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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: GENERAL EQUITY
ESSEX COUNTY
DOCKET NO. ESX-C-59-11

PAULA T. DOW, Attorney General of New Jersey, on behalf of ABBE R. TIGER, Chief of the New Jersey Bureau of Securities,[1] Plaintiff, v. MICHAEL WILLIAM KWASNIK, ESQ., individually and as Managing Partner of Kwasnik, Rodio, Kanowitz & Buckley, P.C.; WILLIAM KWASNIK, individually and as Chief Executive Officer of Liberty State Financial Holdings Corp. and President of Liberty State Benefits of Pennsylvania, Inc.; JOSEPH ANTHONY SCHIFANO, individually; DANIEL FRANCIS MCCORRY, individually; WILLIAM P. LEONARD, individually and as secretary and treasurer of Capital Conservation Associates, Inc.	Civil Action **FIRST AMENDED VERIFIED COMPLAINT**

[1] This action was commenced on behalf of former Chief of the New Jersey Bureau of Securities Marc B. Minor. In accordance with R. 4:34-4, the caption has been revised to reflect the current Chief of the New Jersey Bureau of Securities.

RICHARD W. BARRY, as Chapter 11)
Trustee for LIBERTY STATE)
FINANCIAL HOLDINGS CORP., a New)
Jersey corporation, f/k/a Liberty)
Bell Ban Corporation and Liberty)
Bell Financial Holdings)
Corporation; and)
RICHARD W. BARRY, as Chapter 11)
Trustee for LIBERTY STATE)
BENEFITS OF PENNSYLVANIA, INC.,)
a Pennsylvania corporation;)
)
Defendants.)
)

Paula T. Dow, Attorney General of New Jersey, on behalf of Plaintiff, Abbe R. Tiger, Chief of the New Jersey Bureau of Securities ("Plaintiff" or "Bureau Chief"), having offices at 153 Halsey Street, City of Newark, County of Essex, by way of a First Amended Verified Complaint against the above-named defendants, says:

PRELIMINARY STATEMENT

1. As set forth below, from in or about December 2008 to in or about March 2010 ("Relevant Period"), defendant Liberty State Financial Holdings Corp. ("LSFHC") through its subsidiary, defendant Liberty State Benefits of Pennsylvania, Inc. ("LSBPA"), acting in concert with defendants Michael William Kwasnik, Esq. ("M-Kwasnik"), Joseph Anthony Schifano ("Schifano") and Daniel Francis McCorry ("McCorry"), raised approximately $8,491,525.15 through the operation of a fraudulent scheme. The scheme involved defendants M-Kwasnik, Schifano and McCorry selling unregistered three (3) year notes

purporting to pay 12% annually ("LSBPA Note") to investors through the use of misrepresentations, false statements and omissions, all while the individual defendants were themselves unregistered to sell securities. Once these investor funds were raised, at the direction of defendant William Kwasnik ("W-Kwasnik"), the funds were misused, in part, to pay other investors as part of a Ponzi scheme. In addition, W-Kwasnik diverted or caused to be diverted, in excess of $5 million to himself, members of his family including defendant M-Kwasnik, and to defendant M-Kwasnik's law firm, Kwasnik, Rodio, Kanowitz & Buckley P.C. ("KRKB"). Defendant William P. Leonard ("Leonard") assisted in selling the LSBPA Notes when he recommended the LSBPA Note investment to clients of Capital Conservation Associates, Inc. ("Capital Conservation"). The LSBPA Notes were sold to vulnerable members of the public including many elderly retirees and trusts for which defendant M-Kwasnik also served as the trustee.

2. Certain defendants falsely represented to investors that the purpose in selling the LSBPA Notes was to raise capital to purchase life insurance policies and beneficial interests in Irrevocable Life Insurance Trusts ("ILIT") in the life settlement market. Instead, investor funds were partly used in a Ponzi scheme to pay existing investors and for other improper purposes, including the fraudulent and unjust

enrichment of the individual defendants and members of their families.

3. These circumstances compel the Bureau Chief to file this amended pleading seeking to enjoin defendants' conduct, the imposition of civil monetary penalties and to obtain restitution and disgorgement.

JURISDICTION AND VENUE

4. The New Jersey Bureau of Securities ("Bureau") is the state regulatory agency charged with the administration and enforcement of the Uniform Securities Law (1997), N.J.S.A. 49:3-47 et seq. ("Securities Law").

5. Plaintiff brings this action pursuant to the Securities Law for violations of: (a) N.J.S.A. 49:3-52(a) (employing any device, scheme or artifice to defraud); (b) N.J.S.A. 49:3-52(b)(making materially false and misleading statements or omitting facts necessary to make the statements made not misleading); (c) N.J.S.A. 49:3-52(c) (engaging in any act or practice, or course of business which would operate as a fraud or deceit upon any person in connection with the offer, sale or purchase of securities); (d) N.J.S.A. 49:3-56(a) (acting as an unregistered agent); (e) N.J.S.A. 49:3-56(a) (acting as an unregistered investment adviser representative); (f) N.J.S.A. 49:3-56(h)(employing unregistered agents); and (g) N.J.S.A. 49:3-60 (selling unregistered securities).

6. Plaintiff also brings this action for the disgorgement of ill-gotten gains from the defendants, an injunction against defendants' conduct, and payment of restitution. Plaintiff previously sought and was granted the appointment of a fiscal agent over defendants LSFHC and LSBPA.

