies, including perjurious statements and fraudulent filings,
26 subject the Defendants to exemplary and punitive damages as set forth herein.
27
28

1 **FIFTH CAUSE OF ACTION**

2 **PROFESSIONAL NEGLIGENCE**

3 **[Against Attorney Defendants and Receiver Defendants]**

4
5 79. Plaintiff and the Class re-allege and incorporate all of the preceding paragraphs as
6 though set forth fully herein.

7 80. Under false pretenses, the Receiver Defendants were made receivers of Investment
8 LLC, thereby inheriting duties of professional care to Plaintiff and all Class members.

9 81. The Receiver Defendants were negligent in the discharge of their duties owed to
10 Plaintiff and the Class by failing to exercise them in an even-handed manner, and placing their
11 own and their masters' interests ahead of those of Plaintiff and the Class members. Defendants
12 breached their duties, *inter alia*, by: failing to notify the Plaintiff and any of the Class members of
13 the receivership proceedings; failing to obtain an appraisal of Investment LLC's assets; failing to
14 advertise the auction and sale of any of the Investment LLC assets; and, allowing Defendants Dean
15 and Madylon Meiling day to day control of Investment LLC during the pendency of the
16 receivership and to date.

17 82. In the course and scope of their representation of the Meiling Defendants, in
18 ultimately facilitating and cooperating with their takeover of Investment LLC under the false
19 pretenses alleged herein, Attorney Defendants necessarily and proactively undertook and assumed
20 professional duties of care to Plaintiff and the Class, particularly because they were at all times
21 acting in furtherance of the conspiracy by the Meiling Defendants to take over the company, and
22 to further their own pecuniary interests.

23 83. In committing the acts of malfeasance alleged herein, Attorney Defendants
24 breached their duties of care and loyalty to Plaintiff and the Class members, and in their undivided
25 allegiance to the Meiling Defendants, necessarily placed their own pecuniary interests above those
26 of Plaintiff and the class, thereby divesting Plaintiff and the Class members of hundreds of millions
27 of dollars and stripping away and all equity they would have otherwise possessed in the company,
28 which has since flourished and profited to the Meiling Defendants' exclusive benefit.

1 84. Defendants’ breach was the proximate cause of the Plaintiff and Class members’
2 damages. The Plaintiff and Class members’ losses will be subject of proof at the time of trial, but
3 on information and belief are in excess of \$100,000,000.

4 **SIXTH CAUSE OF ACTION**

5 **CONSTRUCTIVE TRUST**

6 **[Against All Defendants]**

7
8 85. Plaintiff re-alleges and incorporates all of the preceding paragraphs as though set
9 forth fully herein.

10 86. Plaintiff and the Class members are informed and believe, and thereon allege, that
11 under the Fraudulent Scheme described herein above, Defendants obtained the value and assets
12 rightfully owned by Plaintiff and the Class members. By virtue of Defendants’ despicable and
13 wrongful acts as alleged herein, Defendants received money and property that must be held in a
14 constructive trust for Plaintiff’s and the Class members’ benefit.

15 87. A constructive trust is necessary to preclude the unjust enrichment of Defendants
16 that is ongoing and continuing.

17 **SEVENTH CAUSE OF ACTION**

18 **VIOLATION OF BUSINESS & PROFESSIONS CODE SECTION 17200**

19 **[Against All Defendants]**

20
21 88. Plaintiff re-alleges and incorporates all of the preceding paragraphs as though set
22 forth fully herein.

23 89. California Business and Professional Code (“Cal.Bus. & Prof. Code”) section
24 17200, *et. seq.* (the “Unfair Competition Law” or “UCL”) prohibits any “unlawful, unfair or
25 fraudulent business act or practice.”

26 90. Defendants’ Fraudulent Scheme and other wrongdoings alleged throughout this
27 Complaint constitute unlawful, unfair and/or fraudulent business acts and/or practices including,
28

1 but not limited to, Defendants' acts of elder abuse, concealment, intentional misrepresentation,
2 breaches of fiduciary duties, and professional negligence.

3 91. Defendants have been unjustly enriched by their unlawful, unfair and/or fraudulent
4 business acts and/or practices. Moreover, Plaintiff and the Class members have suffered real harm
5 as a proximate result of Defendants' unlawful, unfair and/or fraudulent activities and seeks
6 restitution of all sums gained by Defendants' unlawful, unfair and/or fraudulent acts and/or
7 practices. Plaintiff and the Class members respectfully request that the Court order any other and
8 further equitable remedies as deemed necessary by the Court.

9
10 **EIGHTH CAUSE OF ACTION**

11 **MISAPPROPRIATION OF FUNDS**

12 **[Against All Defendants]**

13 92. Plaintiff re-alleges and incorporates all of the preceding paragraphs as though set
14 forth fully herein.

15 93. Plaintiff and the Class members were the true owners of their membership interests
16 in Investment LLC, which had both tangible and intangible value. All such value was unlawfully
17 acquired by Defendants without the consent of the Plaintiff and Class members, including but not
18 limited to through the conspiracy to commit, and commission of elder abuse, breaches of fiduciary,
19 fraud, and professional negligence as alleged herein.

20 94. Defendants intentionally, and knowingly and substantially interfered with Plaintiff
21 and Class member's respective rights and assets by engaging in the monetary misappropriation
22 and tortious conduct described herein.

23 95. As a direct, legal, and proximate result of the aforementioned conduct, Defendants
24 were unjustly enriched and the Plaintiff and Class members have suffered, and will continue to
25 suffer, general and special damages within the jurisdictional limits of this Court and in an amount
26 according to proof at trial.

