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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

X

Case No. 3:25-cv-01119-MAS-JBD

FIRST NATIONAL REALTY PARTNERS LLC,
FIRST NATIONAL REALTY ADVISORS LLC,
ANTHONY GROSSO, CHRISTOPHER
PALERMO, JARED FELDMAN, ANDREW
DENARDO, KURT PADAVANO , BILL
COMEAU, FRED BATTISTI, JR., MICHAEL
HAZINSKI, ANDREA BOITNOTT, SAM
COLLIER, MIKE LAW, and ANDREA WHITE,

Plaintiffs,
- Against -

JURY TRIAL DEMANDED

JAMES MAY, ANTHONY MUSTO, PATRICIA
THOMAS, JONATHAN CIANGIULLI, ABBA
KADER, CORY TEREICK, and STANLEY
GRUBER

Defendants.

X

ANSWER, AFFIRMATIVE DEFENSES, COUNTERCLAIM and THIRD-PARTY DEMAND

JAMES MAY (“May”), ANTHONY MUSTO (“Musto”), PATRICIA THOMAS (“Thomas”), JONATHAN CIANGIULLI (“Ciangiulli”), ABBA KADER (“Kader”), CORY TEREICK (“Tereick”), and STANLEY GRUBER (“Gruber”) (collectively, “Defendants” or “Counterclaim-Plaintiffs”), by and through their attorneys, respectfully submit this Answer, Affirmative Defenses and Counterclaim to the Complaint filed by ANTHONY GROSSO, CHRISTOPHER PALERMO, JARED FELDMAN, ANDREW DENARDO, KURT PADAVANO, BILL COMEAU, FRED BATTISTI, JR., MICHAEL HAZINSKI, ANDREA BOITNOTT, SAM COLLIER, MIKE LAW, ANDREA WHITE, FIRST NATIONAL REALTY PARTNERS LLC, FIRST NATIONAL REALTY ADVISORS, LLC

ANSWER

1. The allegations of paragraph 1 of the Complaint are denied.
2. The allegations of paragraph 2 of the Complaint are admitted.
3. The allegations of paragraph 3 of the Complaint are admitted.
4. The allegations of paragraph 4 of the Complaint are admitted.
5. The allegations of paragraph 4 of the Complaint are admitted to the extent of FNRP’s citizenship and domicile and that it is a private equity firm specializing in commercial real estate. The remaining allegations are denied as written.
6. The allegations of paragraph 6 of the Complaint are admitted.
7. The allegations of paragraph 7 of the Complaint are admitted as to Mr. Grosso’s role with FNRP. They are denied for lack of information as to his residence.

8. The allegations of paragraph 8 of the Complaint are admitted as to Mr. Palermo's role with FNRP. They are denied for lack of information as to his residence.

9. The allegations of paragraph 9 of the Complaint are admitted as to Mr. Feldman's role with FNRP. They are denied for lack of information as to his residence.

10. The allegations of paragraph 10 of the Complaint are admitted as to Mr. Denardo's role with FNRP. They are denied for lack of information as to his residence.

11. The allegations of paragraph 11 of the Complaint are admitted as to Mr. Padavano's role with FNRP. They are denied for lack of information as to his residence.

12. The allegations of paragraph 12 of the Complaint are admitted as to Mr. Comeau's role with FNRP. They are denied for lack of information as to his residence.

13. The allegations of paragraph 13 of the Complaint are admitted as to Mr. Battisti's role with FNRP. They are denied for lack of information as to his residence.

14. The allegations of paragraph 14 of the Complaint are admitted as to Mr. Hazinski's role with FNRP. They are denied for lack of information as to his residence.

15. The allegations of paragraph 15 of the Complaint are admitted as to Ms. Boitnott's role with FNRP. They are denied for lack of information as to his residence.

16. The allegations of paragraph 16 of the Complaint are admitted as to Mr. Collier's role with FNRP. They are denied for lack of information as to his residence.

17. The allegations of paragraph 17 of the Complaint are admitted as to Mr. Law's role with FNRP. They are denied for lack of information as to his residence.

18. The allegations of paragraph 18 of the Complaint are admitted as to Ms. White's role with FNRP. They are denied for lack of information as to his residence.

19. The allegations of paragraph 19 of the Complaint are admitted.

20. The allegations of paragraph 20 of the Complaint are admitted.

21. The allegations of paragraph 21 of the Complaint are admitted.

22. The allegations of paragraph 22 of the Complaint are admitted.

23. The allegations of paragraph 23 of the Complaint are admitted.

24. The allegations of paragraph 24 of the Complaint are admitted.

25. The allegations of paragraph 25 of the Complaint are admitted.

26. The allegations of paragraph 26 of the Complaint are admitted.

27. The allegations of paragraph 27 of the Complaint are admitted.

28. The allegations of paragraph 28 of the Complaint are admitted.

29. The allegations of paragraph 29 of the Complaint are admitted.

30. The allegations of paragraph 30 of the Complaint are admitted.

31. The allegations of paragraph 31 of the Complaint are admitted.

32. The allegations of paragraph 32 of the Complaint are admitted.

33. The allegations of paragraph 33 of the Complaint are admitted.

34. The allegations of paragraph 34 of the Complaint are admitted.

35. The allegations of paragraph 35 of the Complaint are admitted.

36. The allegations of paragraph 36 of the Complaint are admitted.

37. The allegations of paragraph 37 of the Complaint are admitted.

38. The allegations of paragraph 38 of the Complaint are admitted.

39. The allegations of paragraph 39 of the Complaint are admitted.

40. The allegations of paragraph 40 of the Complaint are admitted.

41. The allegations of paragraph 41 of the Complaint are admitted.

42. The allegations of paragraph 42 of the Complaint are admitted.

43. The allegations of paragraph 43 of the Complaint are admitted.

44. The allegations of paragraph 44 of the Complaint are admitted.

45. The allegations of paragraph 45 of the Complaint are admitted.

46. The allegations of paragraph 46 of the Complaint are admitted.

47. The allegations of paragraph 47 of the Complaint are admitted.

48. The allegations of paragraph 48 of the Complaint are admitted.

49. The allegations of paragraph 49 of the Complaint are admitted.

50. The allegations of paragraph 50 of the Complaint are admitted.

51. The allegations of paragraph 51 of the Complaint are admitted.
52. The allegations of paragraph 52 of the Complaint are admitted.
53. The allegations of paragraph 53 of the Complaint are admitted.
54. The allegations of paragraph 54 of the Complaint are admitted.
55. The allegations of paragraph 55 of the Complaint are denied as vague because they do not specify which agreements they refer to.
56. The allegations of paragraph 56 of the Complaint are denied as written. Most of the referenced agreements were signed by Defendants as representatives of various LLCs, not in their individual capacity.
57. The allegations of paragraph 57 of the Complaint are denied as written. The documents referenced are the best evidence of their contents. The allegations of paragraph 56 of the Complaint are further denied as vague to the extent that they do not specify the parties to whom the arbitration agreement. The arbitration agreement is only binding as between the parties to the agreement.
58. The allegations of paragraph 58 of the Complaint are denied. Defendants are not parties to the Asset Management Agreements and they sign solely in representative capacities as members of other LLCs and only then to acknowledge receipt, not to agree to the terms.
59. The allegations of paragraph 59 of the Complaint are admitted.
60. The allegations of paragraph 60 of the Complaint are denied. The document referenced is the best evidence of its contents and it does not require the arbitration of “all disputes ‘involving

the Fund, this Agreement, or the Operating Agreement.”” Rather, the arbitration clause is far more restrictive and does not cover any pending claims by Defendants.

61. The allegations of paragraph 61 of the Complaint are denied for lack of information.

62. The allegations of paragraph 62 of the Complaint are denied for lack of information.

63. The allegations of paragraph 63 of the Complaint are denied for lack of information.

64. The allegations of paragraph 64 of the Complaint are denied for lack of information.

65. The allegations of paragraph 65 of the Complaint are denied for lack of information.

66. The allegations of paragraph 66 of the Complaint are denied for lack of information.

67. The allegations of paragraph 67 of the Complaint are denied for lack of information.

68. The allegations of paragraph 68 of the Complaint are denied for lack of information.

69. The allegations of paragraph 69 of the Complaint are denied.

70. The allegations of paragraph 70 of the Complaint are denied to the extent that they assert that the allegations of the Draft Complaint are false. They are otherwise admitted as to the contents of the Draft Complaint.

71. The allegations of paragraph 71 of the Complaint are legal conclusions to which no response is required. However, to the extent that a response is required, they are denied.

72. The allegations of paragraph 72 of the Complaint are legal conclusions to which no response is required. However, to the extent that a response is required, they are denied.

73. The allegations of paragraph 73 of the Complaint are denied to the extent that they assert Defendants are required to arbitrate their claims. The allegations are admitted to the extent that Defendants intend to file their claims in Court.

74. The allegations of paragraph 74 of the Complaint are denied.

75. The allegations of paragraph 75 of the Complaint are denied.

76. The allegations of paragraph 76 of the Complaint simply reiterate the preceding allegations of the Complaint and no response is required. To the extent that a response is required, Defendants incorporate their responses to each of the preceding allegations of the Complaint.

77. The allegations of paragraph 77 of the Complaint are denied. Many of the referenced agreements were signed by Defendants as representatives of various LLCs, not in their individual capacity. The allegation that the Agreements are “binding, valid and enforceable contracts” is a legal conclusion that requires no response. To the extent that a response is required it is denied.

78. The allegations of paragraph 78 of the Complaint are denied as written. The documents referenced are the best evidence of their contents. It is further denied that Defendants are parties to each of the TIC Purchase Agreements or that the agreements require arbitration of the disputes at issue as they only apply to claims between the parties and may not be enforced by non-parties.

79. The allegations of paragraph 79 of the Complaint are legal conclusions that require no response. To the extent that a response is required, they are denied.

80. The allegations of paragraph 80 of the Complaint are denied. The document referenced is the best evidence of its contents and it does not require the arbitration of “all disputes ‘involving the Fund, this Agreement, or the Operating Agreement.’” Rather, the arbitration clause is far more restrictive and does not cover any pending claims by Defendants.

81. The allegations of paragraph 81 of the Complaint are legal conclusions that require no response. To the extent that a response is required, they are denied.

82. The allegations of paragraph 82 of the Complaint are legal conclusions that require no response to the extent that they assert the agreements are “binding, valid, and enforceable contracts.” To the extent that a response is required, they are denied. The remaining allegations of paragraph 82 are denied as written. The Asset Management Agreements were not executed by Defendants as a party.

83. The allegations of paragraph 83 of the Complaint are legal conclusions that require no response. To the extent that a response is required, they are denied. The referenced Asset Management Agreements are the best evidence of their contents.

84. The allegations of paragraph 84 of the Complaint are denied as written.

85. The allegations of paragraph 83 of the Complaint are legal conclusions that require no response. To the extent that a response is required, they are denied.

86. The allegations of paragraph 86 of the Complaint simply reiterate the preceding allegations of the Complaint and no response is required. To the extent that a response is required, Defendants incorporate their responses to each of the preceding allegations of the Complaint.

87. The allegations of paragraph 87 of the Complaint are denied. Many of the referenced agreements were signed by Defendants as representatives of various LLCs, not in their individual capacity. The allegation that the Agreements are “binding, valid and enforceable contracts” is a legal conclusion that requires no response. To the extent that a response is required it is denied.

88. The allegations of paragraph 88 of the Complaint are denied as written. The documents referenced are the best evidence of their contents. It is further denied that Defendants are parties to each of the TIC Purchase Agreements or that the agreements require arbitration of the disputes at issue as they only apply to claims between the parties and may not be enforced by non-parties.

89. The allegations of paragraph 89 of the Complaint are legal conclusions to which no response is required. To the extent that a response is required, they are denied.

90. The allegations of paragraph 90 of the Complaint are denied. The document referenced is the best evidence of its contents and it does not require the arbitration of “all disputes ‘involving the Fund, this Agreement, or the Operating Agreement.’” Rather, the arbitration clause is far more restrictive and does not cover any pending claims by Defendants.

91. The allegations of paragraph 91 of the Complaint are legal conclusions that require no response. To the extent that a response is required, they are denied.

92. The allegations of paragraph 92 of the Complaint are legal conclusions that require no response. To the extent that a response is required, they are denied.

93. The allegations of paragraph 93 of the Complaint simply reiterate the preceding allegations

of the Complaint and no response is required. To the extent that a response is required, Defendants incorporate their responses to each of the preceding allegations of the Complaint.

94. The allegations of paragraph 91 of the Complaint are denied.

95. The allegations of paragraph 92 of the Complaint are legal conclusions that require no response. To the extent that a response is required, they are denied.

96. Defendants denied all allegations contained in the WHEREFORE paragraph.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiffs' fail to state a claim against the Defendants upon which relief can be granted.

Second Affirmative Defense

Plaintiffs' claims are barred in whole or in part by the doctrine of estoppel.

Third Affirmative Defense

Plaintiffs' claims are barred in whole or in part by the doctrine of waiver.

Fourth Affirmative Defense

Plaintiffs' claims are barred in whole or in part by the doctrines of unclean hands and *in pari delicto*.

Fifth Affirmative Defense

Plaintiffs' claims are barred in whole or in part by lack of standing to the extent that they are not parties to the agreements that they seek to enforce.

Sixth Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, because Defendants acted in good faith at all times.

Seventh Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, to the extent that they had no contracts with Defendants.

Eighth Affirmative Defense

Plaintiffs' claims are barred, in whole or in part, to the extent that they have been released or compromised.

Ninth Affirmative Defense

Defendants hereby give notice that they intend to rely on such other defenses as they become available by law or during the discovery process and hereby reserves its right to amend its answer to assert such defenses.

COUNTERCLAIM

By and through their attorneys, JAMES MAY ("May"), ANTHONY MUSTO ("Musto"), PATRICIA THOMAS ("Thomas"), JONATHAN CIANGIULLI ("Ciangiulli"), ABBA KADER ("Kader"), CORY TEREICK ("Tereick"), and STANLEY GRUBER ("Gruber") (collectively, "Defendants" or "Counterclaim-Plaintiffs") bring this Counterclaim against ANTHONY GROSSO, CHRISTOPHER PALERMO, JARED FELDMAN, ANDREW DENARDO, KURT PADAVANO, BILL COMEAU, FRED BATTISTI, JR., MICHAEL HAZINSKI, , (the "Individual Counterclaim-Defendants"), FIRST NATIONAL REALTY PARTNERS LLC, FIRST NATIONAL REALTY ADVISORS, LLC, (collectively, "Plaintiffs") and FIRST NATIONAL PROPERTY MANAGEMENT LLC (together with Plaintiffs "Counterclaim-Defendants")¹, and respectfully allege as follows:

NATURE OF THE CASE

1. This action is brought pursuant to the Racketeer Influenced and Corrupt Organizations

¹ Counterclaim-Defendants Anthony Grosso and Christopher Palermo own Counterclaim-Defendant FNRP. Counterclaim-Defendants Jared Feldman, Andrew Denardo, Kurt Padavano, Bill Comeau, Fred Battist, Michael Hazinski, Andrea Boinett, Sam Collier, Mike Law, and Andrea White are the executive team for Counterclaim-Defendant FNRP. Counterclaim-Defendant FNRP owns all of the other corporate Counterclaim-Defendants. Counterclaim-Defendant FNRA is the asset manager for the companies.

Act, 18 U.S.C. §§ 1961-1968 (“RICO”)², state securities statutes and other referenced law, against the Counterclaim-Defendants named herein, for Counterclaim-Defendants’ wrongful and unlawful conspiracy, and systematic pattern of deception and fraud in connection with Counterclaim-Defendants’ marketing and sale to Counterclaim-Plaintiffs of shares in various LLCs (the “LLCs”),³ which purchased large-scale commercial properties for investment (the “Underlying Properties”).

2. Counterclaim-Defendants’ conspiracy to defraud Counterclaim-Plaintiffs with respect to their investments in the LLCs permeated every aspect of Counterclaim-Defendants’ interactions and business dealings with Counterclaim-Plaintiffs, as well as the financials for the Underlying Properties and the LLCs. From the start, Counterclaim-Defendants employed sophisticated, unconscionable, and abusive phone-tactics that preyed upon investors seeking investment returns, like Counterclaim-Plaintiffs.

3. Counterclaim-Defendants, upon information and belief, then maliciously and willfully conspired to defraud Counterclaim-Plaintiffs and violate RICO, and Securities and Exchange Commission (“SEC”) Regulations by, amongst the plethora of other reasons discussed herein:

- (i) **paying illegal commissions to their salespersons** in violation of SEC Regulation D;⁴

² Counterclaim-Defendants are included in this action independently and as RICO Association-In-Fact Enterprises. See 18 U.S.C. §§ 1961-1968.

³ The LLCs for which Counterclaim-Defendants sold shares in to Counterclaim-Plaintiffs included:

Brandywine Crossing Realty Fund LLC, McAlpin Square Realty Fund LLC, Sand Hill Plaza SC Realty Fund LLC, HV Center Realty Fund, Village at Pitt Mills Realty Fund LLC, Crowe’s Crossing Realty Fund LLC, Summerdale Plaza Realty Fund LLC, Southland Crossings Realty Fund LLC, SS Tulsa Center Realty Fund LLC, Westwood SC Realty Fund LLC, Champions Village Realty Fund LLC, PC Center TIC 1 Member LLC, CS Center Realty Fund LLC, CK Center Realty Fund LLC, and Tropicana Centre LV Realty Fund LLC, CS Center Realty Fund LLC, CK Center Realty Fund LLC, Tropicana Centre LV Realty Fund LLC, McAlpin Square TIC 5 LLC, Tannehill TIC 5 LLC, and Maple Park SC TIC 12 Member LLC (collectively, the “LLCs”).