7. Jurisdiction is proper over defendants for violations of the Securities Law that are the subject of this First Amended Verified Complaint because each violation either originated from this State or was directed to this State. Therefore, pursuant to N.J.S.A. 49:3-51, all sales and offers to sell securities originated from New Jersey, whether or not either party was present in this State.

8. Venue is proper pursuant to R. 4:3-2(a) because it lies where the cause of action arose.

PARTIES

9. Plaintiff is the principal executive of the Bureau.

10. Defendant M-Kwasnik is a resident of Philadelphia, Pennsylvania but resided in Marlton, New Jersey until April 2010. He is a New Jersey and Pennsylvania licensed attorney and the former managing partner of KRKB. Defendant M-Kwasnik served as corporate counsel to defendants LSFHC and LSBPA until March 16, 2011 but, upon information and belief, defendant M-Kwasnik's role extended beyond providing legal advice to defendants LSFHC and LSBPA. Defendant M-Kwasnik is

also a former Chairman of the Board of Directors of defendant LSFHC under its former name, Liberty Bell Financial Holding Corporation ("LBFHC"), and upon information and belief, is the founder of defendant LSFHC.

11. Defendant W-Kwasnik is a resident of Marlton, New Jersey. During the Relevant Period, he was the Chief Executive Officer of defendant LSFHC and President of defendant LSBPA. He is also defendant M-Kwasnik's father.

12. Defendant Schifano is an individual who resides in Brick, New Jersey. Schifano's last registration with the Bureau was from September 24, 1999 to December 31, 2005 when he was registered as an agent of broker-dealer Investment Center, Inc. ("Investment Center").

13. Defendant McCorry is an individual who resides in Ventnor, New Jersey. Defendant McCorry's last registration with the Bureau was from September 14, 1999 to February 2, 2005 when he was registered as an agent of Investment Center.

14. Defendant Leonard is, upon information and belief, a resident of Cherry Hill, New Jersey. He is a "partner," secretary and treasurer of unregistered investment adviser Capital Conservation, who, upon information and belief, is responsible for directing Capital Conservation's daily operations. Defendant Leonard is also a former Chairman of defendant LSFHC's Board of Directors under its prior name, LBFHC.

Defendant Leonard was last registered with the Bureau as an agent of Renneisen, Renneisen and Redfield, Inc. from August 24, 1983 to December 31, 1984.

15. Defendant Richard W. Barry ("Barry") is the court-appointed fiscal agent in this matter over defendants LSFHC and LSBPA pursuant to a March 16, 2011 Order of this Court. He is also the court-appointed Chapter 11 Bankruptcy Trustee over defendants LSFHC and LSBPA, as well as another subsidiary entity, Liberty State Benefits of Delaware, Inc. ("LSBDE"). On July 29, 2011, these three (3) entities filed Chapter 11 bankruptcy petitions in the United States Bankruptcy Court for the District of Delaware. On September 1, 2011, the Honorable Kevin Gross, U.S.B.J., entered an order approving Barry's appointment as Chapter 11 Trustee, pursuant to the application of the United States Trustee. Barry is added in this action in his capacity as Chapter 11 Trustee only and no substantive relief is sought against him individually.

16. Defendant LSFHC is a New Jersey corporation located in Cherry Hill, New Jersey and is a holding company of various purported subsidiary entities/divisions including defendant LSBPA. Defendant LSFHC was, during the Relevant Period, also a manager of defendant LSBPA and controlled its finances, including investor funds.

17. Defendant LSBPA is a Pennsylvania corporation located in

Philadelphia, Pennsylvania and is a wholly-owned subsidiary of defendant LSFHC. During the Relevant Period, it reported to defendant LSFHC's Board of Directors, and upon information and belief, did not have its own Board of Directors. It was purportedly formed "for the purpose of acquiring life insurance policies on high net worth seniors." Defendant LSBPA claims that its "primary business is to purchase life insurance policies or trust beneficial interests therein in the secondary market for life insurance policies, the so-called 'life settlement' market." In other words, defendant LSBPA would buy third party life insurance policies or beneficial interests in life insurance policies owned by ILITs (meaning it became the beneficiary), for a lump sum less than the death benefit of the policy but more than the policy's cash surrender value. Defendant LSBPA would then be responsible for paying the premiums on the policy until the insured person died or the policy or beneficial interest was sold. When the insured person died or the beneficial interest or policy was sold, defendant LSBPA would receive all or part of the death benefit of the policy or make a profit from its sale.

18. A life settlement is also known as a viatical investment. Pursuant to N.J.S.A. 49:3-49(w) of the Securities Law, a viatical investment "means the contractual right to receive

any portion of the death benefit or ownership of a life insurance policy or certificate, for consideration that is less than the expected death benefit of the life insurance policy or certificate."

FACTUAL BACKGROUND

A. The Security Offered for Sale

19. Defendant LSFHC through defendant LSBPA, sold the LSBPA Notes through the use of a Confidential Private Placement Memorandum ("PPM") seeking to raise between $2 million to $50 million. A PPM is a disclosure document provided to investors. The LSBPA Notes purported to pay returns of 12% per year which investors could opt to receive as monthly interest payments.

