

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

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ACE DECADE HOLDINGS LIMITED,	:	
	:	INDEX NO. 653316/2015
	:	
Plaintiff,	:	(Bransten, J.)
	:	
-against-	:	AMENDED COMPLAINT
	:	
UBS AG,	:	JURY TRIAL DEMANDED
	:	
Defendant.	:	

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Plaintiff Ace Decade Holdings Limited (“Ace Decade”), by its undersigned counsel, for its amended complaint against UBS AG (“UBS”), alleges, upon knowledge as to itself and its own acts taking place in its presence, and upon information and belief as to all other matters, as follows:

NATURE OF THIS ACTION

1. This action arises out of UBS’s misrepresentations, deception, and breaches of fiduciary duty, resulting in Ace Decade’s loss of more than \$500 Million USD.
2. These illegal acts included:
 - a. UBS improperly advising and fraudulently inducing Ace Decade to make an investment in shares (the “Shares”) of a company (the “Investment”) through an intermediary entity, Haixia Huifu Asset Investment and Fund Management Co., Ltd. (“Haixia”), which was affiliated with UBS and which affiliation UBS concealed and misrepresented;
 - b. UBS improperly advising and fraudulently inducing Ace Decade to obtain an additional \$775 Million USD loan, which UBS knew at the time was

not necessary for Ace Decade and which increased the scale of the Investment through financing (through Haixia) from UBS for part of Ace Decade's investment;

- c. UBS improperly advising and fraudulently inducing Ace Decade to fund the Investment by transferring over \$250 Million USD in December 2014 and another over \$250 Million USD in May 2015;
- d. UBS's breach of its duties and obligations to Ace Decade by—
inconsistent with its prior representations—(i) making a sudden margin call; (ii) not providing Ace Decade a reasonable opportunity to meet the margin call; and (iii) then selling Ace Decade's Shares at artificially low prices, ultimately resulting in Ace Decade's loss of all of its Shares; and
- e. UBS's breach of its duties and obligations to Ace Decade in selling Ace Decade's Shares to itself and to affiliated entities at artificially low prices created in part by UBS's short selling and in part by UBS's failure to sell the Shares in a commercially reasonable manner.

3. If Ace Decade had not received and relied upon UBS's repeated misrepresentations, Ace Decade would not have entered into the December 2014 agreements with Haixia; made the Investment; obtained loan financing from UBS for the Investment; or funded the Investment, particularly in May 2015.

4. UBS's attempts to conceal its misconduct, including in this proceeding, are both evidence of UBS's guilty knowledge and a continuation of UBS's wrongful conduct. For example, Stephen Wong, the UBS Managing Director who advised Ace Decade on the Investment, submitted a sworn affidavit in this action claiming that he had never heard of Ace

Decade, a claim which is demonstrably false. Additionally, UBS represented to the Court that Ace Decade (but not UBS) had copies of Ace Decade's agreements with Haixia despite the clear documentary evidence showing that UBS had copies of the agreements and was kept apprised of Ace Decade's arrangement with Haixia.

5. UBS had recommended Haixia to Ace Decade as a qualified, independent entity that would pursue Ace Decade's best interests, concealing, as UBS knew, that the intermediary was controlled by UBS's joint venture partner and was motivated to act in UBS's interest in conflict with the interests of and to the detriment of Ace Decade.

6. Relying upon UBS's advice, Ace Decade was induced to invest less of its own funds than it had originally planned to invest and instead borrowed \$775 Million USD from UBS to finance the purchase of additional shares. UBS charged Ace Decade nearly \$40 Million USD in fees, in addition to interest, in connection with this loan.

7. In order to serve UBS's interests, Haixia, in concert with UBS, arranged for UBS to provide the financing for the loan and negotiated with UBS a one-sided financing commitment letter (the "Financing Letter") and later a one-sided loan Facility Agreement (the "Facility Agreement") (together, the "Loan Agreements") with terms that were highly favorable to UBS, including certain loan prepayment and margin call (herein referred to collectively as "margin call") provisions that were unduly favorable to UBS and unduly onerous to Haixia (and, hence, to Ace Decade), and more favorable to UBS and more onerous to Haixia (and, hence, to Ace Decade), than would have been negotiated if Haixia had acted in its (and Ace Decade's) interests rather than UBS's interests.

8. Moreover, during 2015, prior to Ace Decade's funding the Investment in May 2015, UBS made numerous misrepresentations to Ace Decade to induce Ace Decade to fund the

Investment in May 2015, about how UBS would implement the margin call provisions that UBS knew at the time were false, and which UBS made with the specific purpose and effect of inducing Ace Decade to fund.

9. For example, prior to Ace Decade's funding the Investment, UBS made numerous misrepresentations, including particularly in 2015, to Ace Decade, in order to induce Ace Decade to make the Investment, obtain loan financing for the Investment from UBS, and fund the Investment, including that:

- a. UBS would give Ace Decade ample time to meet any margin calls;
- b. UBS would make every effort to work with Ace Decade to allow it to meet margin calls;
- c. the margin call provisions in the Loan Agreements would not contain any margin call triggers based on short term price fluctuations; and
- d. Ace Decade's interests would not be detrimentally affected by a margin call, because Ace Decade would receive the same treatment as another large investor which had funded an investment in Ping An Insurance Group through a similar margin loan provided by UBS and whose shares UBS never sold following a margin call.

UBS made many of these misrepresentations to Ace Decade in 2015 while Ace Decade and its representatives were resident in New York. Had Ace Decade not relied upon these misrepresentations, Ace Decade would never have made the Investment (including funding over \$250 Million USD) in May 2015 from New York.

10. As advised by UBS, Ace Decade made the Investment through Haixia on May 15, 2015, at which time Ace Decade and its representatives were resident in New York.

11. UBS knew that Ace Decade had the right to gain control of the Shares from Haixia on July 15, 2015.

12. After the close of the Hong Kong markets on July 6, 2015, less than ten (10) days before Ace Decade would have gained control of those Shares, UBS made a margin call requiring repayment on the loan by the close of the Hong Kong markets the following day, giving Haixia and Ace Decade less than 24 hours to make a payment of \$200 Million USD.

13. On July 7, 2015, Ace Decade informed UBS, a few hours before the deadline, that it could meet the margin call but would need more than 24 hours to do so. However, on July 8, 2015, UBS—contrary to prior representations made to Ace Decade—informed Ace Decade that it had already begun its efforts to sell off Ace Decade’s Shares—10% of which it sold to itself—at a 20% discount. Ace Decade was never provided with a reasonable amount of time to meet its payment obligations despite representations otherwise before UBS began selling off Ace Decade’s Shares.

14. On or before July 13, 2015, UBS resold the Shares, making a profit of more than \$45 Million USD.

15. In committing these illegal acts, UBS acted solely in its own interests, making substantial profits that it would not have otherwise gained if UBS had allowed Ace Decade reasonable time to meet the margin call, including a \$29 Million USD fee UBS claimed for prepayment of the loan as well as the more than \$45 Million USD profit from its purchase and immediate resale of Ace Decade’s Shares.

