

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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STATE OF NEW YORK,

Plaintiff,

SUMMONS

-against-

Index No.

ROBERT H. VAN ZANDT,
KIMMARIE GERVASI VAN ZANDT,
VAN ZANDT AGENCY, INC., BURKE & GRACE
AVENUE CORP., EMPIRE BUILDERS OF NEW
YORK, CORP., MIG OF WESTCHESTER INC.,
ROCKWELL CONSULTING OF NY INC.,
R.S. ENTERPRISES OF NEW YORK INC.,
VAN ZANDT AGENCY OF WESTCHESTER, INC.,
VAN ZANDT AGENCY OF BROOKLYN, INC.,
JOHNNY GS, INC., UPSTATE LAND AND
PROPERTIES LLC, 1314 BLONDELL AVE. CORP.,
164-174 1ST STREET INC., 2472 WENNER PLACE
CORP., 741 EAST 217TH STREET CORP.,
BOLLER & BOSTON ROAD CORP., BRIDGEVIEW
ESTATES CONDOMINIUMS H.O.A. INC.,
LAUNDRY TIME OF NEW YORK INC., P.I.A.
SERVICES, INC., SWING ON ME.COM INC., and
VAN ZANDT REALTY INC.,

**Plaintiff designates New York
County as the place of trial**

Defendants,

-and-

PATRICIA A. VAN ZANDT and HELENE DALY,

Relief Defendants.

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TO THE ABOVE-NAMED DEFENDANTS AND RELIEF DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer in this action and serve a copy of
your verified answer, or if the verified complaint is not served with the summons, to serve a
notice of appearance on the Plaintiff's attorney within twenty (20) days after the service of this
summons, exclusive of the day of service. If this summons is not personally served upon you, or

if this summons is served upon you outside of the State of New York, then your verified answer or notice of appearance must be served within thirty (30) days. In case of your failure to appear or answer, judgment will be taken against you by default, for the relief demanded in the verified complaint.

Filed: May ___, 2012

Dated: New York, New York
May 16, 2012

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By: R. Verle Johnson
R. Verle Johnson
Assistant Attorney General

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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STATE OF NEW YORK,

Plaintiff,

-against-

**VERIFIED
COMPLAINT**

Index No.

ROBERT H. VAN ZANDT,
KIMMARIE GERVASI VAN ZANDT,
VAN ZANDT AGENCY, INC., BURKE & GRACE
AVENUE CORP., EMPIRE BUILDERS OF NEW
YORK, CORP., MIG OF WESTCHESTER INC.,
ROCKWELL CONSULTING OF NY INC.,
R.S. ENTERPRISES OF NEW YORK INC.,
VAN ZANDT AGENCY OF WESTCHESTER, INC.,
VAN ZANDT AGENCY OF BROOKLYN, INC.,
JOHNNY GS, INC., UPSTATE LAND AND
PROPERTIES LLC, 1314 BLONDELL AVE. CORP.,
164-174 1ST STREET INC., 2472 WENNER PLACE
CORP., 741 EAST 217TH STREET CORP.,
BOLLER & BOSTON ROAD CORP., BRIDGEVIEW
ESTATES CONDOMINIUMS H.O.A. INC.,
LAUNDRY TIME OF NEW YORK INC., P.I.A.
SERVICES, INC., SWING ON ME.COM INC., and
VAN ZANDT REALTY INC.,

Defendants,

-and-

PATRICIA A. VAN ZANDT and HELENE DALY,

Relief Defendants.

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1. Plaintiff, by Eric T. Schneiderman, Attorney General of the State of New York,
on behalf of the People of the State of New York, complaining of the above-named Defendants
and Relief Defendants, alleges upon information and belief, that:

PRELIMINARY STATEMENT

2. Plaintiff hereby seeks an order and judgment (a) pursuant to General Business Law (“GBL”) § 353, *inter alia*, permanently enjoining Defendants Robert H. Van Zandt (“Van Zandt Sr.”), Kimmarie Gervasi Van Zandt (“Gervasi”), Van Zandt Agency, Inc. (“Van Zandt Agency”), Burke & Grace Avenue Corp. (“Burke”), Empire Builders of New York, Corp. (“Empire”), MIG of Westchester Inc. (“MIG”), Rockwell Consulting of NY Inc. (“Rockwell”), and R.S. Enterprises of New York Inc. (“RS Enterprises”) (collectively, the “Issuing Defendants”) from issuing, selling or offering for sale to, or purchasing or offering to purchase from, the public within this state, as principal, broker, dealer or agent, or otherwise, any securities or commodities, and (b) pursuant to Executive Law § 63(12), *inter alia*, permanently enjoining the Issuing Defendants from engaging in the carrying on, conducting or transaction of business in or from the State of New York.

3. Plaintiff also hereby seeks an order and judgment pursuant to Executive Law § 63(12), *inter alia*, permanently enjoining Defendants Van Zandt Agency of Westchester, Inc., Van Zandt Agency of Brooklyn, Inc., Johnny Gs, Inc., Upstate Land and Properties LLC, 1314 Blondell Ave. Corp., 164-174 1st Street Inc., 2472 Wenner Place Corp., 741 East 217th Street Corp., Boller & Boston Road Corp., Bridgeview Estates Condominiums H.O.A. Inc., Laundry Time of New York Inc., P.I.A. Services, Inc., Swing On Me.com Inc., and Van Zandt Realty Inc. (collectively, the “Conversion Defendants”), which converted, by taking without entitlement, defrauded investors’ funds from other Defendants, from engaging in the carrying on, conducting or transaction of business in or from the State of New York.

4. Plaintiff seeks an order and judgment on the allegations herein that the Issuing Defendants have engaged in, and unless permanently enjoined may once again engage in,

fraudulent acts and practices in violation of GBL Article 23-A (the “Martin Act”), §§ 352, 352-c, and 359-e.

5. Plaintiff seeks a permanent injunction against the Defendants, and restitution for investors of all their moneys and property obtained directly or indirectly by any such fraudulent practices, pursuant to GBL § 353 and Executive Law § 63(12).