20. Defendant LSFHC through defendant LSBPA also represented in the PPM that the LSBPA Notes were to be "primarily secured by 100% of the beneficial interest of all [ILITs] purchased by [defendant LSBPA] and secondarily secured by certain assets of [defendant LSFHC]," the "certain assets" being "the earned insurance premiums [generated by] Liberty State Insurance Services ("LSIS"), a division of [defendant LSFHC]."

21. The LSBPA Notes were securities required to be registered with the Bureau. The LSBPA Notes offered for sale were not registered with the Bureau, not "federally covered," and not otherwise exempt from registration. There was also no notice filing submitted to the Bureau as required by the Securities

Law for "federally covered" securities.

22. Neither defendant LSFHC nor defendant LSBPA was registered with the Bureau in any capacity.

B. Solicitation and Sale of the LSBPA Notes

23. During the Relevant Period, defendants M-Kwasnik, Schifano and McCorry, individually or in concert with each other, acting on behalf of defendant LSFHC through defendant LSBPA, offered and sold the LSBPA Notes to investors, including elderly retirees and various trusts for which M-Kwasnik served or serves as trustee.

24. Defendant Leonard was also engaged by defendant M-Kwasnik to recommend/refer the LSBPA Note investment to Capital Conservation's clients.

25. The LSBPA Notes were sold to approximately seventy-three (73) investors located in New Jersey, Florida, Pennsylvania, Delaware, California and New York.

26. Defendants M-Kwasnik, McCorry, Schifano and Leonard were not registered with the Bureau in any capacity at the time of the sale of the LSBPA Notes, nor were they exempt from registration.

27. Defendants Schifano and McCorry's unregistered status while offering and selling the unregistered LSBPA Notes was a violation of the Final Judgment entered on September 20, 2005 by the Honorable Kenneth S. Levy, P.J. Ch. in Harvey v.

McCorry, et al., Superior Court of New Jersey, Essex County, Chancery Division, Docket No. ESX-C-420-02 ("Final Judgment"), an action brought by the Bureau against defendants Schifano and McCorry and Prime Money Management, Inc., an entity defendants Schifano and McCorry owned and operated, alleging violations of the Securities Law. The Final Judgment "permanently enjoined [defendants Schifano and McCorry] from violating the Securities Law" and further ordered that they "comply with [the Securities Law], and shall not engage in any act or practice in violation of the Securities Law or in furtherance of any violation thereof." Pursuant to the Final Judgment, Schifano and McCorry were also ordered to pay restitution to investors and civil monetary penalties to the Bureau. These amounts were subsequently reduced by later Orders in December 2007 and January 2009. To date, Schifano and McCorry have yet to fully pay the amounts owed.

28. Notwithstanding the Final Judgment, defendants McCorry and Schifano offered and sold the LSBPA Notes to their clients for whom they provide or had provided financial services, and individuals with whom they became acquainted through their radio program, Money Talks.

29. Upon information and belief, defendant LSBPA specifically employed defendant Schifano to market the PPM and the LSBPA Notes to his clients. Moreover, defendant M-Kwasnik solicited

defendant Leonard to recommend the LSBPA Note investment to Leonard's clients in exchange for commissions equaling 10% of the amount each client invested in the LSBPA Notes.

30. Defendant Schifano targeted his annuity and financial advisory clients when offering and selling the LSBPA Notes.

31. Defendant M-Kwasnik accompanied defendants McCorry and Schifano to meetings with prospective investors regarding the investment in the LSBPA Notes where defendant M-Kwasnik participated with these defendants in the offer and sale of the LSBPA Notes.

32. Upon information and belief, for certain other investors, defendant M-Kwasnik was the sole person who solicited their investment in the LSBPA Notes.

33. Defendant M-Kwasnik offered and sold the LSBPA Notes to, among other people, clients who sought his legal services, particularly regarding estate planning.

34. Upon information and belief, defendant M-Kwasnik advised certain individuals to create various types of trusts and appoint him as trustee. Defendant M-Kwasnik later used his trustee powers to invest the trust corpus in the LSBPA Notes.

35. Defendant Leonard referred seventeen (17) individuals, all of whom were Capital Conservation's clients, to defendant M-Kwasnik for investment purposes.

36. Of the above-listed clients referred by defendant Leonard to

defendant M-Kwasnik, ten (10) were New Jersey residents. Seven (7) of these individuals are known to have invested in the LSBPA Notes.

37. Defendant Leonard claims to have recommended the purchase of the LSBPA Notes to Capital Conservation's clients as he felt it was a good investment given that their living expenses were increasing and social security payments remained the same.

38. Defendant M-Kwasnik met with the Capital Conservation clients defendant Leonard referred to him, and offered and sold them the LSBPA Notes, sometimes with defendant Leonard being present.

39. In offering and selling the LSBPA Notes, defendants M-Kwasnik and Schifano gave investors various articles regarding the legitimate life settlement industry, including an article entitled "The Law Stands Behind Life Settlements," which, upon information and belief, was a measure designed to convince investors that the LSBPA Notes were safe.

40. Defendants M-Kwasnik and Schifano sought to assure investors as to the safety of their investments by misrepresenting, among other things, that:

a. the LSBPA Notes were "a good and sound investment;"

b. the LSBPA Notes were "a good investment for senior citizens;"

c. investors would not lose money; and

d. monthly payments were guaranteed.

