

IN THE SUPREME COURT OF THE STATE OF NEVADA

STATE OF NEVADA, EX REL.
COMMISSIONER OF INSURANCE,
BARBARA D. RICHARDSON, IN HER
OFFICIAL CAPACITY AS RECEIVED
FOR SPIRIT COMMERCIAL AUTO
RISK RETENTION GROUP, INC

Petitioner,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE, MARK R. DENTON,
DISTRICT JUDGE, DEPT. 13

Respondents,

And Concerning,

THOMAS MULLIGAN, an individual; CTC
TRANSPORTATION INSURANCE
SERVICES OF MISSOURI, LLC, a Missouri
Limited Liability Company; CTC
TRANSPORTATION INSURANCE
SERVICES LLC, a California Limited Liability
Company; CTC TRANSPORTATION
INSURANCE SERVICES OF HAWAII LLC,
Hawaii Limited Liability Company;
CRITERION CLAIMS SOLUTIONS OF
OMAHA, INC., a Nebraska Corporation;
PAVEL KAPELNIKOV, an individual;
CHELSEA FINANCIAL GROUP, INC., a
California Corporation; CHELSEA
FINANCIAL GROUP, INC., a Missouri
Corporation; CHELSEA FINANCIAL
GROUP, INC., a New Jersey Corporation d/b/a

Electronically Filed
Apr 01 2021 03:11 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No.:

Dist. Ct. Case No.: **A-20-809963-B**

PETITIONER'S APPENDIX

Volume I (APP0001-206)

CHELSEA PREMIUM FINANCE CORPORATION; FOURGOREAN CAPITAL, LLC, a New Jersey Limited Liability Company; KAPA MANAGEMENT CONSULTING, INC. a New Jersey Corporation; KAPA VENTURES, INC., a New Jersey Corporation; GLOBAL FORWARDING ENTERPRISES LIMITED LIABILITY COMPANY, a New Jersey Limited Liability Company; NEW TECH CAPITAL, LLC, a Delaware Limited Liability Company; LEXICON INSURANCE MANAGEMENT LLC, a North Carolina Limited Liability Company; ICAP MANAGEMENT SOLUTIONS, LLC, a Vermont Limited Liability Company; SIX ELEVEN LLC, a Missouri Limited Liability Company; 10-4 PREFERRED RISK MANAGERS INC., a Missouri Corporation; IRONJAB LLC, a New Jersey Limited Liability Company; YANINA G. KAPELNIKOV, an individual; IGOR KAPELNIKOV, an individual; QUOTE MY RIG LLC, a New Jersey Limited Liability Company; MATTHEW SIMON, an individual; DANIEL GEORGE, an individual; JOHN MALONEY, an individual; JAMES MARX, an individual; CARLOS TORRES, an individual; VIRGINIA TORRES, an individual; SCOTT McCRAE, an individual; BRENDA GUFFEY, an individual; and 195 GLUTEN FREE LLC, a New Jersey Limited Liability Company,

Real Parties in Interest,

Mark E. Ferrario, Esq., NBN 1625
Kara B. Hendricks, Esq., NBN 7743
Tami D. Cowden, Esq., NBN 8994

GREENBERG TRAURIG, LLP

10845 Griffith Peak Drive, Ste. 600
Las Vegas, Nevada 89135
Telephone (702) 792-3773
Facsimile (702) 792-9002
Attorneys for Petitioner

CHRONOLOGICAL INDEX OF PETITIONER'S APPENDIX

VOL.	PAGES	DATE FILED	DESCRIPTION
I	APP0001-79	2/6/20	Complaint
I	APP0080-120	3/27/20	Defendants Pavel Kapelnikov's, et al.'s Answer to Complaint
I	APP0121-139	4/1/20	Brenda Guffey's Answer to Complaint
I	APP0140-206	4/2/20	Defendant Daniel George's Answer to Complaint
II	APP0207-268	4/2/20	Defendant ICAP Management Solutions, LLC's Answer to Complaint
II	APP0269-282	4/2/20	Defendant James Marx's Answer to Complaint
II	APP0283-344	4/2/20	Defendant Lexicon Insurance Management, LLC's Answer to Complaint
II	APP345-380	4/15/20	Defendants Igor and Yanina Kapelnikov's Answer to Complaint
II	APP0381-394	4/17/20	Answer to Complaint on behalf of Carlos Torres and Virginia Torres
II	APP0395-408	5/13/20	Defendant John Maloney's Answer to Complaint
II	APP0409-425	5/14/20	Defendant Thomas Mulligan's Answer to Complaint
II	APP0426-451	5/14/20	Answer to Complaint filed by Defendants Six Eleven, et al.,
III	APP0452-475	5/14/20	Defendant Criterion's Motion to Compel Arbitration
III	APP0476-536	5/14/20	CTC Defendants' Motion to Compel Arbitration
III	APP0537-669	6/4/20	Appendix of Exhibits in Support of Plaintiff's Opposition to CTC Defendants' Motion to Compel Arbitration
IV	APP0670-718	6/4/20	Plaintiff's Opposition to Criterion's Motion to Compel Arbitration
IV	APP0719-751	6/4/20	Plaintiff's Opposition to CTC Defendants' Motion to Compel Arbitration
IV	APP0752-773	6/10/20	Defendant Chelsea Financial Group, Inc.'s Answer to Complaint
IV	APP0774-846	6/11/20	CTC Defendants' Reply in Support of Motion to Compel Arbitration

VOL.	PAGES	DATE FILED	DESCRIPTION
V	APP0847-994	6/11/20	Criterion Claim's Reply in Support of Motion to Compel Arbitration
V	APP0995	7/6/20	Minute Order re Criterion' Motion to Compel Arbitration
V	APP0996	7/6/20	Minute Order re CTC Defendants' Motion to Compel Arbitration
V	APP0997-1029	7/17/20	Notice of Entry of Order Granting CTC Defendants' Motion to Compel Arbitration
V	APP1030-1040	7/23/20	Notice of Entry of Order Granting Criterion's Motion to Compel Arbitration
V	APP1041-1061	7/30/20	Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding CTC Defendants' Motion to Compel Arbitration
V	APP1062-1077	8/5/20	Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VI	APP1078-1105	8/13/20	CTC Defendants' Opposition to Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding CTC Defendants' Motion to Compel Arbitration
VI	APP1106-1120	8/19/20	Criterion's Opposition to Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VI	APP1121-1138	8/24/20	Reply in Support of Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding CTC Defendants' Motion to Compel Arbitration
VI	APP1139-1159	8/25/20	Matthew Simon, Jr.'s Answer to Complaint
VI	APP1160-1180	8/25/20	Scott McCrae's Answer to Complaint
VI	APP1181-1193	8/28/20	Motion to Stay Pending Arbitration

VOL.	PAGES	DATE FILED	DESCRIPTION
VI	APP1194-1204	9/1/20	Reply in Support of Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VI	APP1205-1215	9/2/20	Joinder to Motion to Stay Pending Arbitration
VI	APP1216-1219	9/2/20	Brenda Guffy's Joinder to the "Six Eleven Defendants" Motion to Stay Pending Arbitration
VI	APP1220-1231	9/3/20	Thomas Mulligan's Joinder to Motion to Stay Pending Arbitration
VI	APP1232-1238	9/3/20	Matthew Simon Jr. and Scott McCrae's Joinder to Motion to Stay Pending Arbitration
VI	APP1239-1247	9/3/20	Defendants Pavel Kapelnikov's, et al.'s Joinder to Motion to Stay Pending Arbitration
VI	APP1248-1257	9/3/20	Lexicon Insurance Management, Daniel George and ICAP Management Solution's Joinder to Motion to Stay Pending Arbitration
VI	APP1258	9/4/20	Minute Order re Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding CTC Defendants' Motion to Compel Arbitration
VI	APP1259-1289	9/11/20	Plaintiff's Opposition to Stay Pending Arbitration and Joinders Thereto
VI	APP1290	9/14/20	Minute Order re Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VI	APP1291-1302	9/16/20	Defendants James Marx, John Maloney, et al's Reply in Support of Motion to Stay Pending Arbitration
VI	APP1303-1316	9/16/20	Notice of Entry of Order Denying Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding the CTC Defendants' Motion to Compel Arbitration

VOL.	PAGES	DATE FILED	DESCRIPTION
VII	APP1317-1327	9/16/20	Defendants Thomas Mulligan's Reply in Support of Motion to Stay Pending Arbitration
VII	APP1328-1338	9/16/20	Lexicon Insurance Management, Daniel George and ICAP Management Solution's Reply in Support of Motion to Stay Pending Arbitration
VII	APP1339-1351	9/16/20	Six Eleven Defendants' Reply in Support of Motion to Stay Pending Arbitration
VII	APP1352-1356	9/16/20	Brenda Guffy's Substantive Joinder to Thomas Mulligan's Reply in Support of Motion to Stay Pending Arbitration
VII	APP1357-1358	9/24/20	Minute Order re Hearing on Motion to Stay Pending Arbitration
VII	APP1359-1401	9/28/20	Transcript of Hearing on All Pending Motions
VII	APP1402-1410	9/29/20	Notice of Entry of Order re Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VII	APP1411	10/2/20	Minute Order re Motion to Stay
VII	APP1412-1430	11/17/20	Order Granting Motion to Stay Pending Arbitration and Joinders Thereto
VII	APP1431-1454	11/17/20	Notice of Entry of Order Granting Motion to Stay Pending Arbitration and Joinders Thereto
VII	APP1455-1466		Docket Report as of 3/31/2021

ALPHABETICAL INDEX OF PETITIONER'S APPENDIX

VOL.	PAGES	DATE FILED	DESCRIPTION
II	APP0426-451	5/14/20	Answer to Complaint filed by Defendants Six Eleven, et al.,
II	APP0381-394	4/17/20	Answer to Complaint on behalf of Carlos Torres and Virginia Torres
III	APP0537-669	6/4/20	Appendix of Exhibits in Support of Plaintiff's Opposition to CTC Defendants' Motion to Compel Arbitration
I	APP0121-139	4/1/20	Brenda Guffey's Answer to Complaint
VI	APP1216-1219	9/2/20	Brenda Guffey's Joinder to the "Six Eleven Defendants" Motion to Stay Pending Arbitration
VII	APP1352-1356	9/16/20	Brenda Guffey's Substantive Joinder to Thomas Mulligan's Reply in Support of Motion to Stay Pending Arbitration
I	APP0001-79	2/6/20	Complaint
V	APP0847-994	6/11/20	Criterion Claim's Reply in Support of Motion to Compel Arbitration
VI	APP1106-1120	8/19/20	Criterion's Opposition to Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VI	APP1078-1105	8/13/20	CTC Defendants' Opposition to Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding CTC Defendants' Motion to Compel Arbitration
III	APP0476-536	5/14/20	CTC Defendants' Motion to Compel Arbitration
IV	APP0774-846	6/11/20	CTC Defendants' Reply in Support of Motion to Compel Arbitration
IV	APP0752-773	6/10/20	Defendant Chelsea Financial Group, Inc.'s Answer to Complaint
III	APP0452-475	5/14/20	Defendant Criterion's Motion to Compel Arbitration
I	APP0140-206	4/2/20	Defendant Daniel George's Answer to Complaint
II	APP0207-268	4/2/20	Defendant ICAP Management Solutions, LLC's Answer to Complaint
II	APP0269-282	4/2/20	Defendant James Marx's Answer to Complaint

VOL.	PAGES	DATE FILED	DESCRIPTION
II	APP0395-408	5/13/20	Defendant John Maloney's Answer to Complaint
II	APP0283-344	4/2/20	Defendant Lexicon Insurance Management, LLC's Answer to Complaint
II	APP0409-425	5/14/20	Defendant Thomas Mulligan's Answer to Complaint
II	APP345-380	4/15/20	Defendants Igor and Yanina Kapelnikov's Answer to Complaint
VI	APP1291-1302	9/16/20	Defendants James Marx, John Maloney, et al's Reply in Support of Motion to Stay Pending Arbitration
I	APP0080-120	3/27/20	Defendants Pavel Kapelnikov's, et al.'s Answer to Complaint
VI	APP1239-1247	9/3/20	Defendants Pavel Kapelnikov's, et al.'s Joinder to Motion to Stay Pending Arbitration
VII	APP1317-1327	9/16/20	Defendants Thomas Mulligan's Reply in Support of Motion to Stay Pending Arbitration
VII	APP1455-1466		Docket Report
VI	APP1205-1215	9/2/20	Joinder to Motion to Stay Pending Arbitration
VI	APP1248-1257	9/3/20	Lexicon Insurance Management, Daniel George and ICAP Management Solution's Joinder to Motion to Stay Pending Arbitration
VII	APP1328-1338	9/16/20	Lexicon Insurance Management, Daniel George and ICAP Management Solution's Reply in Support of Motion to Stay Pending Arbitration
VI	APP1232-1238	9/3/20	Matthew Simon Jr. and Scott McCrae's Joinder to Motion to Stay Pending Arbitration
VI	APP1139-1159	8/25/20	Matthew Simon, Jr.'s Answer to Complaint
V	APP0995	7/6/20	Minute Order re Criterion' Motion to Compel Arbitration
V	APP0996	7/6/20	Minute Order re CTC Defendants' Motion to Compel Arbitration
VII	APP1357-1358	9/24/20	Minute Order re Hearing on Motion to Stay Pending Arbitration

VOL.	PAGES	DATE FILED	DESCRIPTION
VI	APP1258	9/4/20	Minute Order re Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding CTC Defendants' Motion to Compel Arbitration
VII	APP1411	10/2/20	Minute Order re Motion to Stay
VI	APP1290	9/14/20	Minute Order re Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VI	APP1181-1193	8/28/20	Motion to Stay Pending Arbitration
VI	APP1303-1316	9/16/20	Notice of Entry of Order Denying Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding the CTC Defendants' Motion to Compel Arbitration
V	APP1030-1040	7/23/20	Notice of Entry of Order Granting Criterion's Motion to Compel Arbitration
V	APP0997-1029	7/17/20	Notice of Entry of Order Granting CTC Defendants' Motion to Compel Arbitration
VII	APP1402-1410	9/29/20	Notice of Entry of Order re Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VII	APP1431-1454	11/17/20	Notice of Entry of Order Granting Motion to Stay Pending Arbitration and Joinders Thereto
VII	APP1412-1430	11/17/20	Order Granting Motion to Stay Pending Arbitration and Joinders Thereto
V	APP1041-1061	7/30/20	Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding CTC Defendants' Motion to Compel Arbitration
V	APP1062-1077	8/5/20	Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
IV	APP0670-718	6/4/20	Plaintiff's Opposition to Criterion's Motion to Compel Arbitration

VOL.	PAGES	DATE FILED	DESCRIPTION
IV	APP0719-751	6/4/20	Plaintiff's Opposition to CTC Defendants' Motion to Compel Arbitration
VI	APP1259-1289	9/11/20	Plaintiff's Opposition to Stay Pending Arbitration and Joinders Thereto
VI	APP1121-1138	8/24/20	Reply in Support of Motion for Reconsideration and/or Clarification of the Court's July 17, 2020 Order Regarding CTC Defendants' Motion to Compel Arbitration
VI	APP1194-1204	9/1/20	Reply in Support of Plaintiff's Motion for Reconsideration and/or Clarification of the Court's July 22, 2020 Order Regarding Criterion's Motion to Compel Arbitration
VI	APP1160-1180	8/25/20	Scott McCrae's Answer to Complaint
VII	APP1339-1351	9/16/20	Six Eleven Defendants' Reply in Support of Motion to Stay Pending Arbitration
VI	APP1220-1231	9/3/20	Thomas Mulligan's Joinder to Motion to Stay Pending Arbitration
VII	APP1359-1401	9/28/20	Transcript of Hearing on All Pending Motions

CERTIFICATE OF SERVICE

Pursuant to NRAP 25,1 certify that I am an employee of GREENBERG TRAURIG, LLP, that in accordance therewith, that on April 1, 2021, I caused a copy of *Petitioner's Appendix* to be served via U.S. Mail, first class postage prepaid, and via the 8th Judicial District Court's e-service system, upon the below identified Real Parties:

<p>William R. Urga, Esq. David J. Malley, Esq. Michael R. Ernst, Esq. Jolley Urga Woodbury & Holthus 330 S. Rampart Blvd., Suite 380 Las Vegas, Nevada 89145 wru@juwlaw.com; djm@juwlaw.com; mre@juwlaw.com</p> <p><i>Attorneys for Real Parties in Interest Thomas Mulligan</i></p>	<p>Matthew T. Dushoff, Esq. Jordan D. Wolff, Esq. Satzman Mugan Dushoff 1835 Village Center Circle Las Vegas, Nevada 89134 Mdushoff@nvbusinesslaw.com jwolff@nvbusinesslaw.com</p> <p><i>Attorneys for Real Parties in Interest CTC Transportation Insurance Services of Missouri, LLC, CTC Transportation Insurance Services, LLC and CTC Transportation Services of Hawaii, LLC</i></p>
<p>John R. Bailey, Esq. Joshua M. Dickey, Esq. Rebecca L. Crooker, Esq. Bailey Kennedy 8984 Spanish Ridge Avenue Las Vegas, Nevada 89148 JBailey@BaileyKennedy.com JDickey@BaileyKennedy.com RCrooker@BaileyKennedy.com</p> <p><i>Attorneys for Real Parties in Interest Criterion Claim Solutions of Omaha, Inc.</i></p>	

<p>Thomas E. McGrath, Esq. Russell D. Christian, Esq. Tyson & Mendes LLP 3960 Howard Hughes Parkway, #600 Las Vegas, Nevada 89169 tmcgrath@tysonmendes.com rchristian@tysonmendes.com</p> <p><i>Attorneys for Real Parties in Interest Attorneys for Defendants Pavel Kapelnikov; Chelsea Financial Group, Inc. a California corporation; Chelsea Financial Group, Inc. a New Jersey corporation; Global Forwarding Enterprises, LLC; Kapa Management Consulting, Inc.; Kapa Ventures, Inc.; and Igor and Yanina Kapelnikov</i></p>	<p>L. Christopher Rose, Esq. Kirill V. Mikhaylov, Esq. William A. Gonzales, Esq. HOWARD & HOWARD ATTORNEYS PLLC 3800 Howard Hughes Parkway, #1000 lcr@h2law.com; kvm@h2law.com wag@h2law.com</p> <p><i>Attorneys for Defendants Six Eleven LLC; Quote My Rig, LLC; New Tech Capital LLC; 195 Gluten Free LLC; 10- 4 Preferred Risk Managers, Inc.; Ironjab, LLC; Fourgorean Capital LLC; Chelsea Financial Group, Inc. a Missouri corporation</i></p>
<p>Robert S. Larsen, Esq. Wing Yan Wong, Esq. Gordon Rees Scully Mansukhani, LLP 300 South Fourth Street, Suite 1550 Las Vegas, Nevada 89101 rlarsen@grsm.com wwong@grsm.com</p> <p><i>Attorneys for Real Parties in Interest Lexicon Insurance Management LLC, Daniel George and ICAP Management Solutions, LLC</i></p>	<p>Tamara Beatty Peterson, Esq. Nikki L. Baker, Esq. David E. Astur, Esq. Peterson Baker, PLLC 701 S. 7th Street Las Vegas, Nevada 89101 tpeterson@petersonbaker.com nbaker@petersonbaker.com dastur@petersonbaker.com</p> <p><i>Attorneys for Real Parties in Interest Matthew Simon Jr. and Scott McCrae</i></p>

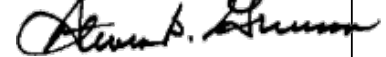
<p>Sheri M. Thome, Esq. Rachel L. Wise, Esq. Wilson, Elser, Moskowitz, Edelman & Dicker LLP 6689 Las Vegas Blvd., Suite 200 Las Vegas, Nevada 89119 Sheri.Thome@wilsonelser.com Rachel.Wise@wilsonelser.com</p> <p><i>Attorneys for Real Parties in Interest Attorneys for Defendant James Marx, John Maloney, Virginia Torres, and Carlos Torres</i></p>	<p>Kurt R. Bonds, Esq. Trevor R. Waite, Esq. Alverson Taylor & Sanders 6605 Grand Montecito Pkwy, Ste 200 Las Vegas, Nevada 89149 efile@alversontaylor.com</p> <p><i>Attorneys for Real Parties in Interest Brenda Guffey</i></p>
--	--

With a courtesy copy to

Judge Mark R. Denton
Eighth Judicial District Court
Clark County, Nevada
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

via email on April 1, 2021 to Dept13lc@clarkcountycourts.us

/s/ Andrea Lee Rosehill
An Employee of Greenberg Traurig LLP



CASE NO: A-20-809963-C
Department 8

COMPB

MARK E. FERRARIO, Bar No. 1625
KARA B. HENDRICKS, Bar No. 7743
KYLE A. EWING, Bar No. 14051
GREENBERG TRAURIG, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Telephone: (702) 792-3773
Facsimile: (702) 792-9002
Email: ferrariom@gtlaw.com
hendricksk@gtlaw.com
ewingk@gtlaw.com

Attorneys for the Plaintiff

**IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
CLARK COUNTY, NEVADA**

BARBARA D. RICHARDSON IN HER CAPACITY
AS THE STATUTORY RECEIVER FOR SPIRIT
COMMERCIAL AUTO RISK RETENTION
GROUP, INC.,

Plaintiff

vs.

THOMAS MULLIGAN, an individual; CTC
TRANSPORTATION INSURANCE SERVICES OF
MISSOURI, LLC, a Missouri Limited Liability
Company; CTC TRANSPORTATION INSURANCE
SERVICES LLC, a California Limited Liability
Company; CTC TRANSPORTATION INSURANCE
SERVICES OF HAWAII LLC, a Hawaii Limited
Liability Company; CRITERION CLAIMS
SOLUTIONS OF OMAHA, INC., a Nebraska
Corporation; PAVEL KAPELNIKOV, an individual;
CHELSEA FINANCIAL GROUP, INC., a
California Corporation; CHELSEA FINANCIAL
GROUP, INC., a Missouri Corporation; CHELSEA
FINANCIAL GROUP, INC., a New Jersey
Corporation d/b/a CHELSEA PREMIUM FINANCE
CORPORATION; CHELSEA FINANCIAL
GROUP, INC., a Delaware Corporation; CHELSEA
HOLDING COMPANY, LLC, a Nevada Limited
Liability Company; CHELSEA HOLDINGS, LLC, a

Case No.
Dept. No.

COMPLAINT

Exempt from Arbitration:
Amount in Excess of \$50,000

Business Court Assignment Requested

1 Nevada Limited Liability Company; FOURGOREAN
2 CAPITAL, LLC, a New Jersey Limited Liability
3 Company; KAPA MANAGEMENT CONSULTING,
4 INC. a New Jersey Corporation; KAPA
5 VENTURES, INC., a New Jersey Corporation;
6 GLOBAL FORWARDING ENTERPRISES
7 LIMITED LIABILITY COMPANY, a New Jersey
8 Limited Liability Company; GLOBAL CAPITAL
9 GROUP, LLC, a New Jersey Limited Liability
10 Company; GLOBAL CONSULTING; NEW TECH
11 CAPITAL, LLC, a Delaware Limited Liability
12 Company; LEXICON INSURANCE
13 MANAGEMENT LLC, a North Carolina Limited
14 Liability Company; ICAP MANAGEMENT
15 SOLUTIONS, LLC, a Vermont Limited Liability
16 Company; SIX ELEVEN LLC, a Missouri Limited
17 Liability Company; 10-4 PREFERRED RISK
18 MANAGERS INC., a Missouri Corporation;
19 IRONJAB LLC, a New Jersey Limited Liability
20 Company; YANINA G. KAPELNIKOV, an
21 individual; IGOR KAPELNIKOV, an individual;
22 QUOTE MY RIG LLC, a New Jersey Limited
23 Liability Company; MATTHEW SIMON, an
24 individual; DANIEL GEORGE, an individual; JOHN
25 MALONEY, an individual; JAMES MARX, an
26 individual; CARLOS TORRES, an individual;
27 VIRGINIA TORRES, an individual; SCOTT
28 McCRAE, an individual; BRENDA GUFFEY, an
individual; 195 GLUTEN FREE LLC, a New Jersey
Limited Liability Company, DOE INDIVIDUALS I-
X; and ROE CORPORATE ENTITIES I-X,

Defendants.

COMES NOW Plaintiff, Barbara D. Richardson in her official capacity as the Permanent Receiver of Spirit Commercial Auto Risk Retention Group, Inc., (“Plaintiff” or “Receiver”), alleges as follows against Defendants for the benefit of the Receiver and members, enrolled insureds, creditors, of Spirit Commercial Auto Risk Retention Group, Inc. (“Spirit”), by and through her attorneys, GREENBERG TRAURIG, LLP.

INTRODUCTION

1. This complaint arises out of a vast fraudulent enterprise orchestrated by Defendant Thomas Mulligan and others, by which the Defendants operated a multitude of interrelated companies in the insurance service industry for their own benefit and to the detriment of their customers and insureds, including Spirit.
2. Through a web of interrelated companies that wrote insurance policies, provided so-called financing for insureds wishing to purchase insurance, processed insurance premiums, and/or adjusted and paid insurance claims, and collected Spirit's assets (the "Mulligan Enterprise"), Mulligan and his confederates siphoned millions of dollars from Spirit.
3. While Mulligan was the primary architect of his Enterprise, Defendant Pavel Kapelnikov participated heavily in the design and implementation of the scheme and assisted with perpetuating the fraud through his ownership and control of Mulligan Enterprise entities, including a key Spirit services provider, which breached its obligations to Spirit. Mulligan and Pavel Kapelnikov used the many moving pieces of the Mulligan Enterprise to ensure that the entities they owned and controlled enjoyed preferential treatment as creditors by hiding the true and dismal financial condition of Spirit to prolong its operations while they continued to arrogate funds to themselves with a corresponding detriment to Spirit, its policy holders, and its other non-insider creditors.
4. As a result of this scheme, Spirit – an insurance company that insured trucking companies – became financially insolvent and was placed into permanent receivership and subsequently into liquidation, leaving hundreds of unpaid claims and a host of creditors. This complaint seeks to recover, on behalf of Spirit and those affected, the tens of millions of dollars that are owed to Spirit from its principal Mulligan and his cohorts and/or the companies over which he exercised interest and/or control, including companies that were contracted to provide services to Spirit that absconded with virtually all of Spirit's assets and third-party companies to which Spirit's funds were siphoned.

PARTIES AND JURISDICTION

The Plaintiff

5. Plaintiff Barbara D. Richardson is the court-appointed Permanent Receiver of Spirit and also serves

as the Insurance Commissioner for the State of Nevada, and brings this action on behalf of Spirit, Spirit's members, insured enrollees, and creditors.

6. Spirit was a Nevada corporation with its principal place of business in Las Vegas, Nevada. Spirit was an association captive insurance company organized under the laws of Nevada and the Liability Risk Retention Act of 1986.

7. Spirit received its Certificate of Authority on February 24, 2012 and operated under the authority of NRS Chapter 694C.

8. Spirit transacted commercial auto liability insurance business and specialized in serving commercial truck owners.

9. After finally being able to uncover Spirit's true financial condition and hopeless insolvency where it was unable to cure its financial deficiencies, Spirit was placed into receivership. The receivership order was entered in the Eighth Judicial District Court of Clark County, Nevada, Case No. A-19-787325 on February 27, 2019 (the "Receivership Order") and subsequently, on November 6, 2019, Spirit was placed into liquidation.

The Defendants

10. Thomas Mulligan ("Mulligan"), upon information and belief, spearheaded efforts to create the complex scheme of entities and individuals that comprise the Mulligan Enterprise and facilitated the fraudulent conveyance of funds away from Spirit and at relevant times was a manager, officer or director of Spirit; Criterion (CEO); CTC California (Chairman and CEO), CTC Hawaii, and CTC Missouri (CEO). Additionally, Mulligan served as an officer, manager, control party, or director of a multitude of other related companies including Chelsea Financial Group, Chelsea Premium Finance, Lexicon Insurance Management LLC, Whitehall, Swan & Adams Freight Forwarding, Six Eleven LLC, and Fourgorean Capital, LLC and was integrally involved in the operations of Criterion.

11. Defendant CTC Transportation Insurance Services, LLC is a California limited liability company ("CTC California"). CTC California served as Program Administrator for Spirit from 2011 to 2016, underwriting and issuing Spirit's insurance policies and is part of the Mulligan Enterprise. At

relevant times, Mulligan served as its Chairman and Chief Executive Officer.

12. Defendant CTC Transportation Insurance Services of Missouri, LLC is a Missouri limited liability company ("CTC Missouri"). CTC Missouri took over from CTC California as Program Administrator for Spirit, beginning on or about July 2016, and is affiliated with CTC California and is part of the Mulligan Enterprise. At relevant times, Mulligan served as its Chief Executive Officer.

13. Defendant CTC Transportation Insurance Services, LLC of Hawaii is a Hawaii limited liability company ("CTC Hawaii"). CTC Hawaii is affiliated with CTC California and CTC Missouri and is part of the Mulligan Enterprise. (CTC California, CTC Missouri and CTC Hawaii will be referred to collectively herein as "CTC" or the CTC Entities".)

14. Defendant Criterion Claims Solutions of Omaha, Inc. ("Criterion") was a Third-Party Administrator that provided claims administration services to Spirit and is affiliated with the CTC Entities and is part of the Mulligan Enterprise.

15. Defendant Chelsea Financial Group, Inc. is a California Corporation affiliated with Defendant Chelsea Financial Group, Inc., a foreign Corporation registered to do business in Missouri, affiliated with Defendant Chelsea Financial Group, Inc., a New Jersey Corporation, affiliated with Defendant Chelsea Financial Group, Inc., a Delaware Corporation. All of these entities have a unity of ownership, activities, purpose and finances such that it is impossible to distinguish between the same.

16. Defendant Chelsea Premium Finance Corporation is a foreign corporation registered to do business in Pennsylvania that is a part of the Mulligan Enterprise and did business with Spirit and Spirit insureds and may be a "d/b/a" for Chelsea Financial Group, Inc. Upon information and belief, Chelsea Premium Finance unlawfully and fraudulently received Spirit funds from CTC.

17. Due to the unity of ownership, activities, purpose and duties, between each Chelsea Financial Group Inc. (CA, MO, NJ and DE) and Chelsea Premium Finance the entities will be referred to herein as "Chelsea Financial".

18. Chelsea Financial was, at relevant times, a company specializing in financing insurance premiums

1 that is part of the Mulligan Enterprise and is owned and operated by Mulligan and Defendant Pavel
2 Kapelnikov and is affiliated with the CTC Entities and Criterion and was utilized to collect
3 premiums on Spirit's behalf from Spirit insureds and on behalf of other insurance companies, some
4 of which were provided to CTC. Chelsea Financial failed, however, to pay all Spirit premium and
5 financial funds owed to CTC and/or Spirit and it participated in an active scheme that led to
6 misleading insurance regulators and insureds about Spirit's true financial condition and operations.

7 19. Defendant Chelsea Holding Company, LLC, is Nevada Corporation controlled by Mulligan and,
8 on information and belief, acts as holding Company for all or some of the Chelsea Financial entities
9 identified herein.

10 20. Defendant Chelsea Holdings, LLC, is Nevada Corporation controlled by Mulligan and, on
11 information and belief, acts as a holding Company for all or some of the Chelsea Financial entities
12 identified herein.

13 21. Due to the unity of ownership, activities, purpose and duties between Chelsea Holding Company,
14 LLC, Chelsea Holdings, LLC, and the Chelsea Financial entities, references to "Chelsea Financial"
15 shall also refer to Chelsea Holding Company, LLC, and Chelsea Holdings, LLC.

16 22. Defendant Six Eleven LLC was, at relevant times, an LLC organized by Mulligan and, on
17 information and belief, used as a shell company to further Mulligan's and others' personal financial
18 interest and to appropriate money owed to Spirit.

19 23. Defendant 10-4 Preferred Risk Managers Inc. was, at relevant times, a Missouri Corporation
20 organized by Mulligan and, on information and belief, controlled and operated by Mulligan for his
21 benefit. On information and belief, 10-4 Preferred is a "sister" company to CTC that provides
22 similar services.

23 24. Defendant Ironjab, LLC, was, at relevant times, an LLC owned and/or controlled by Igor
24 Kapelnikov.

25 25. Defendant Fourgorean Capital, LLC, was, at relevant times, an LLC organized by Mulligan and
26 non-party Jose Mojica, and on information and belief, used as a shell company to further Mulligan's
27 and others' personal financial interest and to siphon money from CTC that was owed to Spirit.

- 1 26. Defendant Kapa Management Consulting Inc. was, at relevant times, a corporation founded by
2 Pavel Kapelnikov and, on information and belief, used as a shell company to further Pavel
3 Kapelnikov's and others' personal financial interests and to siphon funds from CTC that was owed
4 to Spirit.
- 5 27. Defendant Global Forwarding Enterprises Limited Liability Company was, at relevant times, a
6 purported software development company owned by Mulligan and Pavel Kapelnikov and operated
7 by Pavel Kapelnikov and his brother, Igor Kapelnikov, which was utilized to expropriate money
8 from CTC that was owed to Spirit.
- 9 28. Defendant Global Capital Group LLC was, at relevant times, a shell company formed with the
10 purpose of arrogating money from CTC that was owed to Spirit and purportedly lent CTC funds
11 (without documentation), which were apparently utilized to make payments to Defendant Lexicon
12 Insurance Management LLC.
- 13 29. Defendant New Tech Capital LLC, is a Delaware limited liability company that upon information
14 and belief was formed by Mulligan as an investment vehicle by which Spirit funds were purportedly
15 invested in companies such as Iterative Capital L.P. with no return or other consideration provided
16 to Spirit.
- 17 30. Defendant Lexicon Insurance Management LLC ("Lexicon") is a North Carolina limited liability
18 company that provides management services for insurance companies, which is owned and
19 controlled by Mulligan and Defendant Daniel George and served as Spirit's Risk Retention Group
20 Manager.
- 21 31. On information and belief, Defendant Global Consulting is a d/b/a for Defendant Global
22 Forwarding Enterprises or Defendant Global Capital Group, that upon information and belief
23 unlawfully and fraudulently received Spirit funds from CTC.
- 24 32. Defendant ICAP Management Solutions, LLC is a Vermont limited liability company that upon
25 information and belief unlawfully and fraudulently received Spirit funds from CTC, which were
26 funneled to Defendant Daniel George.
- 27 33. Defendant Yanina G. Kapelnikov ("Y. Kapelnikov"), is an individual that upon information and
28

1 belief unlawfully and fraudulently received Spirit funds from CTC at the direction of Mulligan
2 and/or Pavel Kapelnikov.

3 34. Defendant Kapa Ventures, Inc. is a New Jersey Corporation that upon information and belief
4 unlawfully and fraudulently received Spirit funds from CTC.

5 35. Defendant Quote My Rig LLC is a New Jersey limited liability company that upon information and
6 belief unlawfully and fraudulently received Spirit funds from CTC. Mulligan owned and/or
7 controlled Quote My Rig and used it as a subproducer for Spirit, from which Mulligan took
8 commissions on Spirit policies.

9 36. Defendant Matthew Simon ("Simon") was, at relevant times, President of and a director of Spirit
10 and Chief Operating Officer of CTC California. Simon has held many executive positions at CTC
11 and its many related entities. Due to Simon's holding several executive management roles at CTC
12 at relevant times, as well as his role as a director of Spirit, Simon was intimately involved in,
13 actively participated in, and was knowledgeable of "both sides of the transaction" with respect to
14 the relationship and financial interactions between CTC and Spirit. Mr. Simon also participated in
15 the unauthorized writing of insurance business by CTC on behalf of Spirit in Mexico to cover
16 Mexican insureds.

17 37. Defendant Daniel George ("George") was a director and officer of Spirit – holding the positions of
18 Treasurer and Secretary at various relevant points in time, President of Lexicon Insurance
19 Management LLC, and an Executive Vice President of CTC California, who also served as Spirit's
20 Risk Retention Group Manager by and through Lexicon Management. Dan George presided over
21 meetings of Spirit's Board of Directors as its Chair, despite on information and belief never holding
22 the title of Chairman or President. George, upon information and belief, was also responsible for
23 putting "processes" and internal controls in place at CTC, meant to ensure cash and funds received
24 from third parties were properly accounted for, recorded, handled, and distributed when held in
25 trust by CTC and owns 100% of Defendant ICAP Management Solutions. George actively
26 participated in misrepresenting financials, financial transactions, whether insureds were having
27 policies premium financed and resulting funds paid to Spirit for viable insurance, and failed to
28

1 report and disclose material and improper financial transactions that contributed to substantial
2 losses for Spirit.

3 38. Defendant John Maloney (“Maloney”) was an outside accountant for CTC and, upon information
4 and belief, was responsible for, among other things, filing its 2015, 2016, 2017, and 2018 federal
5 tax returns, in which CTC claimed significant losses. He stopped working for CTC in 2018 after
6 CTC’s expenses “went through the roof.” Maloney was also a director of Spirit at relevant times.

7 39. Defendants James Marx (“Marx”), Carlos Torres (“C. Torres”), and Virginia Torres (“V. Torres”)
8 were, at relevant times, directors of Spirit with duties and obligations to the Company and its
9 insureds.

10 40. Defendant Pavel Kapelnikov (“P. Kapelnikov”) was, at relevant times, CFO, President, and/or
11 Secretary of Chelsea Financial Group, President of Global Forwarding Enterprises, LLC and/or
12 Global Forwarding Inc., and an officer and/or director at Kapa Management Consulting and Kapa
13 Ventures and had an ownership interest in Chelsea Premium Finance. On information and belief,
14 Pavel Kapelnikov was also an officer of Global Capital Group, LLC. On information and belief,
15 Pavel Kapelnikov is also a managing member, owner, and control party of New Tech Capital, LLC.

16 41. On information and belief, Defendant Igor Kapelnikov (“I. Kapelnikov”) was, at relevant times,
17 Chief Technology Officer of CTC California, and CEO of Global Forwarding Enterprises and/or
18 Global Forwarding Inc. and upon information and belief was paid Spirit funds by CTC for purported
19 expense reimbursements for which documentation is lacking.

20 42. Defendant Scott McCrae (“McCrae”) was an Executive Vice-President of CTC Transportation
21 Services from August 2015 through January of 2019 and in January of 2019 became the became
22 the President of CTC Transportation Services and upon information and belief likely had a leading
23 role with other CTC entities. Mr. McCrae was also the President of Criterion. Due to McCrae
24 holding several executive management roles with various entities inside the Mulligan Enterprise,
25 McCrae was intimately involved in, participated in, and was knowledgeable of “both sides of the
26 transaction” and interactions with respect to dealings that led to Spirit’s demise as described herein.
27 These same executive management roles in the various entities comprising the Mulligan Enterprise
28

1 created inherent conflicts of interest and inconsistent fiduciary duties among the entities he
2 managed.

3 43. Defendant Brenda Guffey (“Guffey”) was, at relevant times, the President of Spirit and a CTC
4 Employee. Ms. Guffey was intimately involved in, actively participated in, and was knowledgeable
5 of the management and affairs of Spirit, including its failure to collect premiums due to it, its
6 unrealistic and material under-setting of claims reserves, payment of claims when Spirit did not
7 receive premiums for the very policies on which such claims were paid, unauthorized writing of
8 insurance business by Spirit in Mexico to cover Mexican insureds that led to large Spirit losses, and
9 its and/or its agents’ material misstatements to its policyholders, auditors, and the Nevada Division
10 of Insurance.

11 44. Defendant 195 Gluten Free LLC, is a New Jersey limited liability company that upon information
12 and belief is owned and controlled by Mulligan and unlawfully and fraudulently received Spirit
13 funds from CTC.

14 45. According to CTC California’s website, it is the parent company of the other CTC Entities, as well
15 as Chelsea and Criterion with Spirit and County Hall Insurance Company (“County Hall”) in the
16 same family group (on information and belief, CTC California is listed as CTC Transportation in
17 the chart).¹

18 46. Moreover, CTC Missouri, CTC Hawaii, CTC California, Spirit and County Hall Insurance
19 Company (“County Hall”) at relevant times were an insurance holding company system that was
20 controlled by Mulligan and was/is subject to oversight by both the Nevada Division of Insurance
21 and the North Carolina Department of Insurance.

22 47. DOE INDIVIDUALS I-XX and ROE ENTITIES I-XX are individuals or business entities who
23 participated in the acts detailed below, and are responsible and liable to Plaintiff for their actions
24 either in their own capacity or as alter egos of other defendants and/or were used as conduits to
25 siphon amounts owed to Spirit away from Spirit. The true names and capacities of those parties
26 sued as DOES I through XX and ROE Entities I through XX, inclusive, are presently unknown to

27 ¹ On information and belief, Mulligan was also an officer or director of the companies listed as Chelsea and
28 Lexicon in the diagram attached as Exhibit 1.

1 Plaintiff, which therefore sues said parties by such fictitious names. When the true names and
2 capacities of such parties become known, Plaintiff will seek leave of Court to amend this Complaint
3 to replace one or more “Doe” and/or “Roe” parties with the true name, identity and capacity of each
4 additional party to this action, together with the proper charges and allegations, and to authorize
5 service of process on such additional parties.

6 48. On information and belief, and as further outlined herein, one or more individual defendants or
7 defendant entities is the alter ego of one or more of the defendant entities, and is/are therefore liable
8 for any judgment against the alter ego.

9 ***Jurisdiction***

10 49. Clark County, Nevada, is the proper venue and jurisdiction for the resolution of the claims contained
11 herein, as the injury to Spirit occurred in Clark County, Nevada.

12 50. Further, venue and jurisdiction are vested in this Court under NRS 696B.010, *et seq.*, including NRS
13 696B.190 & 696B.200.

14 51. Further, an order was entered on February 27, 2019 by the Eighth Judicial District Court, Clark
15 County, Nevada, Case No. A-19-787325, which gives the Receiver the authority to institute and
16 prosecute lawsuits as deemed appropriate herein.

17 **FACTUAL ALLEGATIONS**

18 ***Background Information Regarding Spirit***

19 52. In 2012, Spirit was granted a Certificate of Authority by the Nevada Division of Insurance as an
20 “Association Captive – RRG.” Spirit transacted commercial auto liability insurance business,
21 specialized in serving commercial truck owners and was subject to Nevada insurance laws and
22 regulations.

23 53. For instance, Spirit was subject to a three-year full-scope financial examination as of December 31,
24 2016 pursuant to NRS 694C.410 by the Nevada Division of Insurance (“Division”). As explained
25 further below, the Division questioned certain of Spirit’s financial results during that examination,
26 but Spirit repeatedly misled the Division, including by misrepresenting the strength of its reserves
27 and other financial information. Based on these misrepresentations, the Division extended the
28

1 examination to December 31, 2017. It was not until the results of an Examining Actuary were
2 received later the Division began to be aware of the depth of financial trouble Spirit was in. Even
3 then, Spirit's efforts to conceal the depth of its financial problems and management misconduct
4 severely hindered the Division's ability to ascertain and act upon the company's true state of affairs.

5 54. Also, pursuant to NRS 692C.363, Spirit was required to obtain preapproval from the Division prior
6 to entering into certain transactions with an affiliate including certain sale, purchase exchange, loan
7 or extension of credit, pooling agreements, management agreements and material transactions,
8 which it did not do. Instead, Spirit misrepresented to the Division the nature of a letter of credit it
9 issued to the Division in the amount of \$3,000,000. Spirit's funds were used for the letter of credit,
10 but Spirit did not inform the Division of this material fact.

