

**Financial Industry Regulatory Agency
Statement of Claim**

Arbitration number 10-01732

GEORGIA CUMMINGS;
ALAN DOLECKI AND/OR NANCY KEHOE (POWER OF ATTORNEY
FOR ALPHONSE and DELPHINE DOLECKI);
STEVEN and KAREN GADZINSKI;
RAYMOND and JANET HENTSCHEL;
ELIZABETH HERTZ (POWER OF ATTORNEY FOR ARLENE HERTZ);
JANE NOWICKI-TRUE;
RONALD and BARBARA KOSCIERZYNSKI;
CLAIRE LEVINE;
ROBERTA FANN (PERSONAL REPRESENTATIVE OF THE ESTATE OF ROBERT
MANKOWSKI, DECEASED),
SUSAN MARDOYAN;
DONALD B. SECONDER;
PETER SPANGUS;
JOHN and SHEILA WINARSKI;
EDWARD IWANIK;
EDYTHE KLEIN;
CHARLES SALGAT, JR. And RICHARD SALAGT, Assignee's of the Thomas L. Salgat
Living Trust dated September 14, 1992; and
PATRICIA VASSEL,

Claimants,

v.

MUTUAL SERVICE CORPORATION CRD # 4806

Respondents.

CHAPMAN AND ASSOCIATES, P.C.
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STATEMENT OF CLAIM

NOW COME All Claimants, by and through counsel, CHAPMAN AND ASSOCIATES, P.C., by Ronald W. Chapman, Esquire, and for their Statement of Claim against Mutual Service Corporation, state as follows:

1. Mutual Service Corporation (hereinafter “MSC”) CRD # 4806 is and at all times was a member of FINRA and subject to the rules and regulations of FINRA.
2. MSC operated within the State of Michigan and has a place of business within the State of Michigan.
3. Claimants, at all times during the course of involvement with MSC, were residents of the State of Michigan and/or the State of Florida.
4. Keith L. Epstein (herein after “Epstein”) was an associated person with Mutual Service Corporation CRD # 1422407 from August 15, 1991 through May 7, 2007. Pursuant to FINRA Rule 12202 a claim against Epstein is not eligible for arbitration. The panel should not civil actions have been brought against Epstein and a criminal action is expected in the near future.
5. Epstein is a shareholder with Epstein & Rich Associates, Inc.
6. Epstein & Rich Associates, Inc. operated out of an office located in different areas within the Tri-County Michigan area.
7. Epstein & Rich Associates, Inc. employed the services of Mary Ann Childs and Marc Rich.
8. Epstein was a licensed insurance sales person in the State of Michigan.
9. For the majority of time related to this complaint, Epstein sold insurance products through Ash Brokerage Corporation located in Troy, Michigan.

10. In early 2007, a customer of Epstein's filed a Complaint with MSC stating Epstein fraudulently encouraged the customer to write Two Hundred Eighty Thousand Five Hundred (\$280,500.00) Dollars in checks payable to entities controlled by Epstein, that he comingled funds with his own and converted the funds to his own use.
11. MSC stated that they opened an investigation and required Epstein to reimburse the client the full Two Hundred Eighty Thousand Five Hundred (\$280,500.00) Dollars.
12. On May 3, 2007 MSC wrote to Complainants and informed them that MSC required Epstein and Wayne Stewart to reimburse Claimants for damages suffered. Exhibit A clearly demonstrates that MSC knew of the illegal and unethical actions of Epstein and his associate Stewart but failed to take any steps to determine if he acted in a similar manner to other clients and/or to prevent him from doing the same activity in the future. **See Exhibit A – May 3, 2007 letter from MSC to Claimants with report of return of funds.**
13. Although MSC stated they opened an investigation, they failed to conduct a meaningful investigation.
14. MSC never performed an office audit of Epstein or Epstein & Rich Associates, Inc.'s customer files.
15. MSC failed to interview Mary Ann Childs, Epstein's employee and accomplice.
16. MSC failed to interview Marc Rich, Epstein's business partner.
17. MSC failed to interview Epstein's existing customers.
18. MSC failed to warn Epstein's existing clients that "KLE" and "E & R" were not mutual funds but aliases used by Epstein to convert client funds to his own. MSC failed to

inform customers that it was improper and against FINRA Rules for Epstein to have customers write checks to Epstein and/or entities controlled by Epstein.

19. MSC failed to look into the account activity of Epstein and examine the suitability, amount, and frequency by which Epstein sold and purchased variable annuities, and made unauthorized withdrawals on behalf of customers.
20. MSC terminated Epstein on May 7, 2007.
21. On January 1, 2009, as a result of FINRA's investigation, FINRA suspended Epstein's license and he was fined Ten Thousand (\$10,000.00) Dollars for violations of NASD Rules 2110, 8219, at or about the same time, his license to sell insurance products was revoked by the State of Michigan.
22. MSC sent a letter to Epstein's customers simply stating that Epstein was no longer associated with MSC.
23. The letter failed to inform the clients that they should not under any circumstances write checks to KLE, E & R or Keith Epstein.
24. The letter failed to ask the clients to notify MSC if they had written checks to KLE, E & R or Keith Epstein.
25. MSC intentionally acted in this manner to avoid uncovering a very costly scheme by Epstein that had been occurring since at least 1999.
26. MSC's actions/inactions allowed this practice to continue for several more years causing many Claimants to lose their entire life savings.
27. Epstein preyed on a very specific type of client: retired, elderly and/or vulnerable people that had very limited investment sophistication and were very trusting of their financial adviser. He assured them he was acting in their best interest, befriended them, attended

family functions and worked his way into the fabric of their lives, creating a relationship of trust between Epstein and clients.

28. Several of his clients were in their late seventies or early eighties, and several clients were physically ill. All clients were trusting and believed that Epstein was watching their investments.
29. Epstein employed the following scheme:
 - a. After acquiring the confidence of the client he would immediately move their funds to fixed or variable annuities.
 - b. Clients all had limited resources, clients were not given suitability material, and elderly clients were not advised about annuities.
 - c. Epstein, in many cases, forged the client's signatures on applications and failed to give them the application or contract.
 - d. Epstein would make withdrawals from contracts without the client's consent. When confronted by the client, he would explain market conditions were bad and that he needed to take extraordinary measures to protect the client.
 - e. Epstein promised clients that he would cover early withdrawal penalties. He never did.
 - f. Epstein told clients that the funds were rolled over to a qualified annuity and, in reality, he had converted the funds to his own account using his own CPA, he would cover up the fact that no rollover occurred and caused false tax returns to be filed on behalf of clients.
 - g. Epstein would have the withdrawn funds delivered to the client's home.
 - h. Epstein would then call the client and tell him/her that the funds were coming and that he had to do it this way to protect the client from deteriorating market conditions. Given the news media about declining investments in 2007, 2008 and 2009, clients believed him.
 - i. Epstein fraudulently induced each client to deposit the checks into their own accounts and then write checks to entities controlled by Epstein. He explained that the entities, KLE, E & R, were mutual funds. This was a false and misleading statement. However, the client believed them to be and, therefore, Epstein violated Michigan Uniform Securities Act, as well as a number of FINRA rules.

- j. At other times, he had clients write checks to Keith Epstein explaining that he would put the funds in a trust account and through dollar cost averaging would purchase securities. This is in violation of Michigan Uniform Securities Act, as well as a number of FINRA rules.
- k. In order to limit the risk that his fraudulent scheme would be detected, Epstein employed the services of a CPA and Estate Planning Attorney.
- l. Epstein retained and paid for the services of Donald Mark Zurek, CPA. Epstein convinced all but a few clients to use the services of Mr. Zurek. Epstein would run interference and controlled all information going to Mr. Zurek. Mr. Zurek was paid by Epstein and never questioned the frequent early withdrawals, penalties, alleged rollovers, and other financial irregularities. Zurek covered for Epstein.
- m. Epstein retained the services of attorney Wayne Stewart. Almost all clients were directed to Stewart for estate planning. Epstein paid for the services and attended all the meetings or arranged for no meetings and he alone spoke with Stewart. Stewart drafted estate plans and intentionally failed to fund the plans. Stewart told the clients he would do all that was necessary and then failed to fund the plans. Stewart knew that the vast majority of the client's accounts did not exist in the form or amount stated by Epstein. Stewart knew if he tried to fund the estates the carriers would respond by saying either the account did not exist or the account was very different. Epstein knew this and paid Stewart for his silence.
- n. Epstein performed other egregious actions, by way of example and not limitation:
 - i. Mrs. Hertz suffers from dementia; Epstein followed her to Florida and convinced her to write many checks to KLE, E & R and Keith Epstein. He told her that this was to protect her in a bad market.
 - ii. Mrs. Dolecki was unable to see. Epstein would hold her hand to write his name on checks. His scheme was uncovered when he drove her to the bank and tried to have her withdraw Fifty Thousand (\$50,000.00) Dollars. The bank manager called her son and the transaction was stopped. Shortly thereafter counsel was retained.
 - iii. Mrs. Levine was in her late seventies and was living in a home that was completely paid for. Epstein convinced her to sell her home and purchase a new condo with a significant mortgage and give him the money to invest. Epstein used a mortgage lender from California who has since lost his license due to predatory lending. Epstein converted all of Mrs. Levine's funds and she is now currently going through foreclosure and may be homeless in the near future.

