

1 March 24, 2007, including at least one that was collaterally assigned to Plaintiff Martin and  
2 Susan, and receiving contributions to at least one or more of the annuities assigned to  
3 Plaintiffs.

4 139. Jackson sent Plaintiffs the misleading Collateral Assignments, and had at  
5 least one telephone conversation with Martin wherein an authorized Jackson Customer  
6 Service Representative falsely represented that Jackson would fully pay off Plaintiffs' DLG  
7 investment with the collaterally assigned Jackson annuities assigned to Plaintiffs in the  
8 event of default by DLG, which statement was relied upon by Plaintiffs in making and  
9 purchasing DLG investments. As such, Jackson materially aided in the acts or  
10 transactions constituting the violations, and is therefore also jointly and severally liable to  
11 Plaintiffs.

12 140. California Corporations Code § 25504.1 provides that every person who  
13 materially assists in any violation of Section 25110, with intent to deceive or defraud, is  
14 jointly and severally liable with any other person liable for a violation of Section 25110. In  
15 committing the acts set forth herein, Jackson and Cano materially assisted in the violation  
16 of Section 25110, and did so in furtherance of the conspiracy, with the intent to deceive or  
17 defraud Plaintiffs in order to sell Jackson Annuities, in order to receive the substantial  
18 commissions and annuity premiums, and therefore are jointly and severally liable to  
19 Plaintiffs for the damages they sustained regarding their respective DLG 9% Reinsured  
20 Notes.

21 141. As a direct and proximate result of Defendants' wrongful, deceptive and/or  
22 fraudulent conduct, Plaintiffs are entitled to obtain the return of their respective principal  
23 investments, plus interest at the legal rate from the dates of said investments.  
24 Alternatively, Plaintiffs allege that as a direct and proximate result of Defendants' wrongful,  
25 deceptive and/or fraudulent conduct, Plaintiffs have sustained economic harm, damage  
26 and loss, in amounts to be proved at trial.

27 142. Pursuant to California Civil Code section 3287(a), Plaintiffs are further  
28 entitled to prejudgment interest as a direct and proximate result of Defendants' wrongful

1 conduct as hereinabove alleged. The amount of damages suffered by Plaintiffs as a result  
2 of these acts was a sum certain, capable of calculation, under the terms of the subject  
3 DLG investment, and Plaintiffs are entitled to interest in an amount to be set forth at the  
4 time of trial, according to proof.

5 143. WHEREFORE, based upon the foregoing, Plaintiffs demand judgment  
6 against Defendants for compensatory damages, rescission, prejudgment interest, interest  
7 thereon, costs and such other and further relief as this court deems just and proper.

8 III.

9 **THIRD CAUSE OF ACTION**

10 **(Violation of Corporations Code § 25401- Against All Defendants)**

11 144. Plaintiffs incorporate by reference allegations in paragraphs 1 through 143,  
12 inclusive, above, as though fully set forth at this point.

13 145. California Corporations Code Section 25401 states, "It is unlawful for any  
14 person to offer or sell a security in this state or buy or offer to buy a security in this state by  
15 means of any written or oral communication which includes an untrue statement of a  
16 material fact or omits to state a material fact necessary in order to make the statements  
17 made, in the light of the circumstances under which they were made, not misleading."  
18 DLG made misrepresentations of material facts to Plaintiffs and failed to disclose material  
19 facts to Plaintiffs in connection with the purchase of DLG securities.

20 146. DLG misrepresented several material facts, including that:

- 21 a. Plaintiffs' reinsured accounts, were fully guaranteed by Jackson
- 22 Annuities worth at least the principal amount of Plaintiffs'
- 23 investments;
- 24 b. DLG's primary investment objective was to preserve its investors'
- 25 capital;
- 26 c. Plaintiffs could immediately call the full value of assigned Jackson
- 27 Annuities if DLG did not honor a withdrawal request from a reinsured
- 28 account; and, among other misrepresentations;

1 d. DLG would tender a rescission offer the week of January 12, 2009.

2 147. DLG, directly and through its agents, including Defendants Lincoln, DAAT,  
3 Cano and Jackson, omitted to state material facts necessary in order to make the  
4 statements made to Plaintiffs, in light of the circumstances under which they were made  
5 not misleading. These omitted material facts include but are not limited to:

- 6 a. The Jackson Annuities reflected in the Collateral Assignments  
7 provided to Plaintiffs were not fully funded, but were only funded up to  
8 approximately 10% of the value of Plaintiffs' investments;
- 9 b. Jackson's authorized representative, Cano, was a close affiliate of  
10 DLG and Friedman and she also worked for a wholly-owned  
11 subsidiary of DLG;
- 12 c. DLG's offer and sale of 9% Reinsured Notes and 12% Secured Notes  
13 violated Federal and State securities laws;
- 14 d. DLG's President and principal, Friedman was a convicted felon;
- 15 e. Friedman had filed for personal bankruptcy, a fact that belied his  
16 professed financial acumen and raised doubts about DLG's  
17 representation that Friedman had been in business continuously since  
18 1983;
- 19 f. DLG was investing its assets (and upon information and belief its  
20 investors' assets) in equities and non-real estate ventures;
- 21 g. The assigned Jackson Annuities were not worth an amount equivalent  
22 to Plaintiffs' principal investments;
- 23 h. Plaintiffs could not immediately call the Jackson Annuities if DLG  
24 failed to honor a withdrawal request or otherwise defaulted;
- 25 i. Plaintiffs would not be made whole by or through calling on the  
26 Jackson annuities collaterally assigned to them to insure or secure  
27 their DLG 9% Reinsured Notes; and

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1 j. DLG would not immediately honor a timely and proper request to  
2 withdraw an entire account.