11 55. Prior to being granted a Certificate of Authority, in November of 2011, Spirit entered into a five-
12 year Program Administrator Agreement with Defendant CTC California. The agreement provided
13 that CTC California would act as its Program Administrator. Subsequently, in 2016, CTC
14 California assigned the Agreement to CTC Missouri, and on July 1, 2016, CTC Missouri entered
15 into an agreement similar to the Program Administrator Agreement referenced above. The July 1,
16 2016 agreement will be referred to herein as the "CTC Agreement."

17 56. Defendants CTC Missouri, CTC California and/or CTC Hawaii upon information and belief are all
18 related entities with unity of interest and ownership and are affiliates of Spirit.

19 57. In 2011, Spirit entered into a claims administration agreement with Criterion (the "Criterion
20 Agreement"), under which Criterion would provide claims management services to Spirit. Claims
21 were to be investigated in accordance with applicable law and the terms of the parties' agreement.
22 Criterion was to establish loss reserves, settle claims, and issue loss payments, maintaining a
23 separate file for each loss. Upon information and belief, Criterion shared unity of interest and
24 ownership with Spirit and was an affiliate of Spirit as well as an affiliate of the CTC Entities.

25 58. Chelsea Financial entered into agreements with entities desiring to purchase insurance from Spirit
26 and although Chelsea Financial self identifies as a premium finance company, it did not provide
27 premium financing for Spirit and instead collected premiums on Spirit's behalf on an installment
28

1 basis known as the “voucher system.” Chelsea Financial was then to provide premiums due to
2 Spirit to CTC on Spirit’s behalf. Chelsea Financial led Spirit insureds to believe that it was funding
3 and financing the insurance premiums that such insureds owed to Spirit, which was a false and
4 misleading statement. Chelsea Financial did not fund or finance insurance premiums for Spirit’s
5 insureds, despite representations to the contrary. Chelsea Financial also misled Spirit policyholders
6 into believing that it was paying all of their collected premium payments to Spirit, which was also
7 untrue.

8 59. CTC did not track and/or document funds it received from Chelsea Financial on a per policy basis
9 and then comingled such funds with those it collected on behalf of other insurance companies in its
10 general operating account, obfuscating the true source and beneficiary of the funds and exposing
11 Spirit to loss exposure for policies for which CTC may not have collected premiums through
12 Chelsea Financial.

13 60. Upon information and belief, in other instances Chelsea Financial collected premium funds from
14 Spirit insureds, wrongfully failed to remit those collected premium funds to CTC or Spirit, and
15 worked actively in concert with CTC and its management, Mulligan and/or Pavel Kapelnikov, and
16 Spirit management to cover up that Chelsea Financial had collected Spirit’s premium funds but
17 failed to remit them over to CTC or Spirit.

18 61. Similarly, upon information and belief, Thomas Mulligan, Pavel Kapelnikov, CTC and Spirit—and
19 their management—worked in concert together to conceal that Chelsea Financial had collected
20 premium funds and to implement that CTC would not cancel Spirit’s insurance policies in such
21 instances. The concealment enabled Chelsea Financial, Thomas Mulligan and Pavel Kapelnikov to
22 loot Spirit of its premium money—and caused further losses to Spirit because it paid claims on
23 insurance policies when it did not receive all premium payments for the policies—all while leaving
24 Spirit policyholders to believe that their premium payments were being made to purchase viable
25 insurance with Spirit.

26 62. Furthermore, the comingling of CTC funds obscured Defendants’ efforts to use CTC as a personal
27 “piggy bank” to provide preferential payments to Mulligan, the Kapelnikovs, and George and
28

1 entities affiliated with those Defendants. These preferential payments allowed insiders to be paid
2 while Spirit suffered the losses those individuals and entities would otherwise suffer once CTC had
3 been sucked dry and became unable to pay Spirit the money it is owed, with Mulligan, the
4 Kapelnikovs, and George being the ultimate beneficiaries.

5 63. George, Guffey, Simon, McCrae and other management defendants of CTC and Spirit continued
6 to conceal the true financial condition of Spirit, its misrepresentations to policyholders, and the
7 wrongful financial transactions of Spirit and CTC so that they could continue Spirit and CTC in
8 business and earn management or consultant pay.

9 ***Events Leading Up to the Discovery of Defendants' Misconduct***

10 64. Spirit transacted commercial auto liability insurance for several years. As noted above, Spirit was
11 subject to a three-year full-scope financial examination as of December 31, 2016 pursuant to NRS
12 694C.410 by the Division.

13 65. During that examination, the Division became concerned that Spirit was under-reserving claims by
14 and through and/or at the direction of its third-party administrator Criterion, which operated under
15 Mulligan's control as a part of his Enterprise, which was a serious risk.

16 66. Using an Examining Actuary, an independent actuarial review was conducted, the results of which
17 suggested a significant deficiency as of December 31, 2016 in the reserves set to pay Spirit claims.

18 67. Spirit did not accept the findings, maintaining that 2016 was a year in which reserves were
19 strengthened, and improvements were made, which would be reflected in 2017 results.
20 Accordingly, the Division extended the examination to December 31, 2017.

21 68. However, the Examining Actuary's follow-up report on the extended examination revealed that
22 Spirit was in extreme financial trouble in December of both 2016 and 2017. Likewise, Spirit's own
23 Annual Statement as of December 31, 2017, filed with the Division, also contained numbers that
24 led the Division to believe that Spirit was insolvent.

25 69. On June 1, 2018, Spirit's former² external auditor provided the Division with notice of material
26 misstatements in Spirit's 2017 Annual Statement financial reporting. This included concerns

27 ² "Former" is used because the auditor resigned thereafter for loss of independence, brought about by Spirit's
28 then outside legal counsel, who threatened litigation if the auditor were to report his findings to the Division.

1 regarding deferred tax assets, contributed capital, loss reserves, bad debts and poor collection
2 history, failure to collect premiums amounts due from CTC, changes in capital structure,
3 overpayments to program managers (CTC), failure by CTC to make payments on recorded assets,
4 concerns regarding bad debt and premium taxes, concerns regarding the cancellation dates of
5 insurance policies and adjustment of premiums, and a failure by Spirit management to appropriately
6 respond to auditor inquiries.

7 70. On June 8, 2018, Spirit was issued a confidential letter to cure deficiencies (the "Corrective Letter"),
8 and was given a set amount of time to cure the items in the Corrective Letter which included
9 providing the Division a plan of remediation to correct a \$4.5 million reserve deficiency that was
10 identified in the examination process; a plan of remediation to accomplish the recovery of fees paid
11 by Spirit to CTC that were in excess of the contractual requirements; and to provide a plan of
12 remediation to correct and replace \$7.8 million in deferred tax assets with adequate investments.

13 71. On or about June 30, 2018, Spirit stopped writing new and renewal insurance business.

14 72. On August 1, 2018, the Division issued a confidential order of corrective action, ordered Spirit to,
15 among other things: 1) secure an infusion of new Capital & Surplus of \$20,803,000; 2) provide
16 actuarial attestations if the Capital & Surplus infusion included any paid-in Capital & Surplus from
17 the 2018 policy proceeds; and 3) revise its annual statements as of December 31, 2017 to correct
18 material errors identified in the auditor's notice.

19 73. In an effort to salvage operations, Spirit proposed a loss portfolio transfer ("LPT") which was
20 approved by the Division on August 7, 2018. The LPT was between Spirit and Accredited Surety
21 and Casualty Company ("Accredited"), and was approved by the Division based on the
22 understanding that Spirit had the finances to make the required payments and could fulfill the terms
23 and conditions of the LPT. The LPT was meant to remove Spirit's liabilities and render it solvent.
24 However, a mere four days after entering the LPT, Spirit requested significant changes. Even under
25 the revised LPT, however, Spirit was unable to timely make its payments. Although the Division
26 attempted to work with Spirit to approve a further amendment, the further-amended LPT was never
27 finalized.

1 74. Throughout the process of seeking approval from the division for the LPT, the Revised LPT, the
2 terms of which Spirit eventually violated resulting in a default, and the proposed Further-Revised
3 LPT (collectively “LPT Proposals”), Spirit and CTC continually failed to provide the Division with
4 timely, accurate, and complete information regarding the terms of the LPT Proposals, Spirit’s
5 ability to meet its payment obligations under the terms of the LPT Proposals and/or its plans for
6 acquiring sufficient funds, or even why and how the LPT Proposals would resolve the material
7 concerns raised by the Division regarding Spirit’s previously misstated financial reports, its
8 inability to pay its policyholder’s claims, its runaway losses and, ultimately, its massive insolvency.

9 75. These failures to supply the Division with accurate and complete information, which, on
10 information and belief, were intentionally orchestrated by Mulligan and carried out by Spirit and
11 CTC management, were designed to hide the depth of financial problems at Spirit and CTC so that
12 Spirit and CTC could continue to operate for the ultimate benefit of Defendants Mulligan, the
13 Kapelnikovs, Simon, Guffey, McCrae and George at a detriment to Spirit and its policyholders.

14 76. On February 11, 2019, Accredited gave notice it was terminating the LPT pursuant to the Special
15 Termination provision of the LPT for failure to pay premium owed under the LPT, which included
16 a 15-day notice provision, making the termination effective on February 27, 2019.

17 ***Spirit Discloses a 27.6 Million-Dollar Receivable from CTC***

18 77. Meanwhile, on October 1, 2018, Spirit filed its June 30, 2018 quarterly statement. For the first
19 time, Spirit listed a \$27.6 million-dollar receivable from affiliates.

20 78. Unbeknownst to the Division, this receivable was belatedly memorialized in a purported unsecured
21 promissory note between Spirit and CTC, signed on or about August 2018, and provided for
22 payment on the note by August 31, 2019. On information and belief, this note was signed by
23 Mulligan on behalf of CTC Missouri and Simon on behalf of Spirit. The note was never submitted
24 to and approved by the Division as an affiliated material transaction. This note is not valid, but
25 instead was created after the fact as a ruse to try and legitimize the loss of Spirit’s missing money.

26 79. This material affiliate transaction was not preapproved pursuant to NRS 692C.363, and no
27 completed Form D was submitted to or approved by, the Division.

1 80. When asked about this massive receivable on October 2, 2018, then-outside legal counsel for Spirit
2 informed the Division on October 4, 2018 that “there was no loan,” but instead these amounts are
3 “due from CTC in the ordinary course of business under its existing (approved) Program
4 Administrator Agreement.”

5 81. Counsel went on to state that he had suggested a note because “it would be sensible for CTC to
6 provide Spirit with additional documentation in a tangible form so that there could be no question
7 of the former’s commitment to compliant payment to the latter. My idea for this Note had nothing
8 to do with the LPT.”

9 82. On November 2, 2018, then-outside legal counsel for Spirit represented something different about
10 the \$27.6 million-dollar receivable: that \$24 million was “LPT Settlement Due 10/1/18” and that
11 \$3.6 million was “Commissions Repayment Balance reclassified to Due from Affiliate.” These
12 two explanations are inherently contradictory.

13 83. The \$27.6 million-dollar receivable remained on the books for the September 30, 2018 statement,
14 which was signed on November 1, 2018 by Messrs. Simon, Maloney, and George.

15 84. To date, the \$27.6 million has not been paid to Spirit.

16 85. After extensive forensic work by Independent Auditors, the amount owed to Spirit by CTC is many
17 millions higher than the \$27.6 million amount, yet this was never disclosed to the Division by
18 George, Simon, Guffey, McCrae, Lexicon, or other Spirit management defendants.

19 ***CTC’s Duties Owed to Spirit under the CTC Agreement***

20 86. Under the CTC Agreement, CTC, the Program Administrator, was appointed the agent of Spirit for
21 certain purposes including “[t]o solicit applications for new and renewal liability insurance policies
22 on the blank forms of application; to receive, evaluate, reject and accept requests for such policies;
23 to underwrite, bind, and issue insurance policies in accordance with the Program Administrator’s
24 underwriting guidelines...”; “to make customary endorsements, changes, transfers, and
25 modifications of existing policies; and to charge and collect payments for such policies in
26 accordance with the terms and conditions of such policies and this Agreement or as directed by
27 [Spirit]; and to adjust and pay certain claims.”

1 87. CTC was also responsible for the marketing and underwriting of policies, endorsements, notices of
2 cancellation, notices of nonrenewal, coding, premium collection, and all related activities incidental
3 to the issuance of policies.

4 88. CTC was obligated to hold in trust all funds received by it in connection with the CTC Agreement
5 as a fiduciary to Spirit.

6 89. The CTC Agreement establishes an agency relationship between Spirit, as principal, and CTC as
7 its agent and counterparty; given the Court's February 27, 2019, Receivership Order, and the
8 Receiver's election of the District Court of Clark County as the exclusive jurisdiction of
9 delinquency proceedings under NRS 696B.010 to 696B.565, inclusive, this Court is the exclusive
10 venue for resolution of any dispute between Spirit and CTC arising out of the CTC Agreement.

11 90. CTC breached its duties and obligations to Spirit.

12 ***Spirit's Certificate of Authority is Suspended, and Spirit is Placed in Receivership***

13 91. Spirit's Certificate of Authority was suspended with the consent of Spirit on October 19, 2018, after
14 Spirit had already sustained incredible losses due to the conduct of Defendants.

15 92. Ultimately, the Receiver moved to place Spirit into receivership. The Receivership Order was
16 entered on February 27, 2019, appointing the Nevada Insurance Commissioner, Barbara D.
17 Richardson as the Permanent Receiver of Spirit.

18 93. CTC and Spirit management vigorously contested the placement of Spirit into receivership,
19 claiming that Spirit was not insolvent, could be run off as a solvent insurer, reinsurance of Spirit
20 was valid and would fully pay all claims, and with no mention of prior fraudulent activities and the
21 inability of CTC to pay tens of millions of balances to Spirit for which Spirit's solvency was very
22 dependent. CTC and Spirit management vigorously contested the appointment of a Receiver until
23 the Court finally placed Spirit into receivership following the termination of reinsurance by Spirit's
24 reinsurer.

25 94. On March 18, 2019, Defendant Mulligan resigned – effective immediately – from all positions he
26 held as an officer, director, or manager of those Mulligan Enterprise entities directly affiliated with
27 Spirit, including: Spirit; Chelsea California; Chelsea New Jersey; Chelsea Holding Company; CTC
28

California; CTC Hawaii; CTC Missouri; Criterion; Lexicon; and Whitehall, Swan & Adams Freight Forwarding LLC.

95. The Receiver appointed the law firm of Cantilo & Bennett, L.L.P., as Special Deputy Receiver.

96. After Spirit entered receivership, the Special Deputy Receiver demanded that all balances due to Spirit by CTC be repaid immediately. However, to this date, CTC has not paid Spirit or the Receiver the \$27.6 million dollars that is owed pursuant to the Agreement, and it is now apparent that CTC owes Spirit an amount that exceeds \$40 million dollars.

97. After that appointment of the Receiver, information was obtained that indicates Spirit issued unauthorized and unapproved cross-border policies in Mexico which purported to insure trucking risks for Mexican insureds which were not disclosed to the Division.

98. In light of the Receiver's duties to conserve and preserve the affairs of Spirit, Plaintiff has brought the instant action in part to recover the tens of millions of dollars due and owing to Spirit from Defendant CTC.

99. Additionally, as detailed herein, events after the Receivership have uncovered millions of additional dollars owed to Spirit by CTC and the other Defendants who absconded with funds owed to Spirit, discovered in part as a result of an audit of CTC records conducted by Independent Forensic Auditors.³

CTC Fails to Collect and Pay to Spirit Premiums for Policies Issued

100. CTC was responsible for collecting and paying to Spirit all premiums due on the business written pursuant to the CTC Agreement. Failure to collect premiums due on business written pursuant to the CTC Agreement was not a defense under the CTC Agreement to payment by CTC to Spirit.

101. Based on the review of CTC's books and records by Independent Auditors, the amount owed to Spirit for written insurance premiums due and unpaid is \$30,839,150.

102. CTC was obligated to transfer all amounts due to Spirit monthly. Fifteen days after the close

³ CTC and Spirit co-retained an Independent Forensic Auditor to evaluate CTC's financial records and, among other things, quantify the amount of money owed to Spirit from CTC (the "Independent Auditor").

of each calendar month, CTC was to submit to Spirit a report listing gross premiums written and collected for all policies issued in the previous accounting month, less return premiums and cancellations, reconciliations, and commissions and fees. CTC did not do so.

103. If CTC became indebted to Spirit, Spirit had the right to offset commissions against any indebtedness.

104. CTC was obligated to keep accurate books and records, and permit inspection of the same by Spirit at any reasonable time, including after termination of the CTC Agreement.

105. Only Spirit had the right of offset.

106. CTC was to initially be paid 23.5% commission on all policies written under the CTC Agreement. However, two addendums signed on September 30, 2016 reduced this amount to 20%: the first (retroactive) for the timeframe between July 1, 2014 – June 30, 2016, and the second (retroactive and prospective) commencing July 1, 2016. The amount of overpayment was to be repaid in monthly installments.

107. Spirit was not paid back for overpayments taken by CTC under the guise of commission payments which resulted in an additional deficit of \$3,077,911 which is still due and owing to Spirit, in addition to amounts owed for written insurance premiums.

108. On December 30, 2016, the parties to the CTC Agreement amended the CTC Agreement to provide for what would occur in the event of receivership: a) CTC would have no right to terminate the CTC Agreement; b) Spirit's rights under the CTC Agreement would extend to the Receiver; c) All books and records of Spirit would be made available upon request; and d) CTC would continue to maintain systems, programs, or other infrastructure related to the CTC Agreement and make them available to the Receiver.

109. The December 30, 2016 addendum also specified that Spirit shall not advance any funds to CTC except to pay for services as specifically defined in the CTC Agreement.

110. Despite the numerous contractual provisions meant to ensure that CTC does not become indebted to Spirit, Spirit is owed at least \$40 million dollars from CTC.

111.

1 ***CTC Retroactively Reclassifies Uncollected Premiums***

2 112. CTC could not keep up with all the monthly billing and collection of premiums for insured
3 accounts—and the resulting cancellations that were needed for those insureds failing to pay
4 premiums timely. As a result, insureds remained on the books that should have been cancelled for
5 which CTC never collected premiums – and Spirit was never paid all the insurance premiums—and
6 got saddled with losses that it should never have paid if the insurance policies were properly
7 cancelled for nonpayment of premiums.⁴

8 113. Upon information and belief, Mulligan and George instructed employees of CTC and/or Spirit,
9 such as Simon and Guffey, not to cancel insurance policies, even when premiums were delinquent
10 and/or not being paid by the insureds.

11 114. Mulligan and CTC’s decision not to cancel Spirit policies was intended to line their own pockets
12 and to protect CTC as cancelling the policies would require CTC to return commissions on said
13 policies to Spirit and funds were not available to pay Spirit such amounts. This failure to act
14 materially harmed Spirit by exposing it to potential claim liability for policies on which it was not
15 receiving a premium.

16 115. Worse, CTC tried to cover up its failure to collect on policies so to avoid its liability to Spirit
17 for the uncollected premiums under the CTC Agreement.

18 116. First, CTC classified \$5,067,679 in uncollected premium with transaction type “FPA” in its
19 QuickBase system. (“FPA” is insurance terminology that generally refers to “final premium audit”
20 endorsement, an endorsement typically issued by an insurer following the expiration of a policy to
21 “true up” premiums paid by a policyholder during the policy period that were less than or in excess
22 of the policyholder’s actual premium liability. For instance, if a policyholder expects to have two
23 employees covered by a policy during its term, but, employs three insureds, an endorsement would
24 issue requiring additional premium to be paid.)

25 117. However, CTC’s “FPA” classifications had nothing to do with adjusting Spirit’s policyholders

26
27 ⁴ The amount due from CTC is materially greater when considering that CTC did not timely terminate Spirit insurance
28 policies for nonpayment of insurance premiums. Spirit incurred at least \$9,305,233 of claim losses because CTC did not
timely terminate Spirit’s insurance policies for nonpayment of premiums by insureds.

premium charges and were nothing more than an accounting artifice utilized to “write-off” uncollected balances, avoid liability to Spirit for the unpaid premiums due under the terms of the CTC Agreement, and by which CTC retained commissions to which it was not entitled.

118. Spirit is due approximately \$4,054,143 in uncollected premiums incorrectly classified as “FPA” by CTC.

119. CTC also engaged in a practice of retroactively cancelling Spirit policies long after the expiration of the policies, in an apparent effort to curb its liability for uncollected premiums during the time in which the policy had been effective.

120. Specifically, certain FPA classifications were made by CTC to retroactively cancel Spirit policies to earlier cancellation dates, even though Spirit had not timely notified insureds of terminated insurance coverages that would justify the earlier policy cancellation dates, and the artifice used for these cancellations was done so that CTC could avoid paying uncollected premiums to Spirit. Worse yet, premium money went uncollected by CTC, the Spirit insurance policies were not terminated timely by CTC for nonpayment of premiums, and Spirit paid claim losses during the time when these policies should have been cancelled for nonpayment of premium.

121. The Independent Auditors identified approximately 600 transactions in which CTC issued “Cancellation Endorsements” more than 180 days after the “effective” date of the cancellation, reducing premium owed to Spirit by CTC of approximately \$5,443,229.

122. Of those 600 Cancellation Endorsements, 468 endorsements were bound more than 180 days after the expiration of the supposedly canceled policy and the net reduction to premium was \$2,986,901.

123. Under NRS 687B.320, Spirit (and CTC, as its agent) are required to give at least ten days’ notice to the policyholder before cancelling a policy for failure to pay a premium when due.

124. On information and belief, CTC did not provide Spirit’s policyholders with the statutorily required ten-day notice, rendering the cancellation endorsements unlawful and ineffective.

125. Accordingly, Spirit was liable for losses on these policies even though premiums were not collected.

1 126. Spirit did not disclose these accounting improprieties and financial misrepresentations to the
2 Division after it retroactively altered its books.

3 127. CTC breached its obligations to Spirit by failing in its responsibility to collect premiums and
4 remit the premiums to Spirit, instead of retroactively “canceling” policies after Spirit took on the risk
5 of administering the policies for CTC’s own benefit.

6 128. Spirit’s claims against CTC are properly before this Court pursuant to NRS 696B.190 &
7 696B.200.

8 ***Mulligan Dominated and Controlled the Affairs of CTC and Spirit and other Related Entities***

9 129. As explained above, Mulligan owned and controlled both CTC and Spirit and other related
10 entities such as Spirit’s management company, Lexicon.

11 130. CTC was months behind on processing endorsements for Spirit, yet could transfer millions of
12 dollars to individuals and entities affiliated with Mulligan and his Enterprise as a direct result of
13 the outsized influence he exercised over the control, affairs, finances, management and employees
14 of Spirit, CTC, Lexicon, and the rest of the Mulligan Enterprise.

15 131. On information and belief, Mulligan and CTC never intended to follow the CTC Agreement,
16 which instead served as a cover for Defendant Mulligan and other insiders to move money between
17 individuals and entities he was affiliated with and/or controlled, treating funds in CTC’s operational
18 account as a “piggy bank” for Mulligan and the entities comprising the Mulligan Enterprise, even
19 when those funds should have been held in a trust account for the benefit of CTC’s insured
20 customers.

21 132. Indeed, CTC operated with limited financial controls and functioned with limited financial
22 oversight, allowing its management, directors, and agents, including Mulligan, Pavel Kapelnikov,
23 Igor Kapelnikov, George, Guffey, McCrae, Simon, and Lexicon to use their undue influence to
24 override controls and use technology systems with limited internal controls and a lack of financial
25 “checks and balances” that might otherwise have prevented management override of critical
26 fiduciary constraints.

27 133. For instance, Mulligan was obsessed with increasing CTC’s premium volume by increasing
28

Spirit policy underwriting regardless of whether a policy in question was a bad insurance risk that presented unacceptable loss exposure.

134. Upon information and belief, Mulligan would rebuff efforts by employees like Defendant Guffey, Spirit's former president. Moreover, when Guffey, in her official capacity as President of Spirit, refused to approve a policy on Spirit's behalf due to the policy's unreasonable risk, Mulligan would go behind her back and cause Spirit to issue the policy anyway.

135. At the same time, Mulligan indicated to Guffey that if third-party brokers would not use his premium finance company, Chelsea Financial, then he would not let Spirit underwrite the policies, favoring high premium volume only when it benefitted the Mulligan Enterprise and not just Spirit.

136. On information and belief, Mulligan, George, and/or other insiders instructed Guffey to tell the Division at a Division meeting in early 2018 that things were "going well" with underwriting, which was incorrect. Due to Mulligan's coercive management of the Mulligan Enterprise, Guffey did not raise multiple material concerns she had with Spirit's underwriting process and team to the Division at the early 2018 meeting.

137. On information and belief, Guffey did not feel she could state her true opinion. Accordingly, Guffey made an inaccurate statement to the Division on behalf of Spirit, and at the direction of Mulligan and/or those he controls, on which the Division reasonably relied.

138. On information and belief, two "settlement" payments to law firms related to Guffey's resignation as President of Spirit were "hush money" intended to keep Guffey "quiet" with regard to the unlawful conduct she witnessed and/or participated in during her stint as an officer of Spirit and employee of CTC/participant in the Mulligan Enterprise.

139. Similarly, both Simon and nonparty Holly Whitaker, an inside accountant at CTC, were instructed, upon information and belief, by Mulligan, George, and/or others under their control to override financial controls in approving unusual transactions of all types, including, without limitation, setting insufficient reserve amounts, transfers of funds to insiders without supporting documentation, payments to vendors lacking supporting documentation, and unsupported reimbursement for employee and nonemployee expense submittals.

1 140. On information and belief, other employees and management of Spirit, including, but not
2 limited to, Defendant McCrae, perceived similar issues with the management and affairs of Spirit,
3 but after speaking to Mulligan, “fell in line” with the Mulligan narrative out of fear for pressing the
4 issue(s) with the domineering Mulligan and the retaliation and personal financial repercussions that
5 would result from raising the issue.

6 ***Criterion and 10-4 Preferred Managers Harm to Spirit***

7 141. On or about September 1, 2011, Criterion entered into a Claims Administration Agreement with
8 Spirit (the “Criterion Agreement”) for a three-year term which was subsequently renewed by the
9 parties thereto.

10 142. Under the terms of the Criterion Agreement, Criterion was to provide claims management
11 services on behalf of Spirit and had authority to recommend loss reserves on claims, settle claims
12 and issue loss payments and expense payments up to an agreed upon claim amount.

13 143. Although Criterion was entitled to certain claims handling fees from Spirit, an independent
14 audit of CTC’s books and records revealed that Criterion was overpaid by CTC for services
15 Criterion was providing on Spirit’s behalf by at least \$101,566 for purported claims fees.

16 144. Additionally, Criterion was to maintain separate claims files for each loss, provide monthly
17 reports to Spirit, develop a plan and pursue reasonable subrogation, contribution, or indemnity
18 recoveries and was to notify Spirit of any complaint or inquiry from any state insurance department
19 or other governmental official or authority.

20 145. Criterion was owned by Mulligan who often was involved in the operations of Criterion and,
21 among other things, inserted himself into the claims reserve process and overruled the comments
22 provided by claims professionals.

23 146. Further, Mulligan and George caused CTC to “loan” approximately \$2.8 Million to fund
24 Criterion’s operations at a time when, on information and belief, CTC owed those funds to Spirit,
25 which funds were never repaid to Spirit in full, benefitting Mulligan and George as Criterion’s
26 owners to the detriment of Spirit and its policyholders.

27 147. Upon information and belief Mulligan, George and McCrae would participate in “claims
28

committee” meetings which were held at Criterion, during which Defendants Mulligan, George, and/or McCrae would knowingly and intentionally adjust claim reserves downward on total loss and severe injury cases and/or fail to adjust upwards claims on which information had been provided to support significant losses and/or payments. In so doing, Spirit would put the claim reserve at an artificially low amount, sometimes as low as \$100, even when the severity of the loss exceeded the reserve amount demanded by Mulligan and other individuals, with the intent of overstating Spirit’s financial performance. Guffey was aware of claim reserve manipulations that were unjustified and inappropriate, and yet, she did nothing about reporting or disclosing these wrongful matters to the Division.

148. For instance, for one insurance claim of which the Plaintiff is aware, a loss reserve was set at \$100 for over six months when Criterion’s claim adjuster’s notes indicate that Criterion and the “claim committee” were aware that the accident resulted in a fatality for which the policyholder was deemed responsible. The claims reserve was never raised to the full policy limit of \$1 Million, even after the claim adjuster was given authority to attend a mediation with authority to settle for that amount. In fact, the claim was eventually resolved at the policy limit of \$1 Million, even though the reserve had never been increased past \$750,000.

149. While Plaintiff’s investigation of loss reserve manipulation by Criterion with regard to claims by Spirit’s policyholders is ongoing, Plaintiff has discovered evidence of a significant and wide-ranging pattern of manipulation of high-severity claims reserves, which, on information and belief, was orchestrated by Mulligan with the knowledge and participation of Defendants George, Guffey and McCrae, among others.

150. Upon information and belief when Mulligan would veto the recommendations made by others on the Claim Committee and set his own reserves, Mulligan would belittle, rebuff, or otherwise retaliate against the employees that questioned his actions.

151. Upon information and belief, claims decisions were primarily made by Mulligan and George, and without objection from McCrae, and were purposefully set at amounts lower than levels that would have been expected for similar type claims, which resulted in Spirit having claims exposure

1 significantly greater than the money set aside to pay the same.

2 152. The regular under-reserving of claims served to underreport Spirit claim liabilities, mislead the
3 Division and other insurance regulators with regard to Spirit's financial condition and performance,
4 and lead to further losses to Spirit that would have been avoided if the Company had suspended
5 operations earlier.

6 153. Beyond setting reserves at shockingly low levels, Criterion, by and through the influence of
7 Mulligan and the Mulligan Enterprise, engaged in patterns of the following improper conduct, all
8 of which served to prolong Spirit staying in business, which ultimately allowed Mulligan and the
9 other individual Defendants to continue to operate the Mulligan Enterprise for their benefit and to
10 the detriment of Spirit, its policyholders, and its other creditors:

- 11 a. Repeated material misstatements, financial and otherwise, to state regulators, including
12 the Division, concerning claims by Spirit policyholders;
- 13 b. Failure to properly report and maintain other claims reserves, including incurred but not
14 reported claim reserves of which Criterion was aware;
- 15 c. Repeated failures to maintain and enforce a governance structure that would ensure that
16 Criterion acts in the unconflicted interest of Spirit and the operation of its business; and
- 17 d. Delays in claim payments and proper claims settlement which resulted in deeper Spirit
18 losses.

19 154. The under-reserving and intentional misreporting to the Division of claims directly caused the
20 material deficiencies identified by the Division as set forth above, as well as Spirit's ballooning
21 insolvency. Given the foregoing, the under-reserving of claims constituted knowing financial
22 misreporting by Spirit and the individuals and entities that exercise control over Spirit and Spirit's
23 financial statements.

24 155. Criterion, which was dominated and controlled by Mulligan, also participated in approving and
25 paying claims when Spirit did not receive insurance premiums for the very policies on which such
26 claims were paid. As a consequence of Criterion's actions, Spirit sustained and paid large and
27 unjustified losses.

1 156. Criterion, which was dominated and controlled by Mulligan, also participated in approving and
2 paying claims for Spirit's unauthorized writing of insurance business in Mexico, which covered
3 Mexican insureds. As a consequence of Criterion's actions, the claim payments for Mexican
4 insurance business led to large and unjustified Spirit losses.

5 157. Additionally, Criterion failed to conduct the services it was required to provide to Spirit such
6 as providing coverage verification.

7 158. Defendant 10-4 Preferred Managers, was, upon information and belief, unnecessarily paid a
8 \$125 fee for "coverage verification" on each Spirit claims file which amounts were unnecessary
9 and such charges used as a mechanism to siphon Spirit funds to this Mulligan related entity. The
10 "services" purportedly provided by 10-4 Preferred Managers were services that Criterion was
11 obligated to conduct.

12 159. Spirit's claims against Criterion and 10-4 Preferred Managers are properly before this Court
13 pursuant to NRS 696B.190 & 696B.200.

14 ***Chelsea Financial Harm to Spirit***

15 160. Chelsea Financial purported to provide CTC and Spirit with "premium financing," but Chelsea
16 Financial did not in fact provide financing services for Spirit. Indeed, Chelsea Financial represented
17 itself to Spirit and its policyholders as having financed insurance premiums of Spirit, for which it
18 charged a high rate of interest to such Spirit policyholders, when such representations were false
19 and misleading. Chelsea Financial also misled Spirit policyholders into believing that it was paying
20 all their collected premium payments to Spirit, which was also false and misleading. During the
21 receivership, it has become apparent that large premium balances were collected by Chelsea
22 Financial from Spirit insureds but never paid to CTC or Spirit, and insiders Mulligan and Pavel
23 Kapelnikov inappropriately took Spirit's money—and Defendants George, Simon, McCrae,
24 Guffey, former directors, and CTC management did nothing about it, failing to report or disclose
25 these matters to the Division.

26 161. Although the Independent Auditors identified so-called financing agreements for Spirit's
27 insureds with interest rates of 8 to 19%, Spirit did not benefit from the financing because Chelsea
28

1 Financial nevertheless paid Spirit its premium payments on an installment – and not “lump sum”
2 basis. In other words, Chelsea Financial did not “finance” Spirit’s premiums but instead provided
3 nothing more than premium collection service through invoicing and payment services Chelsea
4 Financial contracted for with non-party Input1, LLC, which was used to assist with premium billing
5 and collection services.

6 162. Spirit’s money was inappropriately kept and used by Chelsea Financial insiders and owners
7 Mulligan and Pavel Kapelnikov. It is unclear if Spirit knew the extent of what was collected by
8 Chelsea Financial on its behalf and not provided to Spirit. Regardless, Spirit has now lost the
9 collection or use of these premium funds.

10 163. Spirit was directly damaged by these misrepresentations because it did not receive the full
11 written premium at the outset of a policy but only an installment basis, depriving it of valuable
12 capital that could have covered claims or been deployed as an investment. Spirit has also not
13 received all of the premium funds due from Chelsea Financial, and it collected these premium funds
14 as a fiduciary of Spirit.

15 164. Beyond the direct damage to Spirit, Chelsea Financial, by charging Spirit’s policyholders for
16 financing that did not exist, also extracted a corporate opportunity from Spirit – who was the entity
17 *extending* credit to its own policyholders – from which Spirit could have obtained substantial
18 income in the form of the interest payments that its policyholders instead paid to Chelsea.

19 165. Worse, preliminary analysis by the Independent Auditors suggests that after hiding the
20 uncollected premiums with specious reclassifications, CTC then transferred “return premium”
21 funds to Chelsea Financial for premiums Chelsea Financial failed to collect in the first place. In one
22 case, CTC’s books and records show a written premium of approximately \$110,000 owed by a
23 trucking company identified herein as “Trucking Co. A,” under which Trucking Co. A was to pay
24 approximately \$110,000 for a one-year policy starting with paying 25% down (~\$27,450) and
25 making nine additional monthly installment payments of ~\$8,235. However, CTC’s records
26 indicate that only \$22,946 was ever collected from the insured by Chelsea Financial.
27 Notwithstanding this fact, and defying all logic, CTC made a “reverse” payment to Chelsea
28

1 Financial for the same policy of \$24,659 of “return premium” to the insured for the policy’s
2 cancellation.

3 166. Because CTC’s books indicate that Trucking Co. A never even made the initial installment, the
4 cancellation should have been transacted in March 2017. Instead, approximately eight months later,
5 in or about November of 2017, CTC and/or Chelsea Financial finally executed a cancellation of the
6 policy.

7 167. Then, in or about December 2017, Chelsea Financial and/or CTC executed an after-the-fact
8 FPA transaction to hide their malfeasance and reduce the written premium by approximately
9 \$60,000, apparently to reconcile the uncollected premium and cancellation dates.

10 168. Put simply, CTC “returned” to Chelsea Financial *more* premium than was collected for a policy
11 for which Spirit was liable for losses and claims for over nine months, when the policy should have
12 been canceled for nonpayment after the first two months.

13 169. Further, Spirit funded Chelsea Financials’ operating expenses and the interests of Mulligan and
14 Pavel Kapelnikov, through a \$3,500,000 loan, provided in exchange for a purported promissory
15 note from Chelsea Financial (executed by Pavel Kapelnikov).

16 170. Not only is such a transaction inherently and wholly suspect, but any related party transaction
17 was required to be approved by the Division. The purported promissory note from Chelsea
18 Financial was hidden and not disclosed to the Division.

19 171. Further, Chelsea Financial failed to keep and maintain complete and accurate records relating
20 to the premiums collected on Spirit’s behalf. Under basic insurance industry practices, premium
21 finance and return premium records should be clear and evident as to amounts owed, amounts due,
22 premiums collected, or premiums uncollected, which is not the case regarding the premium finance
23 relationship among Spirit, CTC, and Chelsea Financial.

24 172. In addition to the foregoing, the Independent Auditors identified \$3.39 million in transactions
25 that appear to write off un-collectible balances in the insurance policy administration system that
26 tracked Spirit’s insurance policy information. This is in addition to the \$5.1 million in FPA
27 transactions identified above. The total identified premium receivable written off by CTC which
28

1 should have been collected by Chelsea Financial with cancellation endorsements totaled \$8.49
2 million.

3 173. As a result of the scheme perpetuated by Chelsea Financial, CTC, Mulligan, P. Kapelnikov and
4 others, Spirit incurred approximately \$9.3 million in losses after the calculated termination date for
5 the FPA on 333 endorsements that should have been cancelled due to non-payment.

6 174. Spirit's claims against Chelsea are properly before this Court pursuant to NRS 696B.190 &
7 696B.200.

8 ***Lexicon Insurance Management LLC Harm to Spirit***

9 175. Lexicon purported to provide Spirit management, supervision, administrative and other
10 insurance services pursuant to a September 2018 Management Agreement which among other things
11 appointed Lexicon to represent Spirit in Nevada and to do all things necessary or incidental to the
12 conduct of the insurance Spirit was authorized or required to do under the law of the State of Nevada
13 and to maintain Spirit books and records with respect to its business, including rendering annual
14 accounts and other schedules as Spirit reasonably required and/or as required by the laws of the State
15 of Nevada.

16 176. Lexicon by and through its 50% owner, Defendant George, accepted such appointment and
17 agreed to faithfully perform the duties to the best of its skill and judgment and agreed to "obey
18 promptly such instructions" it received from Spirit. Defendant Simon purported to authorize such
19 action on behalf of Spirit.

20 177. In order to facilitate the requisite Division approval to act as a Captive Manager Service Provider
21 for Spirit, Defendant George and Lexicon applied to the state of Nevada to become a Captive
22 Insurance Manager, touting George's background and experience in the insurance industry, financial
23 management skills and regulatory expertise.

24 178. Upon information and belief, the application by Lexicon and George to become a Captive
25 Insurance Manager was made due to Spirit's former manager terminating its relationship with Spirit
26 due to non-payment and was an effort to conceal from the Division Spirit's noncompliance with
27 various provisions of NRS 694C.

1 179. After assuming the role as Spirit's Captive Insurance Manager, Lexicon and George failed to live
2 up to their contractual and statutory obligations to the harm and detriment of Spirit.

3 180. Among other things, Lexicon was required to maintain and operate Spirit's banking and
4 investment accounts and is required to indemnify Spirit with respect to the loss of funds as a result
5 of an act of infidelity by any employee and/or official of Lexicon.

6 181. Under Lexicon's watch, Spirit was placed into receivership and Spirit's banking and investment
7 accounts are in a complete disarray. Moreover, as detailed herein, Spirit by and through Lexicon
8 concealed the true financial condition of Spirit to the Division and in so doing facilitated payments
9 to Lexicon and George and others as purported management and/or consultant pay.

10 182. These concealments and the failure to supply the Division with accurate and complete
11 information, which, on information and belief, were intentionally orchestrated by George and
12 Mulligan and carried out through Lexicon, were designed to hide the depth of financial problems
13 at Spirit so that Spirit could continue to operate for the ultimate benefit of Defendants, including
14 without limitation Lexicon, Mulligan, McCrae, and George at a detriment to Spirit and its
15 policyholders.

16 183. Moreover, as Spirit's Risk Retention Group Manager, Lexicon, by and through George
17 initiated, approved, executed, effectuated and/or hid the improper transfers or withholdings of Spirit
18 funds by CTC, as alleged above and below, at the direction and under the control of Mulligan.

19 184. Lexicon by and through George and/or others, also failed to properly implement and oversee
20 Spirit's claim reserve handling which resulted in the overpayment of claims when Spirit's policies
21 should have been cancelled, and failed to properly collect premium balances due Spirit, and
22 knowingly allowed the co-mingling of premiums of Spirit with other insurance client accounts of
23 CTC.

24 185. As the Captive Manager Service Provider to Spirit and for the reasons set forth herein, Lexicon
25 is in breach of its duties and obligations to Spirit, and Spirit is entitled to monetary damages as a
26 result of the same.

27 186. Spirit's claims against Lexicon are properly before this Court pursuant to NRS 696B.190 &
28

696B.200.

Spirit's "Investment" in New Tech Capital LLC for Mulligan's Personal Benefit

187. On or about January 8, 2018, Spirit transferred approximately \$500,000 from its Spirit Premium Trust Account to an entity called New Tech Capital LLC.

188. On information and belief, Mulligan and Pavel Kapelnikov formed, owned, and operated New Tech Capital for their own personal interests and monetary gain.

189. On information and belief, Mulligan and/or Pavel Kapelnikov then caused New Tech Capital to invest the \$500,000 with a private fund called Iterative Capital LP, a high-risk investment fund that invests in cryptocurrencies, network tokens, as well as in the mining operations and equipment relating to the generation of "new" cryptocurrency tokens.

190. Even though the funds wired to New Tech Capital were wired in Spirit's name from Spirit's bank account, Mulligan and Pavel Kapelnikov, as well as the complacent Spirit Director Defendants, failed to ensure that the investment was titled in Spirit's name and not made for the benefit of Mulligan and/or Pavel Kapelnikov. The investment itself, even if it had ever been for Spirit's benefit, which it was not, is a highly risky and unreasonable investment for Spirit as a financially troubled insurer.

191. Not only is the use of Spirit's funds for his personal benefit a fraudulent breach of Mulligan's fiduciary duties, but he has not repaid the funds he took from Spirit to make this personal investment or otherwise compensated or repaid Spirit for the use of its assets and has refused to provide Spirit information regarding its interest in New Tech Capital LLC and any resulting investment made in Iterative Capital LP, and Spirit has lost its funds in the process.

Other Significant Findings of Spirit's Former Auditor

192. The former external auditor of Spirit⁵ (the "Former Auditor") notified the Division of a number of concerns regarding the manner in which Spirit's books and records were maintained and found

⁵ Spirit's former external auditor, Shores, Tagman, Butler & Company, P.A., resigned on May 23, 2018.

1 after reviewing receivables that the collection history and relationship between receivable accounts
2 and unearned premiums was substantially worse than prior years and noted that policies with
3 receivables in excess of the unearned premiums were \$14.4 million in March of 2018 compared to
4 \$3.3 million for the same period in 2017.

5 193. Based on information available to the auditor at the time of his letter, he indicated that he
6 believed the bad debt reserve need to be increased by at least \$1 million and stated that the actual
7 reserves need to be substantially higher.

8 194. The Former Auditor also noted that CTC as Spirit's program administrator did not pay Spirit in
9 situations where an account or accounts did not pay the premiums due and instead when any insured
10 was not paying the premium, CTC would endorse downward the amount that was actually paid
11 contrary to the terms of its contractual obligations.

12 195. It was later learned that CTC, Risk Services (former captive manager of Spirit), and Criterion
13 agreed verbally to write off uncollectible balances and that the FPA transactions wrote off
14 premiums of \$3,403,591, not collected by CTC, which equates to Spirit being owed \$2,722,872 by
15 CTC, net of commissions.