16. As a result of UBS’s actions, Ace Decade lost its entire Investment, potential investors, and other related investment opportunities.

17. This action seeks compensation for the damages caused by UBS’s illegal conduct

and/or disgorgement of UBS's unjust enrichment.

THE PARTIES

18. Plaintiff Ace Decade is a limited liability investment holding vehicle incorporated in the British Virgin Islands. Ace Decade's principal place of business is in New York City.

19. Defendant UBS is a Swiss banking and financial services company. As described by UBS on its website, two of UBS's "main offices worldwide" are located in New York. One of its main worldwide offices is located at 1285 Avenue of the Americas, New York, NY 10019 and another is located at 299 Park Avenue, New York, NY 10171. UBS also operates a New York Branch, which had assets totaling over \$63 Billion USD and revenues of \$154 Million USD in 2014. UBS also routinely litigates in New York courts, including in actions brought by it and its foreign branches.

JURISDICTION AND VENUE

20. This Court has both general and specific jurisdiction pursuant to N.Y. C.P.L.R. §§ 301 and 302 because UBS transacted business in New York that gives rise to the claims herein and UBS committed tortious acts within and without the State that caused injury to Ace Decade in New York. Specifically, this action arises in substantial part from representations by UBS to Ace Decade in New York, and from agreements made by Ace Decade in New York. In addition, UBS (1) regularly does or solicits business, engages in a persistent course of conduct, and derives substantial revenue from services rendered in New York; and (2) expects or reasonably should expect its acts to have consequences in this State and derives substantial revenue from international commerce because two of UBS's principal worldwide offices are based in New York and UBS conducts a substantial portion of its business in New York.

21. Venue is proper in this Court pursuant to N.Y. C.P.L.R. § 503 because the parties reside in New York County.

FACTUAL ALLEGATIONS

I. Background

22. Kwok Ho Wan, Ace Decade's agent residing in and working out of New York since early 2015, has had a longstanding relationship with UBS since 2010 when he first sought investment advice. In July 2012, Mr. Kwok opened an account at UBS for another investment vehicle that he controls called Long Gate Limited.

23. Over the course of this relationship, Mr. Kwok has depended and relied upon the knowledge and expertise of UBS and Stephen Wong, the UBS Managing Director who was Mr. Kwok's and Ace Decade's primary contact, in making many of his investment decisions.

24. In or around May 2014, UBS began discussions with Mr. Kwok regarding an investment opportunity in an upcoming placement (the "Placement") of H-shares of Haitong Securities Co., Ltd. ("Haitong").

25. H-shares are shares of a company incorporated in the People's Republic of China ("PRC" or "mainland China") that are listed on the Hong Kong Stock Exchange ("HKSE"). H-shares are regulated by Chinese law but are denominated in Hong Kong dollars.

26. Haitong, a joint stock limited company incorporated in the PRC, is a full-service securities firm. Haitong is one of the largest securities firms in the PRC in terms of total assets, net assets, and total revenue. Haitong's shares have been listed on the Shanghai Stock Exchange since July 2007 and its H-Shares have been listed on the HKSE since April 2012. Haitong has a market capitalization on the HKSE of approximately HK \$190 Billion (approximately \$24.5 Billion USD) and a market capitalization on the Shanghai Stock Exchange of approximately RMB 160 Billion (approximately \$25 Billion USD).

27. UBS was one of the joint global coordinators and joint placement agents for the Placement of the Shares.

28. UBS held itself out to Ace Decade as knowledgeable and experienced in advising investors such as Ace Decade with respect to investments in Placements such as this one.

29. As a result, Ace Decade agreed to have UBS act as its advisor in connection with the Investment, including advising on, among other things, how best to make the Investment, including the entity to use to purchase the Shares and the means by which to finance the Investment. Ace Decade thus relied on UBS to act as its fiduciary and to advise it with respect to its Investment in the Shares.

30. Mr. Wong told Mr. Kwok that if Ace Decade decided to invest through UBS, UBS would protect Ace Decade's interests, and because of the size of the proposed Investment, senior executives from UBS globally, including from the United States, would participate in structuring the deal. Mr. Wong told Mr. Kwok that he would be acting under the instructions of senior executives from UBS offices in the United States, Switzerland, England, and Hong Kong.

31. Based on these representations that senior executives at UBS globally would be involved in structuring and overseeing this Investment and that UBS would act in Ace Decade's best interests, Mr. Kwok entrusted UBS to act as Ace Decade's advisor for the Investment.

II. UBS Improperly Advised and Fraudulently Induced Ace Decade to Make the Investment Through an Intermediary That Was Controlled by UBS's Joint Venture Partner Without Disclosing This Conflict of Interest.

32. UBS advised Mr. Kwok not to purchase the Shares directly through Ace Decade. Specifically, UBS advised Mr. Kwok that because his planned Investment comprised greater than 5% of the outstanding H-shares of Haitong, if Mr. Kwok invested directly through Ace Decade, applicable disclosure requirements would require certain filings. UBS further advised Mr. Kwok that if Mr. Kwok and Ace Decade invested through an intermediary entity, whereby Ace Decade would be the beneficial owner of the Shares, but the intermediary entity would hold legal title to the Shares, no such disclosure would be required.

33. UBS ultimately recommended that Mr. Kwok select Haixia as the intermediary. UBS represented to Mr. Kwok and Ace Decade that UBS recommended Haixia because Haixia was the best qualified to act for Mr. Kwok and Ace Decade and that Haixia was independent of UBS and would protect Mr. Kwok's and Ace Decade's interests.

34. UBS intended that Mr. Kwok and Ace Decade rely on these representations by UBS. These representations were knowingly false, and Mr. Kwok and Ace Decade relied on these representations to their detriment. UBS did not disclose that Haixia was closely affiliated with UBS, including being controlled by its joint venture partner, State Development & Investment Corp. ("SDIC"). SDIC and UBS in June 2005 had formed China's first joint venture fund management company called UBS SDIC, which was owned 49% by UBS and 51% by SDIC. UBS also concealed from Mr. Kwok and Ace Decade that Lu Bo, the principal point of contact between UBS and Haixia, was previously the Chief Financial Officer of UBS SDIC.

35. Ace Decade relied on UBS's misrepresentations to its detriment, including by entrusting Ace Decade's Investment and negotiations with UBS to Haixia, which Ace Decade would not have done if Ace Decade had been aware of the true facts. In the absence of UBS's false representations, Ace Decade would not have entered into the December 2014 agreements with Haixia, made the Investment, obtained loan financing from UBS for the Investment, or funded the Investment, particularly in May 2015.

