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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
: :
BAYOU GROUP, LLC, et al., : Case No.: 06-22306 (ASH)
: :
Debtors. : Jointly Administered
: :
----- X
BAYOU NO LEVERAGE FUND, LLC, : Adv. Proc. No.:
: :
Plaintiff, :
: :
-against- :
: :
ACTW FILMWORKS RETIREMENT TRUST, :
: :
Defendant. :
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COMPLAINT

Bayou No Leverage Fund, LLC (“Bayou No Leverage,” “Plaintiff,” or “Debtor”), by and through its counsel, Dechert LLP, as and for its Complaint against ACTW Filmworks Retirement Trust (“Defendant”), respectfully alleges as follows:

Nature of the Adversary Proceeding

1. On May 30, 2006, Bayou Group, LLC (“Bayou Group”), Bayou Management, LLC (“Bayou Management”), Bayou Advisors, LLC (“Bayou Advisors”), Bayou Equities, LLC (“Bayou Equities”), Bayou Fund, LLC (“Bayou Fund”), Bayou Superfund, LLC (“Bayou Superfund”), Bayou No Leverage, Bayou Affiliates Fund, LLC (“Bayou Affiliates”), and Bayou Accredited Fund, LLC (“Bayou Accredited,” and together with Bayou Fund, Bayou Superfund, Bayou No Leverage, and Bayou Affiliates, the “Bayou Hedge Funds”) (collectively, the “Bayou Entities”) filed with this Court separate voluntary petitions for relief under Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).

2. This adversary proceeding arises from a massive fraudulent investment scheme perpetrated by the Bayou Entities, which are an affiliated group of entities that created, operated, comprised, and controlled private pooled investment funds (commonly known as “hedge funds”). During the course of this fraud, the Bayou Entities attracted more than \$450 million in investments for their hedge funds, the Bayou Hedge Funds. After suffering millions of dollars in trading losses, the Bayou Entities attempted to stay afloat, and indeed prolonged the scheme, by disclosing false investment performance and creating false financial statements. The Bayou Entities also attempted to conceal their losses through a series of fraudulent transfers to certain of their investor creditors, including the Defendant. In essence, the Bayou Entities used their depleted capital and capital from new investors to pay redemption proceeds to investor creditors seeking to exit the Bayou Hedge Funds. These redemption proceeds were paid based on inflated statements of what the investments were worth and with fraudulent intent by the transferors, *i.e.*,

the Bayou Entities. Ultimately, the Bayou Entities' fraudulent investment scheme collapsed, with approximately \$250 million in principal unpaid to hundreds of creditors. Plaintiff seeks the return of the fictitious investment gains fraudulently transferred to redeeming investors so that the funds can be equitably redistributed pro-rata to all of the Bayou Entities' creditors.

3. Plaintiff now brings this adversary proceeding pursuant to §§ 105(a), 502(d), 544(b), 548, 550(a), 551, and 1107 of the Bankruptcy Code, New York Debtor and Creditor Law §§ 273, 274, 275, 276, and 278, and other applicable law, to set aside and recover certain fraudulent transfers made by Plaintiff to the Defendant and preserve said property for the benefit of Plaintiff's bankruptcy estate. Moreover, pursuant to § 502(d) of the Bankruptcy Code, Plaintiff seeks to disallow any claims filed by the Defendant against the Debtor or any of the other Bayou Entities unless and until the Defendant returns to the Debtor the transfers which are the subject of this Complaint.

Prior Litigation

4. Between the Petition Date and May 10, 2007, the Bayou Entities commenced 120 separate adversary proceedings against every investor (the "Redeemer Defendants") in the Bayou Hedge Funds of which they are aware who sought and received a full redemption of its investment during the two-year period prior to the Petition Date asserting some or all of the following claims under federal and New York state law: (1) avoidance and recovery of actual fraudulent transfer pursuant to Bankruptcy Code §§ 548(a)(1)(A) and 550 and section 276 of the New York Debtor and Creditor Law; and (2) avoidance and recovery of constructive fraudulent conveyance pursuant to Bankruptcy Code §§ 548(a)(1)(B) and 550 and sections 273-275 of the New York Debtor and Creditor Law (the "Original Adversary Proceedings").