- iv. Mrs. Klein is in her eighties and Epstein convinced her to write hundreds of thousands of dollars in checks to KLE, E & R, or Keith Epstein. Telling her at all times that the money was safe and in secure investments.
30. MSC failed to take steps to prevent the above egregious actions and many more that will be delineated at the arbitration.
31. MSC failed to warn Epstein's clients in May of 2007 when MSC knew or, based on a reasonable investigation, should have known of the illegal, fraudulent, devious and unethical practices of Epstein.

The Claimants

32. Georgia Cummings resides in Detroit, Michigan, County of Wayne. Her date of birth is July 13, 1942. She began working with Epstein and MSC in 2001. Epstein directed her to Marc Zurek, CPA in 2007. Epstein repeatedly re-used a blank withdrawal form he previously convinced her to execute. Epstein convinced her to endorse a Lincoln Benefit Life Annuity withdrawal check over to Epstein and convinced her to write an additional Twenty Five Thousand (\$25,000.00) Dollars in checks to Epstein. Epstein invested a total of One Hundred Seventy Thousand Nine Hundred and Thirty Two (\$170,932.00) Dollars on behalf of client. One Hundred Thousand (\$100,000.00) Dollars came from her Detroit Edison buy-out and Sixty Eight Thousand (\$68,000.00) Dollars came from her IRA account. At the time client discovered Epstein's wrongdoing, she had less than Ten Thousand (\$10,000.00) Dollars in her accounts. Mrs. Cummings is financially ruined and facing eviction. Claimant claims damages in **excess of One Hundred Seventy Five Thousand (\$175,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

33. Alphonse Dolecki and Delphine Dolecki, reside in Clinton Township, Michigan, County of Macomb. Alphonse Dolecki's date of birth is February 16, 1925. Alphonse Dolecki is currently in hospice care. Delphine Dolecki's date of birth is August 29, 1927. Delphine Dolecki suffers from Macular Degeneration and cannot see well. Alan Dolecki (son) and/or Nancy Kehoe (daughter) have Power of Attorney. **The Dolecki's started to work with Epstein, Scripter & Associates and MSC in 1997.** In 2004, their accounts were transferred to Epstein and remained with MSC. In 2004, Epstein, without permission, liquidated their American Funds account and had Mrs. Dolecki sign checks to Keith Epstein in the amount of Sixty Nine Thousand One Hundred and Two Dollars and Seventy Six Cents (\$69,102.76). In 2008, Epstein transferred Dolecki's assets to her daughter, Audrey Crozier, without the knowledge of either Dolecki's or Crozier. When confronted, he said he did this to protect Mrs. Dolecki's assets. In hindsight, he did this to avoid being detected when investing funds in risky and unsuitable investments. Epstein continued to trade through MSC even after being terminated. Beginning in August of 2009, she executed twenty-one (21) checks payable to Keith Epstein totaling One Hundred and Twenty Three Thousand Four Hundred (\$123,400.00) Dollars. Epstein also placed the Dolecki's in a variety of risky investments and investments that were not properly suited to their age, medical condition and income level. The Dolecki's are financially ruined by Epstein's actions. Claimants claim damages in **excess of Two Hundred Thousand (\$200,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.
34. Steven and Karen Gadzinski reside in Sterling Heights, Michigan, County of Macomb. Mr. Gadzinski's date of birth is May 13, 1951 and Mrs. Gadzinski's date of birth is

November 4, 1952. The Gadzinski's met Epstein in January 2005 and began working with him and MSC shortly thereafter. Epstein immediately recommended the Gadzinski's cash out of their existing retirement accounts and purchase annuities through Pacific Life, Lincoln Benefit Life, ING, and AIG. He also had them begin writing checks to KLE and E & R explaining that these were mutual funds and excellent investments. After the fact, it was learned Epstein would forge the checks made out to KLE by adding "pstein" after the "E". Epstein transferred and withdrew funds and closed accounts without the permission of Gadzinski's. Epstein convinced the Gadzinski's to use the services of Wayne Stewart and Marc Zurek, CPA to cover his fraudulent scheme. The Gadzinski's incurred extensive surrender charges and early withdrawal penalties and currently face IRS issues over improper rollovers. Beginning in 2005 and ending on November 11, 2008, the Gadzinski's wrote a total of Five Hundred Ninety Four Thousand Three Hundred (\$594,300) Dollars in checks to KLE, E & R, and Epstein. These funds were deposited into Epstein's accounts and converted to his use. At all times, the Gadzinski's thought they were making deposits into investment accounts. Epstein supported his work with false statements. The Gadzinski's are financially ruined by Epstein's actions. Claimants claim damages in **excess of Eight Hundred Thousand (\$800,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

35. Raymond and Janet Hentschel reside in Sterling Heights, Michigan, County of Macomb. Mr. Hentschel's date of birth is January 3, 1941 and Mrs. Hentschel's date of birth is December 29, 1944. Epstein not only handled the financial affairs of Raymond and Janet but also the financial affairs of Raymond's father, which eventually were inherited

by Raymond and Janet's mother. Epstein also convinced them to use the services of Wayne Stewart and Marc Zurek, CPA to cover up his fraudulent activities. Epstein became very involved in the Hentschel's life and was a trusted advisor. The Hentschel's were not sophisticated investors. After Raymond's father's death, Epstein convinced Raymond and Janet to close out all accounts and invest their assets through Epstein. Epstein purchased a variety of annuities that were not suitable for the Hentschel's. Epstein also maintained false and fraudulent records and statements to support his alleged investment activities. He convinced the Hentschel's to write a series of checks to KLE, E & R, and Epstein beginning in June of 2001 and ending in September of 2008 totaling in excess of One Million Three Hundred Seventy Three Thousand Five Hundred (\$1,373,500.00) Dollars. The Hentschel's at all times believed their funds were being invested in secure investments. When they finally confronted Epstein, he told them the funds were loans and tried to characterize the transactions as loans. The Hentschel's are financially ruined by Epstein's actions. Claimants claim damages in **excess of One Million Eight Hundred Thousand (\$1,800,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

36. Arlene Hertz previously resided in Boca Raton, Florida. She currently resides in an assisted living facility in Southfield, Michigan. Her date of birth is August 7, 1926. According to her physician, Jay F. Baker, M.D., she began suffering from mental status changes, cognitive defects and dementia in late 2006 and is currently confined to a nursing home. Elizabeth Hertz (daughter) has Power of Attorney. In late 2008 early 2009, Epstein drove Mrs. Hertz to the bank to cash large checks and then gave him the cash in the parking lot. Two (2) bank employees Susan Love and Patti Persaud

witnessed these exchanges. In June of 2009, Mrs. Hertz's children became suspicious of Mr. Epstein and hired a forensic CPA to examine her records. Mrs. Hertz wrote checks in excess of Four Hundred Forty Eight Thousand Four Hundred and Eighty (\$448,480.00) Dollars to KLE, E & R, Keith Epstein and cash. She also withdrew over One Hundred Fifty Three Thousand Ninety One (\$153,091.00) Dollars from her IRA with Pacific Life and gave the money to Epstein. Epstein did not invest the money as promised and converted the funds to his use. Mrs. Hertz incurred a significant number of early withdrawal penalties and taxes. Claimant claims damages in **excess of Six Hundred Thousand (\$600,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