⁴ Counterclaim-Defendants violated SEC Reg D by selling private placement securities without a broker-dealer license while paying Counterclaim-Defendants’ employees and salespersons *transaction-based compensation*, and also by trying to circumvent SEC Reg D and illegally paying Counterclaim-Defendants’ employees and salespersons *transaction-based compensation* under the guise of a

(ii) **overvaluing the Underlying Properties** in order to fraudulently abscond with the difference in price between the amount that Counterclaim-Plaintiffs invested in each Underlying Property and the lesser price Counterclaim-Defendants actually paid for each Underlying Property and to inflate fees charged by Counterclaim-Defendants that were calculated based upon the value of the property;

(iii) **making unauthorized transfers and distributions** to themselves and companies they own and **commingled funds**, and using other related-entities to **siphon funds from the Underlying Properties**; and

(iv) **fraudulently skimming from Counterclaim-Plaintiffs more than half of the returns from the Underlying Properties** by falsely holding out to Counterclaim-Plaintiffs that Counterclaim-Defendants were buying the Underlying Properties at below market prices – which was false.

See Dr. Craig McCann, SLCG Economic Consulting: *First Realty Partners Reg D Offerings: Muppets Do Commercial Real Estate* at 3-4 (the “Dr. McCann Article”) (attached hereto as Exhibit 1, with the *Curriculum Vitae* of Dr. McCann) (showing an example Counterclaim-Defendants scheme and Cash Distributions Chart concerning Counterclaim-Defendants’ purchase of and financial accounting for Counterclaim-Defendant LLC –*Maple Park SC Realty Fund LLC* (“Maple Park”) – and concluding that **“FNRP is not buying these properties at below market prices as it claims. FNRP buys a property at or above market and shaves more than half of the returns for itself.”**) Contra RICO FNRP’s Marketing and Sales Materials, <https://fnrpusa.com/fnlp360/> (FNRP video where Counterclaim-Defendants falsely state that Counterclaim-Defendants “secure properties both on-market and off-market, at or below market value . . .); infra.⁵

4. Counterclaim-Defendants continued to fraudulently induce Counterclaim-Plaintiffs to make their investments in the LLCs by conspiring to fraudulently misrepresent to Counterclaim-

bonus pool.

⁵ Several of the Counterclaim-Plaintiffs herein were sold by Counterclaim-Defendants shares in the Maple Park investment.

Plaintiffs that:

- (a) Counterclaim-Defendants had completed all of their *due diligence* respecting their purchases of the Underlying Properties;
- (b) the Underlying Properties required no significant, material improvements before they could be occupied for profit and resold by Counterclaim-Defendants (with a significant payout to Counterclaim-Plaintiffs);⁶
- (c) Counterclaim-Plaintiffs would receive consistent, *blended investment-returns* from the Counterclaim-Defendant LLCs of up to 9% annually;⁷ and
- (d) Counterclaim-Defendants had used *fixed-interest* financing to purchase the *Underlying Properties*.⁸
- (e) Average Annual Investor Returns were between 12% and 18%, despite no reasonable basis for make such a representation either based upon past returns or any reasonable belief in the likelihood of future returns in such range.⁹

5. In reality and unbeknownst to Counterclaim-Plaintiffs, Counterclaim-Defendants were able to make each of the Underlying Properties *appear* like a profitable investment because Counterclaim-Defendants had defrauded Counterclaim-Plaintiffs by presenting financial

⁶ Counterclaim-Defendants also deceived Counterclaim-Plaintiffs and other investors in a video on their company website describing the due diligence that Counterclaim-Defendants' supposedly perform on every investment deal, where RICO-Counterclaim-Defendant FNRP falsely claimed that, before every purchase of an investment property by Counterclaim-Defendants: "*we have a Strike Force . . . [and] we turn over every stone we can prior to closing on an asset to make sure there are no surprises once we close.*" See <https://fnrpusa.com/fnrp360/>

⁷ See Exhibit 2 (screenshots of financials sent to Counterclaim-Plaintiffs from Counterclaim-Defendants guaranteeing annual returns of more than 9% for Counterclaim-Defendant LLC investments).

⁸ Counterclaim-Defendants have attempted to hide their conspiracy to defraud Counterclaim-Plaintiffs by, amongst the other ways discussed herein, using a program called "*Deal Room*," which enabled Counterclaim-Defendants to make presentations to Counterclaim-Plaintiffs regarding the LLC investments, and then covertly take-back all of the documents they produced in those presentations. See *infra*.

⁹ Vanguard's REIT index fund which tracks US traded REITs has had an 8.1% annualized return over the past 25 years. Based upon the fees and costs associated with FNRP's business model, it could not reasonably expect to deliver investors returns of more than 3% to 4% per year on average.

projections based on inflated valuations of the properties, that resulted in false cap rates, and used assumptions about fixed-interest rates loans when Defendants knew the properties were financed at variable rates. After Counterclaim-Defendants extracted their excessive fees and markups, Counterclaim-Plaintiffs were left with shares in companies that did not – *and could not* – produce proper distributions to Counterclaim-Plaintiffs, or be sold for profit.

6. For instance, approximately two to three years ago, Counterclaim-Defendants purchased the Underlying Property – Summerdale Plaza Realty Fund LLC (“Summerdale Plaza”) for approximately \$17.25 Million, and Counterclaim-Defendants sold shares to Counterclaim-Plaintiffs and other investors in *Summerdale Plaza*. Repeatedly, Counterclaim-Defendants touted to Counterclaim-Plaintiffs and other investors that the *Summerdale Plaza* investment was a stabilized, extremely conservative investment. On February 6, 2025, however, Counterclaim-Plaintiffs were informed that Counterclaim-Defendants sold *Summerdale Plaza* for approximately \$15 Million – but a loss for Counterclaim-Plaintiffs of approximately 60% on their investments in *Summerdale Plaza*, which, upon information and belief, stems from Counterclaim-Defendants’ skimming from the Summerdale investment.¹⁰

7. In addition, Counterclaim-Defendants conspired to defraud Counterclaim-Plaintiffs regarding their purchases of shares in the LLCs by covertly, altering material terms in the purchase documents respecting the Underlying Properties (the “Purchase Documents”), without Counterclaim-Plaintiffs’ knowledge or informed consent, including: (i) Counterclaim-Defendants’ fraudulent allocation to Counterclaim-Plaintiffs with incorrect, decreased fractional-ownership in

¹⁰ See *Dr. McCann Article* at 3 (attached hereto as Exhibit 1, with the Curriculum Vitae of Dr. McCann). Counterclaim-Plaintiffs will seek discovery in this case to determine how Counterclaim-Defendants’ could allow such a massive loss to possibly occur with respect to an investment that Counterclaim-Defendants purported to Counterclaim-Plaintiffs was a “*stabilized, extremely-conservative investment.*”

the LLCs; and (ii) Counterclaim-Defendants' fraudulent imposition to Counterclaim-Plaintiffs of fraudulent acquisition-fees on every LLC investment – which allowed Counterclaim-Defendants to wrongfully collect millions of dollars in fraudulent fees.

8. To further help accomplish their scheme, Counterclaim-Defendants unilaterally designated themselves as the asset manager for the LLCs (the "Asset Manager"), and also as the sole realtor respecting commercial-tenant deals in the Underlying Properties (the "Sole Realtor"). Then, Counterclaim-Defendants conspired to fraudulently and secretly include provisions in the Purchase Documents that blocked Counterclaim-Plaintiffs' right to remove Counterclaim-Defendants from those posts. Thus, Counterclaim-Defendants were able to continue their wrongful conspiracy – unfettered – and further defraud Counterclaim-Plaintiffs and deplete the assets of the LLCs.¹¹

9. With Counterclaim-Defendants now holding this self-imposed, "Golden Ticket" as the Asset Manager, the Sole Realtor, and Owner of the LLCs (a textbook conflict-of-interest), Counterclaim-Defendants conspired to fraudulently manage the Underlying Properties, which enabled Counterclaim-Defendants to wrongfully collect from Counterclaim-Plaintiffs and the Counterclaim-Defendant LLCs: (a) millions of dollars in fraudulent fees and other charges – disguised as payments for services to various Counterclaim-Defendant-owned companies; and (b) unreasonable, self-serving commissions and tenant-lease fees and costs.¹²

¹¹ Pursuant to the provisions of the Purchase Documents, removal of Counterclaim-Defendant FNRA as the Asset Manager requires unanimous consent of every Counterclaim-Defendant LLCs. To block Counterclaim-Plaintiffs and the other investors from being able to accomplish this, Counterclaim-Defendants paid \$1 to make themselves a voting LLC. With Counterclaim-Defendants as a voting LLC, unanimous consent to remove Counterclaim-Defendant FNRA as the Asset Manager of the Counterclaim-Defendant LLCs became impossible for Counterclaim-Plaintiffs.

¹² One egregious example of Counterclaim-Defendants entering into a self-serving tenant-lease deal is the 2024 lease agreement between Counterclaim-Defendant Maple Park Place LLC and tenant Five Below, which Counterclaim-Defendants executed and from which Counterclaim-Defendants earned substantial commissions and fees. Counterclaim-Plaintiffs believe that discovery will show considerable other ways that Counterclaim-Defendants wrongly collected fees from the Underlying Properties and conspired to

10. For instance, Counterclaim-Defendants conspired to secretly form a construction arm of their business (under the guise of being separate from Counterclaim-Defendants) where, even though Counterclaim-Defendants supposedly completed all of their “due diligence” prior to purchasing the Underlying Properties, Counterclaim-Defendants’ conspired to fraudulently charge the Counterclaim-Defendant LLCs millions of dollars for excessive and unreasonable construction-work and material improvements on the Underlying Properties – which significantly depleted the assets of the LLCs and Counterclaim-Plaintiffs’ investments and distributions.¹³

11. Moreover, Counterclaim-Defendants misrepresented in *Asset Management Agreement* (“AMA”) provided to Counterclaim-Plaintiffs in connection with the investment that Counterclaim-Defendants would (a) make available for inspection detailed business and accounting records of the LLCs, (b) seek bids of all contracts in excess of \$50,000, (c) refrain from purchasing goods or services, or otherwise dealing with, affiliates of the assets manager for amounts above market rates; and (d) gain approval for material expenditures outside those contemplated in the Counterclaim-Defendant-LLC operating agreements, as required by the AMA.

12. Counterclaim-Defendants’ deceptive and fraudulent misconduct in this case, abusive methods of solicitation, and misrepresentations and omissions of material facts with respect to Counterclaim-Defendants’ wrongful conspiracy to market and sell to Counterclaim-Plaintiffs shares in the LLCs and to manage the Underlying Properties, as described herein, violate RICO,

fraudulently collect fees from the Underlying Properties and the Counterclaim-Defendant LLCs. See infra.

¹³ In this regard, Counterclaim-Defendants either: (a) fraudulently held out to Counterclaim-Plaintiffs – at the time of Counterclaim-Plaintiffs’ investments – that Counterclaim-Defendants had completed all of their due diligence respecting their purchase of the Underlying Properties (and that the Underlying Properties were in good, working order) or (b) fraudulently held out to Counterclaim-Plaintiffs – after Counterclaim-Plaintiffs’ made their investments in the Counterclaim-Defendant LLCs – that Counterclaim-Defendants’ construction company was required to charge the Underlying Properties and Counterclaim-Plaintiffs millions of dollars to work on multiple, material improvements for the Underlying Properties.

the New Jersey Racketeering Act, and state securities laws, and the other laws referenced herein. Each separate sale, commission earned, misrepresentation, and/or illegal act by Counterclaim-Defendants constitutes a separate violation state securities laws and a separate act of fraud.

13. By way of this action, pursuant to RICO, the New Jersey Racketeering Act, state securities laws, and other applicable law, Counterclaim-Plaintiffs seek to: (i) rescind their investments in the various LLCs that the Counterclaim-Defendants conspired to unlawfully market and sell to Counterclaim-Plaintiffs; (ii) force Counterclaim-Defendants to disgorge all monies wrongfully collected, directly and indirectly, from Counterclaim-Plaintiffs in this case, including: (a) the amounts that Counterclaim-Plaintiffs invested in the LLCs, and (b) all acquisition and other fees, and commissions, wrongfully collected by Counterclaim-Defendants; and (iv) recover actual damages in the amount of at least \$12,283,804.00, plus *automatic* treble damages under 18 U.S.C. § 1964(c), triple actual damages pursuant to the New Jersey Racketeering Act, consequential damages, exemplary damages, pre- and post-judgment interest, attorneys' fees, litigation expenses, and costs of suit.

14. Because Counterclaim-Defendants' illegal conspiracy to defraud Counterclaim-Plaintiffs was committed by Counterclaim-Defendants in this case with willful and malicious intent to injure and damage Counterclaim-Plaintiffs, and with wanton, willful, and reckless disregard for Counterclaim-Plaintiffs' legal rights, and because Counterclaim-Defendants' wrongful conspiracy allowed Counterclaim-Defendants to siphon tens of millions of dollars from Counterclaim-Plaintiffs and the Counterclaim-Defendant LLCs, Counterclaim-Plaintiffs also seek an award of punitive damages of five times actual damages pursuant to the New Jersey Punitive Damages Act, N.J.S.A. 2A:15-5.9 *et seq.*.

JURISDICTION AND VENUE

15. This Court has original subject-matter jurisdiction over the claims based upon RICO and Section 10b of the Securities Exchange Act of 1934, 15 U.S.C. § 78aa, pursuant to 29 U.S.C. § 1331, 18 U.S.C. § 1964, and 18 U.S.C. §§ 1961 et seq.

16. In addition, this Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1337(a) as those claims are so related to the federal claims in this action that they form part of the same case or controversy.

17. Venue is proper in the United States District Court for the District of New Jersey pursuant to 28 U.S.C. § 1331(a) because at all relevant times at least one Counterclaim-Defendant resided, was found, had agents, and/or conducted business in this District. In addition, at all relevant times, Counterclaim-Defendants maintained a corporate office in this District. Moreover, a substantial part of Counterclaim-Defendants' wrongful and unlawful acts and omissions to Counterclaim-Plaintiffs occurred in this District.

PARTIES

18. COUNTERCLAIM-PLAINTIFF JAMES MAY is a resident of Quincy, Illinois. The Counterclaim-Plaintiff invested \$7,064,000.00 in the LLCs (see infra, Chart showing Counterclaim-Plaintiffs' investments in LLCs).

19. COUNTERCLAIM-PLAINTIFF ANTHONY MUSTO is a resident of Hewlett Harbor, New York. The Counterclaim-Plaintiff invested \$3,200,000.00 in the LLCs (see infra, Chart showing Counterclaim-Plaintiffs' investments in LLCs).

20. COUNTERCLAIM-PLAINTIFF PATRICIA THOMAS is a resident of San Diego, California. The Counterclaim-Plaintiff invested \$409,804.00 in the LLCs (see infra, Chart showing

Counterclaim-Plaintiffs' investments in the LLCs).

21. COUNTERCLAIM-PLAINTIFF JONATHAN CIANGIULLI is a resident of Freeport, New York. The Counterclaim-Plaintiff invested \$60,000.00 in the LLCs (see infra, Chart showing Counterclaim-Plaintiffs' investments in the LLCs).

22. COUNTERCLAIM-PLAINTIFF CORY TEREICK is a resident of Gilbert, Arizona. The Counterclaim-Plaintiff invested \$500,000.00 in the LLCs (see infra, Chart showing Counterclaim-Plaintiffs' investments in the LLCs).

23. COUNTERCLAIM-PLAINTIFF ABBA KADER is a resident of Laguna Niguel, California. The Counterclaim-Plaintiff invested \$800,000.00 in the LLCs (see infra, Chart showing Counterclaim-Plaintiffs' investments in the LLCs).

24. COUNTERCLAIM-PLAINTIFF STANLEY GRUBER is a resident of Delray Beach, Florida. The Counterclaim-Plaintiff invested \$250,000.00 in the LLCs (see infra, Chart showing Counterclaim-Plaintiffs' investments in the LLCs).

25. Counterclaim-Defendant FIRST NATIONAL REALTY PARTNERS LLC (“FNRP”) owns the other Counterclaim-Defendant LLCs and is a limited liability company with over \$2 billion in assets, organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey.

26. Counterclaim-Defendant FIRST NATIONAL REALTY ADVISORS LLC (“FNRA”) is the asset manager for the (FNRP-owned) LLCs, and is a limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. According to offering memoranda prepared by Counterclaim-Defendants, FNRA is

controlled by Counterclaim-Defendants Anthony Grosso and Christopher Palermo and is an affiliate of FNRP. Upon information and belief, FNRA is a subsidiary of FNRP.

27. Counterclaim-Defendants FIRST NATIONAL PROPERTY MANAGEMENT, LLC (“FNPM”) is a limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. FNPM employed certain of the salespersons who solicited Counterclaim-Plaintiff’s investments, including Ken Chapman. Upon information and belief, FNPM is a subsidiary of FNRP.

28. RICO Counterclaim-Defendant Anthony Grosso is the owner, managing member, and head decision maker for Counterclaim-Defendant FNRP and Counterclaim-Defendant FNRA. Upon information and belief, Counterclaim-Defendant Grosso is a resident of the State of New Jersey. Moreover, he is a RICO conspirator in this lawsuit (along with RICO Counterclaim-Defendant Palermo and other yet unnamed employees of Counterclaim-Defendants FNRP, FNPM, and FNRA, and the RICO Enterprises Counterclaim-Defendants FNRP, FNRA and FNPM) in connection with Counterclaim-Defendants’ conspiracy to defraud Counterclaim-Plaintiffs and systematic pattern of deception and misrepresentation with respect to Counterclaim-Defendants sale to Counterclaim-Plaintiffs of shares in the LLCs. Mr. Grosso is also a control person pursuant to the various applicable state securities laws. According to private placement memoranda prepared by Counterclaim-Defendants, Mr. Grosso “leads the firm’s investment team and is responsible for all investing, asset management, and finance functions, along with overseeing strategic direction.” Upon information and belief, Mr. Grosso was part of the executive team that conspired to silence concerns by John Chiappetta and Angela Hwang that Counterclaim-Defendants’ marketing material was misleading investors in violation of SEC rules and regulations.