41. Prospective investors were required to complete a Subscription Agreement and an Investor Suitability Questionnaire ("Questionnaire") purportedly to assess whether those investors met the definition of an "accredited investor" under the "applicable federal and state securities laws . . . ."

42. Defendant M-Kwasnik assisted investors with the Subscription Agreements and Questionnaires, including completing the forms for them.

43. Defendant M-Kwasnik was the signatory on the Subscription Agreements and Questionnaires for the trusts for which he served as trustee that invested in the LSBPA Notes, and, upon information and belief, was the person who completed these forms as well.

44. Defendant M-Kwasnik was responsible for reviewing the documents submitted by investors to determine "[whether] they were qualified by the requirements of the PPM[,]" that is, whether they were accredited investors.

45. Certain investors surrendered annuities and IRAs, or liquidated other investments, to purchase the LSBPA Notes, upon information on belief, on the advice of defendants M-Kwasnik, Schifano and McCorry.

46. Certain of these investors suffered penalties for surrendering their annuities.

47. Upon information and belief, certain investors who were charged penalties for surrendering their annuities were given additional funds by defendant LSBPA to compensate for their losses, and which amount was purportedly added to their principal amounts.

48. Defendant M-Kwasnik ensured that investor funds were received and deposited into defendant LSFHC's bank accounts by driving or having a member of his law firm drive investors to the bank to deposit their funds. Defendant Schifano also accompanied defendant M-Kwasnik in driving at least one investor to the bank to deposit the investor's check.

49. Once the funds were invested, investors were sent letters bearing the letterhead of defendant LSFHC and signed by defendant W-Kwasnik, confirming that they were "now the holder of a secured Note with [defendant LSBPA]."

50. Defendants Schifano, McCorry and Leonard received commission payments for their efforts in recommending and/or selling the LSBPA Notes to investors.

51. Defendant M-Kwasnik also received funds which, upon information and belief, were for his efforts in offering and selling the LSBPA Notes.

C. Material Misrepresentations and Omissions to Investors and Other Fraudulent Conduct

52. The LSBPA Note investment was not a safe investment as defendants LSBPA, M-Kwasnik, Schifano and McCorry represented

to investors.

53. Defendant LSFHC through defendant LSBPA, made false statements and misrepresentations and omitted facts in the sale of the LSBPA Notes, including but not limited to:

a. misrepresenting in the PPM that the LSBPA Notes would be "secure" in that the LSBPA Notes would be "primarily secured by 100% of the beneficial interest of all [ILITs] purchased by [defendant LSBPA] and secondarily secured by certain assets of [defendant LSFHC];"

b. sending an April 3, 2009 letter to investors, that falsely represented that defendant LSBPA owned all title and interests in three (3) life settlement policies:

i. Joe Ministrelli from John Hancock, $11.5 million;

ii. Robert Motter from ING, $4 million; and

iii. Rosalie Gugliemi from Prudential Life, $10 million;

c. misrepresenting in the PPM that a minimum amount of $50,000 was required to invest in a LSBPA Note;

d. misrepresenting in the PPM, that the LSBPA Notes were to be offered "exclusively to accredited investors;"

e. misrepresenting in the PPM that defendant "[LSFHC had] retained Gocial, Gernstein, LLC [("GG")], an independent certified public accounting firm, to perform an internal audit for [defendant LSBPA] . . . . [and that such services] had been performed as of the date of [the

PPM];" and

f. misrepresenting in the PPM that defendant LSBPA intended to have an "Investment/Investor Account" into which LSBPA investor funds would be deposited.

54. In truth and in fact:

a. defendant LSBPA did not own all title and interest in the three (3) life settlement policies as claimed. Instead the beneficial interests had been assigned during the sale of the LSBPA Notes. More specifically, in or about November 2008, defendant LSBPA borrowed $2,306,120 from Westdale Construction, Ltd. ("Westdale"), a Canadian corporation which is, upon information and belief, a hedge fund, purportedly to acquire the beneficial interests in the foregoing three (3) referenced polices and in turn had assigned its beneficial interests in those policies to Westdale as collateral for the term of the loan. Defendant LSBPA subsequently defaulted on the repayment terms of the loan from Westdale and was sued by Westdale;

b. on February 16, 2010, while the beneficial interests in the policies were still assigned to Westdale, defendant LSBPA assigned "all of [its] right, title and interest in" the beneficial interest of the Joe Ministrelli ILIT to the Faiola Children's Irrevocable Family Trust in

exchange for $1,350,000;

c. the LSBPA Notes were sold to certain individuals who invested less than $50,000;

d. some investors who bought the LSBPA Notes did not meet the definition of an accredited investor as defined in N.J.S.A. 49:3-49(p) or Regulation D promulgated under the Securities Act of 1933;

e. GG was not retained by defendant LSFHC to perform an internal audit for defendant LSBPA; and

f. instead of investor funds being deposited or held in the purported "Investment/Investor Account," an account assumed to be under the control of defendant LSBPA, investor funds were deposited or held in bank accounts held in the name of defendant LSFHC or its subsidiary, LSBDE.

55. Upon information and belief, defendant LSFHC through defendant LSBPA, failed to disclose to investors when offering and selling investments in the LSBPA Notes that:

a. defendant LSBPA had borrowed $2,306,120 from Westdale purportedly to acquire the beneficial interests held by the three (3) referenced ILITs;

b. defendant LSBPA had assigned its beneficial interests in the three (3) ILITs to Westdale as collateral for the term of the loan from Westdale;

c. defendant LSBPA had defaulted on the loan from Westdale; and

d. LSBPA had assigned "all of [its] right, title and interest in" the beneficial interest of the Joe Ministrelli ILIT in exchange for $1,350,000.