5. On February 23, 2007, this Court issued a Decision Denying Motions to Dismiss (the "Opinion") filed by 95 defendants in the Original Adversary Proceedings. See In re Bayou

Group, LLC, 362 B.R. 624 (Bankr. S.D.N.Y. 2007). The Opinion is annexed hereto as Exhibit A and incorporated by reference in its entirety. In his Opinion, Judge Hardin concluded that the Debtors' Amended Complaints adequately plead actual fraudulent transfer and constructive fraudulent transfer claims under the Bankruptcy Code and New York law. Id. at 639. With respect to the actual fraud claims, Judge Hardin held that it was "intuitive and inescapable," assuming the facts alleged in the Amended Complaints, that the redemption payments to the Redeemer Defendants, as conscious overpayments of non-existent principal and fictitious profits, were made with the requisite "actual intent" to hinder, delay or defraud creditors. Id. at 634. Judge Hardin concluded that "it was difficult to imagine a more comprehensive compendium of alleged 'badges of fraud'" than those set forth in the Amended Complaint, "all of which compel the inference that the redemption payments sought to be recovered here were made by the Bayou Hedge Funds with the actual intent to hinder, delay and defraud" present and prospective investors. Id. With respect to the constructive fraud claims, Judge Hardin held that the Amended Complaints clearly stated constructive fraud claims to avoid and recover the portion of the redemption payments to Redeemer Defendants consisting of fictitious profits. See id. at 636. As Judge Hardin noted, "virtually every court to address the question has held unflinchingly" that payments to investors in excess of their principal investments are avoidable as constructively fraudulent transfers. Id.

6. On August 9, 2007, this Court issued a Decision Denying Motions for Summary Judgment filed by 22 Redeemer Defendants. See In re Bayou Group, LLC, 372 B.R. 661 (Bankr. S.D.N.Y. 2007) attached hereto as Exhibit B and incorporated by reference in its entirety.

Jurisdiction and Venue

7. This Court has jurisdiction under 28 U.S.C. §§ 157 and 1334(b) of the subject matter of this proceeding because the claims asserted herein arise under Chapter 11 of the Bankruptcy Code and are related to a case pending under the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York, White Plains Division (the “Bankruptcy Court”).

8. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. § 157 because this adversary proceeding arises in or under the Debtor’s Chapter 11 case. Regardless of whether this is a core proceeding, consent is hereby given to the entry of final orders and judgment by the Bankruptcy Court. Pursuant to Rule 7008(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), all defendants must plead whether this proceeding is core or non-core and, if non-core, whether consent is given to the entry of final orders and judgment by the Bankruptcy Court.

9. Pursuant to 28 U.S.C. § 1409(a), venue of this adversary proceeding in the Bankruptcy Court is proper because the Debtor’s case is pending in this district and division.

The Parties

10. Bayou No Leverage is a Delaware limited liability company and one of the Bayou Hedge Funds.

11. Pursuant to an Order of the United States District Court for the Southern District of New York (the “District Court”) entered on April 28, 2006, Jeff J. Marwil (“Marwil”) succeeded to be the sole and exclusive managing member and authorized representative of each of the Bayou Entities. Thus, Plaintiff has a principal place of business located at Marwil’s offices, c/o 35 W. Wacker Drive, Chicago, Illinois 60601.

12. Upon information and belief, the Defendant has an address at c/o Gary Fleder, 8383 Wilshire Boulevard, Suite 500, Beverly Hills, California 90211.