29. RICO Counterclaim-Defendant Christopher Palermo is the owner, managing member, and head decision maker for Counterclaim-Defendant FNRP and Counterclaim-Defendant FNRA. Upon information and belief, Counterclaim-Defendant Palermo is a resident of the State of New Jersey. Moreover, he is a RICO conspirator in this lawsuit (along with RICO Counterclaim-Defendant Grosso and other yet unnamed employees of Counterclaim-Defendants FNRP and FNRA, and the RICO Enterprises Counterclaim-Defendants FNRP, FNRA, and FNPM) in connection with Counterclaim-Defendants' conspiracy to defraud Counterclaim-Plaintiffs and systematic pattern of deception and misrepresentation with respect to Counterclaim-Defendants' sale to Counterclaim-Plaintiffs of shares in the LLCs. Mr. Palermo is also a control person pursuant to the various applicable state securities laws. According to private placement memoranda prepared by Counterclaim-Defendants, "Mr. Palermo oversees investor capital raising initiatives, strategic planning, portfolio management, and business development as well as formulating overall investment strategy." Upon information and belief, Mr. Palermo was part of the executive team that conspired to silence concerns by John Chiappetta and Angela Hwang that Counterclaim-Defendants' marketing material was misleading investors in violation of SEC rules and regulations.

30. RICO Counterclaim-Defendant Jared Feldman is the Executive Chairman of Counterclaim-Defendant FNRP. He is a RICO conspirator in this lawsuit (along with the other RICO Counterclaim-Defendants named herein, other yet unnamed employees of Counterclaim-Defendants FNRP and FNRA, and the RICO Enterprises Counterclaim-Defendant FNRP and Counterclaim-Defendant FNRA) in connection with Counterclaim-Defendants' conspiracy to defraud Counterclaim-Plaintiffs and systematic pattern of deception and misrepresentation with respect to Counterclaim-Defendants' sale to Counterclaim-Plaintiffs of shares in the LLCs. Mr. Feldman is also a control person pursuant to the various applicable state securities laws. Mr.

Feldman was the direct report of the Counterclaim-Defendants' Chief Marketing Officer who was charged with responsibilities regarding preparation of marketing material that was distributed to Counterclaim-Plaintiffs. Upon information and belief, Mr. Feldman was part of the executive team that conspired to silence concerns by John Chiappetta and Angela Hwang that Counterclaim-Defendants' marketing material was misleading investors in violation of SEC rules and regulations.

31. RICO Counterclaim-Defendant Andrew DeNardo is the President – Head of Investor Relations – of Counterclaim-Defendant FNRP. Mr. DeNardo is also Chief Executive Officer of FNPM. He is a RICO conspirator in this lawsuit (along with the other RICO Counterclaim-Defendants named herein, other yet unnamed employees of Counterclaim-Defendants FNRP and FNRA, and the RICO Enterprises Counterclaim-Defendants FNRP, FNRA and FNPM) in connection with Counterclaim-Defendants' conspiracy to defraud Counterclaim-Plaintiffs and systematic pattern of deception and misrepresentation with respect to Counterclaim-Defendants sale to Counterclaim-Plaintiffs of shares in the LLCs. Mr. DeNardo is also a control person pursuant to the various applicable state securities laws. According to offering memoranda prepared by Counterclaim-Defendants, Mr. Denardo "oversees FNRP's day to day operations..." Mr. DeNardo was the direct report of some, or all, of the salesman who solicited Counterclaim-Plaintiffs' investments, including Ken Chapman. Upon information and belief, Mr. DeNardo was part of the executive team that conspired to silence concerns by John Chiappetta and Angela Hwang that Counterclaim-Defendants' marketing material was misleading investors in violation of SEC rules and regulations.

32. RICO Counterclaim-Defendant Kurt Padavano is the Chief Operating Officer of Counterclaim-Defendant FNRP. He is a RICO conspirator in this lawsuit (along with the other RICO Counterclaim-Defendants named herein, other yet unnamed employees of Counterclaim-

Defendants FNRP, FNPM, and FNRA, and the RICO Enterprises Counterclaim-Defendants FNRP, FNRA and FNPM) in connection with Counterclaim-Defendants' conspiracy to defraud Counterclaim-Plaintiffs and systematic pattern of deception and misrepresentation with respect to Counterclaim-Defendants sale to Counterclaim-Plaintiffs of shares in the LLCs. Mr. Padavano is also a control person pursuant to the various applicable state securities laws. Upon information and belief, Mr. Padavano was part of the executive team that conspired to silence concerns by John Chiappetta and Angela Hwang that Counterclaim-Defendants' marketing material was misleading investors in violation of SEC rules and regulations.

33. RICO Counterclaim-Defendant Bill Comeau is the Chief Financial Officer of Counterclaim-Defendant FNRP. He is a RICO conspirator in this lawsuit (along with the other RICO Counterclaim-Defendants named herein, other yet unnamed employees of Counterclaim-Defendants FNRP and FNRA, and the RICO Enterprises Counterclaim-Defendants FNRP, FNRA and FNPM) in connection with Counterclaim-Defendants' conspiracy to defraud Counterclaim-Plaintiffs and systematic pattern of deception and misrepresentation with respect to Counterclaim-Defendants sale to Counterclaim-Plaintiffs of shares in Counterclaim-Defendant LLCs. Mr. Comeau is also a control person pursuant to the various applicable state securities laws. Upon information and belief, Mr. Comeau was part of the executive team that conspired to silence concerns by John Chiappetta and Angela Hwang that Counterclaim-Defendants' marketing material was misleading investors in violation of SEC rules and regulations.

34. RICO Counterclaim-Defendant Fred Battisti is the Chief Revenue Officer of Counterclaim-Defendant FNRP. He is a RICO conspirator in this lawsuit (along with the other RICO Counterclaim-Defendants named herein, other yet unnamed employees of Counterclaim-Defendants FNRP and FNRA, and the RICO Enterprises Counterclaim-Defendants FNRP, FNRA

and FNPM) in connection with Counterclaim-Defendants' conspiracy to defraud Counterclaim-Plaintiffs and systematic pattern of deception and misrepresentation with respect to Counterclaim-Defendants sale to Counterclaim-Plaintiffs of shares in the LLCs. Mr. Battisti is also a control person pursuant to the various applicable state securities laws. Upon information and belief, Mr. Battisti was part of the executive team that conspired to silence concerns by John Chiappetta and Angela Hwang that Counterclaim-Defendants' marketing material was misleading investors in violation of SEC rules and regulations.

35. RICO Counterclaim-Defendant Michael Hazinski is the Chief Investment Officer of Counterclaim-Defendant FNRP. He is a RICO conspirator in this lawsuit (along with the other RICO Counterclaim-Defendants named herein, other yet unnamed employees of Counterclaim-Defendants FNRP and FNRA, and the RICO Enterprises Counterclaim-Defendants FNRP, FNRA and FNPM) in connection with Counterclaim-Defendants' conspiracy to defraud Counterclaim-Plaintiffs and systematic pattern of deception and misrepresentation with respect to Counterclaim-Defendants sale to Counterclaim-Plaintiffs of shares in the LLCs. Mr. Hazinski is also a control person pursuant to the various applicable state securities laws. Upon information and belief, Mr. Hazinski was part of the executive team that conspired to silence concerns by John Chiappetta and Angela Hwang that Counterclaim-Defendants' marketing material was misleading investors in violation of SEC rules and regulations.

THE LLCs¹⁴

36. BRANDYWINE CROSSING REALTY FUND LLC is a privately-held limited liability company organized under the laws of the State of Delaware, with its principal place of business

¹⁴ The LLCs are identified for reference but are not named as parties to this Counterclaim.

located in Red Bank, New Jersey. Brandywine Crossing Realty Fund LLC is invested in commercial real estate located in Brandywine, Maryland.

37. CHAMPIONS VILLAGE REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Champions Village Realty Fund LLC is invested in commercial real estate located in Houston, Texas.

38. CROWE'S CROSSING REALTY FUND LLC is a privately-held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Crowe's Crossing Realty Fund LLC is invested in commercial real estate located in Stone Mountain, Georgia.

39. HV CENTER REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. HV Center Realty Fund LLC is invested in commercial real estate located in Hookset, New Hampshire.

40. MCALPIN SQUARE REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. McAlpin Square Realty Fund, LLC is invested in commercial real estate located in Savannah, Georgia.

41. SAND HILL PLAZA REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Sand Hill Plaza Realty Fund LLC is invested in commercial real estate located in Newtown, Connecticut.

42. SOUTHLAND CROSSINGS REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Southland Crossing Realty Fund, LLC is invested in commercial real estate located in Boardman, Ohio.

43. SS TULSA CENTER REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. SS Tulsa Center Realty Fund, LLC is invested in commercial real estate located in Tulsa, Oklahoma.

44. SUMMERDALE PLAZA REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Summerdale Plaza Realty Fund, LLC is invested in commercial real estate located in Harrisburg, Pennsylvania.

45. VILLAGE AT PITT MILLS REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Village at Pitt Mills Realty Fund, LLC is invested in commercial real estate located in Tarentum, Pennsylvania.

46. WESTWOOD SC REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Westwood SC Realty Fund, LLC is invested in commercial real estate located in Fayetteville, North Carolina.

47. PC CENTER TIC 1 MEMBER LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank,

New Jersey. PC Center TIC 1 Member LLC is invested in commercial real estate located in Canton, Michigan.

48. CS CENTER REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. CS Center Realty Fund LLC is invested in commercial real estate located in University Heights, Ohio.

49. CK CENTER REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. CK Center Realty Fund LLC is invested in commercial real estate located in Florissant, Missouri.

50. TROPICANA CENTRE LV REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Tropicana Centre LV Realty Fund LLC is invested in commercial real estate located in Las Vegas, Nevada.

51. MCALPIN SQUARE TIC 5 LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. McAlpin Square TIC 5 LLC is invested in commercial real estate located in Savannah, Georgia.

52. MAPLE PARK SC TIC 12 MEMBER LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Maple Park SC TIC 12 Member LLC is invested in commercial real estate located in Bolingbrook, Illinois.

53. TANNEHILL TIC 5 LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Tannehill TIC 5 LLC is invested in commercial real estate located Bessemer, Alabama.

54. BISHOPS CORNER SC REALTY FUND LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. Bishops Corner SC Realty Fund LLC is invested in commercial real estate located in West Hartford, Connecticut.

55. CTS CENTER TIC 1 MEMBER LLC is a privately held limited liability company organized under the laws of the State of Delaware, with its principal place of business located in Red Bank, New Jersey. CTS Center TIC 1 Member LLC is invested in commercial real estate located in Sandy Springs, Georgia.

FACTS

56. Counterclaim-Defendant FNRP is a private equity firm (allegedly with over \$2 Billion in reported assets), that raises capital from investors to purchase commercial real-estate properties for investment. Counterclaim-Plaintiffs are private investors that purchased from Counterclaim-Defendants shares in various Limited Liability Companies (the “LLCs”), which Counterclaim-Defendants conspired to fraudulently market and sell to Counterclaim-Plaintiffs (and which are the basis for this lawsuit) (the “LLCs”).¹⁵ Throughout 2022 and 2023, Counterclaim-Defendants offered to Counterclaim-Plaintiffs and other investors shares in the LLCs.

57. From the start, Counterclaim-Defendants conspired to engage in a systematic pattern of

¹⁵ See supra note 3 (listing the Counterclaim-Defendant LLCs).

deception and fraud with respect to Counterclaim-Plaintiffs' investments in the LLCs, which permeated every aspect of Counterclaim-Defendants' interactions and business dealings with Counterclaim-Plaintiffs (as well as the financials for the Underlying Properties and the LLCs), and which allowed Counterclaim-Defendants to wrongfully collect more than \$12 Million from Counterclaim-Plaintiffs.¹⁶

58. Counterclaim-Defendants initially employed sophisticated, abusive phone-tactics, and ran a masterful – but fraudulent – sales-and-telemarketing operation, that preyed upon investors seeking investment returns, like Counterclaim-Plaintiffs. Counterclaim-Defendants personally and through various employees/sales agents made (and continue to make) thousands of intrastate and interstate telephonic sales calls per month, and contacted potential investors throughout the country.¹⁷

59. Counterclaim-Defendants falsely represented in offering memoranda that "The members of FNRP's investment committee search for high quality investments that can be acquired at perceived discounts to both market value and replacement cost."¹⁸

60. Counterclaim-Defendants falsely represented in offering memoranda:

The success of the investment strategy lays in FNRP's intentional focus on sourcing large amounts of off market deal flow and very selectively choosing which assets to acquire.

FNRP separates itself by attempting to "make money on the buy" on each

¹⁶ Counterclaim-Plaintiffs have alleged herein that Counterclaim-Defendants' have conspired to commit against Counterclaim-Plaintiffs fraudulent inducement; fraud in preparing the Agreements and financials concerning the Underlying Properties and the LLCs; and fraud by Counterclaim-Defendants in managing and being the Sole Realtor for the Underlying Properties. See infra.

¹⁷ Counterclaim-Defendants' conspiracy to use unscrupulous and manipulative sales and marketing techniques convinced each Counterclaim-Plaintiff (and other investors) to invest in the LLCs, by providing Counterclaim-Plaintiffs with fraudulent and deceptive information, and collecting the investment funds from Counterclaim-Plaintiffs via the U.S. Mail and/or intrastate and interstate wire transfers.

¹⁸ Counterclaim-Defendants removed access to the deal rooms containing the offering memoranda for each of the investments, so Counterclaim-Plaintiffs are no in possession of the memoranda for each fund. However, based upon the memoranda that have been reviewed, it appears each Offering Memorandum contained similar or identical language.

investment. In other words, FNRP will only seek to purchase assets that it feels can be purchased below market. This built-in value resides in the Contract.

61. Counterclaim-Defendants falsely represented in offering memoranda:

The investment objective of the Fund is to generate attractive risk-adjusted rates of return primarily through the acquisition of income-producing real estate at a discount to market value, with prospects for repositioning to create additional capital appreciation. Initial capital appreciation may be captured through the discount to market value attributable to the Contract.

62. Counterclaim-Defendants then, upon information and belief, conspired to falsely overvalue the Underlying Properties so that Counterclaim-Defendants could unlawfully and fraudulently abscond with the difference in price between the amount that Counterclaim-Plaintiffs invested in each Underlying Property and the lesser price Counterclaim-Defendants actually paid for each Underlying Property. Upon information and belief, one egregious example where Counterclaim-Defendants used their scheme and conspired to substantially overvalue the Underlying Property, and wrongfully collect from that property significant funds, was an investment that Counterclaim-Defendants sold to investors, named: *Waldorf Plaza*.¹⁹ A former insider has asserted that Waldorf Plaza was acquired by FNRP and its affiliates and then marked up millions of dollars before being sold to investors. Internal financial records filed into the public record in a case between FNPM and a former employee reflect that FNRP extracted \$10,223,277 in “Closing Costs and Fees” from the Waldorf Plaza property between its acquisition and re-sale to investors. The insider has further asserted that similar practices were widespread within investments marketed by FNRP.

63. Upon information and belief, a similar discrepancy exists with respect to the Tropicana

¹⁹ Counterclaim-Plaintiffs will seek in discovery information and financials respecting the *Waldorf Plaza* deal that Counterclaim-Defendants’ conspired to severely overvalue.

Center property. An investor has discovered that the final purchase price of the property was \$71.929 million, but that Defendants escrowed \$82.424 million to fund the purchase, creating a discrepancy of approximately \$10.5 million. That investor has submitted inquiries to FNRP about the discrepancy but to Counterclaim-Plaintiffs' knowledge FNRP has failed to respond.

64. Counterclaim-Defendants conspired to defraud Counterclaim-Plaintiffs by falsely holding out to Counterclaim-Plaintiffs that Counterclaim-Defendants were buying the Underlying Properties at below market prices – which was false – and then fraudulently skimming from Counterclaim-Plaintiffs **more than half** of the returns from the investment-properties they buy. See Dr. McCann Article at 3 (attached hereto as Exhibit 1, with the *Curriculum Vitae* of Dr. McCann) (showing an example Counterclaim-Defendants scheme and Cash Distributions Chart concerning Counterclaim-Defendants' purchase of and financial accounting for Counterclaim-Defendant LLC –*Maple Park SC Realty Fund LLC* (“Maple Park”) – and concluding that “**FNRP is not buying these properties at below market prices as it claims. FNRP buys a property at or above market and shaves more than half of the returns for itself.**”) (emphasis added).

65. Moreover, Counterclaim-Defendants violated Securities and Exchange Commission Regulation D by marketing and selling shares in the LLCs to Counterclaim-Plaintiffs and other investors (i.e., private placement securities), while paying illegal transaction-based compensation to their salespersons without a broker-dealer license, and also by Counterclaim-Defendants paying their salespersons transaction-based compensation under the guise of a bonus pool.

66. In presenting the investments in the LLCs to Counterclaim-Plaintiffs, Counterclaim-Defendants falsely held out that Counterclaim-Defendants had completed all of their required due diligence before purchasing each of the underlying investment properties (and that of Underlying

Properties required virtually no material improvements before they could be occupied for profit and re-sold by Counterclaim-Defendants in the near future).

67. In actuality, Counterclaim-Defendants conspired to form a construction arm of their business (under the guise of being separate from Counterclaim-Defendants) where Counterclaim-Defendants conspired to significantly deplete the assets of the LLCs and Counterclaim-Plaintiffs' investments and distributions – by feigning material improvements and, upon information and belief, collecting millions of dollars for fraudulent construction-work to the Underlying Properties.²⁰

68. In fact, RICO-Counterclaim-Defendant FNRP falsely stated in a video on their company website that, before every purchase of an investment property by Counterclaim-Defendants: “*we have a Strike Force . . . [and] we turn over every stone we can prior to closing on an asset to make sure there are no surprises once we close.*”²¹

69. Counterclaim-Defendants further falsely stated in offering memoranda that “FNRP puts each potential asset through a rigorous financial modeling and due diligence review by FNRP’s in-house team. The success of the investment strategy lays in FNRP’s intentional focus on sourcing large amounts of off market deal flow and very selectively choosing which assets to acquire.”

