

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND**

JANE NOWICKI-TRUE; ARLENE HERTZ,  
GEORGIA CUMMINGS; ALPHONSE AND  
DELPHINE DOLECKI; EDYTHE KLEIN;  
DONALD B SECONDER; CLAIRE LEVINE;  
EDWARD IWANIK; ROBERT MANKOWSKI,  
DECEASED; SUSAN MARDOYAN,

Case No: 10-                    -NZ  
Hon:

Plaintiffs,

vs.

KEITH L. EPSTEIN; EPSTEIN & RICH  
ASSOCIATES, INC.; ASH BROKERAGE  
CORPORATION; JOHN E. BONNER;  
MARY ANN CHILDS; TRACY GLENN; DONALD  
MARK ZUREK, CPA; MARK ZUREK, P.C.;  
WAYNE T. STEWART; WAYNE STEWART, P.C.,  
Jointly and Severally,

Defendants.

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**COMPLAINT AND DEMAND FOR TRIAL BY JURY**

**A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in this Court, where it was given docket number 09-103460-NZ and was assigned to Judge Sosnick. The action remains pending.**

NOW COME the Plaintiffs JANE NOWICKI-TRUE; ARLENE HERTZ; GEORGIA CUMMINGS; ALPHONSE and DELPHINE DOLECKI; EDYTHE KLEIN; DONALD B. SECONDER; CLAIRE LEVINE; EDWARD IWANIK; ROBERT MANKOWSKI, DECEASED; AND SUSAN MARDOYAN (“Plaintiffs”), by and through their attorneys, CHAPMAN AND ASSOCIATES, P.C., through Ronald W. Chapman, and states as follows for their Complaint:

## **PARTIES**

1. Plaintiff JANE NOWICKI-TRUE, (hereinafter collectively “Plaintiffs”) is a resident of Sarasota, Florida.
2. Plaintiff ARLENE HERTZ, (hereinafter collectively “Plaintiffs”) is a resident of Palm Beach County, Florida.
3. Plaintiff GEORGIA CUMMINGS, (hereinafter collectively “Plaintiffs”) is a resident of Wayne County, Michigan.
4. Plaintiffs ALPHONSE and DELPHINE DOLECKI, a married couple, (hereinafter collectively “Plaintiffs”) is a resident of Macomb County, Michigan.
5. Plaintiff EDYTHE KLEIN, (hereinafter collectively “Plaintiffs”) is a resident of Oakland County, Michigan.
6. Plaintiff DONALD B. SECONDER, (hereinafter collectively “Plaintiffs”) is a resident of Genesee County, Michigan.
7. Plaintiff CLAIRE LEVINE, (hereinafter collectively “Plaintiffs”) is a resident of Oakland County, Michigan.
8. Plaintiff EDWARD IWANIK, (hereinafter collectively “Plaintiffs”) is a resident of Lapeer County, Michigan.
9. Plaintiff ROBERT MANKOWSKI, deceased, (hereinafter collectively “Plaintiffs”) resided in Oakland County, Michigan and his Estate is in that location.
10. Plaintiff SUSAN MARDOYAN, (hereinafter collectively “Plaintiffs”) is a resident of Oakland County, Michigan.
11. Defendant KEITH L. EPSTEIN (hereinafter “EPSTEIN”) conducts business in and/or is a resident of Oakland County, Michigan.

12. Defendant EPSTEIN & RICH ASSOCIATES, INC. (hereinafter “EPSTEINRICH”) conducts business in and has an office located in Oakland County, Michigan.
13. Defendant MARY ANN CHILDS (hereinafter “CHILDS”) conducts business in and/or is a resident of Oakland County.
14. Defendant ASH BROKERAGE CORPORATION (hereinafter “ASH”) conducts business in and has an office located in Oakland County, Michigan.
15. JOHN E. BONNER (hereinafter “BONNER”) on information and belief resides in Oakland County, Michigan.
16. BONNER is the managing partner or owner of ASH which does business in Oakland County, Michigan.
17. Defendant TRACY GLENN (hereinafter “GLENN”) is a resident of Oakland County, Michigan.
18. Defendant DONALD MARK ZUREK, CPA (hereinafter referred to as “ZUREK, CPA”) conducts business in and/or is a resident of Oakland County, Michigan.
19. Defendant MARK ZUREK, P.C. (hereinafter referred to as “ZUREK, P.C.”) conducts business in and has an office located in Oakland County, Michigan.
20. Defendant WAYNE T. STEWART (hereinafter referred to as “STEWART”) conducts business in Oakland County, Michigan.
21. Defendant WAYNE STEWART, P.C. (hereinafter referred to as “STEWART, P.C.”) conducts business in Oakland County, Michigan.
22. All incidents in question in this Complaint occurred in Oakland and/or Macomb County, Michigan.

