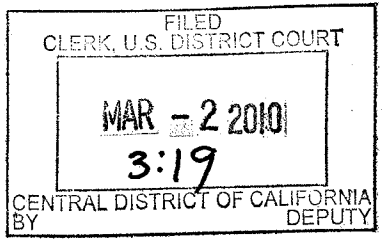


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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 DAVID A. GILL, solely in his capacity as
Permanent Receiver in the matter of
12 *Securities and Exchange Commission vs.*
Diversified Lending Group, Inc.; Applied
13 *Equities, Inc.; Bruce Friedman and Tina*
M. Placourakis, U.S.D.C. Case No.
14 CV 09-01533-R-SS,

Case No. **CV 10-01552-mm**
(PCA)

**COMPLAINT TO AVOID AND
RECOVER FRAUDULENT
TRANSFERS, FOR UNJUST
ENRICHMENT, CONSTRUCTIVE
TRUST AND EQUITABLE LIEN**

15 Plaintiff,

16 vs.

17 WENDY ANN MEHLMAN, an
individual; GARY FRIEDMAN, an
18 individual; WORLDWIDE FINANCIAL
INVESTMENTS, INC., a California
19 corporation; DARYN I. FRIEDMAN, an
individual; DOROTHY FRIEDMAN, an
20 individual; SHAWNA ARIELLE
FRIEDMAN, an individual; KARRY S.
21 FRIEDMAN aka KARRY S. LIKER, an
individual; STEPHANIE MEHLMAN, an
22 individual; KELLY P. MEHLMAN, an
individual; JULIE SITOMER aka JULIE
23 MEHLMAN, an individual; and ROBERT
G. SITOMER, an individual.

24 Defendants.

25
26
27 David A. Gill, the duly appointed Permanent Receiver (the "Receiver") for
28 Diversified Lending Group, Inc. ("DLG"), Applied Equities, Inc. ("AEI"), and their

1 subsidiaries and affiliates, including but not limited to MMHIM, Inc., DLG
2 International, a Panamanian company, and SunWest Bottlers, LLC (collectively
3 hereinafter referred to as the "Receivership Defendants"), for his complaint against
4 Defendants named herein, alleges:

5 INTRODUCTION

6 This lawsuit is about a fraudulent Ponzi scheme run by the Receivership
7 Defendants and Defendant Bruce F. Friedman ("Friedman"). Pursuant to the
8 scheme, over \$227,000,000 was solicited from and deposited by investors believing
9 they were investing in a program designed to preserve their principal investment and
10 generate guaranteed 9% or 12% returns on their principal. Friedman and the
11 Receivership Defendants represented that the returns would be generated from
12 DLG's underlying business operations of investing in income producing "scratch and
13 dent" real properties.

14 In fact, Friedman diverted over \$57,000,000 of those investor funds for his
15 own personal use or for gifts to family members. Friedman and the Receivership
16 Defendants also used over \$37,800,000 of those investor funds to pay fictitious
17 returns to earlier investors. None of the investor funds was used to invest in income
18 producing "scratch and dent" real properties as was represented by Friedman and the
19 Receivership Defendants.

20 The Defendants named herein are family members of Friedman who received
21 transfers of cash and gifts from Friedman from his ill-gotten gains obtained through
22 fraud in connection with the Ponzi scheme. This complaint seeks to recover those
23 gifts paid to Friedman's family members.

24 PARTIES, JURISDICTION AND VENUE

25
26 1. David A. Gill is the duly appointed Permanent Receiver for DLG, AEI,
27 and their subsidiaries and affiliates, including but not limited to MMHIM, Inc., DLG
28 International, a Panamanian company, and SunWest Bottlers, LLC.

1 2. Defendant Wendy Ann Mehlman is an individual residing in the state of
2 California. The Receiver is informed and believes, and based thereon alleges that
3 Defendant Wendy Ann Mehlman was the wife of Friedman.

4 3. Defendant Gary Friedman is an individual residing in the state of
5 California and is the brother of Friedman.

6 4. Defendant Worldwide Financial Investments, Inc. ("Worldwide") is a
7 California corporation. Defendant Gary Friedman is the Chief Executive Officer of
8 Worldwide.

9 5. Defendant Daryn I. Friedman is an individual residing in the state of
10 California and is the son of Friedman.

11 6. Defendant Karry S. Friedman aka Karry S. Liker is an individual
12 residing in the state of California. The Receiver is informed and believes, and based
13 thereon alleges that Defendant Karry S. Friedman aka Karry S. Liker is the wife of
14 Defendant Daryn I. Friedman.

