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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of

Admin. File No. 3-15858

STANLEY JONATHAN FORTENBERRY (A/K/A S.J. FORTENBERRY, JOHN FORTENBERRY,AND JOHNNY FORTENBERRY,

Respondent.

VERIFIED ANSWER OF RESPONDENT STANLEY JONATHAN FORTENBERRY
And
MOTION FOR SUMMARY DISPOSITION

PRELIMINARY STATEMENT

Comes now the Respondent Stanley Jonathan Fortenberry, by and through his counsel John C. Nimmer, and hereby Answers the Commission's April 28, 2014 Order Instituting Proceedings ("OIP") as follows:

ENTRY OF APPEARANCE

Pursuant to the Commission's Rule of Practice 102(d), John C. Nimmer (NSBA #20128) hereby enters his appearance in this matter and provides the following information:

Name of Party Being Represented: Stanley Jonathan Fortenberry

Case: In the Matter of Stanley Jonathan Fortenberry (a/k/a S.J. Fortenberry, John Fortenberry, and Johnny Fortenberry)—Admin. Proceeding File No. 3-15858

Attorney Contact Information: Nimmer Law Office, 9958 West Center Road, Omaha, NE 68124-1959, 402-345-8040; Fax 800-681-7081; E-mail Law@Nimmer.OmhCoxmail.com

INCORPORATION OF DOCUMENTS

Pursuant to the Commission's Rule of Practice 323, Respondent requests the Administrative Law Judge to take judicial notice of the Commission's September 24, 2010 Order Directing Private Investigation and Designating Officers to Take Testimony (In The Matter of

Breadstreet.com, Inc., HO-11450) which initiated this matter. Respondent further requests the Administrative Law Judge to take judicial notice of all subpoena duces tecums served upon Respondent and Premier Investment Fund, LP. ("Premier") in that matter. Respondent further requests the Administrative Law to take judicial notice of all filings in the subpoena enforcement proceedings at SEC v. Fortenberry, et. al., 1:11-mc-00671-RLW (U.S. Dist. Ct. for the Dist. of Columbia), inclusive of the court's order requiring the Respondent to provide oral testimony and to produce further documents. Finally Respondent requests the Administrative Law Judge to take judicial notice of the Commission's April 28, 2014 OIP in this matter (Admin. File No. 3-15858). The documents Respondent requests to be judicially noticed are relevant to the issues of the length of the enforcement division's investigation (from commencement until Wells notice of nearly 3 years), the complexity and thoroughness of the staff's investigation, and Respondent's affirmative defenses. By reference to the same the documents that have been requested to be judicially notice are hereby incorporated herein.

Respondent hereby incorporates herein the following exhibits attached hereto for the purposes of clarifying Respondent's responses to the OIP, and Respondent's affirmative defenses:

A. "Subscription Agreements for "Victim 1" and "Victim 2". Exhibit A contains verbatim the language of both subscription agreements. The only difference between the two are the payment terms contained on page 1, so page 1 of each investor's agreement is separately provided. For confidentiality reasons executed signature pages are not provided.
B. Written Wells Notice (August 5, 2013).
C. Respondent's August 19, 2013 Wells Submission.

D. Enforcement Division's Sending of and Text of November 22, 2013 Draft Complaint for Filing in the United States District Court for the Northern District of Texas—San AngeloDivision (verbatim identical to April 28, 2014 OIP). (Settlement matters are admissible if relevant to the issues in the pleadings. See nonexclusively In the Matter of OPTIONSXPRESS, INC., et. al, Admin. File 3-14848, October 16, 2013).

ANSWER TO OIP'S FACTUAL ALLEGATIONS

In elaboration of Respondent's foregoing denials or lack of knowledge, Respondent nonexclusively incorporates into each such paragraph Exhibit "C" to his Verified Answer as applicable to Respondent's particular responses.

1. Denies Paragraph 1 of the OIP.
2. Denies Paragraph 2 of the OIP.
3. Denies Paragraph 3 of the OIP.
4. Denies Paragraph 4 of the OIP.
5. Denies Paragraph 5 of the OIP.
6. Admits Paragraph 6 of the OIP.
7. Admits Paragraph 7 of the OIP.
8. Denies Paragraph 8 of the OIP. All investment decisions of the general partner were subject to the "business judgment rule", and all decisions by the general partner were in conformity with the business judgment rule under Tennessee law.
9. Denies Paragraph 9 of the OIP in that the Texas order did not prevent Respondent from selling unregistered but exempt securities.
10. Admits Paragraph 10 of the OIP.

11. Admits Paragraph 11 of the OIP.

12. Denies Paragraph 12 of the OIP.

13. Admits Paragraph 13 of the OIP, except that Respondent's correct legal name was included in the subscription and limited partnership agreements provided to investors (Section 15).

14. Denies Paragraph 14 of the OIP, in that Respondent's correct legal name was included in the subscription and limited partnership agreement provided to investors (Section 15).

15. Admits Paragraph 15 of the OIP, and as clarification adds that Premier Investment Fund, LP ("Premier"), being structured to include less than 100 investors, was not required to be registered as an investment company under the Investment Company Act of 1940.

16. Admits Paragraph 16 of the OIP.

17. Admits Paragraph 17 of the OIP.

18. Admits Paragraph 18 of the OIP.

19. Admits Paragraph 19 of the OIP.

20. Admits Paragraph 20 of the OIP, except as to the mental condition of "Victim 2".

21. Admits Paragraph 21 of the OIP.

22. Admits Paragraph 22 of the OIP, except with reference to "fraud".

23. Admits Paragraph 23 of the OIP.

24. Denies Paragraph 24 of the OIP.

25. Admits to making the statements contained in Paragraph 25 of the OIP, but denies said statements are "materially false and misleading", especially in light of their express subordination to the terms of the Premier subscription and limited partnership agreements.

26. Denies Paragraph 26 of the OIP.

27. Admits to making the statements contained in Paragraph 27 of the OIP, except that said statements were not "misleading" when made.

28. Respondent not being a certified public accountant, Respondent does not have enough information to admit or deny the allegations in Paragraph 28 of the OIP, and therefore denies same. That being said, at the time Respondent received the two investors' investment, Respondent intended to have financial statements prepared by a CPA.

29. Respondent denies Paragraph 29 of the OIP.

30. Respondent admits he lost certain Premier records, but denies the balance of Paragraph 30 of the OIP.

31. Respondent denies Paragraph 31 of the OIP.

32. Respondent admits to providing offering materials to the two investors, but nonexclusively in light of the offering materials' express subordination to the terms of the Premier subscription and limited partnership agreements denies the allegations of "materially false and misleading."

33. Respondent denies Paragraph 33 of the OIP.

34. Respondent denies Paragraph 34 of the OIP, except with respect to the amount of Investor #1's investment.

35. Respondent denies Paragraph 35 of the OIP.

36. Respondent admits Paragraph 36 of the OIP, except with respect to Investor #2's mental condition.

37. Respondent denies Paragraph 37 of the OIP, except with respect to Investor #2's having discussed certain physical ailments with the Respondent. Notwithstanding Respondent has not nor ever had any knowledge of any mental defect of Investor #2.

38. Respondent denies Paragraph 38 of the OIP.

39. Respondent denies Paragraph 39 of the OIP.

40. Respondent denies Paragraph 40 of the OIP.

41. Respondent denies Paragraph 41 of the OIP.

42. Respondent denies Paragraph 42 of the OIP, except with respect to the amount of Investor #2's investment.

43. Respondent denies Paragraph 43 of the OIP.

44. Respondent denies Paragraph 44 of the OIP.

45. Respondent denies Paragraph 45 of the OIP, except with respect to the total invested by the two investors.

46. Respondent denies Paragraph 46 of the OIP.

47. Respondent denies Paragraph 47 of the OIP.

48. Respondent admits the statements cited in Paragraph 48 of the OIP are contained in the subscription and limited partnership agreement, but denies (especially in light of the complete text of the document) that these statements are a "misrepresentation".

49. Respondent denies Paragraph 49 of the OIP, and further states that any use of proceeds allocated to Respondent were for his salary as general partner, and/or for expenses in connection with Premier.

50. Respondent denies Paragraph 50 of the OIP. Respondent denies being an investment advisor, and that any "fiduciary" obligation is to be construed in accordance with Tennessee law's "business judgment rule".

51. Respondent denies Paragraph 51 of the OIP nonexclusively with respect to "looting" the fund.

52. Respondent denies Paragraph 52 of the OIP.

53. Respondent denies Paragraph 53 of the OIP.

54. Respondent denies Paragraph 54 of the OIP, and further states that any use of proceeds allocated to Respondent were for his salary as general partner, and/or for expenses in connection with Premier.

55. Respondent denies Paragraph 55 of the OIP.

56. Respondent denies Paragraph 56 of the OIP.

57. Respondent denies Paragraph 57 of the OIP.

58. Respondent denies Paragraph 58 of the OIP. Nonexclusively in light of the language of the investors' subscription and limited partnership agreements, the factual allegations of the OIP do not constitute "fraudulent conduct in the offer and sales of securities and in connection with the purchase or sale of securities. See also Exhibit C. Without conceding same, at most and if true the OIP's factual allegations may constitute wrongful conduct after sale of the securities, but not as part of the offer and sale of securities. No violation of Section 17(a) of the Securities Act of 1933, or Section 10(b) and Rule 10b-5 of the Exchange Act, occurred.

59. Respondent denies Paragraph 59 of the OIP. Respondent was not an "investment advisor" under the Investment Advisors Act and, if it is found he was, the factual

allegations of the OIP do not constitute violations under 206(1), 206(2), or 206(4) of the Act, or Rule 206(4)-8 thereunder. See Exhibit "C".

JURISDICTIONAL OBJECTIONS

1. FAILURE TO COMPLY WITH 15 USC 78d-5(a): As an affirmative defense, Respondent moves the Administrative Law Judge to dismiss the OIP for the reason the OIP was filed more than 180 days after the enforcement division provided Respondent a Wells Notice, and that the case was not sufficiently complex to justify an extension. This failure violates 15 USC 78d-5(a) (Sec. 929U of the Dodd-Frank Act).