16 196. Additionally, Spirit's Former Auditor identified significant write-downs for premiums earned,
17 vehicle fees and previously recorded capital which reduced surplus.

18 ***The Officers and Directors of Spirit Failed to Govern the Company Appropriately***

19 197. Mulligan, Simon, George, Maloney, Guffey, Marx, C. Torres and V. Torres (collectively, the
20 "Spirit Director Defendants") were officers and/or directors of Spirit, each of whom failed to
21 discharge his or her duties to govern the Company appropriately, independently, and in good faith
22 on an informed basis, causing harm to Plaintiff.

23 198. As officers and directors of Spirit, each of the Spirit Director Defendants owed duties of good
24 faith and loyalty to Spirit and was charged with exercising his or her powers, authority, and
25 discretion in the best interests of Spirit.

26 199. The Spirit Director Defendants also adopted a Code of Ethics and Corporate Governance
27 Standards that required, among other things, the avoidance of conflicts of interest and the
28

documentation of all financial transactions.

200. The duties owed by the Spirit Director Defendants included instituting adequate internal controls to protect company assets and operations, adequately selecting and supervising employees and contractors, making accurate, non-misleading statements to regulators, avoiding self-dealing, fully and adequately disclosing related party transactions, avoiding the squandering of the company's assets, and reviewing and ensuring the accuracy of company documents, financial statements, and regulatory filings.

201. Each of the Spirit Director Defendants failed to uphold these duties owed to Spirit, resulting in improper "loans," "dividends," and other unusual transactions and the disappearance of tens of millions of dollars due to Spirit from CTC, Criterion, Chelsea Financial, and other entities in the Mulligan Enterprise.

202. Further, the Spirit Director Defendants failed to collect substantial balances in accounts receivable owed to Spirit, failed to obtain premiums from CTC, failed to accurately report financials, misguided the Division as to the financial and operating status of Spirit, and failed to maintain reserve requirements, leaving the company in precarious financial condition.

203. Additionally, the Spirit Director Defendants purportedly approved a \$500,000 "investment" from Spirit to New Tech Capital, LLC an entity owned and controlled by Mulligan and Pavel Kapelnikov in violation of NRS 692C and for which Spirit received no benefit, and failing further to facilitate any credible monitoring or follow up regarding the status of this so called "investment" and Spirit's interest therein.

204. Further, the Spirit Director Defendants made misrepresentations or outright failed to disclose critical information to state insurance regulators regarding the financial condition of Spirit, including collateral for a \$3 million "Letter of Credit"; reinsurance agreements; Spirit's loan transaction with Chelsea Financial; a lack of resources to honor the Loss Portfolio Transfer agreement; company reserves; claims reserves; collection of premium funds from Chelsea; overpayments of claims; underwriting capabilities; New Tech Capital transaction; and corporate insider transactions that benefitted those parties that controlled Spirit's operations; and interference

1 with regulatory oversight and external audits.

2 205. Additionally, the Spirit Director Defendants knowingly continued Spirit's business operations
3 beyond the point of financial solvency in an effort to continue arrogating Spirit assets to Mulligan
4 and the other Spirit Director Defendants for as long as possible before the inevitable "drying up of
5 the well" at Spirit and CTC, all while getting paid.

6 206. The Spirit Director Defendants failed to satisfy regulatory corrective order provisions
7 necessary for continuing solvency.

8 207. The Spirit Director Defendants did not properly account for balances owed to or from Wesco,
9 a reinsurer, and the Receiver demands a full accounting of the reinsurance balances due to or from
10 and supporting records.

11 208. Further, the Spirit Director Defendants worked with Defendant McCrae and non-party Troy
12 Shankel to misrepresent the financial condition of Spirit by reducing claim reserves for fatality and
13 severe injury cases despite the recommendations of the former President of Spirit, Brenda Guffey,
14 and claims professional Dona Anderson.

15 209. The Spirit Director Defendants had knowledge of and/or actively adjusted claims reserves
16 downward, failing to realistically set reserves for claim losses and potential losses. By way of
17 example, Defendant Mulligan worked with non-party Troy Shankel to set up initial claim reserves
18 at levels of one dollar, four dollars, and one hundred dollars on certain claims; these unrealistic
19 claim reserves had the effect of boosting the financial condition of Spirit on paper.

20 210. The Spirit Director Defendants should have known that Criterion and CTC, both of which were
21 dominated and controlled by Mulligan, were participating in approving and paying claims when
22 Spirit did not receive insurance premiums for the very policies on which such claims were paid. As
23 a consequence of Criterion's and CTC's actions, Spirit sustained and paid large and unjustified
24 losses.

25 211. The Spirit Director Defendants should have known that Criterion and CTC, both of which were
26 dominated and controlled by Mulligan, were participating in approving and paying claims for
27 Spirit's unauthorized writing of insurance business in Mexico, which covered Mexican insureds.

As a consequence of Criterion's and CTC's actions, the claim payments for Mexican insurance business led to large and unjustified Spirit losses.

212. On information and belief, Defendant Mulligan would request and receive money from the companies for personal use without the oversight of, and/or with the acquiescence of, the officers or directors, and Defendant Mulligan personally absconded with more than \$829,446 in addition to siphoning further monies to entities under his ownership and/or control.

213. On information and belief, monies owed to Spirit from CTC were transferred inter-company with insufficient reason or documentation, including \$9.9 million dollars in transfers between CTC Hawaii, Spirit, Criterion, and Defendant Mulligan's company Chelsea Holdings without the oversight of, or the acquiescence of, Spirit's officers or directors.

214. Overall, the Spirit Director Defendants failed to institute sufficient internal controls to ensure the protection of Spirit's assets. Instead of hiring qualified and independent entities to transact key components of the business, such as program administration, the Spirit Director Defendants engaged in self-dealing, entering into contracts with affiliated businesses to perform services that they knew or should have known would not be adequately performed, and/or providing loans to affiliate businesses that they knew or should have known would not be repaid to Spirit.

215. Further, the Spirit Director Defendants failed to take appropriate action when such affiliates retained funds payable to Spirit and otherwise failed to perform in accordance with their contracts and/or industry standards.

216. As a result, the Spirit Director Defendants knew, or should have known but for their intentional lack of oversight, that Spirit's financial statements and other documents were misleading or false and that insureds were at risk, and that they were providing misleading or false information to the public, the Division, and others.

217. The Spirit Director Defendants knew, or should have known but for their intentional lack of oversight, that large and uncollectible balances were owed by CTC, Criterion, and Chelsea Financial, and yet, such Director Defendants did nothing to collect balances, terminate business arrangements to reduce losses, or report and disclose such matters to the Division.

1 218. The Spirit Director Defendants' negligent and/or intentional misconduct and knowing
2 violations of the law are illustrated by the Directors' fraudulent statements in a series of "Board of
3 Directors Annual Performance Self-Evaluation" forms filled out by Director Defendants Guffey,
4 Marx, C. Torres, and V. Torres in late November and December of 2017, in which each Spirit
5 Director indicated they "agree[d]" or "strongly agree[d]" with the following statements, which have
6 been shown to be false in the Division's investigation of Spirit:

- 7 a. "The board fully understands the roles and responsibilities of the Board;"
- 8 b. "The board adequately reviews and discusses with executive management the
9 Company's business plan, strategic goals and performance;"
- 10 c. "The board effectively monitors the Company's financial information;"

11 219. In addition, in the 2017 Self-Evaluation Forms, Defendants Guffey, V. Torres, and C. Torres
12 each indicated they "agree[d]" with the following statements, while Defendant Marx indicated a
13 "neutral" level of agreement:

- 14 a. "The board regularly evaluates the Company's performance and progress toward
15 strategic goals;"
- 16 b. "The board effectively stays informed of issues and developments that could
17 materially impact the Company's business."

18 220. In the same 2017 Self-Evaluation Forms, Defendants Guffey and V. Torres each indicated they
19 "agree[d]" with the following statement, while Defendants C. Torres and Marx indicated a "neutral"
20 level of agreement: "The board receives adequate financial updates, report and other materials
21 necessary to ensure the Company's operations are sound."

22 221. Had Defendants Guffey, Marx, C. Torres, and V. Torres been discharging their duties to Spirit
23 on an informed and good faith basis, they would have known the statements in the 2017 Self-
24 Evaluation Forms were false and/or misleading; on information and belief, Defendants Guffey,
25 Marx, C. Torres, and V. Torres knew or should have known as much – but made the misstatements
26 anyway.

27 222. When the Division identified issues with Spirit's financial condition, the Spirit Director
28

Defendants made the intentional decision to mislead regulators into providing additional time for Spirit to respond. On information and belief, the Spirit Director Defendants sought to keep Spirit out of receivership so that they could continue to use Spirit's funds as part of their fraudulent scheme to enrich themselves and their affiliated businesses, avoiding accountability for their prior actions that caused substantial harm to Spirit.

223. This conduct amounts to fraud, gross negligence, intentional misconduct, and/or knowing violations of the laws of the State of Nevada.

The Other Individual Defendants' Roles in the Scheme to Divert Funds to the Mulligan Enterprise

224. On information and belief, the other Individual Defendants – Pavel Kapelnikov, Igor Kapelnikov, Yanina Kapelnikov, George and McCrae, participated negligently, knowingly and/or intentionally in the Mulligan Enterprise and the diversion of Spirit funds and other losses of Spirit. In addition, and on information and belief, Director Defendants Simon and Guffey participated in the Mulligan Enterprise by the same conduct described above and as further described below.

225. Pavel Kapelnikov owned and controlled Chelsea Financial. Accordingly, among other things, he participated in the misconduct of Chelsea Financial described above. Pavel Kapelnikov also benefitted correspondingly from those funds that were improperly diverted to and/or withheld from Spirit by Chelsea Financial. Pavel Kapelnikov knew that CTC was insolvent and/or unable to pay its debts as they became due and, therefore, that the funds he was siphoning to Chelsea Financial could not be paid to Spirit, which had a superior claim, thereby providing an unlawful preference to an entity he owned and controlled.

226. On information and belief, Pavel Kapelnikov knew that Chelsea Financial was receiving and/or withholding funds from Spirit unlawfully and improperly; in fact, on information and belief, and alongside Mulligan, Pavel Kapelnikov was a principal architect of the Mulligan Enterprise and Defendants' (ultimately successful) efforts to divert funds properly belonging to Spirit to the vast web of Mulligan Enterprise entities, including those ultimately owned by Pavel Kapelnikov and his family members or business associates.

227. On information and belief, Pavel Kapelnikov influenced, directed, and/or controlled the other

Defendants, both directly and through Mulligan, and was involved in and/or knowledgeable of those Defendants' misconduct. Pavel Kapelnikov also misrepresented to Spirit policyholders that Chelsea Financial financed their insurance premiums owed to Spirit and that their premiums were being paid to Spirit for viable insurance.

228. McCrae, as Executive Vice President and later President of CTC, participated negligently, knowingly and/or intentionally in initiating, approving, executing, effecting and/or hiding the improper transfers or withholdings of Spirit funds by CTC and Chelsea Financial, as alleged above and below, at the direction and under the control of Mulligan.

229. McCrae, as Executive Vice President and later President of CTC, also participated negligently, knowingly and/or intentionally in reducing or delaying the proper implementation of Spirit's claim reserves, overpayment of claims when Spirit's policies should have been cancelled, failure to properly collect premium balances due Spirit, co-mingling of premiums of Spirit with other insurance client accounts of CTC, misrepresentation of financial reports and disclosures to the Division by Spirit and CTC, and unrelenting spending by CTC of funds properly belonging to Spirit—all as alleged above and below, at the direction and under the control of Mulligan to further and prolong the scheme to divert funds to the Mulligan Enterprise.

230. McCrae, upon information and belief also sat idly by and participated in misrepresentations to Spirit policyholders as to their policies being premium financed by Chelsea Financial—and that their premiums were being paid to Spirit for viable insurance. In doing so, and at a minimum, he failed to exercise his informed, independent, and good faith judgment as a fiduciary of CTC and/or Spirit.

231. Guffey, as President of Spirit and an employee of CTC, participated negligently, knowingly and/or intentionally in initiating, approving, executing, effecting and/or hiding the improper transfers or withholdings of Spirit funds by CTC, as alleged above and below, at the direction and under the control of Mulligan.

232. Guffey, as President and employee of CTC, also participated negligently, knowingly and/or intentionally in reducing or delaying the proper implementation of Spirit's claim reserves,

1 overpayment of claims when Spirit's policies should have been cancelled, failed to properly collect
2 premium balances due Spirit, allowed the co-mingling of premiums of Spirit with other insurance
3 client accounts of CTC, was responsible for misrepresentation of financial reports and disclosures
4 to the Division by Spirit and CTC, and allowed unrelenting spending by CTC of funds properly
5 belonging to Spirit—all as alleged above and below, at the direction and under the control of
6 Mulligan to further and prolong the scheme to divert funds to the Mulligan Enterprise. In doing so,
7 and at a minimum, she failed to exercise informed, independent, and good faith judgment as a
8 fiduciary of Spirit.

9 233. Guffey also sat idly by and upon information and belief participated in misrepresentations to
10 Spirit policyholders as to their policies being premium financed by Chelsea Financial—and that
11 their premiums were being paid to Spirit for viable insurance.

12 234. George, and through his management company Lexicon which served as Spirit's Risk Retention
13 Group Manager, participated negligently, knowingly and/or intentionally in initiating, approving,
14 executing, effecting and/or hiding the improper transfers or withholdings of Spirit funds by CTC,
15 as alleged above and below, at the direction and under the control of Mulligan.

16 235. George, through his Lexicon role, also participated negligently, knowingly and/or intentionally
17 in reducing or delaying the proper implementation of Spirit's claim reserves, overpayment of claims
18 when Spirit's policies should have been cancelled, failed to properly collect premium balances due
19 Spirit, co-mingled premiums of Spirit with other insurance client accounts of CTC, was responsible
20 for misrepresentation in financial reports and disclosures to the Division by Spirit and CTC, and
21 allowed unrelenting spending by CTC of funds properly belonging to Spirit—all as alleged above
22 and below, at the direction and under the control of Mulligan to further and prolong the scheme to
23 divert funds to the Mulligan Enterprise.

24 236. On information and belief, George, even though he did not hold the title of President or
25 Chairman, regularly chaired the meetings of the Boards of Directors of Spirit in an effort to further
26 exert his and/or Mulligan's improper control over Spirit. In doing so, and at a minimum, he failed
27 to exercise informed, independent, and good faith judgment as a fiduciary of Spirit. George also
28

1 sat idly by and participated in misrepresentations to Spirit policyholders as to their policies being
2 premium financed by Chelsea Financial—and that their premiums were being paid to Spirit for
3 viable insurance.

4 237. Simon, as a director of Spirit and Chief Operating Officer of CTC California—and while
5 holding other executive positions at CTC and its many related entities— participated negligently,
6 knowingly and/or intentionally in initiating, approving, executing, effecting and/or hiding the
7 improper transfers or withholdings of Spirit funds by CTC and Chelsea Financial, as alleged above
8 and below, at the direction and under the control of Mulligan. Simon, through his director role at
9 Spirit and management role at CTC, also participated negligently, knowingly and/or intentionally
10 in reducing or delaying the proper implementation of Spirit’s claim reserves, overpayment of claims
11 when Spirit’s policies should have been cancelled, failed to properly collect premium balances due
12 Spirit, allowed the co-mingling of premiums of Spirit with other insurance client accounts of CTC,
13 facilitated misrepresentation of financial reports and disclosures to the Division by Spirit and CTC,
14 and allowed for the unrelenting spending by CTC of funds properly belonging to Spirit—all as
15 alleged above and below, at the direction and under the control of Mulligan to further and prolong
16 the scheme to divert funds to the Mulligan Enterprise.

17 238. Simon also sat idly by and upon information and belief, participated in misrepresentations to
18 Spirit policyholders as to their policies being premium financed by Chelsea Financial—and that
19 their premiums were being paid to Spirit for viable insurance. In doing so, and at a minimum, he
20 failed to exercise his informed, independent, and good faith judgment as a fiduciary of CTC and/or
21 Spirit.

22 239. Igor Kapelnikov, as CTO of CTC California, was responsible for ensuring that CTC had
23 sufficiently sophisticated information technology services, applications, and hardware to ensure
24 that CTC had sufficient electronic internal controls to assure accurate reporting of financial
25 information and prevent management override of critical financial reporting controls to ensure the
26 accuracy of CTC’s records. As detailed herein, CTC had no such electronic controls, due, on
27 information and belief, to the negligent, knowing, fraudulent, and/or intentional acts or omissions
28

of Igor Kapelnikov, resulting in improper bookkeeping and accounting and, ultimately, the loss or transfer away of tens of millions of dollars due and owing to Spirit.

240. On information and belief, Igor Kapelnikov and Yanina Kapelnikov, through their ownership and/or control of Global Forwarding Enterprises and/or Global Forwarding Inc., participated negligently, knowingly and/or intentionally in initiating, approving, executing, effecting and/or hiding the improper transfers or withholdings of Spirit funds by CTC, as alleged above and below, at the direction and under the control of Mulligan.

Deficiencies in CTC's Books and Records

241. Grossly deficient and/or negligent book and record keeping by CTC and a lack of policies and procedures, as well as a financial reporting environment devoid of meaningful internal controls, led to and/or facilitated the scheme that precipitated Spirit's financial demise. Examples of such are included below.

242. CTC did not record payments collected on Spirit's behalf based on cash received on a "policy-by-policy" basis and instead the application of premiums on Spirit's books were completed on a "first-in first-out" basis, per the direction of George, obfuscating Spirit's and its auditors' ability to match cash received with the policy for which it was received.

243. Worse, cash collected by CTC for multiple insurance carriers – unaffiliated with Spirit – were commingled in the General Trust account and regular reconciliations were not completed.

244. Commingled insurance carrier funds (collected insurance premiums due to insurance carriers) that were at one time deposited into CTC California's "General Trust Account" were later moved into CTC California operational bank accounts and directly disbursed to pay for CTC operations, instead of being properly remitted to the carrier to which the funds were due.

245. Examples of the deficiencies include CTC's policy listing for Spirit business containing 63 policies with negative premiums totaling \$141,308 and CTC's claims listing for Spirit containing 40 claims with a total incurred loss of \$849,240 for policies with zero or negative premium. There are substantially more claims paid by Spirit for which premiums were never collected by CTC and paid to Spirit, or where such premiums were collected by CTC and spent inappropriately.

1 246. Spirit's annual statements were not consistent with information found in CTC's QuickBase
2 program, and clear inconsistencies are evident when comparing the total "written premium" figure
3 – representing the premium charge on the face of each policy issued – in the two systems.

4 247. Not only were there inconsistencies with CTC's QuickBase program and Spirit's annual
5 statements, but data from the Spirit Aspire system for policy information is materially different than
6 QuickBase policy information kept by CTC on its own books. Some of these differences are very
7 material and, based on the work of the Receiver since her appointment, has revealed that CTC failed
8 to turn over or collect large premium amounts owed to Spirit, had undocumented entries for policy
9 information, and engaged in a pattern of activity that lost Spirit's premium money and overpaid
10 insurance claims.

11 248. Based on the review of CTC's books and records by the Independent Auditor, CTC California's
12 federal tax returns identify cash basis losses totaling approximately \$28.7 million for the years
13 2013-2018, and CTC ownership did not provide capital to fund the losses, which appear to have
14 been covered with monies owing to and improperly withheld from Spirit.

15 249. Other deficiencies in CTC's record keeping which harmed Spirit include, but are not limited
16 to:

- 17 a. interest paid for debts was not recorded in CTC records;
- 18 b. payments made to employees were made from the operating account, not through payroll;
- 19 c. payroll expenses and accrual entries were not updated on a regular basis;
- 20 d. payments were made for credit card expenses without supporting documentation and
21 without utilizing an IRS approved employee expense process;
- 22 e. payments were made to vendors without contracts or invoices;
- 23 f. payments were made to related parties without contracts or invoices;
- 24 g. payments were made to management and other insiders without expense reports, invoices
25 or contracts;
- 26 h. subledger and general ledger accounts were not reconciled; and
- 27 i. payment transactions were changed in QuickBooks without appropriate documentation.

1 250. Based on the review of CTC's books and records by the Independent Auditors, at least \$40
2 million and potentially millions more is currently due from CTC to Spirit, which CTC records show
3 was collected but then overpaid to CTC, Criterion, and/or Chelsea Financial as commissions and
4 claim fees and not sent to Spirit, as it should have been under the CTC Program Administrator
5 Agreements.

6 251. An additional amount of approximately \$4,054,143 is due Spirit for uncollected premiums,
7 which CTC wrote off and identified as "final premium audit" endorsements.

8 252. Additional endorsements recorded by CTC indicate they wrote off balances that may be due
9 Spirit of approximately \$3 million as a result of endorsements being entered into the CTC policy
10 system after the corresponding policy expired.

11 253. Approximately \$9,306,227 of claims were paid by Spirit as incurred losses for claims with loss
12 dates after the date such policies should have been cancelled for nonpayment of premiums as
13 calculated by the Independent Auditor. Conversely, CTC failed to collect premium amounts from
14 Chelsea Financial that were owed to Spirit for insured premium payments by insureds.

15 254. If the losses incurred and paid by Spirit on policies that should have been cancelled are included
16 in the calculations of amounts CTC owes to Spirit, then the total amount due to Spirit is in excess
17 of \$43 million.

18 ***Improper Fund Transfers and Improper Transactions***

19 255. Although it is not entirely clear where all of Spirit's money went, an independent audit of CTC's
20 books and records identified \$32.6 million transferred to related parties, Mulligan affiliated entities
21 and/or in transactions which lacked specificity and back-up support to such an extent the auditors
22 could not determine the complete nature of the transaction and merely deemed them "unusual."

23 256. Payments made by CTC to related parties, Mulligan affiliated entities and/or in transactions
24 which lacked specificity and back-up support to such an extent the auditors deemed them "unusual"
25 include:

26 a. Over \$6.5 million dollars being paid to Chelsea Financial Group;

27 b. More than \$3 million dollars being paid to Global Capital Group for purported loan
28

- 1 payments, with no loan documents available;
- 2 c. Approximately \$2.67 million dollars paid to Chase Bank, which on information and
- 3 belief was utilized to pay the personal credit card bills of Mulligan;
- 4 d. Payments totaling more than \$2.3 million dollars paid to Kapa Management Consulting
- 5 Inc.;
- 6 e. More than \$1.8 million paid to unknown entities and/or individuals for unknown reasons
- 7 in multiple transfers, including cryptic information in the “memo” field. On information
- 8 and belief, these Doe and/or Roe Defendants are fraudulent transferees or alter egos of
- 9 Defendants Mulligan, George, Simon, McCrae, Pavel Kapelnikov, Yanina Kapelnikov,
- 10 and/or Igor Kapelnikov.
- 11 f. Three payments in excess of \$1.8 million dollars to Mulligan and more than \$4,000 sent
- 12 to a title company to purchase property for Mulligan’s benefit;
- 13 g. More than \$1.5 million dollars was recorded as being paid by CTC to ICAP Management
- 14 Solutions LLC; however, upon information and belief some of such payments were
- 15 actually paid to Kapa Management Consulting, Inc.
- 16 h. Payments of approximately \$1.2 million and \$214,000 to Fourgorean in two separate
- 17 transactions, an entity which upon information and belief was created and controlled by
- 18 Mulligan;
- 19 i. Payments of approximately \$872,000 and \$337,913 and, on information and belief,
- 20 \$72,000 to Six Eleven LLC, an entity which upon information and belief was created and
- 21 controlled by Mulligan;
- 22 j. Payments totaling approximately \$719,000 to Global Forwarding;
- 23 k. Payments of \$363,384.46 to Bank of America, which on information and belief was
- 24 utilized to pay credit card used by Mulligan;
- 25 l. Approximately \$354,000 paid to Igor and/or Yanina Kapelnikov;
- 26 m. Over \$304,000 was paid to Quote My Rig, LLC;
- 27 n. Payments of \$100,000 and \$200,000 to Carrus Mobile, purportedly for cameras for
- 28

- 1 trucks; however, the Independent auditor was not able to locate support showing the
2 cameras were delivered and only located camera invoices for a different amount to a
3 different company;
- 4 o. Approximately \$256,000 was paid to Borson Law LLC in connection with a “settlement”
5 with Brenda Guffey, Spirit’s former President and a CTC employee;
 - 6 p. Approximately \$194,000 was paid to Siro Smith Dickson in connection with a
7 “settlement” with Brenda Guffey, Spirit’s former President and a CTC employee;
 - 8 q. Approximately \$194,767 was paid to Chelsea Premium Finance;
 - 9 r. Approximately \$173,000 paid to Yanina Kapelnikov;
 - 10 s. Approximately \$74,700 was transferred to 10-4 Preferred Risk Managers to cover short-
11 term operating expenses (and remains due back to CTC, according to its books). This
12 amount is in addition to the \$125.00 that was purportedly paid to 10-4 Preferred Risk
13 Mangers as a “coverage verification” fee on each Spirit claim;
 - 14 t. Criterion was paid over \$90,000;
 - 15 u. Over \$86,000 in cash withdrawals are recorded on the general ledger without back up
16 documentation;
 - 17 v. Approximately \$35,889 was paid to Kapa Ventures;
 - 18 w. Approximately \$15,300 was paid to Ironjab, LLC an entity owned and controlled by Igor
19 Kapelnikov;
 - 20 x. Nearly \$14,000 was paid to Global Consulting; and
 - 21 y. At least \$44,000 was paid to 195 Gluten Free LLC Red Bank which is a Mulligan related
22 entity.

23 257. On information and belief, CTC made these transfers despite owing money to Spirit and despite
24 its duty and obligation to hold the money collected on Spirit’s behalf in trust for Spirit and thus
25 such funds should be returned and paid to Spirit forthwith.

26 258. Moreover, a review by the Independent Auditors of CTC’s QuickBooks General Ledger for
27 2018 (which was provided in October of 2019) compared with the prior 2018 General Ledger
28

1 evidenced unaccounted for transactions and that significant intercompany balances were adjusted
2 to reflect amounts due to Spirit being written off retroactively and balances due from related parties
3 were reclassified to dividends paid, again retroactively and without support for such classification.

4 259. Based on the revised General Ledgers, CTC wrote off balances of \$4,451,121 due from Chelsea
5 Financial; \$50,943 due from Criterion; \$25,000 due from County Hall and recorded "Dividends
6 Paid" of \$792,794 to Mulligan, even though CTC was insolvent and thus unable to issue lawful
7 distributions to its stockholders.

8 260. Mulligan also obtained inherently suspicious mortgages totaling \$3,350,000 in 2011 and 2012
9 for property with a current assessed value of \$440,500 from Global Consultants and Global Capital
10 Group entities controlled by Dmitry Suprunov and/or Pavel Kapelnikov.

11 261. On information and belief, all of these funds properly belong to CTC and/or Spirit and, were
12 they not transferred away, could have satisfied amounts due to Spirit and, ultimately, been paid to
13 satisfy claims of Spirit's policyholders.

14 262. Moreover, even if Spirit had been able to satisfy all of its creditors maintaining claims against
15 it at the time it suspended business, these wrongfully transferred sums of money would still
16 ultimately be due to Spirit's policyholders (and not Defendants) since Spirit was a member based
17 insurance group by which any surpluses inure to the policyholders, not Spirit's management or
18 stockholders.

19 **FIRST CAUSE OF ACTION**

20 **(Breach of Contract, as Against CTC)**

21 263. Plaintiff realleges and reincorporates all of the allegations contained in the preceding paragraphs
22 as if fully set forth herein.

23 264. The CTC Agreement was a valid and enforceable contract.

24 265. Spirit performed, or was excused from performance, under the CTC Agreement.

25 266. CTC failed to perform under the CTC Agreement; to wit, comingling Spirit funds with funds
26 received on behalf of other entities, failing to remit payments due Spirit until CTC's indebtedness
27 to Spirit grew to over \$30 million dollars for unpaid premiums alone, unlawfully writing off
28

1 balances of an additional \$3.4 million due to Spirit, failing to timely cancel policies for nonpayment,
2 overpaying Spirit claims, under-reserving Spirit's claims, failure to properly report and disclose the
3 financials and operations of Spirit, deceiving Spirit policyholders about their policies being
4 premium financed and about their premiums being paid for viable insurance, aiding and abetting
5 Chelsea Financial to abscond and dissipate assets belonging to Spirit, and failing to safeguard
6 Spirit's assets and using Spirit funds to pay the operating expenses of CTC and other entities in the
7 Mulligan Enterprise.

8 267. As a direct and proximate result of CTC's conduct, Plaintiff has suffered damages in an amount
9 in excess of fifteen thousand dollars.

10 268. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
11 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

12 **SECOND CAUSE OF ACTION**

13 **(Breach of Contract as Against Lexicon)**

14 269. Plaintiff realleges and reincorporates all of the allegations contained in the preceding paragraphs
15 as if fully set forth herein.

16 270. Lexicon and Spirit entered into a valid and enforceable contract by which Lexicon was to
17 provide certain management, supervision, administrative and other insurance services ("Lexicon
18 Management Agreement").

19 271. Lexicon failed to perform under the Lexicon Management; to wit, after assuming the role as
20 Spirit's Captive Insurance Manager, Lexicon failed to live up to its contractual and statutory
21 obligations to the harm and detriment of Spirit by among other things, failing to maintain and
22 operate Spirit's banking and investment accounts to protect Spirit's assets; allowing Spirit funds to
23 be comingled with accounts of other insurance companies; concealing the true financial condition
24 of Spirit to the Division; failing to properly implement and oversee Spirit's claim reserve handling
25 which resulted in the overpayment of claims when Spirit's policies should have been cancelled;
26 failing to properly collect premium balances due Spirit; failing to remit payments due Spirit until
27 its indebtedness grew to over \$30 million dollars for unpaid premiums alone; deceiving Spirit

1 policyholders about their policies being premium financed and about their premiums being paid for
2 viable insurance, aiding and abetting Chelsea Financial to abscond and dissipate assets belonging
3 to Spirit, safeguarding Spirit's assets and using Spirit funds to pay the operating expenses of CTC
4 and other entities in the Mulligan Enterprise.

5 272. As a direct and proximate result of Lexicon's conduct, Plaintiff has suffered damages in an
6 amount in excess of fifteen thousand dollars.

7 273. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
8 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

9 **THIRD CAUSE OF ACTION**

10 **(Breach of Contract as Against Criterion)**

11 274. Plaintiff realleges and reincorporates all of the allegations contained in the preceding paragraphs
12 as if fully set forth herein.

13 275. The Criterion Agreement was a valid and enforceable contract.

14 276. Spirit performed, or was excused from performance, under the Criterion Agreement.

15 277. Criterion failed to perform under the Criterion Agreement, by mishandling claims, failing to
16 properly set claims reserves, failing to properly report claims, overpaying claims, and paying claims
17 outside of Spirit's authority to do business.

18 278. As a direct and proximate result of Criterion's conduct, Plaintiff has suffered damages in an
19 amount in excess of fifteen thousand dollars.

20 279. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
21 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

22 **FOURTH CAUSE OF ACTION**

23 **(Breach of Contract as Against the Spirit Director Defendants)**

24 280. Plaintiff realleges and reincorporates all of the allegations contained in the preceding paragraphs
25 as if fully set forth herein.

26 281. Upon information and belief, the Spirit Director Defendants Mulligan, Simon, Guffey, George,
27 Mahoney, Marx, C. Torres and V. Torres entered into enforceable agreements with Spirit,
28

1 including, but not limited to, employment agreements, ethics and conflicts of interest agreements,
2 and others, which contractually provided for the Individual Defendants to operate in a fiduciary
3 manner and to exercise the utmost good faith in all transactions involving their duties and to refrain
4 from conflicts of interest, as set forth herein.

5 282. Spirit performed, or was excused from performance, under these agreements.

6 283. The Spirit Director Defendants failed to perform under these agreements, as set forth herein.

7 284. As a direct and proximate result of the Spirit Director Defendants' conduct, Plaintiff has
8 suffered damages in an amount in excess of fifteen thousand dollars.

9 285. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
10 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

11 **FIFTH CAUSE OF ACTION**

12 **(Breach of Fiduciary Duty as Against CTC and Lexicon)**

13 286. Plaintiff realleges and reincorporates all of the allegations contained in the preceding
14 paragraphs as if fully set forth herein.

15 287. A fiduciary duty existed between Spirit and CTC, and Spirit and Lexicon pursuant to the
16 agreements between the parties and pursuant to CTC and Lexicon's trusted position as set forth
17 herein.

18 288. CTC breached its duty by failing to safeguard Spirit's funds pursuant to its fiduciary duty and
19 instead operating in a manner as to leave tens of millions of dollars unaccounted for and owing to
20 Spirit, by failing to act in Spirit's best interests, and instead acting in its own self-serving interest
21 by failing to disclose financial records to Spirit, failing to safeguard or account for Spirit's funds,
22 using Spirit's assets for its own benefit rather than for the benefit of Spirit, dissipating Spirit's
23 assets, aiding and abetting Mulligan and Pavel Kapelnikov and their affiliated parties and entities
24 to loot Spirit of its money, deceiving Spirit policyholders about their policies being premium
25 financed and about their premiums being paid for viable insurance, and by otherwise failing to
26 conduct its affairs in a manner faithful to the parties' agreement, expectations, and Spirit's best
27 interests.

1 289. Lexicon breached its duty by failing to safeguard Spirit's funds pursuant to its fiduciary duty
2 and instead operating in a manner as to leave tens of millions of dollars unaccounted for and owing
3 to Spirit, by failing to act in Spirit's best interests, and instead acting in its own self-serving interest
4 by failing to disclose financial records to Spirit, failing to safeguard or account for Spirit's funds,
5 using Spirit's assets for its own benefit rather than for the benefit of Spirit, dissipating Spirit's
6 assets, aiding and abetting Mulligan and Pavel Kapelnikov and their affiliated parties and entities
7 to loot Spirit of its money, deceiving Spirit policyholders about their policies being premium
8 financed and about their premiums being paid for viable insurance, and by otherwise failing to
9 conduct its affairs in a manner faithful to the parties' agreement, expectations, and Spirit's best
10 interests.

11 290. As a direct and proximate result of the Defendants' conduct, including CTC's and Lexicon's
12 extensive efforts – at Mulligan's direction – to mislead Spirit and its policyholders, Plaintiff has
13 suffered damages in an amount in excess of fifteen thousand dollars.

14 291. In committing the acts herein above alleged, Defendants are guilty of oppression, fraud, and
15 malice toward Spirit and its policyholders. Therefore, Spirit is entitled to recover punitive damages
16 for the purpose of deterring them and others similarly situated from engaging in like conduct in the
17 future.

18 292. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
19 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

20 **SIXTH CAUSE OF ACTION**

21 **(Breach of Fiduciary Duty as Against the Spirit Director Defendants)**

22 293. Plaintiff realleges and reincorporates all of the allegations contained in the preceding paragraphs
23 as if fully set forth herein.

24 294. A fiduciary duty existed between Spirit and its officers and directors by virtue of their positions
25 with Spirit, which required Defendants Mulligan, Simon, Guffey, George, Maloney, Marx, C.
26 Torres and V. Torres to act in Spirit's best interests, apply their best judgment on an informed basis,
27 and act in good faith.

1 295. The Spirit Director Defendants breached their fiduciary duties to Spirit as described herein,
2 including, but not limited to, using Spirit's assets for their own benefit rather than the benefit of
3 Spirit, making false and misleading financial statements, self-dealing, authorizing loans to affiliate
4 companies knowing or suspecting that they would not be repaid, acquiescing to the improper loss
5 of Spirit's funds to third parties at the behest of and under the control of Mulligan, deceiving Spirit
6 policyholders about their policies being premium financed and about their premiums being paid for
7 viable insurance, and otherwise failing to act in Spirit's interest as described herein.

8 296. As a direct and proximate result of the defendants' conduct, Plaintiff has suffered damages in
9 an amount in excess of fifteen thousand dollars.

10 297. In committing the acts herein above alleged, the Spirit Director Defendants are guilty of fraud,
11 intentional misconduct, and/or knowing violations of the law. Therefore, the Spirit Director
12 Defendants are individually liable to Spirit.

13 298. In committing the acts herein above alleged, the Spirit Director Defendants are guilty of
14 oppression, fraud, and malice toward Spirit. Therefore, Spirit is entitled to recover punitive
15 damages for the purpose of deterring them and others similarly situated from engaging in like
16 conduct in the future.

17 299. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
18 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

19 **SEVENTH CAUSE OF ACTION**

20 **(Breach of the Implied Covenant of Good Faith and Fair Dealing – Tortious as Against CTC**
21 **and Lexicon)**

22 300. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
23 as if fully set forth herein.

24 301. Plaintiff entered into the CTC Agreement with CTC, as detailed above, which is a valid and
25 enforceable contract.

26 302. Plaintiff entered into the Lexicon Management Agreement with Lexicon, as detailed above,
27 which is a valid and enforceable contract.

1 303. A special element of reliance existed where the CTC Agreement and the Lexicon Management
2 Agreement imposed a fiduciary duty upon CTC and Lexicon with respect to Spirit.

3 304. Every contract, including the CTC Agreement and the Lexicon Management Agreement,
4 contains an implied covenant of good faith and fair dealing in which neither party will do anything
5 which will injure the right of the other to receive the benefits under the contract.

6 305. As explained herein, CTC and Lexicon breached the duty of good faith and fair dealing by
7 acting in a manner unfaithful to the purpose of their contracts with Spirit to the disadvantage of
8 Spirit.

9 306. Spirit's reasonable, justified expectations were denied as a result of CTC's and Lexicon's
10 breach of the implied covenant of good faith and fair dealing.

11 307. As a direct and proximate result of CTC's conduct, Plaintiff has suffered damages in an amount
12 in excess of fifteen thousand dollars.

13 308. As a direct and proximate result of Lexicon's conduct, Plaintiff has suffered damages in an
14 amount in excess of fifteen thousand dollars

15 309. In committing the acts herein above alleged, CTC and Lexicon are guilty of oppression, fraud,
16 and malice toward Spirit. Therefore, Spirit is entitled to recover punitive damages from CTC and
17 Lexicon for the purpose of deterring it and others similarly situated from engaging in like conduct
18 in the future

19 310. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
20 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

21 **EIGHTH CAUSE OF ACTION**

22 **(Breach of the Implied Covenant of Good Faith and Fair Dealing – Contract as Against CTC**
23 **and Lexicon)**

24 311. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
25 as if fully set forth herein.

26 312. Spirit entered into the CTC Agreement with CTC, as detailed above, which is a valid and
27 enforceable contract.

1 313. Plaintiff entered into the Lexicon Management Agreement with Lexicon, as detailed above,
2 which is a valid and enforceable contract.

3 314. Every contract, including the CTC Agreement, and the Lexicon Management Agreement
4 contains an implied covenant of good faith and fair dealing in which neither party will do anything
5 which will injure the right of the other to receive the benefits under the contract.

6 315. As explained herein, CTC and Lexicon breached the duty of good faith and fair dealing by
7 acting in a manner unfaithful to the purpose of the contract to the disadvantage of Spirit.

8 316. Spirit's reasonable, justified expectations were denied as a result of CTC's breach and
9 Lexicon's breach of the implied covenant of good faith and fair dealing.

10 317. As a direct and proximate result of CTC's conduct, Plaintiff has suffered damages in an amount
11 in excess of fifteen thousand dollars.

12 318. As a direct and proximate result of Lexicon's conduct, Plaintiff has suffered damages in an
13 amount in excess of fifteen thousand dollars

14 319. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
15 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

16 **NINTH CAUSE OF ACTION**

17 **(Breach of the Implied Covenant of Good Faith and Fair Dealing – Contract as Against**
18 **Criterion)**

19 320. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
20 as if fully set forth herein.

21 321. Spirit entered into the Criterion Agreement, as detailed above, which is a valid and enforceable
22 contract.

23 322. Every contract, including the Criterion Agreement, contains an implied covenant of good faith
24 and fair dealing in which neither party will do anything which will injure the right of the other to
25 receive the benefits under the contract.

26 323. As explained herein, Criterion breached the duty of good faith and fair dealing by acting in a
27 manner unfaithful to the purpose of the contract to the disadvantage of Spirit.

1 324. Spirit's reasonable, justified expectations were denied as a result of Criterion's breach of the
2 implied covenant of good faith and fair dealing.

3 325. As a direct and proximate result of Criterion's conduct, Plaintiff has suffered damages in an
4 amount in excess of fifteen thousand dollars.

5 326. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
6 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

7 **TENTH CAUSE OF ACTION**

8 **(Nevada RICO Claims as Against Mulligan, George, Simon, Guffey, McCrae, Kapelinkovs,**
9 **CTC, Lexicon, and Criterion)**

10 327. Mulligan, George, Simon, Guffey, McCrae, the Kapelinkovs, CTC, Lexicon and Criterion,
11 participated in racketeering activity through the affairs of Spirit and the Mulligan Enterprise: to wit,
12 repeated embezzlement of Spirit's funds for Defendants' respective purposes and to the detriment
13 and harm of Spirit, including the Defendants acquiescing to, willfully ignoring, or participating in
14 Mulligan's transfer of Spirit assets to other individuals or entities with knowledge that Mulligan
15 intended to use the property to further the racketeering activity of the Mulligan Enterprise and that
16 Mulligan intended to conceal the location, source, ownership or control of the Spirit assets to avoid
17 detection of his ongoing embezzlement enterprise.

18 328. Defendants Mulligan, Pavel Kapelnikov, George, Simon, Guffy, Igor Kapelnikov, Yanina
19 Kaplenikov, Lexicon, CTC California, CTC Missouri, CTC Hawaii, Kapa Management Consulting
20 Inc., ICAP Management Solutions LLC, Fourgorean, Six Eleven LLC, Global Forwarding, Global
21 Capital Group, Chelsea Financial Group; Chelsea Premium Finance, Lexicon, Global Consulting,
22 Kapa Ventures, Criterion, One West Main Street LLC, Quote My Rig, LLC, New Tech Capital,
23 LLC, Fourgean Capital LLC, Ironjab, LLC, 10-4 Preferred Risk Managers, and other Defendants
24 acquired or maintained an interest in Spirit through racketeering activity, to wit, repeated
25 embezzlement of Spirit's funds and/or obtaining money or other Spirit assets by false pretenses or
26 serial fraud for Defendants' respective purposes, as detailed herein.

27 329. Defendants violated a predicate racketeering act by conspiracy to engage in the above-described
28

conduct, constituting serial and systematic embezzlement of Spirit assets.

330. Specifically, Defendants designed the Mulligan Enterprise to systematically commingle the assets and liabilities to the various entities and individuals comprising the Enterprise to obscure the location, source, ownership, and/or control of Spirit assets such that they could be surreptitiously diverted for the benefit of Mulligan and the other individual Defendants and deprived of Spirit, deceiving the public, the Division, and others in the process, as detailed herein.

331. Put differently, Defendants used the Mulligan Enterprise to convert Spirit assets to Mulligan and/or the other Defendants for their own use with the intent to defraud or steal the assets from Spirit, with the effect of appropriating Spirit's property for Mulligan's and the other Defendant's use, all in derogation of their roles as Spirit's trusted fiduciaries, as detailed herein.

332. Defendants perpetrated their scheme to expropriate and embezzle Spirit property through false and deceiving pretenses, including by providing knowingly and designedly false and incomplete financial statements to Spirit, the Division, and others with the intent to cheat or defraud and systematically failing to properly account for insurance premiums and loss reserves in an environment lacking any meaningful internal accounting control, all in violation of NRS 205.300, 205.380, 207.400 & 207.470, as detailed herein.