15 7. Defendant Dorothy Friedman is an individual residing in the state of
16 California and is the mother of Friedman.

17 8. Defendant Shawna Arielle Friedman is an individual residing in the
18 state of California and is the daughter of Friedman.

19 9. Defendant Stephanie Mehlman is an individual residing in the state of
20 California. The Receiver is informed and believes, and based thereon alleges that
21 Defendant Stephanie Mehlman is the former step-daughter of Friedman.

22 10. Defendant Kelly P. Mehlman is an individual residing in the state of
23 California. The Receiver is informed and believes, and based thereon alleges that
24 Defendant Kelly P. Mehlman is the former step-daughter of Friedman.

25 11. Defendant Julie Sitomer aka Julie Mehlman is an individual residing in
26 the state of California. The Receiver is informed and believes, and based thereon
27 alleges that Defendant Julie Sitomer aka Julie Mehlman is the former step-daughter
28 of Friedman and that she is married to Defendant Robert G. Sitomer.

1 and for orders: (1) freezing assets, (2) appointing a temporary receiver, (3)
2 prohibiting the destruction of documents, (4) granting expedited discovery, and (5)
3 requiring accountings, and for an order to show cause re preliminary injunction and
4 appointment of a permanent receiver.

5 18. On March 4, 2009, this Court granted the TRO Application and, among
6 other things, appointed David A. Gill as Temporary Receiver. Mr. Gill received the
7 Temporary Restraining Order appointing him as Temporary Receiver early on March
8 5, 2009, and, within the hour, with his counsel, accountants and field personnel, took
9 possession of the assets of DLG and AEI known to him. The order was amended and
10 superseded by two additional orders of the Court. One, entered on March 10, 2009,
11 appointed Mr. Gill as Permanent Receiver and another, entered on or about March
12 31, 2009, clarified the earlier orders by specifically naming certain wholly owned
13 subsidiaries and their assets as subject to administration in the receivership.

14
15 **B. The Ponzi Scheme**

16 19. DLG was formed on May 18, 2004 by Friedman, but the Receivership
17 Defendants represented that the business had been conducted by Friedman since
18 about 1983.

19 20. Friedman was convicted of grand theft in 1981 and was incarcerated for
20 about 23 months. Friedman also filed for personal bankruptcy in April 1993, and
21 received a discharge. In 2000, the United States Attorney for the Southern District of
22 New York filed a criminal complaint against Friedman alleging that he had
23 committed wire fraud, which was dismissed.

24 21. Friedman, the Receivership Defendants and certain insiders knew of
25 Friedman's prior criminal conviction, bankruptcy filing, and wire fraud allegations,
26 but concealed these facts from the investors.

27 22. On or about December 16, 2008, with the assistance of the law firm of
28 Kirkland & Ellis, DLG sent a letter from Friedman to the DLG investors advising

1 them of his criminal conviction, personal bankruptcy filing, and the wire fraud
2 allegations. A copy of the December 16, 2008 letter that DLG sent from Friedman is
3 attached hereto as Exhibit "1."

4 23. The Receivership Defendants, Friedman, certain insiders and certain
5 sales people solicited and obtained approximately \$227,844,000 million of investor
6 deposits between 2004 and March 4, 2009 (the "Investor Funds"), from the investors
7 in DLG (the "DLG investors").

8 24. DLG, through its employees, officers, insiders, and sales people, was
9 run as a classic Ponzi scheme throughout its existence up until the time of the
10 appointment of the Receiver on March 4, 2009. DLG, either directly or through the
11 actions of its employees, insiders and sales people, solicited investments from
12 individuals and trusts, offering them above-market guaranteed or insured rates of
13 return, and representing to them that their funds would be used in the operation of
14 DLG's business of investing in income producing "scratch and dent" real estate
15 properties.

16 25. DLG, through its employees, officers, insiders, and sales people,
17 represented to its investors that its business operations consisted of the "acquisition
18 and operation of income producing property, insurance and financial service
19 brokerage business and private investment pools." DLG further represented to its
20 investors that DLG and its subsidiaries "engaged in asset management, real estate
21 lending and other financial services."

22 26. DLG, through its employees, officers, sales people and others, further
23 represented that its programs were safe and falsely assured investors that their
24 investments were secure. In marketing and selling its investment product, DLG,
25 through its employees, officers and sales people, repeatedly touted the program's
26 safety and security and consistent high returns on its investment portfolio.