36. UBS also advised Mr. Kwok on how best to satisfy the background or Know Your Customer ("KYC") checks required by Haixia. Mr. Wong reviewed the resumes of Mr. Kwok's employees and advised Mr. Kwok to appoint Ms. Yu as the Director and sole shareholder of Ace Decade because, in his view, her resume was most likely to satisfy Haixia's

KYC checks. Additionally, Mr. Wong gave Mr. Kwok and Ms. Yu comments on Ms. Yu's resume to increase the likelihood of satisfying Haixia's requirements.

III. UBS Improperly Advised and Fraudulently Induced Ace Decade to Obtain Financing for Part of the Investment, Which UBS Knew Was Unnecessary.

37. In November and December 2014, Mr. Kwok, UBS, and Haixia negotiated the terms of Ace Decade's investment in Haitong. UBS advised Mr. Kwok to structure the Investment so that Ace Decade would provide \$500 Million USD to Dawn State Limited ("Dawn State"), a special purpose vehicle and wholly owned subsidiary of Haixia Industrial Investment Fund (Fu Jian) Limited Partnership Co., a fund managed by Haixia.

38. UBS represented to Mr. Kwok and Ace Decade that it was desirable not to have to disclose Ace Decade's ownership of the Shares, that Ace Decade's beneficial ownership of the Shares would not have to be disclosed if Ace Decade had no management or voting rights with respect to Dawn State, and that for this reason, UBS recommended that Ace Decade have no management or voting rights with respect to Dawn State or any Shares purchased by Dawn State. UBS's representation was knowingly false, including in that UBS planned and intended that Ace Decade surrender its right to control its investment so that UBS would be able to structure its deal with Haixia and Dawn State in UBS's interest.

39. Moreover, although Mr. Kwok initially wanted to invest \$1 Billion USD in the Shares without any financing, UBS advised him it would benefit Mr. Kwok and Ace Decade to instead invest only \$500 Million USD and to obtain a substantial loan to be invested in the purchase of additional shares.

40. UBS's cohort Haixia arranged for UBS's London Branch to finance the loan. Mr. Kwok and Ace Decade asked UBS whether Dawn State should approach other banks to finance the loan, but UBS represented to them that UBS would handle the financing on the most

favorable terms. Because of their reliance on these representations, Mr. Kwok and Ace Decade did not pressure Haixia to seek financing opportunities through other banks. In the absence of UBS's improper advice and false representations, Ace Decade would not have been induced to obtain loan financing from UBS for the Investment.

IV. Haixia Negotiated a Loan Financing Agreement With UBS That Contained Terms That Were Favorable to UBS and Directly at Odds With the Representations UBS Had Made to Mr. Kwok.

41. On December 17, 2014, Ms. Yu signed on behalf of Ace Decade the Co-Investment Agreement ("Co-Investment Agreement") with Haixia and Dawn State and a letter agreement ("Letter Agreement") with Haixia. (The Co-Investment Agreement is attached to the Amended Complaint as Exhibit 1. The Letter Agreement is attached to the Amended Complaint as Exhibit 2.)

42. Although UBS was not a signatory to the Co-Investment and Letter Agreements, UBS was kept apprised of the terms of these agreements by Haixia because of UBS's close ties with Haixia and because UBS was the mastermind behind structuring Ace Decade's Investment through Haixia and Dawn State in order to avoid disclosure requirements.

43. In fact, Fenix Wang, a UBS Director and member of the UBS deal team for the Placement, received from Haixia drafts and the final version of the Co-Investment and Letter Agreements. (Attached to the Amended Complaint as Exhibits 3 and 4 are December 17 and 18, 2014 emails to Fenix Wang attaching drafts and the final version of the Co-Investment and Letter Agreements.)

44. Pursuant to the Co-Investment Agreement, Ace Decade would provide Dawn State with \$500 Million USD, which together with \$750 Million USD in loan financing that Dawn State was to obtain from UBS, would be used to purchase the Shares. In return for

allowing Ace Decade to use its name for the Investment, Haixia would receive a fee of at least \$5 Million USD.

45. Because, as Haixia and UBS knew, Mr. Kwok's and Ace Decade's ultimate motive in making the Investment was to utilize the Shares in a subsequent transaction, Haixia agreed in the Letter Agreement to transfer (for no additional consideration) 100% of Dawn State to Ace Decade at any time after two months following the Investment. (Ex. 2 at 2.) In other words, two months after Ace Decade entered into the Investment through Dawn State and Haixia, Ace Decade could have—and would have, had UBS not demanded prepayment of the loan and sold all of the Shares—exercised the right to gain full control of the Shares.

46. On December 19, 2014, Dawn State entered into a subscription agreement with Haitong (the "Subscription Agreement") to purchase 569,427,620 Shares at a share price of HK \$15.62. (The Subscription Agreement is attached to the Amended Complaint as Exhibit 5.) Completion of this sale was expressly conditioned on future shareholder and regulatory approvals. (Ex. 5 §§ 3.1.1-3 at 5-6.)

47. During discussions about the loan financing, Mr. Kwok told Mr. Wong that Ace Decade would not make the Investment unless the margin call provisions for the loan financing did not include any triggers based on the short term price fluctuation of the Shares and provided Ace Decade with a reasonable amount of time to meet any margin calls (for example, five business days to pay the first 25%, 10 business days to pay the second 25%, and 20 business days to pay the remaining 50%). Mr. Wong represented to Mr. Kwok on several occasions that the Loan Agreements would be consistent with Mr. Kwok's requirements.

48. Mr. Wong further represented to Mr. Kwok that UBS would work with Ace Decade to allow it to meet any margin calls and that UBS would not sell the Shares

following a margin call without giving Ace Decade a reasonable amount of time to pay.

Mr. Wong made many of these false representations to Ace Decade in 2015 while it and its representatives were resident in New York.

49. To reassure Mr. Kwok that his representations were true, Mr. Wong told Ace Decade on numerous occasions that UBS had provided loan financing to a shareholder of Ping An Insurance Group (“Ping An”) in an even larger transaction, but that UBS had never sold any of the shares owned by that shareholder as a result of a margin call. Mr. Wong promised Ace Decade that UBS would give it the same treatment it gave to the Ping An shareholder and would not sell its Shares following a margin call without giving Ace Decade a reasonable amount of time. Mr. Wong made many of these false representations to Ace Decade in 2015 while it and its representatives were resident in New York.

50. The final Financing Letter between Haixia and UBS was executed on December 19, 2014, two days *after* Ace Decade signed the Co-Investment Agreement and the Letter Agreement. Because of UBS’s advice, neither Ace Decade nor Mr. Kwok were parties to the Financing Letter. Instead, only Dawn State—the special purpose entity owned and controlled by Haixia, which was itself controlled by UBS’s joint venture partner—was a party to the Financing Letter.

51. UBS concealed from Ace Decade that Haixia, the intermediary through which Ace Decade would be making the Investment, was inextricably tied to UBS, and this conflict of interest warped Haixia’s objectivity and incentivized it to agree to terms in the Financing Letter that would favor UBS and were directly at odds with the terms that Mr. Kwok had demanded and that UBS had represented it would accept.