   A. Dodd-Frank Statutory Language: The statutory language provides as follows:

15 USC 78d-5. Deadline for completing enforcement investigations and compliance examinations and inspections

(a) Enforcement investigations

(1) In general

Not later than 180 days after the date on which Commission staff provide [1] a written Wells notification to any person, the Commission staff shall either file an action against such person or provide notice to the Director of the Division of Enforcement of its intent to not file an action.

(2) Exceptions for certain complex actions

Notwithstanding paragraph (1), if the Director of the Division of Enforcement of the Commission or the Director's designee determines that a particular enforcement investigation is sufficiently complex such that a determination regarding the filing of an action against a person cannot be completed within the deadline specified in paragraph (1), the Director of the Division of Enforcement of the Commission or the Director's designee may, after providing notice to the Chairman of the Commission, extend such deadline as needed for one

> additional 180-day period. If after the additional 180-day period the Director of the Division of Enforcement of the Commission or the Director's designee determines that a particular enforcement investigation is sufficiently complex such that a determination regarding the filing of an action against a person cannot be completed within the additional 180-day period, the Director of the Division of Enforcement of the Commission or the Director's designee may, after providing notice to and receiving approval of the Commission, extend such deadline as needed for one or more additional successive 180-day periods.

B. Factual Timeline: As per the exhibits attached hereto, the following time-line is unable to be controverted:

i) September 24, 2010: Order Directing Private Investigation and Designating Officers to Take Testimony (In The Matter of Breadstreet.com, Inc., HO-11450).

ii) July 30, 2013: Oral Wells Notice provided to Respondent (**nearly 3 years after commencement of the formal investigation**).

iii) August 5, 2013: Written Wells Notice provided to Respondent.

iv) August 29, 2013: Respondent's Wells Submission/response to Wells Notice.

v) November 22, 2013: Enforcement division sends proposed draft Complaint for filing in US Dist. Ct., to the Respondent. Respondent ultimately rejects this proposal.

vi) April 28, 2014: OIP filing date. Service date April 29, 2014 (**266 days after written Wells notice**).

C. Case Not "Sufficiently Complex" To Warrant Extension: In light of the April 28, 2014 OPI being a **verbatim quotation from the November 22, 2013 draft federal court complaint** proffered by thee enforcement division, because there were **only 2 investors** involved, because the **Wells notice was preceded by a nearly 3 year investigation** of the Respondent, and because the **enforcement division controlled "when the clock started"** by determining in its sole discretion if and when to send the Respondent a Wells notice, it is unable to be controverted that the case was not "sufficiently complex". Assuming arguendo the enforcement staff advised the Chairman of the Commission the case was "sufficiently complex", such a notification is incontrovertibly false. A 180 day extension under 15 USC 78d-5(a)(2) was clearly unwarranted.

D. Montford Company: Respondent is aware of the Commissioners' May 2, 2014 adverse ruling in Montford Company (Rel. No. 3829). Undoubtedly the enforcement staff was aware the Commissioners were about to issue their May 2, 2014 Montford ruling in determining to take a "second bite at the apple" with respect to the Respondent. Montford, and other cases cited therein, essentially rely upon Brock v. Pierce County, 475 US 253 (1985).

E. Montford/Dodd-Frank is Different from Brock/ Comprehensive Employment and Training Act ("CETA): Brock involved a statutory deadline for the Secretary of Labor to issue a final determination as to the misuse of CETA funds within 120 days after receiving a complaint of misuse. Brock cited several reasons for holding the 120 days to be a guideline vs. a statute of limitations, including: (1) The use in the statute of the word "shall", without nothing more (e.g., a consequence for noncompliance)

does not weigh in favor of a statute of limitations; (2) The legislative history did not support an interpretation in favor of a statute of limitations; (3) "Less drastic remedies" were available to aggrieved parties; (4) The CETA mandate to "resolve" complaints was more burdensome than a mere requirement to "file" an action; (5) It was unclear if the CETA "resolve" mandate was designed to protect complainants or those accused of a violation. These factors will be discussed in turn.

i) Dodd-Frank Is Worded More Strongly Than CETA: The CETA statute merely provided the Secretary of Labor to resolve complaints within 120 days. In contrast, Dodd-Frank provides that "not later than 180 days after the date on which Commission staff provide a written Wells notification to any person, the Commission staff shall either file an action against such person or provide notice to the Director of the Division of Enforcement of its intent to not file an action." As argued by Montford, the Dodd-Frank statute has a "fish or cut bait" provision, whereas the CETA statute mandates nothing beyond "resolution". The Dodd-Frank statute goes beyond a mere "shall" directive, whereas the CETA statute does not.

ii) Dodd-Frank and CETA Legislative Histories Are Different: The CETA legislative history cited in Brock supports the statute being interpreted as a guideline, whereas the legislative history of Dodd-Frank support its interpretation as a statute of limitations.

a) Brock @ 263 cites adverse legislative history as follows:

> "Mr. HAWKINS. Mr. Chairman, we have seen the amendment. We accept the amendment."

"If the gentleman would further yield, do I understand . . . that, if the determination is not made in a specified time, it *shall not affect the Secretary's jurisdiction in the matter?*"

"Mr. OBEY. That is correct."

"Mr. HAWKINS. With that understanding, we do accept the amendment."

b) In contrast to Brock's citation of adverse legislative history, the corroborating legislative history of Dodd-Frank states as follows: "Sec. 209. Deadline for completing examinations, inspections, and enforcement actions. This section generally **requires** the SEC to complete enforcement investigations within 180 days after staff provides a written Wells notice to any person. The section contains exceptions for complex actions to permit 180-day extensions after notice to the Chairman for the initial extension and after notice to and approval by the Commission for subsequent sections." Dec. 16, 2010 Report of the House Committee on Financial Services (Rept. 111-687) with respect to the Investor Protection Act of 2009 (p. 78). Nothing in the dissenting section of the House report mentioned anything to the contrary. Respondent was unable to find any further legislative history beyond the House report.

iii) Less Drastic Remedies Are Not Available: Brock @ 253 – 254 and Footnote 7 argued the availability of "less drastic remedies" versus compelling an agency to dismiss an untimely action—to wit: the filing by an aggrieved party in a U.S. District Court under the Administrative

Procedures Act (5 USC 701 – 706—the "APA") to compel agency dismissal. However, even at that time such remedies were not available in light of the "exhaustion of administrative remedies" doctrine. See nonexclusively CETA v. City of New York, 617 F.2d 926 (1980). Since Brock courts have increasingly imposed the "exhaustion of administrative remedies" requirement as a condition precedent to invoking the APA, effectively removing the "less drastic remedy" referenced in Brock. In general, "a party may not seek federal judicial review of an adverse administrative determination until the party has first sought all possible relief within the agency itself." Beharry v. Ashcroft, 329 F.3d 51, 56 (2d Cir.2003) (citation and internal quotation marks omitted). "This requirement 'serves numerous purposes, including protecting the authority of administrative agencies, limiting interference in agency affairs, and promoting judicial efficiency by resolving potential issues and developing the factual record.' Id. Where such exhaustion requirements are the creatures of statute, they are mandatory; where they are judicially imposed, they usually are discretionary and may therefore be subject to exceptions. Id. at 56-57." The same is true with respect to SEC enforcement proceedings. See nonexclusively 17 CFR 201.430(c). There is no "less drastic remedy" available for the failure of the enforcement staff to comply with 15 USC 78d-5(a). This factor therefore weighs in favor of dismissal for tardy OIP filings.

iv) CETA Involved a Burdensome "Resolve Complaints" Requirement, Whereas Dodd-Frank Merely Requires the "Filing" of an Action: Brock @ 261 stated "Section 106(b) by contrast does not merely command the Secretary to file a complaint within the specified time, but requires him to resolve the dispute within that time. This is a more substantial risk than filing a complaint, and the Secretary's ability to complete it within 120 days is subject to factors beyond his control. There is less reason, therefore, to believe that Congress intended such drastic consequences to follow from the Secretary's failure to meet the 120-day deadline." This factor weighs in favor of construing Dodd-Frank as a statute of limitations, not a mere guideline.

v) CETA was ambiguous as to whether it protected claimants or those accused of violations; Dodd-Frank is clearly intended to protect those who are the subject of an investigation: The CETA mandate to "resolve" could be interpreted to be for the benefit of those complaining of CETA violations (to provide them speedy relief), or to protect those being accused of CETA violations (to provide them prompt resolution and repose). By contrast, Dodd-Frank cannot reasonably be interpreted as a provision designed to protect the agency or those whom the agency is protecting. If that were the case a 180 deadline would not have been provided for in the statute. The filing deadlines are clearly designed to benefit those who are the subject of an investigation. On this point it is noteworthy that under CETA the

clock begins running when the agency receives a complaint (an event the agency does not control). However, under the Commission's investigation and Wells process, the enforcement staff determines if and when to send out a Wells Notice (an event the agency controls). Under Dodd-Frank the agency starts the clock, not a third party as in CETA. This important distinction weighs in favor of Dodd-Frank being designed for the benefit of the accused.

F. Denial of Respondent's Request Should Be "Without Prejudice": Upon information and belief Montford and Company, Inc. intends to appeal the Commissioners' May 2, 2014 Order (Release No. 3829) to the Court of Appeals for the District of Columbia. Considering the DC Circuit may rule in favor of Montford, Respondent requests the Administrative Law Judge to make any denial of Respondent's motion to dismiss with respect to the enforcement division's failure to comply with 15 USC 78d-5(a) to be "without prejudice".

2. PROCEDURAL DUE PROCESS: As an affirmative defense, Respondent moves the Administrative Law Judge to dismiss the OIP for the reason the OIP was filed more than 180 days after the enforcement division provided Respondent a Wells Notice, and that the case was not sufficiently complex to justify an extension. Failure to comply with the statute of limitation requirements of 15 USC 78d-5(a) violates Respondent's constitutional procedural due process. Retroactively extending a statute of limitations to revive previously tolled causes violates the ex post facto clause of the constitution and procedural due process. Stoger v. California, 539 U.S. 607 (2003). Similarly bringing an action after expiration of the statute of limitations violates constitutional procedural due

process. See nonexclusively Campbell v. Holt, 115 U.S. 620, 623 (1885); Stewart v. Keyes, 215 U.S. 503, 417 (1935); County of Oneida, New York v. Oneida Indian Nation, 470 U.S. 236, 272 @ Note 29 (1985).