27 27. DLG and its officers, employees, sales people and others prepared and
28 delivered to DLG investors a monthly Investor Information Sheet containing an

1 "Investment Overview" which stated that DLG's "investment philosophy is built on
2 the following three pillars:

- 3 i. Preservation of our investors' capital
- 4 ii. Delivering absolute returns
- 5 iii. Having lower volatility than major traditional indices.

6 To meet these objectives, Diversified Lending Group uses only investments in
7 Income Stream Real Estate. . ." A sample of one the monthly Investor Information
8 Sheets, for the month ended September 30, 2008, is attached hereto as Exhibit "2".

9 28. DLG and its insiders and employees further provided financial
10 statements to interested investors and others which were materially false.

11 29. Contrary to the representations of the Receivership Defendants and its
12 insiders, employees and others regarding the alleged portfolio of real property, DLG
13 did not use any of the Investor Funds to purchase any income producing "scratch and
14 dent" real properties. In fact, DLG did not purchase any such property at any time.

15 30. Instead, significant portions of the Investor Funds were misappropriated
16 by DLG and Friedman and were either placed in speculative investments (many of
17 them illiquid, such as private loan and equity deals), diverted to Friedman and other
18 DLG insiders, and used to finance Friedman's lavish lifestyle (e.g., jet planes,
19 vacation homes, luxury cars, travel, gambling, company credit card, etc.). Friedman
20 also made loans and gifts to family and friends totaling over \$10 million.

21 31. DLG also paid over \$37,833,000 of the Investor Funds to certain DLG
22 investors as fictitious returns on their investments, in order to lull them and other
23 investors into making further investments.

24 32. DLG, AEI and others represented that AEI was DLG's "Investment
25 Servicing Division".

26 33. DLG, either directly or through its officers, employees, sales people and
27 others, offered two investment options to the DLG investors.
28

1 34. One option offered the DLG investors a promissory note bearing a 12%
2 interest rate with a corporate guarantee of both the principal and the promised
3 interest. DLG represented that investors placing their money in the 12% investment
4 program (the "12% Program") would receive a securitized note and would receive a
5 guaranteed annual return of 12%. The corporate guaranty was illusory because it
6 was from DLG. These notes bore maturities of 1 or 5 years.

7 35. The second investment option offered the DLG investors a promissory
8 note bearing a 9% interest rate, with an endorsement that the principal amount of the
9 investment "will be insured by a AA rated or better insurance company" (the "9%
10 Program"). In some instances, it was specifically represented that the principal was
11 insured by Jackson National or American National Insurance Company.

12 36. The 9% Program provided that the investors in that program would
13 receive a collateral assignment of annuities issued by Jackson National in which
14 DLG was the owner (the "Collateral Assignments"). DLG's marketing materials
15 explained that the reinsurance of the principal amount was to be accomplished by the
16 Collateral Assignments.

17 37. In order to provide the Collateral Assignments, DLG would purchase an
18 annuity at Jackson National through Diane Marie Cano ("Cano"), an officer of AEI
19 and an agent of Jackson National, and Cano would then prepare a collateral
20 assignment of the annuity to the investor who had invested in the 9% Program.

21 38. Although it was represented to the DLG investors in the 9% Program
22 that their principal investment would be 100% secured by the Collateral Assignment,
23 in most instances the annuity that was purchased by DLG through Cano was only
24 funded in an amount of 10% of the principal amount invested, not 100%. Friedman,
25 Cano and others knew that the annuities were funded with only 10% of the principal
26 amount of investments, and Friedman and Cano also knew that DLG was
27 representing that the principal amounts were fully reinsured by Jackson National.

28

1 Cano was responsible for preparing the Collateral Assignments on Jackson National
2 forms.

3 39. In order to entice investors to invest in the 9% Program and the 12%
4 Program, DLG disseminated information circulars to prospective investors. For
5 example, an Information Circular dated July 2007, represented, among other things,
6 that DLG had assets of \$501,242,761 as of December 31, 2005, and assets of
7 \$571,679,792 as of December 31, 2006. The July 2007 Information Circular further
8 stated that DLG had revenue of \$161,786,242 as of December 31, 2005, and revenue
9 of \$197,105,784 as of December 31, 2006. A copy of the July 2007 Information
10 Circular is attached hereto as Exhibit "3".

11 40. In 2008, DLG retained Kirkland & Ellis to prepare a private placement
12 memorandum so that the notes could be sold under an exemption to the securities
13 laws.