6. Plaintiff also seeks redress for investors pursuant to the Attorney General’s *parens patriae* authority to recover damages caused to defrauded investors by the Defendants’ common-law fraud.

7. Plaintiff also seeks an order and judgment, pursuant to the Court’s equitable powers, directing relief defendants Patricia A. Van Zandt and Helene Daly (collectively, the “Relief Defendants”) to disgorge all moneys received directly or indirectly from any of the Defendants that constituted ill-gotten gains resulting from the Defendants’ fraudulent acts and practices, and to which moneys the Relief Defendants have no legitimate claim, so that such moneys can be restored to the defrauded investors.

8. The Defendants’ fraudulent acts and practices consisted of: (a) making materially false and misleading misrepresentations or omissions to investors and potential investors about the securities that were offered and sold; (b) engaging in a Ponzi scheme in that moneys invested by new investors have been misused, including to pay interest and principal to earlier investors; and (c) engaging in the issuance, offer and sale of securities within and from New York State without being registered to do so.

9. From 2001 to 2011, Defendant Van Zandt Sr. has solicited more than 250 investors, most of whom were unsophisticated tax-preparation clients of Van Zandt Agency, to

invest in promissory notes issued by Van Zandt Agency, Burke, Empire, MIG, and Rockwell, and to invest in stock issued by RS Enterprises.

10. The Issuing Defendants issued and sold \$35,554,191.79 of promissory notes and stock certificates, which are securities under New York law, to the public within and from New York State.

11. Defendants Van Zandt Sr. and Gervasi signed many of the promissory notes issued by Defendants Van Zandt Agency, Burke, Empire, MIG, and Rockwell. Van Zandt Sr. signed all the stock certificates issued by Defendant RS Enterprises.

The Issuing Defendants' Fraudulent Misrepresentations or Omissions

12. To induce investors and potential investors to purchase the Defendants' securities, the Defendants made false and misleading misstatements of material facts, and omitted material facts, concerning the securities that the Defendants offered and sold in and from the State of New York. Those misstatements and omissions constitute fraudulent acts and practices under the Martin Act.

13. The material misstatements and omissions of the Defendants caused investors to pay more than \$35 million to the Defendants from 2001 to 2011 for investments purportedly in numerous construction projects, primarily in the Bronx, but also in Myrtle Beach, South Carolina, and in Sullivan County, New York, or in corporate stock or bonds, or government securities. Investors were led to believe that these investments were safe, and were suitable for the self-directed Individual Retirement Accounts ("IRAs") that the Defendants helped to set up for many of the investors. In fact, the investments were at best highly speculative.

14. The Defendants' fraudulent misrepresentations and omissions to investors in and after approximately 2008 included the failure to inform investors that the Defendants' business

ventures had become a Ponzi scheme, because much of the money raised from new investors was being used to pay interest and principal to existing investors, and was being used for personal expenses.

The Issuing Defendants' Operation of a Ponzi Scheme

15. The Defendants continued to solicit investments after they knew or should have known that they could not sell all the properties, and paid earlier investors' principal and interest with funds from later investors.

16. Much of the money raised from the sale of securities issued by Defendants MIG, Rockwell and RS Enterprises was used by the Defendants to further their Ponzi scheme.

The Issuing Defendants' Failure to Register

17. The Department of Law of the State of New York ("Department of Law") has no record showing that, at least since 2000, Defendant Gervasi or any of the corporate Issuing Defendants has ever been registered in New York State to issue, offer or sell securities, or has sought exemption from registration. Defendant Gervasi and each of the corporate Issuing Defendants nonetheless issued, offered and sold securities in and from New York State, in violation of the Martin Act.

18. The Department of Law has no record showing that, at least since 2000, Defendant Van Zandt Sr. has ever been registered in New York State to issue securities, or has sought exemption from registration, but he issued securities of the Issuing Defendants as a principal of each of the Issuing Defendants, in violation of the Martin Act.

19. Records of the Department of Law show that Defendant Van Zandt Sr. has been registered as a securities salesman for various brokerage firms from 1997 until June 21, 2010. However, he never registered as a salesman for any of the Issuing Defendants. From 2001 until

at least 2011, Defendant Van Zandt Sr. offered and sold securities issued by the Issuing Defendants as an unregistered salesman of each of the Issuing Defendants, in violation of the Martin Act.

20. The Defendants' unregistered issuance, offer and sale of securities in and from the State of New York were *per se* fraudulent acts or practices under the Martin Act.

The Defendants' Conversion of Investors' Funds

21. Each of the Defendants engaged in the conversion of defrauded investors' funds by fraudulently and illegally facilitating, or taking or receiving, invested monies of defrauded investors from the bank accounts of Issuing Defendants, or indirectly from the bank accounts of Issuing Defendants or Conversion Defendants, without having a right to those monies.

JURISDICTION

22. This action is brought on behalf of the People of the State of New York by Eric T. Schneiderman, Attorney General of the State of New York, pursuant to his authority under GBL Article 23-A to seek injunctive relief and restitution where it is demonstrated that any person or entity has, is or is about to engage in any fraudulent practices in the offer for sale or sale, or the offer to purchase or purchase of securities to or from the public, within or from the State of New York.

23. This action also is brought by the Attorney General pursuant to his authority under Executive Law § 63(12) to seek an order (a) granting injunctive relief to prevent repeated or persistent fraudulent or illegal activities, and (b) directing restitution to victims of the alleged fraud.

24. Finally, as the State of New York's chief legal officer, the Attorney General brings this action pursuant to his *parens patriae* authority. Where, as here, the interests and

well-being of the People of the State of New York are implicated, the Attorney General possesses *parens patriae* authority to commence legal actions for violations of state law, including the common law. The State of New York has a quasi-sovereign interest in upholding the rule of law, and in protecting the economic well-being of its residents.