3. SEPARATION OF POWERS: Respondent would argue the Commission's May 2, 2014 Montford decision violates the US Constitution's mandated separation of powers provisions (i.e. Congress is to legislate, and the Executive Branch is to see that the laws are "faithfully executed"). For decades courts in interpreting statutes looked to the plain meaning of a statute, its purpose, and legislative intent. Courts did not generally consider an agency's interpretation of a statute, as this was considered to be an encroachment by the Executive Branch into the legislative prerogatives of Congress. However with the proliferation of administrative agencies agency interpretations of statutes became increasingly acceptable. The seminal case on this is Chevron v. Nat. Res. Def. Council, 467 U.S. 837 (1984). From this decision emerged the "Chevron two-prong test," which was designed to help courts determine when deference to statements of legislative intent made by Executive Branch administrators in interpreting a law is appropriate. The Chevron two-prong test requires courts to first interpret a statute consistent with Congress's stated intent where such intent is clearly conveyed—whether in the plain reading of the statute or in legislative history. The second prong applies in the event that Congress's intent as to the "precise question at issue" is not clear, in which case courts must give "controlling weight" to the administrator's statements of intent "unless they are arbitrary, capricious, or manifestly contrary to the statute.".

   Chevron does not come into play unless a statute is ambiguous. The Wells notice tolling provisions discussed supra. of Dodd-Frank are not ambiguous. Chevron is

inapplicable. As such the Commission's May 2, 2014 Montford decision (which is essentially a "green light" by the Commissioners for the enforcement division to ignore the mandates of a statute—an example of what administrative agency employees commonly and sarcastically refer to as the "CEPT Program" in construing the applicability of rules—i.e., "the rule applies to everyone except me") violates the constitutional separation of powers doctrine. Within 180 days of a Wells notice "the Commission staff shall either file an action against such person or provide notice to the Director of the Division of Enforcement of its intent to not file an action." The only exception is for "sufficiently complex" cases, which as discussed supra. is not the situation here. As such Respondent requests the Administrative Law Judge to dismiss the OIP for the reason that its tardy filing, in mistaken reliance on Montford, violates constitutional mandated separation of powers.

JURY TRIAL DEMAND

Respondent is aware of the SEC v. Rind, 991 F.2d 1486, 1493 (9th Cir.), cert. denied, ____U.S. ____, 114 S.Ct. 439, 126 L.Ed.2d 372 (1993) holding that jury trials are not required in administrative proceedings before the Commission, even when monetary penalties are sought. Notwithstanding in light of Tull v. U.S., 481 U.S. 412 (1987), Respondent argues Rind was decided wrongly, Respondent is entitled under the United States Constitution to a trial by jury, and hereby demands a trial by a jury of his peers. Alternatively if a jury trial is not provided to the Respondent during these administrative proceedings, Respondent hereby objects to any collateral estoppel or res judicata application of any adverse decision herein against him in future civil or criminal proceedings.

VERIFICATION

Pursuant to 28 USC 1746 I hereby state I have read the foregoing Verified Answer, inclusive of all documents incorporated therein, and hereby declare, certify, verify, and state under penalty of perjury that the same is true and correct to the best of my knowledge.

X Stanley Jonathan Fortenberry Dated this 13 day of May, 2014.
Stanley Jonathan Fortenberry

MOTION FOR SUMMARY DISPOSITION

Comes now the Respondent, by and through his counsel John C. Nimmer, and for reasons argued by the Respondent in the Jurisdictional Objections section of Respondent's Verified Answer hereby moves for summary dismissal of the OPI against the Respondent. Pursuant to Commission Rule of Practice 250 Respondent hereby offers Respondent's Verified Answer, inclusive of the exhibits requested to be judicially noticed therein and attached thereto, in support of his Motion for Summary Disposition. Respondent hereby proffers the Jurisdictional Objections section of his Verified Answer as his brief and memorandum of points and authorities. The Verified Answer, exclusive of judicially noticed and attached exhibits, does not exceed 35 pages. Accordingly counsel hereby certifies pursuant to Rule 250(c) that said Motion for Summary Disposition does not in his belief exceed 9800 words.

STANLEY JONATHAN FORTENBERRY,
Respondent,

By: _____

John C. Nimmer (NSBA #20128)
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Attorney for Respondent

[redacted]

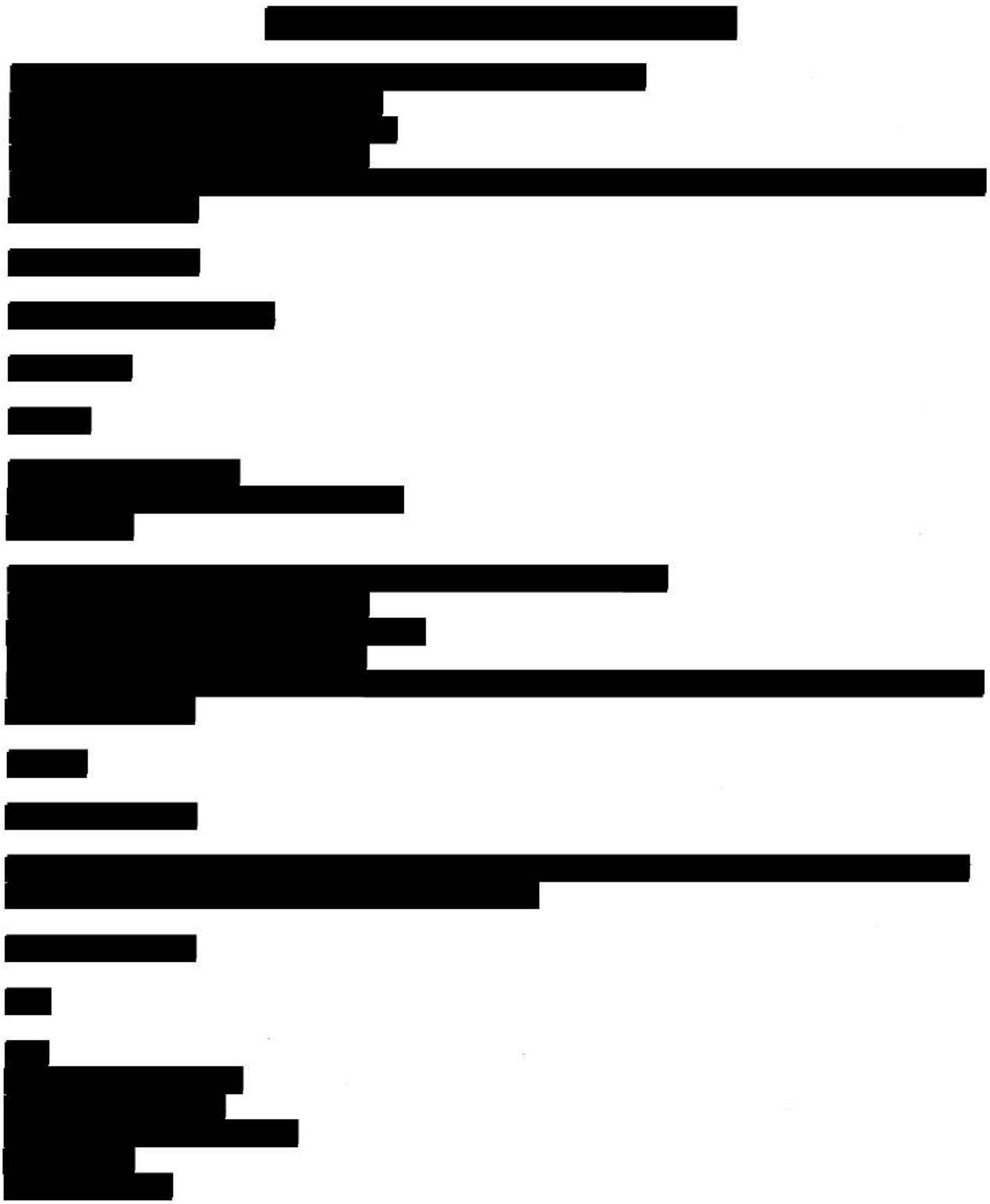


EXHIBIT "A": SUBSCRIPTION AGREEMENTS

SUBSCRIPTION AND LIMITED PARTNERSHIP AGREEMENT (P. 1 "Victim 1")

(To invest, follow instructions on page 14.)

The undersigned hereby irrevocably subscribes for and agrees to purchase from Premier Investment Fund, L.P., a Tennessee limited partnership (the "Company"), Limited Partnership Units ""Securities" at a purchase price of $100,000 US per Security.

1. Investment. The undersigned hereby subscribes to purchase from the Company Securities in the amount subscribed for above ("Purchase Price"). Terms of Investment include:
   A. The undersigned acknowledges that in consideration for his pre-formation and formation activities for the benefit of the Company John Fortenberry received hereby at the time of the Company's formation 100 Units of the Company, and was hereby appointed general partner of the Company. During its formation the Company was also authorized hereby to sell additional Units of the Company at $100,000 per Unit to up to 99 beneficial owners, though not more than 100 Units. In the discretion of the general partner fractional Units may also be sold; provided, no more than 99 beneficial owners—excluding the general partner—are made a part of the Company.
   B. Except as otherwise provided herein, the Company shall be governed by the Tennessee Revised Limited Partnership Act, Sec. 61,2-101 et. seq. of the Tennessee statutes, as amended from time to time and incorporated herein by reference. Except as otherwise provided herein the limited partners shall have all powers which may lawfully be granted to limited partners under the laws of the State of Tennessee.
   C. Partners may but shall not be required to contribute additional capital. Each partner shall have a capital account that includes invested capital plus that partner's allocations of net income, minus that partner's allocation of net loss and share of distributions.
   D. After tax net income, net loss, and voting power of the Company shall be allocated as follows:
      1. 50 percent to the general partner.
      2. 50 percent to the limited partners, allocated according to their percentage of the total limited partnership capital accounts.
   E. Dissolution of the Company shall be pursuant to the Tennessee Limited Partnership Act, as amended from time to time, and each partner's dissolution share shall be determined in accordance with his percentage relative to all partner's capital accounts—including that of the general partner (if any).
   F. The Company shall use generally accepted accounting principles, as amended from time to time, in keeping its books and records, and its fiscal year shall be a calendar year. The general partner shall make any tax election necessary for completion of the partnership tax return.
   G. The general partner shall manage the partnership business and have exclusive control over the partnership business, including the power to

SUBSCRIPTION AND LIMITED PARTNERSHIP AGREEMENT (P. 1 "Victim 2")

The undersigned hereby irrevocably subscribes for and agrees to purchase from Premier Investment Fund, L.P., a Tennessee limited partnership (the "Company"), One Limited Partnership Unit ("Securities") at a purchase price of $100,000 upon the following payment terms: $35,000—receipt of which is hereby acknowledged evidencing .35 Units; .1 Unit in September 2010 for $10,000; .1 Unit in October 2010 for $10,000; .1 Unit in November 2010 for $10,000; .1 Unit in December 2010 for $10,000; .1 Unit in January 2011 for $10,000; .1 Unit in February 2011 for $10,000; .05 Unit in March 2011 for $10,000.