14 41. DLG disseminated a Private Placement Memorandum dated October 1,
15 2008 (the "October 2008 PPM"), which contained false financial statements. A copy
16 of the October 2008 PPM is attached hereto as Exhibit "4". The October 2008 PPM
17 misrepresented, among other things, that DLG had \$501,242,761 in assets under
18 management as of December 31, 2005, \$571,679,792 in assets under management as
19 of December 31, 2006, and \$655,463,336 in assets under management as of
20 December 31, 2007. DLG did not have assets worth anywhere near these amounts in
21 2005, 2006 and 2007, or at any time. The October 2008 PPM also misrepresented
22 that DLG had revenue of \$161,786,242 as of December 31, 2005, \$197,105,784 of
23 revenue as of December 31, 2006, and revenue of \$268,982,326 as of December 31,
24 2007. DLG never had revenue anywhere near the represented sums.

25 42. The October 2008 PPM did not disclose Friedman's prior criminal
26 felony conviction, or his bankruptcy, or the wire fraud charges.

27 43. On or about December 16, 2008, as described above, DLG sent a letter
28 from Friedman to the DLG investors disclosing for the first time that Friedman had

1 served approximately two years in prison on a conviction for grand theft of personal
2 property, that he had filed for personal bankruptcy in April 1993, and that a criminal
3 complaint had been filed against him in 2000 for wire fraud, which complaint was
4 subsequently dismissed.

5 44. DLG provided statements to DLG investors on a quarterly basis. The
6 statements contained reports that the value of their accounts was increasing and
7 reflected false profits.

8 45. During the scheme, some DLG investors requested distributions of their
9 profits identified on statements sent to them, which were in reality fictitious profits.
10 DLG had dissipated the investors' principal and had not made any profits. However,
11 in order to conceal the ongoing fraud and in order to bolster the false representations
12 of profits, DLG paid to certain investors the amounts of fictitious profits reflected in
13 the falsified statements, including both the dissipated principal and fictitious profits.

14 46. Between 2004 and March 4, 2009, DLG paid at least \$37,833,000 of the
15 Investor Funds obtained from new investments made in DLG to earlier investors as
16 fictitious profits. Virtually none of the funds paid back to investors were funds
17 obtained from legitimate business operations of DLG, and none of those funds were
18 from revenues from income producing properties.

19 47. Some of the DLG investors who received payments of fictitious profits
20 or return of principal later re-invested funds with DLG.

21 48. DLG used funds deposited by new investors and new investments from
22 existing customers to continue operations and to make distributions to earlier
23 investors or to make other transfers. Since new funds were used to pay requests for
24 distributions to older investors, DLG did not have sufficient funds from income to
25 repay the principal amounts due to the new investors. DLG was only able to
26 continue operations by using the principal invested by new investors to pay the old
27 investors.

28

1 49. The money obtained from new investments was used to keep the
2 operation going, and to enrich Friedman, the insiders of the Receivership Defendants
3 and Friedman's family members named herein. Friedman, with the substantial
4 assistance of others, was able to maintain the fraud, attracting millions of dollars of
5 investments and then paying off older investors with new monies that he fraudulently
6 obtained from new investors.

7 50. For all relevant time periods, DLG operated its business as a Ponzi
8 scheme and concealed the ongoing fraud in an effort to hinder, delay and defraud its
9 current and prospective investors and other creditors from discovering the fraud.

10 51. DLG used registered brokers, unregistered sales people and insurance
11 agents ("Sales People") to solicit new investor funds in furtherance of the fraudulent
12 scheme, whereby DLG would use new investor funds to pay promised returns to
13 earlier investors. Over a six-year period, these Sales People received commissions
14 ranging in amounts up to over \$1.7 million each, to promote the sales of DLG's
15 investment products. Collectively, these Sales People and others received more than
16 \$16 million in commissions and other compensation paid from the Investor Funds
17 during that period.

18 52. Commissions paid to Sales People in connection with the fraudulent
19 Ponzi scheme described above were transferred by DLG solely for the purpose of
20 concealing and perpetuating the fraudulent scheme. The commissions were not paid
21 from legitimate investment returns or returns of principal but were paid from funds
22 supplied by other investors who invested new funds after the earlier investors had
23 invested their funds. The Sales People did not perform services (or performed only
24 services that were in furtherance of the fraudulent scheme) in exchange for these
25 payments.

26 53. The notes sold by DLG were securities. Until at least September 15,
27 2008, all sales were illegal. The Sales People were paid commissions for the sales of
28 unregistered securities not subject to any exemption.

1 54. The Receiver is in the possession of a letter dated March 12, 2007 on
2 the letterhead of Caceres & Shamash, LLP, with the purported signature of Charles
3 Shamash. A copy of the letter is attached as Exhibit "5". The letter essentially
4 advises that Diversified was not selling securities when it conducted its program of
5 selling 9% and 12% secured investment notes through the 9% Program and the 12%
6 Program.