70. Counterclaim-Defendants further falsely stated in offering memoranda that:

FNRP employs a rigorous screening process that involves continuous monitoring of real estate fundamentals. Deal-specific screening includes a preliminary assessment of key metrics and the extent to which a thorough due diligence process can be completed due to time and other transaction constraints. Throughout the screening and diligence process, FNRP will reevaluate the risks of the transaction on an ongoing basis;

²⁰ See also *Dr. McCann Article* (attached hereto as Exhibit 1, with the Curriculum Vitae of Dr. McCann)

²¹ <https://fnrpusa.com/fnrp360/> (emphasis added).

refine its analysis of whether a competitive advantage to both successfully invest and implement its business plan exists; and whether the complexity of execution of the strategy is fully understood.

71. The foregoing representations were false. For instance, approximately two to three years ago, Counterclaim-Defendants purchased *Summerdale Plaza Realty Fund LLC* (“*Summerdale Plaza*”) for approximately \$18 Million, and Counterclaim-Defendants sold shares in that Underlying Property to Counterclaim-Plaintiffs and other investors. In marketing *Summerdale Plaza*, Counterclaim-Defendants touted to Counterclaim-Plaintiffs that the *Summerdale Plaza* investment was a stabilized, extremely-conservative investment that was virtually guaranteed to be resold for profit. On February 6, 2025, however, Counterclaim-Plaintiffs were informed by Counterclaim-Defendants that Counterclaim-Defendants sold *Summerdale Plaza* for approximately \$15 Million –a 60% loss to Counterclaim-Plaintiffs and other investors in their *Summerdale Plaza* investment, which, upon information and belief, stems from Counterclaim-Defendants’ skimming from the *Summerdale* investment.²²

72. Similarly, in October 2022, Counterclaim-Defendants acquired the Tropicana Centre in Las Vegas, Nevada, purportedly using the same “strike force” to ensure there were no surprises after closing. Instead, in their quarterly report for the fourth quarter of 2023, which was released in 2024, Counterclaim-Defendants announced that the property required a backflow improvement project that would cost \$1,250,000. Rosy projections in that report claimed the project could be completed by May 2024 and that “[r]e-allocated escrow money previously reserved for specific projects to backflow project, will decrease the amount of operating cash needed to complete the project.” FNRP

²² See Dr. McCann Article at 3 (attached hereto as Exhibit 1, with the Curriculum Vitae of Dr. McCann). Counterclaim-Plaintiffs will seek discovery in this case to determine how Counterclaim-Defendants could possibly allow such a massive loss to occur on a purportedly stabilized, extremely-conservative investment.

further claimed that “This is a project that was identified through the acquisition and is being required by the lender to complete.”

73. Counterclaim-Defendants further announced that, as a result of the backflow project, “to ensure financial stability through the completion of the backflow project, distributions and asset management fees will be withheld.”²³ Despite admitting that Counterclaim-Defendants were aware of the need for the project at the time of acquisition, Counterclaim-Defendants failed to disclose to investors that it would require withholding of distributions. Moreover, despite projection that the project would be completed by May 2024, distributions were still being withheld through the third quarter of 2024 and Counterclaim-Defendants announced in their third quarter report that they would continue to be withheld until the project was completed. In fact, distributions still have not recommenced.

74. Likewise, when Counterclaim-Defendants announced the September 23, 2021 acquisition of City Center Crossing, in which CTS CENTER TIC 1 MEMBER LLC invested, they proclaimed that “We are extremely excited to not only acquire our first asset in the Atlanta Market but to also add [anchor tenant] Lidl to our portfolio, one of the most rapidly growing grocers in the country.” In fact, Lidl closed in July 2022, less than a year after the acquisition of the property. As a result, distributions to investors were stopped and the property was put in a cash sweep by its lender. Losing an anchor tenant within a year after acquisition should not have been possible had there been adequate due diligence. Notably, the Lidl chain continues, it is only the City Center Crossing location that has gone out of business. Thus, Counterclaim-Defendants cannot blame broader macroeconomic forces for this closure. Had there been an adequate lease in place with Lidl, they

²³ Notably, although such fees are not being paid, they are still being accrued, thereby further diminishing the investor’s investments in the LLCs.

would have been protected against such loss because the chain continues to be viable.

75. As such, Counterclaim-Defendants either (a) fraudulently held out to Counterclaim-Plaintiffs – at the time of Counterclaim-Plaintiffs’ investments – that Counterclaim-Defendants had completed all of their due diligence respecting their purchase of the Underlying Properties (and that the Underlying Properties were in good, working order) or (b) fraudulently held out to Counterclaim-Plaintiffs – after Counterclaim-Plaintiffs’ made their investments in the Counterclaim-Defendant LLCs – that Counterclaim-Defendants’ construction company was required to charge the Underlying Properties and Counterclaim-Plaintiffs millions of dollars to work on multiple, material improvements for the Underlying Properties.²⁴

76. Counterclaim-Defendants also conspired to misrepresent to Counterclaim-Plaintiffs that the Underlying Properties would produce to Counterclaim-Plaintiffs consistent, blended investment-returns of up to 9% *annually*, because Counterclaim-Defendants had purportedly acquired the Underlying Properties *with fixed-interest loans*.²⁵

77. In reality and unbeknownst to Counterclaim-Plaintiffs, Counterclaim-Defendants were able to make each Underlying Property *appear* like a profitable investment, because Counterclaim-Defendants had actually and covertly financed the Underlying Properties with **variable** interest-rate loans. Moreover, upon information and belief, Counterclaim-Defendants used cap rate projections in their financial projections that were based upon inflated valuations of the Underlying Properties

²⁴ See <https://fnrpusa.com/fnlp360/> (video and website where Counterclaim-Defendants claim they perform all of the due diligence required by them using their “Strike Force Team,” before purchasing investment properties). The Counterclaim-Defendants have since removed the video.

²⁵ See Exhibits 2-3. These are the very reasons Counterclaim-Plaintiffs invested their money with Counterclaim-Defendants, as opposed to earning less FDIC-backed interest in a federal bank or credit union.

which fraudulently inflated projected rental income. And when the market turned and interest rates rose, because Counterclaim-Defendants deceived Counterclaim-Plaintiffs and failed to leverage the Underlying Properties with the *fixed*-interest financing as they had represented to certain investors, the properties became significantly overvalued, and Counterclaim-Plaintiffs were left with shares in companies that did not – *and could not* – produce proper distributions to Counterclaim-Plaintiffs, or be sold for profit.²⁶

78. In order to further induce Counterclaim-Plaintiffs to provide Counterclaim-Plaintiffs additional, false security and to make additional investments in the LLCs, Counterclaim-Defendants made additional, material misrepresentations to Counterclaim-Plaintiffs in their conspiracy to fraudulently market and sell the LLCs and manage the Underlying LLCs. For instance, Counterclaim-Defendants repeatedly lied to Counterclaim-Plaintiffs and falsely claimed that: (a) if Counterclaim-Plaintiffs desired, they could each “cash out” of the Counterclaim-Defendant LLC deals at any time; (b) salespersons of Counterclaim-Defendants were in fact a managing principal of FNRP (with decision making power) when, in reality, that was false; and (c) the founders and the management of FNRP had bought shares for themselves in each and every one of the LLC investments that Counterclaim-Plaintiffs had bought shares in. In reality, these statements by Counterclaim-Defendants were patently false.²⁷

79. Counterclaim-Plaintiffs were further lied to by Counterclaim-Defendants and told that

²⁶ As held out by Counterclaim-Defendants, Counterclaim-Plaintiffs were virtually guaranteed blended, annual investment-returns from the Counterclaim-Defendant LLCs of over 9% (with the Underlying Properties to be resold for significant profit) because: (i) Counterclaim-Defendants supposedly financed the Underlying Properties with fixed-rate loans; and (ii) the Underlying Properties allegedly required no significant, material improvements before they could be occupied for profit and sold in the near future, with a significant payout to Counterclaim-Plaintiffs. See, e.g., Exhibit 2-3

²⁷ See Exhibit 4 (communication from Counterclaim-Plaintiffs to Counterclaim-Defendants requesting that Counterclaim-Defendants cancel and return Counterclaim-Plaintiffs’ investments in the Counterclaim-Defendants LLCs, and response from Counterclaim-Defendants denying Counterclaim-Plaintiffs’ requests to cancel their investments).

Counterclaim-Plaintiffs would have access, any time they requested, to the documents and financials respecting the Underlying Properties, including the list of other investors. But when Counterclaim-Plaintiffs requested these items, in order to cover-up Counterclaim-Defendants' fraud, conspiracy, and material misrepresentations, Counterclaim-Defendants made it their policy of refusing to provide to Counterclaim-Plaintiffs any underlying documents (or the list of other investors), despite repeated demands by Counterclaim-Plaintiffs.

80. In turn, Counterclaim-Defendants' intentionally failed to provide Counterclaim-Plaintiffs with final copies of the Purchase Documents with reasonable time before Counterclaim-Defendants required Counterclaim-Plaintiffs to execute the Purchase Documents (so Counterclaim-Plaintiffs' attorneys could not properly review the Purchase Documents and Counterclaim-Plaintiffs were unaware of many contract terms and financial-numbers that Counterclaim-Defendants added at the last minute. Counterclaim-Defendants also calculatingly stalled their completion of the Purchase Documents until just before Counterclaim-Plaintiffs were required to file their 1031 property-exchange documents (which Counterclaim-Plaintiffs had already designated with the IRS, so Counterclaim-Plaintiffs were afraid to push back the date that Counterclaim-Defendants required Counterclaim-Plaintiffs to execute the Purchase Documents).

81. These hard-nosed tactics by Counterclaim-Defendants for immediate execution by Counterclaim-Plaintiffs of the Purchase Documents allowed Counterclaim-Defendants to fraudulently alter material-terms in the Purchase Documents without Counterclaim-Plaintiffs' informed consent and which Counterclaim-Plaintiffs were not aware of, including: (a) Counterclaim-Defendants' fraudulent allocation to Counterclaim-Plaintiffs with incorrect, decreased fractional-ownership in the LLCs; and (b) Counterclaim-Defendants' wrongful imposition of substantial acquisition-fees to be paid by Counterclaim-Plaintiffs to Counterclaim-

Defendants on every LLC investment. These covert additions by Counterclaim-Defendants to the Purchase Documents respecting the Counterclaim-Defendant LLCs allowed Counterclaim-Defendants to collect millions of dollars in fraudulent fees.²⁸

82. Counterclaim-Defendants concealed their conspiracy and wrongful conduct from Counterclaim-Plaintiffs, and kept Counterclaim-Plaintiffs from being able to physically keep, review, or compare the literature, documents, and financials that Counterclaim-Defendants used to present to Counterclaim-Plaintiffs the terms concerning Counterclaim-Plaintiffs' LLC investments and Counterclaim-Defendants' purchases of the Underlying Properties, by activating a computer program called "The Deal Room" – which serves to delete Counterclaim-Defendants' literature, documents and financials related to the LLCs after a short period of time. This enabled Counterclaim-Defendants to make fraudulent presentations to Counterclaim-Plaintiffs regarding the LLC investments, and then covertly "take back" all of the documents they produced in those presentations.²⁹

83. And when certain Counterclaim-Plaintiffs complained to Counterclaim-Defendants about the excessive management and other fees that Counterclaim-Defendants were wrongfully collecting from Counterclaim-Plaintiffs, Counterclaim-Defendants executed separate agreements with Counterclaim-Plaintiffs for reduced management fees, but, upon information and belief, Counterclaim-Defendants then failed to honor those separate agreements.³⁰

²⁸ The Purchase Documents were drafted by Counterclaim-Defendants and consist of many thousands of pages..

²⁹ Counterclaim-Plaintiffs will serve discovery requests and third-party subpoenas in this case for all documents that Counterclaim-Defendants' kept or used at any time in The Deal Room.

³⁰ See, e.g., Exhibit 5.

84. Moreover, to give Counterclaim-Defendants unfettered ability to continue their scheme, Counterclaim-Defendants unilaterally designated themselves as the asset manager for the LLCs (the “Asset Manager”), and also as the sole realtor respecting commercial-tenant deals in the Underlying Properties (the “Sole Realtor”). Then, Counterclaim-Defendants conspired to fraudulently and secretly include provisions in the Purchase Documents that blocked Counterclaim-Plaintiffs’ right to remove Counterclaim-Defendants from those posts. Thus, Counterclaim-Defendants were able to continue their wrongful conspiracy and further defraud Counterclaim-Plaintiffs and deplete the assets of the LLCs.³¹

85. With Counterclaim-Defendants now holding this self-imposed, “Golden Ticket” as the Asset Manager, the Sole Realtor, and Manager of the LLCs (a textbook conflict-of-interest), Counterclaim-Defendants conspired to fraudulently manage the Underlying Properties, which enabled Counterclaim-Defendants to wrongfully collect from Counterclaim-Plaintiffs and the LLCs: (i) millions of dollars in fraudulent fees and other charges – disguised as payments for services to various Counterclaim-Defendant-owned companies; and (ii) unreasonable, self-serving commissions and tenant-leasing fees and costs.³²

86. Counterclaim-Defendants charged these unreasonable fees despite false representations in their offering memoranda that their fees were “competitive with typical private investment

³¹ Pursuant to the provisions of the Purchase Documents, removal of Counterclaim-Defendant FNRA as the Asset Manager requires unanimous consent of every Counterclaim-Defendant LLC. To block Counterclaim-Plaintiffs and the other investors from being able to accomplish this removal process, Counterclaim-Defendants paid \$1 to make themselves a voting LLC. With Counterclaim-Defendants as a voting LLC, unanimous consent to remove Counterclaim-Defendant FNRA as the Asset Manager of the Counterclaim-Defendant LLCs became impossible for Counterclaim-Plaintiffs.

³² Counterclaim-Plaintiffs believe that discovery will show considerable other ways that Counterclaim-Defendants wrongly collected fees from the Counterclaim-Defendant LLCs and conspired to defraud Counterclaim-Plaintiffs, including Counterclaim-Defendants setting up and using other related entities to wrongfully collect fees from the Underlying Properties and the Counterclaim-Defendant LLCs.

partnerships” and that they would “exercise good faith and fairness in all dealings affecting the Fund.” In fact, Counterclaim-Defendants fees were not competitive with typical private investment partnerships and they had no intention of honoring the commitment to act fairly and in good faith when it was made and their entire business plan revolved around charging exploitative fees.

87. As the Sole Realtor, Counterclaim-Defendants also conspired to wrongfully collect unreasonable, self-serving commissions and leasing fees regarding tenant-leasing deals. One egregious example of Counterclaim-Defendants entering into a self-serving lease deal is the 2024 lease agreement between Counterclaim-Defendant Maple Park Place LLC and tenant Five Below, which Counterclaim-Defendants executed and from which Counterclaim-Defendants earned substantial commissions and fees. The reported leasing costs were \$1,071,380 for a lease agreement *valued only at \$2,286,284 over 10 years* – which makes absolutely no business or logical sense. And on top of that, Counterclaim-Defendants took six-month longer than reasonable to complete the self-serving, Five Below deal.

88. In order to induce Counterclaim-Plaintiffs investments, Counterclaim-Defendants made representations to Counterclaim-Plaintiffs in the private placement memoranda and *Asset Management Agreements* that they would provide Counterclaim-Plaintiffs with information and participation in decisions on key decisions. Specifically, Counterclaim-Defendants misrepresented that they would (1) send regular Reports, Budgets or Notifications for the Counterclaim-Defendant LLCs and/or the Underlying Properties to Counterclaim-Plaintiffs for review and/or approval; (2) notify or gain approval from Counterclaim-Plaintiffs for Counterclaim-Defendants’ material expenditures on the Underlying Properties outside those contemplated in the LLC operating agreements. Counterclaim-Defendants made the commitments to induce Counterclaim-Plaintiffs to invest in the projects. However, Counterclaim-Defendants made such commitments with the intent

to breach them because breaching such commitments was a necessary component of the premeditated scheme to extract excessive fees and payments from the LLCs and Underlying Properties and engage in self-dealing with their affiliated entities. Counterclaim-Defendant knew that if Counterclaim-Plaintiffs were provided the requested information, they would attempt to take action to prevent Counterclaim-Defendants from extracting such fees and other payments. Counterclaim-Defendants further facilitated such concealment by refusing to provide to Counterclaim-Plaintiffs any documents (or the list of other investors) related to the Underlying Properties, as required by the AMA.³³ Counterclaim-Defendants likewise failed to provide GAAP-financials, as promised in the private placement memoranda, which would have exposed the extent to which Counterclaim-Defendants were exploiting the properties through self-dealing and excessive fees.

89. Specifically, Counterclaim-Defendants failed to:

- deliver to the tenants-in-common Annual Budgets and Operating Plans for the LLCs, which Counterclaim-Defendants were required to deliver by the 15th of December each year;
- notify the tenants-in-common of any expenditures Counterclaim-Defendants made respecting the Underlying Properties that were not with the budget;
- notify the tenants-in-common of material increases in costs and expenditures respecting the Underlying Properties;
- notify the tenants-in-common of leasing expenditures and vacancies outside the Operating Plan respecting the Underlying Properties;
- notify the tenants-in-common of capital expenditures outside the Operating Plan respecting the Underlying Properties;

³³ Counterclaim-Plaintiffs do not bring any claims for breach of the AMA. Rather, this evidence is simply cited as evidence of the misrepresentations and omissions made by Counterclaim-Defendants to induce the sale of securities to Counterclaim-Plaintiffs.

- bid out contracts and expenditures over a certain threshold amount respecting the Underlying Properties;
- deliver accounting documents for the LLCs for tax filing purposes within the scheduled deadline.

90. To induce Counterclaim-Plaintiffs' investments, FNRP represented in its marketing material and on its website that it had a track record of achieving average annual investor returns of 12 to 18+. Although FNRP provides no support for this assertion, it is almost certainly false. Vanguard's REIT index fund which tracks US traded REITs has had an 8.1% annualized return over the past 25 years and those REITs generally do not charge fees anywhere near as high as Counterclaim-Defendants. As explained by Dr. McCann in the attached report, "FNRP takes more than half of investors' returns in equity distributions, "carried interest" and asset management fees while charging separately for the services provided for by the traded REITs.... FNRP's business model could not deliver investor returns of more than 3% or 4% per year on average when properly accounted."³⁴

91. Despite the fact that such promised returns were impossible given the levels of fees charged, Counterclaim-Defendants provided such fraudulent projections in connection with each of the LLC investments. For example, on the McAlpin Square investment, Counterclaim-Defendants represented in their marketing material that there would be projected distributable cash annually from 2022 through 2025 ranging from \$651,628 at the low end to \$826,911 in the high end, with a complete return of capital by year 4 and an annualized rate of return of 12.0%.