### **JURISDICTION AND VENUE**

23. Venue is proper in the County of Oakland, State of Michigan, pursuant to MCL §§

600.1621 and 600.1629.

24. Plaintiffs herein request actual damages in excess of Twenty-Five Thousand Dollars (\$25,000.00) against Defendants; therefore, jurisdiction is proper in this court pursuant to statute and other Michigan law.

### **FACTS AND GENERAL ALLEGATIONS**

25. Plaintiffs began using the professional services of EPTSTEIN as their financial planner as early as 1997.
26. At that time, Defendant EPSTEIN worked for Scriptor & Associates, P.C.
27. In 1999, EPSTEIN left Scriptor & Associates and began his own firm EPSTEINRICH.
28. Several of the Plaintiffs remained clients of EPSTEIN and became a client of EPSTEINRICH. Several Plaintiffs began working with EPSTEIN after he left Scriptor & Associates.
29. EPSTEIN developed a close relationship with all Plaintiffs, as a result of their age, mental or physical condition or life's circumstances, EPSTEIN was able to gain their trust and confidence. EPSTEIN exploited this trust and confidence for his own personal gain and those business persons he associate with.
30. EPSTEIN would visit Plaintiffs at their homes and bring them self generated reports, charts, and other documents to support that he was properly investing their funds. Nothing in the reports was alarming or suggestive of anything that was inappropriate. In fact the documents or lack thereof, together with EPSTEIN'S one-on-one communication, suggested he was properly investing the funds entrusted to him.
31. For those Plaintiffs that had retirement funds or other investments prior to beginning their relationship with EPSTEIN, he convinced them to cash out all investments and

place their money with EPSTEIN and the investments he chose for them. Plaintiffs trusted EPSTEIN to handle their finances.

32. Plaintiffs agreed to follow EPSTEIN's advice.
33. EPSTEIN advised Plaintiffs that the best vehicle for doing this was a traditional rollover.
34. Following the "rollover" plan, Defendant EPSTEIN began advising Plaintiffs that they would be receiving checks from one of their investment companies (though Plaintiffs rarely requested the checks and did not give authorization for most of the disbursements) and that they needed to deposit the checks in their checking account and contemporaneously write a check to one (1) of three (3) entities identified by EPSTEIN as: "E & R , Inc.", "KLE", or "Keith Epstein".
35. EPSTEIN was never given permission to contact Plaintiffs' investment companies and request withdrawals. Plaintiffs have multiple records of forged signatures clearly showing EPSTEIN or someone at his direction forged their names to obtain withdrawals.
36. Following the request for disbursement, the annuity company would send a check to the home of Plaintiffs and then, within 60 days, the Plaintiff would write checks to the following entities for investment purposes: **See Exhibit A – exemplar of checks written.**
  - a. "E & R";
  - b. "KLE"; and
  - c. Keith Epstein.
37. Plaintiffs at all times believed the funds dispersed, were being invested into traditional IRA accounts, primarily mutual funds, through Mutual Service Corporation and/or

LaSalle Street Securities (Iwanik) as the Broker/Dealer.

38. Several Plaintiffs were specifically told by EPSTEIN that “E & R” and “KLE” were mutual funds; other Plaintiffs were told the funds would be held in a trust type account and invested using dollar cost averaging. Without said reliance, Plaintiffs would not have issued checks payable to “E & R”, “KLE”, or Keith Epstein.
39. Plaintiffs had no knowledge that funds were not being properly invested.
40. Funds dispersed to EPSTEIN were distributed with the understanding that EPSTEIN would use principles of “dollar cost averaging” and invest in traditional IRA and mutual fund investments.
41. Based on Plaintiffs’ confidence and faith in EPSTEIN, Plaintiffs did not contact the companies EPSTEIN said he was investing in to confirm the information in the reports provided to them by EPSTEIN. **See Exhibit B – exemplar of reports.**
42. Plaintiffs at different times became suspicious of the investment activity and retained counsel to investigate.
43. Plaintiffs were shocked to learn that EPSTEIN embezzled, converted, stole, or squandered their life savings and that the entire period of time was filled with EPSTEIN lying to them about their investments.
44. Upon information and belief, Defendant EPSTEIN never reinvested the money from the checks that Plaintiffs wrote to “E & R”; “KLE” and “Keith Epstein”.
45. Upon information and belief, Defendant EPSTEIN wrongfully retained Plaintiffs’ money from checks written to “E & R”; “KLE” and “Keith Epstein” and wrongfully used it for his own purposes.
46. Plaintiffs had their investments with and/or through Defendant ASH and Mutual Service Corporation and/or LaSalle Street Securities.