37. Jane Nowicki-True currently resides in Sarasota, Florida. Her date of birth is May 18, 1947. Ms. True first met Epstein in 2003 when she retired from Oakland County Circuit Court and began working with Epstein and MSC shortly thereafter. Following her retirement, she had to rollover her IRA and Epstein assisted her. Epstein did not examine or explain to her the suitability requirements for senior citizens purchasing annuities. Epstein simply placed all of her funds in annuities. Epstein also directed her to Wayne Stewart to complete and prepare an estate plan. He told Ms. True he would pay for the service. However, he did have Ms. True write a check for Five Thousand (\$5,000.00) Dollars payable to cash. Epstein converted the funds to his own use. In 2003, she relocated to Sarasota, Florida. Epstein followed her to Florida and regularly visited her at her home. In earlier 2008, Epstein withdrew funds from annuities with penalties that he promised to cover but never did. Ms. True was charged early withdrawal penalties and taxes. He then convinced Ms. True to write checks, totaling Seventy Seven Thousand

Five Hundred (\$77,500.00) Dollars, payable to Keith Epstein for the purposes of investing on a dollar cost average basis in securities. In late 2008, she needed money and repeatedly called Epstein. He did not return her calls. When he did call or visit, he had many excuses why she was not able to withdraw funds. On a few occasions, he would show up with Five Hundred (\$500.00) Dollars to One Thousand (\$1,000.00) Dollars and give her a story. She became suspicious and, in 2009, retained an attorney to look into matters. Epstein, in order to prevent her from going to the authorities, drafted a promissory note for One Hundred Ten Thousand (\$110,000.00) Dollars and promised to pay the money back immediately. The funds were never paid back. As a result of Epstein's egregious actions Ms. True is in the process of losing her home and her vehicle and her credit rating has dropped to below average and is limiting her ability to secure any financing. Claimant claims damages **in excess of One Hundred Twenty Thousand (\$120,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

38. **Ronald and Barbra Koscierynski first filed their claim in Oakland Circuit Court. On February 26, 2010, a stipulated order was entered referring the MSC claim to FINRA arbitration. (See Exhibit C).**

Claimants began investing with Epstein and MSC in 1997. For the first seven (7) years, the relationship with Epstein was productive, investments were growing and accounting was accurate and timely. This changed when Ronald retired in 2004. Epstein advised Claimants move investments from a Tax Sheltered Annuity into a Traditional IRA. Epstein also recommended that Claimants move some investments in mutual funds and annuities into other funds or annuities to take advantage of better performance. During

this period, Claimants received a significant number of checks from investments that were being changed. Claimants had sixty (60) days to roll the investments over to maintain their tax advantage and avoid penalties. A lot of checks were being written during this period. Reinvestments of fixed annuities (insurance products) were made through Ash Brokerage, while mutual funds and variable annuities (securities) were made through MSC. Many of those checks were legitimate, made out to such companies as Pacific Funds or National Western Life Insurance Company. However, Epstein requested that checks be made out to E & R Inc., KLE and, on occasion, to Epstein. Claimants were told by Epstein that E & R, Inc. and KLE were Mutual funds. Claimants were also told that checks to Epstein would be placed in a trust account and invested in mutual funds using dollar cost averaging. Based on past performance, together with the confidence that he instilled in Claimants, Epstein's statements were believed and Claimants complied writing over Six Hundred Thirty Six Thousand (\$636,000.00) Dollars in checks primarily to E & R, Inc. from 2004 through 2006.

Epstein, on several indications, claimed that he was more than a financial planner; he was also a friend who was concerned with Claimants' family. Epstein particularly voiced an interest in the welfare of Claimants' special needs daughter. For example, he sent flowers to her when she dislocated her knee and was in rehabilitation. Epstein rented a Box at The Palace of Auburn Hills and invited Claimants' special needs daughter to a game. Epstein had the Palace present Claimants' daughter with a Pistons shirt. Epstein also gave her presents related to her favorite baseball players. He would talk to Claimants about his children and about his divorce, as a friend would do. He even would visit Claimants at their home and play Scrabble, have a snack, and socialize.

In early 2005, Epstein approached Ronald with an invitation to assist him in his business. Ronald studied for his licenses, earning his health and life insurance licenses in August 2005, and his Series 6 and 63 Securities Licenses in February 2006. Ronald received referrals from Epstein for life and health insurance sales. Beginning in 2006, Claimants became concerned over the lack of financial statements from companies that funds were allegedly rolled over to. Claimants confronted Epstein in late 2006, early 2007. Ronald also discontinued accepting referrals from Epstein. After many evasive answers, Epstein stated that the funds were not rolled over as indicated but co-mingled with his personal funds and invested. Claimants demanded the return of their money. Over the next year, Epstein wrote checks to Claimants, virtually all of them bounced and Epstein had a story for each one. Claimants still remained with Epstein and tried to get their money back. In 2009, Claimants became aware that Epstein had done the same thing to several other clients. Claimants made a final demand and then retained counsel. Claimants claim damages **in excess of Eight Hundred Five Thousand (\$850,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

39. Claire Levine is a physically disabled eighty-one (81) year old resident of Farmington Hills, Michigan. Ms. Levine's date of birth is December 1, 1928. Epstein has destroyed her financially and she is currently in foreclosure on her home. Epstein began handling Claimant's financial affairs in 1994. At that time, he took control of investments totaling One Million Three Hundred Eighty Thousand (\$1,380,000.00) Dollars. Through fraud and manipulative practices and a design to keep everything from Claimant including false reports, etc. Epstein has converted all of the funds including interest, etc. Claimant has lost in excess of One Million Five Hundred Thousand (\$1,500,000.00) Dollars. As part

of Epstein's attempt to cover up his conversion of funds, he had Claimant retain the accounting and tax services of Donald Mark Zurek, CPA. During the period of representation, Claimant did receive distribution of approximately Five Hundred Thousand (\$500,000.00) Dollars. These funds were used for living expenses. In 2004, Epstein convinced Claimant to sell her paid debt free home and purchase a condominium using one of Epstein's mortgage brokers. Epstein handled the entire transaction. Epstein convinced Claimant to invest the proceeds of the sale, Three Hundred Eighty Thousand (\$380,000.00) Dollars through him. Epstein converted the funds to his own use. During the period of September 2004 through December 2006, Claimant wrote Two Hundred Sixty Five Thousand (\$265,000.00) Dollars in checks to E & R, Inc., KLE and Epstein. Claimant at all times believed the funds were being invested in securities. Claimant claims damages **in excess of One Million (\$1,000,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

40. Robert Mankowski (deceased) previously resided in Waterford, Michigan. His date of birth was December 30, 1935. Roberta Fann, daughter, is the Personal Representative of the Estate. From 2007 through 2009, Mr. Mankowski was in and out of the hospital with congestive heart failure. He was also diagnosed with dementia. Epstein first began working with Claimant in 1987. Claimant trusted Epstein. In 2006, Claimant sold his home for One Hundred Twenty Five Thousand (\$125,000.00) Dollars and trusted Epstein to invest the funds. In 2007, Claimant began receiving checks at his home. Claimant confronted Epstein and asked why he was receiving checks and Epstein explained the money had to be removed per IRS regulations and that he, Epstein, would reinvest the funds. Epstein had Claimant deposit the funds into Claimant's checking account and then

Claimant was instructed to write checks to E & R, Inc and to KLE. Claimant wrote One Hundred Fifty Six Thousand (\$156,000.00) Dollars in checks. Claimant thought these were investment funds. Epstein converted all funds to his own use. Epstein altered the checks payable to KLE to read KLEpstein. In 2009, Claimant wanted to withdraw funds to give to his daughter, Ms. Fann. Claimant's health was deteriorating fast and he wanted his daughter to have the funds. Epstein was non-responsive. Ms. Fann sought the advice of counsel and learned that Epstein converted all of the funds to his own use. Epstein covered up the fraud by producing false statements, promises, and having Claimant work with attorney Wayne Stewart and CPA Marc Zurek. All an elaborate scheme to cover his tracks and prevent Claimant from knowing the true identity and location of his assets. Claimant claims damages in **excess of Two Hundred Fifty Thousand (\$250,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