The Bayou Entities' Fraudulent Scheme

13. The Bayou Entities operated their hedge funds as a fraudulent investment scheme, and engaged in a series of fraudulent actions and transactions in furtherance of their criminal scheme. Samuel Israel III ("Israel") and Daniel E. Marino ("Marino"), who directed and controlled the business of the Bayou Entities from their inception through August 2005, both have pleaded guilty in this District to federal counts of mail and wire fraud, investment advisor fraud, and conspiracy to commit fraud relating to their operation of the Bayou Hedge Funds. James Marquez ("Marquez"), a principal of the Bayou Entities from their inception through at least October 2001, pleaded guilty to a single count of conspiracy to commit fraud relating to his operation of the Bayou Hedge Funds and has been sentenced to a term of 51 months of imprisonment, 2 years of supervised release and ordered to pay restitution in the amount of \$6,259,650. On January 29, 2008, Marino was sentenced to a term of 20 years of imprisonment, and ordered to pay restitution in an amount to be determined.

14. The Bayou Fund – the first Bayou Hedge Fund created – was launched by Israel and Marquez in 1996 with \$1.2 million in capital.

15. Soon after the Bayou Fund opened and started trading, it sustained heavy trading losses.

16. In order to conceal those losses, the Bayou Entities began falsifying their financial disclosures and fraudulently misrepresenting their investment performances. In financial summaries that were sent to clients, the volatile swings of the trading gains and losses were concealed by padding and fabricating the results through a pattern of fraud.

17. The Bayou Fund's mounting losses could not withstand an independent audit of the year-end 1998 financial results. To avoid detection, the Bayou Fund's independent auditor, Grant Thornton LLP, was terminated. In its place, Marino, a certified public accountant, created a fictitious accounting firm – Richmond-Fairfield Associates, CPA, PLLC (“Richmond-Fairfield”) – to pose as the independent auditor. The Bayou Fund was Richmond-Fairfield's only client, and Marino was its only principal. Public records show that Richmond-Fairfield was formed by filing with the New York Department of State on October 10, 2000, long after it was presented to investors as the Bayou Fund's independent auditor.

18. Beginning in 1999 and continuing through at least 2005, Israel and Marino caused the Bayou Entities, under cover of purported “audits” by Richmond-Fairfield, to continue to generate false performance summaries and false financial statements designed to mislead investors. Because the Bayou Hedge Funds were self-administered and lacked a truly independent auditor, they were able to, and did, maintain books and records that fraudulently misrepresented their true financial performance.

19. From 1999 to 2003, the Bayou Fund continued to lose substantial amounts of money. During a reorganization in February 2003, the Bayou Fund was liquidated and four separate on-shore hedge funds were created: Bayou Accredited, Bayou Affiliates, Bayou No Leverage, and Bayou Superfund. Investors were able to exchange their investment in the Bayou Fund to one of the four new Bayou Hedge Funds. Each of these four hedge funds subsequently sustained millions of dollars in losses, which the Bayou Entities continued to attempt to conceal through the dissemination of false investment performance reports and false financial statements.

20. Over the course of their fraudulent existence, the Bayou Entities induced investments of hundreds of millions of dollars into the Bayou Hedge Funds.

21. In 2005, the Bayou Entities' fraudulent investment scheme finally collapsed. In a letter dated July 27, 2005, the Bayou Entities abruptly advised their investor creditors that the Bayou Hedge Funds were voluntarily liquidating. All investor creditors were promised a 100% redemption of their investments, which purportedly had grown in value, upon completion of a final audit. In mid-August 2005, the Bayou Entities sent another letter promising all investor creditors that 90% of the total value of their investments would be distributed within one week.

22. Despite this assurance, the Bayou Entities did not repay any additional money to investor creditors. Hundreds of investor creditors were left without any repayment of their investment principal. On information and belief, the Bayou Entities' creditors lost approximately \$250 million in total.