47. Keith Epstein retained and paid for the services of attorney Wayne Stewart and Wayne Stewart, P. C. (hereinafter “Stewart”) to review the estates of each Plaintiff and to create a trust and/or estate plan. Keith Epstein chose the services of Stewart to ensure that the Plaintiffs did not retain the services of an “outside” attorney; one who would ensure the trusts were properly funded. Mr. Stewart intentionally failed to fund the trust, thus ensuring that the fraudulent scheme of Mr. Epstein would not be detected. Mr. Stewart knew that if letters were sent to the various investment companies that he would receive letters back indicating either the accounts were not open or that the funds were not in the accounts. Mr. Stewart also knew that “KLE” and “E and R” were not mutual funds.
48. Keith Epstein retained and paid for the services of CPA Donald Marc Zurek Marc Zurek, CPA (hereinafter “Zurek”) to review the finances and prepare yearly tax filings for each Plaintiff. Keith Epstein chose the services of Zurek to ensure that the Plaintiffs did not retain the services of an “outside” CPA; one who would ensure the 1099’s were reviewed, that rollovers were in fact rolled over to qualified accounts and that early withdrawal penalties were examined and looked into and investigated. Mr. Zurek intentionally failed to look into the activities of each client, thus ensuring that the fraudulent scheme of Mr. Epstein would not be detected. Mr. Zurek also knew that “KLE” and “E and R” were not mutual funds.
49. As a direct and proximate result of Defendants’ actions, Plaintiffs suffered losses in excess of in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

**COUNT I - NEGLIGENCE**

**(EPSTEIN AND EPSTEINRICH)**

50. Plaintiffs incorporate by reference paragraphs one (1) through (49) as though fully restated herein.
51. Defendants EPSTEIN and EPSTEINRICH failed to use ordinary care in the handling of Plaintiffs' financial portfolios, as set forth above.
52. Specifically, Defendants EPSTEIN and EPSTEINRICH negligently withdrew funds from Plaintiffs' secure investments and then negligently failed to reinvest said funds in secure investments on behalf of Plaintiffs. Defendants failed to advise Plaintiffs of the proper financial strategies for their age and financial status. Defendants also placed investment in risky investments that were unsuitable for their age and financial status. 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.
53. As a direct and proximate result of Defendants EPSTEIN and EPSTEINRICH's actions, Plaintiffs suffered losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

**COUNT II - BREACH OF FIDUCIARY DUTY**

**(EPSTEIN, EPSTEINRICH)**

54. Plaintiffs incorporate by reference paragraphs one (1) through (53) as though fully restated herein.
55. A fiduciary relationship existed between Plaintiffs and Defendants EPSTEIN and EPSTEINRICH in that Plaintiffs entrusted said Defendants with their financial

portfolios, and said Defendants therefore owed a duty to Plaintiffs in connection with that fiduciary relationship.

56. Defendants EPSTEIN and EPSTEINRICH breached that fiduciary duty as set forth above in that they took large sums of money out of Plaintiffs' 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 Defendants' duty to Plaintiffs to make sound financial decisions. The withdrawal of funds and the opening and closing of investment vehicles caused Plaintiffs to incur large losses, penalties and taxes.
57. As a direct and proximate result of Defendants EPSTEIN and EPSTEINRICH's actions, Plaintiffs suffered losses in excess of Six Hundred Thirty Six Thousand Dollars (\$636,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

### **COUNT III - FRAUDULENT MISREPRESENTATION**

#### **(EPSTEIN AND EPSTEINRICH)**

58. Plaintiffs incorporate by reference paragraphs one (1) through (57) as though fully restated herein.
59. Defendant EPSTEIN, a principal of Defendant EPSTEINRICH, made representations of material fact to Plaintiffs 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.
60. At the time Defendants EPSTEIN and EPSTEINRICH made such representations to

Plaintiffs, the Defendants knew that they were false.

61. Defendants EPSTEIN and EPSTEINRICH intended that Plaintiffs rely upon those representations.
62. Plaintiffs did rely upon Defendants EPSTEIN and EPSTEINRICH's representations as stated in paragraph 59.
63. As a direct and proximate result of Plaintiffs' reliance upon Defendants EPSTEIN and EPSTEINRICH's false representations, Plaintiffs suffered losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

#### **COUNT IV – COMMON LAW CONVERSION**

##### **(EPSTEIN, EPSTEINRICH, CHILDS, ASH, AND BONNER)**

64. Plaintiffs incorporate by reference paragraphs one (1) through (63) as though fully restated herein.
65. At all times relevant to this Complaint, Plaintiffs were the owners of the funds that made up their respective financial portfolios.
66. Defendants EPSTEIN, EPSTEINRICH, CHILDS, ASH, and/or BONNER wrongfully exerted dominion over Plaintiffs' funds by intentionally dispossessing Plaintiffs of said funds, using Plaintiffs' funds for their own purposes without authority to use it for such purposes, receiving Plaintiffs' funds pursuant to a transaction with intent to acquire themselves a proprietary interest in said funds, misdelivering said funds, and/or refusing to surrender Plaintiffs' funds on demand.
67. Defendants , EPSTEINRICH, CHILDS, ASH, and/or BONNER did this by and through EPSTEIN forging checks, forging withdrawal requests, and/or engaging in other similar

behaviors.