PROCEDURAL BACKGROUND

25. The allegations in this complaint are based on evidence gathered by the Attorney General's Office in the course of both confidential and public investigations. The confidential investigation was conducted by subpoenas for documents and testimony issued pursuant to the authority granted to the Attorney General by GBL § 352, and by interviews of witnesses and defrauded investors. The public investigation was initiated by authority of an Order issued April 8, 2011, by the Honorable Joan A. Madden, Justice of the Supreme Court, in the special proceeding pursuant to GBL § 354 captioned *Schneiderman v. Van Zandt, et al.*, Index No. 400889/11, Supreme Court, New York County ("Justice Madden's Order").

26. Defendants Van Zandt Sr., Gervasi, Van Zandt Agency, Burke, Empire, MIG, and Rockwell are respondents in that GBL § 354 proceeding and are temporarily enjoined from engaging in certain activities, and a small amount of the assets at issue were frozen, by Justice Madden's Order. Another respondent in that proceeding, Robert John Van Zandt ("Van Zandt Jr."), died on or about September 6, 2011.

PARTIES

27. This action by the Attorney General on behalf of the People of the State of New York is brought in the name of the State of New York pursuant to Civil Practice Law and Rules § 1301.

28. Defendant Robert H. Van Zandt (“Van Zandt Sr.”) was, at all relevant times, a principal, officer, and/or control person of each of the corporate Issuing Defendants and Conversion Defendants. At all relevant times he lived at 233 Longstreet Avenue, Bronx, New York, or 5 Samantha Way, Bronx, New York, and he is now once again living at 233 Longstreet Avenue, Bronx, New York.

29. Defendant Kimmarie Gervasi Van Zandt, also known as Kimmarie Van Zandt and Kimmarie Gervasi (“Gervasi”), was, at all relevant times, a principal, officer and/or control person of Issuing Defendants Burke, Empire, MIG and Rockwell, and each of the Conversion Defendants, the wife of the late Van Zandt Jr., and the daughter-in-law of Defendant Van Zandt Sr. At all relevant times she lived at 31 Brendon Hill Road, located in Yonkers, New York, but had a Scarsdale, New York post office address.

30. Defendant Van Zandt Agency, Inc. (“Van Zandt Agency”) is a New York corporation, incorporated on or about February 26, 1997, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

31. Defendant Burke & Grace Avenue Corp. (“Burke”) is a New York corporation, incorporated on or about March 22, 2002, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

32. Defendant Empire Builders of New York, Corp. (“Empire”) is a New York corporation, incorporated on or about February 11, 2003, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

33. Defendant MIG of Westchester Inc. (“MIG”) is a New York corporation, incorporated on or about February 4, 2008, with its principal place of business formerly at 25

West Red Oak Lane, White Plains, New York, and now at 1314 Blondell Avenue, Bronx, New York.

34. Defendant Rockwell Consulting of NY Inc. (“Rockwell”) is a New York corporation, incorporated on or about December 30, 2009, with its principal place of business formerly at 25 West Red Oak Lane, White Plains, New York, and now at 1314 Blondell Avenue, Bronx, New York.

35. Defendant R.S. Enterprises of New York Inc. (“RS Enterprises”) is a New York corporation, incorporated on or about February 21, 2008, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

36. Defendant Van Zandt Agency of Westchester, Inc., is a New York corporation, incorporated on or about October 28, 2002, with its principal place of business formerly at 25 West Red Oak Lane, White Plains, New York, and now at 1314 Blondell Avenue, Bronx, New York.

37. Defendant Van Zandt Agency of Brooklyn, Inc., is a New York corporation, incorporated on or about December 28, 2007, with its principal place of business formerly at 6605 Fort Hamilton Parkway, Brooklyn, New York, and now at 1314 Blondell Avenue, Bronx, New York.

38. Defendant Johnny Gs, Inc., is a New York corporation, incorporated on or about April 28, 2007, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

39. Defendant Upstate Land and Properties LLC is a New York limited liability company, formed on or about September 30, 2003, with its principal place of business formerly at 991 Morris Park Avenue, Bronx, New York, and now at 1314 Blondell Avenue, Bronx, New York.

40. Defendant 1314 Blondell Ave. Corp. ("1314 Blondell") is a New York corporation, incorporated on or about April 27, 2004, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

41. Defendant 164-174 1st Street Inc. is a New York corporation, incorporated on or about October 3, 2007, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

42. Defendant 2472 Wenner Place Corp. is a New York corporation, incorporated on or about April 11, 2006, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

43. Defendant 741 East 217th Street Corp. is a New York corporation, incorporated on or about July 30, 2003, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

44. Defendant Boller & Boston Road Corp. is a New York corporation, incorporated on or about July 27, 2005, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

45. Defendant Bridgeview Estates Condominium H.O.A. Inc. is a New York corporation, incorporated on or about July 31, 2008, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

46. Defendant Laundry Time of New York Inc. is a New York corporation, incorporated on or about March 25, 2008, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

47. Defendant P.I.A. Services, Inc., is a New York corporation, incorporated on or about May 11, 2000, with its principal place of business at 1314 Blondell Avenue, Bronx, New

York.

48. Defendant Swing On Me.Com Inc. is a New York corporation, incorporated on or about April 17, 2009, with its principal place of business formerly at 25 West Red Oak Lane, White Plains, New York, and now at 1314 Blondell Avenue, Bronx, New York.

49. Defendant Van Zandt Realty Inc. is a New York corporation, incorporated on or about December 21, 2005, with its principal place of business at 1314 Blondell Avenue, Bronx, New York.

50. Relief Defendant Patricia A. Van Zandt is the wife of Defendant Van Zandt Sr. The house at 233 Longstreet Avenue, Bronx, New York, in which Van Zandt Sr. lives is held in her name alone. Relief Defendant Patricia A. Van Zandt and Defendant Van Zandt Sr. jointly own at least one bank account into which were deposited funds from defrauded investors. The sum of \$401.22 remained in their joint account at TD Bank when it was frozen by Justice Madden's Order.