52. The margin call provisions in the final Financing Letter contained terms that UBS had represented to Mr. Kwok would not be included and that Mr. Kwok had said the inclusion of which would be a dealbreaker for Ace Decade's Investment. Specifically, the provisions gave UBS the right to demand, under certain circumstances, repayment of the entire loan, which together with penalties and a lucrative make-whole premium, would add up to close to \$1 Billion USD, with 25% of the total due in less than 24 hours and the remaining 75% being due in the next two days. These provisions were unduly favorable to UBS and unduly onerous to Haixia (and, hence, to Ace Decade), and more favorable to UBS and more onerous to Haixia (and, hence, to Ace Decade) than would have been negotiated if Haixia had acted in its (and Ace Decade's) interests rather than UBS's interests.

53. The Letter Agreement, which Ace Decade signed two days before the Financing Letter was executed, stated that the Investor (*i.e.*, Ace Decade) had reviewed and agreed to the terms and conditions of the Financing Letter. The Financing Letter was not, however, in existence when Ace Decade signed the Letter Agreement on December 17, 2014. The Financing Letter was still being negotiated at that time and was not finalized and executed until December 19, 2014. Thus, Ms. Yu did not and could not have reviewed the Financing Letter, which was still being negotiated at the time that she signed the Letter Agreement and Co-Investment Agreement.

54. In fact, recognizing this ambiguity in the contract—the reference to a Financing Letter that was not yet in existence—Haixia's counsel deleted from the final version of the Financing Letter the statement that had been in a prior draft that “a copy of [the Financing Letter] had been provided to the Investor for consideration.” (Ex. 4 at 3.)

55. In the days leading up to December 19, 2014, when the Financing Letter was finalized and executed, Mr. Wong again told Mr. Kwok that the Financing Letter would allow Ace Decade sufficient time to meet payment demands and that there would be no margin calls based on short term price fluctuations.

V. UBS Improperly Advised and Fraudulently Induced Ace Decade to Fund the Investment After Ace Decade and Its Agents Had Relocated to New York.

56. In early January 2015, while Mr. Kwok, Ms. Yu, and Ace Decade were still negotiating the terms of the loan financing and the Investment with UBS, Mr. Kwok, Ms. Yu, and Ace Decade relocated to New York to seek investors interested in investing in Ace Decade.

57. Mr. Kwok first discussed this plan to move to New York to find investors interested in investing in Ace Decade with Mr. Wong in December 2014. He subsequently had multiple discussions with Mr. Wong about finding investors for Ace Decade by telephone from New York in March, May, and June 2015.

58. On February 9, 2015 Ace Decade signed a Memorandum of Understanding (the “MOU”), governed by U.S. law, with China Golden Spring Group (Hong Kong) Limited (“Golden Spring Hong Kong”). The MOU provided that Ace Decade would acquire Haitong Shares and Golden Spring Hong Kong would establish a branch in New York to find investors interested in investing in Ace Decade.

59. In furtherance of the MOU, Golden Spring Hong Kong formed a company called Golden Spring (New York) Ltd. (“Golden Spring New York”), which was incorporated in Delaware and registered to do business in New York in March 2015.

60. Mr. Kwok and Ms. Yu conducted business for Ace Decade and Golden Spring New York out of their offices at 767 Fifth Avenue, 46th Floor, New York, NY 10153 from April 2015 through February 2016. From March 2016 through the present, Mr. Kwok and Ms.

Yu have conducted business for Ace Decade and Golden Spring New York from their temporary offices at 781 Fifth Avenue, 18th Floor, New York, NY 10022 and are in the process of searching for a new permanent office space.

61. UBS knew that Mr. Kwok, Ms. Yu, and Ace Decade had relocated to New York and even assisted with setting up their operations here, including by transferring funds from Mr. Kwok's accounts at UBS to Golden Spring New York's JPMorgan Chase bank account and to Mr. Kwok's personal JPMorgan Chase bank accounts in New York.

62. UBS also submitted reference letters on Mr. Kwok's behalf in connection with his purchase of an apartment in New York. In a letter dated February 18, 2015, from Mr. Wong to the building's board of directors, Mr. Wong wrote, "I have known Miles for about five years since he first began working with UBS AG." (Miles is Mr. Kwok's English name.) Mr. Wong also stated, "Over the years, Miles has earned his credibility in our bank. He is very reliable and always fulfills his repayment obligations. For this reason, our bank is happy to have him as our long-term client." (Mr. Wong's February 18, 2015 letter is attached to the Amended Complaint as Exhibit 6.)

63. Mr. Wong and Tommy Cheung, also a UBS Managing Director, submitted another reference letter on Mr. Kwok's behalf to the board of the apartment building on February 23, 2015, stating: "Kwok Ho Wan has been a client of ours through a personal investment company since July 2012." (Messrs. Wong's and Cheung's February 23, 2015 letter is attached to the Amended Complaint as Exhibit 7.)

64. On March 6, 2015, Mr. Kwok purchased the apartment, where he has lived since the purchase.

65. In the months after Ace Decade, Mr. Kwok, and Ms. Yu had relocated to New York, Mr. Wong spoke to Mr. Kwok by telephone dozens of times and sent numerous electronic messages to Mr. Kwok. Ms. Yu joined some of the calls between Messrs. Wong and Kwok. At a minimum, Mr. Wong spoke to Mr. Kwok (and at times together with Ms. Yu) while he was in New York on the following dates:

- January 26, 2015 (three calls)
- January 28, 2015 (two calls)
- March 2, 2015
- March 4, 2015 (three calls)
- March 5, 2015
- March 13, 2015
- March 15, 2015
- March 16, 2015 (six calls)
- March 17, 2015 (two calls)
- March 18, 2015 (two calls)
- March 24, 2015
- March 31, 2015
- April 28, 2015 (three calls)
- April 30, 2015 (five calls)
- May 6, 2015 (two calls)
- May 11, 2015 (three calls)
- June 23, 2015 (two calls)
- July 21, 2015

66. During these calls in 2015 after Ace Decade, Mr. Kwok, and Ms. Yu had relocated to New York, Mr. Wong made numerous misrepresentations about the UBS loan, including that:

- a. UBS would give Ace Decade ample time to meet any margin calls;
- b. UBS would make every effort to work with Ace Decade to allow it to meet margin calls;
- c. Ace Decade's interests would not be detrimentally affected by a margin call, because Ace Decade would receive the same treatment as the large Ping An shareholder which had funded an investment through a similar margin loan provided by UBS and whose shares UBS never sold following a margin call.

67. UBS knowingly made these and other false representations regarding the implementation of the margin call provisions with the specific purpose and effect of inducing Ace Decade to fund the Investment.

68. During their communications in 2015, Mr. Kwok told Mr. Wong on numerous occasions that he was concerned about potential margin calls and repayment demands. Mr. Wong told Mr. Kwok that he understood Mr. Kwok's concerns and reassured Mr. Kwok that he and UBS would act in Ace Decade's best interests. Mr. Wong also told Mr. Kwok, "rest assured . . . I'm working for [you]! Don't worry."