56. Defendants M-Kwasnik, Schifano and/or McCorry made false or misleading representations to investors, including but not limited to, that:

a. their investment funds would be invested in life settlements and used to purchase ILITs and life insurance policies;

b. their investments would be safe, guaranteed, and would carry little or acceptable risk;

c. McCorry's mother had invested in the LSBPA Notes;

d. ING, a company in which an investor had invested, was about to "tank;" and

e. that there was "something going on with Allianz," another company in which an investor had invested at the time that he was solicited by the defendants.

57. Further, upon information and belief, defendant M-Kwasnik, in soliciting investors, failed to disclose to investors that he was the trustee for the Robert Motter and the Rosalie Gugliemi ILITs for a period of time when investors were being solicited to invest in the LSBPA Notes for which those ILITs were among

the underlying assets.

58. In offering and selling the LSBPA Note to investor F.D., defendants M-Kwasnik, Schifano and McCorry failed to disclose to him that his death benefit would be lost upon surrendering his annuity to purchase the LSBPA Note.

59. Upon information and belief, defendant M-Kwasnik placed false information on certain Subscription Agreements and Questionnaires which he either completed or assited investors in completing.

60. Defendant M-Kwasnik placed check marks on investors' completed Questionnaires falsely representing that the investors' net worth exceeded $1 million.

61. In or around February 2010, defendant LSBPA assigned the LSBPA Notes owned by certain trusts to LSBDE for $1.00 ("Assignments"). The Assignments were signed by defendant W-Kwasnik as President of defendant LSBPA and LSBDE and by defendant M-Kwasnik as trustee of each trust which owned the Notes.

62. Upon information and belief, the persons who created these trusts and the beneficiaries of these trusts were unaware or did not authorize these Assignments to LSBDE.

63. Defendant W-Kwasnik also sent a letter on or about June 30, 2010 to investors falsely claiming that much of an investor lawsuit against him, defendants M-Kwasnik, Schifano and

McCorry, and others entitled Demeo v. Kwasnik, et al., Superior Court of New Jersey, Law Division, Ocean County, Docket No. OCN-L-000994-10, was dismissed.

D. **Misuse of investor funds**

64. In addition to misrepresenting the nature and safety of these investments, defendants also misrepresented the uses to which investor funds would be put. Defendant LSFHC through defendant LSBPA falsely represented in the PPM that funds raised from the sale of the LSBPA Notes would be used for:

    i. purchasing life insurance policies;

    ii. a reserve for premium payments;

    iii. fees for management services; and

    iv. attorney fees for the preparation of the PPM.

65. As demonstrated more fully below, investor funds were used in contravention of the purposes disclosed to investors.

66. LSBPA investor funds were not deposited into the purported "Investor/Investment Account" and, upon information and belief, were never deposited into a bank account held solely in the name of or under the sole control of defendant LSBPA, nor did such an account exist.

67. A significant portion of investor funds was deposited into TD Bank account #xxx6913 held in the name of defendant LSFHC, but the transactions were actually recorded on defendant LSBPA's books.

68. For the period from January 1, 2008 through December 31, 2010 ("Report Period"), approximately $13,551,326.46 received from investors was placed into defendant LSFHC and LSBDE's bank accounts, including TD Bank account #xxx6913, and commingled with other funds in those accounts.

69. Of the approximately $13,551,326.46 received from investors, approximately $8,491,525.15 was received from the sale of the LSBPA Notes. This amount was also commingled with the remainder of funds from other investors.

70. The commingled investor funds were, among other things, improperly transferred, in whole or in part, to the following individuals or entities in the below-listed approximate net aggregate amounts:

a. $6,553,354.20 to pay other investors' principal and interest payments;

b. $4,528,661.03 to defendant M-Kwasnik's law firm KRKB;

c. $391,054.55 to defendant M-Kwasnik;

d. $28,000 to Carol Kwasnik;

e. $32,000 to Catherine Kwasnik;

f. $16,400 to Irene Sergiienko Kwasnik ("I-Kwasnik");

g. $7,000 to Steven Kwasnik;

h. $160,769.96 to defendant W-Kwasnik;

i. $78,881.96 to defendant Leonard;

j. $1,506,894.75 to an entity known as Oxbridge Investors

Fund LLC ("Oxbridge"); and

k. $246,792.92 to defendant Schifano.

In sum, more than $5 million of the approximately $13.5 million raised by the Liberty entities went to the Kwasniks or to M-Kwasnik's law firm KRKB. This was over 35 percent of the amounts raised from these largely elderly investors who had been promised a safe and secure investment. Other sums were used to pay earlier investors in this Ponzi scheme which defendants orchestrated.

71. The commingled investor funds were also used to make payments equaling approximately $269,686.32 and $214,030.49 to two employees of KRKB named Alexandra Gross ("Gross") and Judith Martinez ("Martinez").