3 148. By virtue of their relationship with DLG, for which they received financial  
4 compensation and/ or benefit, Jackson and/or Cano were under a duty to disclose the  
5 material facts described above.

6 149. Jackson knew of the misrepresentations set forth at paragraphs a and c, and  
7 the omissions set forth in paragraphs a, b and g, detailed herein.

8 150. Plaintiffs relied on Defendant's misrepresentations set forth in this complaint,  
9 and relied upon the absence of omitted facts in purchasing the DLG investments, were  
10 without knowledge of the false statements or omitted material facts, and Plaintiffs would  
11 not have purchased the DLG investments had they known the truth.

12 151. California Corporations Code § 25504 provides that every person who  
13 directly or indirectly controls a person liable under § 25501, and every partner in a firm so  
14 liable, every principal executive officer, managing member, director of a corporation or  
15 LLC, every person occupying a similar status or performing similar functions, every  
16 employee of a person so liable who materially aids in the act or transaction constituting the  
17 violation, and every broker-dealer or agent that materially aids in the act or transaction  
18 constituting the violation, are also liable jointly and severally with and to the same extent  
19 as such person.

20 152. Cano was an employee and officer of DLG (through AEI), and/or was DLG's  
21 agent, by participating in DLG's purchases of the Jackson annuities that were collaterally  
22 assigned to Plaintiffs, and who serviced the Jackson Collateral Assignments as the  
23 authorized Jackson representative, materially aided in the act or transactions constituting  
24 the violations, and is therefore personally liable to Plaintiffs.

25 153. Lincoln and DAAT are broker-dealers that employed and/or engaged Adam  
26 Markowitz, that Adam Markowitz was an agent thereof, which, through their  
27 representations and actions, either directly with or through Adam Markowitz and /or  
28 through the remaining Defendants, materially aided DLG in the acts or transactions with

1 Plaintiffs that constitute a violation of Corporations Code § 25401, and are jointly and  
2 severally liable to Plaintiffs.

3 154. Jackson sent Plaintiffs the misleading Collateral Assignments, and had at  
4 least one telephone conversation with Martin wherein an authorized Jackson Customer  
5 Service Representative falsely represented that Jackson would fully pay off Plaintiffs' DLG  
6 investment with the collaterally assigned Jackson annuities assigned to Plaintiffs in the  
7 event of default by DLG, which statement was relied upon by Plaintiffs in making and  
8 purchasing DLG investments. As such, Jackson materially aided in the acts or  
9 transactions constituting the violations, and is therefore also jointly and severally liable to  
10 Plaintiffs.

11 155. California Corporations Code § 25504.1 provides that every person who  
12 materially assists in any violation of Section 25401, with intent to deceive or defraud, is  
13 jointly and severally liable with any other person liable for a violation of Section 25401. In  
14 committing the acts set forth herein, Jackson and Cano materially assisted in the violation  
15 of Section 25401, and did so in furtherance of the conspiracy, with the intent to deceive or  
16 defraud Plaintiffs in order to sell Jackson Annuities, in order to receive the substantial  
17 commissions and annuity premiums, and therefore are jointly and severally liable to  
18 Plaintiffs for the damages they sustained regarding their respective DLG 9% Reinsured  
19 Notes.

20 156. As a direct and proximate result of Defendants' wrongful, deceptive and/or  
21 fraudulent conduct, Plaintiffs are entitled pursuant to California Corporations Code §25501  
22 to rescind their respective DLG investments, and obtain the return of their respective  
23 principal investments, plus interest at the legal rate from the dates of said investments.  
24 Alternatively, Plaintiffs allege that as a direct and proximate result of Defendants' wrongful,  
25 deceptive and/or fraudulent conduct, Plaintiffs have sustained economic harm, damage  
26 and loss, in amounts to be proved at trial.

27 157. Pursuant to California Civil Code section 3287(a), Plaintiffs are further  
28 entitled to prejudgment interest as a direct and proximate result of Defendants' wrongful

1 conduct as hereinabove alleged. The amount of damages suffered by Plaintiffs as a result  
2 of these acts was a sum certain, capable of calculation, under the terms of the subject  
3 DLG investment, and Plaintiffs are entitled to interest, costs and such other and further  
4 relief as this court deems just and proper, in an amount to be set forth at the time of trial,  
5 according to proof.

6 158. WHEREFORE, based upon the foregoing, Plaintiffs demand judgment  
7 against Defendants for compensatory damages, rescission, prejudgment interest, interest  
8 thereon, costs and such other and further relief as this court deems just and proper.

9 IV.

10 **FOURTH CAUSE OF ACTION**

11 **(Holder's Action - Against Defendant DLG, Cano, and Jackson)**

12 159. Plaintiffs incorporate by reference paragraphs 1 through 158 above, as  
13 though fully set forth herein.