69. In April 2015, Dawn State and UBS entered into a Facility Agreement that provided for up to HK \$5,336,675,654.64 (approximately \$688.3 Million USD) in loan financing to Dawn State for the purchase of the Shares to be secured by the Shares. Dawn State and UBS also simultaneously entered into a side letter agreement (the "UBS Side Letter") that provided

that if the loans were prepaid, including as a result of a margin call, UBS would earn a make-whole premium. The UBS Side Letter and Facility Agreement were signed on the same day, but the make-whole premium is referenced only in the UBS Side Letter.

70. On May 8, 2015, Haitong announced that the conditions precedent to completing the issuance and sale of the new H-Shares had been met and that the closing was expected to occur on May 15, 2015. Additionally, per the terms of the Subscription Agreement, because the trading price of Haitong's H-Shares during the 30 trading days prior had surpassed a pre-agreed threshold, the subscription price would be increased by up to HK \$1.56.

71. As a result of Haitong's announcement, Dawn State and UBS entered into an amendment to the Facility Agreement to reflect the increase in the per share price of Haitong's H-Shares and thereby increasing UBS's loan to HK \$6,011,236,393.92 (approximately \$775.2 Million USD).

72. After this announcement, Mr. Wong, Mr. Kwok, and Ms. Yu had several discussions by telephone and via e-mails and electronic messages to negotiate additional terms of the Investment. Among the topics that they discussed were the fact that the loan would have to be increased to reflect the higher per share price of the Shares and the amount of the payment Ace Decade would have to make. During one of these discussions after May 8, 2015, Mr. Wong told Mr. Kwok yet again that Ace Decade would receive the same treatment as the Ping An shareholder with respect to any margin calls.

73. In May 2015, Mr. Kwok, in reliance upon this and other fraudulent misrepresentations made by Mr. Wong and UBS, funded the Investment in Haitong Shares and made use of the loan financing advised and set up by UBS to finance a substantial portion of the Investment.

74. On May 11, 2015, Mr. Wong discussed with Mr. Kwok on telephone calls how best to transfer the funds needed to make Ace Decade's HK \$2 Billion (over \$250 Million USD) payment to fund the Investment. (Ace Decade had previously paid Haixia an initial down payment of approximately \$250 Million USD.) Mr. Wong instructed Mr. Kwok to first exchange the funds from U.S. dollars to Hong Kong dollars in Mr. Kwok's UBS account.

75. Mr. Kwok followed Mr. Wong's instruction to exchange the funds in his UBS account from U.S. dollars to Hong Kong dollars. All of UBS's dollar-denominated wire transfers and exchanges travel through New York.

76. Mr. Wong also instructed Mr. Kwok not to transfer the required funds (which had been exchanged from U.S. dollars to Hong Kong dollars through New York) from his UBS account directly to the Ace Decade account, but rather to transfer the funds from his UBS account to the Ace Decade account through a third account. Mr. Wong and other UBS employees then helped Mr. Kwok and Ms. Yu carry out these instructions. All of the steps that Mr. Kwok and Ms. Yu took to make Ace Decade's Investment, including requesting the wire transfers, occurred from their office or residence in New York.

77. On May 15, 2015, Dawn State completed Ace Decade's Investment.

78. Pursuant to the Co-Investment Agreement, if the Investment had not been completed before June 30, 2015, Haixia would have returned to Ace Decade the initial down payment of approximately \$250 Million USD that Ace Decade had paid, net of certain fees and expenses. (Ex. 1 § 4.3.)

79. If the Investment were completed before June 30, 2015, Ace Decade was to make the remainder of the payment due under the Agreement within five business days after a request from Dawn State for such payment. (Ex. 1 § 4.1.)

80. However, had Mr. Kwok, Ms. Yu, and Ace Decade known about UBS's misrepresentations and deception prior to May 15, 2015, they would not have authorized the payment of over \$250 Million USD in May 2015. If Ace Decade had not received and relied upon UBS's repeated misrepresentations while in New York, Ace Decade would not have been induced to make the Investment or to make the over \$250 Million USD payment.

81. Under both New York law and Hong Kong law, had Ace Decade been aware of UBS's misrepresentations and deception, Ace Decade could have rescinded the Co-Investment Agreement on the basis that it was fraudulently induced into entering into the agreement. (Attached to the Amended Complaint as Exhibit 8 is the Affidavit of Charles Manzoni SC, QC, an expert on Hong Kong law, dated April 22, 2016.)

82. Alternatively, had Mr. Kwok, Ms. Yu, and Ace Decade discovered UBS's misrepresentations and deception before they made the Investment on May 15, 2015, they could have arranged to fund the entire Investment without loan financing from UBS.

VI. UBS Breached Its Duties and Obligations to Ace Decade by Making a Sudden Margin Call and Failing to Give Ace Decade a Reasonable Opportunity to Meet the Margin Call, Which Was Inconsistent with UBS's Representations.

83. Pursuant to the Letter Agreement, Ace Decade could have demanded that Haixia transfer to it 100% of Dawn State at any time after July 15, 2015. (Ex. 2 at 2.) Because UBS had a copy of the Letter Agreement, UBS knew exactly when Ace Decade could obtain control of Dawn State and the Shares. In order to prevent Ace Decade from gaining control of the Shares, UBS liquidated all of Ace Decade's Shares just days before Ace Decade could have exercised its right.

84. Less than ten (10) days before Ace Decade could have gained control of Dawn State and thus the Shares, UBS made a margin call and sold all of Ace Decade's Shares.

85. On July 2, 2015, Haitong H-shares closed at HK \$20.00. By July 6, 2015, Haitong H-shares closed at \$16.00, a decline of 20%.

86. On July 6, 2015 at 5:22 pm Hong Kong time, Donghai Tan of Haixia sent an email to Ace Decade's counsel Stevenson, Wong & Co. ("Stevenson Wong"), notifying them that the closing price of the Shares had triggered short term fluctuation limits and that UBS would be calling the loan. He informed them that 25% of the loan was due before 5 pm the next day. UBS's demand was based on the short term fluctuation limits and timing of prepayment provisions that UBS had represented would not be in the final Loan Agreements.

87. Later that day, at 8:45 pm Hong Kong time, UBS sent Haixia the mandatory prepayment notice, which Haixia forwarded to Stevenson Wong at 9:17 pm Hong Kong time. The notice stated that approximately \$200 Million USD needed to be paid by 5 pm the next day.

88. Ace Decade, Mr. Kwok, and Ms. Yu learned about the margin call on the morning of July 6 New York time and were told that they had less than 24 hours to arrange for the transfer of \$200 Million USD. This notification was a shock to them because they had been induced into making the Investment and obtaining a substantial loan from UBS in reliance upon UBS's misrepresentations, including repeated misrepresentations made to Ace Decade while resident in New York, that (a) UBS would give Ace Decade a reasonable amount of time to meet any margin calls and (b) the margin call provisions did not include a trigger for short term fluctuation limits.