The Bayou Entities' Fraudulent Redemption Payments to Investors

23. During the period of the Bayou Entities' fraudulent financial scheme (from at least late 1998 through August 2005), various Bayou investors, including the Defendant (the "Redeeming Investors"), sought to, and did, redeem all or part of their investments in the Bayou Hedge Funds. At the time, the Bayou Hedge Funds' falsified financial statements reported that each of the Redeeming Investors' accounts included substantial gains on their investments. In reality, the Bayou Hedge Funds had lost a substantial portion of investors' principal investments and had not made any profits. A true statement of each of the Redeeming Investors' accounts, including the Defendant's account, would have shown an amount significantly less than the principal investment and no profits.

24. In an attempt to hinder, delay, and defraud current and prospective investor creditors, the Bayou Entities paid the Redeeming Investors (including the Defendant) the inflated amount reflected in the falsified financial statements, including non-existent principal and

fictitious profits, not the true depleted account balances. Each of these inflated redemption payments was made with the intent to lull existing investors into retaining their investments in the Bayou Hedge Funds, fraudulently induce new investors to purchase participation interests in the Bayou Hedge Funds, and otherwise prevent the discovery and collapse of the fraudulent enterprise. Each of these inflated redemption payments intentionally misrepresented to existing and prospective investors that the Bayou Hedge Funds had achieved substantial investment gains and thereby validated the falsified financial statements. Each overpayment to the Redeeming Investors, including to the Defendant, knowingly diminished the assets of the Bayou Hedge Funds that would be available to other investor creditors.

25. Due to heavy trading losses and the siphoning of additional funds, the Bayou Entities did not have the funds to pay these redemptions of non-existent principal and fictitious profits to the Redeeming Investors. The Bayou Entities aggressively pursued new investors, and used the incoming capital from those new investors to continue operations and pay redemption proceeds to investors who sought to exit the Bayou Hedge Funds. The Bayou Entities were able to stay afloat only by intentionally overpaying the Redeeming Investors. The principals of the Bayou Entities knew that, by making the inflated redemption payments of non-existent principal and fictitious profits, at least some of the non-redeeming investors would never be repaid their principal investment. In this way, the Bayou Entities operated as a fraudulent investment scheme.

26. At the time their investments in the Bayou Entities were redeemed, the Bayou Hedge Funds were insolvent on an adjusted balance sheet basis, were operating with inadequate capital, and did not have the ability to pay their debts as they became due. See Expert Report of

William K. Lenhart, CPA, CIRA, CTP, CFE (hereinafter, "Lenhart") attached hereto as Exhibit C and incorporated by reference in its entirety.

27. Furthermore, each redemption payment was made based on a reported account balance that was inflated above what should have been the value of the account and bore no relationship to the Bayou Hedge Fund's financial condition or value. Indeed, the amount that each such payment was inflated is consistent with the values reported to investors and the fraudulent financial statements. Lenhart at 38-39.

The Fraudulent Transfers to Defendant

28. On or about January 3, 2003, the Defendant invested \$100,000 to acquire certain participation interests in Bayou Fund (the "Investment").

29. On or about February 6, 2003, the Bayou Fund was terminated during a corporate restructuring and the Investment was exchange for Bayou No Leverage.

30. In or about February 2004, pursuant to Section 10.5 of the Amended and Restated Operating Agreement of Bayou No Leverage, Plaintiff elected to liquidate Defendant's participation interests in Bayou No Leverage.

31. On or about March 1, 2004, Bayou No Leverage made a transfer of its property in the amount of \$106,000 to or for the benefit of the Defendant (the "First Fraudulent Transfer").

32. The First Fraudulent Transfer consisted of an amount equal to the Investment and \$6,000 of fictitious profits ("Fictitious Profits").

33. On or about June 24, 2005, Bayou No Leverage made a transfer of its property in the amount of \$10,998 to or for the benefit of the Defendant (the "Second Fraudulent Transfer," and together with the First Fraudulent Transfer, the "Fraudulent Transfers").