92. In reality, McAlpin Square never approached those projections. In 2022, its first year of operation, distributions were less than \$400,000, less than half of the projected amount and annual

³⁴ See Dr. McCann Article at 2-3.

distributions failed to ever reach \$500,000. For the first quarter of 2024, McAlpin Square made a distribution of only \$87,300 and then stopped distributions altogether thereafter.

93. Similarly, on the Tannehill Promenade investment, Counterclaim-Defendants represented in their marketing material that there would be projected distributable cash annually from 2022 through 2024 ranging from \$1,105,389 at the low end to \$1,783,741 on the high end, with a complete return of capital by year 3 and an annualized rate of return of 15.3%.

94. In reality, Tannehill Promenade never came close to meeting those financial projections. In its first year of operation, distributions were less than \$450,000, approximately half of what was projected, and in 2023 they did not even reach \$200,000 before they stopped altogether.

95. Similarly, on the Southland Crossings Realty Fund investment, the offering materials provided to Counterclaim-Plaintiffs by Counterclaim-Defendants represented that there would be average annual cash flow to investors of 7.75 to 8.4% and “projected annual internal rate of return on capital invested which includes cash distributions and capital appreciation is projected to be in a range of 12.1 to 12.7% to the Non-Managing Members.”

96. In reality, Southland Crossings never came close to meeting those financial projections. The property was acquired on November 16, 2021, but was in cash flow sweeps with its lender by the first quarter of 2023 and ceased all distributions to investors by the second quarter of 2023. Despite paying no cash to investors during 2024, Counterclaim-Defendants collected \$146,472 in property management fees and \$88,429 in asset management fees in 2024, among other amounts extracted from the property.

97. Similarly, on the Brandywine Crossing investment, the offering materials provided to Counterclaim-Plaintiffs by Counterclaim-Defendants represented that there would be average annual cash flow to investors of 7.25 to 7.8% and “projected annual internal rate of return on capital

invested which includes cash distributions and capital appreciation is projected to be in a range of 14.5 to 15.1% to the Non-Managing Members.”

98. In reality, Brandywine Crossing, which was acquired on March 29, 2022, went into cash sweep with its lender in the third quarter of 2022, just months after the investment was made, and ceased all distributions. In 2025, Counterclaim-Defendants announced that they had attempted to market the property for sale and only received one offer for \$58.5 million, substantially less than the alleged \$64 million purchase price, despite Counterclaim-Defendants (false) representations that the property had been acquired for below market value. It is inconceivable that Counterclaim-Defendants’ projections regarding the Brandywine property, and representations regarding thorough due diligence, could have been made in good faith yet turned out to be so shockingly inaccurate just months after the investment. In reality, the circumstances reflect that Counterclaim-Defendants were not doing thorough due diligence, buying properties at below market value, or making good faith financial projections. Instead, they were simply acquiring any properties they could get their hands on as fast as they could sell membership interests to investors such as Counterclaim-Plaintiffs so that Counterclaim-Defendants could extract any value that existed in the properties for themselves through fees, self-dealing, and carried interests.

99. Upon information and belief, Counterclaim-Defendants provided similarly exaggerated and false financial projection regarding each of the LLCs that they marketed to Counterclaim-Plaintiffs.³⁵

100. In fact, according to a Complaint filed against FNPM by Angela Hwang, former Chief Marketing Officer of FNPM, throughout her employment, she repeatedly raised concerns about what she believed were unethical practices by FNPM and its affiliates, including “whether the

³⁵ Because Defendants restricted access to the Deal Rooms, Counterclaim-Plaintiffs no longer have access to all of the original financial projections.

website content and marketing materials were compliance with SEC rules prohibiting 506(c) companies from promising or exaggerating returns.” According to Ms. Hwang, marketing material did not appear to be regularly reviewed for SEC compliance. Ms. Hwang alleges that she repeatedly asked the company to remove phrases in its marketing material that promised returns. According to Ms. Hwang, she raised these concerns repeatedly to Counterclaim-Defendant DeNardo.

101. According to Ms. Hwang’s Complaint, she then reached out to Counterclaim-Defendants’ SEC compliance expert, John Chiappetta, to express her concerns about the false promises to investors. Mr. Chiappetta informed her that “these guys just didn’t listen” to him.

102. Thereafter, Ms. Hwang alleges that she set up a process to ensure that Mr. Chiappetta reviewed marketing materials to ensure that they complied with SEC requirements, but executive leadership ignored Mr. Chiappetta’s questions and concerns. According to Ms. Hwang, Counterclaim-Defendant Feldman informed her that he would override Mr. Chiappetta and make the final call when the executive team did not like what Mr. Chiappetta was telling them. This evidence reflects that Counterclaim-Defendants had actual knowledge that their projections were false and misleading and continued to provide them to prospective investors anyway in an attempt to defraud such investors.

103. To induce Counterclaim-Plaintiffs’ investments, Counterclaim-Defendants provided Counterclaim-Plaintiffs with knowingly false financial projections that Counterclaim-Defendants had to know at the time were unreasonable and unachievable based upon the level of fees they were intending to charge. Counterclaim-Plaintiffs then relied upon these projections in making their investments in the LLCs. General market conditions cannot be blamed for the dramatic failures to meet expectations, because benchmark indices in the real estate sector have yielded positive returns over the same time period. Rather, Counterclaim-Defendants’ representations were not just

incorrect, but fraudulent, unachievable, and without any basis in reality when made.

104. According to Ms. Hwang, Counterclaim-Defendants also made arbitrary changes to their reported amount of assets under management reflected on their website and marketing material. According to Ms. Hwang, the reported amount of assets under management literally changed overnight from \$1.6 billion to \$2 billion. Upon information and belief, this change was to give the firm more credibility with investors. According to Ms. Hwang, when executives were asked about the change, they told her they just redid the numbers.

105. According to Ms. Hwang, she raised concerns to the Counterclaim-Defendants' executive management team that they were misleading existing investors by holding "Q&A" sessions, but instead of answering actual investor questions, making up their own fake investor questions and answering those instead.

106. According to Ms. Hwang, between May and July 2023, her concerns regarding marketing materials' compliance with SEC rules escalated and, in an early July call, Mr. Chiappetta asked management how the company was coming up with its numbers in marketing material and raised additional concerns that the way they were defining some terms did not make sense and that there were not enough footnotes explaining what the terms actually meant.

107. On or about August 1, 2023, Ms. Hwang was informed that Mr. Chiappetta resigned from his position. However, the circumstances suggest that he was actually fired for repeatedly expressing his concerns regarding the unethical marketing practices by Counterclaim-Defendants. The same day, FNPM terminated Ms. Hwang, but subsequently told people that she had resigned as well.

108. Counterclaim-Defendants concealed their wrongful actions with the intent to mislead and defraud Counterclaim-Plaintiffs. Counterclaim-Plaintiffs were not aware of, nor, through the

exercise of due diligence, could have become aware of Counterclaim-Defendants' wrongful actions until such wrongful actions brought to light by third-parties. Due to the Parties' confidential business relationships, which were predicated on their mutual trust and confidence, and Counterclaim-Defendants' superior knowledge and/or means of knowledge, Counterclaim-Defendants had a duty to disclose to Counterclaim-Plaintiffs the above materially false and omitted information. Counterclaim-Defendants' failure to do so constitutes fraudulent concealment under law.

109. Counterclaim-Plaintiffs have repeatedly requested that Counterclaim-Defendants cancel and return Counterclaim-Plaintiffs' investments in the LLCs, but Counterclaim-Defendants have refused Counterclaim-Plaintiffs' requests.³⁶

110. By paying their salespersons transaction-based compensation, Counterclaim-Defendants' salespeople were required to register as securities salesman with the Financial Industry Regulatory Authority ("FINRA") and state securities regulators and, as a result, are responsible for complying with all FINRA rules and regulations, including suitability obligations and Regulatory Best Interest, including the disclosure obligations required thereby.

Counterclaim-Plaintiffs' Investments in the LLCs

111. Counterclaim-Plaintiff James May invested in the LLCs as listed here:

<u>Investment Name</u>	<u>Ownership %</u>	<u>Commitment Amount</u>
1. Brandywine Crossing Realty Fund LLC	6.46%	\$2,000,000.00
2. McAlpin Square Realty Fund LLC	10.77%	\$1,000,000.00
3. Sand Hill Plaza SC Realty Fund LLC	8.61%	\$1,000,000.00
4. HV Center Realty Fund LLC	6.11%	\$600,000.00

³⁶ See, e.g., Exhibit 4 (sample communication from Counterclaim-Plaintiffs to Counterclaim-Defendants requesting that Counterclaim-Defendants cancel and return Counterclaim-Plaintiffs' investments in the Counterclaim-Defendants LLCs, and response from Counterclaim-Defendants denying those requests).

5.	Village at Pitt Mills Realty Fund LLC	3.47%	\$500,000.00
6.	Crowe's Crossing Realty Fund LLC	7.86%	\$450,000.00
7.	Summerdale Plaza Realty Fund LLC	4.18%	\$390,000.00
8.	Southland Crossings Realty Fund LLC	2.72%	\$344,000.00
9.	SS Tulsa Center Realty Fund LLC	4.02%	\$300,000.00
10.	Westwood SC Realty Fund LLC	1.68%	\$280,000.00
11.	Champions Village Realty Fund LLC	0.83%	<u>\$200,000.00</u>
			Total: \$7,064,000.00

112. Counterclaim-Plaintiff Anthony Musto³⁷ invested in the LLCs as listed here:

	<u>Investment Name</u>	<u>Ownership %</u>	<u>Commitment Amount</u>
1.	Champions Village Realty Fund LLC	0.83%	\$200,000.00
2.	HV Center TIC 1 Member Realty Fund LLC	2.04%	\$200,000.00
3.	Crowe's Crossing Realty Fund LLC	6.99%	\$400,000.00
4.	PC Center TIC 1 Member LLC	11.04%	\$1,000,000.00
5.	CS Center Realty Fund LLC	0.57%	\$100,000.00
6.	CK Center Realty Fund LLC	0.55%	\$100,000.00
7.	Tropicana Centre LV Realty Fund LLC	0.25%	\$100,000.00
8.	CTS Center TIC LLC	11.61%	\$1,000,000.00
9.	Summerdale Plaza Realty Fund LLC	1.07%	<u>\$100,000.00</u>
			Total: \$3,200,000.00

113. Counterclaim-Plaintiff Jonathan Cangiulli invested **\$60,000.00** in the Summerdale Plaza Realty Fund LLC investment, with 1.1% Ownership.

114. Counterclaim-Plaintiff Abba Kader invested \$400,000.00 in the McAlpin Square TIC 5 LLC (with 4.31% Ownership) investment, and the \$400,000.00 in Tannehill TIC 5 LLC investment (with 2.04% Ownership), for a total investment of **\$800,000.00**.

115. Counterclaim-Plaintiff Cory Tereick invested **\$500,000.00** in the Maple Park SC TIC 12 Member LLC investment, with 3.32% Ownership.

116. Counterclaim-Plaintiff Patricia Thomas invested **\$409,804.00** in the CTS Center TIC 2

³⁷ Anthony Musto purchased his shares in the Underlying LLCs under his own name and also using entities he owns, including: Anthony M Musto Grantor Retained Annuity Trust, TM Brooklyn Family Trust, TIC 1 LLC Piccadilly Associates LLC, and TIC 4 Member LLC Piccadilly Associates LLC.

LLC.

117. Counterclaim-Plaintiff Stanley Gruber invested \$150,000.00 in the Bishops Corner SC Realty Fund LLC investment, and the \$100,000.00 in Tropicana Center LV Realty Fund investment, for a total investment of **\$250,000.00**.

CAUSES OF ACTION

COUNT I FRAUDULENT INDUCEMENT

118. The preceding paragraphs and allegations are incorporated by reference and realigned as if set out at length herein.

119. Counterclaim-Defendants, by and through the FNRP telemarketing salespersons and representatives, utilized one or more of the above-described unlawful, false, misleading, and unconscionable sales tactics to fraudulently induce Counterclaim-Plaintiffs into the purchases of the investments in the LLCs. Specifically, Counterclaim-Defendants, through their employees and representatives, intentionally and fraudulently induced Counterclaim-Plaintiffs by misrepresenting (and omitting) material facts prior to and after Counterclaim-Defendants investments, which Counterclaim-Defendants knew were false at the time they were made with the intent to induce Counterclaim-Plaintiffs to invest in the LLCs, including, amongst other falsehoods described above, that:

- A. the underlying real estate purchased by each LLC had been secured with fixed-interest loans;
- B. Counterclaim-Defendants' acquired the underlying properties for below market value and, as a result, the LLCs would thus generate continued revenue-streams for Counterclaim-Plaintiffs;

- C. Counterclaim-Plaintiffs were “preferred” customers, which guaranteed to Counterclaim-Plaintiffs a blended, annual investment-return from the LLCs of more than 9%;³⁸
- D. the underlying properties required no material improvements before they could be occupied for profit and resold by Counterclaim-Defendants (which would have provided Counterclaim-Plaintiffs with a lump sum payment);
- E. Counterclaim-Plaintiffs were able to “cash out” of the LLC investments at any time;
- F. Counterclaim-Plaintiffs would have access to all of the underlying documents for each deal that they invested in;
- G. Counterclaim-Defendants completed thorough due diligence respecting their purchase of the underlying properties (and that the underlying properties were in good, working order);
- H. Counterclaim-Defendants failed to clearly and meaningfully disclose the extent and nature of the fees and other forms of profit that they would be extracting from the properties;
- I. Counterclaim-Defendants misrepresented that the fees they intended to charge were “competitive with typical private investment partnerships”;
- J. Counterclaim-Defendants misrepresented that that they would “exercise good faith and fairness in all dealings affecting the Fund.”
- K. Counterclaim-Defendants provided Counterclaim-Plaintiffs with financial

³⁸ See, e.g., <https://fnrpusa.com/fnrp360/>; Exhibit 2 (examples of correspondence between FNRP-representatives and Counterclaim-Plaintiffs guaranteeing 9% “preferred customer” annual, blended investment-return); Exhibit 3 (screenshots of financials – prepared by Counterclaim-Defendants’ representatives – where Counterclaim-Defendants use *fixed interest-rates* to provide Counterclaim-Defendants with valuations of the underlying Counterclaim-Defendant-LLC properties); Exhibit 4 (communication from Counterclaim-Plaintiffs to Counterclaim-Defendants requesting that Counterclaim-Defendants cancel and return Counterclaim-Plaintiffs’ investments in the Counterclaim-Defendant LLCs and Counterclaim-Defendants’ response denying Counterclaim-Plaintiffs’ requests).

projections on each of the LLCs that were knowingly false and misleading at the time they were made because they were not achievable and lacked a reasonable basis based upon the exorbitant fees charged by Counterclaim-Defendants and the inflated valuations of the properties.

120. Counterclaim-Plaintiffs relied upon these representations when deciding to invest in the LLCs.

121. Counterclaim-Defendants made the foregoing misrepresentations and omissions with knowledge that they were false and with the intent to deceive, because they knew that had they accurately disclosed the nature of the investments, neither Counterclaim-Plaintiffs nor anyone else would willingly invest because the economics of the deals just did not work.

122. Had Counterclaim-Plaintiffs known about Counterclaim-Defendants' conspiracy to fraudulently misrepresent and omit material information related to their LLC investments, described herein, Counterclaim-Plaintiffs never would have invested in the LLCs or entered into any agreements with Counterclaim-Defendants.

123. In fact, Counterclaim-Defendants, by and through the FNRP telemarketing salespersons, *continued* their fraudulent conspiracy to induce Counterclaim-Plaintiffs even after Counterclaim-Plaintiffs' original purchases by providing a "double whammy" of false promises to Counterclaim-Plaintiffs: Counterclaim-Defendants first prepared false and misleading sales, marketing, and other data, and then Counterclaim-Defendants' telemarketing salespersons used one or more of the unconscionable sales tactics described herein to make "follow up" calls to Counterclaim-Plaintiffs with additional false information and misrepresentations about their own fraudulent data, in order to entice Counterclaim-Plaintiffs into signing agreements and continuing to invest in additional shares of the LLCs (each time making the next LLC investment seem more grand and profitable).

124. Counterclaim-Defendants made the misrepresentations, described herein, with full knowledge that such representations were false when made with the intent to induce Counterclaim-Plaintiffs to purchase the investments in the LLC interests, to Counterclaim-Plaintiffs' financial detriment and Counterclaim-Defendants' financial gain. As a direct and/or proximate result of Counterclaim-Defendants' false and misleading representations (and material omissions) about the investments in the Counterclaim-Defendant LLCs, Counterclaim-Plaintiff suffered (and continue to suffer) damages in the form of, inter alia, the amounts paid to Counterclaim-Defendants for investments in the LLCs, lost profits on what the invested funds would have earned if invested properly, and mental anguish damages.

125. Counterclaim-Defendants, by and through the FNRP telemarketing salespersons and representatives, committed the tort of fraudulent inducement in their verbal and telephonic sales pitches to Counterclaim-Plaintiffs through the falsehoods, half-truths, and omissions. Moreover, Counterclaim-Defendants' false representations and/or omissions were made knowingly and intentionally or, at the very least, in reckless disregard of Counterclaim-Plaintiffs rights and interests.

126. Counterclaim-Plaintiffs justifiably relied upon Counterclaim-Defendants' material misrepresentations. Absent those falsehoods, Counterclaim-Plaintiffs would never have entered into any agreements with Counterclaim-Defendants to purchase the investments in the Counterclaim-Defendant LLCs (and Counterclaim-Plaintiffs would not be governed by any of the provisions of those agreements). Accordingly, Counterclaim-Defendants' wrongful actions constitute fraudulent inducement under New Jersey law.

COUNT II
FRAUD, EQUITABLE FRAUD, AND/OR FRAUDULENT CONCEALMENT

127. The preceding paragraphs and allegations are incorporated by reference and realigned as if set out at length herein.