89. On the morning of July 7 Hong Kong time (evening of July 6 New York time), UBS asked Haixia to confirm by 2 pm Hong Kong time whether the required repayment could be made that day so that UBS "can assess the situation and work together on next steps."

90. Although Ace Decade was stunned by the sudden margin call and the short time it

was given to make a payment, it made every effort to meet the call. At or prior to 2 pm Hong Kong time (2 am New York time), Ace Decade informed UBS that it could obtain the funds to meet the margin call quickly but that it could not do so by the 5 pm deadline that day.

91. UBS knew that Ace Decade could make the mandatory payments and that Mr. Kwok was impervious to any fluctuations in the share price of Haitong because his ultimate objective in making the Investment was to enter into a subsequent swap transaction to exchange the Haitong Shares for a controlling interest in shares of another company.

92. However, contrary to UBS's representations to Mr. Kwok and Ace Decade prior to entering into the Investment, UBS never had any intention to work cooperatively with Ace Decade. By the time that Mr. Wong received the message that Ace Decade could meet the margin call, senior executives at UBS had already told Mr. Wong that UBS would not give Ace Decade any additional time to gather the funds.

93. Had Mr. Kwok known that UBS never intended to provide Ace Decade with a reasonable amount of time to meet margin calls, Ace Decade would not have entered into the Investment in May 2015. And, had Mr. Kwok known that UBS never intended to provide Ace Decade with the a reasonable amount of time to meet margin calls, Ace Decade would have arranged to fund the entire Investment without obtaining any loan financing from UBS or Ace Decade could have ensured that it had funds to meet any payment demands.

94. Mr. Wong told Ace Decade that UBS had already identified buyers and that UBS would make substantial profits by selling the Shares instead of working with Ace Decade to allow it to make the margin call.

95. Indeed, UBS profited handsomely from its role in this transaction, receiving 1% of the facility amount for arranging the loan financing, which amounted to \$7.75 Million USD,

and a facility amendment fee of HK \$13,226,681.16 (approximately \$1.76 Million USD) for a total of \$9.5 Million USD in fees. UBS also received a “make-whole” fee of HK \$231,967,848.24 (approximately \$29.9 Million USD), corresponding to the full amount of the spread that would have been owed on the principal if the loan had not been repaid or prepaid, which gave UBS a substantial incentive to stringently enforce the one-sided margin call provisions.

96. Mr. Wong told Ace Decade that the decision to immediately execute the block sale and not cooperate with Ace Decade was ordered by the top management of UBS, including UBS’s CEO, as well as other UBS executives located outside of Hong Kong and China.

97. After UBS sold Ace Decade’s Shares, Mr. Kwok confronted Mr. Wong about the many misrepresentations Mr. Wong had made. For example, on July 17, Mr. Kwok reminded Mr. Wong that he had said on numerous prior occasions that “there would never be” a margin call based on short term price fluctuations of the Shares and the many times Mr. Wong had stated that UBS had not sold off the shares of a large Ping An shareholder following a margin call. In another message on July 17, Mr. Kwok said to Mr. Wong: “I told you, it was since last year that I’ve come to the U.S. for better opportunities, didn’t I? All the information I sent you from the U.S., my requirements, you know them all. . . . Under these circumstances, all were handed over to you, [I] all listened to you. It was you who introduced Haixia It turned out to be messed up like this now.” Mr. Wong did not deny that he had made these misrepresentations and in fact replied that he understood.

98. In another message on July 17, Mr. Kwok said to Mr. Wong: “You told me several times that you UBS would not liquidate assets like that; otherwise how I would trust you.” Mr. Kwok also told him: “If it weren’t for you to tell me that margin call was like Ping

An, it would not be like that. There would be reasonable time to get some assets to deal with it.” On July 17, Mr. Kwok also said to Mr. Wong: “You said UBS signed the agreement with them [Haixia] to permit UBS to sell all the shares within 24 hours of the margin call. How was that signed? How did they implement that? It’s not fair. You told me back then that was not the case.” Mr. Wong replied: “I’ve always been firmly opposing them, but they ignored me and told me it was an order by the Swiss CEO.” Mr. Wong did not deny Mr. Kwok’s assertion that Mr. Wong had previously stated that the loan agreement would not permit UBS to sell the Shares within 24 hours of the margin call.

99. At no point during any of his discussions with Mr. Kwok did Mr. Wong deny that he had stated that UBS would treat Ace Decade the same as the Ping An shareholder. At no point during any of his discussions with Mr. Kwok did Mr. Wong deny that he had stated that the loan documents would not contain repayment triggers based on short-term price fluctuations of the Shares. At no point during any of his discussions with Mr. Kwok did Mr. Wong deny that he had stated that UBS would work with Ace Decade and provide it a reasonable amount of time to meet any margin call. At no point during any of his discussions with Mr. Kwok did Mr. Wong deny that UBS had engaged in misconduct.

VII. UBS Breached Its Duties and Obligations to Ace Decade by Selling Ace Decade’s Shares at Artificially Low Prices and in a Commercially Unreasonable Manner.

100. UBS began to offer to sell the Shares on July 7 in the range of HK \$11.12 – HK \$12.00 per share.

101. Haitong suspended its trading on the HKSE on July 8, and on July 9 announced a \$3.5 Billion USD stock buyback, saying that it would purchase shares at as much as HK \$17.18.

102. Instead of selling only the shares sufficient to cover the \$200 Million USD payment that UBS demanded to be prepaid on July 8, UBS sold all 569,427,620 shares belonging

to Ace Decade at HK \$11.12, a 20% discount off the HK \$13.90 closing price of Haitong stock on July 7, and a 35% discount off the price at which Haitong had offered to purchase back its shares.

103. UBS sold to itself 58,284,114 Shares, which accounted for more than 10% of Ace Decade's Shares. On July 10, 2015, 230,000 of UBS's Shares were owned by UBS Securities LLC, which has its principal place of business at 1285 Avenue of the Americas in New York, NY 10019. (Attached to the Amended Complaint as Exhibit 9 is UBS's disclosure of its interest in Haitong H-Shares as of July 10, 2015. Attached to the Amended Complaint as Exhibit 10 is an excerpt from a December 31, 2015 Statement of Financial Condition for UBS Securities LLC, listing its principal place of business as New York.)

104. UBS engaged in self-dealing and took advantage of its position as Ace Decade's advisor on the Investment and lender to Ace Decade's intermediary to purchase Ace Decade's Shares for itself at a deep discount.

105. Through its self-dealing, UBS reaped a substantial profit at Ace Decade's expense. After selling itself 58,284,114 of Ace Decade's Shares at HK \$11.12, UBS sold off the Shares a few days later on July 13, 2015. The share price at which Haitong had announced its stock buyback was HK \$17.18, enabling UBS to make a profit of approximately HK \$353,201,731 (or approximately \$45 Million USD).