1. Investment. The undersigned hereby subscribes to purchase from the Company Securities in the amount subscribed for above ("Purchase Price"). Terms of Investment include:
   A. The undersigned acknowledges that in consideration for his pre-formation and formation activities for the benefit of the Company John Fortenberry received hereby at the time of the Company's formation 100 Units of the Company, and was hereby appointed general partner of the Company. During its formation the Company was also authorized hereby to sell additional Units of the Company at $100,000 per Unit to up to 99 beneficial owners, though not more than 100 Units. In the discretion of the general partner fractional Units may also be sold; provided, no more than 99 beneficial owners—excluding the general partner—are made a part of the Company.
   B. Except as otherwise provided herein, the Company shall be governed by the Tennessee Revised Limited Partnership Act, Sec. 61,2-101 et. seq. of the Tennessee statutes, as amended from time to time and incorporated herein by reference. Except as otherwise provided herein the limited partners shall have all powers which may lawfully be granted to limited partners under the laws of the State of Tennessee.
   C. Partners may but shall not be required to contribute additional capital. Each partner shall have a capital account that includes invested capital plus that partner's allocations of net income, minus that partner's allocation of net loss and share of distributions.
   D. After tax net income, net loss, and voting power of the Company shall be allocated as follows:
      1. 50 percent to the general partner.
      2. 50 percent to the limited partners, allocated according to their percentage of the total limited partnership capital accounts.
   E. Dissolution of the Company shall be pursuant to the Tennessee Limited Partnership Act, as amended from time to time, and each partner's dissolution share shall be determined in accordance with his percentage relative to all partner's capital accounts—including that of the general partner (if any).
   F. The Company shall use generally accepted accounting principles, as amended from time to time, in keeping its books and records, and its fiscal

year shall be a calendar year. The general partner shall make any tax election necessary for completion of the partnership tax return.

G. The general partner shall manage the partnership business and have exclusive control over the partnership business, including the power to sign deeds, notes, mortgages, deeds of trust, contracts, leases, and direction of business operations and investments.

H. The purpose of the Company is any lawful business purpose, with its primary though nonexclusive focus being to invest in the entertainment industry. Such investment may take the form of equity, debt, investment contracts, or any other investment form deemed by the general partner to be in the best interest of the Company.

I. The general partner is hereby authorized to make the aforesaid investments in the entertainment industry in his sole discretion for the benefit of the Company. The general partner is also authorized to make investments outside of the entertainment industry in his sole discretion for the benefit of the Company. Said investments may but need not be in publicly traded securities.

J. In the sole discretion of the general partner profits of the partnership may either be reinvested, or distributed to partners.

K. Subject to Section 12 a limited partner may assign his or her rights to receive distributions, net income and net loss to any person without causing a dissolution of the partnership. No assignment will be effective until the general partner is notified in writing of the same.

L. The Undersigned acknowledges that without limitation a portion of the proceeds from the sale of Units of the Company, as well as profits from the Company's investments, shall be allocated to reasonable administrative expenses in connection with the Unit offering and the day to day affairs of the Company, including but not limited to salaries—inclusive of the general partner, office space, office equipment, travel, legal, accounting costs, and any other expense recognized by the Internal Revenue Code and regulations as a business deduction or credit. In addition to the foregoing the Undersigned also acknowledges that existing Unit holders, excluding the general partner, may receive finder fees pursuant to Section 20. Subject to generally accepted accounting principles and the Internal Revenue Code and regulations, the foregoing shall constitute business expenses of the Company, deductible from gross profits, in calculating the net after tax profits of the Company.

M. The general partner, while serving as such, agrees to use its reasonable best efforts to avoid taking any action that would cause the Partnership to be classified as other than a partnership or to be taxable as a corporation for federal income tax purposes. In the event the Partnership should ever be taxable as a corporation, any resulting tax imposed on the Partnership shall be treated as a reduction in Operating Income or an increase in Operating Loss.

N. The general partner shall advise limited partners as to all investments made by the Company at the time of making such investments, and annually before January 31st shall inform the limited partners as to the profit or loss with respect to each investment and the Company as a whole. The Undersigned acknowledges receipt of disclosure by the Company of all investments of the Company as of the date of

his investment in the Company (if any). Beyond these disclosures limited partners shall only have access to Company information by requesting same of the general partner, and then only for an articulated proper purpose as determined by the general partner in his sole discretion.

O. The Certificate of Limited Partnership for the Company filed with the Tennessee Secretary of State is attached hereto as Exhibit "A" and incorporated herein by reference.

P. Pursuant to the Tennessee Revised Limited Partnership Act, the term of the limited partnership shall be 50 years from the date of filing of the Certificate of Limited Partnership with the Tennessee Secretary of State.

2. Securities Matters. Without excluding other registration exemptions which may be available to the Company, this Agreement is made in reliance upon the exemption from federal securities registration afforded by Rule 506 of Regulation D as promulgated by the US Securities and Exchange Commission under the Securities Act of 1933, as amended, and exemptions from state securities registration afforded by 15 USC $77r. The offering is further exempt from registration as an "investment company" pursuant to 15 USC 80a-3©(1). With respect to non-United States investors, without excluding other registration exemptions which may be available to the Company, this Agreement is made in reliance upon the exemption from US federal and state securities registration afforded by 17 CFR 203.901 et. seq. ("Regulation S" of the United States Securities and Exchange Commission), and in conformity with application securities regulations in nations in which the securities are to be sold.

3. Representations and Warranties of US Investors. United States investors are those whose principal address set forth below is in the United States. United States investors hereby represent they are citizens and domiciles of the United States. The undersigned represents the undersigned has a substantial preexisting relationship with the Company, its agents, or parties with whom the Company has directly and/or in privity of contract contracted to obtain investor leads; that the undersigned was first contacted by the Company and first made aware of this offering at least 30 days after establishment of the preexisting relationship; and that he/she/it satisfies at least one of the accredited investor categories under SEC Reg. D Rule 501 set forth below:

A. A corporation, business trust, or partnership not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000.

B. Any trust, with total assets in excess of $5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person who has knowledge and experience in financial and business matters, such that he is capable of evaluating the merits and risks of the prospective investment.

C. An individual who:

1. is a director, executive officer or general partner of the issuer of the securities being offered or sold, or a director or executive officer of a general partner of that issuer;

2. has an individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeding $1,000,000-exclusive of the value of his or her primary residence; or

3. had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income in the current year.

D. Any entity in which all of the equity owners are "accredited investors".

4. Offshore/Foreign Investors: Non-United States investors are those whose principal address set forth below is not in the United States. Non-United States investors hereby represent they are individual citizens and domiciles of the nation set forth in their below principal address. The undersigned Non-United States investor hereby represents and warrants to the Company that the undersigned is not a U.S. Person which means the undersigned is not any of the following:

A. A natural person resident in the United States.
B. A partnership or corporation organized or incorporated under the laws of the United States.
C. An estate of which any executor or administrator is a US person.
D. Any trust of which any trustee is a US person.
E. Any agency or branch of a foreign entity located in the United States.
F. Any non-discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary for the benefit or account of a US person.
G. Any discretionary account or similar account (other than an estate or trust) held by a dealer or other fiduciary organized, incorporated, or (if an individual) resident in the United States.
H. Any partnership or corporation if:
    1. organized or incorporated under the laws of any foreign jurisdiction; and
    2. formed by a US person principally for the purpose of investing under the Act, unless it is organized or incorporated, and owned, by accredited investors (as defined in Rule 501(a) under the Act) who are not natural persons, estates or trusts.

For purposes of the US Patriot Act, the undersigned non-US person further represents he/she is the sole source of the funds being invested hereby, is not acting as a "straw" or intermediary for another party or parties, is not listed on the SDN list with the US Office of Foreign Assets Control, that the information provided on last page of this subscription agreement is true, correct, and complete, and further agrees to indemnify and hold harmless the Company from the costs—

including reasonable attorney fees—incurred as a result of any misrepresentations made by the undersigned in this subscription agreement. The undersigned understands, and agrees, that the Company and any financial institutions involved in this transaction may be required to report the transaction to the US Internal Revenue Service, file a form SAR-SF, or otherwise report the transaction to the US government. The undersigned hereby consents to the Company, or any involved financial institution, doing so.