72. Specific diversions and misuse of certain investors' funds were as follows:

a. investor W.W.'s $101,944.20 investment was used, in whole or in part, for a $100,000 payment to KRKB;

b. investors J.W.2 and V.W.'s $84,517.11 investment was transferred in its entirety to defendant LSFHC's TD Bank account #xxx8513;

c. investor J.W.'s $85,000 investment was transferred in its entirety to defendant LSFHC's TD Bank account #xxx8513;

d. investor W.G.'s $119,395.61 investment was transferred, in whole or in part, as follows: (i) $30,000 to Oxbridge;

(ii) $2,000 to defendant Schifano; (iii) $2,000 to defendant Leonard; (iv) $10,000 to an individual known as Dennis Ferry; (v) $13,000 to KRKB; (vi) $7,895 to an entity known as Apogee Insurance Group; (vii) $60,000 to an entity known as Kamenar SNT; and (viii) $50 to an individual known as April Winokur;

e. investor D.D.'s $42,500 investment was transferred in its entirety to defendant LSFHC's TD Bank account #xxx8513;

f. investor D.B.'s $60,000 investment was transferred, in whole or in part, as follows: (i) $50,000 to defendant LSFHC's TD Bank account #xxx8513; (ii) $2,000 to Francis Hudson, an associate of defendant McCorry; and (iii) $8,000 to KRKB; and

g. investors W.K. and G.K.'s $51,207.42 investment was transferred, in whole or in part, as follows: (i) $5,000 to an entity known as Cammarano & Hagan; (ii) $14,921.86 to defendant Leonard; (iii) $19,000 to defendant W-Kwasnik; (iv) $2,000 to I-Kwasnik; (v) $4,000 to defendant M-Kwasnik; (vi) $1,000 to defendant Schifano; and (vii) $7,000 to KRKB.

73. During the Report Period, defendant W-Kwasnik was an authorized signatory either solely or jointly with other persons, on four (4) of defendant LSFHC's bank accounts and one (1) bank account belonging to LSBDE.

74. Defendant W-Kwasnik also was the signatory on many of the checks paid from bank accounts held in the name of defendant LSFHC and LSBDE.

COUNT I

EMPLOYING ANY DEVICE, SCHEME OR ARTIFICE TO DEFRAUD IN VIOLATION OF N.J.S.A. 49:3-52(a)

(As to defendants LSFHC, LSBPA, M-Kwasnik and W-Kwasnik)

75. Plaintiff repeats the allegations in the preceding paragraphs as if more fully set forth herein.

76. Defendants LSFHC, LSBPA, M-Kwasnik and W-Kwasnik, individually and/or through their directors, officers, employees, agents and attorneys, successors, subsidiaries, acting in concert with each other, employed a scheme to defraud investors by engaging in the conduct described in this First Amended Verified Complaint.

77. Defendants' scheme included, but was not limited to, the unauthorized use and transfer of investor funds contrary to the representations made to investors, using investor funds in a Ponzi scheme whereby new investor funds were used to pay existing investors, and making misrepresentations, false statements and omissions in offering and selling investments in the LSBPA Notes.

78. Each violation of N.J.S.A. 49:3-52(a) by defendants LSFHC, LSBPA, M-Kwasnik and W-Kwasnik upon each investor is a separate violation and is cause for the imposition of a civil

monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT II

MAKING MATERIALLY FALSE AND MISLEADING STATEMENTS AND/OR OMITTING MATERIAL FACTS IN VIOLATION OF N.J.S.A. 49:3-52(b)

(As to defendants LSFHC, LSBPA, M-Kwasnik, Schifano and McCorry)

79. Plaintiff repeats the allegations in the preceding paragraphs as if more fully set forth herein.

80. Defendant LSFHC through defendants LSBPA, M-Kwasnik, Schifano and McCorry, individually and/or through their officers, directors, employees, agents, attorneys, successors, subsidiaries directly and/or indirectly, made materially false and misleading statements and/or omitted material facts to investors in connection with the offer and sale of securities.

81. Among the materially false and misleading statements were that:

a. investor funds would be safe, guaranteed, or carry little or acceptable risk;

b. investor funds would be used to purchase life insurance policies and beneficial interests in ILITs;

c. investor funds would be deposited or held in an "Investment/Investor Account;"

d. the LSBPA Notes would only be offered "exclusively to accredited investors;"

e. GG was retained to conduct an audit of defendant LSBPA

which had been completed as of the date of the PPM;

f. McCorry's mother had invested in the LSBPA Notes;

g. ING, a company in which an investor had invested, was about to "tank;" and

h. that there was "something going on with Allianz," a company in which an investor had invested at the time that he was solicited.

82. Among the omitted facts to investors were:

a. the true nature and risk of the investments;

b. that defendant LSBPA had received a loan for $2,306,120 from Westdale to purchase the beneficial interests in three (3) above-referenced ILITs;

c. that defendant LSBPA had assigned its interests in the three (3) above-referenced ILITs to Westdale in exchange for the loan from Westdale;

d. that defendant LSBPA had defaulted on its loan obligation to Westdale;

e. defendant M-Kwasnik's involvement in the Robert Motter and Rosalie Gugliemi ILITs as trustee;

f. defendant LSBPA's assignment of "all of [its] right, title and interest in" the beneficial interest of the Joe Ministrelli ILIT in exchange for $1,350,000;

g. that their funds would be used for purposes not disclosed to them;

h. that their funds would be deposited in defendant LSFHC and LSBDE's bank accounts;

i. that defendants LSFHC, LSBPA, M-Kwasnik, Schifano and McCorry were not registered with the Bureau to sell securities nor were they exempt from registration; and

j. in excess of $5 million of the amounts raised would be diverted to the individual defendants, members of their families, and, principally, to M-Kwasnik's law firm KRKB.