106. UBS also sold 200,000,000 shares of Haitong stock to Segantii Capital Management Limited ("Segantii"), a fund management company that has close ties to UBS. In fact, prior to introducing Haixia to Ace Decade, UBS had recommended that Ace Decade use Segantii as the intermediary entity through which to make its Investment.

107. Haitong H-shares resumed trading on July 9 and closed at HK \$13.80, a 0.6%

drop from its closing price on July 7 and 24.3% higher than the price at which UBS sold the Shares.

108. The next day, Haitong shares closed at HK \$15.14, a 10% gain from the closing price the day before and 37% higher than the price at which UBS sold the Shares.

109. Several news agencies reported on the block sale and queried why the sale was done so urgently and at such a discount. Bloomberg reported that “As China fund loses \$445 million on Haitong, UBS is a Winner.” Reuters reported that “Hong Kong block deals are normally done at a 6-8 percent discount” and “it was not immediately known what prompted Haixia to launch the sale at *unusually* large discount” (emphasis added).

110. Less than two weeks after UBS had sold the Haitong shares at HK \$11.12, UBS’s own analysts reaffirmed their 12-month buy rating on Haitong at its then current price of HK \$15.34 and set a target price of HK \$30, 170% higher than the price at which UBS sold the shares.

VIII. As a Result of UBS’s Actions, Ace Decade Lost Its Investment and Potential New York Investors.

111. As a result of UBS’s block discounted sale of the Haitong shares, UBS recouped only HK \$6,325,703,099.27 (approximately \$816.2 Million USD) out of a total investment of over \$1.25 Billion USD.

112. UBS returned to Dawn State HK \$36,621,693.83 (approximately \$4.7 Million USD) after deducting the following from the amount it recouped from the block sale:

(1) HK \$6,011,236,393.92 (approximately \$775.6 Million USD) for the principal amount outstanding of the loan; (2) HK \$44,003,279.72 (approximately \$5.7 Million USD) for interest accrued up to the date of the mandatory prepayment notice; (3) HK \$1,873,883.54

(approximately \$241.8 Thousand USD) for break costs, and (4) HK \$231,967,848.24 (approximately \$29.9 Million USD) for the make-whole premium.

113. As a result of UBS's actions, Ace Decade lost its entire Investment.

114. Also as a result of UBS's actions, Ace Decade lost New York-based investors, who had met with Mr. Kwok in 2015 to discuss their potential investments in Ace Decade.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION (Common Law Fraud)

115. Ace Decade incorporates by reference and realleges each and every allegation contained in ¶¶ 1-114, as though fully set forth herein.

116. UBS made intentional material misrepresentations of fact and omissions in advising and inducing Ace Decade to make the Investment. Among other things, UBS misrepresented that (i) UBS would give Ace Decade a reasonable amount of time to meet any margin calls, (ii) UBS would make every effort to work with Ace Decade to allow it to meet margin calls, (iii) the Loan Agreements would not include margin call triggers based on short term price fluctuations, and (iv) Ace Decade's interests would not be detrimentally affected by a margin call, because Ace Decade would receive the same treatment as the large Ping An shareholder which had funded an investment through a similar margin loan provided by UBS and whose shares UBS never sold following a margin call.

117. UBS also represented that Haixia was the best independent intermediary to protect Ace Decade's interests, but concealed from Ace Decade that Haixia was controlled by UBS's joint venture partner. Subsequently Haixia and UBS entered into loan financing agreements that contained one-sided terms that were favorable to UBS and detrimental to Ace Decade. Ace Decade relied on UBS's false and misleading representations to its detriment,

including in entering into Ace Decade's agreement with Haixia and permitting Haixia to arrange for loan financing from UBS.

118. Ace Decade did not have access to the information that UBS, the placement agent for the Shares and the lender for Ace Decade's Investment, had, and Ace Decade was not aware of the conflict of interest between UBS and Haixia.

119. UBS knew that its representations and omissions were false and misleading and made them with the intent and expectation that Ace Decade would rely on them.

120. Ace Decade reasonably relied on UBS's misrepresentations and omissions, without which Ace Decade would not have entered the December 2014 agreements with Haixia, made the Investment, obtained loan financing from UBS for the Investment, or funded the Investment, particularly in May 2015.

121. UBS engaged in self-dealing and took advantage of its position as Ace Decade's advisor on the Investment and lender to Ace Decade's intermediary to purchase Ace Decade's Shares for itself at artificially low prices and to resell the Shares immediately to reap a large profit.

122. Ace Decade has suffered injury as a direct and proximate result of UBS's conduct, including but not limited to monetary damage. As a result of the conduct alleged herein, UBS is liable to Ace Decade and Ace Decade is entitled to relief.

SECOND CAUSE OF ACTION (Constructive Fraud)

123. Ace Decade incorporates by reference and realleges each and every allegation contained in ¶¶ 1-114, as though fully set forth herein.

124. UBS made intentional material misrepresentations of fact and omissions in advising and inducing Ace Decade to make the Investment. Among other things, UBS

misrepresented that (i) UBS would give Ace Decade a reasonable amount of time to meet any margin calls, (ii) UBS would make every effort to work with Ace Decade to allow it to meet margin calls, (iii) the Loan Agreements would not include margin call triggers based on short term price fluctuations, and (iv) Ace Decade's interests would not be detrimentally affected by a margin call, because Ace Decade would receive the same treatment as the large Ping An shareholder which had funded an investment through a similar margin loan provided by UBS and whose shares UBS never sold following a margin call.

125. UBS also represented that Haixia was the best independent intermediary to protect Ace Decade's interests, but concealed from Ace Decade that Haixia was controlled by UBS's joint venture partner. Subsequently Haixia and UBS entered into loan financing agreements that contained one-sided terms that were favorable to UBS and detrimental to Ace Decade. Ace Decade relied on UBS's false and misleading representations to its detriment, including in entering into Ace Decade's agreement with Haixia and permitting Haixia to arrange for loan financing from UBS.

126. Ace Decade did not have access to the information that UBS, the placement agent for the Shares and the lender for Ace Decade's Investment, had, and Ace Decade was not aware of the conflict of interest between UBS and Haixia.

127. UBS acted as an advisor to Ace Decade with respect to its Investment and advised Ace Decade, among other things, to structure the transaction so that its Investment would be made through Haixia and to obtain financing for a significant part of the Investment. As such, UBS formed a close fiduciary relationship with Ace Decade.

128. Ace Decade reasonably relied on UBS's misrepresentations and omissions, without which Ace Decade would not have entered the December 2014 agreements with Haixia,

made the Investment, obtained loan financing from UBS for the Investment, or funded the Investment, particularly in May 2015.

129. UBS engaged in self-dealing and took advantage of its position as Ace Decade's advisor on the Investment and lender to Ace Decade's intermediary to purchase Ace Decade's Shares for itself at a deep discount and to resell the Shares immediately to reap a large profit.