128. Counterclaim-Defendants defrauded Counterclaim-Plaintiffs pursuant to common law. In order to sell the shares of LLC's to Counterclaim-Plaintiffs, Counterclaim-Defendants conspired to utilize one or more of the above-described unlawful, false, misleading and unconscionable high-pressure sales tactics. Specifically, Counterclaim-Defendants and their telemarketer employees and representatives falsely and/or misleadingly represented to Counterclaim-Plaintiffs, amongst the plethora of falsehoods described above, that:

- A. the underlying real estate purchased by each LLC had been secured with fixed-interest loans;
- B. Counterclaim-Defendants' acquired the underlying properties for below market value and, as a result, the LLCs would thus generate continued revenue-streams for Counterclaim-Plaintiffs;
- C. Counterclaim-Plaintiffs were "preferred" customers, which guaranteed to Counterclaim-Plaintiffs a blended, annual investment-return from the LLCs of more than 9%;³⁹
- D. the underlying properties required no material improvements before they could be occupied for profit and resold by Counterclaim-Defendants (which would have provided Counterclaim-Plaintiffs with a lump sum payment);

³⁹ See, e.g., <https://fnrpusa.com/fnrp360/>; Exhibit 2 (examples of correspondence between FNRP-representatives and Counterclaim-Plaintiffs guaranteeing 9% "preferred customer" annual, blended investment-return); Exhibit 3 (screenshots of financials – prepared by Counterclaim-Defendants' representatives – where Counterclaim-Defendants use *fixed interest-rates* to provide Counterclaim-Defendants with valuations of the underlying Counterclaim-Defendant-LLC properties); Exhibit 4 (communication from Counterclaim-Plaintiffs to Counterclaim-Defendants requesting that Counterclaim-Defendants cancel and return Counterclaim-Plaintiffs' investments in the Counterclaim-Defendant LLCs and Counterclaim-Defendants' response denying Counterclaim-Plaintiffs' requests).

- E. Counterclaim-Plaintiffs were able to “cash out” of the LLC investments at any time;
- F. Counterclaim-Plaintiffs would have access to all of the underlying documents for each deal that they invested in;
- G. Counterclaim-Defendants completed thorough due diligence respecting their purchase of the underlying properties (and that the underlying properties were in good, working order);
- H. Counterclaim-Defendants failed to clearly and meaningfully disclose the extent and nature of the fees and other forms of profit that they would be extracting from the properties;
- I. Counterclaim-Defendants misrepresented that the fees they intended to charge were “competitive with typical private investment partnerships”;
- J. Counterclaim-Defendants misrepresented that they would “exercise good faith and fairness in all dealings affecting the Fund.”
- K. Counterclaim-Defendants provided Counterclaim-Plaintiffs with financial projections on each of the LLCs that were knowingly false and misleading at the time they were made because they were not achievable and lacked a reasonable basis based upon the exorbitant fees charged by Counterclaim-Defendants and the inflated valuations of the properties.

129. Counterclaim-Plaintiffs relied upon these representations when deciding to invest in the LLCs.

130. Counterclaim-Defendants made the foregoing misrepresentations and omissions with knowledge that they were false and with the intent to deceive, because they knew that had they accurately disclosed the nature of the investments, neither Counterclaim-Plaintiffs nor anyone else

would willingly invest because the economics of the deals just did not work.

131. As such, Counterclaim-Defendants are liable for fraud and fraudulent concealment against Counterclaim-Plaintiffs.⁴⁰ Counterclaim-Defendants had a duty to disclose to Counterclaim-Plaintiff based upon their contractual relationships and their role as securities salesman. In addition, or else in the alternative, Counterclaim-Defendants had a duty to disclose to Counterclaim-Plaintiff based upon the “special facts” doctrine, which provides that a duty to disclose arises when one party's superior knowledge of essential facts renders a transaction without disclosure inherently unfair. The “special facts” doctrine is applicable to the present case because the withheld and hidden material information as to the investments in the LLC's at issue was “peculiarly within the knowledge” of Counterclaim-Defendants and that the information was not such that could have been discovered by Counterclaim-Plaintiff through the exercise of ordinary intelligence.

132. Counterclaim-Defendants, by and through their employees and representatives, made the herein-detailed false representations (and material omissions) to Counterclaim-Plaintiffs with the intent that Counterclaim-Plaintiffs relied upon them and with full knowledge that such representations were false when made. Counterclaim-Plaintiffs relied on Counterclaim-Defendants' material and false representations when deciding to invest in the LLC's. In fact, they purchased shares in the LLC to their financial detriment and Counterclaim-Defendants' financial gain. As a direct and/or proximate result of Counterclaim-Defendants' false and misleading representations to Counterclaim-Plaintiffs (and material omissions) concerning Counterclaim-Plaintiffs' investments in the LLCs, Counterclaim-Plaintiffs suffered (and continue to suffer) damages in the form of, inter alia, the amount of their investments in the LLCs, the amounts paid

⁴⁰ The elements of fraudulent concealment are identical to the elements for fraud with the addition that the Counterclaim-Defendant must have a duty to disclose material information and failed to do so, as in the instant case.

in fees and commissions to Counterclaim-Defendants, as well as consequential damages related to the lost profits, loss of principal, and other statutory damages.

133. By virtue of the confidential business relationship between Counterclaim-Plaintiff and Counterclaim-Defendants, Counterclaim-Defendants had a duty to disclose the above concealed material facts to Counterclaim-Plaintiff. Their deliberate silence, when they had a duty to speak, and the resulting nondisclosure of the above concealed material facts, is the equivalent of false representations and/or omissions. Such false representations and/or omissions were made knowingly and intentionally or, at the very least, in reckless disregard of Counterclaim-Plaintiff's rights and interests.

134. Counterclaim-Plaintiffs justifiably relied on Counterclaim-Defendants' false representations and/or omissions to their financial detriment by investing in the LLCs. Counterclaim-Defendants' wrongful actions constitute fraud at common law and a conspiracy to defraud under RICO.

COUNT III
NEGLIGENT MISREPRESENTATION

135. The preceding factual statements and allegations are incorporated by reference and related as if set out at length herein.

136. Counterclaim-Defendants made certain representations (and material omissions) to Counterclaim-Plaintiffs in the course of their business and in transactions in which Counterclaim-Defendants had a substantial monetary interest. Counterclaim-Defendants negligently supplied false information that guided Counterclaim-Plaintiffs to make investments in the LLCs.

137. Counterclaim-Defendants failed to exercise reasonable care and competence in obtaining,

confirming the accuracy of, and communicating such information to Counterclaim-Plaintiffs by, inter alia, utilizing one or more of the herein-described unlawful, false, misleading and unconscionable sales tactics typical of the direct sales industry and/or making the above-described false and material misrepresentations and omissions.

138. Counterclaim-Plaintiffs justifiably relied on Counterclaim-Defendants' negligent misrepresentations when investing in the LLCs, which directly and/or proximately caused them each to suffer damages to the financial benefit of Counterclaim-Defendants. Counterclaim-Plaintiffs continued to justifiably rely upon Counterclaim-Defendants' negligent misrepresentations in their oral telephonic representations and various presentations and print advertisements regarding investment in the LLCs, which directly and/or proximately caused them to suffer ruinous damages to the financial benefit of Counterclaim-Defendants. Counterclaim-Defendants' wrongful conduct constitutes negligent misrepresentation under New Jersey common law. Due to Counterclaim-Defendants ongoing misrepresentations and concealment, including their failure to provide GAAP financial statements, Counterclaim-Plaintiffs did not learn of the scope of the misrepresentations until within two years of filing this suit.

COUNT IV
NEGLIGENCE AND GROSS NEGLIGENCE

139. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

140. Counterclaim-Defendants negligently valued, promoted, marketed, advertised, and sold investments to Counterclaim-Plaintiffs in the Counterclaim-Defendant LLCs. This violated and breached Counterclaim-Defendants' duty to Counterclaim-Plaintiffs to exercise reasonable care in

valuing, promoting, marketing, advertising, and selling the investments to Counterclaim-Plaintiffs. Counterclaim-Defendants' wrongful conduct directly and/or proximately caused Counterclaim-Plaintiffs to suffer damages. Counterclaim-Defendants' wrongful conduct constitutes negligence at common law.

141. As securities salesman, Counterclaim-Defendants had duties to comply with FINRA Rules and Regulation Best Interest, which imposed requirements including ensuring that recommendations are in the best interest of Counterclaim-Plaintiffs, considering their investment profile and the characteristics of the recommended security. Pursuant to Regulation Best Interest, Counterclaim-Defendants' salespersons were required to disclose all material facts related to the scope and terms of their relationship with the customer, including any conflicts of interest that might affect their recommendations. They must also exercise reasonable diligence, care, and skill in making recommendations, ensuring that the recommendations are suitable for the customer based on the customer's investment profile.

COUNT V
CONSPIRACY

142. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

143. Counterclaim-Defendants, either working together as a combined group or in sub-combinations of two or more, affirmatively conspired to engage in the wrongful actions set forth above. By doing so, Counterclaim-Defendants conspired to accomplish an unlawful purpose or a lawful purpose by an unlawful means. As such, Counterclaim-Defendants conspired to commit the wrongful actions outlined above, all of which directly and proximately caused Counterclaim-Plaintiffs to sustain actual and consequential damages. Counterclaim-Defendants' wrongful actions constitute civil conspiracy at common law.

COUNT VI
UNJUST ENRICHMENT

144. The preceding factual statements and allegations are incorporated by reference and realleged as if set out at length

145. A measurable benefit has been conferred on Counterclaim-Defendants under such circumstances that Counterclaim-Defendants' retention of the benefit without payment to Counterclaim-Plaintiffs would be unjust.

146. The benefit is the taking of Counterclaim-Plaintiffs' money under false pretenses and not providing Counterclaim-Plaintiffs with the revenue stream and increased investment-value, which Counterclaim-Plaintiffs were supposed to receive for Counterclaim-Plaintiffs' investments in the LLCs.

147. Counterclaim-Defendants' employees and representatives have been unjustly enriched by: (i) being paid fees for investments in the LLCs; (ii) taking salaries for working for the LLCs; (iii) receiving unreasonable commissions related to the tenant leases in the LLCs; (iv) unjustly receiving fees through related entities; and (v) taking a share of the profits of the LLCs. Accordingly, Counterclaim-Plaintiffs seek to impose a constructive trust over (and recover) all amounts by which Counterclaim-Defendants have been unjustly enriched.

148. The benefit is measurable because Counterclaim-Defendants' have in their possession detailed records concerning their sales of shares to Counterclaim-Plaintiffs in the LLCs, including monies Counterclaim-Defendants earned.

COUNT VII
NEW JERSEY UNIFORM SECURITIES LAW, N.J.S. 49:3-47 *ET SEQ.*

149. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

150. The New Jersey Uniform Securities Law (“NJUSL”), at N.J.S. 49:3-71, provides that it is unlawful to (a) offer, sell or purchase a security by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading (the buyer not knowing of the untruth or omission), or (b) offer, sell or purchase a security by employing any device, scheme, or artifice to defraud, or (c) offer, sell or purchase a security by engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

151. Counterclaim-Defendants have violated N.J.S. 49:3-71 by selling Counterclaim-Plaintiffs the membership interest in the LLCs based upon misrepresentations and omissions of material facts, including false and misleading statements to Counterclaim-Plaintiffs that:

- A. the underlying real estate purchased by each LLC had been secured with fixed-interest loans;
- B. Counterclaim-Defendants’ acquired the underlying properties for below market value and, as a result, the LLCs would thus generate continued revenue-streams for Counterclaim-Plaintiffs;
- C. Counterclaim-Plaintiffs were “preferred” customers, which guaranteed to Counterclaim-Plaintiffs a blended, annual investment-return from the LLCs of more than 9%;
- D. the underlying properties required no material improvements before they could be occupied for profit and resold by Counterclaim-Defendants (which would have provided Counterclaim-Plaintiffs with a lump sum payment);

- E. Counterclaim-Plaintiffs were able to “cash out” of the LLC investments at any time;
- F. Counterclaim-Plaintiffs would have access to all of the underlying documents for each deal that they invested in;
- G. Counterclaim-Defendants completed thorough due diligence respecting their purchase of the underlying properties (and that the underlying properties were in good, working order);
- H. Counterclaim-Defendants failed to clearly and meaningfully disclose the extent and nature of the fees and other forms of profit that they would be extracting from the properties;
- I. Counterclaim-Defendants misrepresented that the fees they intended to charge were “competitive with typical private investment partnerships”;
- J. Counterclaim-Defendants misrepresented that that they would “exercise good faith and fairness in all dealings affecting the Fund.”
- K. Counterclaim-Defendants provided Counterclaim-Plaintiffs with financial projections on each of the LLCs that were knowingly false and misleading at the time they were made because they were not achievable and lacked a reasonable basis based upon the exorbitant fees charged by Counterclaim-Defendants and the inflated valuations of the properties.

152. Counterclaim-Defendants have violated N.J.S. 49:3-71 by engaging in a scheme or artifice to defraud Counterclaim-Plaintiffs by extracting covert fees and engaging in self-dealing transactions with the LLCs to enrich themselves to the detriment of Counterclaim-Plaintiffs.

153. The NJUSL, at N.J.S. 49:3-71(c), provides that those who sell securities in violation of N.J.S. 49:3-71(a), such as Counterclaim-Defendants, are liable to the purchasers, such as

Counterclaim-Plaintiffs for the consideration paid for the security, together with interest set at the rate established for interest on judgments for the same period by the Rules Governing the Courts of the State of New Jersey from the date of payment of the consideration for the security, and costs, less the amount of any income received on the security, or for damages if he no longer owns the security.

154. To the extent that the Counterclaim-Defendants are not deemed “sellers” within the meaning of N.J.S. 49:3-71(a), they are also liable for violating N.J.S. 49:3-71(d), which provides that every person who directly or indirectly controls a seller liable under N.J.S. 49:3-71(a), every partner, officer, or director of such a seller, every person occupying a similar status or performing similar functions, every employee of such a seller or investment adviser who materially aids in the sale or in the conduct giving rise to the liability, is liable jointly and severally with and to the same extent as the seller, unless the nonseller who is so liable sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts which give rise to liability.

155. Each of the Counterclaim-Defendants had control over the FNRP, the individual salespersons, and/or the LLCs who constitute “sellers” under N.J.S. 49:3-71(a) and/or constitute officers, directors, members, or managers of such sellers and, thus, are liable pursuant to N.J.S. 49:3-71(d).

156. The membership interest in the LLCs sold to Counterclaim-Plaintiffs constitute securities within the meaning of the NJUSL and the overall scheme in which Counterclaim-Plaintiffs were induced to invest constitutes a scheme or artifice to defraud involving the sale of securities.

COUNT VIII
CALIFORNIA CORPORATE SECURITIES LAW OF 1968, §§ 25401 & 25501

157. The preceding factual statements and allegations are incorporated by reference and

realigned as if set out at length.

158. The California Corporate Securities Law of 1968 is applicable to claims by Counterclaim-Plaintiffs Kader and Thomas because they are California residents who were solicited to invest while in California.

159. Counterclaim-Defendants violated Cal. Corp. Code § 25401 by selling the LLC interests to Counterclaim-Plaintiffs Kader and Thomas, each citizens of California, by means of written or oral communications that included untrue statements of a material fact and omitted to state a material facts necessary to make the statements made, in the light of the circumstances under which the statements were made, not misleading, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

160. Pursuant to Cal. Corp. Code § 25501, Counterclaim-Defendants are liable to Counterclaim-Plaintiffs Kader and Thomas for rescission and/or for damages for violating Cal. Corp. Code § 25401. Upon rescission, Kader and Thomas may recover the consideration paid for the LLC investments, plus interest at the legal rate, less the amount of any income received on the security. In addition Kader and Thomas may recover their reasonable attorney's fees and costs.

161. To the extent that any Counterclaim-Defendants are not liable as "sellers" pursuant to Cal. Corp. Code § 25401, they are liable to the same extent as such seller pursuant to Cal. Corp. Code § 25504 because they directly or indirectly control FNRP, FNRA, FNPM and the individual securities salesman who solicited Kader and Thomas or are officers, directors, members, managers or persons holding similar status of FNRP, FNRA, FNPM and the other entities that participated in the sale and issuance of the LLC interests to Kader and Thomas and/or materially aided in such sales through their employment by FNRP, FNRA, FNPM and their affiliates.

COUNT IX
CALIFORNIA CORPORATE SECURITIES LAW OF 1968, § 25501.05

162. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

163. Subsequent to their purchase of the LLC interests at issue, and within two years of the filing of this suit, Counterclaim-Plaintiffs Kader and Thomas learned that, upon information and belief, salesman employed by FNRP were paid transaction-based compensation under the guise of a bonus pool in an attempt to circumvent state and federal registration requirements for securities salesman. In fact, such compensation triggered registration requirements for FNRP and the salesmen it employed. As a result, the FNRP and its salesman who sold the LLC interests to Kader and Thomas are in violation of Cal. Corp. Code § 25501.05 through the sale of securities by unlicensed securities salesman.

164. As a result of the violation, Counterclaim-Defendants are liable to Kader and Thomas for the consideration paid for the LLC interests plus interest at the legal rate, less the amount of any income received on the securities, attorneys' fees and costs.

165. The individual Counterclaim-Defendants and FNRP are each also liable to the same extent as the primary violators as control persons pursuant to Cal. Corp. Code § 25504.

COUNT X
VIOLATION OF ARIZONA REVISED STATUTES, § 44-1801 *ET SEQ.*

166. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

167. Arizona Revised Statutes § 44-1801 *et seq.* are applicable to claims by Counterclaim-

Plaintiff Tereick because he is a citizen of Arizona who was solicited to invest while in Arizona.