7 55. Shamash denies ever providing this letter or issuing any securities
8 opinion. Shamash further denies that the signature is genuine, and further asserts that
9 it is a forgery. Caceres & Shamash, LLP and Shamash deny that they ever provided
10 legal services to DLG, although they did receive commissions on certain loan
11 transactions. Friedman has refused to confirm or deny that this letter is a forgery.

12 56. The Receiver has uncovered evidence that Friedman used this letter to
13 advise investors and others that the 9% and 12% secured investment notes sold by
14 DLG through the 9% Program and the 12% Program were not securities and that
15 Diversified had the opinion of an attorney, Charles Shamash, to that effect.

16 57. The Ponzi scheme collapsed when the requests for withdrawals
17 exceeded the flow of new investments which was a result of, among other things:
18 Friedman disclosed by letter to DLG investors that he was a convicted felon and had
19 previously filed bankruptcy, thereby significantly slowing down the inflow of new
20 investor funds; new investor funds were hard to attract due to the collapse of the
21 financial markets in 2008; and DLG was the subject of securities fraud investigations
22 in at least three states.

23 58. At all relevant times herein, the liabilities of DLG were significantly
24 greater than the assets of DLG.

25 59. At all relevant times herein, DLG was insolvent in that (i) its assets were
26 worth less than the value of its liabilities; (ii) it could not meet its obligations as they
27 came due; and (iii) at the time of the transfers, it was left with insufficient capital.

28

1 **C. Facts Relating to Ponzi Proceeds Taken By Bruce Friedman**

2 60. During all relevant times herein, Friedman was considered a successful
3 businessman. However, Friedman operated a Ponzi scheme by using DLG and its
4 false investment program in order to generate over \$227,844,000 in investor funds,
5 much of which he used to fund his lavish lifestyle and his pet projects, often
6 involving family members and friends.

7 61. During the years 2004 through 2009, Friedman withdrew cash from
8 DLG in the amount of at least \$943,831.

9 62. Friedman paid personal credit card bills of himself and a woman
10 sometimes identified as his wife, Wendy Mehlman, in the amount of at least
11 \$830,491.

12 63. Friedman purchased jewelry for himself and family members using
13 DLG Ponzi proceeds in the amount of at least \$1,480,509.67.

14 64. Friedman purchased numerous vehicles for himself and his family
15 members using DLG Ponzi proceeds in the amount of at least \$1,418,739.75.

16 65. Friedman used at least \$530,000.69 of DLG Ponzi proceeds to shop for
17 himself and buy gifts for others.

18 66. Friedman purchased artwork for himself and family members using
19 DLG Ponzi proceeds in the amount of at least \$76,036.64.

20 67. Friedman spent at least \$1,244,353.25 of DLG Ponzi proceeds for hotels
21 and gambling losses at casinos.

22 68. Friedman spent at least \$538,131.24 of DLG Ponzi proceeds for travel.

23 69. Friedman spent at least \$681,357.26 of DLG Ponzi proceeds for food
24 and entertainment for himself and his family and friends.

25 70. Friedman purchased interests or leases in airplanes for his and his
26 family and friends' private use using DLG Ponzi proceeds in the amount of at least
27 \$8,893,737.39.

28

1 71. Friedman used at least \$4,876,078.64 of DLG Ponzi proceeds to make
2 charitable contributions to various organizations.

3 72. Friedman used at least \$610,206.27 of DLG Ponzi proceeds for personal
4 expenses and another \$396,069.24 of DLG Ponzi proceeds were used for unknown
5 purposes.

6 73. Friedman used at least \$1,089,828 of DLG Ponzi proceeds to pay
7 premiums for his own personal life insurance policies.

8 74. DLG acquired a house in the name of MMHIM, Inc., a subsidiary of
9 DLG, located at 31610 Broad Beach, Malibu, California which was purchased and
10 improved using DLG Ponzi proceeds in the amount of at least \$8,460,699.40. The
11 Receiver is informed and believes Friedman intended to live in the house.

12 75. DLG acquired a house in the name of MMHIM, Inc., located at 127
13 North Mountain Rd., Montclair, New Jersey, which was purchased using DLG Ponzi
14 proceeds in the amount of at least \$668,311.14.

15 76. Friedman owned a house in his own name located at 174 Upper
16 Mountain Ave., Montclair, New Jersey, which he purchased using DLG Ponzi
17 proceeds in the amount of at least \$2,945,845.29.