34. The Second Fraudulent Transfer consisted entirely of Fictitious Profits.

First Claim for Relief

(Action to Avoid and Recover Intentionally Fraudulent Transfer of Money and Other Property and Preserve Same for the Benefit of the Estate Pursuant to Bankruptcy Code §§ 548(a)(1)(A), 550(a), 551, and 1107)

35. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 34 above as if fully set forth herein at length.

36. The Second Fraudulent Transfer was made by Plaintiff with the actual intent to hinder, delay, or defraud the creditors of the Bayou Entities. Plaintiff made the Second Fraudulent Transfer to or for the benefit of the Defendant in furtherance of a fraudulent investment scheme.

37. Defendant cannot satisfy its burden of establishing that it took the Second Fraudulent Transfer for value and in good faith.

38. As a result of the foregoing, pursuant to Bankruptcy Code §§ 548(a)(1)(A), 550(a), and 551, Plaintiff is entitled to a judgment: (a) avoiding and preserving the Second Fraudulent Transfer, (b) directing that the Second Fraudulent Transfer be set aside, and (c) recovering the Second Fraudulent Transfer from the Defendant for the benefit of the estate of the Debtor.

Second Claim for Relief

(Action to Avoid and Recover Constructively Fraudulent Transfer of Money or Other Property and Preserve Same for the Benefit of the Estate Pursuant to Bankruptcy Code §§ 548(a)(1)(B), 550(a), 551, and 1107)

39. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 34 above as if fully set forth herein at length.

40. By virtue of the fact that the Bayou Entities operated a fraudulent investment scheme, at all relevant times, Plaintiff: (a) was insolvent on the date that the Second Fraudulent Transfer was made or became insolvent as a result of the Second Fraudulent Transfer, and/or

(b) was engaged in businesses or transactions, or was about to engage in businesses or transactions, for which the property remaining with the Debtor after the Second Fraudulent Transfer was effectuated constituted unreasonably small capital, and/or (c) at the time of the Second Fraudulent Transfer, intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as the debts matured.

41. Plaintiff received less than a reasonably equivalent value in exchange for the Second Fraudulent Transfer.

42. As a result of the foregoing, pursuant to Bankruptcy Code §§ 548(a)(1)(B), 550(a) and 551, Plaintiff is entitled to a judgment: (a) avoiding and preserving the Second Fraudulent Transfer, (b) directing that the Second Fraudulent Transfer be set aside, and (c) recovering the Second Fraudulent Transfer from the Defendant for the benefit of the estate of the Debtor.

Third Claim for Relief

(Action to Avoid Intentionally Fraudulent Transfers of Money and Other Property and Preserve Same for the Benefit of the Estate Pursuant to New York Debtor and Creditor Law §§ 276 and 278, and Bankruptcy Code §§ 544, 550(a), 551, and 1107)

43. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 34 above as if fully set forth herein at length.

44. At all relevant times, there was and is at least one or more creditors who held and hold unsecured claims against Plaintiff that were and are allowable under Bankruptcy Code § 502 or that were and are not allowable only under Bankruptcy Code § 502(e).

45. The Fraudulent Transfers were made by Plaintiff with the actual intent to hinder, delay, or defraud the creditors of the Bayou Entities. Plaintiff made the Fraudulent Transfers to or for the benefit of the Defendant in furtherance of a fraudulent investment scheme.

46. As a result of the foregoing, pursuant to New York Debtor and Creditor Law §§ 276 and 278 and Bankruptcy Code §§ 544(b), 550(a), and 551, Plaintiff is entitled to a

judgment: (a) avoiding and preserving the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits, (b) directing that the Second Fraudulent Transfer be set aside and that the First Fraudulent Transfer be set aside to the extent it consisted of Fictitious Profits, and (c) recovering the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits from the Defendant for the benefit of the estate of the Debtor.