51. Relief Defendant Helene Daly is the daughter of Van Zandt Sr. She and Gervasi jointly own or owned one bank account into which were deposited funds from defrauded investors in the Issuing Defendants' several real estate development projects in Myrtle Beach, South Carolina. Defendants Van Zandt Sr. and Van Zandt Agency transferred to Helene Daly the remaining value of the goodwill, business, and real and personal property of the Van Zandt Agency, possibly in violation of Justice Madden's Order.

FACTUAL BACKGROUND

52. By means of their fraudulent acts and practices from 2001 through 2011, Defendants obtained more than \$35 million from issuing and selling promissory notes and stock.

53. The promissory notes and shares of stock issued by the Issuing Defendants are securities under GBL § 352(1).

54. Defendant Van Zandt Sr. offered and sold the Issuing Defendants' securities to more than 250 unsophisticated investors.

55. As officers or principals of each of the Issuing Defendants, Defendants Van Zandt Sr. and Gervasi authorized the issuance of all the Issuing Defendants' securities, and executed most, if not all, of the promissory notes and share certificates issued by the Issuing Defendants.

56. Defendant Van Zandt Sr. was, at all relevant times, the owner and a principal of Defendant Van Zandt Agency, which provides accounting and tax-return-preparation services, among other services. Over at least the last 34 years, Van Zandt Sr. has engaged in a number of business schemes, including the sale of insurance, securities, real estate, accounting and tax-preparation services.

57. The Defendants' issuance, offers and sales of the promissory notes began in or about July 2001.

58. In his capacities as a tax preparer and a securities salesman, Van Zandt Sr. became familiar with the financial affairs of his clients. In or before 2001, Van Zandt Sr. began to recommend to many of his tax-preparation clients that they invest in promissory notes in order to receive a return of nine percent or more per year.

Real Estate Projects Purportedly Financed by Investors

59. Defendant Burke purportedly used investors' funds for various purposes, including to finance approximately 20 real estate projects in the Bronx, three projects in Westchester County, New York, and six projects in Myrtle Beach, South Carolina, and to

purchase land in Sullivan County, New York, that was never developed. In fact, secured construction loans from banks financed those projects.

60. Defendant Empire purportedly used investors' funds to finance the real estate project at 2651 Schurz Avenue, Bronx, New York, now known as Bridgeview Estates Condominiums. In fact, secured construction loans from a bank financed that project.

61. Defendant MIG purportedly used investors' funds to finance construction of a building that was to be built at 1346 Blondell Avenue, Bronx, New York, and to purchase common stock, mutual funds or other securities. Though MIG may have used investors' funds to pay for architectural plans for the project, MIG never owned or leased the land at 1346 Blondell Avenue, Bronx, New York, and construction never began on the project.

62. Defendant Rockwell did not use investors' funds to finance any real estate projects. While some of the investors' money was invested in common stock of Bella Petrella's Holdings Inc. in the name of Defendant Rockwell and Relief Defendant Helene Daly, most of the investors' funds were used in the Defendants' Ponzi scheme to pay interest to earlier investors in the notes of other Issuing Defendants, or was converted to the personal use of Van Zandt Sr., Van Zandt Jr., and Gervasi.

63. Defendant RS Enterprises, like MIG, may have used some of its investors' funds to pay for architectural plans for a building that purportedly was to be built at 1346 Blondell Avenue, Bronx, New York, but RS Enterprises never owned or leased the land at 1346 Blondell Avenue, Bronx, New York. Construction never began on the proposed project.

The Fraudulent Acts and Practices of the Individual Defendants

64. Defendant Van Zandt Sr. engaged in fraudulent acts and practices in that, at relevant times in or from New York State, he offered and sold all of the promissory notes issued

by Defendants Van Zandt Agency, Burke, Empire, MIG, and Rockwell, and sold all of the stock issued by Defendant RS Enterprises. He issued many of the securities that he sold, by authorizing and executing promissory notes of Defendants Van Zandt Agency, MIG and Rockwell, and by authorizing and executing the stock certificates for full or partial “Class B shares” of RS Enterprises, without being registered or exempt from registration with the Department of Law to do so.

65. The material misrepresentations that Van Zandt Sr. made to investors included, but were not limited to, oral assurances that the investor’s money would earn various returns from seven to 12 percent per year, and that the investor’s principal would be returned within 18 months, two years, or four years, or upon completion of the project, depending on the particular project that the investor was helping to fund. Van Zandt Sr. also falsely represented to investors that their investments were safe because they would be secured by mortgages on the properties in which the investors’ funds were invested. In fact, no such mortgages were ever recorded. Accordingly, Van Zandt Sr. knowingly failed to inform investors that they were unsecured and subordinate creditors.

66. Van Zandt Sr. was the owner of Van Zandt Agency at all relevant times, and was at various relevant times the president or a principal of each of the Issuing Defendants.

67. Defendant Gervasi engaged in fraudulent acts and practices including, at relevant times in or from New York State, causing Defendants Burke, Empire, MIG, and Rockwell to issue securities by executing promissory notes of those Issuing Defendants without being registered or exempt from registration with the Department of Law to do so.

The Fraudulent Acts and Practices of the Issuing Defendants

68. At relevant times, Defendants Van Zandt Agency, Burke, Empire, MIG and Rockwell issued securities, in the form of promissory notes, in and from New York State without being registered or exempt from registration with the Department of Law.

69. The promissory notes issued by Defendants Van Zandt Agency, Burke, Empire, MIG and Rockwell contained false and misleading statements of material facts, and omitted material facts, about the nature and risks of the investment.

70. At relevant times, Defendant RS Enterprises issued securities in the form of stock certificates for full or partial “Class B shares” in and from New York State without being registered or exempt from registration with the Department of Law.

71. The Subscription Agreement and Shareholders’ Agreement distributed to investors by Defendant RS Enterprises in connection with its offer and sale of stock certificates for full or partial “Class B shares” contained false and misleading statements of material facts, and omitted material facts, about the nature and risks of the investment, the annual income and net worth required for an investor to qualify as an “accredited investor,” and the purposes for which the investors’ funds were to be used.