18 77. Friedman owned a 50% interest in 55 Edgemere LLC, which owned the
19 residential property located at 55 Edgemere, Greenwood Lake, New York, which he
20 purchased and improved using DLG Ponzi proceeds in the amount of at least
21 \$634,564.18.

22 78. Friedman had an agreement regarding ownership in a condominium in
23 Cancun, Mexico, which he purchased and furnished using DLG Ponzi proceeds in
24 the amount of at least \$328,500.

25 79. Friedman made an unsecured loan of \$6 million of DLG Ponzi proceeds
26 to his cousin, Mark Friedman.

27

28

1 80. Friedman made an unsecured loan to a friend, Robert Fields, of
2 \$250,000 using DLG Ponzi proceeds and then advised Fields that he need not pay
3 back the loan.

4 81. Friedman paid \$4.3 million of DLG Ponzi proceeds in an undocumented
5 transaction to Wind Options, LLC, a company in which his brother, Gary Friedman,
6 owns an interest and made other payments for the benefit of Wind Options and Gary
7 Friedman bringing the total paid to or for the benefit of this business to at least
8 \$5,503,415.

9 82. Friedman used at least \$1.3 million of DLG Ponzi proceeds to fund the
10 purchase of a house in the name of the Chief Financial Officer of DLG and friend,
11 Karen O'Callaghan. O'Callaghan subsequently refinanced the house and pulled out
12 \$500,000 of equity, the use of which she has concealed.

13 83. Friedman used at least \$1.3 million of DLG Ponzi proceeds to fund the
14 purchase of a house in the name of his assistant and friend, Kevin Keller.

15 84. Friedman used \$310,480 of DLG Ponzi proceeds to fund part of the
16 purchase of a house in the name of Kevin Mehlman. The Receiver is informed and
17 believes, and based thereon alleges that Kevin Mehlman is Friedman's former step-
18 son.

19 85. Friedman used \$325,772 of DLG Ponzi proceeds to fund part of the
20 purchase of a house in the name of his daughter, Shawna Friedman.

21 86. Friedman used \$471,314 of DLG Ponzi proceeds to fund part of the
22 purchase of a house in the name of Julie Sitomer, aka Julie Melhman, and her
23 husband. The Receiver is informed and believes, and based thereon alleges that Julie
24 Sitomer, aka Julie Melhman is Friedman's former step-daughter.

25 87. DLG transferred to Michael G. Kaplan at least \$500,000.00 on or about
26 April 9, 2008, and \$50,000 on or about April 10, 2007. Michael G. Kaplan is the
27 brother of Defendant Wendy Ann Mehlman.

28

1 **B. The Transfer of Funds.**

2 88. The Receiver is informed and believes, and on that basis alleges that
3 DLG transferred to Defendant Wendy Ann Mehlman at least (a) \$162,594 between
4 November 2004 and January 2009; (b) \$736,933.72 as payment on credit card bills
5 for the benefit of Defendant Wendy Ann Mehlman between December 2004 and
6 February 2009; and (c) cars, jewelry and or other property paid for by DLG in an
7 amount to be determined at the time of trial (collectively hereinafter referred to as the
8 "Wendy Mehlman Transfers"). A listing of each individual cash transfer of the
9 Wendy Mehlman Transfers is attached hereto as Exhibit "6."

10 89. The Receiver is informed and believes, and on that basis alleges that
11 between December 2004 and February 2009, DLG transferred to Defendant Gary
12 Friedman at least \$362,880 and that Gary Friedman received an ownership interest in
13 Wind Options, LLC which was paid for by DLG (the "Gary Friedman Transfers").
14 A listing of each individual transfer comprising the Gary Friedman Transfers is
15 attached hereto as Exhibit "7."

16 90. The Receiver is informed and believes, and on that basis alleges that
17 between November 2004 and September 2005, DLG transferred to Defendant
18 Worldwide at least \$94,800 (the "Worldwide Transfers"). A listing of each
19 individual transfer comprising the Worldwide Transfers is attached hereto as Exhibit
20 "8."

21 91. The Receiver is informed and believes, and on that basis alleges that
22 DLG transferred to Defendant Daryn I. Friedman at least: (a) \$302,788.68 between
23 December 2004 and January 2009 as unreported pay; (b) \$166,328.94 between
24 February 2006 and February 2009 as reported pay; and (c) cars, jewelry and or other
25 property paid for by DLG in an amount to be determined at the time of trial (the
26 "Daryn Friedman Transfers"). The unreported pay included a payment to Defendant
27 Daryn I. Friedman of \$150,000 in February 2008. A listing of each individual cash
28 transfer of the Daryn Friedman Transfers is attached hereto as Exhibit "9."