14 160. DLG, Cano and Jackson made misrepresentations of material facts to  
15 Plaintiffs and failed to disclose material facts to Plaintiffs in connection with holding of DLG  
16 securities.

17 161. DLG, Cano and Jackson misrepresented several material facts, including  
18 that:

- 19 a. Plaintiffs' reinsured accounts, Account Nos. 06-01016, 07-01229 and
- 20 06-01007, were fully guaranteed by Jackson Annuities worth at least
- 21 the principal amount of Plaintiffs' investments; and
- 22 b. Plaintiffs could immediately call the full value of assigned Jackson
- 23 Annuities if DLG did not honor a withdrawal request from a reinsured
- 24 account.

25 162. DLG, Cano and Jackson were under a duty to disclose to Plaintiffs certain  
26 facts, but failed to disclose the following material facts:

- 27 a. That the Jackson Annuities assigned to Plaintiffs were not worth an
- 28 amount equivalent to Plaintiffs' principal investments;

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- b. Plaintiffs could not immediately call the Jackson Annuities if DLG failed to honor a withdrawal request or otherwise defaulted;
- c. DLG would not immediately honor a timely and proper request to withdraw an entire account;
- d. Plaintiffs would not be made whole by or through calling on the Jackson annuities collaterally assigned to them to insure or secure their DLG 9% Reinsured Investment Notes;
- e. DLG was offering and selling securities in violation of securities laws;
- f. Jackson failed to disclose that it had ordered DLG not to solicit purchases of DLG investments using Jackson's name and reputation, but DLG had failed to discontinue that practice.
- g. Jackson failed to disclose that it had issued over 175 annuities all of which insured the life of Friedman, a practice that raised red flags; and
- h. DLG was operating a Ponzi scheme.

163. DLG, Cano and Jackson knew or should have known of the misrepresentations and/or the omissions of material fact detailed herein.

164. DLG, Cano and Jackson intended that Plaintiffs would act (i.e., make DLG investments and/or renew DLG investments) or refrain from acting (i.e., withdraw monies previously invested in DLG) based upon the misrepresentations or omissions of material fact.

165. Plaintiffs relied on DLG, Cano and/or Jackson's misrepresentations and omissions of material fact and held, as opposed to selling, investments with DLG that they could have terminated, let mature and/or withdrawn their respective investment funds, pursuant to the terms of their DLG Contracts.

166. Had Plaintiffs known the true information misrepresented, or had Plaintiffs been informed of the facts that DLG, Cano and/or Jackson failed to disclose to Plaintiffs, Plaintiffs would not have held the original or subsequent DLG investments, would have

1 terminated the DLG investments and/or would have not renewed, reinvested or made  
2 additional investments in DLG.

3 167. As a direct and proximate result of these Defendants' wrongful  
4 misrepresentations and omissions, Plaintiffs have suffered damages plus interest, cost and  
5 attorneys' fees, the exact amount to be proved at the time of trial.

6 168. WHEREFORE, based upon the foregoing, Plaintiffs demand judgment  
7 against DLG, Cano and Jackson for compensatory damages, interest, costs and such  
8 other and further relief as this court deems just and proper.

9 V.

10 **FIFTH CAUSE OF ACTION**

11 **(Negligent Misrepresentation Against Jackson and Cano)**

12 169. Plaintiffs incorporate by reference Paragraphs 1 through 168 above, as  
13 though fully set forth herein.

14 170. Jackson owed Plaintiffs a duty to take reasonable care that the information  
15 being relayed by Jackson and DLG to Plaintiffs, including the information contained in the  
16 Jackson Collateral Assignments and related correspondence, and in verbal telephone  
17 communications with Plaintiffs were true.

18 Jackson made the following misrepresentations of material fact:

19 (i) In early May, 2006, in a written Collateral Assignment on a Jackson form,  
20 and executed by a Jackson employee, Jackson misrepresented to Stanley that the annuity  
21 secured payment of liabilities of "not more than \$60,700." Jackson knew this  
22 representation was false because the value of the collaterally assigned annuity was worth  
23 far less than \$60,700. Jackson also knew, or should have known, that the amount  
24 referenced in the Collateral Assignment was tied to Stanley's investment in DLG through  
25 Account No. 06-01007

26 (ii) In 2006, after Martin and Susan first invested in DLG (after February 28,  
27 2006), an unknown member of Jackson's customer service department misrepresented to  
28 Martin, during a telephone call initiated by Martin, that he could call the full amount of the

1 Jackson Annuity collaterally assigned to Martin and Susan upon a default by DLG to make  
2 them whole. This statement was false because Martin and Susan could not call upon the  
3 Jackson Annuity to make them whole, and Jackson knew it was false because it knew the  
4 Jackson Annuity was not fully funded and had a value far less than disclosed in the  
5 Jackson Collateral Assignment.

6 (iii) On or about June 13, 2006, in a written Collateral Assignment on a Jackson  
7 form, and executed by a Jackson employee, Jackson misrepresented to Martin and Susan  
8 that the collaterally assigned annuity fully secured payment of liabilities of "not more than  
9 \$1,500,000.00." Jackson knew this representation was false because the value of the  
10 collaterally assigned annuity was worth far less than \$1.5 million. Jackson also knew, or  
11 should have known, that the amount referenced in the Collateral Assignment was tied to  
12 Martin and Susan's investment in DLG through Account No. 06-01016.