5. United Kingdom Residents. United Kingdom investors further represent, agree to, and understand the following:

   A. The Company's first communication with the undersigned was either a non-real time communication including but not limited to regular mail or e-mail, or a solicited real time communication including but not limited to a telephone call or personal visit pursuant to the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005 (the "Order"). If the Company's first communication with the undersigned was a solicited real time communication, the undersigned represents the Company's communication with the undersigned was either initiated by the undersigned, or took place in response to an express request from the undersigned including, but not limited to, the undersigned's having opted into a commercial investor list service for purposes of the undersigned receiving financial promotions.
   B. At the time of the first communication between the undersigned and the Company, the Company advised the undersigned that **the content of this promotion has not been approved by an authorized person within the meaning of the Financial Services and Markets Act 2000, that reliance on this promotion for purposes of engaging in any investment activity may expose an individual to a significant risk of losing all the property or other assets invested**, that any individual who is in any doubt about the investment to which the communication relates should consult an authorized person specializing in advising on investments of the kind in question, that he/she can lose property and other assets from making investment decisions based on financial promotions, and that this investment is exempt from the general restriction (in section 21 of the Financial Services and Markets Act 2000) regarding the communication of invitations or inducements to engage in investment activity on the ground that it was made to a person reasonably believed to be a certified high net worth individual. The undersigned further acknowledges receipt of the foregoing bolded text in writing no later than 2 days after the first communication between the undersigned and the Company, that the written statement was in bold type, boxed legend, in a size equal to the other type in the communication (if any), and that the undersigned subsequently consented to the Company and its agents further contacting the undersigned regarding this financial promotion. The undersigned acknowledges, understands, and agrees to the foregoing warnings required by the Order;
   C. In the first communication between the undersigned and the Company the undersigned was advised of the below definition of a certified high net worth individual, and the undersigned represents he/she is in fact a high net worth

individual under Section 48 of the Order, meaning the undersigned has signed, within the period of twelve months ending with the day on which the first communication was made, a statement complying with Part I of Schedule 5 of the Order, and that the undersigned fits within one of the following categories:

1. Had, during the financial year immediately preceding the date below, an annual income to the value of £100,000 or more;

2. Held, throughout the financial year immediately preceding the date below, net assets to the value of £250,000 or more. Net assets for these purposes do not include—

(a) the property which is my primary residence or any loan secured on that residence;

(b) any rights of mine under a qualifying contract of insurance within the meaning of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;

or

(c) any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are), or may be, entitled.

D. Notwithstanding the foregoing, the Company reserves the right to lawfully communicate an invitation or inducement to engage in investment activity in accordance with other provisions of the Order, inclusive of requesting verification from prospective investors with respect to compliance with other provisions of the Order.
E. The undersigned also represents, agrees to, and understands he fulfills the European Union qualified investor exemption discussed below.

6. European Union: Pursuant to Directive 2003/71/EC of the European Parliament and the Council (November 4, 2003—the "Directive"), as amended, residents of Member States of the European Union further represent, agree to, and understand the following:
   A. As of March 25, 2010 Member States of the European Union include the following nations: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.
   B. The Company hereby claims the exemption of 3(2)(a) of the Directive, meaning this offering was addressed in the EU solely to qualified investors;
   C. The undersigned is a "qualified investor" as defined by 2(e) of the Directive;
   D. For individuals, a "qualified investor" as defined by 2(e)(iv) of the Directive means:

1. The undersigned has expressly asked to be considered as a qualified investor by his Member State, in fact has been authorized by his Member State to be considered a qualified investor, and as of the date of his executing this Agreement is still authorized by his Member State as a qualified investor;
2. The undersigned fits at least two of the below three categories:
   (a) The undersigned has carried out transactions of a significant size on securities markets at an average frequency of, at least, 10 per quarter over the previous four quarters;
   (b) The size of the undersigned's securities portfolio exceeds 5 million Euros;
   (c) The undersigned works or has worked for at least one year in the financial sector in a professional position which requires knowledge of securities investment.

7. Canadian Residents. Canadian investors further represent they are "accredited investors" as defined by Section 1.1 of National Instrument 45-106, meaning he/she satisfies at least one of the Canadian individual accredited investor categories set forth below:

   A. An individual who, either alone or with a spouse, beneficially owns, directly or indirectly, financial assets having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds $1,000,000 Canadian;
   B. An individual whose net income before taxes exceeded $200,000 Canadian in each of the 2 most recent calendar years or whose net income before taxes combined with that of a spouse exceeded $300,000 Canadian in each of the 2 most recent calendar years and who, in either case, reasonably expects to exceed that net income level in the current calendar year;
   C. An individual who, either alone or with a spouse, has net assets of at least $5,000,000 Canadian.

8. Residents of Switzerland. Neither the Company's announcement with respect to the Securities offered hereby nor any other offering or marketing material relating to the Company or the Securities offered hereby constitutes an issue prospectus pursuant to art 652a or art 1156 of the Swiss Code of Obligations. The Securities will not be listed on the SWX Swiss Exchange and the disclosure standards of the listing rules of the SWX Swiss Exchange may, therefore, not be complied with. Accordingly, the Securities may not be offered, sold or advertised, directly or indirectly, to the public in or from Switzerland, but only to a selected and limited circle of investors, who do not subscribe the Securities with a view to distribution. Investors will be individually approached by the Company from time to time nonexclusively in accordance with and pursuant to the exemptions set forth in the Circular 03/01 "Public Marketing" of the Swiss Federal Banking Commission of May, 28, 2003, as amended or replaced from time to time. Any announcement with respect to the Securities offered hereby or any other offering or marketing material relating to the Company or the Securities offered hereby which has been published by the Company is personal to each offeree and does not constitute an

offer to any other person. Any announcement with respect to the Securities offered hereby or any other offering or marketing material relating to the Company or the Securities offered hereby may only be used by those persons to whom it has been handed out in connection with the offer described therein and may neither directly nor indirectly be distributed or made available to other persons without express consent of the Company. It may not be used in connection with any other offer and shall in particular not be copied and / or distributed to the public in Switzerland.

9. Residents of Australia: The undersigned hereby represents he is a "sophisticated investor" as defined in Section 708(8)© of the Australian Corporations Act 2001, as amended (the "Act"), and Section 6.D.2.03 of the Australian Corporate Regulations 2001, as amended, meaning he has net assets of more than $2.5 million Australian or at least $250,000 Australian gross income for the last two years, and within the last six months has obtained a certificate by a qualified accountant (as defined in Section 88D of the Act and ASIC document PS154) verifying the foregoing.

10. Residents of China: Chinese investors hereby represent pursuant to Chapter 2, Article 10 of the Securities Law of the People's Republic of China, as amended, that the Company did not tender to the undersigned an offer to purchase the Securities of the Company, nor did the Company induce the undersigned to offer to purchase the Securities of the Company. Rather, without advertisement or open solicitation from the Company the undersigned contacted the Company about the Securities offered hereby, requested information pertaining to the Securities offered hereby, and requested of the Company the opportunity to purchase the Securities. The sale of these Securities in China is a private, not public offering.

11. Residents and Citizens of Japan: Pursuant to the Japanese Financial Instruments and Exchange Law ("FIEL"—revised April 1, 2008), only qualified institutional investors as defined in the FIEL, and 49 individual offerees are eligible for this investment. Calculation toward the 49 individual offerees includes individual offerees inside Japan (whether Japanese residents or not), and Japanese residents outside of Japan. If the undersigned is an institution it hereby represents it is a qualified institutional investor as defined by the FIEL. If the undersigned is an individual he/she hereby represents the Company provided the undersigned its disclosure documents and answered your questions for informational purposes only, and neither made to the undersigned an offer to sell the Company's securities, nor the solicitation of an offer to buy the Company's securities, and that the undersigned by executing and returning this subscription agreement thereby made the initial offer to purchase the Company's securities offered hereby. All Japanese residents and citizens hereby agree to adhere to the further requirements of the FIEL (holding period for securities, transfer requirements, etc.).

12. Restrictions on Transfer. To comply with the exemptions cited above, the undersigned understands and agrees that the Securities purchased pursuant to this Agreement may not be offered, sold, transferred, pledged or otherwise disposed of except pursuant to (i) an effective registration statement under the Securities Act of 1933, as amended, and any applicable state securities law; (ii) an exemption from registration under such acts and

such laws which, in the opinion of counsel for the holder of such Securities, which counsel and opinion are reasonably satisfactory to counsel for the Company, is available; or with respect to foreign investors (iii) in accordance with the provisions of Regulation S and applicable holding periods of the undersigned's nation. The undersigned agrees and understands that any certificates, if any, issued by the Company evidencing the Securities will therefore bear an appropriate legend restricting transferability.

13. Purchase for Investment. The undersigned intends to acquire and hold the Securities for his own account, for investment purposes only, and not with a view to, or for resale in connection with, the distribution thereof within the meaning of the Securities Act of 1933, as amended.

14. Rejection of Subscription. The Company reserves the right to reject the undersigned's subscription, in whole or in part including fractions of Securities, by rejecting or returning some or all of the undersigned's investment set forth below within a reasonable time.

15. Access to Information. The undersigned acknowledges he has been afforded an opportunity to examine and copy at the Company's expense all books, records, agreements and other documents relevant to the Company and this investment, and has been given an opportunity to ask questions and receive answers from the officers and directors of the Company, this investment, and any other matters relevant and material to this investment. The undersigned has utilized the opportunity to his satisfaction to verify the accuracy and completeness of all the information he has received and to obtain any other relevant information which he may have sought and which may influence his investment decision. The undersigned is fully satisfied with the response to such questions he has asked and such responses for information he has made. THE UNDERSIGNED SPECIFICALLY REPRESENTS HIS PERSONAL RECEIPT AND REVIEW OF THE CURRENT COMPANY BUSINESS PLAN (collectively "DISCLOSURE DOCUMENTS"). The undersigned acknowledges he has reviewed any and all information of public record, inclusive of official or reliable information posted on the internet, about the Company and the general partner John Fortenberry (Stanley Jonathan Fortenberry/Stanley J. Fortenberry), and that such information has not changed his mind with respect to an investment in the securities offered hereby. The information in the disclosure documents as of the date thereof is subject to change, completion or amendment without notice. The Company makes no representation that there has been no change in the information set forth in the disclosure documents or the affairs of the Company since the date thereof. In the event of a conflict or inconsistency between the disclosure documents and this Agreement, the terms of this Agreement shall control and inconsistent or conflicting information shall be disregarded and of no effect. In the event of a conflict or inconsistency between oral or written information provided to the undersigned by the company or its agents and the disclosure documents, the disclosure documents shall control and inconsistent or conflicting information shall be disregarded and of no effect. Although the disclosure documents attempt to provide all "material" information pertaining to an investment in the Securities, the disclosure documents are only current as of the date thereof and under no circumstances does the Company imply

that there has been no change in its affairs since the date thereof, or that the information contained therein is correct as of the date of this Agreement. The disclosure documents contain numerous forward looking statements made under the safe harbor provisions of the Private Securities Reform Act of 1995. Any such statements are subject to risks and uncertainties that could cause actual results to differ materially from those anticipated in such forward looking statements. The Company believes it has disclosed all underlying assumptions and identified all important factors that could cause actual results to differ, whether such disclosure has been directly made and/or through the context in which the statement has been made. Prospective investors are urged to exercise their right to receive additional information relative to forward looking statements.