1 92. The Receiver is informed and believes, and on that basis alleges that
2 DLG transferred to Defendant Dorothy Friedman at least: (a) \$50,000 on or about
3 April 16, 2008; (b) \$55,000 between September 2005 and July 2007; and (c) cars,
4 jewelry and or other property paid for by DLG in an amount to be determined at the
5 time of trial (the "Dorothy Friedman Transfers"). A listing of each individual cash
6 transfer of the Dorothy Friedman Transfers is attached hereto as Exhibit "10."

7 93. The Receiver is informed and believes, and on that basis alleges that
8 DLG transferred to Defendant Shawna Arielle Friedman at least: (a) \$28,750
9 between December 2005 and March 2008; and (b) cars, jewelry and or other property
10 paid for by DLG in an amount to be determined at the time of trial (the "Shawna
11 Friedman Transfers"). A listing of each individual cash transfer of the Shawna
12 Friedman Transfers is attached hereto as Exhibit "11." DLG also transferred
13 \$325,772 to purchase a home in Shawna Friedman's name, which is the subject of a
14 separate proceeding pending at this time.

15 94. The Receiver is informed and believes, and on that basis alleges that
16 DLG transferred to Defendant Kelly P. Mehlman at least: \$90,220 between February
17 7, 2006 and February 4, 2008; and (b) cars, jewelry and or other property paid for by
18 DLG in an amount to be determined at the time of trial (the "Kelly Mehlman
19 Transfers"). A listing of each individual cash transfer of the Kelly Mehlman
20 Transfers is attached hereto as Exhibit "12."

21 95. The Receiver is informed and believes, and on that basis alleges that
22 DLG transferred to Defendant Karry S. Friedman aka Karry S. Liker: (a) \$50,000 in
23 2008; and (b) cars, jewelry and or other property paid for by DLG in an amount to be
24 determined at the time of trial (the "Liker Transfers"). A listing of each individual
25 cash transfer of the Liker Transfers is attached hereto as Exhibit "13."

26 96. The Receiver is informed and believes, and on that basis alleges that
27 DLG transferred to Defendant Stephanie Mehlman at least: (a) \$7,500 on or about
28 November 30, 2006; and (b) cars, jewelry and or other property paid for by DLG in

1 an amount to be determined at the time of trial (the "Stephanie Mehlman Transfers").
2 A listing of each individual cash transfer of the Stephanie Mehlman Transfers is
3 attached hereto as Exhibit "14."

4 97. The Receiver is informed and believes, and on that basis alleges that
5 DLG transferred to Defendants Julie Sitomer aka Julie Mehlman and Robert G.
6 Sitomer (collectively, the "Sitomers") at least: (a) \$22,000 in 2008; (b) \$187,894.87
7 between September 2004 and February 2009; (c) \$130,599.00 as payments made to
8 California Pools for the benefit of the Sitomers; and (d) cars, jewelry and or other
9 property paid for by DLG in an amount to be determined at the time of trial (the
10 "Sitomer Transfers"). A listing of each individual cash transfer of the Sitomer
11 Transfers is attached hereto as Exhibit "15." DLG also transferred \$471,314.00 to
12 purchase a home in Robert and Julie Sitomer's name, which is the subject of a
13 separate proceeding pending at this time.

14 98. This Complaint seeks, among other things, the return of the Wendy
15 Mehlman Transfers, the Gary Friedman Transfers, the Worldwide Transfers, the
16 Daryn Friedman Transfers, the Dorothy Friedman Transfers, the Shawna Friedman
17 Transfers, the Liker Transfers, the Stephanie Mehlman Transfers, the Kelly Mehlman
18 Transfers, and the Sitomer Transfers (collectively referred to as "the Transfers").

19 99. The Receiver is informed and believes, and on that basis alleges that
20 each of the Transfers was made from property of DLG arising from investor
21 deposits.

22 100. The Receiver is informed and believes, and on that basis alleges that the
23 Transfers were each a gift from DLG or Friedman to the Defendants.

24 101. The Receiver is informed and believes, and on that basis alleges that
25 DLG did not receive any consideration in exchange for the Transfers.

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1 **FIRST CLAIM FOR RELIEF**

2 **(For Avoidance and Recovery of Fraudulent Transfers)**

3 102. The Receiver repeats and re-alleges the allegations contained in
4 paragraphs 1 through 101, inclusive, hereof and incorporates the same herein by this
5 reference.

6 103. The Receiver is informed and believes, and based thereon alleges, that
7 the Transfers were made by DLG with the actual intent to hinder, delay, or defraud
8 one or more of its creditors.