13 (iv) On or about June 2007, in a written Collateral Assignment on a Jackson  
14 form, and executed by a Jackson employee, Jackson misrepresented to Blairris that the  
15 collaterally assigned annuity fully secured payment of liabilities of "not more than  
16 \$2,505,387.77." Jackson knew this representation was false because the value of the  
17 collaterally assigned annuity was worth far less than \$2.5 million.

18 (v) Jackson repeated its misrepresentations concerning the material facts about  
19 the value of annuities collaterally assigned to Plaintiffs in writing on at least the following  
20 occasions for the following amounts.

- 21 1. In a Collateral Assignment executed by Martin on April 27, 2006, in  
22 the amount of "not more than \$1,500,000.00."
- 23 2. In a Collateral Assignment executed by Stanley on July 27, 2007 in an  
24 amount "not more than \$549,869.00."
- 25 3. In a Collateral Assignment executed by Stanley on September 17,  
26 2007, in an amount "not more than \$724,869.00."

1 4. In a Collateral Assignment executed by Martin on September 17,  
2 2007, and by Jackson on October 8, 2007, in an amount "not more  
3 than \$3,000,000.00."

4 5. In a Collateral Assignment executed by Martin and Susan on  
5 September 2, 2008, and by Jackson on November 22, 2008, in an  
6 amount "not more than \$1,037,152.36.

7 6. In a Collateral Assignment executed by Blairris on September 2, 2008  
8 in an amount "not more than \$4,183,676.89."

9 171. Jackson and Cano had a duty to disclose the following material facts to  
10 Plaintiffs, but failed to do so:

11 a. The Jackson Annuities collaterally assigned to Plaintiffs were only  
12 funded in an amount approximating 10% of Plaintiffs' investment in  
13 DLG's 9% Reinsured Notes;

14 b. Jackson had sold more than 175 annuities to DLG all of which insured  
15 Friedman's life;

16 c. Jackson had ordered DLG to cease and desist using its name by  
17 March 23, 2007;

18 d. Jackson knew that DLG continued to use its name in solicitations after  
19 March 23, 2007;

20 e. Jackson knew, or should have known, that the State of Michigan  
21 determined that DLG was selling unregistered securities;

22 f. Several DLG investors were fully, or nearly fully, funded in their  
23 collaterally assigned annuities; and

24 g. Cano, Jackson's authorized representative, was a close affiliate of  
25 DLG, and she worked for a wholly-owned subsidiary of DLG.

26 172. In each of the Jackson Collateral Assignments issued by Jackson to  
27 Plaintiffs, Jackson made actual or implied misrepresentations of material facts to Plaintiffs  
28 and failed to disclose material facts to Plaintiffs regarding the value of the Jackson annuity

1 issued by Jackson to DLG that was assigned to Plaintiffs, and Plaintiffs' ability to recover  
2 their entire DLG investment from the Jackson annuities.

3 173. Jackson and Cano knew or should have known of the misrepresentations  
4 and knew or should have known of the omissions detailed herein.

5 174. Jackson and Cano intended Plaintiffs to rely on the misrepresentations and  
6 omissions, and to invest in and hold their DLG Reinsured Notes.

7 175. Plaintiffs reasonably relied on Jackson and Cano's misrepresentations and  
8 omissions in making their investment decisions and would not have acted if they had  
9 known the truth. Plaintiffs reasonably relied on the information relayed on the Jackson  
10 Collateral Assignments, and in particular the "Loan No. and Description of Liability"  
11 concerning the amount being reinsured or covered under the Jackson Collateral  
12 Assignment, and would not have invested in DLG or its 9% Reinsured Notes had Jackson  
13 and/or Cano disclosed that the true value of the annuity available to cover any loan or  
14 liability was much smaller, i.e., only one-tenth the amount of the dollar value identified on  
15 the face of the Collateral Assignments.

16 176. As each of Plaintiffs' respective DLG contracts matured, Plaintiffs continued  
17 to rely on Jackson's representations as to the value of the Collateral Assignments in  
18 making their respective decisions to reinvest their monies in DLG's 9% Reinsured Notes.  
19 Subsequent to each reinvestment, Jackson confirmed the value of Plaintiffs' DLG  
20 investments by way of the newly issued and increased Collateral Assignments, which  
21 replaced the previously released Collateral Assignments processed by Jackson. Further,  
22 Plaintiffs relied on Jackson's written and verbal representations to Plaintiffs, and in  
23 particular to Martin, in maintaining Plaintiffs' DLG investments, in holding Plaintiffs' DLG  
24 investments, in adding and reinvesting Plaintiffs' monies in DLG 9% Reinsured Notes

25 177. As a direct and proximate result of Jackson's negligent misrepresentations,  
26 Plaintiffs have suffered damage, the exact amount of which will be determined at the time  
27 of trial, according to proof.

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1 178. WHEREFORE, based upon the foregoing, Plaintiffs demand judgment  
2 against Jackson and Cano for compensatory damages, interest, costs and such other and  
3 further relief as this court deems just and proper.

4 VI.

5 **SIXTH CAUSE OF ACTION**

6 **(Unfair Business Practice- Against Defendant Jackson)**

7 179. Plaintiffs incorporate by reference Paragraphs 1 through 178, above, as  
8 though fully set forth herein.