16. Risk Factors, Additional Disclosures, Investor Representations: The Undersigned understands, acknowledges, represents and warrants the following:

A. This investment is speculative, involves a risk of loss by the Undersigned of the Undersigned's entire investment in the Company which the Undersigned is able to financially bear.
B. The Company is in the developmental stage and will likely operate at a loss for the foreseeable future.
C. Any projections and predictions that may have been made available to investors are based on estimates, assumptions and forecasts that may prove to be incorrect, and no assurance is given that actual results will correspond with the results contemplated by various projections.
D. The Undersigned is financially responsible, has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of this investment, is able to meet all obligations hereunder and acknowledges that this investment will be long term and is by nature speculative. The Undersigned is capable of bearing the risks of this venture including, but not limited to, the possibility of complete loss of investment nonexclusively in light of the present lack of a public market for the Securities.
E. There is no minimum escrow provision for the offering. Investment in this offering is nonrefundable. Failure of the Company to sell all of the securities in its offering could cause results to differ materially from those in the Company's disclosure documents, and/or a loss of the Undersigned's investment in the securities subscribed for hereby.
F. The Undersigned shall indemnify and hold harmless (inclusive of attorney fees and costs) the Company, its principals, and agents from any misrepresentation or misstatement of facts or omission to represent or state facts made by the Undersigned herein.
G. Information pertaining to this offering and the Company is "confidential" and may only be reviewed by the Undersigned, his/her spouse, or financial advisor(s).
H. The activities and business plans of the Company are highly dependent upon the services, expertise, and relationships established and to be established by the General Partner. The loss of the general partner would materially harm the Company.

I. Use of proceeds is completely within the discretion of the general partner as set forth in Section 1.L.

J. Any representations or statements made by persons affiliated in any way with specific investments in which the general partner is contemplating an investment on behalf of the Company, including entities issuing or selling said investments, may not be relied upon by the Undersigned. Such persons and entities are not agents or promoters of the Company.

17. Miscellaneous Matters. This Agreement shall be construed in accordance with Tennessee law. All disputes shall be resolved through arbitration with the American Arbitration Association in the forum closet to Davidson County, Tennessee USA. All notices to the Company shall be via US certified mail, return receipt requested, to the Company at 2910 Poston Avenue, Nashville, TN 37203, or such other address as the Company shall designate in the future, and shall be effective upon receipt. Notices to the undersigned shall be by regular US mail to the undersigned's principal address or such other address as the undersigned designates in the future, and shall be effective upon mailing; or at the election of the Company may be by facsimile or e-mail, which shall be effective upon transmission. This Agreement may be executed in two or more counterparts, and with counterpart signature pages, each of which shall be deemed an original, and all of such counterparts together shall constitute but one and the same Agreement. One or more counterparts may be delivered by facsimile with the same force and effect as the original. Any action based upon this Agreement, whether arising in contract, tort, or pursuant to statute—whether known or unknown and whether against the Company or its agents, shall be brought within six months of the date of this Agreement, or shall be forever barred. Any action against the general partner or his agents for acts or omissions subsequent to the date of this Agreement—whether known or unknown and whether arising in contract, tort, or pursuant to statute, shall be brought within six months of said act or omission, or shall forever be barred. If any provision of this Agreement or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Agreement that can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are held to be severable.

18. Escrow Agent: The undersigned hereby waives any claim against the Escrow Agent, except for the Escrow Agent's failure to convey proceeds of the undersigned's investment to the Company in accordance with the undersigned's agreement(s) with the Company. The undersigned hereby authorizes the Escrow Agent to convey, within a reasonable time upon clearance of funds, the undersigned's investment in the securities offered hereby to the Company. Thereafter, the undersigned agrees and understands that the undersigned shall have no further claim, whether in contract, tort, pursuant to administrative regulation, statute, or otherwise against the Escrow Agent, and that all such further claims must be made to the Company, not the Escrow Agent. With respect to a bank wire by the undersigned, clearance of funds and the undersigned's date of investment shall be deemed to have occurred as of the date and time of receipt by the Escrow Agent of said funds; with respect to checks clearance of funds and the undersigned's date of investment shall be defined as 10 business days after deposit by the

Escrow Agent of said check where said funds have in fact been withdrawn from the undersigned's bank account and credited to the Escrow Agent's account within that time. Notwithstanding anything herein to the contrary, all litigation with respect to the Escrow Agent shall occur in Douglas County, Nebraska, USA. Except with respect to the undersigned's claim of a "finder fee" pursuant to any Finder Agreement between the Company and the undersigned in which the Escrow Agent is involved as an intermediary, notices to the Escrow Agent shall be via US certified mail, return receipt requested, to [redacted], or such other address as the Escrow Agent shall designate in the future, and shall be effective upon receipt.

19. Certificates Evidencing Securities: It is presently anticipated that certificates will not be issued by the Company evidencing the Securities purchased hereunder. This executed Subscription Agreement along with proof of payment and/or any rejection by the Company of Securities subscribed for, shall constitute evidence of security ownership—in which event said Securities shall be "uncertificated" pursuant to UCC Article 8.

20. Finder Agreement: Notwithstanding the confidential nature of the offering, the undersigned is hereby accorded a finder agreement of 10% of the gross proceeds from the sale of Securities resulting from referrals of qualified investors as defined in Sections 3 et. seq. above by the undersigned to the Company with whom the undersigned has a substantial preexisting relationship of at least 30 days. In making referrals to the Company, the undersigned shall not forward to prospective investors the Company's disclosure documents, subscription agreement, or other Company information. The undersigned hereby represents he/she/it has spoken to the prospective investor referred to the Company and obtained from the prospective investor his/her/its permission for the Company to contact the prospective investor about the Company and the Securities. The undersigned shall strictly act as an investor "finder" to obtain prospective investors' permission for the Company to contact prospective investors, and not as a broker-dealer for the Securities. In this respect, the undersigned shall in no way act to induce prospective investors to offer to purchase the Company's Securities, or offer on the Company's behalf a sale of the Company's Securities to prospective investors. Non-preempted state and national law shall further limit the activities of finders and lead providers. For example in Texas finders shall be subject to Title 7, Part 7, 115.1(a)(9) and 115.11 of the Texas Administrative Code, and lead providers shall neither engage in broker-dealer activities, nor finder activities as defined by the Texas Administrative Code. The name, phone number, mailing address, fax number (if any) and e-mail address (if any) shall be provided to the Escrow Agent at Law@Nimmer.OmhCoxmail.com and/or to Fax 800-681-7081 as a condition precedent to receiving any referral fee for prospective investors, and must be provided at least one business day prior to the referred party investing in the Company's Securities. The Company reserves the right, pursuant to Section 12 above, to reject in whole or in part the subscription of any investor referred to it by the undersigned.

X *John Fortenberry* Dated this 3rd day of August, 2010.
John Fortenberry, General Partner
Premier Investment Fund, L.P.

Pages 1 – 13 of the Subscription Agreement are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Undersigned has executed this Subscription Agreement on the _____ day of ______________________, 20_____.

Authorized Subscriber's Signature	Authorized Signature of Joint Subscriber (if any)
Subscriber's Exact Legal Name (print)	Exact Legal Name of Joint Subscriber (print)
Principal Address	Joint Subscriber Principal Address
City, State, Nation and Zip Code	Joint Subscriber City, State, Nation and Zip Code
Telephone Number	Joint Subscriber Tel. Number
Fax Number (if any)	Joint Subscriber Fax Number (if any)
E-mail address (if any)	Joint Subscriber E-mail address (if any)
Social Security or ID Number	Joint Subscriber Soc. Sec./ ID #
State/Nation of Formation (Not applicable to individuals)	State/Nation of Formation (Not applicable to individuals)

- -

Purchase Price and Payment Terms on Page 1 are hereby incorporated herein by reference. Payments may be made by bank wire or check (see below).

- -

PAYMENT VIA BANK WIRE

Bank: American National Bank, 8990 West Dodge Rd., Omaha, NE 68114
Account Holder: John Nimmer, Esq. (IOLTA Trust Account)

[redacted]

Please fax bank wire confirmation and an executed copy of this document in its entirety to 800-681-7081. Non US investors must also fax a photocopy of a government issued identification card to verify identity.

PAYMENT VIA CHECK (Only available for US investors)

Premier Investment Fund
c/o John Nimmer, Esq.,Counsel & Escrow Agent for Offering
Payable to: Nimmer Trust Account

[redacted]

Note in "Memo" section "Premier Investment Fund"

Please enclose an executed copy of this document in its entirety with your check.

EXHIBIT "B": AUGUST 5, 2013 WRITTEN WELLS NOTICE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
100 F. Street, NE
Washington, DC 20549

MICHAEL C. BAKER
Senior Counsel
Division of Enforcement

Telephone: (202) 551-4471
Facsimile: (202) 772-9231
bakermic@sec.gov

August 5, 2013

VIA E-MAIL AND UPS
Mr. John C. Nimmer, Esq.
Law Office of John C. Nimmer
9958 West Center Road
Omaha, NE 68124-1959

Re: In the Matter of Breadstreet.com, Inc. (File No. HO-11450)

Dear Mr. Nimmer:

This letter confirms our telephone conversation of July 30, 2013. In that conversation, we advised you that the staff of the Securities and Exchange Commission has made a preliminary determination to recommend that the Commission file an enforcement action against your client, Stanley Jonathan Fortenberry. This proposed action would allege violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, Section 17(a) of the Securities Act of 1933, and Sections 206(1), 206(2), and 206(4) of the Investment Advisers Act of 1940 and Rule 206(4)-8 thereunder. The recommendation may involve a civil injunctive action, public administrative proceeding, and/or cease-and-desist proceeding, and may seek remedies that include an injunction, a cease-and-desist order, disgorgement, pre-judgment interest, civil money penalties, and/or bars from association.