41. Susan Mardoyan resides in Novi, Michigan. Her date of birth is September 7, 1966. On February 1, 2001, Claimant's mother passed away. As a result of her mother's death, she inherited Nine Hundred Thousand (\$900,000.00) Dollars from her mother's profit sharing account and One Hundred Eighty Thousand (\$180,000.00) Dollars from life insurance. Claimant was a person of very limited means. Epstein resided next door to Claimant. Epstein told Claimant he would handle her financial affairs and that her money would be safe. She gave Epstein access to all of the funds. Immediately, Epstein told her she had to pay taxes of Two Hundred Seventy Thousand (\$270,000.00) Dollars and he reduced the One Million Eighty Thousand (\$1,080,000.00) Dollars by Two Hundred Seventy Thousand (\$270,000.00) Dollars. This was clearly a fraudulent statement. Epstein also

arranged for attorney Wayne Stewart and CPA Marc Zurek to handle her legal and tax affairs. These men conspired with Epstein to hide the truth from Claimant. In late 2009, Epstein informed Claimant that her money was gone. Claimant was astounded inasmuch as she could only account for using approximately Three Hundred Thousand (\$300,000.00) Dollars. Claimant claims damages in **excess of Eight Hundred Seventy Thousand (\$870,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

42. Donald Seconder resides in Grand Blanc, Michigan. His date of birth is March 16, 1943. Claimant first met Epstein in the 1980's. In 2000, Claimant retired from General Motors. Shortly thereafter, Epstein advised Claimant to transition his retirement account to selected investments. Claimant agreed. In 2005, Claimant's spouse passed away and Claimant was despondent for two (2) years or so. During this time, Epstein continued to befriend Claimant and reiterated to Claimant that Epstein was looking out for Claimant's best interest in this difficult time. Claimant believed Epstein and acquiesced to whatever Epstein suggested. In 2006, Epstein advised Claimant that he was starting a separate investment fund (E & R, Inc.) with other clients and he suggested Claimant invest his funds in this account. Epstein assured Claimant that the securities were in a very secure mutual fund account and the investment was a sound financial tool. Claimant agreed. From 2006 through May 2009, Claimant wrote checks totaling Two Hundred Fifteen Thousand Five Hundred (\$215,500.00) Dollars to E & R, Inc. and K Epstein. Epstein also arranged, as part of his cover up, for Claimant to work with attorney Wayne Stewart and CPA Marc Zurek. Claimant was very vulnerable during this time frame and trusted Epstein that the investments were secure. When Claimant confronted Epstein in June of

2009, Epstein stated that he treated the checks as a loan to his company and prepared a promissory note for One Hundred Thirty Nine Thousand (\$139,000.00) Dollars. Claimant claims damages in **excess of Three Hundred Fifty Thousand (\$350,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

43. Peter Spangus resides in Boyne Falls, Michigan. His date of birth is June 1, 1932. In 2002 or 2003, Tina Misch (Claimant's daughter) was introduced to Epstein. At that time no relationship developed. In November 2006, Claimant's spouse passed away and Epstein volunteered to help Claimant get through his financial condition. Mr. Spangus had Seventy Five Thousand (\$75,000.00) Dollars in secure investments in a GM Demand Note account. Epstein immediately terminated this safe and secure investment and placed Claimant into fixed and variable annuities. Epstein never discussed the suitability of placing a senior citizen, 74 years old, in annuities. Epstein never performed a financial suitability study or provided literature to Claimant. Epstein simply placed Claimant into these funds. On March 19, 2008, Epstein, without authorization, surrendered Claimant's Pacific Life annuity in the amount of Fifty Nine Thousand Four Hundred Forty Nine Dollars and Nineteen Cents (\$59,449.19), incurring Four Thousand Seven Hundred Forty Dollars and Six Cents (\$4,740.06) in penalties. On March 21, 2008, Claimant received a check from Pacific Life for Fifty Two Thousand Seven Hundred Thirty Five Dollars and Forty Six Cents (\$52,735.46). On March 18, 2008, Claimant wrote two (2) checks to Epstein for Ten Thousand (\$10,000.00) Dollars and Twenty Thousand (\$20,000.00) Dollars. Epstein later produced an Asset Allocation Report that showed the Thirty Thousand (\$30,000.00) Dollars invested in E & R, a thought to be mutual fund. Later in

2008, Epstein convinced Claimant to sell his investments in General Motors. Claimant agreed and after receiving the funds and wrote checks totaling Seventy Five Thousand (\$75,000.00) Dollars to KLE. Claimant believed this to be a mutual fund. Claimant wrote a second check for Thirty Five Thousand (\$35,000.00) Dollars to LBL to purchase an annuity. Claimant was seventy-six (76) years old at the time. All in all, Claimant wrote checks totaling One Hundred Fourteen Thousand Five Hundred (\$114,500.00) Dollars to KLE. Epstein performed other acts that ultimately ended in Epstein converting over Two Hundred Thousand (\$200,000.00) Dollars of Claimant's assets. Additionally, Epstein claimed to be Mrs. Tina Misch and had the Misch 403B monies rolled into an annuity account. Mrs. Misch only learned of this after the fact and therefore, the funds remain in the annuity even though the Misch's did not authorize same. Claimant claims damages in **excess of Two Hundred Thousand (\$200,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

44. John and Sheila Winarski reside in Fraser, Michigan. Mr. Winarski's date of birth is June 22, 1938 and Shelia Winarski's date of birth is February 16, 1943. Claimants met Epstein in April of 2005. At that time, Epstein recommended, without explanation or suitability test, that they purchase two (2) annuities: Pacific Funds for One Hundred Thousand (\$100,000.00) Dollars and Lincoln funds for One Hundred Thousand (\$100,000.00) Dollars. Claimants cashed in certificates of deposit to come up with the funds needed to purchase the annuities. From October 2008 through December 2008, Claimants wrote checks totaling One Hundred Twenty Seven Thousand (\$127,000.00) Dollars to KLE. Claimants at all times believed KLE was a mutual fund. Claimants confronted Epstein in March of 2009 about where their funds were and why they could

not access them. Epstein's response was to give them a promissory note for One Hundred Forty Seven Thousand (\$147,000.00) Dollars (dated March 24, 2009) and stated he invested the funds with his money and would re-pay the funds. The funds allegedly invested in Lincoln Benefit and Pacific funds are far less than the Two Hundred Twenty Nine Thousand Two Hundred Ninety Four (\$229,294.00) Dollars listed on Epstein's prepared Asset Allocation Report. Claimant claims damages in **excess of Three Hundred Forty Seven Thousand (\$347,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

45. Edward Iwanik and his mother, Czeslawa Wawrysz, reside in Dryden, Michigan. Edward Iwanik and his mother, Czeslawa Wawrysz, were introduced to Keith Epstein and Marc Rich, by Steve Gadzinski, on July 30, 2008. They met again on August 2008 to set up an American Funds account. **If MSC had notified Gadzinski of the fraudulent actions of Epstein, Gadzinski would never have introduced Claimant to Epstein.** Mr. Iwanik wrote three (3) checks for the amounts of One Hundred Sixty Seven Thousand (\$167,000.00) Dollars, Three Hundred Thirty Three Thousand (\$333,000.00) Dollars, and Forty Thousand (\$40,000.00) Dollars. Epstein told him to write out two (2) checks to Lincoln Benefit Life (LBL) for Sixty Thousand (\$60,000.00) Dollars and another check to K L Epstein for Five Thousand (\$5,000.00) Dollars. He told Mr. Iwanik he would invest the Five Thousand (\$5,000.00) Dollars and make 10-15% interest. That was the last day he heard from Marc Rich. On August 18, 2008, Epstein went over to Mr. Iwanik's home to discuss a living trust and financial matters. He wrote two (2) checks for Fifteen Thousand (\$15,000.00) Dollars to LBL and \$5,000 to KLE. On October 4, 2008, Mr. Iwanik was laid off from his automotive job. Throughout the rest of the year, Mr. Iwanik wrote