9 180. Jackson's Annuities were purchased by DLG, in California, and the  
10 applications for processing the Collateral Assignment and Releases of Collateral  
11 Assignments originated, emanated and were effectuated from California. Jackson  
12 assigned and identified Cano, a Jackson representative located in California, as its  
13 authorized Jackson representative to Plaintiffs. Further, Jackson is licensed to engage in  
14 its insurance business with the California Department of Insurance.

15 181. Because the Jackson Annuities, Collateral Assignments Jackson's  
16 Annuities, and related Releases of Collateral Assignments were coordinated and  
17 accomplished by Jackson in conjunction with DLG from California, Jackson is subject to  
18 the provisions of Cal. Bus. & Prof. Code §17200 et seq.

19 182. California Bus. & Prof. Code §17200 prohibits any "unlawful... business act  
20 or practice." Jackson has violated Cal. Bus. & Prof. Code §17200's prohibition against  
21 engaging in an unlawful act or practice by violating both California statutory and common  
22 law as alleged in this Complaint.

23 183. Plaintiffs reserve the right to allege other violations of law, which constitute  
24 other unlawful business acts or practices. Such conduct is ongoing and continues to this  
25 date.

26 184. California Bus. & Prof. Code §17200 also prohibits any "unfair... business act  
27 or practice." As detailed in the preceding paragraphs, Jackson engaged in conduct that is  
28 unfair within the meaning of Cal. Bus. & Prof. Code §17200 et seq. Jackson's practices

1 offend public policy and are unethical, oppressive, unscrupulous and violate the laws  
2 identified herein and the policies supporting those laws.

3 185. Jackson's conduct caused and continues to cause substantial injury to  
4 Plaintiffs.

5 186. The justifications, if any, for Jackson's wrongful conduct were and are vastly  
6 outweighed by the adverse effects of such conduct.

7 187. Finally, there were reasonably available alternatives to Jackson to further its  
8 business interests, other than the acts and omissions described in this Complaint. As a  
9 result, Jackson engaged in unfair business practices prohibited by Cal. Bus. & Prof. Code  
10 §17200 et seq.

11 188. California Bus. & Prof. Code §17200 also prohibits any "fraudulent business  
12 act or practice." Jackson's acts and omissions, as more fully set forth elsewhere in this  
13 Complaint, were fraudulent within the meaning of Cal. Bus. & Prof. Code §17200, and  
14 were likely to deceive the public, including Plaintiffs. Jackson's fraudulent conduct  
15 constitutes a fraudulent business act or practice within the meaning of Cal. Bus. & Prof.  
16 Code §17200 et seq.

17 189. Jackson engaged in these unlawful, unfair and fraudulent business acts and  
18 practices with others who participated, in whole and in part, in the conduct alleged.

19 190. As a result of the foregoing conduct, Jackson and any co-participants have  
20 been unjustly enriched at the expense of Plaintiffs.

21 191. As a co-participant in the violation of Cal. Bus. & Prof. Code §17200 et seq.,  
22 Jackson is jointly and severally liable for the restoration to any person of any and all  
23 money that has been acquired by means of the alleged violations of Cal. Bus. & Prof.  
24 Code §17200 et seq.

25 192. The unlawful, unfair, and fraudulent business practices of Jackson described  
26 above present a continuing threat to members of the public in that Jackson continues to  
27 engage in the conduct described herein.

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1 193. WHEREFORE, Plaintiffs pray that the Court grant restitution to Plaintiffs by  
2 ordering Jackson to return to Plaintiffs all sums unlawfully and unfairly obtained from them  
3 as the result of Jackson's unfair and unlawful business practices; and order Jackson to pay  
4 to Plaintiffs all costs of suit, attorneys' fees, prejudgment interest and any other relief the  
5 Court deems appropriate under the circumstances in accordance with section 17200 of the  
6 California Business and Professions Code.

7 VII.

8 **SEVENTH CAUSE OF ACTION**

9 **(Negligence- Against Jackson and Cano)**

10 194. Plaintiffs incorporate by reference herein paragraphs 1 through 168, and 179  
11 through 193, inclusive, above, as though fully set forth at this point.

12 195. Jackson held himself out to the public and to Plaintiffs as a professional in  
13 annuity sales and a reinsurance company. As such, Jackson owed Plaintiffs a duty to  
14 exercise that degree of skill and care ordinarily exercised by others in the annuity sales  
15 and investment management profession.

16 196. Jackson directly or impliedly held himself out as a skilled specialist in the field of  
17 annuity sales and investment management, possessing the specialized knowledge, skill  
18 and care ordinarily used by reasonably well-qualified members of the annuity sales and  
19 investment management profession.

20 197. Because of Jackson's skill, reputation and experience, Jackson had a duty to  
21 exercise that degree of knowledge, skill and care ordinarily used, or which should be used,  
22 by reasonably well-qualified members of the annuity sales and investment management  
23 profession, including but not limited to the duties:

- 24 a. to the misuse and improper sales of annuities, and the collateral  
25 assignment of Jackson Annuities by others in fraudulent, deceptive  
26 and/or unlawful schemes involving the offer and sale of securities to  
27 the public;

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- 1           b. To prevent the false and deceptive dissemination of information
- 2           regarding its annuity products; and
- 3           c. To prevent its use or involvement in fraudulent or criminal activity
- 4           concerning the public.