83. Each omission or materially false or misleading statement was in violation of N.J.S.A. 49:3-52(b).

84. Each violation of N.J.S.A. 49:3-52(b) by each of defendant LSFHC through defendants LSFHC, LSBPA, M-Kwasnik, Schifano and/or McCorry upon each investor is a separate violation of the statute and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT III

ENGAGING IN ANY ACT OR PRACTICE WHICH WOULD OPERATE AS A FRAUD OR DECEIT UPON ANY PERSON IN CONNECTION WITH THE OFFER, SALE OR PURCHASE OF SECURITIES IN VIOLATION OF N.J.S.A. 49:3-52(c)

(As to defendants LSFHC, LSBPA, M-Kwasnik, W-Kwasnik, Schifano, and McCorry)

85. Plaintiff repeats the allegations in the preceding paragraphs as if more fully set forth herein.

86. Defendant LSFHC through defendant LSBPA's course of business, and as engaged in by defendants M-Kwasnik, Schifano and

McCorry, included, among other things, soliciting elderly individuals with whom they had relationships and gaining their trust through the use of false statements, material misrepresentations and omissions, operated as a fraud/deceit upon investors in violation of N.J.S.A. 49:3-52(c).

87. Defendant W-Kwasnik's repeated acts of, among other things, signing checks and otherwise transferring/directing investor funds to other investors, himself and third parties including his family members and defendant M-Kwasnik's law firm, KRKB, operated as a fraud/deceit upon investors in violation of N.J.S.A. 49:3-52(c).

88. Each violation of N.J.S.A. 49:3-52(c) by defendant LSFHC through defendant LSBPA, and defendants M-Kwasnik, W-Kwasnik, Schifano and McCorry, upon each investor is a separate violation and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT IV

ACTING AS AN AGENT WITHOUT REGISTRATION IN VIOLATION OF N.J.S.A. 49:3-56(a)

(As to defendants M-Kwasnik, Schifano, and McCorry)

89. Plaintiff repeats the allegations in the preceding paragraphs as if more fully set forth herein.

90. Defendants M-Kwasnik, Schifano and McCorry represented defendant LSFHC through defendant LSBPA in effecting or

attempting to effect transactions in securities from or in New Jersey and, thus, acted as agents, as defined in N.J.S.A. 49:3-49(b) of the Securities Law, without being registered with the Bureau to sell the LSBPA Notes or qualifying for an exemption.

91. Defendants M-Kwasnik, Schifano and McCorry violated N.J.S.A. 49:3-56(a) which requires, among other things, that only persons registered with the Bureau may lawfully act as agents.

92. Each offer or sale to investors constitutes a separate violation of N.J.S.A. 49:3-56(a) and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT V

ACTING AS AN INVESTMENT ADVISER REPRESENTATIVE WITHOUT REGISTRATION IN VIOLATION OF N.J.S.A. 49:3-56(a)
(As to defendant Leonard)

93. Plaintiff repeats the allegations in the preceding paragraphs as if more fully set forth herein.

94. Defendant Leonard, a purported "partner" of unregistered investment adviser Capital Conservation, received compensation for making recommendations or otherwise advising Capital Conservation's clients regarding the purchase of the LSBPA Notes and, thus, acted as an investment adviser representative as defined in N.J.S.A. 49:3-49(s) of the Securities Law,

without being registered with the Bureau or qualifying for an exemption.

95. Defendant Leonard violated N.J.S.A. 49:3-56(a) which requires, among other things, that only persons registered with the Bureau or exempt from registration may lawfully act as investment adviser representatives.

96. Each act of providing advice about or recommending the LSBPA Notes constitutes a separate violation of N.J.S.A. 49:3-56(a) and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT VI

EMPLOYING UNREGISTERED AGENTS IN VIOLATION OF N.J.S.A. 49:3-56(h)

(As to defendants LSFHC and LSBPA)

97. Plaintiff repeats the allegations in the preceding paragraphs as if more fully set forth herein.

98. Defendant LSFHC through defendant LSBPA employed unregistered agents to effect or attempt to effect transactions in securities to or from New Jersey.

99. Defendants M-Kwasnik, Schifano, and McCorry represented defendants LSFHC and LSBPA in effecting or attempting to effect transactions in securities from or in New Jersey and, thus, acted as agents, as defined in N.J.S.A. 49:3-49(b), without being registered with the Bureau to sell the LSBPA Notes or qualifying for an exemption.

100. Defendant LSFHC through defendant LSBPA, employed agents who were not registered with the Bureau to sell the LSBPA Notes, in violation of N.J.S.A. 49:3-56(h).

101. Each offer or sale of each security is a separate violation of N.J.S.A. 49:3-56(h) and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT VII

SELLING UNREGISTERED SECURITIES IN VIOLATION OF N.J.S.A. 49:3-60

(As to defendants LSFHC, LSBPA, M-Kwasnik, Schifano and McCorry)

102. Plaintiff repeats the allegations in the preceding paragraphs as if more fully set forth herein.

103. Defendant LSFHC through defendants LSBPA, M-Kwasnik, Schifano, and McCorry sold securities that were not registered with the Bureau, not "federally covered" nor were the securities exempt from registration.