130. Ace Decade has suffered injury as a direct and proximate result of UBS's conduct, including but not limited to monetary damage. As a result of the conduct alleged herein, UBS is liable to Ace Decade and Ace Decade is entitled to relief.

THIRD CAUSE OF ACTION (Breach of Fiduciary Duty)

131. Ace Decade incorporates by reference and realleges each and every allegation contained in ¶¶ 1-114, as though fully set forth herein.

132. Ace Decade relied on UBS to act as its fiduciary and to advise it with respect to its Investment in the Shares.

133. UBS acted as an advisor to Ace Decade with respect to its Investment and advised Ace Decade, among other things, to structure the transaction so that the Investment would be made through Haixia so as to circumvent disclosure requirements and to obtain financing for a significant part of the Investment. As such, UBS formed a close fiduciary relationship with Ace Decade.

134. UBS held itself out to Ace Decade as knowledgeable and experienced in advising investors such as Ace Decade with respect to investments in Placements such as this one. As a result, Ace Decade placed its trust and confidence in UBS and followed UBS's advice in structuring its Investment and obtaining a loan from UBS.

135. During the course of the relationship, UBS abused the trust that Ace Decade had placed in UBS by making intentional material misrepresentations of fact and omissions in advising and inducing Ace Decade to make the Investment. Among other things, UBS misrepresented that (i) UBS would give Ace Decade a reasonable amount of time to meet any margin calls, (ii) UBS would make every effort to work with Ace Decade to allow it to meet margin calls, (iii) the Loan Agreements would not include margin call triggers based on short term price fluctuations, and (iv) Ace Decade's interests would not be detrimentally affected by a margin call, because Ace Decade would receive the same treatment as the large Ping An shareholder which had funded an investment through a similar margin loan provided by UBS and whose shares UBS never sold following a margin call.

136. UBS also represented that Haixia was the best independent intermediary to protect Ace Decade's interests, but concealed from Ace Decade that Haixia was controlled by UBS's joint venture partner. Subsequently Haixia and UBS entered into loan financing agreements that contained one-sided terms that were favorable to UBS and detrimental to Ace Decade. Ace Decade relied on UBS's false and misleading representations to its detriment, including in entering into its agreement with Haixia and permitting Haixia to arrange for loan financing from UBS.

137. Ace Decade did not have access to the information that UBS, the placement agent for the Shares and the lender for Ace Decade's Investment, had, and Ace Decade was not aware of the conflict of interest between UBS and Haixia.

138. UBS engaged in self-dealing and took advantage of its position as Ace Decade's advisor on the Investment and lender to Ace Decade's intermediary to purchase Ace Decade's Shares for itself at a deep discount and to resell the Shares immediately to reap a large profit.

139. Ace Decade has suffered injury as a direct and proximate result of UBS's conduct, including but not limited to monetary damage. As a result of the conduct alleged herein, UBS is liable to Ace Decade and Ace Decade is entitled to relief.

**FOURTH CAUSE OF ACTION
(Negligent Misrepresentation)**

140. Ace Decade incorporates by reference and realleges each and every allegation contained in ¶¶ 1-114, as though fully set forth herein.

141. UBS made material misrepresentations of fact and omissions in advising and inducing Ace Decade to make the Investment that it was negligent in failing to know were false. Among other things, UBS misrepresented that (i) UBS would give Ace Decade a reasonable amount of time to meet any margin calls, (ii) UBS would make every effort to work with Ace Decade to allow it to meet margin calls, (iii) the Loan Agreements would not include margin call triggers based on short term price fluctuations, and (iv) Ace Decade's interests would not be detrimentally affected by a margin call, because Ace Decade would receive the same treatment as the large Ping An shareholder which had funded an investment through a similar margin loan provided by UBS and whose shares UBS never sold following a margin call.

142. UBS also was negligent in representing that Haixia was the best independent intermediary to protect Ace Decade's interests, but concealed from Ace Decade that Haixia was controlled by UBS's joint venture partner. Subsequently Haixia and UBS entered into loan financing agreements that contained one-sided terms that were favorable to UBS and detrimental to Ace Decade. Ace Decade relied on UBS's false and misleading representations to their detriment, including in entering into its agreement with Haixia and permitting Haixia to arrange for loan financing from UBS.

143. UBS had a duty of disclosure to Ace Decade. UBS acted as an advisor to Ace

Decade with respect to its Investment and advised Ace Decade, among other things, to structure the transaction so that its Investment would be made through Haixia and to obtain financing for a significant part of the Investment. As such, UBS formed a close fiduciary relationship with Ace Decade.

144. Ace Decade did not have access to the information that UBS, the placement agent for the Shares and the lender for Ace Decade's Investment, had, and Ace Decade was not aware of the conflict of interest between UBS and Haixia.

145. Ace Decade reasonably relied on UBS's misrepresentations and omissions, without which Ace Decade would not have entered the December 2014 agreements with Haixia, made the Investment, obtained loan financing from UBS for the Investment, or funded the Investment, particularly in May 2015.

146. UBS was aware that Ace Decade would rely upon its advice and statements regarding the Investment.

147. UBS engaged in self-dealing and took advantage of its position as Ace Decade's advisor on the Investment and lender to Ace Decade's intermediary to purchase Ace Decade's Shares for itself at a deep discount and to resell the Shares immediately to reap a large profit.

148. Ace Decade has suffered injury as a direct and proximate result of UBS's conduct, including but not limited to monetary damage. As a result of the conduct alleged herein, UBS is liable to Ace Decade and Ace Decade is entitled to relief.

FIFTH CAUSE OF ACTION (Unjust Enrichment)

149. Ace Decade incorporates by reference and realleges each and every allegation contained in ¶¶ 1-114, as though fully set forth herein.

150. UBS engaged in self-dealing and took advantage of its position as Ace Decade's advisor on the Investment and lender to Ace Decade's intermediary to purchase Ace Decade's Shares for itself at a deep discount and to resell the Shares immediately to reap a large profit.

151. UBS has been enriched at the expense of Ace Decade through: (a) earning \$9.5 Million USD in fees for its advisory services; (b) earning \$29.9 Million USD from the make-whole premium fee; and (c) selling to itself a large block of Shares at a highly-discounted price, which it then resold immediately for a profit of more than \$45 Million USD.

152. UBS unjustly retained these ill-gotten gains at Ace Decade's expense.

153. Because UBS received and unjustly retained at Ace Decade's expense such monetary benefits, UBS is liable to Ace Decade and Ace Decade is entitled to relief.


PRAYER FOR RELIEF

154. WHEREFORE, Plaintiff Ace Decade demands judgment in its favor against Defendant UBS as follows:

- A. Awarding damages to Plaintiff in an amount to be determined at trial, for the damages it sustained as a result of UBS's block sale of the Shares;
- B. Pre-judgment and post-judgment interest, together with any and all further costs, disbursements and reasonable attorney's fees and expert fees;
- C. Granting such other relief, including equitable and injunctive relief, as this Court may deem just and proper.

Dated: New York, NY
May 1, 2016

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