The Issuing Defendants’ Material Misstatements

72. To induce investors and potential investors to purchase the Defendants’ securities, the Defendants made false and misleading statements of existing material facts knowingly, with intent to defraud, and with intent that the unsophisticated investors that they targeted would rely on the false and misleading statements. In fact, the investors did rely on the Defendants’ false and misleading misstatements, and as a result the investors paid, from 2001 to 2011, more than \$35 million to the Defendants for investments in promissory notes and common stock issued by

the Issuing Defendants. Such misstatements concerning the risks and rewards of investing in the securities that Defendants offered and sold in and from the State of New York constitute fraudulent acts and practices under the Martin Act and the common law of the State of New York.

73. Defendant Van Zandt Sr. often told investors that their investments were to be used for purchasing land and constructing multi-family houses or condominium apartment buildings, primarily in the Bronx but also in Myrtle Beach, South Carolina, and in Sullivan County, New York, or at other times that their investments would be invested in corporate stock or bonds, or government securities.

74. Defendants deceived investors into believing that the investments were safe, were secured by mortgages or were invested in corporate stock or bonds, or government securities, and were suitable for the self-directed Individual Retirement Accounts (“IRAs”) that the Defendants helped create for many of the investors. In fact, the investors received no security in the form of mortgages or otherwise, and the investments were, at best, highly speculative and, at worst, converted to the Defendants’ personal uses.

75. Among the material misstatements made by the Defendants were that the investor’s promissory note would be secured by a mortgage on the property, and that the investor’s principal would be returned within a certain period of time or at the completion of the project. By 2008, when the Defendants had ceased purchasing or developing real property, Defendants Van Zandt Sr., MIG and RS Enterprises were making material oral and written misstatements that an investor’s principal would be invested in corporate stock or bonds, or government securities, or in the purchase and development of houses or condominium apartment buildings.

The Issuing Defendants' Material Omissions

76. The Defendants failed to inform investors of all the risks associated with their investments, including but not limited to the risk that completed development projects would not be sold and the risk that some projects might not even be completed because of lack of sufficient funding, thereby making it impossible for investors to receive repayments of their principal.

77. The Defendants also omitted to inform investors that certain expenses, such as property taxes and mortgage payments, would continue to accrue indefinitely if the projects were not completed and sold.

78. Among the Defendants' other material omissions were the following:

a. The Defendants had obtained bank loans for the purchase of land and the construction of the buildings on those parcels of land, the bank loans were secured by mortgages on the properties, the development projects had not been financed entirely from investors' funds, and the investors did not have an interest in the properties being developed.

b. Burke investors were told that 200 condominiums were to be built at the Smallwood Golf Course in upstate New York, but were not told that the project could not get underway without a zoning change or variance, which was never obtained, that the Defendants stopped paying property taxes on the land, and that the county took title to the land.

c. Rockwell investors were told that their investments would be used to buy stock in Bella Petrella Holdings Inc. but were not told that: (i) of the approximately \$2.3 million invested by them, only about \$522,000 or 26 percent of their investment would go toward that stock; (ii) the balance would be misappropriated to the use of Defendants and Relief Defendants; and (iii) the Bella Petrella stock certificates would not be issued in the investors' names.

The Issuing Defendants' Operation of a Ponzi Scheme

79. As it became increasingly difficult for the Defendants to sell the developed properties, and thus to return the investors' principal or even to pay interest on the principal, they resorted to a classic Ponzi scheme. The Defendants solicited new investors, generally their tax

return preparation clients, and used some of the money obtained from the sale of the notes and stock to pay principal and interest to earlier investors in the same or other real estate development projects.

80. The Defendants' Ponzi scheme began in or about 2008, at about the time that Defendant MIG began issuing notes that, unlike earlier promissory notes, did not even purport to relate to a specific project.

81. Nevertheless, the Defendants continued to sell millions of dollars of promissory notes and stock to new unsuspecting investors after the Ponzi scheme began, and continued to do so into 2011.

82. MIG began issuing promissory notes in or about March 2008. Early MIG promissory notes refer not to a project but to an unnamed "entity for which the money is earmarked." Later notes issued by MIG, and all notes issued by Rockwell, are completely vague and ambiguous, suggestive of a "blind pool," and contain the following language:

the Company [i.e., MIG or Rockwell] is continually exploring opportunities to maximize its growth and strategic position, including, among other things, through reorganizations, recapitalizations, private placements, strategic alliances, joint ventures, acquisitions and dispositions potentially involving all types and combinations of equity, debt and other alternatives and by hiring new personnel and providing new opportunities to current personnel.

83. Indeed, most of the money raised by both MIG and Rockwell was not used as represented by Van Zandt Sr. to the investors.

84. Rather, some of the money raised from investors in MIG promissory notes was transferred to bank accounts of Defendants Burke and Empire, and used to pay principal or interest payments to holders of promissory notes issued by Burke and Empire out of the Burke and Empire accounts.

85. Similarly, some of the money raised from investors in Rockwell promissory notes was transferred to Burke, Empire and MIG bank accounts, and principal or interest was paid to holders of Burke, Empire and MIG promissory notes from the Burke, Empire and MIG accounts.

86. Many of the investors in the Defendants' promissory notes are retirees who used their retirement funds to purchase promissory notes from the Defendants. Defendants stopped paying interest to most of the defrauded investors in or about 2010 or 2011, and have ignored most of the investors' requests to return their principal.

87. When examined under oath by Assistant Attorneys General, once pursuant to subpoena in the Attorney General's Office and again in the courthouse before a Special Referee pursuant to Justice Madden's Order, Defendants Van Zandt Sr. and Gervasi asserted their Fifth Amendment privilege against self-incrimination in response to questions about their activities in connection with the issuance, offer and sale of promissory notes and the uses of funds obtained from investors.

88. Van Zandt Sr., after stating under oath his name and home address, asserted his Fifth Amendment privilege in response to the following questions, among others, from which adverse inferences of his fraudulent acts and practices can be drawn:

Would you briefly describe your education, beginning with high school?