27 96. Plaintiff and the Class members are informed and believe that the aforementioned
28 conduct of Defendants, and each of them, was carried out as part of a deliberate and systematic

1 Fraudulent Scheme to misappropriate, convert and sabotage Plaintiff and the Class members'
2 membership interests through Defendants' breaches of fiduciary duty, fraud, and elder abuse. Such
3 conduct was oppressive, fraudulent, and malicious, and subjected Plaintiff and the Class to cruel
4 and unjust hardship in a willful and conscious disregard of their rights, warranting exemplary and
5 punitive damages pursuant to Civil Code Section 3294, for the reasons set forth herein and for at
6 least the following reasons:

- 7 a. The Fraudulent Scheme was undertaken by the Defendants with the full
8 knowledge that Plaintiff and the Class members were elderly and that many of
9 them had invested significant sums, in many instances their life savings, that
10 was eradicated through Defendants' conduct undertaken only for Defendants'
11 benefit;
- 12 b. The Fraudulent Scheme would culminate in the Class losing their entire
13 financial interest in a company that was poised to reap significant gains after
14 years of research, toil and patience; and
- 15 c. The Fraudulent Scheme was perpetrated with levels of sophistication, deceit and
16 premeditated cunning with the purpose and intent of placing Defendants' own
17 pecuniary interests ahead of Plaintiff's and the Class members' interests, in
18 furtherance of a willful scheme to deprive Plaintiff's and the Class Members' of
19 their life savings, retirement funds and livelihood. The conduct of perpetrating the
20 aforementioned lies, including perjurious statements and fraudulent filings,
21 subject the Defendants to exemplary and punitive damages as set forth herein.

22 **NINTH CAUSE OF ACTION**

23 **CONVERSION**

24 **[Against All Defendants]**

25
26
27 97. Plaintiff re-alleges and incorporates all of the preceding paragraphs as though set
28 forth fully herein.

1 98. Plaintiff and the Class were at all times the rightful owners of all value and equity
2 in their membership interests as described herein, which were unlawfully and wrongfully
3 converted by Defendants without Plaintiff and the Class' members consent in the manner alleged
4 herein.

5 99. Defendants intentionally and knowingly and substantially interfered with Plaintiff
6 and Class member's respective rights and assets by engaging in the misappropriation and tortious
7 conduct described herein.

8 100. As a direct, legal, and proximate result of the aforementioned conduct, Defendants
9 were unjustly enriched and the Plaintiff and Class members have suffered, and will continue to
10 suffer, general and special damages within the jurisdictional limits of this Court and in an amount
11 to be proven at trial.

12 101. Plaintiff and the Class members are informed and believe that the aforementioned
13 conduct of Defendants, and each of them, was carried out as part of a deliberate and systematic
14 Fraudulent Scheme to misappropriate, convert and sabotage Plaintiff and the Class members'
15 membership interests through Defendants' breaches of fiduciary duty, fraud, and elder abuse. Such
16 conduct was oppressive, fraudulent, and malicious, and subjected Plaintiff and the Class to cruel
17 and unjust hardship in a willful and conscious disregard of their rights, warranting exemplary and
18 punitive damages pursuant to Civil Code Section 3294, for the reasons set forth herein and for at
19 least the following reasons:

- 20 a. The Fraudulent Scheme was undertaken by the Defendants with the full
21 knowledge that Plaintiff and the Class members were elderly and that many of
22 them had invested significant sums, in many instances their life savings, that
23 was eradicated through Defendants' conduct undertaken only for Defendants'
24 benefit;
- 25 b. The Fraudulent Scheme would culminate in the Class losing their entire
26 financial interest in a company that was poised to reap significant gains after
27 years of research, toil and patience; and
28

1 c. The Fraudulent Scheme was perpetrated with levels of sophistication, deceit and
2 premeditated cunning with the purpose and intent of placing Defendants' own
3 pecuniary interests ahead of Plaintiff's and the Class members' interests, in
4 furtherance of a willful scheme to deprive Plaintiff's and the Class Members' of
5 their life savings, retirement funds and livelihood. The conduct of perpetrating the
6 aforementioned lies, including perjurious statements and fraudulent filings,
7 subject the Defendants to exemplary and punitive damages as set forth herein.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff the Class Members pray for judgment against Defendants as
10 follows:

11 **ON THE FIRST THROUGH FOURTH, EIGHTH AND NINTH CAUSES OF**
12 **ACTION**

13 1. For exemplary, punitive, and treble damages to the extent allowed by law;
14

15 **ON THE SIXTH CAUSE OF ACTION**

16 1. For the imposition of a constructive trust according to proof;
17 2. For recovery of costs and expenses of suit as allowed by law;

18 **ON THE SEVENTH CAUSE OF ACTION**

19 1. For actual damages according to proof or as otherwise required by statute;
20 2. For costs of suit and attorneys' fees pursuant to statute;
21 3. For the complete disgorgement of ill-gotten gains according to proof and as otherwise
22 required by statute;
23 4. For such equitable, other and further relief as the Court deems just and proper;

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ON ALL CAUSES OF ACTION

1. For general and special damages according to proof;
2. For recovery of costs and expenses of suit as allowed by law; and
3. For such equitable, other and further relief as the Court deems just and proper.

Dated: March 15, 2019

WILSON KEADJIAN BROWNDORF, LLP

By:


MARC V. LAZO
Attorney for Plaintiff