68. As a direct and proximate result of Defendants , EPSTEINRICH, CHILDS, ASH, and/or BONNER's conversion of their funds, Plaintiffs have suffered losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

**COUNT V – STATUTORY CONVERSION – MCL § 600.2919a**

**(EPSTEIN, EPSTEINRICH, CHILDS, ASH, AND BONNER)**

69. Plaintiffs incorporate by reference paragraphs one (1) through (68) as though fully restated herein.
70. At all times relevant to this Complaint, Plaintiffs were the owners of the funds that made up their respective financial portfolios.
71. Defendants EPSTEIN, EPSTEINRICH, CHILDS, ASH, and/or BONNER wrongfully exerted dominion over Plaintiffs' funds by intentionally dispossessing Plaintiffs of said funds, using Plaintiffs' funds for their own purposes without authority to use it for such purposes, receiving Plaintiffs' funds pursuant to a transaction with intent to acquire themselves a proprietary interest in said funds, misdelivering said funds, and/or refusing to surrender Plaintiffs' funds on demand.
72. Defendants EPSTEIN, EPSTEINRICH, CHILDS, ASH, and/or BONNER did this by and through EPSTEIN, CHILDS, and/or BONNER forging checks, forging withdrawal requests, falsely witnessing/notarizing documents, and/or engaging in other similar behaviors.
73. Thereafter, Defendants EPSTEIN, EPSTEINRICH, CHILDS, ASH, and/or BONNER received and/or aided in the acquisition/concealment of the funds wrongfully converted from Plaintiffs, as described above.

74. Specifically, Defendants EPSTEIN, EPSTEINRICH, CHILDS, ASH, and/or BONNER (a) personally received some portion of Plaintiffs' funds and/or (b) aided in the concealment of Plaintiffs' funds by creating or providing false information to Plaintiffs concerning the status of their funds and/or by failing to advise Plaintiffs about the conversion of their funds.
75. As a direct and proximate result of Defendants EPSTEIN, EPSTEINRICH, CHILDS, ASH, and/or BONNER's statutory conversion of their funds, Plaintiffs suffered losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.
76. Plaintiffs are entitled to recover treble damages, costs, and attorney fees as a result of Defendants EPSTEIN, EPSTEINRICH, CHILDS, ASH, and/or BONNER's statutory conversion of their funds.

#### **COUNT VI - BREACH OF CONTRACT**

##### **(ASH)**

77. Plaintiffs incorporate by reference paragraphs one (1) through (76) as though fully restated herein.
78. At all times relevant to this Complaint, each of Plaintiffs herein had investments through Defendant ASH.
79. At the time that Plaintiffs herein invested money through Defendant ASH, Plaintiffs entered into implied contracts with said Defendants regarding the effective and reasonable management of investment funds. BONNER was an agent of Defendant ASH and ASH had a duty to properly manage and supervise his behaviors to ensure clients were treated fairly and properly and that no harm would come to said clients.

80. Said Defendants had a duty to have safeguards in place to flag accounts that had suspicious activity such as the total depletion of annuity contracts with corresponding early withdrawal penalties, surrender charges and inadequate tax withholdings; opening and closing annuities to generate commissions.
81. Upon information and belief, one of the terms of Plaintiffs' annuity contracts requires that said Defendants remove Plaintiffs' money from their investments only at Plaintiffs' request and/or only with Plaintiffs' authorization and/or approval.
82. Defendants breached this term of their implied contracts with Plaintiffs by assisting EPSTEIN with improper account management practices, withdrawing funds without proper approval and the opening and closing of accounts to generate commissions for EPSTEIN, BONNER and ASH..
83. As a direct and proximate result of Defendant ASH's actions and/or inactions, Plaintiffs not only incurred unnecessary surrender charges and tax penalties but also lost the withdrawn money when it was converted by Defendants EPSTEIN and EPSTEINRICH.
84. As a direct and proximate result of Defendant ASH's actions and/or inactions, Plaintiffs suffered losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

**COUNT VII – VICARIOUS LIABILITY/FAILURE TO  
SUPERVISE/FAILURE TO WARN**

**(ASH)**

85. Plaintiffs incorporate by reference paragraphs one (1) through (84) as though fully restated herein.
86. As the principal of Defendant BONNER, Defendants ASH had a duty to supervise Defendant BONNER.