Fourth Claim for Relief

(Action to Avoid Constructively Fraudulent Transfers of Money and Property and Preserve Same for the Benefit of the Estate Pursuant to New York Debtor and Creditor Law §§ 273 and 278, and Bankruptcy Code §§ 544, 550(a), 551, and 1107)

47. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 34 above as if fully set forth herein at length.

48. At all relevant times there was and is at least one or more creditors who held and hold unsecured claims against Plaintiff that were and are allowable under Bankruptcy Code § 502 or that were and are not allowable only under Bankruptcy Code § 502(e).

49. Plaintiff did not receive fair consideration for the Second Fraudulent Transfer or for the portion of the First Fraudulent Transfer consisting of Fictitious Profits.

50. Plaintiff was insolvent at the time it made each of the Fraudulent Transfers or, in the alternative, Plaintiff became insolvent as a result of each of the Fraudulent Transfers.

51. As a result of the foregoing, pursuant to New York Debtor and Creditor Law §§ 273 and 278 and Bankruptcy Code §§ 544(b), 550 and 551, Plaintiff is entitled to a judgment: (a) avoiding and preserving the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits, (b) directing that the Second Fraudulent Transfer be set aside and that the First Fraudulent Transfer be set aside to the extent it consisted of Fictitious Profits, and (c) recovering the Second Fraudulent Transfer and the portion of the

First Fraudulent Transfer consisting of Fictitious Profits from the Defendant for the benefit of the estate of the Debtor.

Fifth Claim for Relief

(Action to Avoid Constructively Fraudulent Transfers of Money and Property and Preserve Same for the Benefit of the Estates Pursuant to New York Debtor and Creditor Law §§ 274 and 278, and Bankruptcy Code §§ 544, 550(a), 551, and 1107)

52. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 34 above as if fully set forth herein at length.

53. At all relevant times there was and is at least one or more creditors who held and hold unsecured claims against Plaintiff that were and are allowable under Bankruptcy Code § 502 or that were and are not allowable only under Bankruptcy Code § 502(e).

54. Plaintiff did not receive fair consideration for the Second Fraudulent Transfer or for the portion of the First Fraudulent Transfer consisting of Fictitious Profits.

55. At the time Plaintiff made each of the Fraudulent Transfers, Plaintiff was engaged or was about to engage in a business or transaction for which the property remaining in its hands after each of the Fraudulent Transfers was an unreasonably small capital.

56. As a result of the foregoing, pursuant to New York Debtor and Creditor Law §§ 274 and 278 and Bankruptcy Code §§ 544(b), 550(a), and 551, Plaintiff is entitled to a judgment: (a) avoiding and preserving the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits, (b) directing that the Second Fraudulent Transfer be set aside and that the First Fraudulent Transfer be set aside to the extent it consisted of Fictitious Profits, and (c) recovering the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits from the Defendant for the benefit of the estate of the Debtor.

Sixth Claim for Relief

(Action to Avoid Constructively Fraudulent Transfers of Money and Property and Preserve Same for the Benefit of the Estate Pursuant to New York Debtor and Creditor Law §§ 275 and 278, and Bankruptcy Code §§ 544, 550(a), 551, and 1107)

57. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 34 above as if fully set forth herein at length.

58. At all relevant times there was and is at least one or more creditors who held and hold unsecured claims against Plaintiff that were and are allowable under Bankruptcy Code § 502 or that were and are not allowable only under Bankruptcy Code § 502(e).

59. Plaintiff did not receive fair consideration for the Second Fraudulent Transfer or for the portion of the First Fraudulent Transfer consisting of Fictitious Profits.

60. At the time Plaintiff made each of the Fraudulent Transfers, Plaintiff had incurred, was intending to incur, or believed that it would incur debts beyond its ability to pay them as the debts matured.