333. Specifically, Defendants misrepresented the financial condition of Spirit to the Division and Spirit's policyholders; misrepresented to Spirit policyholders the nature of their Chelsea Financial premium finance arrangements and about their insurance premiums being paid to Spirit for viable insurance; misrepresented the financial condition and books and records of CTC to obscure its mismanagement of Spirit's policies to Spirit, the Division, and Spirit's policyholders; and concealed the transfer away from Spirit/CTC and to Mulligan, George, McCrae, Simon, Guffey, the Kapelnikovs, entities in the Mulligan Enterprise that are the alter egos and/or fraudulent transferees of CTC or Mulligan, and entities that are the alter egos and/or fraudulent transferees of George, McCrae, Simon, Guffey, Lexicon, Criterion and/or the Kapelnikovs, as detailed herein.

334. Defendants further misrepresented to the Division that Spirit had, or would have, the financial wherewithal to pay for a reinsurance relationship with Accredited, with such representations based

1 on the false premises that CTC was a viable entity that would and could make good on balances
2 that it owed to Spirit and that CTC would arrange for other funds to also make the reinsurance
3 payments to Accredited.

4 335. Defendants perpetuated their expropriation and embezzlement through extensive patterns of the
5 fraudulent and/or otherwise unlawful conduct described in detail above, including, but not limited
6 to:

- 7 a. Causing CTC to fail to remit premiums collected by CTC to Spirit consistent with the
8 CTC Agreement and instead using funds properly belonging to Spirit (and held in trust
9 for Spirit) to fund CTC, Criterion, Chelsea Financial, and other entities in the Mulligan
10 Enterprise;
- 11 b. Causing CTC to fail to collect premiums due to Spirit and misreporting those failures as
12 canceled policies or “FPA” transactions retroactively to avoid paying Spirit premiums to
13 which it is entitled;
- 14 c. Causing CTC to overpay commissions and other amounts due to CTC, Criterion, Chelsea
15 Financial, and other entities in the Mulligan enterprises in an effort to avoid paying Spirit
16 amounts owed it by CTC, Criterion, Chelsea Financial, and other entities in the Mulligan
17 Enterprise;
- 18 d. Allowing Chelsea Financial to retain and squander Spirit’s premium assets for the benefit
19 of the Mulligan enterprises and insiders and related parties, and covering up that Chelsea
20 Financial had collected but failed to remit such premium funds to Spirit;
- 21 e. Allowing or enabling Spirit policyholders to enter into premium finance loan agreements
22 with Chelsea Financial under the false premise that premiums were being financed by
23 Chelsea Financial and that the premium money would be used to buy insurance with a
24 viable insurance company (*i.e.*, Spirit);
- 25 f. Through Criterion, and at the direction of Defendants Mulligan and McCrae, causing
26 Spirit to set claim reserves at artificially low amounts, even when the severity of the loss
27 exceeded such reserve amount, with the intent of overstating Spirit’s financial

performance and the effect of exposing Spirit to claim excessive exposure for policy losses without reserving sufficient funds to pay the losses.

- g. Making payments on related-party loans without documentation of the underlying debt and without proper disclosure to the Division;
- h. Disguising fraudulent payments to insiders and/or related parties as legitimate transactions;
- i. Diverting Spirit's bank account money to New Tech Capital, LLC for the use of the Mulligan Enterprise and insiders and related parties;
- j. Continuing Spirit's business operations far past the point of insolvency by manipulating Spirit's books and records and its representations to the Division and exposing Spirit's policyholders to unpayable claims, including by making misleading, false, incomplete, and/or untimely representations and omissions to the Division regarding Spirit and/or CTC's ability to fund the LPT Spirit proposed with a reinsurer and/or Spirit's ability to obtain financing, delaying the ultimate suspension of Spirit's business and receivership by months, and allowing Spirit to continue to incur losses under ballooning insolvency while the Mulligan Enterprise and the individual Defendants responsible for it continued to benefit.

336. This pattern of racketeering activity was undertaken as efforts by Mulligan and the other Individual Defendants to maintain control of the vast Mulligan Enterprise, allowing them to transfer away funds while retaining control over remaining assets, all while Spirit funded the losses of CTC and the other entity Defendants so that Defendants could continue to make payments to their preferred creditors, leaving pennies for Spirit and other non-insider creditors.

337. Defendants used the interstate wire system and/or the United States interstate mail system to facilitate the fraudulent scheme described here, in violation of federal law. Specifically, Spirit and the Defendants, who exercise control over Spirit, made fraudulent statements to the Division and Spirit's policyholders by mail and electronic mail, and CTC and the individual defendants who exercise control over CTC and the rest of the Mulligan Enterprise made the unlawful transfers of

1 funds described above using the interstate system of wires.

2 338. Plaintiff suffered injury by reason of the above-mentioned conduct, specifically, the loss of tens
3 of millions of dollars, the inability to operate as a going concern, being placed in receivership and
4 ultimately liquidation, and being unable to pay its creditors and policyholders.

5 339. Defendants' conduct as described herein proximately caused Plaintiff's injury.

6 340. Plaintiff did not participate in the violation, as the officers and directors of Spirit were not acting
7 in Spirit's interest but in their own interest.

8 341. As a result of Defendants' conduct and violation of the RICO statute, Plaintiff is entitled to
9 three times actual damages.

10 342. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
11 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

12 **ELEVENTH CAUSE OF ACTION**

13 **(Unjust Enrichment as Against All Defendants)**

14 343. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
15 as if fully set forth herein.

16 344. As detailed herein, Defendants received benefits from Spirit, namely, monetary benefits, such
17 that it would be inequitable for Defendants to retain those benefits at the expense of Spirit.

18 345. Defendant Lexicon received at least \$44,364.47 directly from Spirit for which it was not
19 entitled.

20 346. Additionally, CTC transferred funds and/or other property rightfully belonging to Spirit to the
21 following individuals and entities (in the amounts listed in parentheses, respectively): Chelsea
22 Financial (~\$6.5 million dollars); Global Capital Group (more than \$3 million dollars); Chase Bank
23 to pay, on information and belief, personal credit card bills of Mulligan (~\$2.67 million dollars);
24 Kapa Management Consulting (~\$2.3 million dollars); unidentified transferees (multiple transfers
25 totaling more than \$1.8 million dollars); Mulligan (three transfers totaling more than \$1.8 million
26 dollars); ICAP Management Solutions (more than \$1.5 million dollars); Fourgorean (two transfers
27 of ~\$1.2 million and \$214,000); Six Eleven LLC (three transfers of ~\$872,000 and ~\$354,000 and,
28

on information and belief, ~\$72,000); Global Forwarding (~\$719,000); Bank of America to pay, on information and belief, personal credit card bills of Mulligan (~\$363,000); Igor and/or Yanina Kapelnikov (~\$354,000); Quote my Rig, LLC (more than \$300,000); Carrus Mobile (two transfers of ~\$100,000 and ~\$200,000); Borson Law LLC for “settlement” with Guffey (~\$256,000); Chelsea Premium Finance (~\$195,000); Siro Smith Dickson for “settlement” with Guffey (~\$194,000); Yanina Kapelnikov (~\$173,000); 10-4 Preferred Risk Managers (~\$150,000); Criterion (more than \$90,000); cash withdraws with unidentified recipients/purpose (more than \$86,000); 195 Gluten Free LLC (~\$44,000); Kapa Ventures (more than \$35,000); Ironjab, LLC (more than \$15,000); and Global Consulting (nearly \$14,000), as detailed herein.

347. In addition, CTC improperly and fraudulently “wrote off” debts due to CTC and payable by the following related-party entities (in the amounts listed in parentheses, respectively), which funds would be due Spirit had CTC not “written off” these debts from related parties and instead collected them: Chelsea Financial (~4.45 million dollars); Criterion (more than \$50,000); and County Hall (\$25,000), as detailed herein.

348. Further, CTC reclassified a debt due to CTC and payable by Mulligan (in an amount in excess of \$790,000) as “Dividends Paid,” which funds would be due Spirit had CTC not reclassified this debt and instead collected it from Mulligan, as detailed herein.

349. Further, Spirit money was improperly diverted to New Tech Capital, LLC for the use of the Mulligan Enterprise and insiders and related parties.

350. As a direct and proximate result of defendants’ conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars.

351. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys’ fees and costs incurred herein.

TWELFTH CAUSE OF ACTION

(Fraud as Against All Defendants)

352. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

1 353. Plaintiff asserts that she has met the standard for pleading a fraud claim pursuant to NRC
2 9(b), but if she has not, that the relaxed standard for pleading fraud pursuant to *Rocker v. KPMG*
3 *LLP*, 122 Nev. 1185 (2006) applies here, as the full factual basis of the fraud is not available because
4 much of the relevant information and documents are solely within certain Defendants' possession
5 and cannot be secured without discovery.

6 354. Defendants, including those comprising the Mulligan Enterprise, are or operate a series of
7 companies in insurance-related fields covering the spectrum of the insurance business and include,
8 but are not limited to the CTC Entities, Criterion, Lexicon, and Chelsea Financial. Upon
9 information and belief, these companies are merely vehicles by which funds are knowingly and
10 intentionally siphoned from Spirit for the benefit of the individual defendants and/or entities
11 controlled by the same. With the active participation or knowledge of Defendants, Chelsea
12 Financial misled Spirit insureds that it had financed their insurance premiums, which was untrue,
13 and had paid all of their collected premiums to Spirit for viable insurance, which was also untrue.

14 355. Under this scheme, tens of millions of dollars rightfully owed to Plaintiff for the benefit of
15 Spirit's insureds has gone missing and Spirit is entitled to recover the same.

16 356. As set forth in detail above, the Spirit Director Defendants ran Spirit with little oversight and
17 participated and/or acquiesced in the scheme, or they should have known of the scheme, by which
18 tens of millions of dollars rightfully owed to Plaintiff for the benefit of Spirit's insureds has gone
19 missing.

20 357. The Spirit Director Defendants made and/or allowed to be made false representations on Spirit's
21 websites, in its public statements, and in statements or omissions to the Division, intending to dupe
22 the recipients of the statements into believing that Spirit was solvent and viable, could pay out on
23 claims, and/or that the Defendant entities would repay Spirit monies owed.

24 358. The Spirit Director Defendants knew the representations or omissions were false, or that they
25 had an insufficient basis for making them, and intended to induce reliance by state regulators,
26 including the Division, and policyholders on the representations or omissions by hiding the true
27 state of Spirit's affairs, including its paltry loss reserves and mounting insolvency.

1 359. Defendants formed an agreement to act in concert to misrepresent the financial condition of
2 Spirit to the Division and Spirit's policyholders; to mispresent to Spirit policyholders the nature of
3 their Chelsea Financial premium finance arrangements and their insurance premiums being paid to
4 Spirit for viable insurance; to misrepresent the financial condition and books and records of CTC
5 to obscure its mismanagement of Spirit's policies to Spirit, the Division, and Spirit's policyholders;
6 and to conceal the transfer away from Spirit/CTC and to Mulligan, George, McCrae, Simon,
7 Guffey, the Kapelnikovs, entities in the Mulligan enterprise that are the alter egos and/or fraudulent
8 transferees of CTC or Mulligan, and entities that are the alter egos and/or fraudulent transferees of
9 George, McCrae, Simon, Guffey, and/or the Kapelnikovs, as detailed herein.

10 360. With the active participation or knowledge of Defendants, Chelsea Financial misled Spirit
11 insureds that it had financed their insurance premiums, which was untrue, and had paid all of their
12 collected premiums to Spirit for viable insurance, which was also untrue. With the active
13 participation or knowledge of Defendants, Spirit policyholders entered into these premium finance
14 loan agreements with Chelsea Financial under the false premise that the premiums were being
15 financed and paid for by Chelsea Financial and that the premium money would be used to buy
16 insurance with a viable insurance company (*i.e.*, Spirit), and not that the premium money would be
17 squandered, dissipated, or improperly used by the Mulligan Enterprise and insiders and related
18 parties.

19 361. With the active participation or knowledge of Defendants, Spirit's money was improperly
20 diverted to New Tech Capital, LLC for the use of the Mulligan Enterprise and insiders and related
21 parties—all while making it seem like Spirit was investing money in, and would be the owner of,
22 New Tech Capital, LLC.

23 362. Defendants perpetuated their fraud through acts described in detail above, including, but not
24 limited to:

- 25 a. Making unnecessary payments to Lexicon;
- 26 b. Causing CTC to fail to remit premiums collected by CTC to Spirit consistent with the
- 27 CTC Agreement and instead using funds properly belonging to Spirit (and held in trust

1 for Spirit) to fund CTC, Criterion, Chelsea Financial, and other entities in the Mulligan
2 Enterprise. Causing CTC to fail to collect premiums due to Spirit and misreporting those
3 failures as canceled policies or “FPA” transactions retroactively to avoid paying Spirit
4 premiums to which it is entitled;

5 c. Causing CTC to overpay commissions and other amounts due to CTC, Criterion, Chelsea
6 Financial, and other entities in the Mulligan enterprises in an effort to avoid paying Spirit
7 amounts owed it by CTC, Criterion, Chelsea Financial, and other entities in the Mulligan
8 Enterprise;

9 d. Allowing Chelsea Financial to retain and squander Spirit’s premium assets for the benefit
10 of the Mulligan Enterprises and insiders and related parties, and covering up that Chelsea
11 Financial had collected but failed to remit such premium funds to Spirit; and

12 e. Allowing Chelsea Financial to issue premium finance agreements that misled Spirit
13 insureds into believing that it had financed their insurance premiums and that such
14 premiums would be paid in full to Spirit for viable insurance.

15 363. Through Criterion, at the direction of Defendants Mulligan, George and McCrae, or with the
16 active participation of George, McCrae, or Guffey in working with Mulligan, fraud was perpetuated
17 against Spirit by setting claim reserves at artificially low amounts, even when the severity of the
18 loss exceeded such reserve amount, with the intent of overstating Spirit’s financial performance.
19 The understatement of Spirit’s loss reserves had the actual effect of not setting aside enough money
20 to cover future loss payments as the understatement made it appear that Spirit was a viable insurance
21 business that could pay all of its claims.

22 364. Through Criterion, at the direction of Defendants Mulligan, George and McCrae--or with the
23 active participation of George, McCrae, Simon, or Guffey in working with Mulligan, fraud was
24 perpetuated as Spirit was caused to overpay claims when coverage should have been cancelled and
25 to pay claims for Mexican insureds when Spirit was not authorized to write such business.

26 365. Defendants’ fraud was further perpetuated by payments on related-party loans without
27 documentation of the underlying debt; Diverting Spirit’s money to New Tech Capital, LLC for the
28

1 use of the Mulligan Enterprise and insiders and related parties; Disguising fraudulent payments to
2 insiders and/or related parties as legitimate transactions; Continuing Spirit's business operations far
3 past the point of insolvency by manipulating Spirit's books and records and its representations to
4 the Division and exposing Spirit's policyholders to unfunded claims; and Representing to the
5 Division that Spirit had, or would have, the financial wherewithal to pay for a reinsurance
6 relationship with Accredited, with such representations based on the false premises that CTC was
7 a viable entity that would and could make good on balances that it owed to Spirit and that CTC
8 would arrange for other funds to also make the reinsurance payments to Accredited.

9 366. Absent Defendants' fraudulent actions and false representation, Spirit may have operated as a
10 successful insurer or, absent Defendants' fraudulent representations to the Divisions, Spirit's
11 operations would have been halted by the state regulators earlier, protecting its insureds and other
12 creditors. At the very least, more Spirit money would be available to pay policy claims but for the
13 actions of Defendants.

14 367. Plaintiff justifiably relied upon the representations of the Spirit Director Defendants and was
15 harmed due to the same.

16 368. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages in an
17 amount in excess of fifteen thousand dollars.

18 369. In committing the acts herein above alleged, the Defendants are guilty of oppression, fraud, and
19 malice toward Spirit. Therefore, Spirit is entitled to recover punitive damages from the Defendants
20 for the purpose of deterring it and others similarly situated from engaging in like conduct in the
21 future

22 370. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
23 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

24 **THIRTEENTH CAUSE OF ACTION**

25 **(Civil Conspiracy as Against All Defendants)**

26 371. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
27 as if fully set forth herein.

1 372. Defendants acted in concert with each other to falsify results and reserves, to conceal financial
2 problems and wrongdoing, to acquiesce to financial transactions and transfers of funds that were
3 improper and detrimental to the interests of Spirit, to mislead Spirit policyholders as to the nature
4 of their Chelsea Financial premium finance arrangements and about their insurance premiums being
5 paid to Spirit for insurance with a viable insurer, and to avoid regulatory oversight by the use of
6 untruthful, unreliable, or altered financial data or other information they knew to be false and not
7 in accordance with required statutory and professional standards in order to continue the operation
8 of Spirit for their own personal gain.

9 373. Specifically, and without limitation, Defendants formed an agreement to act in concert to
10 misrepresent the financial condition of Spirit to the Division and Spirit's policyholders; to
11 misrepresent to Spirit policyholders the nature of their Chelsea Financial premium finance
12 arrangements and their insurance premiums being paid to Spirit for viable insurance; to
13 misrepresent the financial condition and books and records of CTC to obscure its mismanagement
14 of Spirit's policies to Spirit, the Division, and Spirit's policyholders; and to conceal the transfer
15 away from Spirit/CTC and to Mulligan, George, McCrae, Simon, Guffey, the Kapelnikovs, entities
16 in the Mulligan enterprise that are the alter egos and/or fraudulent transferees of CTC or Mulligan,
17 and entities that are the alter egos and/or fraudulent transferees of George, McCrae, Simon, Guffey,
18 and/or the Kapelnikovs, as detailed herein.

19 374. Further, Defendants formed an agreement to act in concert to expropriate funds owed Spirit and
20 its policyholders through the acts and/or omissions described in detail above, including, but not
21 limited to:

- 22 a. Making unnecessary payments to Lexicon;
- 23 b. Causing CTC to fail to remit premiums collected by CTC to Spirit consistent with the
24 CTC Agreement and instead using funds properly belonging to Spirit (and held in trust for
25 Spirit) to fund CTC, Criterion, Chelsea Financial, and other entities in the Mulligan
26 Enterprise;
- 27 c. Causing CTC to fail to collect premiums due to Spirit and misreporting those failures as

1 canceled policies or “FPA” transactions retroactively to avoid paying Spirit premiums to
2 which it is entitled;

3 d. Causing CTC to overpay commissions and other amounts due to CTC, Criterion, Chelsea
4 Financial, and other entities in the Mulligan enterprises in an effort to avoid paying Spirit
5 amounts owed it by CTC, Criterion, Chelsea Financial, and other entities in the Mulligan
6 Enterprise;

7 e. Allowing Chelsea Financial to retain and squander Spirit’s premium assets for the benefit
8 of the Mulligan Enterprises and insiders and related parties, and covering up that Chelsea
9 Financial had collected but failed to remit such premium funds to Spirit;

10 f. Allowing or enabling Spirit policyholders to enter into these premium finance loan
11 agreements with Chelsea Financial under the false premise that premiums were being
12 financed by Chelsea and that the premium money would be used to buy insurance with a
13 viable insurance company (*i.e.*, Spirit);

14 g. Through Criterion, and at the direction of Defendants Mulligan and McCrae, causing
15 Spirit to set claim reserves at artificially low amounts, even when the severity of the loss
16 exceeded such reserve amount, with the intent of overstating Spirit’s financial performance.
17 These actions let to proper loss reserve funds being unavailable to pay claims and financial
18 misreporting of Spirit’s viability;

19 h. Diverting Spirit’s money to New Tech Capital, LLC for the use of the Mulligan
20 Enterprise and insiders and related parties;

21 i. Making payments on related-party loans without documentation of the underlying debt;

22 j. Disguising fraudulent payments to insiders and/or related parties as legitimate
23 transactions;

24 k. Representing to the Division that Spirit had, or would have, the financial wherewithal to
25 pay for a reinsurance relationship with Accredited, with such representations based on the
26 false premises that CTC was a viable entity that would and could make good on balances
27 that it owed to Spirit and that CTC would arrange for other funds to also make the reinsurance
28

1 payments to Accredited; and

2 1. Continuing Spirit's business operations far past the point of insolvency by manipulating
3 Spirit's books and records and its representations or omissions to the Division and exposing
4 Spirit's policyholders to unfunded claims.

5 375. Defendants' conduct described herein involved intentional misconduct, fraud, and/or knowing
6 violations of the law.

7 376. Each of the Defendants are jointly and severally liable for the damages described herein.

8 377. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages in an
9 amount in excess of fifteen thousand dollars.

10 378. In committing the acts herein above alleged, the Defendants are guilty of oppression, fraud, and
11 malice toward Spirit. Therefore, Spirit is entitled to recover punitive damages from the Defendants
12 for the purpose of deterring it and others similarly situated from engaging in like conduct in the
13 future

14 379. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
15 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

16 **FOURTEENTH CAUSE OF ACTION**

17 **(Alter Ego as Against Mulligan, George, Guffey, Simon and Pavel Kapelnikov)**

18 380. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
19 as if fully set forth herein.

20 381. Spirit and the entity defendants named herein were at all relevant times influenced and governed
21 by the Individual Defendants, including Mulligan, George, Guffey, Simon and Pavel Kapelnikov.

22 382. There is such unity of interest between the Individual Defendants and the entities such that the
23 Individual Defendants are inseparable from the entities, where, on information and belief, Mulligan,
24 George, Guffey, Simon and Pavel Kapelnikov commingled personal funds and the funds of each of
25 their entities, treated the companies' assets as their own, exercised majority control over the affairs
26 of the entities separately and/or collectively, undercapitalized the entities, failed to pay lawful
27 dividends, promoted fraud, shared corporate addresses and offices, and failed to observe corporate

1 formalities.

2 383. Adherence to the corporate fiction of a separate entity under the circumstances outlined in this
3 complaint would sanction fraud or promote a manifest injustice.

4 384. Accordingly, the Individual Defendants are personally liable for the debts of the entities.

5 **FIFTEENTH CAUSE OF ACTION**

6 **(NRS 112 - Avoidance of Transfers as Against CTC and its Transferees)**

7 385. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
8 as if fully set forth herein.

9 386. CTC was, and is, a debtor with respect to Spirit and the Receivership Estate, where CTC owes
10 substantial monies to Spirit/Plaintiff, including monies due under the Program Administrator
11 Agreement, monies due under the loan note, and other monies due as stated herein.

12 387. To avoid paying Spirit/Plaintiff these monies, CTC made transfers to natural persons and
13 entities with the actual intent to hinder, delay, or defraud Spirit/Plaintiff.

14 388. Specifically, CTC transferred funds and/or other property rightfully belonging to Spirit to the
15 following individuals and entities (in the amounts listed in parentheses, respectively): Chelsea
16 Financial (~\$6.5 million dollars); Global Capital Group (more than \$3 million dollars); Chase Bank
17 to pay, on information and belief, personal credit card bills of Mulligan (~\$2.67 million dollars);
18 Kapa Management Consulting (~\$2.3 million dollars); unidentified transferees (multiple transfers
19 totaling more than \$1.8 million dollars); Mulligan (three transfers totaling more than \$1.8 million
20 dollars); ICAP Management Solutions (more than \$1.5 million dollars); Fourgorean (two transfers
21 of ~\$1.2 million and ~\$214,000); Six Eleven LLC (three transfers of ~\$872,000 and ~\$337,913
22 and, on information and belief, \$72,000); Global Forwarding (~\$719,000); Bank of America to pay,
23 on information and belief, personal credit card bills of Mulligan (~\$363,000); Igor and/or Yanina
24 Kapelnikov (~\$354,000); Six Eleven LLC (~\$340,000); Quote my Rig, LLC (more than \$300,000);
25 Carrus Mobile (two transfers of ~\$100,000 and ~\$200,000); Borson Law LLC for “settlement” with
26 Guffey (~\$256,000); Chelsea Premium Finance (~\$195,000); Siro Smith Dickson for “settlement”
27 with Guffey (~\$194,000); Yanina Kapelnikov (~\$173,000); 10-4 Preferred Risk Managers
28

(~\$150,000); Criterion (more than \$90,000); cash withdraws with unidentified recipients (more than \$86,000); 195 Gluten Free LLC (~\$44,000); Kapa Ventures (more than \$35,000); Ironjab, LLC (more than \$15,000); and Global Consulting (nearly \$14,000), as detailed herein.

389. In addition, CTC improperly and fraudulently “wrote off” debts due to CTC and payable by the following related-party entities (in the amounts listed in parentheses, respectively), which funds would be due Spirit had CTC not “written off” these debts from related parties and instead collected them: Chelsea Financial (~4.45 million dollars); Criterion (more than \$50,000); and County Hall (\$25,000), as detailed herein.

390. Further, CTC reclassified a debt due to CTC and payable by Mulligan (in an amount in excess of \$790,000) as “Dividends Paid,” which funds would be due Spirit had CTC not reclassified this debt and instead collected it from Mulligan, as detailed herein.

391. Pursuant to NRS 112.210, Plaintiff is entitled to avoidance of these fraudulent transfers.

392. Defendants’ conduct described herein involved intentional misconduct, fraud, and/or knowing violations of the law.

393. Each of the Defendants are jointly and severally liable for the damages described herein.

394. As a direct and proximate result of defendants’ conduct, Plaintiff has suffered damages in an amount in excess of fifteen thousand dollars.

395. In committing the acts herein above alleged, the Defendants are guilty of oppression, fraud, and malice toward Spirit. Therefore, Spirit is entitled to recover punitive damages from the Defendants for the purpose of deterring it and others similarly situated from engaging in like conduct in the future

396. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover an award of reasonable attorneys’ fees and costs incurred herein.

SIXTEENTH CAUSE OF ACTION

(NRS 696B – Voidable Transfers as Against CTC and its Transferees)

397. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs as if fully set forth herein.

1 398. On information and belief, in the period leading up to Spirit's insolvency and receivership,
2 transfers were made from Spirit by or at the direction of its officers or directors from Spirit's funds
3 held in trust by CTC or others to individuals and entities claiming to be creditors.

4 399. On information and belief, Spirit's officers and directors and/or CTC made these transfers with
5 the intent of giving these "creditors" a greater percentage of their debt than any other creditor of
6 the same class, allowing some creditors/insiders to receive preferential transfers they would not
7 have obtained once Spirit was under the Division's receivership.

8 400. On information and belief, these "creditors" accepted the transfers with reasonable cause to
9 believe that a preference would occur.

10 401. Specifically, CTC transferred funds and/or other property rightfully belonging to Spirit to the
11 following individuals and entities (in the amounts listed in parentheses, respectively): Chelsea
12 Financial (~\$6.5 million dollars); Global Capital Group (more than \$3 million dollars); Chase Bank
13 to pay, on information and belief, personal credit card bills of Mulligan (~\$2.67 million dollars);
14 Kapa Management Consulting (~\$2.3 million dollars); unidentified transferees (multiple transfers
15 totaling more than \$1.8 million dollars); Mulligan (three transfers totaling more than \$1.8 million
16 dollars); ICAP Management Solutions (more than \$1.5 million dollars); Fourgorean (two transfers
17 of ~\$1.2 million and \$214,000); Six Eleven LLC (three transfers of ~\$872,000 and ~\$340,000 and,
18 on information and belief, \$72,000); Global Forwarding (~\$719,000); Bank of America to pay, on
19 information and belief, personal credit card bills of Mulligan (~\$363,000); Igor and/or Yanina
20 Kapelnikov (~\$354,000); Quote my Rig, LLC (more than \$300,000); Carrus Mobile (two transfer
21 of ~\$100,000 and ~\$200,000); Borson Law LLC for "settlement" with Guffey (~\$256,000);
22 Chelsea Premium Finance (~\$195,000); Siro Smith Dickson for "settlement" with Guffey
23 (~\$194,000); Yanina Kapelnikov (~\$173,000); 10-4 Preferred Risk Managers (~\$150,000);
24 Criterion (more than \$90,000); cash withdraws with unidentified recipients (more than \$86,000);
25 195 Gluten Free LLC (~\$44,000); Kapa Ventures (more than \$35,000); Ironjab, LLC (more than
26 \$15,000); and Global Consulting (nearly \$14,000), as detailed herein.

27 402. In addition, CTC improperly and fraudulently "wrote off" debts due to CTC and payable by the
28

1 following related-party entities (in the amounts listed in parentheses, respectively), which funds
2 would be due Spirit had CTC not “written off” these debts from related parties and instead collected
3 them: Chelsea Financial (~4.45 million dollars); Criterion (more than \$50,000); and County Hall
4 (\$25,000), as detailed herein.

5 403. Further, CTC reclassified a debt due to CTC and payable by Mulligan (in an amount in excess
6 of \$790,000) as “Dividends Paid,” which funds would be due Spirit had CTC not reclassified this
7 debt and instead collected it from Mulligan, as detailed herein.

8 404. Pursuant to NRS 696B.410, such transfers are voidable, and every director, officer, employee,
9 member, or any other person acting on behalf of Spirit who participated therein, to wit, Mulligan,
10 Simon, George, McCrae, Guffey, Maloney, Marx, C. Torres and V. Torres, is jointly and severally
11 liable for the same and is bound to account to the Receiver.

12 405. Pursuant to NRS 696B.410, the Receiver is entitled to recover this property, or its value, from
13 the above-named Defendants.

14 406. Each of the Defendants are jointly and severally liable for the damages described herein.

15 407. Defendants’ conduct described herein involved intentional misconduct, fraud, and/or knowing
16 violations of the law.

17 408. As a direct and proximate result of Defendants’ conduct, Plaintiff has suffered damages in an
18 amount in excess of fifteen thousand dollars.

19 In committing the acts herein above alleged, the Defendants are guilty of oppression, fraud, and
20 malice toward Spirit. Therefore, Spirit is entitled to recover punitive damages from the Defendants
21 for the purpose of deterring it and others similarly situated from engaging in like conduct in the
22 future.

23 409. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
24 action and is entitled to recover an award of reasonable attorneys’ fees and costs incurred herein.

25 **SEVENTEENTH CAUSE OF ACTION**

26 **(NRS 696B – Recovery of Distributions and Payments as Against CTC and its Transferees)**

27 410. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
28

as if fully set forth herein.

411. On information and belief, in the period leading up to Spirit's insolvency and receivership, distributions were made from Spirit by or at the direction of its officers or directors or from Spirit's funds held in trust by CTC to parent corporations, holding companies, affiliates, or other controlling persons.

412. Specifically, CTC transferred funds and/or other property rightfully belonging to Spirit to the following individuals and entities (in the amounts listed in parentheses, respectively): Chelsea Financial (~\$6.5 million dollars); Global Capital Group (more than \$3 million dollars); Chase Bank to pay, on information and belief, personal credit card bills of Mulligan (~\$2.67 million dollars); Kapa Management Consulting (~\$2.3 million dollars); unidentified transferees (multiple transfers totaling more than \$1.8 million dollars); Mulligan (three transfers totaling more than \$1.8 million dollars); ICAP Management Solutions (more than \$1.5 million dollars); Fourgorean (two transfers of ~\$1.2 million and ~\$214,000); Six Eleven LLC (three transfers of ~\$872,000 and \$337,913 and, on information and belief, ~\$72,000); Global Forwarding (~\$719,000); Bank of America to pay, on information and belief, personal credit card bills of Mulligan (~\$363,000); Igor and/or Yanina Kapelnikov (~\$354,000); Quote my Rig, LLC (more than \$300,000); Carrus Mobile (two transfers of ~\$100,000 and \$200,000); Borson Law LLC for "settlement" with Guffey (~\$256,000); Chelsea Premium Finance (~\$195,000); Siro Smith Dickson for "settlement" with Guffey (~\$194,000); Yanina Kapelnikov (~\$173,000); 10-4 Preferred Risk Managers (~\$150,000); Criterion (more than \$90,000); cash withdraws with unidentified recipients (more than \$86,000); 195 Gluten Free LLC (~\$44,000); Kapa Ventures (more than \$35,000); Ironjab, LLC (more than \$15,000); and Global Consulting (nearly \$14,000), as detailed herein.

413. In addition, CTC improperly and fraudulently "wrote off" debts due to CTC and payable by the following related-party entities (in the amounts listed in parentheses, respectively), which funds would be due Spirit had CTC not "written off" these debts from related parties and instead collected them: Chelsea Financial (~4.45 million dollars); Criterion (more than \$50,000); and County Hall (\$25,000), as detailed herein.

1 414. Further, CTC reclassified a debt due to CTC and payable by Mulligan (in an amount in excess
2 of \$790,000) as "Dividends Paid," which funds would be due Spirit had CTC not reclassified this
3 debt and instead collected it from Mulligan, as detailed herein.

4 415. On information and belief, in the period leading up to Spirit's insolvency and receivership,
5 payments were made from Spirit by or at the direction of its officers and directors, or from Spirit's
6 funds held in trust by CTC, as bonuses, settlement on termination, or extraordinary salary
7 adjustments, to individuals and entities such as Mulligan, Pavel Kapelnikov, Yanina Kapelnikov,
8 Igor Kapelnikov, George, Borson Law, and Siro Smith Dickson.

9 416. Pursuant to NRS 696B.412, Plaintiff is entitled to recover these monies from Defendants, who
10 are jointly and severally liable, along with anyone who controlled Defendants at the time of these
11 distributions or payments.

12 417. Each of the Defendants are jointly and severally liable for the damages described herein.

13 418. Defendants' conduct described herein involved intentional misconduct, fraud, and/or knowing
14 violations of the law.

15 419. As a direct and proximate result of defendants' conduct, Plaintiff has suffered damages in an
16 amount in excess of fifteen thousand dollars.

17 420. In committing the acts herein above alleged, the Defendants are guilty of oppression, fraud, and
18 malice toward Spirit. Therefore, Spirit is entitled to recover punitive damages from the Defendants
19 for the purpose of deterring it and others similarly situated from engaging in like conduct in the
20 future

21 421. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
22 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

23 **EIGHTEENTH CAUSE OF ACTION**

24 **(NRS 692C.402 - Recovery of Distributions and Payments as Against CTC and its Transferees)**

25 422. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
26 as if fully set forth herein.

27 423. On information and belief, in the period leading up to Spirit's insolvency and receivership,
28

distributions were made from Spirit by or at the direction of its officers or directors, or from Spirit's funds held in trust by CTC to parent corporations, holding companies, affiliates, or other controlling persons.

424. Specifically, CTC transferred funds and/or other property rightfully belonging to Spirit to the following individuals and entities (in the amounts listed in parentheses, respectively): Chelsea Financial (~\$6.5 million dollars); Global Capital Group (more than \$3 million dollars); Chase Bank to pay, on information and belief, personal credit card bills of Mulligan (~\$2.67 million dollars); Kapa Management Consulting (~\$2.3 million dollars); unidentified transferees (multiple transfers totaling more than \$1.8 million dollars); Mulligan (three transfers totaling more than \$1.8 million dollars); ICAP Management Solutions (more than \$1.5 million dollars); Fourgorean (two transfers of ~\$1.2 million and \$214,000); Six Eleven LLC (three transfers of ~\$872,000 and ~\$337,913 and, on information and belief, ~\$72,000); Global Forwarding (~\$719,000); Bank of America to pay, on information and belief, personal credit card bills of Mulligan (~\$363,000); Igor and/or Yanina Kapelnikov (~\$354,000); Quote my Rig, LLC (more than \$300,000); Carrus Mobile (two transfers of ~\$100,000 and ~\$200,000); Chelsea Premium Finance (~\$195,000); Yanina Kapelnikov (~\$173,000); 10-4 Preferred Risk Managers (~\$150,000); Criterion (more than \$90,000); cash withdraws with unidentified recipients (more than \$86,000); 195 Gluten Free LLC (~\$44,000); Kapa Ventures (more than \$35,000); Ironjab, LLC (more than \$15,000); and Global Consulting (nearly \$14,000), as detailed herein.

425. In addition, CTC improperly and fraudulently "wrote off" debts due to CTC and payable by the following related-party entities (in the amounts listed in parentheses, respectively), which funds would be due Spirit had CTC not "written off" these debts from related parties and instead collected them: Chelsea Financial (~4.45 million dollars); Criterion (more than \$50,000); and County Hall (\$25,000), as detailed herein.

426. Further, CTC reclassified a debt due to CTC and payable by Mulligan (in an amount in excess of \$790,000) as "Dividends Paid," which funds would be due Spirit had CTC not reclassified this debt and instead collected it from Mulligan, as detailed herein.

1 427. On information and belief, in the period leading up to Spirit's insolvency and receivership,
2 payments were made from Spirit by or at the direction of its officers and directors, or from Spirit's
3 funds held in trust by CTC.

4 428. Pursuant to NRS 692C.402, Plaintiff is entitled to recover these monies from Defendants, who
5 are jointly and severally liable, along with anyone who controlled Defendants at the time of these
6 distributions or payments.

7 429. Pursuant to NRS 692C.404, Defendants are jointly and severally liable up to the amount of
8 distributions they received or would have received had they been paid immediately, and if any
9 Defendant is not able to pay, its parent corporation, holding company, or controlling persons are
10 jointly and severally liable for any deficiency.

11 430. Defendants' conduct described herein involved intentional misconduct, fraud, and/or knowing
12 violations of the law.

13 431. Each of the Defendants are jointly and severally liable for the damages described herein.

14 432. As a direct and proximate result of defendants' conduct, Plaintiff has suffered damages in an
15 amount in excess of fifteen thousand dollars.

16 433. In committing the acts herein above alleged, the Defendants are guilty of oppression, fraud, and
17 malice toward Spirit. Therefore, Spirit is entitled to recover punitive damages from the Defendants
18 for the purpose of deterring it and others similarly situated from engaging in like conduct in the
19 future

20 434. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
21 action and is entitled to recover an award of reasonable attorneys' fees and costs incurred herein.

22 **NINETEENTH CAUSE OF ACTION**

23 **(NRS 78.300 – Recovery of Unlawful Distribution as Against the Spirit Director Defendants)**

24 435. Plaintiff realleges and incorporates all of the allegations contained in the preceding paragraphs
25 as if fully set forth herein.

26 436. On information and belief, CTC "updated" its QuickBooks General Ledger for the calendar
27 year 2018 sometime in 2019. Significant intercompany balances and balances due from related
28

1 parties were adjusted.

2 437. Among other “adjustments,” CTC reclassified a balance due from Mulligan of \$792,794 as
3 “Dividends Paid.”

4 438. During both 2018 and 2019 (when the “debt” was reclassified as a “dividend”), a distribution
5 of \$792,794, after giving that distribution effect, would make CTC unable to pay its other debts as
6 they became due in the normal course of business.

7 439. In fact, CTC was already unable to pay its debts to Spirit as they became due. Accordingly, the
8 distribution was unlawful.

9 440. In January 2018, Spirit wrongfully transferred \$500,000 to New Tech Capital, LLC, which was
10 supposedly for an investment of the company. This so-called Spirit “investment” turned out to be
11 an investment for the sole use and benefit of Mulligan and Pavel Kapelnikov—and possibly others.

12 441. Plaintiff has been required to retain the services of Greenberg Traurig, LLP to prosecute this
13 action and is entitled to recover an award of reasonable attorneys’ fees and costs incurred herein.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff respectfully prays that the Court grant the following relief:

- 16 A. An award of compensatory, consequential, special, statutory, restitution, and/or punitive
17 damages to Plaintiff in an amount in excess of \$15,000.00;
18 B. For pre- and post- judgment interest;
19 C. For attorneys’ fees and costs of suit; and
20 G. For such other and further relief as this Court deems just and proper.

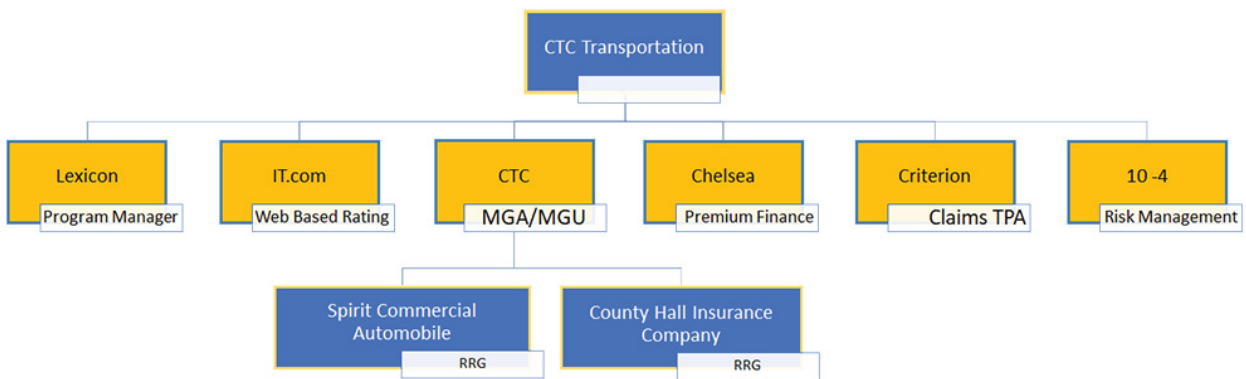
21 DATED: this 6th day of February 2020.

22
23 /s/ Mark E. Ferrario

24 MARK E. FERRARIO
25 KARA B. HENDRICKS
26 KYLE A. EWING
27 GREENBERG TRAURIG, LLP
28 10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135

Attorneys for Plaintiff

Exhibit 1



HELPFUL LINKS

■ [Careers](#)

OUR PRODUCTS

■ [Auto Liability](#)

■ [Physical Damage](#)

■ [Cargo Coverage](#)

■ [Occupational Accident](#)

■ [Non-Trucking Liability](#)

■ [General Liability](#)

CONTACT INFO

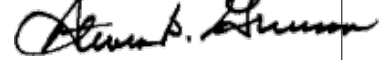
Address:

2888 Loker Avenue East Ste 102 Carlsbad, CA 92010

Business hours:

Mon - Fri: 9AM - 7PM

Phone number:



1 **ANSBU**
2 **TYSON & MENDES LLP**
3 **THOMAS E. MCGRATH**
4 Nevada Bar No. 7086
5 Email: tmcgrath@tysonmendes.com
6 **CHRISTOPHER A. LUND**
7 Nevada Bar No. 12435
8 Email: clund@tysonmendes.com
9 3960 Howard Hughes Parkway, Suite 600
10 Las Vegas, Nevada 89169
11 Tel: (702) 724-2648
12 Fax: (702) 938-1048
13 *Attorneys for Defendants Pavel Kapelnikov;*
14 *Chelsea Financial Group, Inc., a New Jersey corporation;*
15 *Chelsea Financial Group, Inc. a California corporation;*
16 *Global Forwarding Enterprises, LLC; Kapa Management Consulting, Inc.;*
17 *Kapa Ventures, Inc.*

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 **BARBARA D. RICHARDSON IN HER**
13 **CAPACITY AS THE STATUTORY**
14 **RECEIVER FOR SPIRIT COMMERCIAL**
15 **AUTO RISK RETENTION GROUP, INC.,**

16 Plaintiff,

17 vs.