87. As the principal of Defendant BONNER, Defendant ASH is vicariously liable for the negligent and/or tortious acts of Defendant BONNER.
88. In handling Plaintiffs' portfolios, Defendants EPSTEIN and BONNER were negligent and/or committed tortious acts as set forth in this Complaint.
89. Defendant ASH is liable to Plaintiffs herein for the negligence and/or tortious acts of Defendants BONNER and EPSTEIN.
90. Defendant ASH knew or should have known that its owner/officer/director had intentionally forged or acquiesced in the forgery of Plaintiffs' names in order to set up a scheme to defraud Plaintiffs and participated in improper account management to create commissions.
91. ASH should have known that "E & R" and "KLE" were not mutual funds and that its agent BONNER was engaged in securities fraud. The significant opening and closing of accounts should have alerted ASH to the fraudulent activities.
92. As the direct and proximate result of Defendant ASH's negligence and/or tortious acts, Plaintiffs suffered losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

### **COUNT VIII - FRAUDULENT CONVEYANCE**

#### **(GLENN)**

93. Plaintiffs incorporate by reference paragraphs one (1) through (92) as though fully restated herein.
94. Defendant GLENN is recently divorced from Defendant EPSTEIN.
95. Defendant GLENN received from Defendant EPSTEIN property and/or money of significant value as a result of their divorce.
96. Defendant GLENN will continue in the future to receive from Defendant EPSTEIN

property and/or money of significant value as a result of their divorce.

97. At the time of the divorce, Defendant EPSTEIN and Defendant GLENN were aware that Defendant EPSTEIN owed a significant amount of money to Plaintiffs as the result of loans, negligent acts, and/or tortious acts. GLENN was/is unemployed and had no independent means to earn an income for many years. Therefore, all or substantially all of the marital property came from Plaintiffs.
98. All or a significant portion of Defendant EPSTEIN's property and/or money that was transferred to Defendant GLENN in the divorce or prior to the divorce was transferred improperly for the purpose of hindering, delaying, or defrauding Defendant EPSTEIN's creditors, *i.e.*, Plaintiffs herein, in violation of the Uniform Fraudulent Transfer Act, MCL § 566.31, *et seq.*
99. Defendant GLENN is an "insider" for purposes of the act.
100. Accordingly, Plaintiffs herein are entitled to an order declaring void all or portions of the Judgment of Divorce between Defendant GLENN and Defendant EPSTEIN to the extent necessary to satisfy Plaintiffs' claims against Defendant EPSTEIN.

### **COUNT IX – UNJUST ENRICHMENT**

#### **(EPSTEIN AND EPSTEINRICH)**

101. Plaintiffs incorporate by reference paragraphs one (1) through (100) as though fully restated herein.
102. As set forth in detail above, Defendants EPSTEIN and EPSTEINRICH have received a benefit from Plaintiffs in that large portions of Plaintiffs' financial portfolios were withdrawn from their investments and were retained improperly by said Defendants.
103. As set forth in detail above, it is inequitable for Defendants to retain the benefit that they have received improperly from Plaintiffs.

104. Accordingly, Defendants EPSTEIN and EPSTEINRICH are liable to Plaintiffs for losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

**COUNT X – ACCOUNTING**

**(EPSTEIN, EPSTEINRICH AND ASH)**

105. Plaintiffs incorporate by reference paragraphs one (1) through (104) as though fully restated herein.

106. Defendants EPSTEIN, EPSTEINRICH, and ASH have control of money or property belonging, in whole or in part, to Plaintiffs.

107. The determination of what is justly due to Plaintiffs necessarily involves long and difficult inquiries into information in the possession of Defendants EPSTEIN, EPSTEINRICH, and ASH, not Plaintiffs.

108. Plaintiffs cannot, even with liberal discovery, reasonably be expected to ascertain the amounts due to them.

109. The issues in this lawsuit are so numerous and distinct and the evidence that would be needed to sustain them so variant, technical, and voluminous that a jury would be incompetent to deal with them intelligently and come to a just conclusion.