several checks to Epstein. On October 6, 2008, he wrote four (4) checks for Five Thousand (\$5,000.00) Dollars, each to KLE and one check for Twelve Thousand (\$12,000.00) Dollars to LBL. Later, Epstein said to void the LBL check and write two (2) checks for Five Thousand (\$5,000.00) Dollars to KLE. Epstein would give interest on the money of 10% or more while unemployed. On October 15, 2009, Epstein came over to Mr. Iwanik's home, he wrote a check for Seven Thousand Five Hundred (\$7,500.00) Dollars and two (2) checks for Five Thousand (\$5,000.00) Dollars to K.L. Epstein. Epstein would cash the check for Seven Thousand Five Hundred (\$7,500.00) Dollars and hold off on cashing the other two (2). On October 19, 2009, Mr. Iwanik called Epstein and asked him to not cash the two (2) Five Thousand (\$5,000.00) Dollar checks. Epstein replied he would not. At this time, Mr. Iwanik was unaware that Epstein had already cashed the checks. Mr. Iwanik was left with less than Eight Hundred (\$800.00) Dollars in his account. Feeling uncomfortable with Epstein, Mr. Iwanik called and said he wanted his Seventy Nine Thousand (\$79,000.00) Dollars back into safer investments. Epstein replied that his money was invested in oil. Claimant was shocked because he never approved any such investment. Sometime in November, Epstein gave Mr. Iwanik a check for Three Thousand (\$3,000.00) Dollars, which bounced. Epstein wrote another check and would call him when there were sufficient funds in the account; he never called. On January 29, 2009, Epstein sold Fifteen Thousand (\$15,000.00) Dollars from American Funds without approval. In February, Epstein asked Mr. Iwanik to write him a check for Ten Thousand (\$10,000.00) Dollars; he declined. Eventually, Mr. Iwanik made an appointment with Epstein to discuss moving his Seventy Six Thousand (\$76,000.00) Dollars back to his checking account. Epstein gave him four (4) blank checks with his

signature. Meanwhile, asking Mr. Iwanik to borrow Two Thousand (\$2,000.00) Dollars, which he declined. Epstein never called Mr. Iwanik back again. Mr. Iwanik found another accountant to review his 2008 tax returns and needed to be amended due to Epstein's poor advice. The reason is that the IRA distribution was previously recorded as nontaxable and corrected to make taxable with early withdrawal penalty. Payment due to IRS is Two Thousand Five Hundred Ninety Four (\$2,594.00) Dollars and to the State is Four Hundred Twenty Five (\$425.00) Dollars. Claimant claims damages in **excess of Two Hundred Fifty Thousand (\$250,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity

46. Edythe Klein is an elderly widow currently residing in Farmington, Michigan. Her date of birth is October 30, 1929. Mrs. Klein began investing with Epstein prior to 2004. However, shortly after she began investing with Epstein, he told her that he wanted to purchase certain investments for her and to protect her interests he needed to place the investments in the name of Mrs. Klein's daughter, Marsha Mitnick. Marsha Mitnick was unaware of this event until it happened. Furthermore, she is not a sophisticated investor and had no ability to monitor the accounts or make determinations of suitability. Epstein manipulated both Mrs. Klein and M. Mitnick. The real fact is Epstein did this in order to place Mrs. Klein's assets into variable annuities. Epstein knew the annuities were not suitable for Mrs. Klein based on her age, lack of sophistication in financial matters, and her desire to have safe, secure and liquid investments. Epstein employed this scheme by deceit to defraud Mrs. Klein of her life savings. The investments were made and things appeared sound, based on financial reports given to Mrs. Klein by Epstein. These reports turned out to be fraudulent. On September 23, 2009, a letter was sent from Lincoln

Benefit Life to Marsha Mitnick addressed to the home of Mrs. Klein. The letter stated that Epstein was no longer working with Lincoln Benefit Life. When Mrs. Klein asked why, she was told Epstein was suspended by FINRA and, therefore, could not sell securities. Mrs. Klein was shocked and immediately confronted Epstein. She was very concerned about the status of her investments. Although she had several concerns, one of her main concerns was the fact that she wrote Two Hundred Forty Four Thousand Five Hundred (\$244,500.00) Dollars of checks to Keith Epstein during the period February 10, 2009 through August 25, 2009. Epstein told her to make the checks payable to Keith Epstein and that he was going to invest the funds in high grade securities on her behalf. Mrs. Klein trusted Epstein and complied with his request. Mrs. Klein had no reason to doubt Epstein during this period. However, once she was made aware of his status with FINRA, she immediately investigated and uncovered the following facts: 1) Epstein converted the checks to his own benefit and did not invest any of the Two Hundred Forty Four Thousand Five Hundred (\$244,500.00) Dollars; 2) over Three Hundred Nine Thousand (\$309,000.00) Dollars of investments were missing; 3) the reason Epstein made investments in the name of Marsha Mitnick was to bypass scrutiny and place Mrs. Klein in unsuitable variable annuities; and 4) the financial reports given to her by Epstein were fraudulent and that her total net worth had dropped from in excess of Eight Hundred Thousand (\$800,000.00) Dollars to less than Ninety Nine Thousand Two Hundred Forty Nine Thousand (\$99,249.00) Dollars. Had Mrs. Klein been warned about Epstein by MSC in 2007 or advised not to write checks to Mr. Epstein, she would have never continued to invest with him and certainly would not have written over Two Hundred Thousand (\$200,000.00) Dollars in checks payable to Keith Epstein. Claimant claims

damages in **excess of Five Hundred Fifty Thousand (\$550,000.00)**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

47. Charles and Richard Salgat, Assignee's of the Epstein claim flowing from the Thomas L. Salgat Living Trust dated September 14, 1992, claim damages in excess of Two Hundred Fifty Thousand (\$250,000.00) Dollars. Epstein began working with Thomas Salgat deceased sometime prior to January 2003. Mr. Salgat was a senior citizen with substantial health problems. Beginning in 2003, Epstein convinced Thomas Salgat to write checks payable to E & R, KLE, among others. Epstein then converted the funds to his own use, thus depriving Thomas Salgat of the use and benefit of his finances. From July 2003 through August of 2006, Thomas Salgat wrote checks totaling in excess of One Hundred Thirty Thousand (\$130,000.00) Dollars. Additionally, a Sixty Eight Thousand (\$68,000.00) Dollar investment in Skandia has disappeared. It is believed that additional checks were written but remain unaccounted for. The Estate of Thomas Salgat brought suit against Epstein in Oakland Circuit Court. Epstein confessed a judgment in excess of Two Hundred Fifty Thousand (\$250,000.00) Dollars. Additionally, Epstein made sure that Thomas Salgat retained both Mr. Wayne Stewart to complete a trust that remained unfunded (except for a real estate transfer) and Donald Mark Zurek, CPA. Charles and Richard Salgat are assignee's of the claim against Epstein and have the legal right to enforce such claim. Claimants claim damages **in excess of Two Hundred Fifty Thousand (\$250,000.00) Dollars**, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

48. Patricia Vassel is a resident of Brownstown, Michigan. Her date of birth is November 24, 1946. Mrs. Vassel began investing with Epstein in the early nineties. For many

years, she thought her investments were doing fine. She received regular statements from Epstein showing reasonable growth and, based on the significant resources left to her by her deceased husband, Epstein assured her that she would be able to live out her years comfortably. Mrs. Vassel trusted Epstein. Over the years, Epstein did everything he could to get closer and closer to Mrs. Vassel. He also referred her to Wayne Stewart and Donald Mark Zurek as “his team”. Mrs. Vassel trusted Epstein. Beginning in 2002, Mrs. Vassel began writing checks to E & R and KLE and occasionally cash. Epstein assured Mrs. Vassel that he was investing the funds in safe and secure investments. Mrs. Vassel received periodic statements from Epstein that demonstrated her money was safe and secure. She had no reason to not trust Epstein. Then in September of 2009, she received a letter from Lincoln Benefit Life advising her that Epstein was no longer able to sell products through Lincoln Benefit Life. She began to question Epstein and demanded to know why. She never received a valid answer so she demanded her money. She was then informed by Epstein that he took all the money and used it for his own purposes and nothing was left. Obviously, Mrs. Vassel was outraged and sickened. When she learned that MSC knew of Epstein’s method of operation and failed to inform her, she became understandably sickened. Had she been informed of the illegal method of operation by MSC she would not have written Epstein checks. During the period of 2002 through 2009, Mrs. Vassel wrote checks in excess of Two Hundred Sixty Nine Thousand (\$269,000.00) Dollars. On August 12, 2009, Epstein acknowledged in writing that he owed Mrs. Vassel in excess of Three Hundred Eleven Thousand Four Hundred (\$311,400) Dollars. Claimant claims damages **in excess of Three Hundred Fifty**

Thousand (\$350,000.00) Dollars, and attorney fees, interest, surrender charges, tax penalties and lost investment opportunity.