18 **THOMAS MULLIGAN, an individual; CTC**
19 **TRANSPORTATION INSURANCE SERVICES**
20 **OF MISSOURI, LLC, a Missouri Limited**
21 **Liability Company; CTC TRANSPORTATION**
22 **INSURANCE SERVICES LLC, a California**
23 **Limited Liability Company; CTC**
24 **TRANSPORTATION INSURANCE SERVICES**
25 **OF HAWAII LLC, a Hawaii Limited Liability**
26 **Company; CRITERION CLAIMS SOLUTIONS**
27 **OF OMAHA, INC., a Nebraska Corporation;**
28 **PAVEL KAPELNIKOV, an individual;**
CHELSEA FINANCIAL GROUP, INC., a
California Corporation; CHELSEA FINANCIAL
GROUP, INC., a Missouri Corporation;
CHELSEA FINANCIAL GROUP, INC., a New
Jersey Corporation d/b/a CHELSEA PREMIUM
FINANCE CORPORATION; CHELSEA
FINANCIAL GROUP, INC., a Delaware
Corporation; CHELSEA HOLDING
COMPANY, LLC, a Nevada Limited
Liability Company; CHELSEA HOLDINGS,

Case No. A-20-809963-C
Dept. No. VIII

DEFENDANTS PAVEL KAPELNIKOV'S;
CHELSEA FINANCIAL GROUP, INC., A
NEW JERSEY CORPORATION'S;
CHELSEA FINANCIAL GROUP, INC., A
CALIFORNIA CORPORATION'S;
GLOBAL FORWARDING
ENTERPRISES, LLC'S; KAPA
MANAGEMENT CONSULTING, INC.'S
AND KAPA VENTURES, INC.'S'
ANSWER TO PLAINTIFF'S
COMPLAINT

LLC, a Nevada Limited Liability Company;
FOURGOREAN CAPITAL, LLC, a New Jersey
Limited Liability Company; KAPA
MANAGEMENT CONSULTING, INC. a New
Jersey Corporation; KAPA VENTURES, INC., a
New Jersey Corporation; GLOBAL
FORWARDING ENTERPRISES LIMITED
LIABILITY COMPANY, a New Jersey Limited
Liability Company; GLOBAL CAPITAL
GROUP, LLC, a New Jersey Limited Liability
Company; GLOBAL CONSULTING; NEW
TECH CAPITAL, LLC, a Delaware Limited
Liability Company; LEXICON INSURANCE
MANAGEMENT LLC, a North Carolina
Limited Liability Company; ICAP
MANAGEMENT SOLUTIONS, LLC, a
Vermont Limited Liability Company; SIX
ELEVEN LLC, a Missouri Limited Liability
Company; 10-4 PREFERRED RISK
MANAGERS INC., a Missouri Corporation;
IRONJAB LLC, a New Jersey Limited Liability
Company; YANINA G. KAPELNIKOV, an
individual; IGOR KAPELNIKOV, an individual;
QUOTE MY RIG LLC, a New Jersey Limited
Liability Company; MATTHEW SIMON, an
individual; DANIEL GEORGE, an individual;
JOHN MALONEY, an individual; JAMES
MARX, an individual; CARLOS TORRES, an
individual;
VIRGINIA TORRES, an individual; SCOTT
McCRAE, an individual; BRENDA GUFFEY,
an individual; 195 GLUTEN FREE LLC, a New
Jersey Limited Liability Company, DOE
INDIVIDUALS I-X; and ROE CORPORATE
ENTITIES I-X,

Defendants.

Defendants PAVEL KAPELNIKOV; CHELSEA FINANCIAL GROUP, INC. a New
Jersey Corporation; CHELSEA FINANCIAL GROUP, INC. a California corporation; GLOBAL
FORWARDING ENTERPRISES, LLC; KAPA MANAGEMENT CONSULTING, INC.; and
KAPA VENTURES, INC. (“these answering Defendants”), by and through counsel, the law firm
of Tyson & Mendes LLP, hereby Answer the Complaint of Plaintiff BARBARA D.

RICHARDSON IN HER CAPACITY AS THE STATUTORY RECEIVER FOR SPIRIT COMMERCIAL AUTO RISK RETENTION GROUP, INC., ("Plaintiff") as follows:

INTRODUCTION

1. Answering Paragraph One of the allegations entitled "Introduction" in Plaintiff's Complaint, these answering Defendants deny they participated in or orchestrated a fraudulent enterprise and further deny they operated interrelated companies in the insurance industry for their own benefits and to the detriment of customers and insureds, including Spirit.

2. Answering Paragraph Two of the allegations entitled "Introduction" in Plaintiff's Complaint, these answering Defendants deny they "siphoned millions of dollars from Spirit". Answering the remaining allegations in said paragraph, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said remaining allegations and therefore, on that basis they deny the same.

3. Answering Paragraph Three of the allegations entitled "Introduction" in Plaintiff's Complaint, these answering Defendants deny that Defendant Pavel Kapelnikov participated in any design and/or implementation of the alleged scheme and/or perpetuated any fraud. Defendants further deny that Pavel Kapelnikov owned or controlled Mulligan Enterprises. Answering the remaining allegations in said paragraph, these answering Defendants assert that said remaining allegations contain and/or constitute legal conclusions, to which no response is required. To the extent said remaining allegations are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

4. Answering Paragraph Four of the allegations entitled "Introduction" in Plaintiff's Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraph and therefore, on that basis it deny the same.

///

PARTIES AND JURISDICTION

The Plaintiff

5. Answering Paragraphs Five through Nine of the allegations entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis it deny the same.

The Defendants

6. Answering Paragraphs Ten through Fourteen of the allegations entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

7. Answering Paragraph Fifteen of the allegations entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants admit that Chelsea Financial Group, Inc. a California corporation and Chelsea Financial Group, Inc., a New Jersey corporation are related. These Answering Defendants deny that Chelsea Financial Group, Inc. a California corporation and Chelsea Financial Group, Inc., a New Jersey corporation are related to Chelsea Financial Group, Inc. a Missouri corporation and Chelsea Financial Group, Inc., a Delaware corporation. These answering Defendants deny that “all of these entities have a unity of ownership, activities, purposes and finances”. Answering the remaining allegations in said paragraph, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

8. Answering Paragraph Sixteen of the allegations entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

9. Answering Paragraph Seventeen of the allegations entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert that said paragraph contains and/or constitutes legal conclusions, to which no response is required. To the extent

1 said paragraph is determined to contain factual allegations, these answering Defendants assert
2 they are without sufficient information to form a belief as to the truth or falsity of any factual
3 allegations contained therein and therefore, on that basis they deny the same.

4 10. Answering Paragraph Eighteen of the allegations entitled “Parties and
5 Jurisdiction” in Plaintiff’s Complaint, these answering Defendants deny that Pavel Kapelnikov
6 owned or operated the alleged/referenced entity “Chelsea Financial”. These answering
7 Defendants also deny that Chelsea Financial Group, Inc. a California corporation and Chelsea
8 Financial Group, Inc., a New Jersey corporation failed to pay all Spirit premium funds owed to
9 CTC and/or participated in the alleged scheme to mislead insurance regulators in any manner.
10 Answering the remaining allegations in said paragraph, these answering Defendants assert that
11 said paragraphs contain and/or constitute legal conclusions, to which no response is required. To
12 the extent said paragraph are determined to contain factual allegations, these answering
13 Defendants assert they are without sufficient information to form a belief as to the truth or falsity
14 of any factual allegations contained therein and therefore, on that basis they deny the same.

15 11. Answering Paragraphs Nineteen through Twenty One of the allegations entitled
16 “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert that said
17 paragraphs contain and/or constitute legal conclusions, to which no response is required. To the
18 extent said paragraph are determined to contain factual allegations, these answering Defendants
19 assert they are without sufficient information to form a belief as to the truth or falsity of any
20 factual allegations contained therein and therefore, on that basis they deny the same

21 12. Answering Paragraphs Twenty-Two through Twenty-Five of the allegations
22 entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert
23 they are without sufficient information to form a belief as to the truth or falsity of any factual
24 allegations contained in said paragraphs and therefore, on that basis they deny the same.

25 13. Answering Paragraph Twenty-Six of the allegations entitled “Parties and
26 Jurisdiction” in Plaintiff’s Complaint, these answering Defendants admit that Kapa Management
27 Consulting Inc. is a corporation Pavel Kapelnikov founded. Answering Defendants deny that
28 Kapa Management Consulting, Inc. was used as a “shell company” founded to further these

1 answering Defendants' or others financial interest and further deny that they "siphoned funds
2 from CTC due to Spirit".

3 14. Answering Paragraph Twenty-Seven of the allegations entitled "Parties and
4 Jurisdiction" in Plaintiff's Complaint, these answering Defendants admit that Pavel Kapelnikov
5 and Igor Kapelnikov own Global Forwarding Enterprises LLC and that Igor Kapelnikov and
6 Pavel Kapelnikov are brothers. These answering Defendants deny that Thomas Mulligan owned
7 or owns or operated or operates Global Forwarding Enterprises LLC and further deny that Global
8 Forwarding Enterprises, LLC was utilized to expropriate money from CTC. Answering any
9 remaining allegations in said paragraph, these answering Defendants assert they are without
10 sufficient information to form a belief as to the truth or falsity of any factual allegations
11 contained therein and therefore, on that basis they deny the same.

12 15. Answering Paragraphs Twenty-Eight through Thirty of the allegations entitled
13 "Parties and Jurisdiction" in Plaintiff's Complaint, these answering Defendants assert that said
14 paragraphs contain and/or constitute legal conclusion, to which no response is required. To the
15 extent said paragraphs are determined to contain factual allegations, these answering Defendants
16 assert they are without sufficient information to form a belief as to the truth or falsity of any
17 factual allegations contained therein and therefore, on that basis they deny the same.

18 16. Answering Paragraph Thirty-One of the allegations entitled "Parties and
19 Jurisdiction" in Plaintiff's Complaint, these answering Defendants deny that Global Consulting
20 is a d/b/a for Global Forwarding Enterprises. Answering the remaining allegations in said
21 paragraph, these answering Defendants assert that said remaining allegations contain and/or
22 constitute legal conclusions, to which no response is required. To the extent said remaining
23 allegations are determined to contain factual allegations, these answering Defendants assert they
24 are without sufficient information to form a belief as to the truth or falsity of any factual
25 allegations contained therein and therefore, on that basis they deny the same.

26 17. Answering Paragraph Thirty-Two of the allegations entitled "Parties and
27 Jurisdiction" in Plaintiff's Complaint, these answering Defendants assert they are without
28 sufficient information to form a belief as to the truth or falsity of any factual allegations

1 contained in said paragraph and therefore, on that basis they deny the same.

2 18. Answering Paragraph Thirty-Three of the allegations entitled “Parties and
3 Jurisdiction” in Plaintiff’s Complaint, these answering Defendants deny that Yanina G.
4 Kapelnikov unlawfully and/or fraudulently received Spirit funds from CTC and further deny that
5 Pavel Kapelnikov directed anyone to provide Yanina G. Kapelnikov with said funds. Answering
6 the remaining allegations in said paragraph, to the extent said remaining allegations are
7 determined to contain factual allegations, these answering Defendants assert they are without
8 sufficient information to form a belief as to the truth or falsity of any factual allegations
9 contained therein and therefore, on that basis they deny the same.

10 19. Answering Paragraph Thirty-Four of the allegations entitled “Parties and
11 Jurisdiction” in Plaintiff’s Complaint, these answering Defendants admit that Kapa Ventures,
12 Inc. is a New Jersey corporation. These answering Defendants deny that Kapa Ventures, Inc.
13 unlawfully or fraudulently received Spirit funds from CTC.

14 20. Answering Paragraphs Thirty-Five through Thirty Nine of the allegations entitled
15 “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert they are
16 without sufficient information to form a belief as to the truth or falsity of any factual allegations
17 contained in said paragraphs and therefore, on that basis they deny the same.

18 21. Answering Paragraph Forty of the allegations entitled “Parties and Jurisdiction” in
19 Plaintiff’s Complaint, these answering Defendants admit that Pavel Kapelnikov was the
20 President of only Chelsea Financial Group, Inc. a New Jersey corporation and Chelsea Financial
21 Group, Inc. a California corporation and president of Global Forward Enterprises. These
22 answering Defendants also admit that Pavel Kapelnikov was the owner and/or director of Kapa
23 Management Consulting and Kapa Ventures. These answering Defendants deny Pavel
24 Kapelnikov was the President of Global Forwarding Inc. Answering the remaining allegations in
25 said paragraph, these answering Defendants assert they are without sufficient information to
26 admit or deny said remaining allegations and therefore, on that basis they deny the same.

27 22. Answering Paragraph Forty-One of the allegations entitled “Parties and
28 Jurisdiction” in Plaintiff’s Complaint, these answering Defendants admit that Igor Kapelnikov is

the CEO of Global Forwarding Enterprises. These answering Defendants deny that Igor Kapelnikov was paid Spirit funds by CTC and/or that he is the CEO of Global Forwarding Inc. Answering the remaining allegations in said paragraph, these answering Defendants assert they are without sufficient information to admit or deny said remaining allegations and therefore, on that basis they deny the same.

23. Answering Paragraphs Forty-Two through Forty-Six of the allegations entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

24. Answering Paragraph Forty-Seven and Forty-Eight of the allegations entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert that said paragraphs contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraph is determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

Jurisdiction

25. Answering Paragraphs Forty-Nine through Fifty-One of the allegations entitled “Parties and Jurisdiction” in Plaintiff’s Complaint, these answering Defendants assert that said paragraphs contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

FACTUAL ALLEGATIONS

Background Information Regarding Spirit

26. Answering Paragraphs Fifty-Two through Fifty-Seven of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

1 27. Answering Paragraph Fifty-Eight of the allegations entitled “Factual Allegations”
2 in Plaintiff’s Complaint, these answering Defendants deny that Chelsea Financial, Inc., a New
3 Jersey Corporation or Chelsea Financial Inc., a California corporation that it made any false or
4 misleading “statements” to Spirit insureds regarding funding or financing insurance premiums.
5 These answering Defendants further deny they misled Spirit policyholders regarding “their
6 collected premium payments”. Answering the remaining allegations in said paragraph, these
7 answering Defendants assert that said remaining allegations contain and/or constitute legal
8 conclusions, to which no response is required. To the extent said remaining allegations are
9 determined to contain factual allegations, these answering Defendants assert they are without
10 sufficient information to form a belief as to the truth or falsity of any factual allegations
11 contained therein and therefore, on that basis they deny the same.

12 28. Answering Paragraph Fifty-Nine of the allegations entitled “Factual Allegations”
13 in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient
14 information to form a belief as to the truth or falsity of any factual allegations contained in said
15 paragraphs and therefore, on that basis they deny the same.

16 29. Answering Paragraphs Sixty through Sixty-Two of the allegations entitled
17 “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants deny that they failed
18 to remit any collected premium funds to CTC or Spirit and/or that they worked in concert with
19 anyone to “cover up” or “conceal” any collection of Spirit premium funds. Answering the
20 remaining allegations, these answering Defendants assert that said remaining allegations contain
21 and/or constitute legal conclusions, to which no response is required. To the extent said
22 remaining allegations are determined to contain factual allegations, these answering Defendants
23 assert they are without sufficient information to form a belief as to the truth or falsity of any
24 factual allegations contained therein and therefore, on that basis they deny the same.

25 30. Answering Paragraph Sixty-Three of the allegations entitled “Factual
26 Allegations” in Plaintiff’s Complaint, these answering Defendants assert they are without
27 sufficient information to form a belief as to the truth or falsity of any factual allegations
28 contained in said paragraph and therefore, on that basis they deny the same

Events Leading Up to the Discovery of Defendants' Misconduct

31. Answering Paragraphs Sixty-Four through Seventy-Four of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

32. Answering Paragraph Seventy-Five of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants deny the Kapelnikovs undertook any action and/or participated in any scheme to conceal from anyone, accurate and/or complete information regarding Spirit or CTC. Answering the remaining allegations in said paragraph, these answering Defendants assert that said paragraph contains and/or constitutes legal conclusions, to which no response is required. To the extent said paragraph is determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

33. Answering Paragraph Seventy-Six of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraph and therefore, on that basis they deny the same.

Spirit Discloses a 27.6 Million-Dollar Receivable from CTC

34. Answering Paragraphs Seventy-Seven through Eighty-Five of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

CTC'S Duties Owed to Spirit under the CTC Agreement

35. Answering Paragraph Eighty-Six through Ninety of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants assert that said paragraphs contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants

1 assert they are without sufficient information to form a belief as to the truth or falsity of any
2 factual allegations contained therein and therefore, on that basis they deny the same.

3 *Spirit's Certificate of Authority is Suspended, and Spirit is Placed in Receivership*

4 36. Answering Paragraph Ninety-One through Ninety-Three of the allegations
5 entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants assert they
6 are without sufficient information to form a belief as to the truth or falsity of any factual
7 allegations contained in said paragraphs and therefore, on that basis they deny the same.

8 37. Answering Paragraph Ninety-Four of the allegations entitled "Factual
9 Allegations" in Plaintiff's Complaint, these answering Defendants admit that Mulligan resigned
10 from Chelsea Financial, Inc., a New Jersey corporation and Chelsea Financial Inc., a California
11 corporation. Answering the remaining allegations, these answering Defendants assert they are
12 without sufficient information to form a belief as to the truth or falsity of any factual allegations
13 contained therein and therefore, on that basis they deny the same.

14 38. Answering Paragraph Ninety-Five through Ninety-Ninety of the allegations
15 entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants assert they
16 are without sufficient information to form a belief as to the truth or falsity of any factual
17 allegations contained in said paragraphs and therefore, on that basis they deny the same.

18 *CTC Fails to Collect and Pay to Spirit Premiums for Policies Issued*

19 39. Answering Paragraphs One Hundred through One Hundred and Eleven of the
20 allegations entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants
21 assert that said paragraphs contain and/or constitute legal conclusions, to which no response is
22 required. To the extent said paragraphs are determined to contain factual allegations, these
23 answering Defendants assert they are without sufficient information to form a belief as to the
24 truth or falsity of any factual allegations contained therein and therefore, on that basis they deny
25 the same.

26 *CTC Retroactively Reclassifies Uncollected Premiums*

27 40. Answering Paragraph One Hundred and Twelve through One Hundred and
28 Twenty-Eight of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these

answering Defendants assert that said paragraphs contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

Mulligan Dominated and Controlled the Affairs of CTC and Spirit and other Related Entities

41. Answering Paragraph One Hundred and Twenty-Nine through One Hundred and Thirty-One of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

42. Answering Paragraph One Hundred and Thirty-Two of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants deny that Pavel Kapelnikov was an officer, manager or director of CTC and further deny they possessed or used undue influence to “override controls” or utilize technology to “override critical financial restraints”. Answering the remaining allegations in said paragraph, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraph and therefore, on that basis they deny the same.

43. Answering Paragraphs One Hundred and Thirty-Three through One Hundred and Forty of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

Criterion and 10-4 Preferred Managers Harm to Spirit

44. Answering Paragraph One Hundred and Forty-One through One Hundred and Fifty-Nine of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis

they deny the same.

Chelsea Financial Harm to Spirit

45. Answering Paragraph One Hundred Sixty of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants deny that they made any false or misleading representations to Spirit policyholders. These answering Defendants further deny they misled Spirit policyholders regarding collected premium payments to Spirit. These answering Defendants also deny failing to pay Spirit and/or CTC collected premium payments from Spirit policyholders and they deny that Pavel Kapelnikov inappropriately took Spirit’s money. Answering the remaining allegations in said paragraph, these answering Defendants assert that said remaining allegations contain or constitute legal conclusions, to which no response is required. To the extent said remaining allegations are interpreted to contain any factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

46. Answering Paragraph One Hundred and Sixty-One of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

47. Answering Paragraph One Hundred Sixty-Two of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants deny that inappropriately kept Spirit’s money. Answering the remaining allegations in said paragraph, these answering Defendants assert that said remaining allegations contain or constitute legal conclusions, to which no response is required. To the extent said remaining allegations are interpreted to contain any factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

48. Answering Paragraphs One Hundred Sixty-Three and One Hundred and Sixty-Four of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering

1 Defendants deny that Spirit has not received any premium funds due from these answering
2 Defendants. These answering Defendants also deny they charged Spirit for “premium financing
3 that did not exist”. Answering the remaining allegations in said paragraphs, these answering
4 Defendants assert that said remaining allegations contain or constitute legal conclusions, to
5 which no response is required. To the extent said remaining allegations are interpreted to contain
6 any factual allegations, these answering Defendants assert they are without sufficient information
7 to form a belief as to the truth or falsity of any factual allegations contained therein and
8 therefore, on that basis they deny the same.

9 49. Answering Paragraphs One Hundred Sixty-Five through One Hundred and Sixty-
10 Eight of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering
11 Defendants deny they received return premium funds from CTC for premiums they “failed to
12 collect in the first place”. These answering Defendants also deny they received from CTC more
13 premium than was collected for a policy and they deny they undertook any action to “hide
14 malfeasance. Answering the remaining allegations in said paragraphs, these answering
15 Defendants assert that said remaining allegations contain or constitute legal conclusions, to
16 which no response is required. To the extent said remaining allegations are interpreted to contain
17 any factual allegations, these answering Defendants assert they are without sufficient information
18 to form a belief as to the truth or falsity of any factual allegations contained therein and
19 therefore, on that basis they deny the same.

20 50. Answering Paragraph One Hundred and Sixty-Nine and One Hundred and
21 Seventy of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these
22 answering Defendants assert that said paragraphs contain or constitute legal conclusions, to
23 which no response is required. To the extent said paragraphs are interpreted to contain any
24 factual allegations, these answering Defendants assert they are without sufficient information to
25 form a belief as to the truth or falsity of any factual allegations contained therein and therefore,
26 on that basis they deny the same.

27 51. Answering Paragraph One Hundred and Seventy-One through One Hundred and
28 Seventy-Four of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these

1 answering Defendants deny they failed to maintain complete and accurate records regarding
2 premiums collected on Spirit's behalf and deny they participated in the alleged "scheme".
3 Answering the remaining allegations in said paragraphs, these answering Defendants assert that
4 said remaining allegations contain or constitute legal conclusions, to which no response is
5 required. To the extent said remaining allegations are interpreted to contain any factual
6 allegations, these answering Defendants assert they are without sufficient information to form a
7 belief as to the truth or falsity of any factual allegations contained therein and therefore, on that
8 basis they deny the same.

9 *Lexicon Insurance Management LLC Harm to Spirit*

10 52. Answering Paragraph One Hundred and Seventy-Five through One Hundred and
11 Eighty-Six of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these
12 answering Defendants assert they are without sufficient information to form a belief as to the
13 truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis
14 they deny the same.

15 *Spirit's "Investment" in New Tech Capital LLC for Mulligan's Personal Benefit*

16 53. Answering Paragraph One Hundred and Eighty-Seven through One Hundred and
17 Ninety One of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these
18 answering Defendants assert that said paragraphs contain or constitute legal conclusions, to
19 which no response is required. To the extent said paragraphs are interpreted to contain any
20 factual allegations, these answering Defendants assert they are without sufficient information to
21 form a belief as to the truth or falsity of any factual allegations contained therein and therefore,
22 on that basis they deny the same.

23 *Other Significant Findings of Spirit's Former Auditor*

24 54. Answering Paragraph One Hundred and Ninety-Two through One Hundred and
25 Ninety-Six of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these
26 answering Defendants assert they are without sufficient information to form a belief as to the
27 truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis
28 they deny the same.

The Officers and Directors of Spirit Failed to Govern the Company Appropriately

55. Answering Paragraph One Hundred and Ninety-Seven through Two Hundred of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

56. Answering Paragraph Two Hundred and One through Two Hundred and Twenty-Three of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants assert that said paragraphs contain or constitute legal conclusions, to which no response is required. To the extent said paragraphs are interpreted to contain any factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

The Other Individual Defendants’ Roles in the Scheme to Divert Funds to the Mulligan Enterprise

57. Answering Paragraph Two Hundred and Twenty-Four through Two Hundred and Twenty-Five of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these answering Defendants deny that Pavel Kapelnikov owned Chelsea Financial, Inc., a New Jersey corporation and Chelsea Financial Inc., a California corporation. These answering Defendants deny they participated in the Mulligan enterprise or the alleged diversion of Spirit funds or improperly diverted, siphoned or withheld funds from Spirit. These answering Defendants also deny they knew CTC was insolvent or unable to pay its debts. Answering any remaining factual allegations in said paragraphs, these answering Defendants assert that said remaining allegations contain or constitute legal conclusions, to which no response is required. To the extent said remaining allegations are interpreted to contain any factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

58. Answering Paragraph Two Hundred and Twenty-Six through Two Hundred and

1 Twenty-Seven of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these
2 answering Defendants deny that that Pavel Kapelnikov was the principal architect of the
3 Mulligan enterprise and/or involved in an effort to divert funds from Spirit. These answering
4 Defendant further deny that Pavel Kapelnikov influenced, directed or controlled the defendants
5 referenced in said paragraph and that Pavel Kapelnikov made any misrepresentations to Spirit
6 policyholders any defendants. Answering any remaining factual allegations in said paragraphs,
7 these answering Defendants assert that said remaining allegations contain or constitute legal
8 conclusions, to which no response is required. To the extent said remaining allegations are
9 interpreted to contain any factual allegations, these answering Defendants assert they are without
10 sufficient information to form a belief as to the truth or falsity of any factual allegations
11 contained therein and therefore, on that basis they deny the same.

12 59. Answering Paragraph Two Hundred and Twenty-Eight through Two Hundred and
13 Thirty-Nine of the allegations entitled “Factual Allegations” in Plaintiff’s Complaint, these
14 answering Defendants deny they engaged in any improper transfers or withholdings of Spirit
15 Funds. Answering any remaining factual allegations in said paragraphs, these answering
16 Defendants assert that said remaining allegations contain or constitute legal conclusions, to
17 which no response is required. To the extent said remaining allegations are interpreted to contain
18 any factual allegations, these answering Defendants assert they are without sufficient information
19 to form a belief as to the truth or falsity of any factual allegations contained therein and
20 therefore, on that basis they deny the same.

21 60. Answering Paragraph Two Hundred and Forty of the allegations entitled “Factual
22 Allegations” in Plaintiff’s Complaint, these answering Defendants deny that any of the
23 Kapelnikov defendants participated or engaged in any improper transfers or withholdings of
24 Spirit funds from CTC. Answering any remaining factual allegations in said paragraphs, these
25 answering Defendants assert that said remaining allegations contain or constitute legal
26 conclusions, to which no response is required. To the extent said remaining allegations are
27 interpreted to contain any factual allegations, these answering Defendants assert they are without
28 sufficient information to form a belief as to the truth or falsity of any factual allegations

contained therein and therefore, on that basis they deny the same.

Deficiencies in CTS's Books and Records

61. Answering Paragraph Two Hundred and Forty One through Two Hundred Fifty-Four of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

Improper Fund Transfers and Improper Transactions

62. Answering Paragraph Two Hundred and Fifty-Five to Two Hundred and Sixty-Two of the allegations entitled "Factual Allegations" in Plaintiff's Complaint, these answering Defendant assert that said paragraphs contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

FIRST CAUSE OF ACTION
(Breach of Contract, as Against CTC)

63. Answering Paragraph 263 of the First Cause of Action in Plaintiff's Complaint, these answering Defendants repeats, re-alleges and incorporates herein, by reference, its responses to Paragraphs One through 262 of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations" as though fully set forth herein.

64. Answering Paragraphs Two Hundred and Sixty-Four and Two Hundred and Sixty-Eight in the First Cause of Action in Plaintiff's Complaint, these answering Defendants assert the allegations in said paragraphs are not directed at them and therefore, no response is required. To the extent said allegations are interpreted to be directed at these answering Defendants, these answering Defendants deny they absconded and dissipated assets belonging to Spirit. Answering the remaining allegations in said paragraphs, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any

factual allegations contained in said paragraphs and therefore, on that basis they deny the same.

SECOND CAUSE OF ACTION

(Breach of Contract as Against Lexicon)

65. Answering Paragraph Two Hundred and Sixty-Nine of the Second Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein by reference, its responses to Paragraphs One through Two Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations" and Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, as though fully set forth herein.

66. Answering Paragraphs Two Hundred and Seventy through Two Hundred and Seventy-Three of the Second Cause of Action in Plaintiff's Complaint, these answering Defendants assert the allegations in said paragraphs are not directed at them and therefore, no response is required. To the extent said allegations are interpreted to be directed at these answering Defendants, these answering Defendants deny that they absconded and dissipated assets belonging to Spirit. Answering the remaining allegations in said paragraphs, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs and therefore, on that basis they deny the same

THIRD CAUSE OF ACTION

(Breach of Contract as Against Criterion)

67. Answering Paragraph Two Hundred and Seventy-Four of the Third Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporates herein by reference, their responses to Paragraphs One through Two Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action and Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, as though fully set forth herein.

68. Answering Paragraphs Two Hundred and Seventy-Five through Two Hundred

1 and Seventy-Nine of the Third Cause of Action in Plaintiff's Complaint, these answering
2 Defendants assert the allegations in said paragraphs are not directed at them and therefore, no
3 response is required. To the extent said allegations are interpreted to be directed at these
4 answering Defendants, these answering Defendants assert they are without sufficient information
5 to form a belief as to the truth or falsity of any factual allegations contained in said paragraphs
6 and therefore, on that basis they deny the same

7 **FOURTH CAUSE OF ACTION**
8 **(Breach of Contract as Against Spirit Director Defendants)**

9 69. Answering Paragraph Two Hundred and Eighty of the Fourth Cause of Action in
10 Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by
11 reference, their responses to Paragraphs One through Two Hundred and Sixty-Two of the
12 allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations",
13 Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First
14 Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-
15 Three of the Second Cause of Action and Paragraphs Two Hundred and Seventy-Four through
16 Two Hundred and Seventy-Nine of the Third Cause of Action, as though fully set forth herein.

17 70. Answering Paragraphs Two Hundred and Eighty-One through Two Hundred and
18 Eighty-Five of the Fourth Cause of Action in Plaintiff's Complaint, these answering Defendants
19 assert the allegations in said paragraphs are not directed at them and therefore, no response is
20 required. To the extent said allegations are interpreted to be directed at these answering
21 Defendants, these answering Defendants assert they are without sufficient information to form a
22 belief as to the truth or falsity of any factual allegations contained in said paragraphs and
23 therefore, on that basis they deny the same

24 **FIFTH CAUSE OF ACTION**
25 **(Breach of Fiduciary Duty as Against CTC and Lexicon)**

26 71. Answering Paragraph Two Hundred Eighty-Six of the Fifth Cause of Action in
27 Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by
28 reference, their responses to Paragraphs One through Two Hundred and Sixty-Two of the

allegations entitled “Introduction”, “Parties and Jurisdiction” and “Factual Allegations”, Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action and Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, as though fully set forth herein.

72. Answering Paragraphs Two Hundred and Eighty-Seven through Two Hundred and Ninety-Two of the Fifth Cause of Action in Plaintiff’s Complaint, these answering Defendants assert the allegations in said paragraphs are not directed at them and therefore, no response is required. To the extent said allegations are interpreted to be directed at these answering Defendants, these answering Defendants deny they undertook any action to “loot Spirit of its money or deceive Spirit policyholders. Answering the remaining allegations in said paragraphs, these answering Defendants assert that said remaining allegations contain and/or constitute legal conclusions, to which no response is required. To the extent said remaining allegations are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

SIXTH CAUSE OF ACTION

(Breach of Fiduciary Duty as Against the Spirit Director Defendants)

73. Answering Paragraph Two Hundred and Ninety-Three of the Sixth Cause of Action in Plaintiff’s Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two Hundred and Sixty-Two of the allegations entitled “Introduction”, “Parties and Jurisdiction” and “Factual Allegations”, Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty

1 through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred
2 and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action and
3 Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth
4 Cause of Action.

5 74. Answering Paragraphs Two Hundred and Ninety-Four through Two Hundred and
6 Ninety-Nine of the Sixth Cause of Action in Plaintiff's Complaint, these answering Defendants
7 assert the allegations in said paragraphs are not directed at them and therefore, no response is
8 required. To the extent said allegations are interpreted to be directed at these answering
9 Defendants, these answering Defendants assert that said paragraphs contain and/or constitute
10 legal conclusions, to which no response is required. To the extent said paragraphs are
11 determined to contain factual allegations, these answering Defendants assert they are without
12 sufficient information to form a belief as to the truth or falsity of any factual allegations
13 contained therein and therefore, on that basis they deny the same

14 **SEVENTH CAUSE OF ACTION**

15 **(Breach of the Implied Covenant of Good Faith and Fair Dealing – Tortious as Against**
16 **CTC and Lexicon)**

17 75. Answering Paragraph Three Hundred of the Seventh Cause of Action in
18 Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by
19 reference, their responses to Paragraphs One through Two Hundred and Sixty-Two of the
20 allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations",
21 Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First
22 Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-
23 Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two
24 Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty
25 through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred
26 and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action and
27 Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth
28 Cause of Action, as though fully set forth herein.

76. Answering Paragraphs Three Hundred and One through Three Hundred and Ten of the Seventh Cause of Action in Plaintiff's Complaint, these answering Defendants assert the allegations in said paragraphs are not directed at them and therefore, no response is required. To the extent said allegations are interpreted to be directed at these answering Defendants, these answering Defendants assert that said paragraphs contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

EIGHTH CAUSE OF ACTION
(Breach of the Implied Covenant of Good Faith and Fair Dealing – Contract as Against CTC and Lexicon)

77. Answering Paragraph Three Hundred and Eleven of the Eighth Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of Action and Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of Action, as though fully set forth herein.

78. Answering Paragraphs Three Hundred and Twelve through Three Hundred and Nineteen of the Eighth Cause of Action in Plaintiff's Complaint, these answering Defendants assert the allegations in said paragraphs are not directed at them and therefore, no response is

required. To the extent said allegations are interpreted to be directed at these answering Defendants, these answering Defendants assert said paragraphs contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

NINTH CAUSE OF ACTION
(Breach of the Implied Covenant of Good Faith and Fair Dealing – Contract as Against Criterion)

79. Answering Paragraph Three Hundred and Twenty of the Ninth Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of Action and Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the Eighth Cause of Action, as though fully set forth herein.

80. Answering Paragraphs Three Hundred and Twenty-One through Three Hundred and Twenty-Six of the Ninth Cause of Action in Plaintiff's Complaint, these answering Defendants assert the allegations in said paragraphs are not directed at them and therefore, no response is required. To the extent said allegations are interpreted to be directed at these answering Defendants, these answering Defendants assert said paragraphs contain and/or

constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

TENTH CAUSE OF ACTION

(Nevada RICO Claims as Against Mulligan, George, Simon, Guffey, McCrae, Kapelnikovs, CTC, Lexicon, and Criterion)

81. Answering Paragraph Three Hundred and Twenty-Seven of the Tenth Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the Eighth Cause of Action and Paragraphs Three Hundred and Twenty through Three Hundred and Twenty-Six of the Ninth Cause of Action, as though fully set forth herein.

82. Answering Paragraphs Three Hundred and Twenty-Eight through Three Hundred and Forty-Two of the Tenth Cause of Action in Plaintiff's Complaint, these answering Defendants deny that they participated in unlawful activity and also deny they expropriated, embezzled or transferred Spirit's funds and/or entered into any agreement to do the same. These answering Defendants also deny they misled Spirit policyholders in any way regarding the financing for Spirit premiums and the or regarding payments of funds these answering

Defendants collected. These answering Defendants also deny that they made any representations to the Nevada Division of Insurance. Answering the remaining allegations in said paragraphs, these answering Defendants assert that said remaining allegations contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

ELEVENTH CAUSE OF ACTION
(Unjust Enrichment as Against All Defendants)

83. Answering Paragraph Three Hundred and Forty-Three of the Eleventh Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three Hundred and Twenty-Six of the Ninth Cause of Action and Paragraphs Three Hundred and Twenty-Seven through Three Hundred and Forty-Two of the Tenth Cause of Action, as though fully set forth herein.

84. Answering Paragraphs Three Hundred and Forty-Four and Three Hundred and Fifty-One of the Eleventh Cause of Action in Plaintiff's Complaint, these answering Defendants

1 assert that said paragraphs contain and/or constitute legal conclusions, to which no response is
2 required. To the extent said paragraphs are determined to contain factual allegations, these
3 answering Defendants assert they are without sufficient information to form a belief as to the
4 truth or falsity of any factual allegations contained therein and therefore, on that basis they deny
5 the same.

6 **TWELFTH CAUSE OF ACTION**
7 **(Fraud as Against All Defendants)**

8 85. Answering Paragraph Three Hundred and Fifty-Two of the Twelfth Cause of
9 Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate
10 herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of
11 the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations",
12 Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First
13 Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-
14 Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two
15 Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty
16 through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred
17 and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs
18 Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of
19 Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of
20 Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the
21 Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three Hundred and
22 Twenty-Six of the Ninth Cause of Action, Paragraphs Three Hundred and Twenty-Seven through
23 Three Hundred and Forty-Two of the Tenth Cause of Action and Paragraphs Three Hundred and
24 Forty-Three through Three Hundred and Fifty-One of the Eleventh Cause of Action, as though
25 fully set forth herein.

26 86. Answering Paragraphs Three Hundred and Fifty-Three through Three Hundred
27 and Seventy of the Twelfth Cause of Action in Plaintiff's Complaint, these answering
28 Defendants deny that they participated in any unlawful and/or embezzled Spirit's funds. These

1 answering Defendants also deny they misled Spirit policyholders in any way regarding the
2 financing for Spirit premiums and the or regarding payments of funds these answering
3 Defendants collected.. These answering Defendants also deny they did not remit payments to
4 Spirit. These answering Defendants also deny they formed an agreement to misrepresent the
5 financial condition of Spirit or misrepresent anything to Spirit policyholders, including
6 misrepresentation regarding financing the policy premiums. Answering the remaining
7 allegations in said paragraphs, these answering Defendants assert that said remaining allegations
8 contain and/or constitute legal conclusions, to which no response is required. To the extent said
9 paragraphs are determined to contain factual allegations, these answering Defendants assert they
10 are without sufficient information to form a belief as to the truth or falsity of any factual
11 allegations contained therein and therefore, on that basis they deny the same.

12 **THIRTEENTH CAUSE OF ACTION**
13 **(Civil Conspiracy as Against All Defendants)**

14 87. Answering Paragraph Three Hundred and Seventy-One of the Thirteenth Cause of
15 Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate
16 herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of
17 the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations",
18 Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First
19 Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-
20 Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two
21 Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty
22 through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred
23 and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs
24 Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of
25 Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of
26 Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the
27 Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three Hundred and
28 Twenty-Six of the Ninth Cause of Action, Paragraphs Three Hundred and Twenty-Seven through

1 Three Hundred and Forty-Two of the Tenth Cause of Action, Paragraphs Three Hundred and
2 Forty-Three through Three Hundred and Fifty-One of the Eleventh Cause of Action and
3 Paragraphs Three Hundred and Fifty-Two through Three Hundred and Seventy of the Twelfth
4 Cause of Action, as though fully set forth herein.

5 88. Answering Paragraphs Three Hundred and Seventy-Two through Three Hundred
6 and Seventy-Nine of the Thirteenth Cause of Action in Plaintiff's Complaint, these answering
7 Defendants deny that they participated in unlawful activity and/or embezzled Spirit's funds.
8 These answering Defendants also deny they misled Spirit policyholders in any way regarding the
9 financing for Spirit premiums and the or regarding payments of funds these answering
10 Defendants collected. These answering Defendants also deny they misled any Spirit
11 policyholders or the Division of Insurance in any manner. These answering Defendants also
12 deny they did not remit payments to Spirit. These answering Defendants also deny they formed
13 an agreement to misrepresent the financial condition of Spirit or misrepresent anything to Spirit
14 policyholders, including misrepresentation regarding financing the policy premiums. Answering
15 the remaining allegations in said paragraphs, these answering Defendants assert said remaining
16 allegations contain and/or constitute legal conclusions, to which no response is required. To the
17 extent said remaining allegations are determined to contain factual allegations, these answering
18 Defendants assert they are without sufficient information to form a belief as to the truth or falsity
19 of any factual allegations contained therein and therefore, on that basis they deny the same.

20 **FOURTEENTH CAUSE OF ACTION**

21 **(Alter Ego as Against Mulligan, George, Guffey, Simon and Pavel Kapelnikov)**

22 89. Answering Paragraph Three Hundred and Eighty of the Fourteenth Cause of
23 Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate
24 herein, by reference, their responses to Paragraphs One through Paragraphs Two-Hundred and
25 Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual
26 Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight
27 of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred
28 and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four

1 through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred
2 and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs
3 Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of
4 Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of
5 the Sixth Cause of Action, Paragraphs Three Hundred through Three Hundred and Ten of the
6 Seventh Cause of Action, Paragraphs Three Hundred and Eleven through Three Hundred and
7 Nineteen of the Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three
8 Hundred and Twenty-Six of the Ninth Cause of Action, Paragraphs Three Hundred and Twenty-
9 Seven through Three Hundred and Forty-Two of the Tenth Cause of Action, Paragraphs Three
10 Hundred and Forty-Three through Three Hundred and Fifty-One of the Eleventh Cause of
11 Action, Paragraphs Three Hundred and Fifty-Two through Three Hundred and Seventy Dollars
12 of the Twelfth Cause of Action and Paragraphs Three Hundred and Seventy-One through Three
13 Seventy-Nine of the Thirteenth Cause of Action, as though fully set forth herein.

14 90. Answering Paragraphs Three Hundred and Eighty-One through Three Hundred
15 and Eighty-Four of the Fourteenth Cause of Action in Plaintiff's Complaint, these answering
16 Defendants deny that influenced and governed Spirt and the "entity defendants" or commingled
17 personal funds and the funds of entities or treated the funds as their own. Answering the
18 remaining allegations in said paragraphs, these answering Defendants assert said remaining
19 allegations contain and/or constitute legal conclusions, to which no response is required. To the
20 extent said remaining allegations are determined to contain factual allegations, these answering
21 Defendants assert they are without sufficient information to form a belief as to the truth or falsity
22 of any factual allegations contained therein and therefore, on that basis they deny the same.

FIFTEENTH CAUSE OF ACTION

(NRS 112 – Avoidance of Transfers as Against CTC and its Transferees)

25 91. Answering Paragraph Three Hundred and Eighty-Five of the Fifteenth Cause of
26 Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate
27 herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of
28 the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations",

Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three Hundred and Twenty-Six of the Ninth Cause of Action, Paragraphs Three Hundred and Twenty-Seven through Three Hundred and Forty-Two of the Tenth Cause of Action, Paragraphs Three Hundred and Forty-Three through Three Hundred and Fifty-One of the Eleventh Cause of Action, Paragraphs Three Hundred and Fifty-Two through Three Hundred and Seventy Dollars of the Twelfth Cause of Action, Paragraphs Three Hundred and Seventy-One through Three Seventy-Nine of the Thirteenth Cause of Action and Paragraphs Three Hundred and Eighty through Three Hundred Eighty-Four of the Fourteenth Cause of Action, as though fully set forth herein.

92. Answering Paragraphs Three Hundred and Eighty-Six through Three Hundred and Ninety-Six of the Fifteenth Cause of Action in Plaintiff's Complaint, these answering Defendants assert that said paragraphs contain and/or constitute legal conclusions, to which no response is required. To the extent said paragraphs are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

///

///

///

SIXTEENTH CAUSE OF ACTION

(NRS 696B – Voidable Transfers as Against CTC and its Transferees)

93. Answering Paragraph Three Hundred and Ninety-Seven of the Sixteenth Cause of Action in Plaintiff’s Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of the allegations entitled “Introduction”, “Parties and Jurisdiction” and “Factual Allegations”, Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three Hundred and Twenty-Six of the Ninth Cause of Action, Paragraphs Three Hundred and Twenty-Seven through Three Hundred and Forty-Two of the Tenth Cause of Action, Paragraphs Three Hundred and Forty-Three through Three Hundred and Fifty-One of the Eleventh Cause of Action, Paragraphs Three Hundred and Fifty-Two through Three Hundred and Seventy Dollars of the Twelfth Cause of Action, Paragraphs Three Hundred and Seventy-One through Three Seventy-Nine of the Thirteenth Cause of Action, Paragraphs Three Hundred and Eighty through Three Hundred Eighty-Four of the Fourteenth Cause of Action and Paragraphs Three Hundred Eighty-Five through Three Hundred Ninety-Six of the Fifteenth Cause of Action, as though fully set forth herein.