5           198. Jackson knew, or should have known, that DLG was improperly using or  
6 disseminating Jackson's name, annuity product, and business and financial reputation as  
7 part of its unlawful sale of 9% Reinsured Notes and sale of unregistered securities.

8           199. Jackson's involvement with DLG investors, including Plaintiffs, included  
9 issuing and processing Collateral Assignments of Jackson Annuities sold to DLG,  
10 corresponding directly with DLG investors regarding the Collateral Assignments of Jackson  
11 Annuities sold to DLG, and answering questions regarding the operations and procedures  
12 required or entailed in making claims upon Jackson regarding the Jackson Annuities  
13 assigned to them by DLG. Nevertheless, Jackson was negligent in one or more of the  
14 following ways:

- 15           a. failing to provide truthful information to Plaintiffs regarding the Jackson
- 16           Annuities assigned to them by DLG;
- 17           b. providing false or misleading information to Plaintiffs regarding the
- 18           Jackson Annuities assigned to them by DLG;
- 19           c. ignoring DLG's dissemination of false or misleading information to its
- 20           investors regarding Jackson, and the Jackson Annuities collaterally
- 21           assigned to Plaintiffs;
- 22           d. failing to stop DLG's dissemination of false or misleading information
- 23           to its investors regarding Jackson, and the Jackson Annuities
- 24           collaterally assigned to Plaintiffs; and, among other things,
- 25           e. failing to disclose to Plaintiffs that the Jackson Collateral Assignments
- 26           were worth only a fraction of Plaintiffs' investments, when Jackson
- 27           knew or should have known that DLG had represented to Plaintiffs
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1 that the Jackson Collateral Assignments were reinsurance of Plaintiffs  
2 entire investments.

3 200. Furthermore, Jackson had a duty to properly train and supervise its  
4 representatives, including Cano and others who solicited, recommended, sold, processed  
5 or communicated with DLG investors regarding the Collateral Assignments of the Jackson  
6 Annuities securing their DLG 9% Reinsured Notes, to properly evaluate any misuse of the  
7 Collateral Assignments of Jackson Annuities by DLG in the offer and sale of Reinsured  
8 Notes, and to prevent its participation in the unauthorized or wrongful sales of securities to  
9 investors.

10 201. By engaging in the acts and conduct set forth previously in this complaint,  
11 Jackson and Cano breached their duty of care to Plaintiffs.

12 202. As a direct and proximate result, Plaintiffs have suffered damages, the exact  
13 amount to be proven at trial, according to proof.

14 203. WHEREFORE, based upon the foregoing, Plaintiffs demand judgment  
15 against Jackson and Cano for compensatory damages, rescission, interest, costs and  
16 such other and further relief as this court deems just and proper.

17 **VIII.**

18 **EIGHT CAUSE OF ACTION**

19 **(Aiding and Abetting Breach of Fiduciary Duty-Against Defendants Jackson and**  
20 **Cano)**

21 204. Plaintiffs incorporate by reference Paragraphs 1 through 203 above, as  
22 though fully set forth herein.

23 205. A special relationship existed between DLG and Plaintiffs as a result of the  
24 following:

- 25 a. DLG assumed a position of trust and confidence by offering, selling  
26 and servicing the DLG 9% Reinsured Notes to Plaintiffs;
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1           b.     DLG had actual or constructive notice that Plaintiffs were relying upon  
2                     DLG's representations that its 9% Reinsured Notes were guaranteed  
3                     and backed by Jackson; and

4           c.     DLG knew that Plaintiffs purchased and held DLG 9% Reinsured  
5                     Notes, renewed their DLG Reinsured Notes, and increased their  
6                     investments in DLG Reinsured Notes because of the guarantees and  
7                     representations that they received from DLG, Cano and Jackson.

8           206.   As a result of the foregoing, DLG was a fiduciary to Plaintiffs, and DLG owed  
9                     Plaintiff certain fiduciary duties.

10          207.   DLG breached its fiduciary duties to Plaintiffs in one or more of the following  
11                     ways:

12                     a.     by failing to provide complete and truthful information to Plaintiffs  
13                     regarding the DLG 9% Reinsured Notes;

14                     b.     by failing to provide complete and accurate information to Plaintiffs  
15                     regarding DLG's funding of the Jackson Annuities assigned to  
16                     Plaintiffs; and

17                     c.     by misrepresenting to Plaintiffs the rights and ability of Plaintiffs to  
18                     make claim against the Jackson Annuities upon default by DLG.

19          208.   Jackson knew that at least by March 23, 2007, DLG was breaching its  
20                     fiduciary duties to its Plaintiffs.