61. As a result of the foregoing, pursuant to New York Debtor and Creditor Law §§ 275 and 278 and Bankruptcy Code §§ 544(b), 550(a), and 551, Plaintiff is entitled to a judgment: (a) avoiding and preserving the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits, (b) directing that the Second Fraudulent Transfer be set aside and that the First Fraudulent Transfer be set aside to the extent it consisted of Fictitious Profits, and (c) recovering the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits from the Defendant for the benefit of the estate of the Debtor.

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in favor of Plaintiff and against the Defendant as follows:

- i. On the First Claim for Relief, pursuant to Bankruptcy Code §§ 548(a)(1)(A),

550(a), 551, and 1107: (a) avoiding and preserving the Second Fraudulent Transfer, (b) directing that the Second Fraudulent Transfer be set aside, and (c) recovering the Second Fraudulent Transfer from the Defendant for the benefit of the estate of the Debtor;

ii. On the Second Claim for Relief, pursuant to Bankruptcy Code §§ 548(a)(1)(B), 550(a), 551, and 1107: (a) avoiding and preserving the Second Fraudulent Transfer, (b) directing that the Second Fraudulent Transfer be set aside, and (c) recovering the Second Fraudulent Transfer from the Defendant for the benefit of the estate of the Debtor;

iii. On the Third Claim for Relief, pursuant to New York Debtor & Creditor Law §§ 276 and 278 and Bankruptcy Code §§ 544(b), 550(a), 551, and 1107: (a) avoiding and preserving the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits, (b) directing that the Second Fraudulent Transfer be set aside and that the First Fraudulent Transfer be set aside to the extent it consisted of Fictitious Profits, and (c) recovering the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits from the Defendant for the benefit of the estate of the Debtor;

iv. On the Fourth Claim for Relief, pursuant to New York Debtor and Creditor Law §§ 273 and 278 and Bankruptcy Code §§ 544(b), 550, 551, and 1107: (a) avoiding and preserving the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits, (b) directing that the Second Fraudulent Transfer be set aside and that the First Fraudulent Transfer be set aside to the extent it consisted of Fictitious Profits, and (c) recovering the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits from the Defendant for the benefit of the estate of the Debtor;

v. On the Fifth Claim for Relief, pursuant to New York Debtor and Creditor Law §§ 274 and 278 and Bankruptcy Code §§ 544(b), 550, 551, and 1107: (a) avoiding and

preserving the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits, (b) directing that the Second Fraudulent Transfer be set aside and that the First Fraudulent Transfer be set aside to the extent it consisted of Fictitious Profits, and (c) recovering the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits from the Defendant for the benefit of the estate of the Debtor;

vi. On the Sixth Claim for Relief, pursuant to New York Debtor and Creditor Law §§ 275 and 278 and Bankruptcy Code §§ 544(b), 550, 551, and 1107: (a) avoiding and preserving the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits, (b) directing that the Second Fraudulent Transfer be set aside and that the First Fraudulent Transfer be set aside to the extent it consisted of Fictitious Profits, and (c) recovering the Second Fraudulent Transfer and the portion of the First Fraudulent Transfer consisting of Fictitious Profits from the Defendant for the benefit of the estate of the Debtor;

vii. On all Claims for Relief, pursuant to federal common law and Sections 5001 and 5004 of the New York Civil Practice Law and Rules, awarding Plaintiff prejudgment interest from the date on which the Fraudulent Transfers were received;

viii. Awarding Plaintiff all applicable interest, costs, and disbursements of this action;

ix. Pursuant to Bankruptcy Code § 502(d), disallowing any and all claims of the Defendant unless the Defendant has repaid the Fraudulent Transfers to the estate of the Debtor; and

x. Plaintiff expressly reserves the right to amend the Complaint to assert claims to avoid and recover all transfers made to the Defendant in the amount of the Investment;

xi. Granting Plaintiff such other, further, and different relief as the Court deems just, proper, and equitable.

Dated: New York, New York
February 29, 2008

DECHERT LLP

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