94. Answering Paragraphs Three Hundred and Ninety-Eight through Four Hundred and Nine of the Sixteenth Cause of Action in Plaintiff’s Complaint, these answering Defendants deny that they conducted broad misconduct or violated the law. Answering the remaining

allegations in said paragraphs, these answering Defendants assert that said remaining allegations contain and/or constitute legal conclusions, to which no response is required. To the extent said remaining allegations are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same

SEVENTEENTH CAUSE OF ACTION

(NRS 696B – Recovery of Distributions and Payments as Against CTC and its Transferees)

95. Answering Paragraph Four Hundred and Ten of the Seventeenth Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three Hundred and Twenty-Six of the Ninth Cause of Action, Paragraphs Three Hundred and Twenty-Seven through Three Hundred and Forty-Two of the Tenth Cause of Action, Paragraphs Three Hundred and Forty-Three through Three Hundred and Fifty-One of the Eleventh Cause of Action, Paragraphs Three Hundred and Fifty-Two through Three Hundred and Seventy Dollars of the Twelfth Cause of Action, Paragraphs Three Hundred and Seventy-One through Three Seventy-Nine of the Thirteenth Cause of Action, Paragraphs Three Hundred and Eighty through Three Hundred Eighty-Four of the Fourteenth Cause of Action, Paragraphs Three Hundred Eighty-Five through

Three Hundred Ninety-Six of the Fifteenth Cause of Action and Paragraphs Three Hundred Nine-Seven through Four Hundred and Nine of the Sixteenth Cause of Action, as though fully set forth herein.

96. Answering Paragraphs Four Hundred and Eleven through Four Hundred and Twenty-One of the Seventeenth Cause of Action in Plaintiff's Complaint, these answering Defendants deny that they conducted broad misconduct or violated the law. Answering the remaining allegations in said paragraphs, these answering Defendants assert that said remaining allegations contain and/or constitute legal conclusions, to which no response is required. To the extent said remaining allegations are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

EIGHTEENTH CAUSE OF ACTION

(NRS 692C.402 – Recovery of Distributions and Payments as Against CTC and its Transferees)

97. Answering Paragraph Four Hundred and Twenty-Two of the Eighteenth Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three Hundred and

Twenty-Six of the Ninth Cause of Action, Paragraphs Three Hundred and Twenty-Seven through Three Hundred and Forty-Two of the Tenth Cause of Action, Paragraphs Three Hundred and Forty-Three through Three Hundred and Fifty-One of the Eleventh Cause of Action, Paragraphs Three Hundred and Fifty-Two through Three Hundred and Seventy Dollars of the Twelfth Cause of Action, Paragraphs Three Hundred and Seventy-One through Three Seventy-Nine of the Thirteenth Cause of Action, Paragraphs Three Hundred and Eighty through Three Hundred Eighty-Four of the Fourteenth Cause of Action, Paragraphs Three Hundred Eighty-Five through Three Hundred Ninety-Six of the Fifteenth Cause of Action, Paragraphs Three Hundred Nine-Seven through Four Hundred and Nine of the Sixteenth Cause of Action and Paragraphs Four Hundred and Ten Dollars through Four Hundred and Twenty-One of the Seventeenth Cause of Action, as though fully set forth herein.

98. Answering Paragraphs Four Hundred and Twenty-Three through Four Hundred and Thirty-Four of the Eighteenth Cause of Action in Plaintiff's Complaint, these answering Defendants deny that they conducted broad misconduct or violated the law. Answering the remaining allegations in said paragraphs, these answering Defendants assert that said remaining allegations contain and/or constitute legal conclusions, to which no response is required. To the extent said remaining allegations are determined to contain factual allegations, these answering Defendants assert they are without sufficient information to form a belief as to the truth or falsity of any factual allegations contained therein and therefore, on that basis they deny the same.

NINETEENTH CAUSE OF ACTION
(NRS 78.300 – Recovery of Unlawful Distribution as Against the Spirit Director Defendants)

99. Answering Paragraph Four Hundred and Thirty-Five of the Nineteenth Cause of Action in Plaintiff's Complaint, these answering Defendants repeat, re-allege and incorporate herein, by reference, their responses to Paragraphs One through Two-Hundred and Sixty-Two of the allegations entitled "Introduction", "Parties and Jurisdiction" and "Factual Allegations", Paragraphs Two Hundred and Sixty-Three through Two Hundred and Sixty-Eight of the First Cause of Action, Paragraphs Two Hundred and Sixty-Nine through Two Hundred and Seventy-

1 Three of the Second Cause of Action, Paragraphs Two Hundred and Seventy-Four through Two
2 Hundred and Seventy-Nine of the Third Cause of Action, Paragraphs Two Hundred and Eighty
3 through Two Hundred and Eighty-Five of the Fourth Cause of Action, Paragraphs Two Hundred
4 and Eighty-Six through Two Hundred and Ninety-Two of the Fifth Cause of Action, Paragraphs
5 Two Hundred and Ninety-Three through Two Hundred and Ninety-Nine of the Sixth Cause of
6 Action, Paragraphs Three Hundred through Three Hundred and Ten of the Seventh Cause of
7 Action, Paragraphs Three Hundred and Eleven through Three Hundred and Nineteen of the
8 Eighth Cause of Action, Paragraphs Three Hundred and Twenty through Three Hundred and
9 Twenty-Six of the Ninth Cause of Action, Paragraphs Three Hundred and Twenty-Seven through
10 Three Hundred and Forty-Two of the Tenth Cause of Action, Paragraphs Three Hundred and
11 Forty-Three through Three Hundred and Fifty-One of the Eleventh Cause of Action, Paragraphs
12 Three Hundred and Fifty-Two through Three Hundred and Seventy Dollars of the Twelfth Cause
13 of Action, Paragraphs Three Hundred and Seventy-One through Three Seventy-Nine of the
14 Thirteenth Cause of Action, Paragraphs Three Hundred and Eighty through Three Hundred
15 Eighty-Four of the Fourteenth Cause of Action, Paragraphs Three Hundred Eighty-Five through
16 Three Hundred Ninety-Six of the Fifteenth Cause of Action, Paragraphs Three Hundred Nine-
17 Seven through Four Hundred and Nine of the Sixteenth Cause of Action, Paragraphs Four
18 Hundred and Ten Dollars through Four Hundred and Twenty-One of the Seventeenth Cause of
19 Action and Paragraphs Four Hundred and Twenty-Two through Four Hundred and Thirty-Four
20 of the Eighteenth Cause of Action, as though fully set forth herein.

21 100. Answering Paragraphs Four Hundred and Thirty-Six through Four Hundred and
22 Forty-One of the Nineteenth Cause of Action in Plaintiff's Complaint, these answering
23 Defendants assert the allegations in said paragraphs are not directed at them and therefore, no
24 response is required. To the extent said allegations are interpreted to be directed at these
25 answering Defendants, these answering Defendants assert said paragraphs contain and/or
26 constitute legal conclusions, to which no response is required. To the extent said paragraphs are
27 determined to contain factual allegations, these answering Defendants assert they are without
28 sufficient information to form a belief as to the truth or falsity of any factual allegations

contained therein and therefore, on that basis they deny the same.

AFFIRMATIVE DEFENSES

Affirmative Defense One: *Statutes of Repose.* Plaintiff's claims are barred by the applicable statutes of repose.

Affirmative Defense Two: *Consent.* Plaintiff agreed to and participated in those actions claimed to have caused damage. Since such consent and participation were given and done knowingly and voluntarily, the Plaintiff's claims are invalid.

Affirmative Defense Three: *Comparative Fault of the Plaintiff.* Plaintiff's damages, if any, were proximately caused and contributed to, in whole or in part, by Plaintiff's own conduct, thereby completely or partially barring the Plaintiff from recovering herein; and any judgment in favor of the Plaintiff against these answering Defendants should be reduced in proportion to Plaintiff's own comparative negligence.

Affirmative Defense Four: *Comparative Fault of the Plaintiff as Complete Bar to Recovery.* The damages alleged in the Complaint, if any to Plaintiff, were proximately caused or contributed to by Plaintiff's own negligence and Plaintiff's negligence exceeds the negligence, if any, of these answering Defendants. Therefore, Plaintiff is barred from any recovery at all.

Affirmative Defense Five: *Apportionment of Fault among Named Defendants.* Plaintiff's alleged damages, if any, were proximately caused and contributed to, in whole or in part, by the acts or omissions of the other named defendants or third-party defendants; wherefore any fault assigned in this case must be divided between the defendants and/or third party defendants and based on their comparative negligence percentage and Nevada's several liability, so that each named defendant/third-party defendant pays only his, her, or its own share.

Affirmative Defense Six: *Fictitious Defendants.* These answering Defendants are not legally responsible for the acts and/or omissions of those who are named as fictitious defendants.

Affirmative Defense Seven: *Comparative Fault of Unnamed Third Parties.* Plaintiff's damages, if any, were proximately caused and contributed to, in whole or in part, by the acts or omissions of others not named in this lawsuit; wherefore any recovery obtained by Plaintiff from

these answering Defendants should be reduced by an amount equal to the percentage of the fault of those unnamed persons.

Affirmative Defense Eight: *Failure to Mitigate Damages:* Plaintiff failed to take reasonable steps to minimize or prevent the damages alleged in the Complaint.

Affirmative Defense Nine: *Attorney's Fees and Costs:* These answering Defendants have employed the services of an attorney to defend this action and a reasonable sum should be allowed for its attorney's fees and for costs incurred in defending this action.

Affirmative Defense Ten: *Plaintiff has Received Payment:* Plaintiff is not owed any money, as these answering Defendants have made full payment to the actual creditor or assignee for the debt at issue, which payment was accepted.

Affirmative Defense Eleven: *NRCP 9 – Failure to Plead Fraud with Particularity:* The claims, and each of them, are barred by the failure of the Plaintiff to plead those claims with particularity.

Affirmative Defense Twelve: *No Conspiracy Agreement:* These answering Defendants did not enter into a conspiracy to harm Plaintiff.

Affirmative Defense Thirteen: *No Intention RE: Unlawful Objective:* These answering Defendants did not intend to accomplish an unlawful objective for the purpose of harming Plaintiff.

Affirmative Defense Fourteen: *No False Representations:* These answering Defendants made no false representations of material fact, which he knew to be false.

Affirmative Defense Fifteen: *No Intent to Defraud:* These answering Defendants had no intent to defraud Plaintiff.

Affirmative Defense Sixteen: *No Intent for Plaintiff to Rely:* These answering Defendants did not intend for Plaintiff to rely on any alleged misrepresentations.

Affirmative Defense Seventeen: *No Malice:* These answering Defendants' conduct was not oppressive, fraudulent, nor committed with malice.

Affirmative Defense Eighteen: *No Misleading Actions:* These answering Defendants' acts were not misleading in any material way.

Affirmative Defense Nineteen: *No Deceptive Action:* These answering Defendants committed no deceptive acts, including deceptive acts directed at customers.

Affirmative Defense Twenty: *No Deceiving Statements:* These answering Defendants' statements have not actually deceived and are not likely to deceive any part of an intended audience.

Affirmative Defense Twenty-One: *No Reliance:* Plaintiff did not justifiably nor reasonably rely on any alleged representation of these answering Defendants.

Affirmative Defense Twenty-Two: *NRS 42.005:* Any punitive or exemplary damages are limited, in whole or in part, by, inter alia, Nevada Revised Statute 42.005.

Affirmative Defense Twenty-Three: *No Knowing False Statements:* These answering Defendants did not knowingly make a false statement.

Affirmative Defense Twenty-Four: *No Intent to Induce:* These answering Defendants did not intend to induce Plaintiff's reliance upon a false statement.

Affirmative Defense Twenty-Five: *No False Information RE: Business Transaction:* These answering Defendants did not in the course of these answering Defendants' businesses, professions or employment, or in any other action in which these answering Defendants have a pecuniary interest, supply false information to Plaintiff for the guidance of their business transactions.

Affirmative Defense Twenty-Six: *Statute of Limitations:* Plaintiff's Complaint and/or each of the causes of action asserted in the Complaint are barred by the applicable statute of limitations.

Affirmative Defense Twenty-Seven: *NCRCF 11:* Pursuant to Nevada Rules of Civil Procedure, Rule 11, as amended, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of these answering Defendants' Answer and therefore, these answering Defendants have the right to amend this Answer to allege additional affirmative defenses as subsequent investigation warrants.

WHEREFORE, these answering Defendants PAVEL KAPELNIKOV, CHELSEA FINANCIAL GROUP, INC., a New Jersey corporation; CHELSEA FINANCIAL GROUP,

1 INC., a California corporation; GLOBAL FORWARDING ENTERPRISES, LLC; KAPA
2 MANAGEMENT CONSULTING, INC.; and KAPA VENTURES, INC., pray as follows:

- 3 1. That Plaintiff takes nothing by way of her Complaint;
- 4 2. For attorney's fees and costs as allowed by law;
- 5 3. For such other and further relief as may be deemed just and proper by the Court.

6 DATED this 27th day of March 2020.

7 TYSON & MENDES LLP

8
9 /s/ Thomas E. McGrath
10 THOMAS E. MCGRATH
11 Nevada Bar No. 7086
12 CHRISTOPHER A. LUND
13 Nevada Bar No. 12435
14 3960 Howard Hughes Parkway, Suite 600
15 Las Vegas, Nevada 89169
16 Tel: (702) 724-2648
17 *Attorneys for Defendants Pavel Kapelnikov;*
18 *Chelsea Financial Group, Inc., a New Jersey*
19 *Corporation; Chelsea Financial Group, Inc., a*
20 *California corporation; Global Forwarding*
21 *Enterprises, LLC; Kapa Management*
22 *Consulting, Inc.; and Kapa Ventures, Inc.*
23
24
25
26
27
28



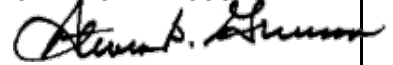
3960 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169

CERTIFICATE OF SERVICE

The undersigned, an employee of Tyson & Mendes LLP, hereby certifies that on the 27th day of March 2020, a copy of **DEFENDANTS PAVEL KAPELNIKOV'S; CHELSEA FINANCIAL GROUP, INC., A NEW JERSEY CORPORATION'S; CHELSEA FINANCIAL GROUP, INC., A CALIFORNIA CORPORATION'S; GLOBAL FORWARDING ENTERPRISES, LLC'S; KAPA MANAGEMENT CONSULTING, INC.'S AND KAPA VENTURES, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT;** was served by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's **ODYSSEY eFileNV** system addressed to:

Mark E. Ferrario, Esq.
Email: ferrariom@gtlaw.com
Kara B. Hendricks, Esq.
Email: hendricksk@gtlaw.com
Kyle A. Ewing, Esq.
Email: ewingk@gtlaw.com
GREENBERG TRAURIG, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Attorneys for Plaintiff

/s/ Scarlett Fisher
An employee of Tyson & Mendes LLP



1 **ALVERSON TAYLOR & SANDERS**
2 KURT R. BONDS, ESQ.
3 Nevada Bar #6228
4 6605 Grand Montecito Parkway
5 Suite 200
6 Las Vegas, Nevada 89149
7 (702) 384-7000
8 efile@alversontaylor.com
9 Attorneys for *BRENDA GUFFEY*

DISTRICT COURT

CLARK COUNTY, NEVADA

10 BARBARA D. RICHARDSON IN HER
11 CAPACITY AS THE STATUTORY
12 RECEIVER FOR SPIRIT COMMERCIAL
13 AUTO RISK RETENTION GROUP, INC.,

Plaintiff,

vs.

14 THOMAS MULLIGAN, an individual; CTC
15 TRANSPORTATION INSURANCE
16 SERVICES OF MISSOURI, LLC, a Missouri
17 Limited Liability Company; CTC
18 TRANSPORTATION INSURANCE
19 SERVICES LLC, a California Limited Liability
20 Company; CTC TRANSPORTATION
21 INSURANCE SERVICES OF HAWAII LLC, a
22 Hawaii Limited Liability Company;
23 CRITERION CLAIMS SOLUTIONS OF
24 OMAHA, INC., a Nebraska Corporation;
25 PAVEL KAPELNIKOV, an individual;
26 CHELSEA FINANCIAL GROUP, INC., a
27 California Corporation; CHELSEA FINANCIAL
28 GROUP, INC., a Missouri Corporation;
CHELSEA FINANCIAL GROUP, INC., a New
Jersey Corporation d/b/a CHELSEA PREMRJM
FINANCE CORPORATION; CHELSEA
FINANCIAL GROUP, INC., a Delaware
Corporation; CHELSEA HOLDING
COMPANY, LLC, a Nevada Limited Liability
Company; CHELSEA HOLDINGS, LLC, a
Nevada Limited Liability Company;
FOURGOREAN CAPITAL, LLC, a New Jersey
Limited Liability Company; KAPA

Case No.: A-20-809963-B

Dept No.: 11

BRENDA GUFFEY ANSWER TO
PLAINTIFF'S COMPLAINT

MANAGEMENT CONSULTING, INC. a New Jersey Corporation; KAPA VENTURES, INC., a New Jersey Corporation; GLOBAL FORWARDING ENTERPRISES LIMITED LIABILITY COMPANY, a New Jersey Limited Liability Company; GLOBAL CAPITAL GROUP, LLC, a New Jersey Limited Liability Company; GLOBAL CONSULTING; NEW TECH CAPITAL, LLC, a Delaware Limited Liability Company; LEXICON INSURANCE MANAGEMENT LLC, a North Carolina Limited Liability Company; ICAP MANAGEMENT SOLUTIONS, LLC, a Vermont Limited Liability Company; SIX ELEVEN LLC, a Missouri Limited Liability Company; 10-4 PREFERRED RISK MANAGERS INC., a Missouri Corporation; IRONJAB LLC, a New Jersey Limited Liability Company; YANINA G. KAPELNIKOV, an individual; IGOR KAPELNIKOV, an individual; QUOTE MY RIG LLC, a New Jersey Limited Liability Company; MATTHEW SIMON, an individual; DANIEL GEORGE, an individual; JOHN MALONEY, an individual; JAMES MARX, an individual; CARLOS TORRES, an individual; VIRGINIA TORRES, an individual; SCOTT McCRAE, an individual; BRENDA GUFFEY, an individual; 195 GLUTEN FREE LLC, a New Jersey Limited Liability Company, DOE INDIVIDUALS I-X; and ROE CORPORATE ENTITIES I-X,

Defendants.

BRENDA GUFFEY ANSWER TO PLAINTIFF'S COMPLAINT

Brenda Guffey (“**Defendant**”) by and through the law firm of Alverson Taylor & Sanders, answers, denies and alleges as follows:

INTRODUCTION

1. In answering the allegations contained in Paragraphs 1, 2, 3 and 4 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the same.

PARTIES AND JURISDICTION

2. In answering the allegations contained in Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 44, 45, 46, 47, 48, 49, 50 and 51 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the same.

3. In answering the allegations contained in Paragraph 43 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

FACTUAL ALLEGATIONS

4. In answering the allegations contained in Paragraphs 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 198, 199, 200, 212, 213, 214, 219, 220, 224, 225, 226, 227, 228, 229, 230, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261 and 262 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the same.

5. In answering the allegations contained in Paragraphs 63, 136, 137, 138, 197, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 215, 216, 217, 218, 221, 222, 223, 231, 232 and 233 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

1 **FIRST CAUSE OF ACTION**

2 **(Breach of Contract, as Against CTC)**

3 6. In answering the allegations contained in Paragraph 263 of Plaintiff's Complaint,
4 Defendant repeats and realleges each and every response thereto.
5

6 7. In answering the allegations contained in Paragraphs 264, 265 and 266 of Plaintiff's
7 Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth
8 of the allegations contained therein; and therefore denies the same.

9 8. In answering the allegations contained in Paragraphs 267 and 268 of Plaintiff's
10 Complaint, Defendant denies the allegations contained therein.
11

12 **SECOND CAUSE OF ACTION**

13 **(Breach of Contract, as Against Lexicon)**

14 9. In answering the allegations contained in Paragraph 269 of Plaintiff's Complaint,
15 Defendant repeats and realleges each and every response thereto.
16

17 10. In answering the allegations contained in Paragraphs 270, 271 and 272 of Plaintiff's
18 Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth
19 of the allegations contained therein; and therefore denies the same.

20 11. In answering the allegations contained in Paragraph 273 of Plaintiff's Complaint,
21 Defendant denies the allegations contained therein.
22

23 **THIRD CAUSE OF ACTION**

24 **(Breach of Contract as Against Criterion)**

25 12. In answering the allegations contained in Paragraph 274 of Plaintiff's Complaint,
26 Defendant repeats and realleges each and every response thereto.

27 13. In answering the allegations contained in Paragraphs 275, 276, 277 and 278 of
28 Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as

1 to the truth of the allegations contained therein; and therefore denies the same.

2 14. In answering the allegations contained in Paragraph 279 of Plaintiff's Complaint,
3 Defendant denies the allegations contained therein.

4 **FOURTH CAUSE OF ACTION**

5 **(Breach of Contract as Against the Spirit Director Defendants)**

6
7 15. In answering the allegations contained in Paragraph 280 of Plaintiff's Complaint,
8 Defendant repeats and realleges each and every response thereto.

9 16. In answering the allegations contained in Paragraph 281 of Plaintiff's Complaint,
10 Defendant are without knowledge or information sufficient to form a belief as to the truth of the
11 allegations contained therein; and therefore denies the same.

12
13 17. In answering the allegations contained in Paragraphs 282, 283, 284 and 285 of
14 Plaintiff's Complaint, Defendant denies the allegations contained therein.

15 **FIFTH CAUSE OF ACTION**

16 **(Breach of Fiduciary Duty as Against CTC and Lexicon)**

17
18 18. In answering the allegations contained in Paragraph 286 of Plaintiff's Complaint,
19 Defendant repeats and realleges each and every response thereto.

20 19. In answering the allegations contained in Paragraphs 287, 288, 289 and 290 of
21 Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as
22 to the truth of the allegations contained therein; and therefore denies the same.

23 20. In answering the allegations contained in Paragraphs 291 and 292 of Plaintiff's
24 Complaint, Defendant denies the allegations contained therein.

25 **SIXTH CAUSE OF ACTION**

26 **(Breach of Fiduciary Duty as Against the Spirit Director Defendants)**

27
28 21. In answering the allegations contained in Paragraph 293 of Plaintiff's Complaint,

1 Defendant repeats and realleges each and every response thereto.

2 22. In answering the allegations contained in Paragraph 294 of Plaintiff's Complaint,
3 Defendant are without knowledge or information sufficient to form a belief as to the truth of the
4 allegations contained therein; and therefore denies the same.
5

6 23. In answering the allegations contained in Paragraphs 295, 296, 297, 298 and 299 of
7 Plaintiff's Complaint, Defendant denies the allegations contained therein.

8 **SEVENTH CAUSE OF ACTION**

9 **(Breach of the Implied Covenant of Good Faith and Fair Dealing – Tortious as Against**
10 **CTC and Lexicon)**

11 24. In answering the allegations contained in Paragraph 300 of Plaintiff's Complaint,
12 Defendant repeats and realleges each and every response thereto.

13 25. In answering the allegations contained in Paragraphs 301, 302, 303, 304, 305, 306,
14 307, 308 and 309 of Plaintiff's Complaint, Defendant are without knowledge or information
15 sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the
16 same.
17

18 26. In answering the allegations contained in Paragraph 310 of Plaintiff's Complaint,
19 Defendant denies the allegations contained therein.

20 **EIGHTH CAUSE OF ACTION**

21 **(Breach of the Implied Covenant Good Faith and Fair Dealing – Contract as Against CTC**
22 **and Lexicon)**

23 27. In answering the allegations contained in Paragraph 311 of Plaintiff's Complaint,
24 Defendant repeats and realleges each and every response thereto.
25

26 28. In answering the allegations contained in Paragraphs 312, 313, 314, 315, 316, 317 and
27 318 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a
28 belief as to the truth of the allegations contained therein; and therefore denies the same.

29. In answering the allegations contained in Paragraph 319 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

NINTH CAUSE OF ACTION

(Breach of the Implied Covenant of Good Faith and Fair Dealing – Contract as Against Criterion)

30. In answering the allegations contained in Paragraph 320 of Plaintiff's Complaint, Defendant repeats and realleges each and every response thereto.

31. In answering the allegations contained in Paragraphs 321, 322 and 323 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the same.

32. In answering the allegations contained in Paragraphs 324, 325 and 326 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

TENTH CAUSE OF ACTION

(Nevada RICO Claims as Against Mulligan, George, Simon, Guffey, McCrae, Kapelinkovs, CTC, Lexicon and Criterion)

33. In answering the allegations contained in Paragraphs 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341 and 342 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

ELEVENTH CAUSE OF ACTION

(Unjust Enrichment as Against All Defendants)

34. In answering the allegations contained in Paragraph 343 of Plaintiff's Complaint, Defendant repeats and realleges each and every response thereto.

35. In answering the allegations contained in Paragraphs 345, 346, 347, 348 and 349 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the same.

1 36. In answering the allegations contained in Paragraphs 344, 350 and 351 of Plaintiff's
2 Complaint, Defendant denies the allegations contained therein.

3 **TWELFTH CAUSE OF ACTION**

4 **(Fraud as Against All Defendants)**

5
6 37. In answering the allegations contained in Paragraph 352 of Plaintiff's Complaint,
7 Defendant repeats and realleges each and every response thereto.

8 38. In answering the allegations contained in Paragraphs 353, 354, 355 and 356 of
9 Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as
10 to the truth of the allegations contained therein; and therefore denies the same.

11
12 39. In answering the allegations contained in Paragraphs 357, 358, 359, 360, 361, 362,
13 363, 364, 365, 366, 367, 368, 369 and 370 of Plaintiff's Complaint, Defendant denies the allegations
14 contained therein.

15 **THIRTEENTH CAUSE OF ACTION**

16 **(Civil Conspiracy as Against All Defendants)**

17
18 40. In answering the allegations contained in Paragraph 371 of Plaintiff's Complaint,
19 Defendant repeats and realleges each and every response thereto.

20 41. In answering the allegations contained in Paragraphs 372, 373, 374, 375, 376, 377,
21 378 and 379 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

22 **FOURTEENTH CAUSE OF ACTION**

23 **(Alter Ego as Against Mulligan, George, Guffey, Simon and Pavel Kapelnikov)**

24
25 42. In answering the allegations contained in Paragraph 380 of Plaintiff's Complaint,
26 Defendant repeats and realleges each and every response thereto.

27 43. In answering the allegations contained in Paragraphs 381, 382, 383 and 384 of
28 Plaintiff's Complaint, Defendant denies the allegations contained therein.

FIFTEENTH CAUSE OF ACTION**(NRS 112 – Avoidance of Transfer as Against CTC and its Transferees)**

44. In answering the allegations contained in Paragraph 385 of Plaintiff's Complaint, Defendant repeats and realleges each and every response thereto.

45. In answering the allegations contained in Paragraphs 386, 387, 388, 389, 390, 391, 392, 393, 394, 395 and 396 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the same.

SIXTEENTH CAUSE OF ACTION**(NRS 696B – Voidable Transfers as Against CTC and its Transferees)**

46. In answering the allegations contained in Paragraph 397 of Plaintiff's Complaint, Defendant repeats and realleges each and every response thereto.

47. In answering the allegations contained in Paragraphs 398, 399, 400, 401, 402, 403, 404 and 405 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the same.

48. In answering the allegations contained in Paragraphs 406, 407, 408 and 409 of Plaintiff's Complaint, Defendant denies the allegations contained therein.

SEVENTEENTH CAUSE OF ACTION**(NRS 696B – Recovery of Distributions and Payments as Against CTC and its Transferees)**

49. In answering the allegations contained in Paragraph 410 of Plaintiff's Complaint, Defendant repeats and realleges each and every response thereto.

50. In answering the allegations contained in Paragraphs 411, 412, 413, 414, 415 and 416 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein; and therefore denies the same.

1 51. In answering the allegations contained in Paragraphs 417, 418, 419, 420 and 421 of
2 Plaintiff's Complaint, Defendant denies the allegations contained therein.

3 **EIGHTEENTH CAUSE OF ACTION**

4 **(NRS 692C.402 – Recovery of Distributions and Payments as Against CTC and its**
5 **Transferees)**

6 52. In answering the allegations contained in Paragraph 422 of Plaintiff's Complaint,
7 Defendant repeats and realleges each and every response thereto.

8 53. In answering the allegations contained in Paragraphs 423, 424, 425, 426, 427, 428 and
9 429 of Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a
10 belief as to the truth of the allegations contained therein; and therefore denies the same.

11 54. In answering the allegations contained in Paragraphs 430, 431, 432, 433 and 434 of
12 Plaintiff's Complaint, Defendant denies the allegations contained therein.

13 **NINETEENTH CAUSE OF ACTION**

14 **(NRS 78.300 – Recovery of Unlawful Distribution as Against the Spirit Director**
15 **Defendants)**

16 55. In answering the allegations contained in Paragraph 435 of Plaintiff's Complaint,
17 Defendant repeats and realleges each and every response thereto.

18 56. In answering the allegations contained in Paragraphs 436, 437, 438, 439 and 440 of
19 Plaintiff's Complaint, Defendant are without knowledge or information sufficient to form a belief as
20 to the truth of the allegations contained therein; and therefore denies the same.

21 57. In answering the allegations contained in Paragraph 441 of Plaintiff's Complaint,
22 Defendant denies the allegations contained therein.

23 **AFFIRMATIVE DEFENSES**

- 24 1. Plaintiff fails to state a claim upon which relief can be granted.
25 2. The applicable statute of limitations bar all of Plaintiff's causes of action.

3. Plaintiff failed to include necessary and indispensable parties, mandating dismissal of their Complaint.
4. A remedy at law would adequately compensate Plaintiff.
5. Answering Defendant made no false representations of material fact which they knew to be false.
6. Answering Defendant had no intent to defraud Plaintiff.
7. Answering Defendant did not intend for Plaintiff to rely on misrepresentations.
8. Plaintiff did not detrimentally rely on misrepresentations.
9. Answering Defendant conduct was not oppressive, fraudulent, nor committed with malice.
10. Answering Defendant acts were not misleading in any material way.
11. Plaintiff was not injured as a result of any deceptive acts of answering Defendant.
12. Answering Defendant committed no deceptive acts directed at customers.
13. Answering Defendant never made any false or misleading statements in a commercial setting.
14. Answering Defendant statements have not actually deceived and are not likely to deceive any part of an intended audience.
15. The Plaintiff did not confer any benefit upon answering Defendant by either substantially performing or satisfying conditions precedent to the contract.
16. Answering Defendant made all necessary payments or abided by all necessary provisions to Plaintiff.
17. Answering Defendant never retained any benefit which in equity and good conscience belongs to Plaintiff.
18. To the extent that answering Defendant never received any benefits from Plaintiff, answering Defendant were never unjustly enriched.

19. Plaintiff is not equitably entitled to obtain any money from Defendant.
20. Plaintiff is not entitled to the reasonable value of any services.
21. There is no reasonable value for Plaintiff's services because Plaintiff damaged Defendant.
22. Defendant never retained any money or property against fundamental principles of justice, equity, and good conscience.
23. Plaintiff's claims are merely conjecture and speculation.
24. Plaintiff breached its fiduciary duties to answering Defendant.
25. Plaintiff forfeited any entitlements because of its breach of fiduciary duties.
26. Plaintiff's conduct was not conducted in the best interest of the corporation.
27. Plaintiff's conduct was conducted for its own personal motivation.
28. Plaintiff violated its duty of loyalty to answering Defendant.
29. Plaintiff owed fiduciary duties to answering Defendant to exercise due care, a duty of loyalty and a duty to act in answering Defendant best interest.
30. No nexus exists between answering Defendant conduct and Plaintiff's former official activity.
31. Answering Defendant are not officers, directors or agents of Plaintiff.
32. Plaintiff has no valuable trade secrets.
33. Answering Defendant did not misappropriate any trade secret of Plaintiff.
34. To the extent that any appropriation of Plaintiff's trade secret occurred, such appropriation was not wrongful.
35. Plaintiff's trade information is not a trade secret because it is known outside the business and the information is easily acquired by others.
36. Plaintiff's information was not confidential or secret.
37. Plaintiff did not guard the secrecy of any information.

1 38. There is no special relationship between Plaintiff and Defendant.

2 39. If Plaintiff was discharged, Plaintiff was discharged for failure to perform in the best interest
3 of the corporation.

4 40. Defendant enjoyed only an at will relationship, if any, with Plaintiff.

5 41. Plaintiff's relationship with Defendant is presumed to be an at will relationship.

6 42. That any or all negligence or fault on the part of the Plaintiff, if any, was active and primary,
7 and any negligence or fault of answering Defendant, if any, was secondary and passive.

8 43. Plaintiff had knowledge of and assumed the risk. The injuries alleged by Plaintiff were
9 caused by and arose out of risk which Plaintiff had knowledge of and assumed.

10 44. At the time and place and under the circumstances alleged, the Plaintiff failed to exercise
11 ordinary care, caution or prudence for its own safety, thereby proximately causing or
12 contributing to the cause of its own damages, if any, through its own negligence.

13 45. At all times, answering Defendant acted with due care and diligence relating to the incident
14 alleged in Plaintiff's Complaint, and therefore, the answering Defendant breached no duty to
15 the Plaintiff.

16 46. At the time and place under the circumstances alleged by the Plaintiff, Plaintiff had full and
17 complete knowledge and information in regard to the conditions and circumstances then and
18 there existing, and through Plaintiff's own knowledge, conduct, acts and omissions, assume
19 the risk attendant to any condition there or then present.

20 47. The liability, if any, of the answering Defendant must be reduced by the percentage of fault
21 of others, including the Plaintiff.

22 48. The answering Defendant could not foresee any injury or damage to Plaintiff as a result of
23 the actions alleged in the Complaint.

24 ///

- 1 49. The incidents alleged in the Plaintiff's Complaint, and the resulting damage, if any, to
2 Plaintiff were proximately caused or contributed to by Plaintiff's own negligence and such
3 negligence was greater than the negligence, if any, of the answering Defendant.
4
- 5 50. The conduct of the answering Defendant as pertaining to the incident alleged in Plaintiff's
6 Complaint, was not extreme, outrageous, or reckless. The conduct of the answering
7 Defendant conformed to the law.
- 8 51. The liability, if any, of the answering Defendant is several and not joint and based upon their
9 own acts and not the acts of others.
- 10 52. The claims, and each of them, are barred as a result of the failure of the Plaintiff to timely
11 make those claims as against the answering Defendant and allow the answering Defendant to
12 collect evidence sufficient to establish its nonliability. The answering Defendant relied upon
13 the failure to allege claims by the Plaintiff and as a result are barred by the doctrine of laches.
14
- 15 53. The claims, and each of them, are premature.
- 16 54. Plaintiff has suffered no damages and, therefore, is not entitled to relief.
- 17 55. Plaintiff has suffered no harm as a result of answering Defendant conduct.
- 18 56. Any damages suffered by Plaintiff were not the direct or proximate result of answering
19 Defendant actions.
- 20
- 21 57. By virtue of Plaintiff's actions, conduct and omissions, answering Defendant have been
22 released.
- 23 58. Any and all damages sustained by Plaintiff are the result of negligence, breach of contract
24 and breach of warranty, express and/or implied, of third party over whom the answering
25 Defendant have no control.
- 26
- 27 59. The incidents and occurrences described in the Complaint on file in the above entitled matter
28 are the result of an unavoidable accident.

- 1 60. Any and all alleged problems and damages were proximately caused or contributed to by the
2 acts of other persons and/or other entities and that said acts were an intervening and/or
3 superseding cause of the injuries and damages, if any, thus barring any recovering against
4 answering Defendant.
5
- 6 61. Any conduct on the part of answering Defendant was not the cause of Plaintiff's alleged
7 losses or damages, the existence of which is denied, relieving answering Defendant from any
8 liability.
9
- 10 62. The answering Defendant were without knowledge of the acts giving rise to, and could not
11 have averted, the damages alleged by the Plaintiff.
12
- 13 63. The answering Defendant are not negligent with respect to the transactions which are the
14 subject of the Complaint, and are/were not in breach of contract or warranty (express or
15 implied).
16
- 17 64. The damages, if any, suffered by the Plaintiff must be reduced by the amount of the
18 consideration agreed to be paid or paid to Plaintiff by others by any joint tortfeasor.
19
- 20 65. The claims for reimbursement of or contribution for settlements made by others are barred as
21 against the answering Defendant because the settling parties did not discharge any portion of
22 a common liability within the applicable statutes of limitations.
23
- 24 66. Insofar as any alleged breach of contract is concerned, Plaintiff failed to give the answering
25 Defendant timely notice thereof.
26
- 27 67. The claims of the Plaintiff are barred as a result of no enforceable contract due to:
28
- a. The contract lacks valid offer and acceptance;
 - b. The contract lacks of consideration;
 - c. The contract was validly rescinded;
 - d. The contract is illusory and/or lacks mutuality; or

1 e. The contract is void for vagueness.

2 68. Answering Defendant never breached any contract.

3 69. Answering Defendant is not parties to the contract and, accordingly, are not in breach of
4 contract.

5 70. Answering Defendant substantially performed the contract.

6 71. Answering Defendant was justified in her failure to perform, if any.

7 72. Plaintiff's claims, and each of them, are barred due to fraud.

8 73. Plaintiff's claims, and each of them, are barred due to duress.

9 74. Plaintiff's claims, and each of them, are barred as a result of unconscionability.

10 75. Any contracts between Plaintiff and answering Defendant are barred by the statute of frauds.

11 76. Plaintiff's claims, and each of them, are barred as a result of an accord and satisfaction.

12 77. The claims of Plaintiff are barred as a result of an invalid modification.

13 78. Plaintiff's claims are barred, in whole or in part, by the parol evidence rule.

14 79. Plaintiff's claims, and each of them, are barred, in whole or in part, by the doctrines of
15 mistake, excuse and/or nonperformance.

16 80. The claims of Plaintiff have been waived as a result of the acts and the conduct of the
17 Plaintiff.

18 81. The claim for breach of contract is barred as a result of the failure to satisfy conditions
19 precedent.

20 82. The claims, and each of them, for breach of contract are barred by the failure to satisfy
21 conditions subsequent.

22 83. Plaintiff failed to mitigate its damages.

23 84. Answering Defendant did not have knowledge of any valid contract between Plaintiff and
24 Defendant.
25
26
27
28

- 1 85. The claims of Plaintiff are barred as a result of lack of good faith.
- 2 86. Answering Defendant validly delegated their duties to Plaintiff.
- 3 87. Answering Defendant at all times herein acted reasonably and in good faith in discharging
- 4 their obligations and duties, if any.
- 5 88. The answering Defendant acted in conformity with the law and with reasonableness in
- 6 discharging their duties.
- 7 89. Plaintiff received everything it was entitled to receive from its agreement with answering
- 8 Defendant.
- 9 90. The answering Defendant properly and legally fulfilled their duties and obligations, if any, to
- 10 the Plaintiff.
- 11 91. Plaintiff failed to complete the work it agreed to perform.
- 12 92. Plaintiff's contractual causes of action are barred by Plaintiff's own anticipatory breach of its
- 13 contractual duties to answering Defendant, which breach relieved answering Defendants of
- 14 any and all contractual obligations or promises to Plaintiff (which obligations and promises
- 15 answering Defendant denies).
- 16 93. Any and all actions complained of by Plaintiff were approved or ratified by Plaintiff.
- 17 94. Answering Defendant has no duty towards Plaintiff.
- 18 95. Answering Defendant acted in good faith.
- 19 96. Plaintiff's cause of action for breach of the covenant of good faith and fair dealing is barred
- 20 because Plaintiff breached its reciprocal covenant of good faith and fair dealing.
- 21 97. No special or fiduciary relationship exists between Plaintiff and Defendant.
- 22 98. Answering Defendant fulfilled their duty to deal with Plaintiff in good faith.
- 23 99. Answering Defendant committed no intentional acts meant to disrupt or harm Plaintiff.
- 24 100. No disruption or harm occurred to Plaintiff.

101. Plaintiff's Complaint fails to state sufficient facts to support any cause of action against the Defendant because any purported negligent misconduct of any type on the part of Defendant agents, representatives and/or employees was committed outside of the course and scope of authority of any relationship with Defendant and/or was not authorized or ratified by the Defendant.

102. Plaintiff's complaint fails to state sufficient facts regarding the existence of an employer/employee relationship.

103. Plaintiff's negligent hiring, training and supervision claim fails because neither Defendant nor her agent, representatives and/or employees committed a tort or any act of negligence.

104. Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein, insofar as sufficient facts were not available after reasonable inquiry upon filing of this Answer, therefore, the answering Defendant reserve the right to amend their Answer to add affirmative defenses should the necessity arise.

105. Plaintiff's claims are barred by the doctrine of laches.

106. Plaintiff's claims are barred by applicable statutes of repose.

107. Defendant does not owe, and never have owed, a fiduciary duty to Plaintiff.

108. Defendant has not engaged in any willful or wanton misconduct.

109. Defendant properly performed according to any contracts.

110. Plaintiff's claims are barred by the doctrine of impossibility.

111. Plaintiff's claims are barred by the doctrine of unclean hands.

112. Plaintiff's claims are barred by the doctrine of frustration of purpose.

113. Plaintiff's claims are barred by the doctrine of unconscionability.

114. Plaintiff's claims are barred by the doctrine of impracticability.

115. Plaintiff's breach excused any breach of Defendant, if any.

116. Plaintiff's claims are barred by the doctrine of promissory estoppel.

NOW, WHEREFORE, the Defendant pray as follows:

1. That the Plaintiff takes nothing by way of its Complaint;
2. For an award of attorney fees and costs incurred in this suit herein; and
3. For other and such further relief as the Court deems just and proper.

DATED this 1st day of April, 2020.

ALVERSON TAYLOR & SANDERS



KURT R. BONDS, ESQ.