9 104. The Receiver is entitled to avoid the Transfers pursuant to California
10 Civil Code section 3439.04(a)(1). Furthermore, under California Civil Code section
11 3439.08, the Receiver is entitled to recover from the Defendants the property
12 transferred to them, or the value of the Transfers, plus interest thereon as allowed by
13 law.

14
15 **SECOND CLAIM FOR RELIEF**

16 **(For Avoidance and Recovery of Fraudulent Transfers)**

17 105. The Receiver repeats and re-alleges the allegations contained in
18 paragraphs 1 through 101, inclusive, hereof and incorporates the same herein by this
19 reference.

20 106. The Receiver is informed and believes, and based thereon alleges, that
21 DLG made the Transfers without receiving fair consideration or reasonably
22 equivalent value in exchange.

23 107. The Receiver is informed and believes, and based thereon alleges, that
24 the Transfers occurred at a time when DLG was insolvent or that DLG became
25 insolvent as a result of the Transfers.

26 108. The Receiver is entitled to avoid the Transfers pursuant to California
27 Civil Code section 3439.05. Furthermore, under California Civil Code section
28 3439.08, the Receiver is entitled to recover from the Defendants the property

1 transferred to them or the value of the Transfers, plus interest thereon as allowed by
2 law.

3
4 **THIRD CLAIM FOR RELIEF**

5 **(For Avoidance and Recovery of Fraudulent Transfers)**

6 109. The Receiver repeats and re-alleges the allegations contained in
7 paragraphs 1 through 101, inclusive, hereof and incorporates the same herein by this
8 reference.

9 110. The Receiver is informed and believes, and based thereon alleges, that
10 when DLG made the Transfers, it was engaged in, or was about to engage in,
11 business or a transaction, for which any property remaining with DLG was
12 unreasonably small in relation to the business or transaction.

13 111. The Receiver is entitled to avoid the Transfers under California Civil
14 Code section 3439.04(a)(2). Furthermore, under California Civil Code section
15 3439.08, the Receiver is entitled to recover from the Defendant the value of the
16 Transfers plus interest thereon as allowed by law.

17
18 **FOURTH CLAIM FOR RELIEF**

19 **(For Avoidance and Recovery of Fraudulent Transfers)**

20 112. The Receiver repeats and re-alleges the allegations contained in
21 paragraphs 1 through 101, inclusive, hereof and incorporates the same herein by this
22 reference.

23 113. The Receiver is informed and believes, and based thereon alleges, that
24 when DLG made the Transfers, it had already incurred, or believed or reasonably
25 should have believed that it would incur, debts that would be beyond its ability to
26 pay as such debts matured.

27 114. The Receiver is entitled to avoid the Transfers under California Civil
28 Code section 3439.04(a)(2). Furthermore, under California Civil Code section

1 3439.08, the Receiver is entitled to recover from the Defendants the property
2 transferred to them or the value of the Transfers plus interest thereon as allowed by
3 law.

4
5 **FIFTH CLAIM FOR RELIEF**

6 **(To Avoid Unjust Enrichment)**

7 115. The Receiver repeats and re-alleges the allegations contained in
8 paragraphs 1 through 101, inclusive, hereof and incorporates the same herein by this
9 reference.

10 116. The Receiver is informed and believes, and based thereon alleges, that
11 as a result of the Transfers herein alleged, the Defendants have been unjustly
12 enriched, so that the Receiver is entitled to recover from the Defendants the property
13 transferred to them or the value of the Transfers plus interest thereon at the legal rate.

14
15 **SIXTH CLAIM FOR RELIEF**

16 **(To Impose Constructive Trust)**

17 117. The Receiver repeats and re-alleges the allegations contained in
18 paragraphs 1 through 101, inclusive, hereof and incorporates the same herein by this
19 reference.

20 118. The Receiver is informed and believes, and based thereon alleges, that
21 the Transfers by DLG to the Defendants constitute identifiable and traceable property
22 which was fraudulently transferred to the Defendants so that the Receiver is entitled
23 to, among other things, a determination that the Defendants hold such property in
24 trust for the benefit of the Receiver.

1 **FOR ALL CLAIMS FOR RELIEF:**


2 124. For interest on the sums recovered;

3 For costs of suit incurred herein; and

4 125. For all other and further relief as the Court deems just and proper.

5
6 Dated: March 2, 2010

DANNING, GILL, DIAMOND & KOLLITZ, LLP

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8 By: 
9 Kathy Bazoian Phelps
10 Attorneys for David A. Gill, Receiver
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