104. The securities were required to be registered with the Bureau pursuant to N.J.S.A. 49:3-60.

105. Each offer or sale of unregistered securities constitutes a separate violation of N.J.S.A. 49:3-60 and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

DEMAND FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the entry of a judgment pursuant to N.J.S.A. 49:3-47 et seq.:

a. Finding that defendants LSFHC, LSBPA, M-Kwasnik, W-Kwasnik, Schifano, McCorry and Leonard engaged in the acts and practices alleged above;

b. Finding that such acts and practices constitute violations of the Securities Law;

c. Permanently enjoining defendants LSFHC, LSBPA, M-Kwasnik, W-Kwasnik, Schifano, McCorry and Leonard from violating the Securities Law in any manner;

d. Permanently enjoining defendants LSFHC, LSBPA, M-Kwasnik, W-Kwasnik, Schifano and McCorry from engaging in the securities business in New Jersey in any capacity including, but not limited to, acting as a broker-dealer, investment adviser, investment adviser representative, agent or otherwise;

e. Permanently enjoining the issuance, sale, offer for sale, purchase, offer to purchase, promotion, negotiation, solicitation, advertisement or distribution from or within New Jersey of any securities to or from New Jersey, by or on behalf of defendants LSFHC, LSBPA, M-Kwasnik, W-Kwasnik, Schifano and McCorry, their officers, directors, employees, agents, brokers, partners,

stockholders, attorneys, successors, subsidiaries and affiliates;

f. Preliminarily enjoining and restraining defendants M-Kwasnik, W-Kwasnik, Schifano, McCorry and Leonard, from engaging in the conduct set forth in the First Amended Verified Complaint and from violating the Securities Law;

g. Preliminarily enjoining and restraining defendants M-Kwasnik, W-Kwasnik, Schifano, McCorry, and such persons acting in concert or participation with them, as receive actual notice of this Order, by personal service or otherwise, from the issuance for sale, sale, offer for sale, purchase, offer to purchase, solicitation, promotion, negotiation, advertisement or distribution from or within the State of New Jersey, of the securities offered for sale by defendants LSFHC, LSBPA, M-Kwasnik, W-Kwasnik, McCorry and Schifano, and any other security as that term is defined in the Securities Law, pending further order of this Court;

h. Preliminarily enjoining and restraining defendants M-Kwasnik, W-Kwasnik, Schifano, McCorry and Leonard from acting, from and within the State of New Jersey as: an agent as defined in N.J.S.A. 49:3-49(b); a broker-dealer as defined in N.J.S.A. 49:3-49(c); an investment adviser

as defined in N.J.S.A. 49:3-49(g); or an investment adviser representative as defined in N.J.S.A. 49:3-49(s);

i. Preliminarily enjoining and restraining defendants M-Kwasnik and W-Kwasnik from controlling or associating in any capacity with any broker-dealer or investment adviser doing business from, into or within the State of New Jersey, or from controlling an issuer, or acting as an officer, director, or manager of an issuer, or from supervising employees of an issuer, as defined in N.J.S.A. 49:3-49(h);

j. Assessing civil monetary penalties against defendants LSFHC, LSBPA, M-Kwasnik, W-Kwasnik, Schifano, McCorry and Leonard for each violation of the Securities Law in accordance with N.J.S.A. 49:3-70.1;

k. Requiring defendants LSFHC, LSBPA, M-Kwasnik, W-Kwasnik, Schifano, McCorry and Leonard, to pay restitution and disgorge all profits and/or funds gained through violations of the Securities Law; and

p. Affording Plaintiff and affected third parties any additional relief the court may deem just and equitable.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

Dated: 10/26/11

By: Stacy Ann Davy
Stacy-Ann T. Davy
Deputy Attorney General

RULE 4:5-1 CERTIFICATION

Pursuant to Rule 4:5-1, I certify to the best of my knowledge that the matter in controversy is the subject of the following actions:

a. Demeo v. Kwasnik, et al., Docket No. OCN-L-000994-10;

b. Labricciosa v. Kwasnik, et al., Docket No. CAM-CP-0044-2010;

c. Frater v. Kwasnik, et al., Docket No. ATL-C-37-11;

d. Combs v. Kwasnik, et al., Docket No. CAM-C-91-11; and

e. In re Liberty State Benefits of Delaware, Inc., et al., Debtors, Case No. 11-12404(KG), United States Bankruptcy Court for the District of Delaware.

I further certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

I certify that the foregoing statements made by me are true. I am aware that if any of those statements are willfully false, I am subject to punishment.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By: Stacy-Ann J. Davy
Deputy Attorney General

Dated: 10/26/11

DESIGNATION OF TRIAL COUNSEL

Deputy Attorney General Stacy-Ann T. Davy is hereby designated as trial counsel for this matter.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY

By: Stacy-Ann T. Davy
Stacy-Ann T. Davy
Deputy Attorney General

Dated: 10/26/11

VERIFICATION

LEON MARTIN, of full age, certifies as follows:

I am a Supervising Investigator with the New Jersey Bureau of Securities. I have read the foregoing First Amended Verified Complaint and on my own personal knowledge from review of documents in possession of the Bureau, I know that the facts set forth herein are true, except for those alleged upon information and belief.

I certify that the above statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 10/26/2011

Leon Martin
Supervising Investigator
New Jersey Bureau of Securities