168. Counterclaim-Defendants violated Arizona Revised Statute § 44-1991, by selling LLC interests to Counterclaim-Plaintiff Tereick based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

169. Counterclaim-Defendants violated Arizona Revised Statute § 44-1842 by and through the sale of securities to Counterclaim-Plaintiff Tereick by unlicensed securities salesman. Subsequent to their purchase of the LLC interests at issue, and within two years of the filing of this suit, Counterclaim-Plaintiff Tereick learned that, upon information and belief, salesman employed by FNRP were paid transaction-based compensation under the guise of a bonus pool in an attempt to circumvent state and federal registration requirements for securities salesman. In fact, such compensation triggered registration requirements for FNRP and the salesmen it employed. As a result, the FNRP and its salesman who sold the LLC interests to Tereick are in violation of Arizona Revised Statute § 44-1842 through the sale of securities by unlicensed securities salesman.

170. To the extent that they are not primary violators pursuant to § 44-1991, pursuant to Arizona Revised Statute § 44-1999(a), Counterclaim-Defendants are each control persons liable to the same extent as the primary violators of § 44-1991.

171. As a result of the foregoing violations, the sale of the LLC interests to Tereick is voidable pursuant to Arizona Revised Statute §§ 44-2001 and 44-2002 and Tereick is entitled to recover the consideration paid for the securities, with interest, taxable court costs and reasonable attorney fees, less the amount of any income received by dividend or otherwise from ownership of the securities.

COUNT XI
VIOLATION OF FLORIDA SECURITIES AND INVESTOR PROTECTION ACT
FLORIDA STATUTE 517.011 *ET SEQ.*

172. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

173. The Florida Securities and Investor Protection act is applicable to claims by Counterclaim-Plaintiff Gruber because he is a citizen of Florida who was solicited to invest while in Florida.

174. Counterclaim-Defendants violated Florida Statute § 517.301(1)(a) by selling LLC interests to Counterclaim-Plaintiff Gruber based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

175. Counterclaim-Defendants violated Florida Statute § 517.301(1)(b) by selling LLC interests to Counterclaim-Plaintiff Gruber by use of advertisements and communications describing such LLC interests without fully disclosing the receipt, whether past or prospective, of consideration received by Counterclaim-Defendants and the amount of the consideration, including the fees and other compensation received from the LLCs and bonus pool commissions, all as described above.

176. Counterclaim-Defendants violated Florida Statute § 517.12 by and through the sale of securities to Counterclaim-Plaintiff Gruber by unlicensed securities salesman. Subsequent to their purchase of the LLC interests at issue, and within two years of the filing of this suit, Counterclaim-Plaintiff Gruber learned that, upon information and belief, salesman employed by FNRP were paid

transaction-based compensation under the guise of a bonus pool in an attempt to circumvent state and federal registration requirements for securities salesman. In fact, such compensation triggered registration requirements for FNRP and the salesmen it employed. As a result, the FNRP and its salesman who sold the LLC interests to Gruber are in violation of Florida Statute § 517.12 through the sale of securities by unlicensed securities salesman.

177. Pursuant to Florida Statute § 517.211, Guber is entitled to recover the consideration paid for the security or investment, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

178. To the extent that they are not primary violators pursuant to §§ 517.301 and 517.12, pursuant to Florida Statute § 517.12(2) & (3), Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or material participants in the transactions and the scheme to defraud.

COUNT XII
VIOLATION OF TEXAS SECURITIES ACT,
V.T.C.A., GOVERNMENT CODE § 4001.001, *ET SEQ.*

179. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

180. The Texas Securities Act is applicable to the sale of LLC interests in Champions Village Realty Fund LLC because the real estate in which Champions Village Realty Fund LLC was

invested was located in Texas.

181. Counterclaim-Defendants violated Texas Securities Act, TX GOVT § 4008.052, by selling LLC interests in Champions Village Realty Fund LLC to Counterclaim-Plaintiffs by means of an untrue statements of a material fact and omissions to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

182. Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

183. To the extent that they are not primary violators pursuant to § 4008.052, pursuant to TX GOVT § 4008.055, Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and as persons who materially aided in the transactions and the scheme to defraud, with either the intent to deceive Counterclaim-Plaintiffs or a reckless disregard for the truth.

COUNT XIII
VIOLATION OF GEORGIA SECURITIES ACT,
GA. CODE § 10-5-50, *ET SEQ.*

184. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

185. The Georgia Securities Act is applicable to the sale of LLC interests in Crowe's Crossing Realty Fund LLC and McAlpin Square Realty Fund, LLC because the real estate in which those

LLCs are invested is located in Georgia.

186. Counterclaim-Defendants violated the Georgia Securities Act, at Ga. Code § 10-5-50 by selling LLC interests in Crowe's Crossing Realty Fund LLC and McAlpin Square Realty Fund, LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above..

187. Pursuant the Georgia Securities Act, at Ga. Code § 10-5-58, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

188. Pursuant the Georgia Securities Act, at Ga. Code § 10-5-58, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

189. Pursuant the Georgia Securities Act, at Ga. Code § 10-5-58, to the extent that they are not "sellers", Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who materially participated in the conduct giving rise to liability.

COUNT XIV
VIOLATION OF NEW HAMPSHIRE UNIFORM SECURITIES ACT,
N.H. REV. STAT. § 421-B:1-101, *ET SEQ.*

190. The preceding factual statements and allegations are incorporated by reference and

realigned as if set out at length.

191. The New Hampshire Uniform Securities Act is applicable to the sale of LLC interests in HV Center Realty Fund, LLC and HV Center TIC I Member Realty Fund TIC because the real estate in which those LLCs are invested is located in New Hampshire.

192. Counterclaim-Defendants violated the New Hampshire Uniform Securities Act, at N.H Rev. Stat. § 421-B:5-501, by selling LLC interests in HV Center Realty Fund, LLC and HV Center TIC I Member Realty Fund TIC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above..

193. Pursuant the New Hampshire Uniform Securities Act, at N.H Rev. Stat. § 421-B:5-509, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

194. Pursuant the New Hampshire Uniform Securities Act, at N.H Rev. Stat. § 421-B:5-509(g), to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

195. Pursuant the New Hampshire Uniform Securities Act, at N.H Rev. Stat. § 421-B:5-509(g), to the extent that they are not "sellers", Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who

materially participated in the conduct giving rise to liability.

COUNT XV
VIOLATION OF CONNECTICUT UNIFORM SECURITIES ACT,
C.G.S. § 36B-2, *ET SEQ.*

196. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

197. The Connecticut Uniform Securities Act is applicable to the sale of LLC interests in Bishops Corner SC Realty Fund LLC and Sand Hill Plaza Realty Fund LLC because the real estate in which those LLCs are invested is located in Connecticut.

198. Counterclaim-Defendants violated the Connecticut Uniform Securities Act, at C.G.S. § 36b-29, by selling LLC interests in Bishops Corner SC Realty Fund LLC and Sand Hill Plaza Realty Fund LLC to Counterclaim-Plaintiffs based upon intentional and fraudulent misrepresentations and omissions of material facts, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

199. Pursuant the Connecticut Uniform Securities Act, at C.G.S. § 36b-29, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

200. Pursuant the Connecticut Uniform Securities Act, at C.G.S. § 36b-29, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

201. Pursuant the Connecticut Uniform Securities Act, at C.G.S. § 36b-29, to the extent that they are not “sellers”, Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who materially participated in the conduct giving rise to liability.

COUNT XVI
VIOLATION OF OHIO SECURITIES ACT, R.C. § 1707.01, *ET SEQ.*

202. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

203. The Ohio Securities Act is applicable to the sale of LLC interests in Southland Crossing Realty Fund, LLC and CS Center Realty Fund LLC because the real estate in which those LLCs are invested is located in Ohio.

204. Counterclaim-Defendants violated the Ohio Securities Act, at R.C. § 1707.41, by selling LLC interests in Southland Crossing Realty Fund, LLC and CS Center Realty Fund LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts in the offering memorandum and written marketing material, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

205. Pursuant the Ohio Securities Act, at R.C. § 1707.43, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

206. Pursuant Ohio Securities Act, at R.C. § 1707.41, to the extent that they are not “sellers”,

each Counterclaim-Defendant that is a director of FNRP, FNPM and/or FNRA is liable to the same extent as FNRP, FNPM and/or FNRA.

207. Pursuant the Ohio Securities Act, at R.C. § 1707.43, to the extent that they are not “sellers”, Counterclaim-Defendants are also each liable to the same extent as the primary violators as persons who participated in or aided the primary violators in selling such investments.

COUNT XVII
VIOLATION OF OKLAHOMA UNIFORM SECURITIES ACT,
71 O.S. § 1-101, *ET SEQ.*

208. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

209. The Oklahoma Uniform Securities Act is applicable to the sale of LLC interests in SS Tulsa Center Realty Fund, LLC because the real estate in which that LLC invested is located in Oklahoma.

210. Counterclaim-Defendants violated the Oklahoma Uniform Securities Act, at 71 O.S. § 1-501 and 71 O.S. § 1-509, by selling LLC interests in SS Tulsa Center Realty Fund, LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

211. Pursuant the Oklahoma Uniform Securities Act, at 71 O.S. § 1-509, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

212. Pursuant the Oklahoma Uniform Securities Act, at 71 O.S. § 1-509, to the extent that they are not “sellers”, Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the “sellers”.

213. Pursuant the Oklahoma Uniform Securities Act, at 71 O.S. § 1-509, to the extent that they are not “sellers”, Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who materially participated in the conduct giving rise to liability.

COUNT XVIII
VIOLATION OF PENNSYLVANIA SECURITIES ACT,
70 P.S. § 1-501, *ET SEQ.*

214. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

215. The Pennsylvania Securities Act is applicable to the sale of LLC interests in Summerdale Plaza Realty Fund, LLC and Village at Pitt Mills Realty Fund, LLC because the real estate in which those LLCs invested is located in Pennsylvania.

216. Counterclaim-Defendants violated the Pennsylvania Securities Act, at 70 P.S. § 1-501, by selling LLC interests in Summerdale Plaza Realty Fund, LLC and Village at Pitt Mills Realty Fund,

LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

217. Pursuant the Pennsylvania Securities Act, at 70 P.S. § 1-501, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

218. Pursuant the Pennsylvania Securities Act, at 70 P.S. § 1-503, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

219. Pursuant the Pennsylvania Securities Act, at 70 P.S. § 1-503, to the extent that they are not "sellers", Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who materially aided in the conduct giving rise to liability.

COUNT XIX
VIOLATION OF NORTH CAROLINA SECURITIES ACT,
N.C.G.S. § 78A-1, *ET SEQ.*

220. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

221. The North Carolina Securities Act is applicable to the sale of LLC interests in Westwood SC Realty Fund, LLC because the real estate in which that LLC invested is located in North

Carolina.

222. Counterclaim-Defendants violated the North Carolina Securities Act, at N.C.G.S § 78A-56 and N.C.G.S § 78A-12, by selling LLC interests in Westwood SC Realty Fund, LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

223. Pursuant the North Carolina Securities Act, at N.C.G.S § 78A-56, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

224. Pursuant the North Carolina Securities Act, at N.C.G.S § 78A-56, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

COUNT XX
VIOLATION OF MICHIGAN UNIFORM SECURITIES ACT,
M.C.L. § 451.2101, *ET SEQ.*

225. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

226. The Michigan Uniform Securities Act is applicable to the sale of LLC interests in PC Center TIC 1 Member LLC because the real estate in which that LLC invested is located in Michigan.

227. Counterclaim-Defendants violated the Michigan Uniform Securities Act, at M.C.L. §§ 451.2501 & 451.2509, by selling LLC interests in PC Center TIC 1 Member LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

228. Pursuant the Michigan Uniform Securities Act, at M.C.L. § 451.2509, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

229. Pursuant the Michigan Uniform Securities Act, at M.C.L. § 451.2509, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

230. Pursuant the Michigan Uniform Securities Act, at M.C.L. § 451.2509, to the extent that they are not "sellers", Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who materially aided in the conduct giving rise to liability.

COUNT XXI
VIOLATION OF MISSOURI SECURITIES ACT OF 2003,
V.A.M.S. § 409.1-101, *ET SEQ.*

231. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

232. The Missouri Securities Act is applicable to the sale of LLC interests in CK Center Realty Fund LLC because the real estate in which that LLC invested is located in Missouri.

233. Counterclaim-Defendants violated the Missouri Uniform Securities Act, at V.A.M.S. §§ 409.5-501 & 409.5-509, by selling LLC interests in CK Center Realty Fund LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

234. Pursuant the Missouri Uniform Securities Act, at V.A.M.S. § 409.5-509, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

235. Pursuant the Missouri Uniform Securities Act, at V.A.M.S. § 409.5-509, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

236. Pursuant the Missouri Uniform Securities Act, at V.A.M.S. § 409.5-509, to the extent that they are not "sellers", Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who materially aided in the conduct giving rise to liability.

COUNT XXII
VIOLATION OF NEVADA SECURITIES LAW,
N.R.S § 90.211, *ET SEQ.*

237. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

238. The Nevada Securities Law is applicable to the sale of LLC interests in Tropicana Centre LV Realty Fund LLC because the real estate in which that LLC invested is located in Nevada.

239. Counterclaim-Defendants violated the Nevada Securities Law, at N.R.S. § 90.570, by selling LLC interests in Tropicana Centre LV Realty Fund LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the same facts giving rise the above Counts for violations of state securities statutes.

240. Pursuant the Nevada Securities Law, at N.R.S. § 90.660, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

241. Pursuant the Nevada Securities Law, at N.R.S. § 90.660, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

242. Pursuant the Nevada Securities Law, at N.R.S. § 90.660, to the extent that they are not "sellers", Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who materially aided in the conduct giving rise to liability.

COUNT XXIII
VIOLATION OF ILLINOIS SECURITIES LAW of 1953,
815 ILCS 5/1, *ET SEQ.*

243. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

244. The Illinois Securities Law is applicable to the sale of LLC interests in Maple Park SC TIC 12 Member LLC because the real estate in which that LLC invested is located in Illinois. The Illinois Securities Law is also applicable to claims by Counterclaim-Plaintiff James May, because he is a citizen of Illinois and was located in Illinois when Counterclaim-Defendants solicited his investments.

245. Counterclaim-Defendants violated the Illinois Securities Law, at 815 ILCS 5/12, by selling LLC interests in Maple Park SC TIC 12 Member LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts, engaging in practices or courses of business in connection with the sale such LLC interests which worked a fraud or deceit upon the purchaser, and circulating offering materials pertaining to the LLC interests that containing misrepresentations, including the misrepresentations and omissions alleged in connection with the claims pursuant to the NJUSL as set forth in Count VII above.

246. Counterclaim-Defendants violated the Illinois Securities Law, at 815 ILCS 5/12, by selling LLC interests to Counterclaim-Plaintiff James May based upon misrepresentations and omissions of material facts, engaging in practices or courses of business in connection with the sale such LLC interests which worked a fraud or deceit upon the purchaser, and circulating offering materials pertaining to the LLC interests that containing misrepresentations, including by the same facts giving rise the above Counts for violations of state securities statutes.

247. Pursuant the Illinois Securities Law, at 815 ILCS 5/13, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

248. Pursuant the Illinois Securities Law, at 815 ILCS 5/13, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, that participated in or aided the sales.

COUNT XXIV
VIOLATION OF ALABAMA SECURITIES ACT,
ALA. CODE 1975 § 8-6-1, *ET SEQ.*

249. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

250. The Alabama Securities Act is applicable to the sale of LLC interests in Tannehill TIC 5 LLC because the real estate in which that LLC invested is located in Alabama.

251. Counterclaim-Defendants violated the Alabama Securities Act, at Ala. Code § 8-6-19, by selling LLC interests in Tannehill TIC 5 LLC to Counterclaim-Plaintiffs based upon misrepresentations and omissions of material facts and the use of devices, schemes and artifices to defraud, including the same facts giving rise the above Counts for violations of state securities statutes.

252. Pursuant the Alabama Securities Act, at Ala. Code § 8-6-19, Counterclaim-Plaintiffs are entitled to recover the consideration paid for the securities, plus interest thereon at the legal rate from the date of purchase, less the amount of any income received by the purchaser on the security, as well as costs and attorneys' fees.

253. Pursuant the Alabama Securities Act, at Ala. Code § 8-6-19, to the extent that they are not "sellers", Counterclaim-Defendants are each liable to the same extent as the primary violators as control persons and/or managing partners, executive officers, directors, managers, or persons holding similar positions, to the same extent as the "sellers".

254. Pursuant the Alabama Securities Act, at Ala. Code § 8-6-19, to the extent that they are not "sellers", Counterclaim-Defendants are also each liable to the same extent as the primary violators as employees or persons associated with the primary violators who materially aided in the conduct giving rise to liability.

COUNT XXV
VIOLATION SECTION 10(b) OF THE SECURITIES
EXCHANGE ACT OF 1934, 15 U.S.C. § 78j(b), *ET SEQ.*

255. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

256. Counterclaim-Defendants violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 because Defendants, in connection with the sale of LLC interests to Counterclaim-Plaintiffs, by the use of means and instrumentalities of interstate commerce, employed devices, schemes, and artifices to defraud; made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made not misleading; and engaged in acts, practices, and a course of business which operated as a fraud and deceit upon Counterclaim-Plaintiffs.

257. The misrepresentations and omissions of material facts by Counterclaim-Defendants, included false and misleading statements to Counterclaim-Plaintiffs that:

- A. the underlying real estate purchased by each LLC had been secured with fixed-interest loans;
- B. Counterclaim-Defendants' acquired the underlying properties for below market value and, as a result, the LLCs would thus generate continued revenue-streams for Counterclaim-Plaintiffs;
- C. Counterclaim-Plaintiffs were "preferred" customers, which guaranteed to Counterclaim-Plaintiffs a blended, annual investment-return from the LLCs of more than 9%;
- D. the underlying properties required no material improvements before they could be occupied for profit and resold by Counterclaim-Defendants (which would have provided Counterclaim-Plaintiffs with a lump sum payment);
- E. Counterclaim-Plaintiffs were able to "cash out" of the LLC investments at any time;
- F. Counterclaim-Plaintiffs would have access to all of the underlying documents for each deal that they invested in;
- G. Counterclaim-Defendants completed thorough due diligence respecting their purchase of the underlying properties (and that the underlying properties were in good, working order);
- H. Counterclaim-Defendants failed to clearly and meaningfully disclose the extent and nature of the fees and other forms of profit that they would be extracting from the properties;
- I. Counterclaim-Defendants misrepresented that the fees they intended to charge were

“competitive with typical private investment partnerships”;

- J. Counterclaim-Defendants misrepresented that they would “exercise good faith and fairness in all dealings affecting the Fund.”
- K. Counterclaim-Defendants provided Counterclaim-Plaintiffs with financial projections on each of the LLCs that were knowingly false and misleading at the time they were made because they were not achievable and lacked a reasonable basis based upon the exorbitant fees charged by Counterclaim-Defendants and the inflated valuations of the properties.