49. Damages related exclusively to checks written to E & R, KLE, cash and/or Epstein and converted by Epstein to his own use total Five Million Eight Hundred Thirty One Thousand Two Hundred One (\$5,831,201) Dollars, plus six (6%) percent compounded interest totaling One Million Nine Hundred Eighty Three Thousand Eight Hundred Two (\$1,983,802) Dollars for total damages from checks alone through 1/1/2010 of **Seven Million Eight Hundred Fifteen Thousand and Three (\$7,815,003) Dollars**, plus annual interest of six (6%) percent, attorney fees, treble damages and costs. Please see attached chart of checks written to one or more Epstein controlled entities by year. See attached chart as **Exhibit B**.

SPECIFIC ALLEGATIONS OF MISCONDUCT ON BEHALF OF MSC

50. Claimants re-allege paragraphs one (1) through (49) as though more fully set out herein word for word.
51. Claimants collectively and individually assert that MSC and Epstein have breached the following FINRA Rules and State of Michigan Statutes and as a proximate result are liable to Claimants for Actual/Compensatory damages in excess of Eight Million (\$8,000,000) Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at

6% per annum, lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just, to wit:

52. FINRA 2110 Standards of Commercial Honor and Principles of Trade.
- a. A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.
 - b. MSC failed to ensure Epstein functioned with high standards of commercial honor and just and equitable principles of trade.
 - c. MSC failed to investigate complaints and take steps to ensure self dealing was not occurring.
53. NASD 2120 Use of Manipulative, Deceptive or Other Fraudulent Devices.
- a. MSC failed to prevent Epstein from fraudulently inducing customers to invest funds with him that he knew he was converting to his own use.
 - b. MSC failed to ensure Epstein was not taking advantage of elderly customers, mentally ill customers, physically handicapped customers.
54. NASD 2370 Borrowing from or lending to Customers.
- (1) Members must pre-approve in writing the lending or borrowing arrangements.
- (a) No person associated with a member in any registered capacity may borrow money from or lend money to any customer of such person unless: (1) the member has written procedures allowing the borrowing and lending of money between such registered persons and customers of the member; and (2) the lending or borrowing arrangement meets one of the following conditions: (A) the customer is a member of such person's immediate family; (B) the customer is a financial institution regularly engaged in the business of providing credit, financing, or loans, or other entity or person that regularly arranges or extends credit in the ordinary course of business; (C) the customer and the registered person are both registered persons of the

same member firm; (D) the lending arrangement is based on a personal relationship with the customer, such that the loan would not have been solicited, offered, or given had the customer and the associated person not maintained a relationship outside of the broker/customer relationship; or (E) the lending arrangement is based on a business Relationship outside of the broker-customer relationship.

- A. MSC failed to supervise Epstein’s activity requesting to “borrow” money for his business from customers.
- B. MSC failed to supervise Epstein’s conversion of client funds to his own accounts for his personal use.

55. FINRA 2210 Communications with the Public.

(1) Standards Applicable to All Communications with the Public.

(A) All member communications with the public shall be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service. No member may omit any material fact or qualification if the omission, in the light of the context of the material presented, would cause the communications to be misleading.

(B) No member may make any false, exaggerated, unwarranted or misleading statement or claim in any communication with the public. No member may publish, circulate or distribute any public communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading.

56. FINRA IM-2210-1 Guidelines to Ensure That Communications With the Public Are Not Misleading.

Every member is responsible for determining whether any communication with the public, including material that has been filed with the Department, complies with all

applicable standards, including the requirement that the communication not be misleading.

57. FINRA 2310

Recommendations to Customers (Suitability).

(a) In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

(b) Prior to the execution of a transaction recommended to a non-institutional customer, other than transactions with customers where investments are limited to money market mutual funds, a member shall make reasonable efforts to obtain information concerning:

(1) The customer's financial status;

(2) The customer's tax status;

(3) The customer's investment objectives; and

(4) Such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.

A. MSC failed to ensure that variable annuities were properly suited to elderly, retired, physically and mentally infirm customers.

B. MSC failed to verify the financial suitability of customers prior to placing them in variable annuities.

C. MSC failed to advise customers that variable annuities were not best investments for customers, those funds would be tied up for years and that said investments contain risks, etc.

58. FINRA IM-2310-2

Fair Dealing with Customers.

FINRA has a stated concern of "...protecting older investors is a priority for FINRA,..." yet MSC failed to ensure older customers of Epstein were protected.

Members' Responsibilities Re: Deferred Variable Annuities

(b) Recommendation Requirements.

(1) No member or person associated with a member shall recommend to any customer the purchase or exchange of a deferred variable annuity unless such member or person associated with a member has a reasonable basis to believe.

(A) That the transaction is suitable in accordance with NASD [Rule 2310](#) and, in particular, that there is a reasonable basis to believe that:

(i) The customer has been informed, in general terms, of various features of deferred variable annuities, such as the potential surrender period and surrender charge; potential tax penalty if customers sell or redeem deferred variable annuities before reaching the age of 59½; mortality and expense fees; investment advisory fees; potential charges for and features of riders; the insurance and investment components of deferred variable annuities; and market risk;

(ii) The customer would benefit from certain features of deferred variable annuities, such as tax-deferred growth, annuitization, or a death or living benefit; and

(iii) The particular deferred variable annuity as a whole, the underlying subaccounts to which funds are allocated at the time of the purchase or exchange of the deferred variable annuity, and riders and similar product enhancements, if any, are suitable (and, in the case of an exchange, the transaction as a whole also is suitable) for the particular customer based on the information required by paragraph (b)(2) of this Rule; and

(B) In the case of an exchange of a deferred variable annuity, the exchange also is consistent with the suitability determination required by paragraph (b)(1)(A) of this Rule, taking into consideration whether:

(i) The customer would incur a surrender charge, be subject to the commencement of

a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees or charges (such as mortality and expense fees, investment advisory fees, or charges for riders and similar product enhancements);

- (ii) The customer would benefit from product enhancements and improvements; and
- (iii) The customer has had another deferred variable annuity exchange within the preceding 36 months.

The determinations required by this paragraph shall be documented and signed by the associated person recommending the transaction.

- (2) Prior to recommending the purchase or exchange of a deferred variable annuity, a member or person associated with a member shall make reasonable efforts to obtain, at a minimum, information concerning the customer's age, annual income, financial situation and needs, investment experience, investment objectives, intended use of the deferred variable annuity, investment time horizon, existing assets (including investment and life insurance holdings), liquidity needs, liquid net worth, risk tolerance, tax status, and such other information used or considered to be reasonable by the member or person associated with the member in making recommendations to customers.

(c) Principal Review and Approval

Prior to transmitting a customer's application for a deferred variable annuity to the issuing insurance company for processing, but no later than seven business days after an office of supervisory jurisdiction of the member receives a complete and correct application package, a registered principal shall review and determine whether he or she approves of the recommended purchase or exchange of the deferred variable annuity.

A registered principal shall approve the recommended transaction only if he or she has determined that there is a reasonable basis to believe that the transaction would be suitable based on the factors delineated in paragraph (b) of this Rule.

The determinations required by this paragraph shall be documented and signed by the registered principal who reviewed and then approved or rejected the transaction.

(d) Supervisory Procedures

In addition to the general supervisory and recordkeeping requirements of NASD Rules [3010](#), [3012](#), and [3110](#), and [Rule 3130](#), a member must establish and maintain specific written supervisory procedures reasonably designed to achieve compliance with the standards set forth in this Rule. The member also must (1) implement surveillance procedures to determine if any of the member's associated persons have rates of effecting deferred variable annuity exchanges that raise for review whether such rates of exchanges evidence conduct inconsistent with the applicable provisions of this Rule, other applicable FINRA rules, or the federal securities laws ("inappropriate exchanges") and (2) have policies and procedures reasonably designed to implement corrective measures to address inappropriate exchanges and the conduct of associated persons who engage in inappropriate exchanges.

- A. MSC violated these requirements on many occasions in the past as noted in various FINRA regulatory actions against the Firm.

60. NASD 2340

Customer Account Statements.

- A. MSC failed to ensure concise and accurate account statements were provided to customers.
- B. MSC failed to prevent Epstein from preparing and disseminating false and misleading statements.

61. NASD 2510

Discretionary Accounts.