110. Accordingly, an order for an accounting is necessary to ensure that Plaintiffs are justly compensated for their Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

**COUNT XI – FORGERY**

**(ESPSTEIN, EPSTEINRICH, BONNER)**

111. Your Plaintiffs re-allege paragraphs one (1) through (110) as though more fully set out word for word herein.
112. EPSTEIN, EPSTEINRICH, and/or BONNER forged the signatures of several of the Plaintiffs on multiple Annuity Applications in order to be able to withdraw funds at a later date without seeking permission of Plaintiffs. **See Exhibit C – exemplar of forged documents.**
113. As a proximate result of the forged signatures, EPSTEIN, and/or BONNER set up a scenario that allowed one or all of them to sign for the withdrawal of funds without the permission of Plaintiffs and said signature would be approved by the Annuity holder based on the previous forgery.
114. Accordingly, Defendants EPSTEIN, EPSTEINRICH, and/or BONNER are liable to Plaintiffs for losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

**COUNT XII – FALSE WITNESS**

**(EPSTEIN, EPSTEINRICH, CHILDS, BONNER)**

115. Your Plaintiffs re-allege paragraphs one (1) through (114) as though more fully set out word for word herein.
116. On information and believe BONNER on multiple occasions falsely witnessed the signatures of Plaintiffs. **See Exhibit D – exemplar of falsely witnessed documents.**
117. CHILDS on multiple occasions falsely witnessed the signature of several Plaintiffs. **See Exhibit E – exemplar of falsely witnessed documents.**

118. As a proximate result of the false witnessing the Annuity companies issued disbursement checks that should not have been issued.
119. BONNER executed said documents on behalf of ASH.
120. CHILDS executed said documents on behalf of EPSTEINRICH.
121. But for the false witnessing of signatures, your Plaintiffs would not have suffered the loss associated with EPSTEIN converting the funds to his own use and possibly the use of BONNER and CHILDS.
122. Accordingly, Defendants EPSTEIN, EPSTEINRICH, CHILDS, BONNER are liable to Plaintiffs for losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

### **XIII – CIVIL CONSPIRACY**

#### **(EPSTEIN, EPSTEINRICH, CHILDS, BONNER)**

123. Your Plaintiffs re-allege paragraphs one (1) through (122) as though more fully set out word for word herein.
124. EPSTEIN, EPSTEINRICH, CHILDS, BONNER engaged in a civil conspiracy to defraud Plaintiffs of their life savings and retirement accounts.
125. EPSTEIN was the principal behind the scheme and worked with Defendants CHILDS, and BONNER to thoroughly destroy the financial health of Plaintiffs.
126. EPSTEIN and BONNER, working on behalf of and as the owner of ASH, conspired to falsely prepare and witness numerous Annuity Applications. EPSTEIN and BONNER engaged in this scheme in order to have on record the forged signatures of Plaintiffs already at the Annuity Insurers Headquarters. This was accomplished to facilitate the process of withdrawing funds in the future without the valid signatures of the Plaintiffs,

resulting in the funds being to Plaintiffs setting up EPSTEIN to fraudulently have Plaintiffs issue checks to fraudulent disbursed so that when the funds were to be disbursed EPSTEIN and BONNER could sign the Requests for Disbursement without going to the insured, i.e. Plaintiffs.

127. EPSTEIN and BONNER at times would use CHILDS to falsely witness signatures as outlined in **Exhibit E**. As a result of the false witness, the Annuity Insurer would accept the Application to Disburse Funds and close out the accounts setting up the scheme that allowed EPSTEIN to convince Plaintiffs to re-invest the funds in Mutual Funds with the names “E & R” and “KLE.” Said funds were not Mutual Funds at all but initials used allowed EPSTEIN to deposit the funds in his personal accounts and share with his co-conspirators.
128. Once the funds were requested and sent to Plaintiffs, EPSTEIN would convince them to issue checks to “E & R” and “KLE”. Plaintiffs at all times, as a result of assurances from EPSTEIN, thought these two (2) entities were Mutual Funds. Co-Conspirators BONNER and CHILDS were fully aware of this scheme and actively participated in it.
129. As the principal of Defendant BONNER, Defendants ASH had a duty to supervise Defendant BONNER.
130. At no time did any of the co-conspirators notify Plaintiffs of the scheme to defraud them of their life savings and retirement funds. At no time did any of the co-conspirators stop the conspiracy from happening or inform authorities of the conspiracy and its intent.
131. EPSTEIN would then receive the funds and on information and belief would share the proceeds with CHILDS. BONNER would receive a benefit through the commissions generated through sales by EPSTEIN using this fraudulent scheme.
132. Accordingly, Defendants EPSTEIN, EPSTEINRICH, CHILDS, BONNER are liable to

Plaintiffs for losses in excess of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion.