As described in Rule 5(c) of the Commission's Rules on Informal and Other Procedures, 17 C.F.R. § 202.5(c), we are offering your client the opportunity to make a Wells Submission. For further information, you may wish to review Securities Act Release No. 5310, "Procedures Relating to the Commencement of Enforcement Proceedings and Termination of Staff Investigations," which can be found at: http://www.sec.gov/divisions/enforce/wells-release.pdf.

If your client wishes to make a written or videotaped submission setting forth any reasons of law, policy, or fact why the proposed enforcement action should not be filed, or bringing any facts to the Commission's attention in connection with its consideration of this matter, you should send the submission to the staff by August 19, 2013. Any written submission should be limited to 40 pages, and any video submission should not exceed 12 minutes. Please inform the

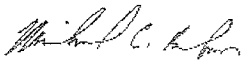
staff by no later than August 15, 2013 whether your client will be making a Wells Submission. Any submission should be sent to:

Michael C. Baker
Senior Counsel, Division of Enforcement
Securities and Exchange Commission
100 F St, NE
Washington, DC 20549-5010
bakermic@sec.gov

If the staff makes an enforcement recommendation to the Commission in this matter with respect to your client, we will send to the Commission any submission that your client makes. The Commission may use the information contained in such a submission as an admission, or in any other manner permitted by the Federal Rules of Evidence, or for any of the Routine Uses of Information described in Form 1662, "Supplemental Information for Persons Requested to Supply Information Voluntarily or Directed to Supply Information Pursuant to a Commission Subpoena." Form 1662 can be found at: http://www.sec.gov/about/forms/sec1662.pdf; paper copies are available upon request. The staff will not accept any submission that purports to limit its admissibility under the Federal Rules of Evidence or the Commission's ability to use the submission for any purpose identified in Form 1662. Any submission your client makes may be discoverable by third parties in accordance with applicable law.

If you have any questions, please contact me at (202) 551-4471 or Corey A. Schuster at (202) 551-4745.

Sincerely,



Michael C. Baker
Senior Counsel

EXHIBIT "C": RESPONDENT'S AUGUST 19, 2013 WELLS SUBMISSION

NIMMER LAW OFFICE*
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Omaha, Nebraska 68124-1959
402-345-8040 Facsimile 800-681-7081
Law@Nimmer.OmhCoxmail.com
*Admitted NE, NY, US Dist. Ct. of Nebr.

August 19, 2013

Michael C. Baker
Senior Counsel, Division of Enforcement Securities and Exchange Commission Washington, DC 20549-5010
Via E-mail bakermic@sec.gov

Re: In the Matter of Breadstreet.com, Inc., HO-11450/Stanley Jonathan Fortenberry's (general partner of Premier Investment Fund, LP—"Premier") Wells Submission

Dear Mr. Baker:

As per our conversation of July 30, 2013, your correspondence of August 5, 2013, and our conversation of August 9, 2013, this correspondence constitutes Mr. Fortenberry's Wells Submission.

FACTUAL EVIDENCE

To the end of avoiding unnecessary and repetitive submissions, Mr. Fortenbery incorporates herein by reference any and all documentation provided by him and Premier to the Commission's staff—whether voluntarily or pursuant to subpoena duces tecum served upon them; testimony provided by Mr. Fortenberry to the Commission at its offices on November 1, 2012; and further documents provided to the Commission's staff by third parties-- whether in response to subpoena duces tecums or voluntarily. In addition the 2010 and 2011 financial compilations, recently prepared for Premier, are included (to be discussed infra.) and thereby incorporated into this Wells Submission.

ALLEGED LEGAL VIOLATIONS

As discussed in your August 5, 2013 correspondence, the securities statutes and regulations Mr. Fortenberry allegedly violated include and are limited to the following:

Securities Act of 1933

Sec. 77(a): Use of interstate commerce for purpose of fraud or deceit
It shall be unlawful for any person in the offer or sale of any securities (including security-based swaps) or any security-based swap agreement (as defined in section 78c (a)(78) [1] of this title) by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly—

(1) to employ any device, scheme, or artifice to defraud, or

(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

Securities and Exchange Act of 1934

Sec. 10(b): It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange . . . To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, or any securities-based swap agreement, any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

Rule 10b-5: Employment of manipulative and deceptive devices.
It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,

(a) To employ any device, scheme, or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of any security.

Investment Advisors Act of 1940

Sections 206(1)(2)and(4): It shall be unlawful for any investment adviser by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

(1) to employ any device, scheme, or artifice to defraud any client or prospective client;

(2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client;

or

(4) to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative. The Commission shall, for the purposes of this paragraph (4) by rules and regulations define, and prescribe means reasonably designed to prevent, such acts, practices, and courses of business as are fraudulent, deceptive, or manipulative.

Rule 206(4)—8: Pooled Investment Vehicles

•Prohibition. It shall constitute a fraudulent, deceptive, or manipulative act, practice, or course of business within the meaning of section 206(4) of the Act for any investment adviser to a pooled investment vehicle to:

•Make any untrue statement of a material fact or to omit to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective investor in the pooled investment vehicle; or

•Otherwise engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

•Definition. For purposes of this section "pooled investment vehicle" means any investment company as defined in section 3(a) of the Investment Company Act of 1940 or any company that would be an investment company under section 3(a) of that Act but for the exclusion provided from that definition by either section 3(c)(1) or section 3(c)(7) of that Act .

GENERAL SUMMARY OF ALLEGED LEGAL VIOLATIONS

In the case of '33 Act violations, Mr. Fortenberry would have had to have failed to provide material information to those to whom he offered or sold Premier securities, or have been found to have provided false material information. The '34 Act (10b-5) is similar, except it only applies to sales (not offers), and a "scienter" (fraudulent intent) requirement is present. Scienter may either be in the form of willingness or recklessness (though various circuits have applied either a "should have known" or "must have known" standard in defining "recklessness"). See nonexclusively Aaron v. SEC, 446 US 680 (1980); Ernst and Ernst v. Hochfelder, 425 US 185 (1976); and Sanders v. John Nuveen, 554 F.2d 790 (7th Cir. 1977).

Applicability of the Investors Advisors Act and the rules thereunder is more problematic. Sec. 202(a)(11) of the Act defines an investment advisor as "any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities..." In the case of Premier, Mr. Fortenberry as general partner had sole discretion in determining which investments Premier would make. See nonexclusively the following from Section 1 of the Premier Subscription and Limited Partnership Agreement:

G. The general partner shall manage the partnership business and have exclusive control over the partnership business, including the power to sign deeds, notes, mortgages, deeds of trust, contracts, leases, and direction of business operations and investments.

H.The purpose of the Company is any lawful business purpose, with its primary though nonexclusive focus being to invest in the entertainment industry. Such investment may take the form of equity, debt, investment contracts, or any other investment form deemed by the general partner to be in the best interest of the Company.

I. The general partner is hereby authorized to make the aforesaid investments in the entertainment industry in his sole discretion for the benefit of the Company. The general partner is also authorized to make investments outside of the entertainment industry in his sole discretion for the benefit of the Company. Said investments may but need not be in publicly traded securities.

J. In the sole discretion of the general partner profits of the partnership may either be reinvested, or distributed to partners.

See also nonexclusively Wang v. Gordon, 715 F.2d 1187 (7th Cir. 1983)—where the general partner had sole discretion with respect to buying & selling investments and was not deemed an investment advisor. As Mr. Fortenberry had sole discretion in the making of Premier investments, and as these decisions were not to be made by the limited partners, Mr. Fortenberry was not to be providing "advice" regarding investments to Premier limited partners and thus was not an "investment advisor". Rather than advising or obtaining the consent of limited partners as to the advisability of specific investments to be made by Premier, Mr. Fortenberry was to merely inform the limited partners of what investment he had determined Premier to make, the status of those investments, etc. Not being an investment advisor, the provisions of the Investment Advisors Act, and the regulations thereunder, are inapplicable to Mr. Fortenberry. In any event as the failure to provide material information to Premier limited partners, or the provision of materially false information to Premier limited partners (and/or to Premier itself) all involve questions of materiality, assuming arguendo the Investment Advisors Act is applicable to Mr. Fortenberry such claims are also rebutted in further discussions (infra.) pertaining to materiality. Finally and nonexclusively in light of the language used in the cited portions of the Investment Advisors Act itself.(fraudulent, deceptive, manipulative, etc.) where the Act provides the authority for the cited rule thereunder, it appears a "scienter" requirement is applicable to any Investment Advisors Act violations.

ALLEGED NONPROVISION OF MATERIAL INFORMATION

"The question of materiality ... is an objective one, involving the significance of an omitted or misrepresented fact to a reasonable investor" Amgen Inc. v. Connecticut Retirement Plans and Trust Funds, ___ U.S. ___, 133 S.Ct. 1184 (2013). The Supreme Court has held that a fact is material if there is a substantial likelihood that the . . . fact would have been viewed by the reasonable investor as having significantly altered the "total mix" of information made available. TSC Industries v. Northway, Inc., 426 U.S. 438, 449 (1976). See also Basic, Inc. v. Levinson, 485 U.S. 224 (1988).