- (1) Excessive Transactions
No member shall effect with or for any customer's account in respect to which such member or his agent or employee

is vested with any discretionary power any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources and character of such account.

(2) Authorization and Acceptance of Account

No member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member, in accordance with [Rule 3010](#).

(3) Approval and Review of Transactions

The member or the person duly designated shall approve promptly in writing each discretionary order entered and shall review all discretionary accounts at frequent intervals in order to detect and prevent transactions which are excessive in size or frequency in view of the financial resources and character of the account.

- A. MSC failed to prevent Epstein from acting without permission, conducting unauthorized trades and self-dealing.
- B. MSC failed to prevent Epstein from obtaining discretionary control over customer accounts.

62. NASD 3010

Supervision.

(a) Supervisory System

(1) Each member shall establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules. Final responsibility for proper supervision shall rest with the member.

(b) Internal Inspections

(1) Each member shall conduct a review, at least annually, of the businesses in which it engages, which review shall be reasonably designed to assist in detecting and preventing violations of, and achieving compliance

with, applicable securities laws and regulations, and with applicable NASD rules. Each member shall review the activities of each office, which shall include the periodic examination of customer accounts to detect and prevent irregularities or abuses.

- A. MSC failed to maintain an adequate supervisory system.
- B. MSC failed to maintain and enforce written procedures reasonably designed to achieve compliance with applicable securities laws and regulations.
- C. MSC failed to implement meaningful internal inspections of its branch offices.
- D. MSC failed to conduct an office inspection of Epstein and Epstein & Rich.
- E. MSC failed to investigate known self dealing, fraud and deceit related to customers of Epstein and Epstein & Rich.
- F. MSC failed to take corrective action when MSC became aware of self-dealing and illegal and fraudulent and deceptive practices of Epstein.
- G. MSC failed to notify Epstein customers of known abuses such as Epstein's practice of having customers write checks to "KLE", "E&R" and Epstein convincing the customer that "KLE" and "E & R" were mutual funds and that funds written to Epstein would go into a trust account for dollar cost averaging future securities investments.
- H. MSC failed to prevent Epstein from improper redemption full/partial of customer accounts.

63. NASD 3012

Supervisory Control System.

(a) General Requirements.

(1) Each member shall designate and specifically identify to NASD one or more principals who shall establish, maintain, and enforce a system of supervisory control policies and procedures that (A) test and verify that the member's supervisory procedures are reasonably designed with respect to

the activities of the member and its registered representatives and associated persons, to achieve compliance with applicable securities laws and regulations, and with applicable NASD rules and (B) create additional or amend supervisory procedures where the need is identified by such testing and verification. The designated principal or principals must submit to the member's senior management no less than annually, a report¹ detailing each member's system of supervisory controls, the summary of the test results and significant identified exceptions, and any additional or amended supervisory procedures created in response to the test results.

(2) The establishment, maintenance, and enforcement of written supervisory control policies and procedures pursuant to paragraph (a) shall include:

(A) **Procedures that are reasonably designed to review and supervise the customer account activity** conducted by the member's branch office managers, sales managers, regional or district sales managers, or any person performing a similar supervisory function.

(B) Procedures that are reasonably designed to review and monitor the following activities:

(i) all transmittals of funds (e.g., wires or checks, etc.) or securities from customers to third party accounts (i.e., a transmittal that would result in a change of beneficial ownership); from customer accounts to outside entities (e.g., banks, investment companies, etc.); from customer accounts to locations other than a customer's primary residence (e.g., post office box, "in care of" accounts, alternate address, etc.); and between customers and registered representatives, including the hand-delivery of checks;

(ii) Customer changes of address and the validation of such changes of address; and

(iii) Customer changes of investment objectives and the validation of such changes of investment objectives.

The policies and procedures established pursuant to paragraph (a)(2)(B) must include a means or method of customer confirmation, notification, or follow-up that can be documented.

- A. MSC failed to properly implement and comply with requirements for Supervisory Control Systems.
- B. MSC failed to establish, maintain and enforce written supervisory control policies and procedures especially as they relate to Epstein, a very large producer at the Firm.

64. NASD 3030

Outside Business Activities of an Associated Person.

No person associated with a member in any registered capacity shall be employed by, or accept compensation from, any other person as a result of any business activity, other than a passive investment, outside the scope of his relationship with his employer firm, unless he has provided prompt written notice to the member. Such notice shall be in the form required by the member. Activities subject to the requirements of [Rule 3040](#) shall be exempted from this requirement.

- A. MSC failed to monitor outside business activities of Epstein.

65. NASD 3040

Private Securities Transactions of an Associated Person.

(a) Applicability

No person associated with a member shall participate in any manner in a private securities transaction except in accordance with the requirements of this Rule.

(b) Written Notice

Prior to participating in any private securities transaction, an associated person shall provide written notice to the member with which he is associated describing in detail the

proposed transaction and the person's proposed role therein and stating whether he has received or may receive selling compensation in connection with the transaction; provided however that, in the case of a series of related transactions in which no selling compensation has been or will be received, an associated person may provide a single written notice.

(c) Transactions for Compensation

(1) In the case of a transaction in which an associated person has received or may receive selling compensation, a member which has received notice pursuant to paragraph (b) shall advise the associated person in writing stating whether the member:

(A) Approves the person's participation in the proposed transaction; or

(B) Disapproves the person's participation in the proposed transaction.

(2) If the member approves a person's participation in a transaction pursuant to paragraph (c)(1), the transaction shall be recorded on the books and records of the member and the member shall supervise the person's participation in the transaction as if the transaction were executed on behalf of the member.

- A. MSC failed to monitor Epstein's sale of alleged mutual funds "KLE" and "E & R" and other alleged investments outside of MSC.
- B. MSC failed to record outside transactions – sales of alleged mutual funds "KLE" and "E & R" and or investments in Epstein related companies and/or payments for dollar cost average investments in securities.

66. FINRA 3060

Influencing or Rewarding Employees of Others

- A. MSC failed to prevent Epstein from influencing the activities of attorney Wayne Stewart, PC and Donald Mark Zurek, CPA.

- B. MSC failed to ensure records were kept of payments to Stewart and Zurek.
67. FINRA 3070 Reporting Requirements.
- A. MSC failed to promptly and fully report the financial irregularities of Epstein and to properly investigate and report the multitude of FINRA violations.
68. FINRA 3110 Books and Records.

(a) Requirements

1. Each member shall make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules, regulations and statements of policy promulgated therewith and with the Rules of this Association and as prescribed by SEC Rule 17a-3.

2. Customer Account Information: Each member shall maintain accounts opened after January 1, 1991 as follows:

(1) For each account, each member shall maintain the following information:

(A) Customer's name and residence;

(B) Whether customer is of legal age;

(C) Signature of the registered representative introducing the account and signature of the member or partner, officer, or manager who accepts the account; and

(D) If the customer is a corporation, partnership, or other legal entity, the names of any persons authorized to transact business on behalf of the entity;

(2) For each account other than an institutional account, and accounts in which investments are limited to transactions in open-end investment company shares that are not recommended by the member or its associated persons, each member shall also make reasonable efforts to obtain, prior to the settlement of the initial transaction in the account, the following information to the extent it is applicable to the account:

(A) Customer's tax identification or Social Security number;

(B) Occupation of customer and name and address of employer;

(C) Whether customer is an associated person of another member; and

(3) For discretionary accounts, in addition to compliance with subparagraphs (1) and (2) above, and [Rule 2510\(b\)](#) of these Rules, the member shall:

(A) Obtain the signature of each person authorized to exercise discretion in the account;

(B) Record the date such discretion is granted;

(C) In connection with exempted securities other than municipals, record the age or approximate age of the customer.

- A. MSC failed to maintain accurate books and records as to the actual accounts and activities of customers associated with Epstein.
- B. MSC failed to prevent Epstein from preparing false and misleading books and records.
- C. MSC failed to prevent Epstein from negotiating an instrument drawn from a customer's account and converting the funds to his own benefit.
- D. MSC failed to prevent Epstein from holding customer mail and re-directing account statements and mail away from customers to his own office in order to deceive customer.
- E. MSC failed to prevent Epstein from altering and changing customer account information and authorization on withdrawal forms and account information.