**COUNT XIV - SILENT FRAUD**

**(ZUREK, CPA; ZUREK, P.C.; STEWART; STEWART, P.C.)**

133. Plaintiffs incorporate by reference paragraphs one (1) through (132) as though fully restated herein.
134. As Plaintiffs' accountant, Defendant ZUREK owed said Plaintiffs an affirmative duty to disclose material facts to said Plaintiffs.
135. Defendant ZUREK was aware of the inordinate amount of early withdrawals and surrender charges being incurred by all Plaintiffs as a result of providing tax and financial planning advice to Plaintiffs and as a result of seeing all of the 1099s and other tax related documents provided to said Defendants in the course of preparing said Plaintiffs' federal and state tax returns.
136. Defendant ZUREK knew about Defendants EPSTEIN and EPSTEINRICH's negligent actions in relation to said Plaintiffs' financial portfolios and failed to inform or even raise any element of suspicion to Plaintiffs in order to protect the financial interests of Plaintiffs.
137. Defendant ZUREK knew or should have known about the material financial irregularities and fraudulent schemes of Defendants EPSTEIN and EPSTEINRICH. Defendant EPSTEIN and/or EPSTEINRICH provided ZUREK financial incentives to keep quiet and not disclose material facts to Plaintiffs.
138. Despite this knowledge, Defendant ZUREK failed to disclose these material facts to Plaintiffs.

139. As a direct and proximate result of Defendant ZUREK's failure to disclose these material facts, Plaintiffs were left with the false impression that their financial portfolios were secure and in good hands and that EPSTEIN was properly handling the investments.
140. As a direct and proximate result of Defendant ZUREK failure to disclose these material facts, Plaintiffs suffered damages in excess of One Million Dollars (\$1,000,000).
141. As Plaintiff's attorney, Defendant STEWART owed said Plaintiffs an affirmative duty to disclose material facts to said Plaintiffs.
142. As a result of handling legal matters for Plaintiffs and as a result of their interactions with Defendant EPSTEIN, Defendant STEWART knew about Defendants EPSTEIN and EPSTEINRICH's negligent and intentional actions in relation to said Plaintiffs' financial portfolios.
143. The fact that Defendant STEWART knew regarding said negligent actions were material.
144. Despite this knowledge, Defendant STEWART failed to disclose these material facts to Plaintiffs. Defendant EPSTEIN and/or EPSTEINRICH provided financial incentives to STEWART to keep quiet and not disclose material facts to Plaintiffs.
145. As a direct and proximate result of Defendant STEWART's failure to disclose these material facts, Plaintiffs were left with the false impression that their financial portfolios were in good hands and were secure.
146. As a direct and proximate result of Defendant STEWART's failure to disclose these material facts, Plaintiffs suffered approximately Five Million Dollars (\$5,000,000.00) in damages.

**COUNT XV – PROFESSIONAL NEGLIGENCE OF AN ACCOUNTANT**

**(ZUREK, CPA; ZUREK, P.C.)**

147. Plaintiffs incorporate by reference paragraphs one (1) through (146) as though fully restated herein.
148. At all times relevant to this Complaint, an accountant-client relationship existed between Defendant ZUREK and Plaintiffs in that said Defendant provided tax advice to and prepared federal and state taxes for said Plaintiffs.
149. Defendant ZUREK breached the standard of practice applicable to accountants in that they failed to advise Plaintiffs of Defendant EPSTEIN's negligent handling of their financial portfolios, despite having knowledge of same through their accountant-client relationship with said Plaintiffs.
150. Moreover, Defendant ZUREK breached the standard of practice applicable to certified public accountants in that they allowed themselves to be retained and paid/compensated by Defendant EPSTEIN to handle the tax planning and preparation matters of Plaintiffs, which created a conflict of interest that Defendant ZUREK failed to disclose to Plaintiffs.
151. As a direct and proximate result of the professional negligence of Defendant ZUREK, Plaintiffs suffered approximately Five Million Dollars (\$5,000,000.00) in damages.

**COUNT XVI – PROFESSIONAL NEGLIGENCE OF AN ATTORNEY**

**(STEWART; STEWART, P.C.)**

152. Plaintiffs incorporate by reference paragraphs one (1) through (151) as though fully restated herein.
153. At all times relevant to this Complaint, an attorney-client relationship existed between

Defendant STEWART and Plaintiffs.