Do you have any professional licenses, certifications or registrations with the State of New York?

Are you currently employed?

Mr. Van Zandt, do you currently have a position as an officer or director of Van Zandt Agency, Incorporated?

Mr. Van Zandt, in the last few years you have been involved in the development of real estate in the State of New York and elsewhere, have you not?

In each of the projects just mentioned, you engaged in the solicitation of investments to finance those real estate development projects, have you not?

You personally have been involved in soliciting of more than \$18,000,000 for the development of those projects, have you not?

You have been a registered representative of a number of securities firms in New York State, have you not, over the past few years?

In each case, however, the securities firm who employed you as their agent was unaware of your solicitation of sale of the promissory notes that we mentioned, is that not true?

Is it correct that the investors in the real estate deals with which you were affiliated were your accounting and tax preparation clients?

Isn't it correct that your brokerage and tax clients were induced to finance the construction development of such real estate deals by promises variously of nine and 12 percent interest and the return of their principal in 24 months?

Isn't it true that many of the real estate investors did not receive the interest payments promised in their financing agreement?

Isn't it true that many of the real estate investors did not receive the principal of their investment?

89. Defendant Gervasi, after stating under oath that her full name is Kimmarie Van Zandt, and that she is also known by the name Kimmarie Gervasi, asserted her Fifth Amendment privilege in response to the following questions, among others, from which adverse inferences of her fraudulent acts and practices can be drawn:

Are you currently employed?

Are you an officer or director of Empire Builders of New York Corporation?

Are you currently married?

In your position as officer of Burke & Grace Avenue Corporation and Empire Builders of New York Corporation you have issued agreements, have you not?

Those agreements were a recognition of investments by New York residents in certain real estate acquisitions and development projects; is that true?

The agreements that you signed in the aggregate amount to many millions of dollars, do they not?

Isn't it true that Burke & Grace Avenue Corporation has obtained at least \$13 million from New York investors since the inception of its borrowing program?

What has been done with the money that was raised from investors?

Are you currently raising money from investors by means of promissory notes or agreements that you have signed or are planning to sign?

The Issuing Defendants' Unregistered Issuance, Offers and Sales of Securities

90. From locations in New York State, the Defendants collectively have obtained more than \$35 million from the sale of various securities to more than 250 investors residing in New York State and elsewhere without having filed the required registration statements with the Department of Law of the State of New York ("Department of Law") as securities brokers, dealers, or "salesmen," as appropriate to their particular roles in the issuance, offer, and sale of the securities.

91. The securities consisted of promissory notes issued, offered and sold by Van Zandt Agency, Burke, Empire, MIG and Rockwell, and full or partial shares of stock issued, offered and sold by RS Enterprises.

92. The promissory notes and stock were securities as defined by GBL § 352(1) and the case law regarding investment contracts.

93. By offering and selling securities that they had issued, Defendants Van Zandt Agency, Burke, Empire, MIG, Rockwell, and RS Enterprises were each a securities "dealer" as that term is defined in GBL § 359-e(1)(a). As dealers, those corporations were subject to the registration requirements of GBL §§ 359-e(2) and (3).

94. Defendants Van Zandt Sr. and Gervasi, by engaging in the offer and sale of securities as officers, employees, and/or agents of Van Zandt Agency, Burke, Empire, MIG, Rockwell, and/or RS Enterprises, each acted as a securities “salesman” as that term is defined in GBL § 359-e(1)(c). As salesmen, Van Zandt Sr. and Gervasi were subject to the requirements of GBL §§ 359-e(3).

95. GBL § 359-e(2) provides that no securities broker or dealer may offer or sell securities without having filed a “state notice” with the Department of Law.

96. GBL § 359-e(3) provides that it shall be unlawful for any broker, dealer or salesman to sell or offer for sale any securities unless or until such broker, dealer or salesman has filed a registration statement with the Department of Law. The registration statement required of a broker or dealer is the “broker-dealer statement” described in GBL § 359-e(3)(a). The registration statement required of a salesman is the “salesman’s statement” described in GBL § 359-e(3)(b).

97. The Department of Law has no record showing that, at least since 2000, Van Zandt Agency, Burke, Empire, MIG, Rockwell, or RS Enterprises has filed a state notice pursuant to GBL § 359-e(2) or a registration statement pursuant to GBL § 359-e(3), or has been exempt from registration.

98. The Department of Law has no record showing that, at least since 2000, Gervasi has filed a registration statement pursuant to GBL § 359-e(3), or has been exempt from registration.

99. Van Zandt Sr. was registered with the Department of Law as a securities salesman for various brokerage firms from 1997 until June 2010, but he nonetheless violated the registration requirements of the Martin Act by failing to register the Issuing Defendants, of

which he was a principal, as securities dealers pursuant to GBL § 359-e(3)(a), and by failing to register himself as a securities salesman for the Issuing Defendants.

100. Defendant Van Zandt Sr. offered and sold approximately 465 promissory notes from 2001 to 2011, each of which was issued by one of the Defendants Van Zandt Agency, Burke, Empire, MIG or Rockwell, totaling approximately \$34 million. Defendant Van Zandt Sr. offered and sold shares or partial shares of stock issued by RS Enterprises, totaling approximately \$1.6 million.

101. Defendant Van Zandt Sr., in his official capacity as an officer, principal or agent of the corporations, executed promissory notes issued by Van Zandt Agency, MIG and Rockwell.

102. Defendant Gervasi, in her official capacity as an officer or agent of the corporations, executed promissory notes issued by Burke, Empire, MIG and Rockwell.

103. The Defendants' unregistered issuance, offer and/or sale of securities in and from the State of New York described herein were *per se* fraudulent practices under the Martin Act.

104. The Defendants, directly or indirectly, have engaged, and unless enjoined may once again engage, in fraudulent practices including, but not limited to, making material oral and written misrepresentations to the public about the securities issued and/or offered and sold by the Issuing Defendants, and offering for sale and selling securities to the public in and from the State of New York without either registering with the State of New York pursuant to GBL § 359-e, or obtaining an exemption from registration.