21          209.   Jackson and Cano knowingly joined in DLG's breach in the following ways:

22                     A.     Jackson knew that DLG was marketing the Jackson Collateral Assignments  
23                     to Plaintiffs as complete reinsurance for its 9% Reinsured Notes; but Jackson  
24                     did not inform Plaintiffs that it was not full reinsurance;

25                     B.     Jackson knew that the value of the Jackson Annuities collaterally assigned to  
26                     DLG investors, including Plaintiffs, were worth only a fraction of the amount  
27                     represented by DLG and Jackson on the face of the Collateral Assignments;

28

- 1 C. Jackson knew that the purpose of the Jackson Collateral Assignments were
- 2 to induce Plaintiffs to purchase, hold, or expand DLG investments;
- 3 D. Jackson participated in DLG's investment scheme by selling to DLG over 175
- 4 Jackson annuities on Friedman, processing the misleading and fraudulent
- 5 Jackson Collateral Assignments in favor of the DLG investors, and
- 6 communicating with DLG investors, including Martin, and providing false and
- 7 misleading information and by failing to disclose material information to the
- 8 DLG investors, including Plaintiff, regarding the true value of the annuities
- 9 collaterally assigned to them, the fees and charges involved upon liquidation
- 10 of the annuity, and the relationship between DLG and Jackson;
- 11 E. Jackson continued to process false and misleading Jackson Collateral
- 12 Assignments of annuities issued to DLG after March 23, 2007;
- 13 F. Jackson never confirmed or verified that DLG complied with its March 23,
- 14 2007 Cease and Desist letter;
- 15 G. Jackson continued to sell DLG annuities, and continued to process Jackson
- 16 Collateral Assignments even after learning that DLG had violated its March
- 17 23, 2007 Cease and Desist letter; and
- 18 H. Jackson continued to process Collateral Assignments after it knew, or should
- 19 have known, DLG was selling unregistered securities.

20 210. Jackson profited by DLG's breach of fiduciary duty.

21 211. In addition to the foregoing, Cano, by virtue of being an officer and employee

22 of DLG and AEI, and the registered authorized agent of Jackson, and Jackson, by virtue of

23 being an agent for DLG, had a special relationship and/ or fiduciary relationship with

24 Plaintiffs and owed fiduciary duties to Plaintiffs, as investors in DLG who purchased 9%

25 Reinsured Notes, insured by Jackson. As fiduciaries, Jackson and Cano owed Plaintiffs

26 the duty of loyalty, the duty of due care, and the duty of placing Plaintiffs' interest ahead of

27 these defendants.

28



1 both." Cal. Welf. & Inst. Code §15610.30(a)(1). Under the same section, a person who  
2 assists in the foregoing conduct is also liable. Cal. Welf. & Inst. Code §15610.30(a)(2).

3 219. Both Stanley and Elaine were each age 65 or older at all times relevant to  
4 this action.

5 220. By the appropriation or retention of Stanley and Elaine's monies and property  
6 by false or deceptive representations that induced their investment(s) in DLG, Jackson did  
7 so for a wrongful use or with the intent to defraud or both. Jackson "took" the Stanley's  
8 property for an improper use and/or with the intent to defraud as, through said written and  
9 verbal misrepresentations engaged in a deceptive scheme that used deceptive practices to  
10 cause Stanley and Elaine to invest monies with DLG in 9% Reinsured Notes, guaranteed  
11 and insured by Jackson, and to renew their 9% Reinsured Notes.

12 221. Defendant Jackson aided, abetted, assisted in DLG's unlawful conduct of  
13 taking, secreting, appropriate Stanley and Elaine's property for a wrongful use or with the  
14 intent to defraud, and is therefore also liable to Stanley and Elaine.

15 222. Furthermore, Jackson assisted DLG and Cano in the inappropriate and  
16 unlawful activities described hereinabove for Jackson's own financial gain to the detriment  
17 of Stanley and Elaine, and by using deceptive and misleading materials, including the  
18 Jackson Collateral Assignments that falsely indicated that their DLG Reinsured Notes were  
19 insured up to the principal value of their investment(s), Jackson "took" Stanley and  
20 Elaine's personal property within the meaning of California Welfare & Institutions Code  
21 §15610.30.

22 223. Jackson's conduct, as described hereinabove constitutes financial abuse as  
23 defined in California Welfare and Institutions Code §15610. Jackson is guilty of  
24 recklessness, fraud, and malice in the commission of the above-described acts of abuse.

25 224. As a direct and proximate result of Jackson's wrongful conduct as set forth  
26 above, Stanley and Elaine have suffered general and specific damages, all in an amount  
27 to be determined at the time of trial according to proof.

28

1 225. Pursuant to California Civil Code §3287(a), Stanley and Elaine are further  
2 entitled to prejudgment interest as a direct and proximate result of Jackson's wrongful  
3 conduct as hereinabove alleged. The amount of damages suffered by Stanley and Elaine  
4 as a result of these acts was a sum certain, capable of calculation, and Stanley and Elaine  
5 are entitled to interest in an amount to be set forth at the time of trial according to proof.

6 226. The aforementioned acts of Jackson were done maliciously, oppressively  
7 and with the intent to defraud and Stanley and Elaine are entitled to punitive and  
8 exemplary damages pursuant to California Civil Code §3294 in an amount to be  
9 ascertained at the time of trial according to proof.

10 227. Under California Welfare and Institutions Code §15657(a), Jackson is liable  
11 to Stanley and Elaine for reasonable attorney fees and costs.

12 228. WHEREFORE, based upon the foregoing, Stanley and Elaine demand  
13 judgment against Jackson for compensatory damages, prejudgment interest, interest  
14 thereon, attorneys' fees and costs, punitive and exemplary damages, statutory damages,  
15 and such other and further relief as this court deems just and proper.