Nevada Bar #6228

6605 Grand Montecito Parkway

Suite 200

Las Vegas, Nevada 89149

(702) 384-7000

Attorneys for BRENDA GUFFEY

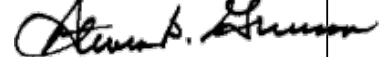
CERTIFICATE OF SERVICE VIA CM/ECF

I hereby certify that on this 1st day of April, 2020, I did serve, via Case Management/Electronic Case Filing, a copy of the above **BRENDA GUFFEY ANSWER TO PLAINTIFF'S COMPLAINT** and foregoing addressed to:



An Employee of ALVERSON
TAYLOR & SANDERS

\\atms-fs2\data\kurt.grp\CLIENTS\26600\26611\pleading\Answer.doc



1 **ANS**
2 **ROBERT S. LARSEN, ESQ.**
3 Nevada Bar No. 7785
4 **WING YAN WONG, ESQ.**
5 Nevada Bar No. 13622
6 **GORDON REES SCULLY MANSUKHANI, LLP**
7 300 South Fourth Street, Suite 1550
8 Las Vegas, Nevada 89101
9 Telephone: (702) 577-9300
10 Direct: (702) 577-9301
11 Facsimile: (702) 255-2858
12 E-Mail: rlarsen@grsm.com
13 wwong@grsm.com

14 *Attorneys for Lexicon Insurance Management LLC,*
15 *Daniel George and ICAP Management Solutions, LLC*

16 **EIGHTH JUDICIAL DISTRICT COURT**

17 **CLARK COUNTY, NEVADA**

18 **BARBARA D. RICHARDSON IN HER**
19 **CAPACITY AS THE STATUTORY RECEIVER**
20 **FOR SPIRIT COMMERCIAL AUTO RISK**
21 **RETENTION GROUP, INC.,**

22 **Plaintiff,**

23 **vs.**

24 **THOMAS MULLIGAN, an individual; CTC**
25 **TRANSPORTATION INSURANCE SERVICES OF**
26 **MISSOURI, LLC, a Missouri Limited Liability**
27 **Company; CTC TRANSPORTATION**
28 **INSURANCE SERVICES LLC, a California**
29 **Limited Liability Company; CTC**
30 **TRANSPORTATION INSURANCE SERVICES OF**
31 **HAWAII LLC, a Hawaii Limited Liability**
32 **Company; CRITERION CLAIMS SOLUTIONS OF**
33 **OMAHA, INC., a Nebraska Corporation; PAVEL**
34 **KAPELNIKOV, an individual; CHELSEA**
35 **FINANCIAL GROUP, INC., a California**
36 **Corporation; CHELSEA FINANCIAL GROUP,**
37 **INC., a Missouri Corporation; CHELSEA**
38 **FINANCIAL GROUP, INC., a New Jersey**
39 **Corporation d/b/a CHELSEA PREMIUM FINANCE**
40 **CORPORATION; CHELSEA FINANCIAL**
41 **GROUP, INC., a Delaware Corporation; CHELSEA**
42 **HOLDING COMPANY, LLC, a Nevada Limited**
43 **Liability Company; CHELSEA HOLDINGS, LLC,**
44 **a Nevada Limited Liability Company;**
45 **FOURGOLEAN CAPITAL, LLC, a New Jersey**
46 **Limited Liability Company; KAPA**
47 **MANAGEMENT CONSULTING, INC. a New**
48 **Jersey Corporation; KAPA VENTURES, INC., a**

Case No.: A-20-809963-B
Dept. No.: 11

**DEFENDANT DANIEL
GEORGE'S ANSWER TO
COMPLAINT**

1 New Jersey Corporation; GLOBAL FORWARDING
2 ENTERPRISES LIMITED LIABILITY
3 COMPANY, a New Jersey Limited Liability
4 Company; GLOBAL CAPITAL GROUP, LLC, a
5 New Jersey Limited Liability Company; GLOBAL
6 CONSULTING; NEW TECH CAPITAL, LLC, a
7 Delaware Limited Liability Company; LEXICON
8 INSURANCE MANAGEMENT LLC, a North
9 Carolina Limited Liability Company; ICAP
10 MANAGEMENT SOLUTIONS, LLC, a Vermont
11 Limited Liability Company; SIX ELEVEN LLC, a
12 Missouri Limited Liability Company; 10-4
13 PREFERRED RISK MANAGERS INC., a Missouri
14 Corporation; IRONJAB LLC, a New Jersey Limited
15 Liability Company; YANINA G. KAPELNIKOV, an
16 individual; IGOR KAPELNIKOV, an individual;
17 QUOTE MY RIG LLC, a New Jersey Limited
18 Liability Company; MATTHEW SIMON, an
19 individual; DANIEL GEORGE, an individual; JOHN
20 MALONEY, an individual; JAMES MARX, an
21 individual; CARLOS TORRES, an individual;
22 VIRGINIA TORRES, an individual; SCOTT
23 McCRAE, an individual; BRENDA GUFFEY, an
24 individual; 195 GLUTEN FREE LLC, a New Jersey
25 Limited Liability Company, DOE INDIVIDUALS I-
26 X; and ROE CORPORATE ENTITIES I-X,

Defendants.

Defendant Daniel George (“Defendant”), by and through his undersigned counsel, hereby
files his Answer to the Complaint, as follows:

INTRODUCTION

1. Answering Paragraph 1 of the Complaint, Defendant denies the allegations contained
therein to the extent they are asserted against him, Lexicon Insurance Management LLC
 (“Lexicon”), and ICAP Management Solutions, LLC (“ICAP”). Defendant states that he
is without sufficient knowledge or information to form a belief as to the truth or falsity of
the remaining allegations contained therein, and accordingly, those allegations are hereby
denied.
2. Answering Paragraph 2 of the Complaint, Defendant denies the allegations contained
therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
that he is without sufficient knowledge or information to form a belief as to the truth or
falsity of the remaining allegations contained therein, and accordingly, those allegations

are hereby denied.

3. Answering Paragraph 3 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

4. Answering Paragraph 4 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Answering Further, Defendant states that he is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

PARTIES AND JURISDICTION

The Plaintiff

5. Answering Paragraph 5 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

6. Answering Paragraph 6 of the Complaint, Defendant states that Spirit was a Nevada corporation organized under the laws of Nevada and the Liability Risk Retention Act of 1986. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

7. Answering Paragraph 7 of the Complaint, Defendant states that Spirit received its Certificate of Authority on February 24, 2012. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

8. Answering Paragraph 8 of the Complaint, Defendant states that Spirit's business involved commercial auto liability insurance. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

9. Answering Paragraph 9 of the Complaint, Defendant is without sufficient knowledge or

1 information to form a belief as to the truth or falsity of the allegations contained therein,
2 and accordingly, those allegations are hereby denied.

3 ***The Defendants***

- 4 10. Answering Paragraph 10 of the Complaint Defendant states that Mulligan was not an
5 officer, manager, control party, or director of Lexicon. Answering further, Defendant is
6 without sufficient knowledge or information to form a belief as to the truth or falsity of
7 the remaining allegations contained therein, and accordingly, those allegations are hereby
8 denied.
- 9 11. Answering Paragraph 11 of the Complaint, Defendant is without sufficient knowledge or
10 information to form a belief as to the truth or falsity of the allegations contained therein,
11 and accordingly, those allegations are hereby denied.
- 12 12. Answering Paragraph 12 of the Complaint, Defendant is without sufficient knowledge or
13 information to form a belief as to the truth or falsity of the allegations contained therein,
14 and accordingly, those allegations are hereby denied.
- 15 13. Answering Paragraph 13 of the Complaint, Defendant is without sufficient knowledge or
16 information to form a belief as to the truth or falsity of the allegations contained therein,
17 and accordingly, those allegations are hereby denied.
- 18 14. Answering Paragraph 14 of the Complaint, Defendant is without sufficient knowledge or
19 information to form a belief as to the truth or falsity of the allegations contained therein,
20 and accordingly, those allegations are hereby denied.
- 21 15. Answering Paragraph 15 of the Complaint, Defendant is without sufficient knowledge or
22 information to form a belief as to the truth or falsity of the allegations contained therein,
23 and accordingly, those allegations are hereby denied.
- 24 16. Answering Paragraph 16 of the Complaint, Defendant is without sufficient knowledge or
25 information to form a belief as to the truth or falsity of the allegations contained therein,
26 and accordingly, those allegations are hereby denied.
- 27 17. Answering Paragraph 17 of the Complaint, Defendant is without sufficient knowledge or
28 information to form a belief as to the truth or falsity of the allegations contained therein,

and accordingly, those allegations are hereby denied.

18. Answering Paragraph 18 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

19. Answering Paragraph 19 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

20. Answering Paragraph 20 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

21. Answering Paragraph 21 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

22. Answering Paragraph 22 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

23. Answering Paragraph 23 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

24. Answering Paragraph 24 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

25. Answering Paragraph 25 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

26. Answering Paragraph 26 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

- 1 27. Answering Paragraph 27 of the Complaint, Defendant is without sufficient knowledge or
2 information to form a belief as to the truth or falsity of the allegations contained therein,
3 and accordingly, those allegations are hereby denied.
- 4 28. Answering Paragraph 28 of the Complaint, Defendant denies that Lexicon had received
5 any payments from Global Capital Group LLC. Defendant is without sufficient
6 knowledge or information to form a belief as to the truth or falsity of the remaining
7 allegations contained therein, and accordingly, those allegations are hereby denied.
- 8 29. Answering Paragraph 29 of the Complaint, Defendant is without sufficient knowledge or
9 information to form a belief as to the truth or falsity of the allegations contained therein,
10 and accordingly, those allegations are hereby denied.
- 11 30. Answering Paragraph 30 of the Complaint, Defendant states that Lexicon is a North
12 Carolina limited liability which offered management services for insurance companies,
13 including at times Spirit, that Defendant owned and controlled Lexicon. Defendant
14 denies that Lexicon was controlled by Mulligan. Defendant states that Lexicon served as
15 Spirit's Risk Retention Group's interim Manager after Risk Services LLC resigned as the
16 manager September 26, 2018.
- 17 31. Answering Paragraph 31 of the Complaint, Defendant is without sufficient knowledge or
18 information to form a belief as to the truth or falsity of the allegations contained therein,
19 and accordingly, those allegations are hereby denied.
- 20 32. Answering Paragraph 32 of the Complaint, Defendant states that ICAP is a Vermont
21 limited liability company. Defendant denies the remaining allegations contained therein.
- 22 33. Answering Paragraph 33 of the Complaint, Defendant is without sufficient knowledge or
23 information to form a belief as to the truth or falsity of the allegations contained therein,
24 and accordingly, those allegations are hereby denied.
- 25 34. Answering Paragraph 34 of the Complaint, Defendant is without sufficient knowledge or
26 information to form a belief as to the truth or falsity of the allegations contained therein,
27 and accordingly, those allegations are hereby denied.
- 28 35. Answering Paragraph 35 of the Complaint, Defendant is without sufficient knowledge or

1 information to form a belief as to the truth or falsity of the allegations contained therein,
2 and accordingly, those allegations are hereby denied.

3 36. Answering Paragraph 36 of the Complaint, Defendant is without sufficient knowledge or
4 information to form a belief as to the truth or falsity of the allegations contained therein,
5 and accordingly, those allegations are hereby denied.

6 37. Answering Paragraph 37 of the Complaint, Defendant states that he was an officer of
7 Spirit, that he has held various officer positions, at various times, and President of
8 Lexicon, and that Lexicon at one point served as Spirit's Risk Retention Group interim
9 Manager. Defendant states that he is an owner of ICAP. Defendant denies the remaining
10 allegations contained therein.

11 38. Answering Paragraph 38 of the Complaint, Defendant is without sufficient knowledge or
12 information to form a belief as to the truth or falsity of the allegations contained therein,
13 and accordingly, those allegations are hereby denied.

14 39. Answering Paragraph 39 of the Complaint, Defendant is without sufficient knowledge or
15 information to form a belief as to the truth or falsity of the allegations contained therein,
16 and accordingly, those allegations are hereby denied.

17 40. Answering Paragraph 40 of the Complaint, Defendant is without sufficient knowledge or
18 information to form a belief as to the truth or falsity of the allegations contained therein,
19 and accordingly, those allegations are hereby denied.

20 41. Answering Paragraph 41 of the Complaint, Defendant is without sufficient knowledge or
21 information to form a belief as to the truth or falsity of the allegations contained therein,
22 and accordingly, those allegations are hereby denied.

23 42. Answering Paragraph 42 of the Complaint, Defendant is without sufficient knowledge or
24 information to form a belief as to the truth or falsity of the allegations contained therein,
25 and accordingly, those allegations are hereby denied.

26 43. Answering Paragraph 43 of the Complaint, Defendant is without sufficient knowledge or
27 information to form a belief as to the truth or falsity of the allegations contained therein,
28 and accordingly, those allegations are hereby denied.

1 44. Answering Paragraph 44 of the Complaint, Defendant is without sufficient knowledge or
2 information to form a belief as to the truth or falsity of the allegations contained therein,
3 and accordingly, those allegations are hereby denied.

4 45. Answering Paragraph 45 of the Complaint, Defendant is without sufficient knowledge or
5 information to form a belief as to the truth or falsity of the allegations contained therein,
6 and accordingly, those allegations are hereby denied.¹

7 46. Answering Paragraph 46 of the Complaint, Defendant is without sufficient knowledge or
8 information to form a belief as to the truth or falsity of the allegations contained therein,
9 and accordingly, those allegations are hereby denied.

10 47. Answering Paragraph 47 of the Complaint, Defendant is without sufficient knowledge or
11 information to form a belief as to the truth or falsity of the allegations contained therein,
12 and accordingly, those allegations are hereby denied.

13 48. Answering Paragraph 48 of the Complaint, Defendant is without sufficient knowledge or
14 information to form a belief as to the truth or falsity of the allegations contained therein,
15 and accordingly, those allegations are hereby denied.

16 ***Jurisdiction***

17 49. Answering Paragraph 49 of the Complaint, Defendant denies that this Court has personal
18 jurisdiction as to him, Lexicon, and ICAP. Defendant is without sufficient knowledge or
19 information to form a belief as to the truth or falsity of the remaining allegations
20 contained therein, and accordingly, those allegations are hereby denied.

21 50. Answering Paragraph 50 of the Complaint, Defendant denies that this Court has personal
22 jurisdiction as to him, Lexicon, and ICAP. Defendant is without sufficient knowledge or
23 information to form a belief as to the truth or falsity of the remaining allegations
24 contained therein, and accordingly, those allegations are hereby denied.

25 51. Answering Paragraph 51 of the Complaint, Defendant is without sufficient knowledge or
26 information to form a belief as to the truth or falsity of the allegations contained therein,
27 and accordingly, those allegations are hereby denied.

28 ¹ Defendant denies that Mulligan was an officer or director of Lexicon.

FACTUAL ALLEGATIONS

Background Information Regarding Spirit

52. Answering Paragraph 52 of the Complaint, Defendant states that Spirit was granted a Certificate of Authority by the Nevada Division of Insurance and Spirit's business involved commercial auto liability insurance. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.
53. Answering Paragraph 53 of the Complaint, Defendant states that he is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.
54. Answering Paragraph 54 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.
55. Answering Paragraph 55 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.
56. Answering Paragraph 56 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.
57. Answering Paragraph 57 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.
58. Answering Paragraph 58 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.
59. Answering Paragraph 59 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

1 60. Answering Paragraph 60 of the Complaint, Defendant denies the allegations contained
2 therein to the extent they are asserted against him. Answering Further, Defendant states
3 that he is without sufficient knowledge or information to form a belief as to the truth or
4 falsity of the remaining allegations contained therein, and accordingly, those allegations
5 are hereby denied.

6 61. Answering Paragraph 61 of the Complaint, Defendant denies the allegations contained
7 therein to the extent they are asserted against him. Answering Further, Defendant states
8 that he is without sufficient knowledge or information to form a belief as to the truth or
9 falsity of the remaining allegations contained therein, and accordingly, those allegations
10 are hereby denied.

11 62. Answering Paragraph 62 of the Complaint, Defendant denies the allegations contained
12 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
13 that he is without sufficient knowledge or information to form a belief as to the truth or
14 falsity of the remaining allegations contained therein, and accordingly, those allegations
15 are hereby denied.

16 63. Answering Paragraph 63 of the Complaint, Defendant denies the allegations contained
17 therein to the extent they are asserted against him. Defendant states that he is without
18 sufficient knowledge or information to form a belief as to the truth or falsity of the
19 remaining allegations contained therein, and accordingly, those allegations are hereby
20 denied.

21 ***Events Leading Up to the Discovery of Defendant's Misconduct***

22 64. Answering Paragraph 64 of the Complaint, Defendant states that Spirit's business
23 involved commercial auto liability insurance. Defendant is without sufficient knowledge
24 or information to form a belief as to the truth or falsity of the remaining allegations
25 contained therein, and accordingly, those allegations are hereby denied.

26 65. Answering Paragraph 65 of the Complaint, Defendant is without sufficient knowledge or
27 information to form a belief as to the truth or falsity of the allegations contained therein,
28 and accordingly, those allegations are hereby denied.

- 1 66. Answering Paragraph 66 of the Complaint, Defendant is without sufficient knowledge or
2 information to form a belief as to the truth or falsity of the allegations contained therein,
3 and accordingly, those allegations are hereby denied.
- 4 67. Answering Paragraph 67 of the Complaint, Defendant is without sufficient knowledge or
5 information to form a belief as to the truth or falsity of the allegations contained therein,
6 and accordingly, those allegations are hereby denied.
- 7 68. Answering Paragraph 68 of the Complaint, Defendant is without sufficient knowledge or
8 information to form a belief as to the truth or falsity of the allegations contained therein,
9 and accordingly, those allegations are hereby denied.
- 10 69. Answering Paragraph 69 of the Complaint, Defendant denies the allegations contained
11 therein to the extent they are asserted against him. Answering Further, Defendant states
12 that he is without sufficient knowledge or information to form a belief as to the truth or
13 falsity of the remaining allegations contained therein, and accordingly, those allegations
14 are hereby denied.
- 15 70. Answering Paragraph 70 of the Complaint, Defendant is without sufficient knowledge or
16 information to form a belief as to the truth or falsity of the allegations contained therein,
17 and accordingly, those allegations are hereby denied.
- 18 71. Answering Paragraph 71 of the Complaint, Defendant is without sufficient knowledge or
19 information to form a belief as to the truth or falsity of the allegations contained therein,
20 and accordingly, those allegations are hereby denied.
- 21 72. Answering Paragraph 72 of the Complaint, Defendant is without sufficient knowledge or
22 information to form a belief as to the truth or falsity of the allegations contained therein,
23 and accordingly, those allegations are hereby denied.
- 24 73. Answering Paragraph 73 of the Complaint, Defendant states that Sprit proposed a loss
25 portfolio transfer which was approved by the Division. Defendant is without sufficient
26 knowledge or information to form a belief as to the truth or falsity of the remaining
27 allegations contained therein, and accordingly, those allegations are hereby denied.
- 28 74. Answering Paragraph 74 of the Complaint, Defendant denies the allegations contained

therein to the extent they are asserted against him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

75. Answering Paragraph 75 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that he is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

76. Answering Paragraph 76 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

Spirit Discloses a 27.6 Million-Dollar Receivable from CTC

77. Answering Paragraph 77 of the Complaint, Defendant states that Sprit filed its June 30, 2018 quarterly financial statements on October 1, 2018. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

78. Answering Paragraph 78 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

79. Answering Paragraph 79 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

80. Answering Paragraph 80 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

81. Answering Paragraph 81 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

- 1 82. Answering Paragraph 82 of the Complaint, Defendant is without sufficient knowledge or
2 information to form a belief as to the truth or falsity of the allegations contained therein,
3 and accordingly, those allegations are hereby denied.
- 4 83. Answering Paragraph 83 of the Complaint, Defendant states that there was a \$27.6
5 million-dollar receivable on the September 30, 2018 statement. Defendant is without
6 sufficient knowledge or information to form a belief as to the truth or falsity of the
7 allegations contained therein as a copy of the referenced statement is not attached to the
8 Complaint, and accordingly, those allegations are hereby denied.
- 9 84. Answering Paragraph 84 of the Complaint, Defendant is without sufficient knowledge or
10 information to form a belief as to the truth or falsity of the allegations contained therein,
11 and accordingly, those allegations are hereby denied.
- 12 85. Answering Paragraph 85 of the Complaint, Defendant denies the allegations contained
13 therein to the extent they assert that any acts and/or omissions by Defendant and Lexicon
14 were improper or wrongful, including withholding of any information from the Division.
15 Defendant is without sufficient knowledge or information to form a belief as to the truth
16 or falsity of the remaining allegations contained therein, and accordingly, those
17 allegations are hereby denied.
- 18 ***CTC'S Duties Owed to Spirit under the CTC Agreement***
- 19 86. Answering Paragraph 86 of the Complaint, Defendant is without sufficient knowledge or
20 information to form a belief as to the truth or falsity of the allegations contained therein,
21 and accordingly, those allegations are hereby denied.
- 22 87. Answering Paragraph 87 of the Complaint, Defendant is without sufficient knowledge or
23 information to form a belief as to the truth or falsity of the allegations contained therein,
24 and accordingly, those allegations are hereby denied.
- 25 88. Answering Paragraph 88 of the Complaint, Defendant is without sufficient knowledge or
26 information to form a belief as to the truth or falsity of the allegations contained therein,
27 and accordingly, those allegations are hereby denied.
- 28 89. Answering Paragraph 89 of the Complaint, Defendant is without sufficient knowledge or

1 information to form a belief as to the truth or falsity of the allegations contained therein,
2 and accordingly, those allegations are hereby denied.

3 90. Answering Paragraph 90 of the Complaint, Defendant is without sufficient knowledge or
4 information to form a belief as to the truth or falsity of the allegations contained therein,
5 and accordingly, those allegations are hereby denied.

6 ***Spirit's Certification of Authority is Suspended, and Spirit is Placed in Receivership***

7 91. Answering Paragraph 91 of the Complaint, Defendant denies the allegations contained
8 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
9 that he is without sufficient knowledge or information to form a belief as to the truth or
10 falsity of the remaining allegations contained therein, and accordingly, those allegations
11 are hereby denied.

12 92. Answering Paragraph 92 of the Complaint, Defendant is without sufficient knowledge or
13 information to form a belief as to the truth or falsity of the allegations contained therein,
14 and accordingly, those allegations are hereby denied.

15 93. Answering Paragraph 93 of the Complaint, Defendant denies the allegations contained
16 therein to the extent they are asserted against him. Defendant states that he is without
17 sufficient knowledge or information to form a belief as to the truth or falsity of the
18 remaining allegations contained therein, and accordingly, those allegations are hereby
19 denied.

20 94. Answering Paragraph 94 of the Complaint, Defendant states that Mulligan submitted a
21 resignation letter as an officer or manager of Lexicon. Defendant states that Mulligan
22 was never an officer or manager of Lexicon. Defendant is without sufficient knowledge
23 or information to form a belief as to the truth or falsity of the remaining allegations
24 contained therein, and accordingly, those allegations are hereby denied.

25 95. Answering Paragraph 95 of the Complaint, Defendant is without sufficient knowledge or
26 information to form a belief as to the truth or falsity of the allegations contained therein,
27 and accordingly, those allegations are hereby denied.

28 96. Answering Paragraph 96 of the Complaint, Defendant is without sufficient knowledge or

1 information to form a belief as to the truth or falsity of the allegations contained therein,
2 and accordingly, those allegations are hereby denied.

3 97. Answering Paragraph 97 of the Complaint, Defendant is without sufficient knowledge or
4 information to form a belief as to the truth or falsity of the allegations contained therein,
5 and accordingly, those allegations are hereby denied.

6 98. Answering Paragraph 98 of the Complaint, Defendant is without sufficient knowledge or
7 information to form a belief as to the truth or falsity of the allegations contained therein,
8 and accordingly, those allegations are hereby denied.

9 99. Answering Paragraph 99 of the Complaint, Defendant denies the allegations contained
10 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
11 that he is without sufficient knowledge or information to form a belief as to the truth or
12 falsity of the remaining allegations contained therein, and accordingly, those allegations
13 are hereby denied.

14 ***CTC Fails to Collect and Pay to Spirit Premiums for policies Issued***

15 100. Answering Paragraph 100 of the Complaint, Defendant is without sufficient knowledge
16 or information to form a belief as to the truth or falsity of the allegations contained
17 therein, and accordingly, those allegations are hereby denied.

18 101. Answering Paragraph 101 of the Complaint, Defendant is without sufficient knowledge
19 or information to form a belief as to the truth or falsity of the allegations contained
20 therein, and accordingly, those allegations are hereby denied.

21 102. Answering Paragraph 102 of the Complaint, Defendant is without sufficient knowledge
22 or information to form a belief as to the truth or falsity of the allegations contained
23 therein, and accordingly, those allegations are hereby denied.

24 103. Answering Paragraph 103 of the Complaint, Defendant is without sufficient knowledge
25 or information to form a belief as to the truth or falsity of the allegations contained
26 therein, and accordingly, those allegations are hereby denied.

27 104. Answering Paragraph 104 of the Complaint, Defendant is without sufficient knowledge
28 or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly, those allegations are hereby denied.

105. Answering Paragraph 105 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

106. Answering Paragraph 106 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

107. Answering Paragraph 107 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

108. Answering Paragraph 108 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

109. Answering Paragraph 109 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

110. Answering Paragraph 110 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

111. No allegations are asserted in this paragraph.

CTC Retroactively Reclassifies Uncollected Premiums

112. Answering Paragraph 112 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

113. Answering Paragraph 113 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that he is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby

1 denied.

2 114. Answering Paragraph 114 of the Complaint, Defendant is without sufficient knowledge
3 or information to form a belief as to the truth or falsity of the allegations contained
4 therein, and accordingly, those allegations are hereby denied.

5 115. Answering Paragraph 115 of the Complaint, Defendant is without sufficient knowledge
6 or information to form a belief as to the truth or falsity of the allegations contained
7 therein, and accordingly, those allegations are hereby denied.

8 116. Answering Paragraph 116 of the Complaint, Defendant is without sufficient knowledge
9 or information to form a belief as to the truth or falsity of the allegations contained
10 therein, and accordingly, those allegations are hereby denied.

11 117. Answering Paragraph 117 of the Complaint, Defendant is without sufficient knowledge
12 or information to form a belief as to the truth or falsity of the allegations contained
13 therein, and accordingly, those allegations are hereby denied.

14 118. Answering Paragraph 118 of the Complaint, Defendant is without sufficient knowledge
15 or information to form a belief as to the truth or falsity of the allegations contained
16 therein, and accordingly, those allegations are hereby denied.

17 119. Answering Paragraph 119 of the Complaint, Defendant is without sufficient knowledge
18 or information to form a belief as to the truth or falsity of the allegations contained
19 therein, and accordingly, those allegations are hereby denied.

20 120. Answering Paragraph 120 of the Complaint, Defendant is without sufficient knowledge
21 or information to form a belief as to the truth or falsity of the allegations contained
22 therein, and accordingly, those allegations are hereby denied.

23 121. Answering Paragraph 121 of the Complaint, Defendant is without sufficient knowledge
24 or information to form a belief as to the truth or falsity of the allegations contained
25 therein, and accordingly, those allegations are hereby denied.

26 122. Answering Paragraph 122 of the Complaint, Defendant is without sufficient knowledge
27 or information to form a belief as to the truth or falsity of the allegations contained
28 therein, and accordingly, those allegations are hereby denied.

- 1 123. Answering Paragraph 123 of the Complaint, Defendant is without sufficient knowledge
2 or information to form a belief as to the truth or falsity of the allegations contained
3 therein, and accordingly, those allegations are hereby denied.
- 4 124. Answering Paragraph 124 of the Complaint, Defendant is without sufficient knowledge
5 or information to form a belief as to the truth or falsity of the allegations contained
6 therein, and accordingly, those allegations are hereby denied.
- 7 125. Answering Paragraph 125 of the Complaint, Defendant is without sufficient knowledge
8 or information to form a belief as to the truth or falsity of the allegations contained
9 therein, and accordingly, those allegations are hereby denied.
- 10 126. Answering Paragraph 126 of the Complaint, Defendant is without sufficient knowledge
11 or information to form a belief as to the truth or falsity of the allegations contained
12 therein, and accordingly, those allegations are hereby denied.
- 13 127. Answering Paragraph 127 of the Complaint, Defendant is without sufficient knowledge
14 or information to form a belief as to the truth or falsity of the allegations contained
15 therein, and accordingly, those allegations are hereby denied.
- 16 128. Answering Paragraph 128 of the Complaint, Defendant is without sufficient knowledge
17 or information to form a belief as to the truth or falsity of the allegations contained
18 therein, and accordingly, those allegations are hereby denied.
- 19 ***Mulligan Dominated and Controlled the Affairs of CTC and Spirit and other Related Entities***
- 20 129. Answering Paragraph 129 of the Complaint, Defendant states that Mulligan was a
21 member of Lexicon but denies that Mulligan controlled Lexicon. Defendant is without
22 sufficient knowledge or information to form a belief as to the truth or falsity of the
23 remaining allegations contained therein, and accordingly, those allegations are hereby
24 denied.
- 25 130. Answering Paragraph 130 of the Complaint, Defendant denies the allegations contained
26 therein to the extent they are asserted against him, Lexicon, or ICAP. Answering Further,
27 Defendant states that he is without sufficient knowledge or information to form a belief
28 as to the truth or falsity of the remaining allegations contained therein, and accordingly,

those allegations are hereby denied.

131. Answering Paragraph 131 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, or ICAP. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

132. Answering Paragraph 132 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him and Lexicon. Answering Further, Defendant states that he is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

133. Answering Paragraph 133 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

134. Answering Paragraph 134 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

135. Answering Paragraph 135 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

136. Answering Paragraph 136 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Answering Further, Defendant states that he is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

137. Answering Paragraph 137 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

138. Answering Paragraph 138 of the Complaint, Defendant is without sufficient knowledge

1 or information to form a belief as to the truth or falsity of the allegations contained
2 therein, and accordingly, those allegations are hereby denied.

3 139. Answering Paragraph 139 of the Complaint, Defendant denies the allegations contained
4 therein to the extent they are asserted against him. Answering Further, Defendant states
5 that he is without sufficient knowledge or information to form a belief as to the truth or
6 falsity of the remaining allegations contained therein, and accordingly, those allegations
7 are hereby denied.

8 140. Answering Paragraph 140 of the Complaint, Defendant denies the allegations contained
9 therein to the extent they are asserted against him. Answering Further, Defendant states
10 that he is without sufficient knowledge or information to form a belief as to the truth or
11 falsity of the remaining allegations contained therein, and accordingly, those allegations
12 are hereby denied.

13 ***Criterion and 10-4 Preferred Managers Harm to Spirit***

14 141. Answering Paragraph 141 of the Complaint, Defendant is without sufficient knowledge
15 or information to form a belief as to the truth or falsity of the allegations contained
16 therein, and accordingly, those allegations are hereby denied.

17 142. Answering Paragraph 142 of the Complaint, Defendant is without sufficient knowledge
18 or information to form a belief as to the truth or falsity of the allegations contained
19 therein, and accordingly, those allegations are hereby denied.

20 143. Answering Paragraph 143 of the Complaint, Defendant is without sufficient knowledge
21 or information to form a belief as to the truth or falsity of the allegations contained
22 therein, and accordingly, those allegations are hereby denied.

23 144. Answering Paragraph 144 of the Complaint, Defendant is without sufficient knowledge
24 or information to form a belief as to the truth or falsity of the allegations contained
25 therein, and accordingly, those allegations are hereby denied.

26 145. Answering Paragraph 145 of the Complaint, Defendant is without sufficient knowledge
27 or information to form a belief as to the truth or falsity of the allegations contained
28 therein, and accordingly, those allegations are hereby denied.

1 146. Answering Paragraph 146 of the Complaint, Defendant denies the allegations contained
2 therein to the extent they are asserted against him. Answering Further, Defendant states
3 that he is without sufficient knowledge or information to form a belief as to the truth or
4 falsity of the remaining allegations contained therein, and accordingly, those allegations
5 are hereby denied.

6 147. Answering Paragraph 147 of the Complaint, Defendant denies the allegations contained
7 therein to the extent they are asserted against him. Answering Further, Defendant states
8 that he is without sufficient knowledge or information to form a belief as to the truth or
9 falsity of the remaining allegations contained therein, and accordingly, those allegations
10 are hereby denied.

11 148. Answering Paragraph 148 of the Complaint, Defendant is without sufficient knowledge
12 or information to form a belief as to the truth or falsity of the allegations contained
13 therein, and accordingly, those allegations are hereby denied.

14 149. Answering Paragraph 149 of the Complaint, Defendant denies the allegations contained
15 therein to the extent they are asserted against him. Answering Further, Defendant states
16 that he is without sufficient knowledge or information to form a belief as to the truth or
17 falsity of the remaining allegations contained therein, and accordingly, those allegations
18 are hereby denied.

19 150. Answering Paragraph 150 of the Complaint, Defendant is without sufficient knowledge
20 or information to form a belief as to the truth or falsity of the allegations contained
21 therein, and accordingly, those allegations are hereby denied.

22 151. Answering Paragraph 151 of the Complaint, Defendant denies the allegations contained
23 therein to the extent they are asserted against him. Answering Further, Defendant states
24 that he is without sufficient knowledge or information to form a belief as to the truth or
25 falsity of the remaining allegations contained therein, and accordingly, those allegations
26 are hereby denied.

27 152. Answering Paragraph 152 of the Complaint, Defendant is without sufficient knowledge
28 or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly, those allegations are hereby denied.

153. Answering Paragraph 153 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Answering Further, Defendant states that he is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

154. Answering Paragraph 154 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

155. Answering Paragraph 155 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

156. Answering Paragraph 156 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

157. Answering Paragraph 157 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

158. Answering Paragraph 158 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

159. Answering Paragraph 159 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

Chelsea Finical Harm to Spirit

160. Answering Paragraph 160 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Answering Further, Defendant states that he is without sufficient knowledge or information to form a belief as to the truth or

falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

161. Answering Paragraph 161 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

162. Answering Paragraph 162 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

163. Answering Paragraph 163 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

164. Answering Paragraph 164 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

165. Answering Paragraph 165 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

166. Answering Paragraph 166 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

167. Answering Paragraph 167 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

168. Answering Paragraph 168 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

169. Answering Paragraph 169 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly, those allegations are hereby denied.

170. Answering Paragraph 170 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

171. Answering Paragraph 171 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

172. Answering Paragraph 172 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

173. Answering Paragraph 173 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

174. Answering Paragraph 174 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

Lexicon Insurance Management LLC Harm to Spirit

175. Answering Paragraph 175 of the Complaint, Defendant states that Lexicon provided certain management services to Spirit and denies that the allegations accurately represents the scope of Lexicon's work for Spirit.

176. Answering Paragraph 176 of the Complaint, Defendant states that Lexicon provided certain management services to Spirit and denies that the allegations accurately represent the scope of Defendant's work for Spirit. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein as a copy of the referenced document is not attached, and accordingly, those allegations are hereby denied.

177. Answering Paragraph 177 of the Complaint, Defendant states that he and Lexicon provided the requisite and accurate information to the Division as the Division may

1 require. Defendant is without sufficient knowledge or information to form a belief as to
2 the truth or falsity of the remaining allegations contained therein, and accordingly, those
3 allegations are hereby denied.

4 178. Answering Paragraph 178 of the Complaint, Defendant denies that he and Lexicon were
5 part of any alleged effort to conceal information from the Division. Defendant is without
6 sufficient knowledge or information to form a belief as to the truth or falsity of the
7 remaining allegations contained therein, and accordingly, those allegations are hereby
8 denied.

9 179. Answering Paragraph 179 of the Complaint, Defendant denies the allegations contained
10 therein.

11 180. Answering Paragraph 180 of the Complaint, Defendant denies the allegations contained
12 therein.

13 181. Answering Paragraph 181 of the Complaint, Defendant denies the allegations contained
14 therein.

15 182. Answering Paragraph 182 of the Complaint, Defendant denies the allegations contained
16 therein to the extent they are asserted him and Lexicon. Defendant is without sufficient
17 knowledge or information to form a belief as to the truth or falsity of the remaining
18 allegations contained therein, and accordingly, those allegations are hereby denied.

19 183. Answering Paragraph 183 of the Complaint, Defendant denies the allegations contained
20 therein.

21 184. Answering Paragraph 184 of the Complaint, Defendant denies the allegations contained
22 therein.

23 185. Answering Paragraph 185 of the Complaint, Defendant denies the allegations contained
24 therein.

25 186. Answering Paragraph 186 of the Complaint, Defendant is without sufficient knowledge
26 or information to form a belief as to the truth or falsity of the allegations contained
27 therein, and accordingly, those allegations are hereby denied.
28

Spirit's "Investments" in New Tech Capital LLC for Mulligan's Personal Benefit

187. Answering Paragraph 187 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

188. Answering Paragraph 188 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

189. Answering Paragraph 189 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

190. Answering Paragraph 190 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

191. Answering Paragraph 191 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

Other Significant Findings of Spirit's Former Auditor

192. Answering Paragraph 192 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

193. Answering Paragraph 193 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

194. Answering Paragraph 194 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

195. Answering Paragraph 195 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly, those allegations are hereby denied.

196. Answering Paragraph 196 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

The Officers and Directors of Spirit Failed to govern the Company Appropriately

197. Answering Paragraph 197 of the Complaint, Defendant states that he was at times an officer of Spirit but denies that he failed to discharge his duties or caused any harm to Spirit. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

198. Answering Paragraph 198 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

199. Answering Paragraph 199 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

200. Answering Paragraph 200 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

201. Answering Paragraph 201 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

202. Answering Paragraph 202 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

203. Answering Paragraph 203 of the Complaint, Defendant denies the allegations contained

1 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
2 information to form a belief as to the truth or falsity of the remaining allegations
3 contained therein, and accordingly, those allegations are hereby denied.

4 204. Answering Paragraph 204 of the Complaint, Defendant denies the allegations contained
5 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
6 information to form a belief as to the truth or falsity of the remaining allegations
7 contained therein, and accordingly, those allegations are hereby denied.

8 205. Answering Paragraph 205 of the Complaint, Defendant denies the allegations contained
9 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
10 information to form a belief as to the truth or falsity of the remaining allegations
11 contained therein, and accordingly, those allegations are hereby denied.

12 206. Answering Paragraph 206 of the Complaint, Defendant denies the allegations contained
13 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
14 information to form a belief as to the truth or falsity of the remaining allegations
15 contained therein, and accordingly, those allegations are hereby denied.

16 207. Answering Paragraph 207 of the Complaint, Defendant denies the allegations contained
17 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
18 information to form a belief as to the truth or falsity of the remaining allegations
19 contained therein, and accordingly, those allegations are hereby denied.

20 208. Answering Paragraph 208 of the Complaint, Defendant denies the allegations contained
21 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
22 information to form a belief as to the truth or falsity of the remaining allegations
23 contained therein, and accordingly, those allegations are hereby denied.

24 209. Answering Paragraph 209 of the Complaint, Defendant denies the allegations contained
25 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
26 information to form a belief as to the truth or falsity of the remaining allegations
27 contained therein, and accordingly, those allegations are hereby denied.

28 210. Answering Paragraph 210 of the Complaint, Defendant denies the allegations contained

1 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
2 information to form a belief as to the truth or falsity of the remaining allegations
3 contained therein, and accordingly, those allegations are hereby denied.

4 211. Answering Paragraph 211 of the Complaint, Defendant denies the allegations contained
5 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
6 information to form a belief as to the truth or falsity of the remaining allegations
7 contained therein, and accordingly, those allegations are hereby denied.

8 212. Answering Paragraph 212 of the Complaint, Defendant denies the allegations contained
9 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
10 information to form a belief as to the truth or falsity of the remaining allegations
11 contained therein, and accordingly, those allegations are hereby denied.

12 213. Answering Paragraph 213 of the Complaint, Defendant denies the allegations contained
13 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
14 information to form a belief as to the truth or falsity of the remaining allegations
15 contained therein, and accordingly, those allegations are hereby denied.

16 214. Answering Paragraph 214 of the Complaint, Defendant denies the allegations contained
17 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
18 information to form a belief as to the truth or falsity of the remaining allegations
19 contained therein, and accordingly, those allegations are hereby denied.

20 215. Answering Paragraph 215 of the Complaint, Defendant denies the allegations contained
21 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
22 information to form a belief as to the truth or falsity of the remaining allegations
23 contained therein, and accordingly, those allegations are hereby denied.

24 216. Answering Paragraph 216 of the Complaint, Defendant denies the allegations contained
25 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
26 information to form a belief as to the truth or falsity of the remaining allegations
27 contained therein, and accordingly, those allegations are hereby denied.

28 217. Answering Paragraph 217 of the Complaint, Defendant denies the allegations contained

therein to the extent they are asserted him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

218. Answering Paragraph 218 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

219. Answering Paragraph 219 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

220. Answering Paragraph 220 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

221. Answering Paragraph 221 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

222. Answering Paragraph 222 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

223. Answering Paragraph 223 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

The Other Individual Defendants' Roles in the Scheme to Divert Funds to the Mulligan Enterprise

224. Answering Paragraph 224 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted him. Defendant is without sufficient knowledge or

information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

225. Answering Paragraph 225 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

226. Answering Paragraph 226 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

227. Answering Paragraph 227 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted him. Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

228. Answering Paragraph 228 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

229. Answering Paragraph 229 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

230. Answering Paragraph 230 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

231. Answering Paragraph 231 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

232. Answering Paragraph 232 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

1 233. Answering Paragraph 233 of the Complaint, Defendant is without sufficient knowledge
2 or information to form a belief as to the truth or falsity of the allegations contained
3 therein, and accordingly, those allegations are hereby denied.

4 234. Answering Paragraph 234 of the Complaint, Defendant denies the allegations contained
5 therein.

6 235. Answering Paragraph 235 of the Complaint, Defendant denies the allegations contained
7 therein.

8 236. Answering Paragraph 236 of the Complaint, Defendant denies the allegations contained
9 therein.

10 237. Answering Paragraph 237 of the Complaint, Defendant is without sufficient knowledge
11 or information to form a belief as to the truth or falsity of the allegations contained
12 therein, and accordingly, those allegations are hereby denied.

13 238. Answering Paragraph 238 of the Complaint, Defendant is without sufficient knowledge
14 or information to form a belief as to the truth or falsity of the allegations contained
15 therein, and accordingly, those allegations are hereby denied.

16 239. Answering Paragraph 239 of the Complaint, Defendant is without sufficient knowledge
17 or information to form a belief as to the truth or falsity of the allegations contained
18 therein, and accordingly, those allegations are hereby denied.

19 240. Answering Paragraph 240 of the Complaint, Defendant is without sufficient knowledge
20 or information to form a belief as to the truth or falsity of the allegations contained
21 therein, and accordingly, those allegations are hereby denied.

22 ***Deficiencies in CTC's Books and Records***

23 241. Answering Paragraph 241 of the Complaint, Defendant is without sufficient knowledge
24 or information to form a belief as to the truth or falsity of the allegations contained
25 therein, and accordingly, those allegations are hereby denied.

26 242. Answering Paragraph 242 of the Complaint, Defendant denies the allegations contained
27 therein to the extent they are asserted him. Defendant is without sufficient knowledge or
28 information to form a belief as to the truth or falsity of the remaining allegations

1 contained therein, and accordingly, those allegations are hereby denied.

2 243. Answering Paragraph 243 of the Complaint, Defendant is without sufficient knowledge
3 or information to form a belief as to the truth or falsity of the allegations contained
4 therein, and accordingly, those allegations are hereby denied.

5 244. Answering Paragraph 244 of the Complaint, Defendant is without sufficient knowledge
6 or information to form a belief as to the truth or falsity of the allegations contained
7 therein, and accordingly, those allegations are hereby denied.

8 245. Answering Paragraph 245 of the Complaint, Defendant is without sufficient knowledge
9 or information to form a belief as to the truth or falsity of the allegations contained
10 therein, and accordingly, those allegations are hereby denied.

11 246. Answering Paragraph 246 of the Complaint, Defendant is without sufficient knowledge
12 or information to form a belief as to the truth or falsity of the allegations contained
13 therein, and accordingly, those allegations are hereby denied.

14 247. Answering Paragraph 247 of the Complaint, Defendant is without sufficient knowledge
15 or information to form a belief as to the truth or falsity of the allegations contained
16 therein, and accordingly, those allegations are hereby denied.

17 248. Answering Paragraph 248 of the Complaint, Defendant is without sufficient knowledge
18 or information to form a belief as to the truth or falsity of the allegations contained
19 therein, and accordingly, those allegations are hereby denied.

20 249. Answering Paragraph 249 of the Complaint, Defendant is without sufficient knowledge
21 or information to form a belief as to the truth or falsity of the allegations contained
22 therein, and accordingly, those allegations are hereby denied.

23 250. Answering Paragraph 250 of the Complaint, Defendant is without sufficient knowledge
24 or information to form a belief as to the truth or falsity of the allegations contained
25 therein, and accordingly, those allegations are hereby denied.

26 251. Answering Paragraph 251 of the Complaint, Defendant is without sufficient knowledge
27 or information to form a belief as to the truth or falsity of the allegations contained
28 therein, and accordingly, those allegations are hereby denied.

1 252. Answering Paragraph 252 of the Complaint, Defendant is without sufficient knowledge
2 or information to form a belief as to the truth or falsity of the allegations contained
3 therein, and accordingly, those allegations are hereby denied.