The Conversion Defendants' Conversion by Taking of Defrauded Investors' Funds

105. Defendant Van Zandt Agency of Westchester, Inc. converted, by taking for its own use without entitlement, at least \$25,000 of the moneys that Issuing Defendants fraudulently

obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$180.55 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

106. Defendant Van Zandt Agency of Brooklyn, Inc. converted, by taking for its own use without entitlement, moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$255.04 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

107. Defendant Johnny Gs, Inc. converted, by taking for its own use without entitlement, at least \$82,000 of the moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$475.00 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

108. Defendant Upstate Land and Properties LLC converted, by taking for its own use without entitlement, moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers, managers, members and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$200.04 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

109. Defendant 1314 Blondell Ave. Corp. converted, by taking for its own use without

entitlement, at least \$97,000 of the moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$900.04 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

110. Defendant 164-174 1st Street Inc. converted, by taking for its own use without entitlement, at least \$8,000 of the moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$625.52 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

111. Defendant 2472 Wenner Place Corp. converted, by taking for its own use without entitlement, moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$250.04 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

112. Defendant 741 East 217th Street Corp. converted, by taking for its own use without entitlement, moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$250.04 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

113. Defendant Boller & Boston Road Corp. converted, by taking for its own use without entitlement, moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$250.04 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

114. Defendant Bridgeview Estates Condominium H.O.A. Inc. converted, by taking for its own use without entitlement, moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$4,547.25 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

115. Defendant Laundry Time of New York Inc. converted, by taking for its own use without entitlement, at least \$12,000 of the moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$350.04 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

116. Defendant P.I.A. Services, Inc. converted, by taking for its own use without entitlement, at least \$20,000 of the moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$205.04 remained in two of its TD Bank accounts when

they were frozen by Justice Madden's Order.

117. Defendant Swing On Me.Com Inc. converted, by taking for its own use without entitlement, at least \$1,200 of the moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$209.04 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

118. Defendant Van Zandt Realty Inc. converted, by taking for its own use without entitlement, moneys that Issuing Defendants fraudulently obtained from investors in the Issuing Defendants' securities. At all relevant times, Defendants Van Zandt Sr. and Gervasi were its principals, officers and/or control persons, and they deposited the converted funds into its bank accounts. A total of \$225.25 remained in two of its TD Bank accounts when they were frozen by Justice Madden's Order.

119. As part of the Ponzi scheme described above, each of the Issuing Defendants converted, by taking for its own use without entitlement, moneys that other Issuing Defendants fraudulently obtained from investors in the those Issuing Defendants' securities.

FIRST CAUSE OF ACTION

Material Misrepresentations – GBL §§ 352(1) and 352-c

120. Plaintiff repeats and realleges every allegation contained in paragraphs 1 through 119 above as if fully set forth herein.

121. The Issuing Defendants, and each of them, individually made materially false and misleading representations, statements and promises to, and omitted to state material information

to, investors and potential investors about the nature of the securities, and the risks and potential returns of investing in those securities, issued, offered and sold by Defendants.

122. The foregoing acts and practices of Issuing Defendants and their agents and employees, consisting of materially false and misleading oral and written representations, statements, promises and omissions, constitute fraudulent acts and practices as defined in GBL §§ 352(1) and 352-c, are illegal and prohibited acts and practices pursuant to GBL §§ 352-c and 359-g(2), and are subject to the equitable remedies of permanent injunctive relief and restitution set forth in GBL § 353.

123. Plaintiff and the public have been, and are being, irreparably harmed by the aforesaid acts and practices and have no adequate remedy at law.

SECOND CAUSE OF ACTION

Material Misrepresentations – Common Law Fraud

124. Plaintiff repeats and realleges every allegation contained in paragraphs 1 through 123 above as if fully set forth herein.

125. The Defendants' intentionally false and misleading representations of material existing facts to investors constitute actual and/or constructive fraud under the common law of the State of New York in that the Defendants made such false and misleading representations with actual knowledge or scienter that their representations were false and misleading and with the intent that investors would rely on such false and misleading representations, that the investors rightly relied on such false and misleading representations in making the decisions to purchase the securities issued, offered and sold by the Defendants, that the investors did not know that such representations were false and misleading, and that as a result of such reliance the investors suffered economic damages.

126. Plaintiff and the public have been, and are being, irreparably harmed by the aforesaid acts and practices and have no adequate remedy at law.

THIRD CAUSE OF ACTION

Repeated and Persistent Fraud and Illegality – Executive Law § 63(12)

127. Plaintiff repeats and realleges every allegation contained in paragraphs 1 through 126 above as if fully set forth herein.

128. The acts and practices alleged herein of each of the Defendants constitute conduct proscribed by Executive Law § 63(12), in that the Defendants engaged in repeated fraudulent or illegal acts or otherwise demonstrated persistent fraud or illegality in the carrying on, conducting or transaction of business.

129. Plaintiff and the public have been, and are being, irreparably harmed by the aforesaid acts and practices and have no adequate remedy at law.

FOURTH CAUSE OF ACTION

Failure to Register – GBL § 359(e)

130. Plaintiff repeats and realleges every allegation contained in paragraphs 1 through 129 above as if fully set forth herein.

131. Each of the Issuing Defendants, which issued the securities described hereinabove, failed to register with the Department of Law pursuant to GBL § 359-e as a securities dealer (which term includes an issuer of securities), thus violating GBL § 359-e and thereby engaging in a fraudulent practice as defined in GBL § 352(1).

132. Defendants Van Zandt Sr. and Gervasi, as principals of the corporate Issuing Defendants, each violated GBL § 359-e and thereby engaged in a fraudulent practice as defined in GBL § 352(1), by failing to register each of the Issuing Defendants as a securities dealer with the Department of Law pursuant to GBL § 359-e.

133. Defendant Gervasi violated GBL § 359-e and thereby engaged in a fraudulent practice as defined in GBL § 352(1), by failing to register with the Department of Law pursuant to GBL § 359-e as a securities salesman for the Issuing Defendants.