16 **X.**

17 **TENTH CAUSE OF ACTION**

18 **(Civil Conspiracy - Against Jackson and DLG)**

19 229. Plaintiffs incorporate by reference herein paragraphs 1 through 228 inclusive,  
20 above, as though fully set forth at this point.

21 230. DLG and Cano engaged in a scheme to unlawfully defraud Plaintiffs by  
22 selling Plaintiffs worthless investments offered by DLG.

23 231. As a way to make Plaintiffs' investment with DLG appear valuable, DLG  
24 purchased multiple annuities from Jackson on Friedman, and assigned said annuities to  
25 Plaintiffs.

26 232. The value of the annuities Jackson issued to DLG on Friedman and  
27 collaterally assigned to Plaintiffs totaled only \$762,0002; however the value of Plaintiffs'  
28

1 investments with DLG in its 9% Reinsured Notes that were purportedly secured and  
2 insured by these Jackson annuities totaled in excess of \$5,199,000.

3 233. Jackson and DLG agreed that DLG, through its wholly owned subsidiary AEI  
4 and its president and authorized Jackson representative Cano, would purchase Jackson  
5 annuities on Friedman for only a small fraction of the amount invested by Plaintiffs in  
6 DLG's 9% Reinsured Notes and that the annuities would, in turn, be collaterally assigned  
7 by DLG to Plaintiffs to allegedly insure the full value of their respective DLG 9% Reinsured  
8 Notes. Jackson and DLG, along with their mutual agent Cano, also agreed that they would  
9 conceal from Plaintiffs the actual value of the Jackson annuities assigned to Plaintiffs, and  
10 the terms of said annuities.

11 234. To further the conspiracy between Jackson and DLG, Jackson represented  
12 to Plaintiffs that Cano was their "Jackson representative," knowing that Cano also acted as  
13 President of AEI, DLG's wholly-owned subsidiary and Investment Servicing Division, and  
14 hence was the joint and mutual agent of Jackson and DLG.

15 235. Jackson profited by selling over 175 Jackson annuities to DLG, of which 3  
16 were assigned to Plaintiffs.

17 236. As a direct and proximate result of Jackson's conspiracy with DLG, Plaintiffs  
18 have suffered damages, the exact amount of which to determined at the time of trial,  
19 according to proof.

20 237. WHEREFORE, based upon the foregoing, Plaintiffs demand judgment  
21 against Jackson for compensatory damages, interest, attorneys fees and costs, punitive  
22 and exemplary damages, statutory damages, and such other and further relief as this court  
23 deems just and proper.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiffs pray for judgment against Defendants and each of  
26 them, as appropriate to each cause of action alleged, as follows:

- 27 1. For general damages according to proof, all in a sum to be determined  
28 at the time of trial;

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2. For special damages according to proof, all in a sum to be determined at the time of trial;
3. For such other economic and consequential damages suffered by Plaintiffs, including special damages and general damages, all in a sum to be determined at the time of trial;
4. For prejudgment interest at the legal rate;
5. For punitive and exemplary damages in an amount to be determined at the time of trial;
6. For treble damages according to statute;
7. For statutory damages according to proof;
8. For any other and further equitable relief deemed necessary by the Court, including, without limitation, restitutionary relief, disgorgement, a declaration that Defendants are constructive trustees of all property wrongfully acquired from Plaintiffs by fraud, mistake, undue influence, breach of fiduciary duty, unfair business practices and an order of disgorgement;
9. For attorney fees, expert witness fees and costs of suit incurred
10. For such other and further relief as the Court deems just and proper.

herein; and

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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial of this dispute by a jury of their peers.

Respectfully submitted,

LESLIE SCHWAEBE AKINS, ESQ.,

Dated: October 1, 2009

By: \_\_\_\_\_

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**PROOF OF SERVICE**

I declare that I am employed with the law firm of Morrison & Foerster LLP, whose address is 555 West Fifth Street, Los Angeles, California 90013-1024. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on October 19, 2009, I served a copy of:

**RESPONSE AND BRIEF IN OPPOSITION TO RECEIVER'S  
EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE  
RE KRAIG S. IVIE, SEAN P. FITZGERALD, ESQ., AND  
HEATHER A. BELL, ESQ. TO BE HELD IN CONTEMPT OF  
PRIOR COURT ORDER ENTERED MARCH 30, 2009**

**BY U.S. MAIL [Fed. Rule Civ. Proc. rule 5(b)]** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as follows, for collection and mailing at Morrison & Foerster LLP, 555 West Fifth Street, Los Angeles, California 90013-1024 in accordance with Morrison & Foerster LLP's ordinary business practices.

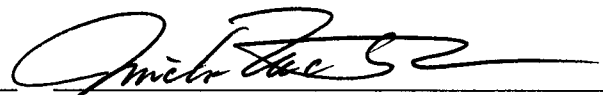
I am readily familiar with Morrison & Foerster LLP's practice for collection and processing of correspondence for mailing with the United States Postal Service, and know that in the ordinary course of Morrison & Foerster LLP's business practice the document(s) described above will be deposited with the United States Postal Service on the same date that it (they) is (are) placed at Morrison & Foerster LLP with postage thereon fully prepaid for collection and mailing.

SEE ATTACHED SERVICE LIST.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Los Angeles, California, this 19th day of October 2009.

Michiko Tachikawa  
(typed)

  
(signature)

Service List

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