258. Counterclaim-Defendants acted with scienter in that they knew or recklessly disregarded that the representations were materially false and misleading, including ignoring advice from their own compliance officers that the statements may violate the Exchange Act.

259. Counterclaim-Plaintiffs justifiably relied upon the above misrepresentations and omissions when deciding to invest in the LLCs and, as a result, sustained damages in the form of loss of principal, overpayment for the LLC interests, lost profits, and such other damages as may be proven at trial. Counterclaim-Plaintiffs are also entitled to recover interest, costs and reasonable attorney’s fees.

COUNT XXVI
VIOLATION OF NEW JERSEY CRIMINAL JUSTICE
ACT OF 1970, N.J.S. 2C:41-1, *ET SEQ.*

260. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

261. Counterclaim-Plaintiffs have been damaged in their business or property by reason of a violation of N.J.S. 2C:41-2 and, pursuant N.J.S. § 2C:41-4, may sue and shall recover threefold any damages they sustained and the cost of the suit, including a reasonable attorney's fee, costs of

investigation and litigation.

262. FNRP, FNPM, and FNRA are racketeering enterprises within the meaning of N.J.S. § 2C:41-1c and the individual Counterclaim-Defendants are employees, officers, or affiliates of those enterprises.

263. Counterclaim-Defendants have violated N.J.S. 2C:41-2 by receiving income, including the fees, carried interests in the LLCs, and proceeds from self-dealing transactions discussed above, derived, directly or indirectly, from a pattern of racketeering activity, as described herein, in which the Counterclaim-Defendants have participated as a principal within the meaning of N.J.S. 2C:2-6 to use or invest, directly or indirectly, any part of the income, or the proceeds of the income, in acquisition of any interest in, or the establishment and operation of FNRP, FNPM, and FNRA and their affiliates, as well as acquiring carried interests in the LLCs.

264. Counterclaim-Defendants have violated N.J.S. 2C:41-2 by acquiring and maintaining carried interests in the LLCs through a pattern of racketeering activity, as described below.

265. The Individual Counterclaim-Defendants have violated N.J.S. 2C:41-2 by being employed by or associated with the Enterprises Counterclaim-Defendants FNRP, FNRA and FNPM.

266. Counterclaim-Defendants have engaged in a pattern of racketeering activity by (a) engaging in the acts of fraud described in the above Counts; and (b) engaging in the acts of securities fraud, including the sale of the LLC interest to Counterclaim-Plaintiffs, as described in the above Counts.

267. The pattern of racketeering activity was for the purpose of conducting the business of the enterprise Counterclaim-Defendants FNRP, FNPM, and FNRA and the individual Defendants conspired with the enterprises to conduct and perpetuate that activity, thereby resulting in damages to Counterclaim-Plaintiffs in the form of loss of principal invested in the LLCs, lost profits, mental

anguish, and other harm as will be demonstrated at trial.

COUNT XXVII
RESPONDEAT SUPERIOR

268. The preceding factual statements and allegations are incorporated by reference and realigned as if set out at length.

269. Counterclaim-Defendants, including but not limited to, FNRP, FNPM, and FNRA, are also liable for the above wrongful acts committed by their employees during the course and scope of their employment by the Counterclaim-Defendants; to wit, the employees' and representatives' wrongful conduct was committed (i) within their general authority, (ii) in furtherance of Counterclaim-Defendants' business, and (iii) to accomplish the objective for which the employees/representatives were hired (*i.e.*, selling investments in the LLCs to customers like Counterclaim-Plaintiffs)—all of which directly and/or proximately caused Counterclaim-Plaintiffs to suffer damages to the financial benefit of Counterclaim-Defendants—and for which Counterclaim-Defendants are liable under the doctrine of *respondeat superior*.

COUNT XXVIII
MAIL FRAUD AND WIRE FRAUD
(*A Pattern of Unlawful Activity Under 18 U.S.C. § 1961, et seq.*)

270. The preceding paragraphs and allegations are incorporated by reference and re-alleged as if fully set forth at length herein.

271. This Count is brought in the alternative in the event that the conduct described above is not deemed actionable under the securities laws or there is a criminal conviction for securities fraud.

272. By engaging in the above-described open-ended actions and misrepresentations – which also was a consistent, regular, and dominant part of the manner in which the Individual Counterclaim-Defendants participated in and conducted the day-to-day business affairs of FNRP

(RICO Enterprise), FNPM (RICO Enterprise) and FNRA (RICO Enterprise) – the Counterclaim-Defendants instigated, perpetrated, and executed a scheme to defraud Counterclaim-Plaintiffs and numerous other of Counterclaim-Defendants' telemarketing customers; to wit: the Individual Counterclaim-Defendants, individually or in concert, and by or through representatives and employees of the RICO Enterprises (FNRP, FNPM, and FNRA), engaged in repeated and systematic conspiracy to commit mail fraud and wire fraud (as described above), in violation of 18 U.S.C. §§ 1341; 1343, that generated multiple and repeated unlawful investments by Counterclaim-Plaintiffs and numerous other of Counterclaim-Defendants' telemarketing customers that, in turn, generated exorbitant compensation for Counterclaim-Defendants.⁴¹

273. The Individual Counterclaim-Defendants caused the RICO Enterprises to use the interstate mails and wires to repeatedly make and/or send fraudulent solicitations, sales receipts, and/or purchase confirmations to Counterclaim-Plaintiffs and other telemarketing customers for the above-described transactions. As such, the Individual Counterclaim-Defendants conducted and/or participated in the business and financial affairs of the RICO Enterprises through a pattern of racketeering activity (i.e. repeated and systematic mail fraud and wire fraud in violation of 18 U.S.C. §§ 1341; 1343), as described above, that generated multiple and repeated unlawful sales to Counterclaim-Plaintiffs and numerous other of Counterclaim-Defendants' telemarketing customers that, in turn, generated exorbitant compensation for them.

⁴¹ Upon information and belief, the RICO Counterclaim-Defendants conducted their business and financial affairs through an open-ended and/or closed pattern of racketeering activity as set forth herein. At all relevant times, the RICO Counterclaim-Defendants wrongful actions were committed willfully, maliciously, fraudulently, and with intent to injure and damage Counterclaim-Plaintiffs, and with reckless disregard of their legal rights. The Counterclaim-Defendants' relationship with Counterclaim-Plaintiffs does not represent a one-off transaction but rather were representative of and were part and parcel of the RICO Counterclaim-Defendants' normal pattern and scheme through which they have defrauded – and continue to defraud – other unsuspecting consumers out of millions of dollars.

274. The Individual Counterclaim-Defendants committed these substantive RICO offenses, all the while knowing about, and agreeing to, the overall objective of the fraud – generating exorbitant compensation for themselves. By their unlawful actions, therefore, they (i) conducted and/or participated in the affairs of FNRP, FNPM, and FNRA (in violation of 18 U.S.C. § 1962(c)) and/or (ii) conspired with others to violate 18 U.S.C. § 1962(b); (iii) and defrauded Counterclaim-Plaintiffs and numerous other of Counterclaim-Defendants' telemarketing customers in the process, in violation of 18 U.S.C. § 1962(d).⁴²

275. The multiple, repeated, and continuous acts of mail fraud and/or wire fraud described above, plus the active marketing and fraudulent sales to countless other victims over the course of numerous years, constitute a pattern of unlawful activity under 18 U.S.C. § 1961(1); (5). Nothing about the Individual Counterclaim-Defendants' schemes to defraud Counterclaim-Plaintiffs and numerous other Counterclaim-Defendants' telemarketing customers indicated that the scheme would ever terminate. Moreover, and independent of the duration of the scheme, their wrongful acts were and are a consistent, regular, and dominant part of the manner in which they participate

⁴² Counterclaim-Defendants maliciously conspired to defraud Counterclaim-Plaintiffs, in violation of RICO, and Securities and Exchange Commission ("SEC") Regulations by, amongst the plethora of reasons discussed below, and upon information and belief:

- (i) paying illegal commissions to their salespersons in violation of SEC Regulation D;
- (ii) overvaluing the Underlying Properties in order to fraudulently abscond with the difference from Counterclaim-Plaintiffs' investments;
- (iii) making unauthorized transfers to themselves and commingled funds;
- (iv) fraudulently skimming from Counterclaim-Plaintiffs more than half of the returns from the Underlying Properties by falsely holding out to Counterclaim-Plaintiffs that Counterclaim-Defendants were buying the Underlying Properties at below market prices – which was false.

See Dr. Craig McCann, SLCG Economic Consulting: First Realty Partners Reg D Offerings: Muppets Do Commercial Real Estate by Dr. at 3-4 ("Dr. McCann Article") (attached hereto as Exhibit 1, with the *Curriculum Vitae* of Dr. McCann) ("FNRP is not buying these properties at below market prices as it claims. FNRP buys a property at or above market and shaves more than half of the returns for itself.") Contra RICO FNRP's Marketing and Sales Materials, <https://fnrpusa.com/fnrp360/> (FNRP video where Counterclaim-Defendants falsely state that Counterclaim-Defendants "secure properties both on-market and off-market, at or below market value . . .").

in and conduct the day-to-day business and financial affairs of the RICO Enterprises, FNRP, FNPM, and FNRA.

COUNT XXIX
VIOLATION OF 18 U.S.C. § 1962(c)

276. The preceding paragraphs and allegations are incorporated by reference and re-alleged as if fully set forth at length herein.

277. This Count is brought in the alternative in the event that the conduct described above is not deemed actionable under the securities laws or there is a criminal conviction for securities fraud.

278. Counterclaim-Defendants FNRP, FNPM, and FNRA are each an “enterprise” engaged in, and the activities of which affected, interstate commerce within the meaning of 18 U.S.C. §§ 1961(4); 1962(c); 1962(d).

279. The Individual Counterclaim-Defendants are each “persons” within the meaning of 18 U.S.C. §§ 1961(3); 1962(c); 1962(d).

280. Individual Counterclaim-Defendants conducted and/or participated in the business and financial affairs of FNRP (RICO Enterprise), FNPM (RICO Enterprise), and FNRA (RICO Enterprise) through patterns of unlawful activity within the meaning of 18 U.S.C. §§ 1961(1)(B); 1961(5); 1962(c); to wit, the multiple, repeated and continuous acts of mail fraud and wire fraud, in violation of 18 U.S.C. §§ 1341; 1343, set forth above.

281. The patterns of unlawful activity and corresponding violations of 18 U.S.C. § 1962(c) by Individual Counterclaim-Defendants proximately and/or directly caused Counterclaim-Plaintiffs to suffer injury within the meaning of 18 U.S.C. § 1964(c); to wit, Counterclaim-Plaintiffs was damaged by, inter alia, the fraudulent representations made by Counterclaim-Defendants and the

corresponding mental anguish they suffer. Individual Counterclaim-Defendants committed these substantive RICO offenses by using FNRP, FNPM, and/or FNRA to engage in multiple predicate acts of mail fraud and wire fraud, all the while knowing about, and agreeing to, the overall objective of the mail fraud – generating exorbitant compensation for themselves. They knew their tactics and marketing practices were misleading and unlawful and would cause Counterclaim-Plaintiffs and numerous other Counterclaim-Defendants' telemarketing customers to suffer damages that were reasonably foreseeable by them and/or anticipated as a substantial factor and a natural consequence of their pattern of unlawful activity.

COUNT XXX
VIOLATION of 18 U.S.C. § 1962(d) by
CONSPIRACY TO VIOLATE 18 U.S.C. § 1962(c)

282. The preceding paragraphs and allegations are incorporated by reference and re-alleged as if fully set forth at length herein.

283. This Count is brought in the alternative in the event that the conduct described above is not deemed actionable under the securities laws or there is a criminal conviction for securities fraud.

284. FNRP, FNPM, and FNRA are each an "enterprise" engaged in, and the activities of which affected, interstate commerce within the meaning of 18 U.S.C. §§ 1961(4); 1962(c); 1962(d). The Individual Counterclaim-Defendants are each "persons" within the meaning of 18 U.S.C. §§ 1961(3); 1962(c); and 1962(d).

285. The Individual Counterclaim-Defendants conspired with other persons within the meaning of 18 U.S.C. § 1962(d) to violate 18 U.S.C. § 1962(c); that is, they conspired to conduct and/or

participate in the business and financial affairs of FNRP (RICO Enterprise), FNPM (RICO Enterprise) and FNRA (RICO Enterprise) through a pattern of unlawful activity within the meaning of 18 U.S.C. §§ 1961(1)(c); 1961(5); and 1962(c); to wit, the multiple, repeated and continuous acts of mail fraud and wire fraud, in violation of 18 U.S.C. §§ 1341; 1343, set forth above.

286. The Individual Counterclaim-Defendants' pattern of unlawful activity and corresponding violations of 18 U.S.C. § 1962(d) were the causes-in-fact and proximate cause of Counterclaim-Plaintiff's suffering injury to his business and/or property within the meaning of 18 U.S.C. § 1964(c); to wit: Counterclaim-Plaintiffs was damaged by, inter alia, the fraudulent representations made by the Counterclaim-Defendant. The Individual Counterclaim-Defendants, themselves and through their representatives agreed to commit these substantive RICO offenses by using the RICO Enterprises (FNRP, FNPM, and/or FNRA) to engage in multiple predicate acts of mail fraud and wire fraud, all the while knowing about, and agreeing to, the overall objective of the mail fraud – generating exorbitant compensation for themselves. They knew their tactics and marketing practices were misleading and unlawful and would cause Counterclaim-Plaintiffs and numerous other Counterclaim-Defendants' telemarketing customers to suffer damages that were reasonably foreseeable by them and/or anticipated as a substantial factor and a natural consequence of their patterns of unlawful activity.

RELIEF REQUESTED

287. RECISSION. Based on Counterclaim-Defendants' above-described wrongful conduct, Counterclaim-Plaintiffs are entitled to full rescission of the LLC investments at issue, which Counterclaim-Defendants conspired to fraudulently market and sell to Counterclaim-Plaintiffs. All conditions precedent to Counterclaim-Plaintiffs' claims for relief have been performed and/or occurred.

288. ACTUAL AND CONSEQUENTIAL DAMAGES. As direct and proximate result of Counterclaim-Defendants' wrongful conduct and illegal conspiracy, Counterclaim-Plaintiffs have suffered (and continue to suffer) damages in the form of, inter alia, the amounts paid to Counterclaim-Defendants for the investments in the LLCs. Counterclaim-Plaintiffs are entitled to recover consequential damages related to lost investments when they were lured into purchasing the investments in the LLCs and the mental anguish they have suffered in connection with these transactions— in an amount to be determined by the trier of fact. All conditions precedent to Counterclaim-Plaintiffs' claims for relief have been performed and/or occurred.

289. AUTOMATIC TREBLE DAMAGES UNDER 18 U.S.C. § 1964(c). Counterclaim-Plaintiffs are also entitled to automatic treble damages under 18 U.S.C. § 1964(c) for Counterclaim-Defendants' knowing, willful and intentional wrongful conduct in violation of the RICO statute. All conditions precedent to Counterclaim-Plaintiffs' claims for relief have been performed and/or occurred.

290. TRIPLE ACTUAL-DAMAGES UNDER NEW JERSEY RACKETEERING ACT. Counterclaim-Plaintiffs are also entitled to statutory penalties of triple actual-damages for Counterclaim-Defendants' willful, unlawful, deceptive, and fraudulent misconduct described herein with respect to Counterclaim-Defendants' marketing and sales to Counterclaim-Plaintiffs of shares in the Counterclaim-Defendant LLCs, and fraudulent mismanagement of the LLCs and the Underlying Properties.

291. EXEMPLARY DAMAGES. Counterclaim-Defendants' wrongful and unlawful conspiracy to defraud Counterclaim-Plaintiffs was actions was committed intentionally, willfully, with malice and/or with conscious and/or reckless disregard for Counterclaim-Plaintiffs' rights and

interests. Accordingly, Counterclaim-Plaintiffs are also entitled to an award of punitive damages against Counterclaim-Defendants, both as punishment and to discourage such wrongful conduct in the future.

292. ATTORNEYS' FEES, LITIGATION EXPENSES AND COSTS. Counterclaim-Plaintiffs are also entitled to recover their reasonable and necessary attorneys' fees, litigation expenses and court costs, to be determined by the trier of fact.

293. **TRIAL BY JURY.** Counterclaim-Plaintiff requests trial by a jury of all legal claims herein.

WHEREFORE, Counterclaim-Plaintiffs request judgment in their favor and against the Counterclaim-Defendants, jointly and severally, awarding compensatory damages for all actual and consequential losses in an amount to be determined by the Court but equaling or exceeding TWELVE MILLION, TWO HUNDRED AND EIGHTY THREE THOUSAND, AND EIGHT HUNDRED AND FOUR DOLLARS (\$12,283,804.00); treble damages under 18 U.S.C. § 1964(c); statutory triple actual-damages penalties under the New Jersey Racketeering Act; exemplary and punitive damages; and all amounts by which Counterclaim-Defendants have been unjustly enriched; directing an equitable accounting for all benefits, consideration, and profits received, directly or indirectly, by Counterclaim-Defendants, including the imposition of a constructive trust and the voiding of unlawful transfers; and awarding attorneys' fees and litigation expenses pursuant to 18 U.S.C. § 1964(c), New Jersey Racketeering Act, and state securities statutes, and the costs of suit pursuant to 28 U.S.C. § 1920 and Fed. R. Civ. P. 54(d); together with pre-judgment interest pursuant to the highest legal rate, and such other and further relief as the Court deems just, proper, and equitable.

Respectfully submitted,

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Co-Counsel for Defendants- Counterclaimants

Dated: June 25, 2025

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