4 253. Answering Paragraph 253 of the Complaint, Defendant is without sufficient knowledge
5 or information to form a belief as to the truth or falsity of the allegations contained
6 therein, and accordingly, those allegations are hereby denied.

7 254. Answering Paragraph 254 of the Complaint, Defendant is without sufficient knowledge
8 or information to form a belief as to the truth or falsity of the allegations contained
9 therein, and accordingly, those allegations are hereby denied.

10 ***Improper Fund Transfers and Improper Transactions***

11 255. Answering Paragraph 255 of the Complaint, Defendant is without sufficient knowledge
12 or information to form a belief as to the truth or falsity of the allegations contained
13 therein, and accordingly, those allegations are hereby denied.

14 256. Answering Paragraph 256 of the Complaint, Defendant denies the allegations contained
15 therein to the extent they assert that Defendant or ICAP improperly or wrongfully
16 received and/or retained any payment. Defendant states that it is without sufficient
17 knowledge or information to form a belief as to the truth or falsity of the remaining
18 allegations contained therein, and accordingly, those allegations are hereby denied.

19 257. Answering Paragraph 257 of the Complaint, Defendant denies the allegations contained
20 therein to the extent they assert that Defendant or ICAP improperly or wrongfully
21 received and/or retained any payment. Defendant denies any allegations that Defendant
22 is obligated to return any funds to Spirit. Defendant states that it is without sufficient
23 knowledge or information to form a belief as to the truth or falsity of the remaining
24 allegations contained therein, and accordingly, those allegations are hereby denied.

25 258. Answering Paragraph 258 of the Complaint, Defendant states that it is without sufficient
26 knowledge or information to form a belief as to the truth or falsity of the remaining
27 allegations contained therein, and accordingly, those allegations are hereby denied.

28 259. Answering Paragraph 259 of the Complaint, Defendant is without sufficient knowledge

1 or information to form a belief as to the truth or falsity of the allegations contained
2 therein, and accordingly, those allegations are hereby denied.

3 260. Answering Paragraph 260 of the Complaint, Defendant is without sufficient knowledge
4 or information to form a belief as to the truth or falsity of the allegations contained
5 therein, and accordingly, those allegations are hereby denied.

6 261. Answering Paragraph 261 of the Complaint, Defendant denies the allegations contained
7 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
8 that it is without sufficient knowledge or information to form a belief as to the truth or
9 falsity of the remaining allegations contained therein, and accordingly, those allegations
10 are hereby denied.

11 262. Answering Paragraph 262 of the Complaint, Defendant denies the allegations contained
12 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
13 that it is without sufficient knowledge or information to form a belief as to the truth or
14 falsity of the remaining allegations contained therein, and accordingly, those allegations
15 are hereby denied.

16 **FIRST CAUSE OF ACTION**

17 **(Breach of Contract, as Against CTC)**

18 263. Answering Paragraph 263 of the Complaint, Defendant repeats and realleges his answers
19 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
20 incorporate them by reference.

21 264. Answering Paragraph 264 of the Complaint, Defendant is without sufficient knowledge
22 or information to form a belief as to the truth or falsity of the allegations contained
23 therein, and accordingly, those allegations are hereby denied.

24 265. Answering Paragraph 265 of the Complaint, Defendant is without sufficient knowledge
25 or information to form a belief as to the truth or falsity of the allegations contained
26 therein, and accordingly, those allegations are hereby denied.

27 266. Answering Paragraph 266 of the Complaint, Defendant is without sufficient knowledge
28 or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly, those allegations are hereby denied.

267. Answering Paragraph 267 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

268. Answering Paragraph 268 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

SECOND CAUSE OF ACTION

(Breach of Contract as Against Lexicon)

269. Answering Paragraph 269 of the Complaint, Defendant repeats and realleges his answers and responses in the preceding paragraphs as if more fully set forth herein, and thereby incorporate them by reference.

270. Answering Paragraph 270 of the Complaint, Defendant states that Lexicon provided certain management services to Spirit and denies the remaining allegations to the extent they are inconsistent with the scope of Defendant's retention.

271. Answering Paragraph 271 of the Complaint, Defendant denies the allegations contained therein.

272. Answering Paragraph 272 of the Complaint, Defendant denies the allegations contained therein.

273. Answering Paragraph 273 of the Complaint, Defendant denies the allegations contained therein.

THIRD CAUSE OF ACTION

(Breach of Contract as Against Criterion)

274. Answering Paragraph 274 of the Complaint, Defendant repeats and realleges his answers and responses in the preceding paragraphs as if more fully set forth herein, and thereby incorporate them by reference.

275. Answering Paragraph 275 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly, those allegations are hereby denied.

276. Answering Paragraph 276 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

277. Answering Paragraph 277 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

278. Answering Paragraph 278 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

279. Answering Paragraph 279 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

FOURTH CAUSE OF ACTION

(Breach of Contract as Against the Spirit Director Defendants)

280. Answering Paragraph 280 of the Complaint, Defendant repeats and realleges his answers and responses in the preceding paragraphs as if more fully set forth herein, and thereby incorporate them by reference.

281. Answering Paragraph 281 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

282. Answering Paragraph 282 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

283. Answering Paragraph 283 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby

denied.

284. Answering Paragraph 284 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

285. Answering Paragraph 285 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

FIFTH CAUSE OF ACTION

(Breach of Fiduciary Duty as Against CTC and Lexicon)

286. Answering Paragraph 286 of the Complaint, Defendant repeats and realleges his answers and responses in the preceding paragraphs as if more fully set forth herein, and thereby incorporate them by reference.

287. Answering Paragraph 287 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

288. Answering Paragraph 288 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

289. Answering Paragraph 289 of the Complaint, Defendant denies the allegations contained therein.

290. Answering Paragraph 290 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against Lexicon. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby

denied.

291. Answering Paragraph 291 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against Lexicon. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

292. Answering Paragraph 292 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against Lexicon. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

SIXTH CAUSE OF ACTION

(Breach of Fiduciary Duty as Against the Spirit Director Defendants)

293. Answering Paragraph 293 of the Complaint, Defendant repeats and realleges his answers and responses in the preceding paragraphs as if more fully set forth herein, and thereby incorporate them by reference.

294. Answering Paragraph 294 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

295. Answering Paragraph 295 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

296. Answering Paragraph 296 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations

are hereby denied.

297. Answering Paragraph 297 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

298. Answering Paragraph 298 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

299. Answering Paragraph 299 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

SEVENTH CAUSE OF ACTION

(Breach of the Implied Covenant of Good Faith and Fair Dealing – Tortious as Against CTC and Lexicon)

300. Answering Paragraph 300 of the Complaint, Defendant repeats and realleges his answers and responses in the preceding paragraphs as if more fully set forth herein, and thereby incorporate them by reference.

301. Answering Paragraph 301 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

302. Answering Paragraph 302 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

- 1 303. Answering Paragraph 303 of the Complaint, Defendant is without sufficient knowledge
2 or information to form a belief as to the truth or falsity of the allegations contained
3 therein, and accordingly, those allegations are hereby denied.
- 4 304. Answering Paragraph 304 of the Complaint, Defendant is without sufficient knowledge
5 or information to form a belief as to the truth or falsity of the allegations contained
6 therein, and accordingly, those allegations are hereby denied.
- 7 305. Answering Paragraph 305 of the Complaint, Defendant denies the allegations contained
8 therein to the extent they are asserted against Lexicon. Defendant states that it is without
9 sufficient knowledge or information to form a belief as to the truth or falsity of the
10 remaining allegations contained therein, and accordingly, those allegations are hereby
11 denied.
- 12 306. Answering Paragraph 306 of the Complaint, Defendant denies the allegations contained
13 therein to the extent they are asserted against Lexicon. Defendant states that it is without
14 sufficient knowledge or information to form a belief as to the truth or falsity of the
15 remaining allegations contained therein, and accordingly, those allegations are hereby
16 denied.
- 17 307. Answering Paragraph 307 of the Complaint, Defendant is without sufficient knowledge
18 or information to form a belief as to the truth or falsity of the allegations contained
19 therein, and accordingly, those allegations are hereby denied.
- 20 308. Answering Paragraph 308 of the Complaint, Defendant denies the allegations contained
21 therein.
- 22 309. Answering Paragraph 309 of the Complaint, Defendant denies the allegations contained
23 therein to the extent they are asserted against Lexicon. Defendant states that it is without
24 sufficient knowledge or information to form a belief as to the truth or falsity of the
25 remaining allegations contained therein, and accordingly, those allegations are hereby
26 denied.
- 27 310. Answering Paragraph 310 of the Complaint, Defendant denies the allegations contained
28 therein to the extent they are asserted against Lexicon. Defendant states that it is without

1 sufficient knowledge or information to form a belief as to the truth or falsity of the
2 remaining allegations contained therein, and accordingly, those allegations are hereby
3 denied.

4 **EIGHTH CAUSE OF ACTION**

5 **(Breach of the Implied Covenant of Good Faith and Fair Dealing – Contract as Against**
6 **CTC and Lexicon)**

7 311. Answering Paragraph 311 of the Complaint, Defendant repeats and realleges his answers
8 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
9 incorporate them by reference.

10 312. Answering Paragraph 312 of the Complaint, Defendant is without sufficient knowledge
11 or information to form a belief as to the truth or falsity of the allegations contained
12 therein, and accordingly, those allegations are hereby denied.

13 313. Answering Paragraph 313 of the Complaint, Defendant is without sufficient knowledge
14 or information to form a belief as to the truth or falsity of the allegations contained
15 therein, and accordingly, those allegations are hereby denied.

16 314. Answering Paragraph 314 of the Complaint, Defendant is without sufficient knowledge
17 or information to form a belief as to the truth or falsity of the allegations contained
18 therein, and accordingly, those allegations are hereby denied.

19 315. Answering Paragraph 315 of the Complaint, Defendant denies the allegations contained
20 therein to the extent they are asserted against Lexicon. Defendant states that it is without
21 sufficient knowledge or information to form a belief as to the truth or falsity of the
22 remaining allegations contained therein, and accordingly, those allegations are hereby
23 denied.

24 316. Answering Paragraph 316 of the Complaint, Defendant denies the allegations contained
25 therein to the extent they are asserted against Lexicon. Defendant states that it is without
26 sufficient knowledge or information to form a belief as to the truth or falsity of the
27 remaining allegations contained therein, and accordingly, those allegations are hereby
28 denied.

1 317. Answering Paragraph 317 of the Complaint, Defendant is without sufficient knowledge
2 or information to form a belief as to the truth or falsity of the allegations contained
3 therein, and accordingly, those allegations are hereby denied.

4 318. Answering Paragraph 318 of the Complaint, Defendant denies the allegations contained
5 therein.

6 319. Answering Paragraph 319 of the Complaint, Defendant denies the allegations contained
7 therein to the extent they are asserted against Lexicon. Defendant states that it is without
8 sufficient knowledge or information to form a belief as to the truth or falsity of the
9 remaining allegations contained therein, and accordingly, those allegations are hereby
10 denied.

11 **NINTH CAUSE IF ACTION**

12 **(Breach of the Implied Covenant of Good Faith and Fair Dealing – Contract as Against**
13 **Criterion)**

14 320. Answering Paragraph 320 of the Complaint, Defendant repeats and realleges his answers
15 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
16 incorporate them by reference.

17 321. Answering Paragraph 321 of the Complaint, Defendant is without sufficient knowledge
18 or information to form a belief as to the truth or falsity of the allegations contained
19 therein, and accordingly, those allegations are hereby denied.

20 322. Answering Paragraph 322 of the Complaint, Defendant is without sufficient knowledge
21 or information to form a belief as to the truth or falsity of the allegations contained
22 therein, and accordingly, those allegations are hereby denied.

23 323. Answering Paragraph 323 of the Complaint, Defendant is without sufficient knowledge
24 or information to form a belief as to the truth or falsity of the allegations contained
25 therein, and accordingly, those allegations are hereby denied.

26 324. Answering Paragraph 324 of the Complaint, Defendant is without sufficient knowledge
27 or information to form a belief as to the truth or falsity of the allegations contained
28 therein, and accordingly, those allegations are hereby denied.

1 325. Answering Paragraph 325 of the Complaint, Defendant is without sufficient knowledge
2 or information to form a belief as to the truth or falsity of the allegations contained
3 therein, and accordingly, those allegations are hereby denied.

4 326. Answering Paragraph 326 of the Complaint, Defendant is without sufficient knowledge
5 or information to form a belief as to the truth or falsity of the allegations contained
6 therein, and accordingly, those allegations are hereby denied.

7 **TENTH CAUSE OF ACTION**

8 **(Nevada RICO Claims as Against Mulligan, George, Simon, Guffey, McCrae, Kapelinkovs,**
9 **CTC, Lexicon, and Criterion)**

10 327. Answering Paragraph 327 of the Complaint, Defendant denies the allegations contained
11 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
12 that it is without sufficient knowledge or information to form a belief as to the truth or
13 falsity of the remaining allegations contained therein, and accordingly, those allegations
14 are hereby denied.

15 328. Answering Paragraph 328 of the Complaint, Defendant denies the allegations contained
16 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
17 that it is without sufficient knowledge or information to form a belief as to the truth or
18 falsity of the remaining allegations contained therein, and accordingly, those allegations
19 are hereby denied.

20 329. Answering Paragraph 329 of the Complaint, Defendant denies the allegations contained
21 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
22 that it is without sufficient knowledge or information to form a belief as to the truth or
23 falsity of the remaining allegations contained therein, and accordingly, those allegations
24 are hereby denied.

25 330. Answering Paragraph 330 of the Complaint, Defendant denies the allegations contained
26 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
27 that it is without sufficient knowledge or information to form a belief as to the truth or
28 falsity of the remaining allegations contained therein, and accordingly, those allegations

are hereby denied.

331. Answering Paragraph 331 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

332. Answering Paragraph 332 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

333. Answering Paragraph 333 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

334. Answering Paragraph 334 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

335. Answering Paragraph 335 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

336. Answering Paragraph 336 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states

1 that it is without sufficient knowledge or information to form a belief as to the truth or
2 falsity of the remaining allegations contained therein, and accordingly, those allegations
3 are hereby denied.

4 337. Answering Paragraph 337 of the Complaint, Defendant denies the allegations contained
5 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
6 that it is without sufficient knowledge or information to form a belief as to the truth or
7 falsity of the remaining allegations contained therein, and accordingly, those allegations
8 are hereby denied.

9 338. Answering Paragraph 338 of the Complaint, Defendant denies the allegations contained
10 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
11 that it is without sufficient knowledge or information to form a belief as to the truth or
12 falsity of the remaining allegations contained therein, and accordingly, those allegations
13 are hereby denied.

14 339. Answering Paragraph 339 of the Complaint, Defendant denies the allegations contained
15 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
16 that it is without sufficient knowledge or information to form a belief as to the truth or
17 falsity of the remaining allegations contained therein, and accordingly, those allegations
18 are hereby denied.

19 340. Answering Paragraph 340 of the Complaint, Defendant denies the allegations contained
20 therein to the extent they are asserted against him. Defendant states that it is without
21 sufficient knowledge or information to form a belief as to the truth or falsity of the
22 remaining allegations contained therein, and accordingly, those allegations are hereby
23 denied.

24 341. Answering Paragraph 341 of the Complaint, Defendant denies the allegations contained
25 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
26 that it is without sufficient knowledge or information to form a belief as to the truth or
27 falsity of the remaining allegations contained therein, and accordingly, those allegations
28 are hereby denied.

1 342. Answering Paragraph 342 of the Complaint, Defendant denies the allegations contained
2 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
3 that it is without sufficient knowledge or information to form a belief as to the truth or
4 falsity of the remaining allegations contained therein, and accordingly, those allegations
5 are hereby denied.

6 **ELEVENTH CAUSE OF ACTION**

7 **(Unjust Enrichment as Against All Defendants)**

8 343. Answering Paragraph 343 of the Complaint, Defendant repeats and realleges his answers
9 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
10 incorporate them by reference.

11 344. Answering Paragraph 344 of the Complaint, Defendant denies the allegations contained
12 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
13 that it is without sufficient knowledge or information to form a belief as to the truth or
14 falsity of the remaining allegations contained therein, and accordingly, those allegations
15 are hereby denied.

16 345. Answering Paragraph 345 of the Complaint, Defendant denies the allegations contained
17 therein.

18 346. Answering Paragraph 346 of the Complaint, Defendant denies the allegations contained
19 therein to the extent they are asserted against ICAP. Defendant states that it is without
20 sufficient knowledge or information to form a belief as to the truth or falsity of the
21 remaining allegations contained therein, and accordingly, those allegations are hereby
22 denied

23 347. Answering Paragraph 347 of the Complaint, Defendant is without sufficient knowledge
24 or information to form a belief as to the truth or falsity of the allegations contained
25 therein, and accordingly, those allegations are hereby denied.

26 348. Answering Paragraph 348 of the Complaint, Defendant is without sufficient knowledge
27 or information to form a belief as to the truth or falsity of the allegations contained
28 therein, and accordingly, those allegations are hereby denied.

1 349. Answering Paragraph 349 of the Complaint, Defendant is without sufficient knowledge
2 or information to form a belief as to the truth or falsity of the allegations contained
3 therein, and accordingly, those allegations are hereby denied.

4 350. Answering Paragraph 350 of the Complaint, Defendant denies the allegations contained
5 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
6 that it is without sufficient knowledge or information to form a belief as to the truth or
7 falsity of the remaining allegations contained therein, and accordingly, those allegations
8 are hereby denied.

9 351. Answering Paragraph 351 of the Complaint, Defendant denies the allegations contained
10 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
11 that it is without sufficient knowledge or information to form a belief as to the truth or
12 falsity of the remaining allegations contained therein, and accordingly, those allegations
13 are hereby denied.

14 **TWELFTH CAUSE OF ACTION**

15 **(Fraud as Against All Defendants)**

16 352. Answering Paragraph 352 of the Complaint, Defendant repeats and realleges his answers
17 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
18 incorporate them by reference.

19 353. Answering Paragraph 353 of the Complaint, Defendant denies the allegations contained
20 therein.

21 354. Answering Paragraph 354 of the Complaint, Defendant denies the allegations contained
22 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
23 that it is without sufficient knowledge or information to form a belief as to the truth or
24 falsity of the remaining allegations contained therein, and accordingly, those allegations
25 are hereby denied.

26 355. Answering Paragraph 355 of the Complaint, Defendant denies the allegations contained
27 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
28 that it is without sufficient knowledge or information to form a belief as to the truth or

1 falsity of the remaining allegations contained therein, and accordingly, those allegations
2 are hereby denied.

3 356. Answering Paragraph 356 of the Complaint, Defendant denies the allegations contained
4 therein to the extent they are asserted against him. Defendant states that it is without
5 sufficient knowledge or information to form a belief as to the truth or falsity of the
6 remaining allegations contained therein, and accordingly, those allegations are hereby
7 denied.

8 357. Answering Paragraph 357 of the Complaint, Defendant denies the allegations contained
9 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
10 that it is without sufficient knowledge or information to form a belief as to the truth or
11 falsity of the remaining allegations contained therein, and accordingly, those allegations
12 are hereby denied.

13 358. Answering Paragraph 358 of the Complaint, Defendant denies the allegations contained
14 therein to the extent they are asserted against him. Defendant states that it is without
15 sufficient knowledge or information to form a belief as to the truth or falsity of the
16 remaining allegations contained therein, and accordingly, those allegations are hereby
17 denied.

18 359. Answering Paragraph 359 of the Complaint, Defendant denies the allegations contained
19 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
20 that it is without sufficient knowledge or information to form a belief as to the truth or
21 falsity of the remaining allegations contained therein, and accordingly, those allegations
22 are hereby denied.

23 360. Answering Paragraph 360 of the Complaint, Defendant denies the allegations contained
24 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
25 that it is without sufficient knowledge or information to form a belief as to the truth or
26 falsity of the remaining allegations contained therein, and accordingly, those allegations
27 are hereby denied.

28 361. Answering Paragraph 361 of the Complaint, Defendant denies the allegations contained

1 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
2 that it is without sufficient knowledge or information to form a belief as to the truth or
3 falsity of the remaining allegations contained therein, and accordingly, those allegations
4 are hereby denied.

5 362. Answering Paragraph 362 of the Complaint, Defendant denies the allegations contained
6 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
7 that it is without sufficient knowledge or information to form a belief as to the truth or
8 falsity of the remaining allegations contained therein, and accordingly, those allegations
9 are hereby denied.

10 363. Answering Paragraph 363 of the Complaint, Defendant denies the allegations contained
11 therein to the extent they are asserted against him. Defendant states that it is without
12 sufficient knowledge or information to form a belief as to the truth or falsity of the
13 remaining allegations contained therein, and accordingly, those allegations are hereby
14 denied.

15 364. Answering Paragraph 364 of the Complaint, Defendant denies the allegations contained
16 therein to the extent they are asserted against him. Defendant states that it is without
17 sufficient knowledge or information to form a belief as to the truth or falsity of the
18 remaining allegations contained therein, and accordingly, those allegations are hereby
19 denied.

20 365. Answering Paragraph 365 of the Complaint, Defendant denies the allegations contained
21 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
22 that it is without sufficient knowledge or information to form a belief as to the truth or
23 falsity of the remaining allegations contained therein, and accordingly, those allegations
24 are hereby denied.

25 366. Answering Paragraph 366 of the Complaint, Defendant denies the allegations contained
26 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
27 that it is without sufficient knowledge or information to form a belief as to the truth or
28 falsity of the remaining allegations contained therein, and accordingly, those allegations

are hereby denied.

367. Answering Paragraph 367 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

368. Answering Paragraph 368 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

369. Answering Paragraph 369 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

370. Answering Paragraph 370 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

THIRTEENTH CAUSE OF ACTION

(Civil Conspiracy as Against All Defendants)

371. Answering Paragraph 371 of the Complaint, Defendant repeats and realleges his answers and responses in the preceding paragraphs as if more fully set forth herein, and thereby incorporate them by reference.

372. Answering Paragraph 372 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states

1 that it is without sufficient knowledge or information to form a belief as to the truth or
2 falsity of the remaining allegations contained therein, and accordingly, those allegations
3 are hereby denied.

4 373. Answering Paragraph 373 of the Complaint, Defendant denies the allegations contained
5 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
6 that it is without sufficient knowledge or information to form a belief as to the truth or
7 falsity of the remaining allegations contained therein, and accordingly, those allegations
8 are hereby denied.

9 374. Answering Paragraph 374 of the Complaint, Defendant denies the allegations contained
10 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
11 that it is without sufficient knowledge or information to form a belief as to the truth or
12 falsity of the remaining allegations contained therein, and accordingly, those allegations
13 are hereby denied.

14 375. Answering Paragraph 375 of the Complaint, Defendant denies the allegations contained
15 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
16 that it is without sufficient knowledge or information to form a belief as to the truth or
17 falsity of the remaining allegations contained therein, and accordingly, those allegations
18 are hereby denied.

19 376. Answering Paragraph 376 of the Complaint, Defendant denies the allegations contained
20 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
21 that it is without sufficient knowledge or information to form a belief as to the truth or
22 falsity of the remaining allegations contained therein, and accordingly, those allegations
23 are hereby denied.

24 377. Answering Paragraph 377 of the Complaint, Defendant denies the allegations contained
25 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
26 that it is without sufficient knowledge or information to form a belief as to the truth or
27 falsity of the remaining allegations contained therein, and accordingly, those allegations
28 are hereby denied.

1 378. Answering Paragraph 378 of the Complaint, Defendant denies the allegations contained
2 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
3 that it is without sufficient knowledge or information to form a belief as to the truth or
4 falsity of the remaining allegations contained therein, and accordingly, those allegations
5 are hereby denied.

6 379. Answering Paragraph 379 of the Complaint, Defendant denies the allegations contained
7 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
8 that it is without sufficient knowledge or information to form a belief as to the truth or
9 falsity of the remaining allegations contained therein, and accordingly, those allegations
10 are hereby denied.

11 **FOURTEENTH CAUSE OF ACTION**

12 **(Alter Ego as Against Mulligan, George, Guffey, Simon and Pavel Kapelnikov)**

13 380. Answering Paragraph 380 of the Complaint, Defendant repeats and realleges his answers
14 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
15 incorporate them by reference.

16 381. Answering Paragraph 381 of the Complaint, Defendant states that he is an owner of
17 Lexicon and ICAP, and denies the remaining allegations to the extent they are asserted
18 against him, Lexicon and ICAP. Defendant is without sufficient knowledge or
19 information to form a belief as to the truth or falsity of any remaining allegations
20 contained therein, and accordingly, those allegations are hereby denied.

21 382. Answering Paragraph 382 of the Complaint, Defendant denies the allegations contained
22 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
23 that it is without sufficient knowledge or information to form a belief as to the truth or
24 falsity of the remaining allegations contained therein, and accordingly, those allegations
25 are hereby denied.

26 383. Answering Paragraph 383 of the Complaint, Defendant denies the allegations contained
27 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
28 that it is without sufficient knowledge or information to form a belief as to the truth or

falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

384. Answering Paragraph 384 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

FIFTEENTH CAUSE OF ACTION

(NRS 112 - Avoidance of Transfers as Against CTC and its Transferees)

385. Answering Paragraph 385 of the Complaint, Defendant repeats and realleges his answers and responses in the preceding paragraphs as if more fully set forth herein, and thereby incorporate them by reference.

386. Answering Paragraph 386 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

387. Answering Paragraph 387 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

388. Answering Paragraph 388 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

389. Answering Paragraph 389 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

390. Answering Paragraph 390 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained

1 therein, and accordingly, those allegations are hereby denied.

2 391. Answering Paragraph 391 of the Complaint, Defendant denies the allegations contained
3 therein to the extent they are asserted against ICAP. Defendant states that it is without
4 sufficient knowledge or information to form a belief as to the truth or falsity of the
5 remaining allegations contained therein, and accordingly, those allegations are hereby
6 denied.

7 392. Answering Paragraph 392 of the Complaint, Defendant denies the allegations contained
8 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
9 that it is without sufficient knowledge or information to form a belief as to the truth or
10 falsity of the remaining allegations contained therein, and accordingly, those allegations
11 are hereby denied.

12 393. Answering Paragraph 393 of the Complaint, Defendant denies the allegations contained
13 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
14 that it is without sufficient knowledge or information to form a belief as to the truth or
15 falsity of the remaining allegations contained therein, and accordingly, those allegations
16 are hereby denied.

17 394. Answering Paragraph 394 of the Complaint, Defendant denies the allegations contained
18 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
19 that it is without sufficient knowledge or information to form a belief as to the truth or
20 falsity of the remaining allegations contained therein, and accordingly, those allegations
21 are hereby denied.

22 395. Answering Paragraph 395 of the Complaint, Defendant denies the allegations contained
23 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
24 that it is without sufficient knowledge or information to form a belief as to the truth or
25 falsity of the remaining allegations contained therein, and accordingly, those allegations
26 are hereby denied.

27 396. Answering Paragraph 396 of the Complaint, Defendant denies the allegations contained
28 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states

1 that it is without sufficient knowledge or information to form a belief as to the truth or
2 falsity of the remaining allegations contained therein, and accordingly, those allegations
3 are hereby denied.

4 **SIXTEENTH CAUSE OF ACTION**

5 **(NRS 696B – Voidable Transfers as Against CTC and its Transferees)**

6 397. Answering Paragraph 397 of the Complaint, Defendant repeats and realleges his answers
7 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
8 incorporate them by reference.

9 398. Answering Paragraph 398 of the Complaint, Defendant denies the allegations contained
10 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
11 that it is without sufficient knowledge or information to form a belief as to the truth or
12 falsity of the remaining allegations contained therein, and accordingly, those allegations
13 are hereby denied.

14 399. Answering Paragraph 399 of the Complaint, Defendant denies the allegations contained
15 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
16 that it is without sufficient knowledge or information to form a belief as to the truth or
17 falsity of the remaining allegations contained therein, and accordingly, those allegations
18 are hereby denied.

19 400. Answering Paragraph 400 of the Complaint, Defendant denies the allegations contained
20 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
21 that it is without sufficient knowledge or information to form a belief as to the truth or
22 falsity of the remaining allegations contained therein, and accordingly, those allegations
23 are hereby denied.

24 401. Answering Paragraph 401 of the Complaint, Defendant denies the allegations contained
25 therein to the extent they are asserted against him and ICAP. Defendant states that it is
26 without sufficient knowledge or information to form a belief as to the truth or falsity of
27 the remaining allegations contained therein, and accordingly, those allegations are hereby
28 denied.

1 402. Answering Paragraph 402 of the Complaint, Defendant is without sufficient knowledge
2 or information to form a belief as to the truth or falsity of the allegations contained
3 therein, and accordingly, those allegations are hereby denied.

4 403. Answering Paragraph 403 of the Complaint, Defendant is without sufficient knowledge
5 or information to form a belief as to the truth or falsity of the allegations contained
6 therein, and accordingly, those allegations are hereby denied.

7 404. Answering Paragraph 404 of the Complaint, Defendant denies the allegations contained
8 therein to the extent they are asserted against him. Defendant states that it is without
9 sufficient knowledge or information to form a belief as to the truth or falsity of the
10 remaining allegations contained therein, and accordingly, those allegations are hereby
11 denied.

12 405. Answering Paragraph 405 of the Complaint, Defendant denies the allegations contained
13 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
14 that it is without sufficient knowledge or information to form a belief as to the truth or
15 falsity of the remaining allegations contained therein, and accordingly, those allegations
16 are hereby denied.

17 406. Answering Paragraph 406 of the Complaint, Defendant denies the allegations contained
18 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
19 that it is without sufficient knowledge or information to form a belief as to the truth or
20 falsity of the remaining allegations contained therein, and accordingly, those allegations
21 are hereby denied.

22 407. Answering Paragraph 407 of the Complaint, Defendant denies the allegations contained
23 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
24 that it is without sufficient knowledge or information to form a belief as to the truth or
25 falsity of the remaining allegations contained therein, and accordingly, those allegations
26 are hereby denied.

27 408. Answering Paragraph 408 of the Complaint, Defendant denies the allegations contained
28 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states

1 that it is without sufficient knowledge or information to form a belief as to the truth or
2 falsity of the remaining allegations contained therein, and accordingly, those allegations
3 are hereby denied.

4 409. Answering Paragraph 409 of the Complaint, Defendant denies the allegations contained
5 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
6 that it is without sufficient knowledge or information to form a belief as to the truth or
7 falsity of the remaining allegations contained therein, and accordingly, those allegations
8 are hereby denied.

9 **SEVENTEENTH CAUSE OF ACTION**

10 **(NRS 696B – Recovery of Distributions and Payments as Against CTC and its Transferees)**

11 410. Answering Paragraph 410 of the Complaint, Defendant repeats and realleges his answers
12 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
13 incorporate them by reference.

14 411. Answering Paragraph 411 of the Complaint, Defendant denies the allegations contained
15 therein to the extent they are asserted against him. Defendant states that it is without
16 sufficient knowledge or information to form a belief as to the truth or falsity of the
17 remaining allegations contained therein, and accordingly, those allegations are hereby
18 denied.

19 412. Answering Paragraph 412 of the Complaint, Defendant denies the allegations contained
20 therein to the extent they are asserted against him and ICAP. Defendant states that it is
21 without sufficient knowledge or information to form a belief as to the truth or falsity of
22 the remaining allegations contained therein, and accordingly, those allegations are hereby
23 denied.

24 413. Answering Paragraph 413 of the Complaint, Defendant is without sufficient knowledge
25 or information to form a belief as to the truth or falsity of the allegations contained
26 therein, and accordingly, those allegations are hereby denied.

27 414. Answering Paragraph 414 of the Complaint, Defendant is without sufficient knowledge
28 or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly, those allegations are hereby denied.

415. Answering Paragraph 415 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

416. Answering Paragraph 416 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

417. Answering Paragraph 417 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

418. Answering Paragraph 418 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

419. Answering Paragraph 419 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

420. Answering Paragraph 420 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states

1 that it is without sufficient knowledge or information to form a belief as to the truth or
2 falsity of the remaining allegations contained therein, and accordingly, those allegations
3 are hereby denied.

4 421. Answering Paragraph 421 of the Complaint, Defendant denies the allegations contained
5 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
6 that it is without sufficient knowledge or information to form a belief as to the truth or
7 falsity of the remaining allegations contained therein, and accordingly, those allegations
8 are hereby denied.

9 **EIGHTEENTH CAUSE OF ACTION**

10 **(NRS 692C.402 - Recovery of Distributions and Payments as Against CTC and its**
11 **Transferees)**

12 422. Answering Paragraph 422 of the Complaint, Defendant repeats and realleges his answers
13 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
14 incorporate them by reference.

15 423. Answering Paragraph 423 of the Complaint, Defendant denies the allegations contained
16 therein to the extent they are asserted against him. Defendant states that it is without
17 sufficient knowledge or information to form a belief as to the truth or falsity of the
18 remaining allegations contained therein, and accordingly, those allegations are hereby
19 denied.

20 424. Answering Paragraph 424 of the Complaint, Defendant denies the allegations contained
21 therein to the extent they are asserted against ICAP. Defendant states that it is without
22 sufficient knowledge or information to form a belief as to the truth or falsity of the
23 remaining allegations contained therein, and accordingly, those allegations are hereby
24 denied.

25 425. Answering Paragraph 425 of the Complaint, Defendant is without sufficient knowledge
26 or information to form a belief as to the truth or falsity of the allegations contained
27 therein, and accordingly, those allegations are hereby denied.

28 426. Answering Paragraph 426 of the Complaint, Defendant is without sufficient knowledge

1 or information to form a belief as to the truth or falsity of the allegations contained
2 therein, and accordingly, those allegations are hereby denied.

3 427. Answering Paragraph 427 of the Complaint, Defendant denies the allegations contained
4 therein to the extent they are asserted against him. Defendant states that it is without
5 sufficient knowledge or information to form a belief as to the truth or falsity of the
6 remaining allegations contained therein, and accordingly, those allegations are hereby
7 denied.

8 428. Answering Paragraph 428 of the Complaint, Defendant denies the allegations contained
9 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
10 that it is without sufficient knowledge or information to form a belief as to the truth or
11 falsity of the remaining allegations contained therein, and accordingly, those allegations
12 are hereby denied.

13 429. Answering Paragraph 429 of the Complaint, Defendant denies the allegations contained
14 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
15 that it is without sufficient knowledge or information to form a belief as to the truth or
16 falsity of the remaining allegations contained therein, and accordingly, those allegations
17 are hereby denied.

18 430. Answering Paragraph 430 of the Complaint, Defendant denies the allegations contained
19 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
20 that it is without sufficient knowledge or information to form a belief as to the truth or
21 falsity of the remaining allegations contained therein, and accordingly, those allegations
22 are hereby denied.

23 431. Answering Paragraph 431 of the Complaint, Defendant denies the allegations contained
24 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
25 that it is without sufficient knowledge or information to form a belief as to the truth or
26 falsity of the remaining allegations contained therein, and accordingly, those allegations
27 are hereby denied.

28 432. Answering Paragraph 432 of the Complaint, Defendant denies the allegations contained

1 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
2 that it is without sufficient knowledge or information to form a belief as to the truth or
3 falsity of the remaining allegations contained therein, and accordingly, those allegations
4 are hereby denied.

5 433. Answering Paragraph 433 of the Complaint, Defendant denies the allegations contained
6 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
7 that it is without sufficient knowledge or information to form a belief as to the truth or
8 falsity of the remaining allegations contained therein, and accordingly, those allegations
9 are hereby denied.

10 434. Answering Paragraph 434 of the Complaint, Defendant denies the allegations contained
11 therein to the extent they are asserted against him, Lexicon, and ICAP. Defendant states
12 that it is without sufficient knowledge or information to form a belief as to the truth or
13 falsity of the remaining allegations contained therein, and accordingly, those allegations
14 are hereby denied.

15 **NINETEENTH CAUSE OF ACTION**

16 **(NRS 78.300 – Recovery of Unlawful Distribution as Against the Spirit Director**
17 **Defendants)**

18 435. Answering Paragraph 435 of the Complaint, Defendant repeats and realleges his answers
19 and responses in the preceding paragraphs as if more fully set forth herein, and thereby
20 incorporate them by reference.

21 436. Answering Paragraph 436 of the Complaint, Defendant is without sufficient knowledge
22 or information to form a belief as to the truth or falsity of the allegations contained
23 therein, and accordingly, those allegations are hereby denied.

24 437. Answering Paragraph 437 of the Complaint, Defendant is without sufficient knowledge
25 or information to form a belief as to the truth or falsity of the allegations contained
26 therein, and accordingly, those allegations are hereby denied.

27 438. Answering Paragraph 438 of the Complaint, Defendant is without sufficient knowledge
28 or information to form a belief as to the truth or falsity of the allegations contained

therein, and accordingly, those allegations are hereby denied.

439. Answering Paragraph 439 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

440. Answering Paragraph 440 of the Complaint, Defendant is without sufficient knowledge or information to form a belief as to the truth or falsity of the allegations contained therein, and accordingly, those allegations are hereby denied.

441. Answering Paragraph 441 of the Complaint, Defendant denies the allegations contained therein to the extent they are asserted against him. Defendant states that it is without sufficient knowledge or information to form a belief as to the truth or falsity of the remaining allegations contained therein, and accordingly, those allegations are hereby denied.

AFFIRMATIVE DEFENSES

Defendant asserts the following as his affirmative defenses:

1. Plaintiff lacks standing to pursue the asserted claims.
2. Plaintiff failed to state a claim upon which relief can be granted.
3. Plaintiff's claims for relief are not ripe.
4. Defendant's acts and/or omissions were justified and privileged.
5. Plaintiff is barred from recovery because Plaintiff and/or its agents, employees, predecessors in interest, expressly or impliedly consented and/or acquiesced to Defendant's alleged acts or omissions.
6. Plaintiff's claims are barred by the business judgment rule.
7. Plaintiff's claims fail as any alleged transfer was supported by fair consideration.
8. Plaintiff was not rendered insolvent by way of the alleged transfer.
9. Plaintiff's claims fail as there was no intent to defraud.
10. The negligence of the Plaintiff exceeds that of Defendant, if any, and that the Plaintiff is thereby barred from any recovery.

11. If Plaintiff suffered or sustained any of the losses or damages alleged in Complaint, which is denied, such loss or damage was occasioned by a risk which Plaintiff knowingly and voluntarily assumed.

12. Plaintiff's alleged damages were caused by a superseding and/or intervening factor, which superseding and/or intervening factor was the direct and proximate cause of Plaintiff's alleged damages, as such Defendant is not and cannot be held responsible for any of Plaintiff's claimed damages.

13. Plaintiff is not the real party in interest.

14. Plaintiff's Complaint is barred by Plaintiff's failure to mediate and/or arbitrate.

15. Plaintiff's claims for relief are barred by the statute of limitations.

16. Plaintiff's claims for relief are barred by the doctrines of waiver, estoppel, and *laches*.

17. Defendant's actions and omissions, if any, were excused by the doctrine of impossibility and/or impracticability.

18. Defendant's actions and omissions, if any, were excused by the doctrine of frustration of purpose.

19. Defendant's actions and omissions, if any, were excused by the failure of a condition precedent to Defendant's performance.

20. Plaintiff's recovery, if any, is subject to an offset.

21. The alleged damages, if any, which Plaintiff have suffered are caused in whole or in part by the acts or omissions of Plaintiff or its agents and representatives.

22. Plaintiff's claims are reduced, modified and/or barred by the doctrine of unclean hands.

23. Plaintiff failed to mitigate its damages.

24. Plaintiff's claims for relief are barred by the failure of the occurrence of a condition precedent.

25. Plaintiff's claims are barred by a failure of consideration.

26. Plaintiff's claims are barred by the doctrines of accord and satisfaction.

1 27. Plaintiff has not suffered any damages.

2 28. Plaintiff's claims are barred by its own failure to exercise ordinary and reasonable
3 care and diligence and such acts and omissions were the proximate cause of some or all of
4 Plaintiff's damages, if any.

5 29. Defendant denies each and every allegation of the operative complaint not
6 specifically admitted or otherwise pled herein.

7 30. Plaintiff's claims are barred by intra-corporate conspiracy doctrine.

8 31. Plaintiff's claims are barred by failure to join a necessary and indispensable party.

9 32. Defendant alleges that at all times it acted in good faith.

10 33. Defendant is not jointly or severally liable for any of the damages alleged in the
11 Complaint.

12 34. Any award of punitive damages would be unconstitutional under applicable
13 constitutional protection.

14 35. Plaintiff is not entitled to receive punitive damages based on any calculation
15 premised upon the wealth of Defendant, as such calculation is unconstitutional.

16 36. The court lacks personal and/or subject matter jurisdiction over Defendant.

17 37. All possible affirmative defenses may not have been alleged herein insofar as
18 sufficient facts were not available after reasonable inquiry upon the filing of this Answer and,
19 therefore, Defendant reserves all rights to amend this Answer to allege additional affirmative
20 defenses if subsequent investigation so warrants.

21 **PRAYER**

22 Defendant prays for the following:

- 23 1. That Plaintiff takes nothing by way of its Complaint;
24 2. That Defendant be dismissed in the entirety with prejudice;
25 3. That judgment be entered in favor of Defendant;
26 4. For attorneys' fees and costs of defending this action; and

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. For such other and further relief as this Court deems just and proper.
DATED this 2nd day of April, 2020.

GORDON REES SCULLY
MANSUKHANI, LLP

/s/ Wing Yan Wong
Robert S. Larsen, Esq.
Nevada Bar No. 7785
Wing Yan Wong, Esq.
Nevada Bar No. 13622
300 South Fourth Street, Suite 1550
Las Vegas, Nevada 89101

*Attorneys for Lexicon Insurance
Management LLC, Daniel George and ICAP
Management Solutions, LLC*

Gordon Rees Scully Mansukhani, LLP
300 S. 4th Street, Suite 1550
Las Vegas, NV 89101

CERTIFICATE OF SERVICE

Pursuant to Rule 5(b) of the Nevada Rules of Civil Procedure, I hereby certify under penalty of perjury that on the 4th day of April, 2020, the foregoing DEFENDANT DANIEL GEORGE'S ANSWER TO COMPLAINT was served upon those persons designated by the parties in the E-Service Master List in the Eighth Judicial District court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-1 and the Nevada Electronic Filing and Conversion Rules, or mailed via U.S. Post Office, first class postage prepaid, upon the following:

Mark E. Ferrario, Esq.
Kara B. Hendricks, Esq.
Kyle A. Ewing, Esq.
GREENBERG TRAURIG, LLP
10845 Griffith Peak Drive, Suite 600
Las Vegas, NV 89135
Attorneys for the Plaintiff

Sheri M. Thome, Esq.
WILSON ELSER MOSKOWITZ EDELMAN
& DICKER, LLP
300 So. 4th St., 11th Floor
Las Vegas, NV 89101
Attorneys for Defendant James Marx

Kurt R. Bonds, Esq.
ALVERSON TAYLOR & SANDERS
6605 Grand Montecito Parkway, Suite 200
Las Vegas, NV 89149
Attorneys for Defendant Brenda Guffey

Thomas E. McGrath, Esq.
Christopher A. Lund, Esq.
TYSON & MENDES LLP
3960 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169
*Attorneys for Defendants Pavel Kapelnikov,
Chelsea Financial Group, Inc., a New Jersey
Corp.; Chelsea Financial Group, Inc., a
California Corp.; Global Forwarding
Enterprises, LLC; Kapa Management
Consulting, Inc.; and Kapa Ventures, Inc.*

/s/ Gayle Angulo
An Employee of GORDON REES
SCULLY MANSUKHANI, LLP