154. Defendant STEWART breached the standard of practice applicable to attorneys in that he failed to advise Plaintiffs of Defendant EPSTEIN's fraudulent activities, failed to cause the estate plans to be funded, failed to send notification to each investment company of the change of ownership of the accounts, failed to warn clients of Epstein's activities and, despite having knowledge of EPSTEIN's fraudulent schemes and conflict of interest with EPSTEIN, continued to handle the legal affairs of Plaintiffs.
155. Moreover, Defendant STEWART breached the standard of practice applicable to attorneys in that they failed to review Plaintiffs' financial status properly prior to creating trusts on their behalf.
156. Moreover, Defendant STEWART breached the standard of practice applicable to attorneys in that they failed to provide Plaintiffs with appropriate legal advice concerning their relationship with Defendant EPSTEIN, concerning their financial status, concerning the creation of trusts on their behalf, concerning the status of those trusts, and concerning the conflict of interest that existed by virtue of Defendant STEWART's relationship with Defendant EPSTEIN.
157. Moreover, Defendant STEWART breached the standard of practice applicable to attorneys in that they failed to fund Plaintiffs' trusts once they were created.
158. Moreover, Defendant STEWART breached the standard of practice applicable to attorneys in that they allowed themselves to be retained by Defendant EPSTEIN to handle the legal matters of Plaintiffs, which created a conflict of interest that Defendant STEWART failed to disclose to Plaintiffs.
159. Moreover, Defendant STEWART breached the standard of practice applicable to attorneys in that they allowed themselves to be paid by Defendant EPSTEIN for handling

the legal matters of Plaintiffs, which created a conflict of interest that Defendant STEWART failed to disclose to Plaintiffs.

160. As a direct and proximate result of the professional negligence of Defendant STEWART, Plaintiffs suffered in excess of Five Million Dollars (\$5,000,000.00) in damages.

**COUNT XVII – STATE LAW MICHIGAN UNIFORM SECURITIES ACT  
VIOLATIONS MICHIGAN COMPILED LAWS CHAPTER 451 ET SEQ.**

**EPSTEIN AND EPSTEINRICH**

161. Plaintiffs re-allege paragraphs (1) through (160) as though set out word for word herein.
162. Defendant EPSTEIN and EPSTEINRICH violated one ore more sections of the Michigan Uniform Securities Act by selling unregistered securities and using false, misleading and deceptive tactics in selling said securities.
163. Defendant EPSTEIN told Plaintiffs that “KLE” and “E and R” were mutual funds and at times he said they were investment vehicles used for dollar cost average purchases of other related securities. At all times EPSTEIN knew that this was false and misleading and a deceptive practice used to defraud Plaintiffs.
164. EPSTEIN engaged in other practices contrary to the Michigan Uniform Securities Act.
165. As a proximate result of EPSTEIN’s practices your Plaintiffs suffered losses in excess of Five Million Dollars (\$5,000,000.00) plus interest at six percent (6%) as set forth in the statute, reasonable attorney fees, and other compensatory damages.

**RELIEF REQUESTED**

161. WHEREFORE, Plaintiffs pray that this Honorable Court shall award Plaintiffs actual damages in the amount of Five Million Dollars (\$5,000,000.00) plus interest, attorney fees, costs, IRS penalties and interest, and treble damages for conversion, compensatory,

and/or exemplary damages in such amount not less than that which will fully and fairly compensate them for their injuries, losses, and damages, plus costs, interest, attorney fees, and any and all other relief that is requested, permitted, fair, just, and/or equitable under the circumstances.

Respectfully submitted,

CHAPMAN AND ASSOCIATES, P.C.

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(248) 644-6326

Dated: March 4, 2010

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND**

JANE NOWICKI-TRUE; ARLENE HERTZ,  
GEORGIA CUMMINGS; ALPHONSE AND  
DELPHINE DOLECKI; EDYTHE KLEIN;  
DONALD B SECONDER; CLAIRE LEVINE;  
EDWARD IWANIK; ROBERT MANKOWSKI,  
DECEASED; SUSAN MARDOYAN,

Case No: 10-                    -NZ  
Hon:

Plaintiffs,

vs.

KEITH L. EPSTEIN; EPSTEIN & RICH  
ASSOCIATES, INC.; ASH BROKERAGE  
CORPORATION; JOHN E. BONNER;  
MARY ANN CHILDS; TRACY GLENN; DONALD  
MARK ZUREK, CPA; MARK ZUREK, P.C.;  
WAYNE T. STEWART; WAYNE STEWART, P.C.,  
Jointly and Severally,

Defendants.

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CHAPMAN AND ASSOCIATES, P.C.  
Ronald W. Chapman (P37603)  
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**JURY DEMAND**

NOW COME the Plaintiffs, JANE NOWICKI-TRUE; ARLENE HERTZ; GEORGIA CUMMINGS; ALPHONSE AND DELPHINE DOLECKI; EDYTHE KLEIN; DONALD B SECONDER; CLAIRE LEVINE; EDWARD IWANIK; ROBERT MANKOWSKI, DECEASED; SUSAN MARDOYAN, by and through their attorneys, CHAPMAN AND ASSOCIATES, P.C., and hereby demand a trial by jury in the present case.

Respectfully submitted,

CHAPMAN AND ASSOCIATES, P.C.

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Dated: March 4, 2010