State Securities Law Violations

69. Your claimants re-allege paragraphs one (1) through (68) as though more fully set out word for word herein.
70. Epstein and MSC violated MCL 451.810, MCL 451.2509, MCL 451.301 and MCL 451.2301, “Offer or Sale of Unregistered Securities”.
71. Epstein sold unregistered securities in the form of alleged mutual funds and or “other securities” as he convinced Claimants to write checks to KLE or E & R. Epstein told Claimants the initials stood for mutual funds and/or told them the initials represented secured accounts from which he would invest in various securities using a dollar cost average method.
72. MSC failed to prevent Epstein from selling unregistered securities in violation of Michigan Securities Law.
73. Epstein and MSC violated MCL 451.501 and MCL 451.2501, “Unlawful in Connection with the Offer, Sale, or Purchase of Securities, Directly or Indirectly Employ Any Device, Scheme or Artifice to Defraud” and MCL 451.502 and MCL 451.2502, “Financial Advisor Employing a Device or Scheme.
74. Epstein used a series of verbal and written statements designed to convince Claimants that their investments were secure and in high quality securities. Epstein periodically provided false and misleading account statements to Claimants to convince them to continue with their investments as he directed them. Epstein made such statements with the intent to defraud Claimants. Epstein intentionally defrauded Claimants in order to convert Claimants funds to his own use.
75. As a direct and proximate result of Epstein’s and MSC actions, Claimants suffered the following losses: Actual/Compensatory damages in excess of Eight Million (\$8,000,000)

Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at 6% per annum, lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just.

Other State Law Violations

COUNT I

NEGLIGENCE

76. Claimants incorporate by reference paragraphs one (1) through (75) as though fully restated herein.
77. Epstein failed to use ordinary care in the handling of Claimants' financial portfolios, as set forth above.
78. Epstein negligently withdrew funds from Claimants' secure investments and then negligently failed to reinvest said funds in secure investments on behalf of Claimants. Prior to the withdrawals, the investments were in secure investments (mostly annuity contracts) given the difficult financial times and should not have been withdrawn or diluted in any manner.
79. As a direct and proximate result of Epstein's and MSC actions, Claimants suffered the following losses: Actual/Compensatory damages in excess of Eight Million (\$8,000,000) Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing

to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at 6% per annum, lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just.

COUNT II

BREACH OF FIDUCIARY DUTY

80. Claimants incorporate by reference paragraphs one (1) through (79) as though fully restated herein.
81. A fiduciary relationship existed between Claimants and Epstein in that Epstein intentionally worked his way into each Claimants family attending family functions, buying flowers for events, helping with children, setting Claimants up the an estate planner (Wayne Stewart) and paying for same, setting Claimants up with a CPA (Zurek or Donaldson) and paying for same, etc. and as a result Claimants entrusted Epstein with their financial portfolios, and Epstein therefore owed a duty to Claimants in connection with that fiduciary relationship.
82. Epstein breached that fiduciary duty as set forth above in that they took large sums of money out of Claimants' investments, failed to reinvest it in other investments as promised, and ultimately converted the money to their own use. Additionally, said monies were in safe and secure investments and should not have been withdrawn to be placed in new or different investments. The decision to withdraw funds was a breach of Epstein's duty to Claimants to make sound financial decisions.

83. As a direct and proximate result of Epstein's actions, Claimants suffered losses in excess of Eleven Million (\$11,000,000.00) Dollars plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.
84. A fiduciary relationship existed between Claimants and MSC in that Claimants invested significant sums of money through said MSC. Epstein was an agent of MSC and, as such, MSC owed a duty to properly supervise and manage Epstein to ensure that he and MSC fully complied with all FINRA regulations and rules.
85. MSC breached its fiduciary duty by failing to take adequate steps to ensure that funds were not withdrawn from Claimants' investment accounts without the prior and express authorization and approval of Claimants.
86. As a direct and proximate result of Epstein's and MSC actions, Claimants suffered the following losses: Actual/Compensatory damages in excess of Eight Million (\$8,000,000) Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at 6% per annum, lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just.

COUNT III

FRAUDULENT MISREPRESENTATION

87. Claimants incorporate by reference paragraphs one (1) through (86) as though fully restated herein.

88. Epstein made representations of material fact to Claimants herein when he advised each that he was placing all funds written to “E & R”; “KLE” directly into mutual funds with those call signs/designated symbols and that funds written to “Keith Epstein” would be placed in a fiduciary account (safe account) and would be reinvested using cost averaging.
89. At the time Epstein made such representations to Claimants, Epstein knew that they were false.
90. Epstein intended that Claimants rely upon those representations.
91. Claimants did rely upon Epstein’s representations as stated in previous paragraphs.
92. As a direct and proximate result of Epstein’s and MSC actions, Claimants suffered the following losses: Actual/Compensatory damages in excess of Eight Million (\$8,000,000) Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at 6% per annum, lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just.

COUNT IV

COMMON LAW CONVERSION

93. Claimants incorporate by reference paragraphs one (1) through (92) as though fully restated herein.

94. At all times relevant to this Complaint, Claimants were the owners of the funds that made up their respective financial portfolios.
95. Epstein wrongfully exerted dominion over Claimants' funds by intentionally dispossessing Claimants of said funds, using Claimants' funds for his own purposes without authority to use it for such purposes, receiving Claimants' funds pursuant to a transaction with intent to acquire a proprietary interest in said funds, misdelivering said funds, and/or refusing to surrender Claimants' funds on demand.
96. Epstein did this by and through forging checks, forging withdrawal requests, and/or engaging in other similar behaviors.
97. As a direct and proximate result of Epstein's and MSC actions, Claimants suffered the following losses: Actual/Compensatory damages in excess of Eight Million (\$8,000,000) Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at 6% per annum, lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just.

COUNT V

STATUTORY CONVERSION and TREBLE DAMAGES – MCL § 600.2919a

98. Claimants incorporate by reference paragraphs one (1) through (97) as though fully restated herein.

99. At all times relevant to this Complaint, Claimants were the owners of the funds that made up their respective financial portfolios.
100. Epstein wrongfully exerted dominion over Claimants' funds by intentionally dispossessing Claimants of said funds, using Claimants' funds for his own purposes without authority to use it for such purposes, receiving Claimants' funds pursuant to a transaction with intent to acquire a proprietary interest in said funds, misdelivering said funds, and/or refusing to surrender Claimants' funds on demand.
101. Epstein did this by and through forging checks, forging withdrawal requests, and/or engaging in other similar behaviors.
102. Thereafter, Epstein received and/or aided in the concealment of the funds wrongfully converted from Claimants, as described above.
103. Epstein personally received some portion of Claimants' funds and/or aided in the concealment of Claimants' funds by creating or providing false information to Claimants concerning the status of their funds and/or by failing to advise Claimants about the conversion of their funds.
104. As a direct and proximate result of Epstein's and MSC actions, Claimants suffered the following losses: Actual/Compensatory damages in excess of Eight Million (\$8,000,000) Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at 6% per annum,

lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just.

COUNT VI

RESPONDEAT SUPERIOR

105. Claimants re-allege paragraphs one (1) through (104) as though more fully set forth word for word herein.
106. Epstein was employed by MSC as a licensed securities dealer.
107. MSC (master/employer) was required to supervise Epstein (servant/employee) and ensure Epstein complied with all State and Federal laws, as well as NASD and FINRA rules and regulations.
108. MSC failed to supervise its servant/employee and therefore, is responsible for the harm caused by Epstein to all Claimants.
109. As a direct and proximate result of Epstein's and MSC actions, Claimants suffered the following losses: Actual/Compensatory damages in excess of Eight Million (\$8,000,000) Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at 6% per annum, lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just.

WHEREFORE, your Claimants pray this Honorable Arbitration Panel award Actual/Compensatory damages in excess of Eight Million (\$8,000,000) Dollars; Punitive/Exemplary damages of Sixteen Million (\$16,000,000) Dollars to punish MSC for failing to prevent this egregious activity, failing to supervise Mr. Epstein, failing to investigate Mr. Epstein, failing to notify clients, and allowing the activity to continue for so long causing the destruction of the financial lives of so many senior citizens; Treble damages of Sixteen Million (\$16,000,000) Dollars; plus interest at 6% per annum, lost opportunity cost, surrender charges, tax penalties and attorney fees on a contingent basis of forty percent (40%), and such other relief as may be just.

Respectfully submitted,

CHAPMAN AND ASSOCIATES, P.C.

electronically submitted

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