134. Defendant Van Zandt Sr. violated GBL § 359-e and thereby engaged in a fraudulent practice as defined in GBL § 352(1), by failing to register with the Department of Law pursuant to GBL § 359-e as a securities salesman for the Issuing Defendants.

135. Plaintiff and the public have been, and are being, irreparably harmed by the aforesaid acts and practices and have no adequate remedy at law.

WHEREFORE, Plaintiff demands judgment against the Defendants and Relief Defendants as follows:

A. Permanently enjoining Issuing Defendants from directly or indirectly engaging or attempting to engage in any manner in the issuance, exchange, sale, offer to sell, purchase, offer to purchase, promotion, negotiation, advertisement, investment advice, investment management or distribution of any stocks, bonds, notes, evidences of interest or indebtedness, foreign currency orders, calls or options, or any other securities or commodities within or from the State of New York;

B. Permanently enjoining Issuing Defendants from directly or indirectly engaging or attempting to engage in any manner in the securities or commodities business within or from the State of New York as a broker, dealer, issuer, investment advisor or investment manager, or as an officer, director, principal, controlling person, agent, affiliated person, consultant or salesman of a broker, dealer, issuer, investment advisor or investment manager;

C. Permanently enjoining Issuing Defendants from directly or indirectly engaging or attempting to engage in any manner in the writing, publishing, preparing, selling, or distributing

any letter or other literature advising, suggesting, or in any other manner communicating advice within or from the State of New York with respect to the purchase or sale of securities or commodities; and from forecasting, advising, or in any other manner suggesting either orally or in writing any method or methods to be used in connection with the purchase or sale of securities or commodities;

D. Pursuant to GBL § 353(3), directing Issuing Defendants, jointly and severally, to make restitution to defrauded investors of all moneys and property obtained directly or indirectly by the fraudulent acts and practices complained of herein, in the amount of Thirty-Five Million, Five Hundred Fifty-Four Thousand, One Hundred Ninety-One Dollars and Seventy-Nine Cents (\$35,554,191.79);

E. Pursuant to Executive Law § 63(12), directing all Defendants, jointly and severally, to make restitution to defrauded investors of all moneys and property obtained from them, directly or indirectly as a result of the fraudulent and illegal acts and practices complained of herein, in the amount of Thirty-Five Million, Five Hundred Fifty-Four Thousand, One Hundred Ninety-One Dollars and Seventy-Nine Cents (\$35,554,191.79);

F. Pursuant to the common law of the State of New York, directing all Defendants, jointly and severally, to pay damages suffered by defrauded investors as a result of the fraudulent acts and practices complained of herein, in the amount of Thirty-Five Million, Five Hundred Fifty-Four Thousand, One Hundred Ninety-One Dollars and Seventy-Nine Cents (\$35,554,191.79);

G. Pursuant to the Court's equitable powers, directing Relief Defendants to disgorge all moneys and property received directly or indirectly from Defendants, or any of them, that constituted ill-gotten gains resulting from the Defendants' fraudulent acts and practices against

the defrauded investors, and to which moneys and property Relief Defendants have no legitimate claim, in amounts to be determined at trial, so that such moneys and property can be restored to the defrauded investors;

H. Directing that the Order issued April 8, 2011, by the Honorable Joan A. Madden, Justice of the Supreme Court of the State of New York, in *Schneiderman v. Van Zandt, et al.*, Index No. 400889/11, Supreme Court, New York County, be amended or vacated in part to direct that the moneys and property of the respondents therein frozen pursuant to that Order be subject to any order and judgment of restitution and damages that is granted in this action;

I. Pursuant to GBL § 353-a, directing the appointment of a receiver to receive, for the benefit of defrauded investors, all payments of restitution and damages made by the Defendants and all moneys and property obtained from the Relief Defendants, and to take title to, and liquidate for the benefit of defrauded investors, all moneys and property derived by the Defendants and Relief Defendants, or any of them, by means of any of the fraudulent acts and practices alleged herein, including also all moneys and property with which such moneys and property have been mingled, because such moneys and property cannot be indentified in kind because of such commingling, together with any or all books of account and papers relating to such moneys and property;

J. Directing that each Defendant pay plaintiff an additional allowance of \$2,000 pursuant to Civil Practice Law and Rules § 8303(a)(6), and an additional allowance of \$2,000 pursuant to GBL § 353(1);

K. Permitting plaintiff to make further applications for such other and further relief as it appears to plaintiff is proper and necessary for the enforcement of the judgment; and

L. Awarding such other and further relief to plaintiff as the Court may deem just and proper in the circumstances.

Dated: New York, New York
May 16th, 2012

ERIC T. SCHNEIDERMAN
Attorney General of the State of New York
Attorney for Plaintiff

By: 
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ELIZABETH BLOCK
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Assistant Attorneys General
of Counsel

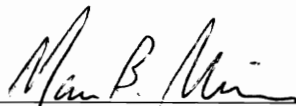
VERIFICATION

STATE OF NEW YORK)
 : SS:
COUNTY OF NEW YORK)

MARC B. MINOR, being duly sworn, deposes and says:

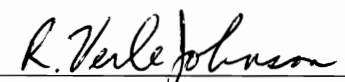
That he is an Assistant Attorney General and Chief of the Investor Protection Bureau in the office of Eric T. Schneiderman, Attorney General of the State of New York; and has read the foregoing complaint and knows the contents thereof; that the complaint is true to his own knowledge except as to the matters therein stated to be alleged on information and belief and as to those matters he believes the complaint to be true.

That the reason this verification is made by your deponent and not by the State of New York is that the State of New York is a body politic and sovereign acting through its officials and agents; that the source of your deponent's knowledge and the grounds of his belief are investigations caused to be made by the Office of the Attorney General of the State of New York and documents and records made available to it.



MARC B. MINOR
Assistant Attorney General
of the State of New York

Sworn to before me this
16th day of May, 2012



R. VERLE JOHNSON
Assistant Attorney General
of the State of New York