The "Terms and Conditions" of the Premier web-site (premierinvestmentfund.com) and initial written communications to prospective investors (not commenced through the web-site)

contained in pertinent part the following language: "Participation in the Company's offering is strictly limited those having a 30 day substantive preexisting relationship with the Company, its agents, or those in privity of contract with the Company as of March 27, 2010 and residing in, citizens of, and domiciles of the following countries: US accredited investors as defined by SEC Reg. D Rule 501 . . . . collectively "QUALIFIED INVESTORS". If you are not a qualified investor this communication is neither an offer to sell the Company's securities, nor the solicitation of an offer to buy the Company's securities, and you must leave this web-page or delete this message immediately. You agree and understand that by clicking any of the e-mail and/or URL links in this communication or contacting us that you are thereby requesting Company information and representing yourself to be a qualified investor. If you are not a qualified investor, you are not authorized to request Company information. By requesting Company information you further consent to the Company contacting you about the offering within the next year, and will keep this promotion and the offering confidential meaning it may only be reviewed by you, your spouse, or financial advisor(s). By clicking any of the links in this communication you represent you are financially responsible, have such knowledge and experience in financial and business matters that you are capable of evaluating the merits and risks of this investment, you acknowledges that this investment will be long term and is by nature speculative, and that you are capable of bearing the risks of this venture including, but not limited to, the possibility of complete loss of investment nonexclusively in light of the present lack of a public market for the Securities. Statements made in this communication and in the Company's disclosure and investment documents contain forward looking statements under the safe harbor provisions of the US Securities and Reform Act of 1995, which are subject to assumptions and factors identified and discussed in the Company's disclosure and investment documents, and the further terms and conditions of the Company's subscription agreement."

The above, and all oral and written communications made by Mr. Fortenberry to prospective purchasers of Premier Investment Fund limited partnership units, were subject to the terms and conditions of the Premier Subscription and Limited Partnership Agreement which provides in pertinent part in Section 15 (Access to Information): "The undersigned acknowledges he has been afforded an opportunity to examine and copy at the Company's expense all books, records, agreements and other documents relevant to the Company and this investment, and has been given an opportunity to ask questions and receive answers from the officers and directors of the Company, this investment, and any other matters relevant and material to this investment. The undersigned has utilized the opportunity to his satisfaction to verify the accuracy and completeness of all the information he has received and to obtain any other relevant information which he may have sought and which may influence his investment decision. The undersigned is fully satisfied with the response to such questions he has asked and such responses for information he has made. THE UNDERSIGNED SPECIFICALLY REPRESENTS HIS PERSONAL RECEIPT AND REVIEW OF THE CURRENT COMPANY BUSINESS PLAN (collectively "DISCLOSURE DOCUMENTS"). The undersigned acknowledges he has reviewed any and all information of public record, inclusive of official or reliable information posted on the internet, about the Company and the general partner John Fortenberry (Stanley Jonathan Fortenberry/Stanley J. Fortenberry), and that such information has not changed his mind with respect to an investment in the securities offered hereby. The information in the disclosure documents as of the date thereof is subject to change, completion or amendment without notice. The Company makes no representation that there has been no change in the

information set forth in the disclosure documents or the affairs of the Company since the date thereof. In the event of a conflict or inconsistency between the disclosure documents and this Agreement, the terms of this Agreement shall control and inconsistent or conflicting information shall be disregarded and of no effect. In the event of a conflict or inconsistency between oral or written information provided to the undersigned by the company or its agents and the disclosure documents, the disclosure documents shall control and inconsistent or conflicting information shall be disregarded and of no effect. Although the disclosure documents attempt to provide all "material" information pertaining to an investment in the Securities, the disclosure documents are only current as of the date thereof and under no circumstances does the Company imply that there has been no change in its affairs since the date thereof, or that the information contained therein is correct as of the date of this Agreement. The disclosure documents contain numerous forward looking statements made under the safe harbor provisions of the Private Securities Reform Act of 1995. Any such statements are subject to risks and uncertainties that could cause actual results to differ materially from those anticipated in such forward looking statements. The Company believes it has disclosed all underlying assumptions and identified all important factors that could cause actual results to differ, whether such disclosure has been directly made and/or through the context in which the statement has been made. Prospective investors are urged to exercise their right to receive additional information relative to forward looking statements."

The Subscription and Limited Partnership Agreement takes precedence over any inconsistent or contrary statements made in disclosure documents and other oral or written information provided to prospective investors; similarly any inconsistent or contrary oral statements are superseded by non-agreement written materials. All public information about Premier and Mr. Fortenberry is incorporated by reference. Finally Premier and Mr. Fortenberry accorded to prospective investors the opportunity to request and review any further information they may have deemed important to making an investment in Premier. In rare instances where further information may have been requested, never was such a request denied. The "total mix" of information made available by Mr. Fortenberry and Premier to actual and prospective investors in Premier was all information. Accordingly under the materiality jurisprudence cited supra., there is no factual basis supportive that Mr. Fortenberry or Premier did not provide material information pertaining to an investment in Premier securities to prospective or actual investors in Premier. Given this "open book policy" regarding the investment process, neither is there any evidence of "scienter" regarding the non-provision of material information. The real question is whether or not Mr. Fortenberry/Premier provided materially false information to actual or prospective investors—not whether they did not provide material information.

ALLEGED PROVISION OF MATERIALLY FALSE INFORMATION

In response to my inquiry as to any specific factual allegations supportive of the securities law statutes and regulations cited in your August 5, 2013 correspondence, I appreciate your speaking with me on August 9, 2013. On that call you advised me of two specific allegations of provision of materially false information by Mr. Fortenberry to prospective and actual investors:

1. False representations regarding Mr. Fortenberry's compensation as general partner of Premier.
2. False representations by Mr. Fortenberry regarding reports to be made about Premier to its limited partners.

I will address each allegation separately.

Compensation as General Partner

With respect to Mr. Fortenberry's alleged false representations regarding his compensation as general partner of Premier, I would initially reference certain provisions of The Subscription and Limited Partnership Agreement:

Sec. 1.L. The Undersigned acknowledges that without limitation a portion of the proceeds from the sale of Units of the Company, as well as profits from the Company's investments, shall be allocated to reasonable administrative expenses in connection with the Unit offering and the day to day affairs of the Company, including but not limited to salaries—inclusive of the general partner, office space, office equipment, travel, legal, accounting costs, and any other expense recognized by the Internal Revenue Code and regulations as a business deduction or credit. In addition to the foregoing the Undersigned also acknowledges that existing Unit holders, excluding the general partner, may receive finder fees pursuant to Section 20. Subject to generally accepted accounting principles and the Internal Revenue Code and regulations, the foregoing shall constitute business expenses of the Company, deductible from gross profits, in calculating the net after tax profits of the Company.

16.I. Use of proceeds is completely within the discretion of the general partner as set forth in Section 1.L.

16.E. There is no minimum escrow provision for the offering. Investment in this offering is nonrefundable. Failure of the Company to sell all of the securities in its offering could cause results to differ materially from those in the Company's disclosure documents, and/or a loss of the Undersigned's investment in the securities subscribed for hereby.

As discussed supra., the Subscription and Limited Partnership Agreement takes precedence over any other written or oral communications made to actual or prospective investors. That document provides for Mr. Fortenberry to be given a salary as general partner, for the payment of non-investment operating expenses, etc., and that such expenditures are within the sole discretion of the general partner. No specific promises were made to prospective or actual investors regarding Mr. Fortenberry's remuneration as general partner, and as such any remuneration he received as general partner is not a violation of any promise to actual or prospective investors. Further common sense dictates that general operating expenses and salaries take priority over investments to be made in Premier (i.e. without payment of operating expenses the Company would cease to exist and further investment activities would then be impossible). Investors acknowledged such in Sec. 16.E. with respect to the possibility of undercapitalization and the potential loss of investment. Finally it is Mr. Fortenberry's position that Premier would not have been undercapitalized but for the SEC having commenced its investigation of Premier. On the eve of that investigation, a John Moore (949-347-0396) had orally committed between $3,000,000 and $7,000,000 to the purchase of Premier limited partnership units, but upon being contacted by the Commission's staff changed his mind (at least until the investigation was concluded in Premier's favor). Undoubtedly if the investigation of Premier had not commenced other investors would have been procured by Premier.

All that being said attached are financial compilations recently prepared for Premier which, along with the Premier bank statements previously provided to the staff, nonexclusively demonstrate expenditures by Premier for operating expenses—all within the permissible parameters of the Subscription and Limited Partnership Agreement. Each payment made by Premier is properly classified as either remuneration to Mr. Fortenberry as general partner, reimbursement to Mr. Fortenberry of expenses he incurred and/or paid for on behalf of Premier, or expenses properly attributable to Premier. The bank statements and financial compilations also demonstrate Mr. Fortenberry—while not being required to do so (See Section 1.A. of the Subscription and Limited Partnership Agreement which provides "The undersigned acknowledges that in consideration for his pre-formation and formation activities for the benefit of the Company John Fortenberry received hereby at the time of the Company's formation 100 Units of the Company.")—contributed cash to Premier from his personal funds. This issue is not whether or not the staff disagrees with Premier's expenditures (including remuneration for Mr. Fortenberry as its general partner), but whether or not those expenditures violate the Premier Subscription and Limited Partnership Agreement. They do not.

Reports to be Made to Limited Partners

This allegation appears to be based on the following provisions of the Subscription and Limited Partnership Agreement:

1.F. The Company shall use generally accepted accounting principles, as amended from time to time, in keeping its books and records, and its fiscal year shall be a calendar year. . . .

1.N. The general partner shall advise limited partners as to all investments made by the Company at the time of making such investments, and annually before January 31st shall inform the limited partners as to the profit or loss with respect to each investment and the Company as a whole. The Undersigned acknowledges receipt of disclosure by the Company of all investments of the Company as of the date of his investment in the Company (if any). Beyond these disclosures limited partners shall only have access to Company information by requesting same of the general partner, and then only for an articulated proper purpose as determined by the general partner in his sole discretion.

With respect to 1.F., there is no deadline for the preparation of books and records for Premier. The intent was to prepare those after Mr. Moore's investment (discussed supra.) and/or those of others, but after commencement of the staff's investigation Premier ceased raising capital and otherwise operating—being unable to do so. In any event Mr. Fortenberry has prepared financial compilations, being submitted contemporaneously and as part of this Well's Submission. Also 1.F does not require Premier's books and records to be provided to its investors, so tardiness in preparing those, tax returns, etc. is not material to their investment in Premier.

With respect to 1.N., investors acknowledged and in fact did receive information at the time of their investment as to the then investments actually made or contemplated by Premier, primarily the investment in Halsey Management Company, LLC. With respect to annual disclosures to be made before January 31 of each year, no specific means of communicating this information is required (e.g., in writing). Premier was formed in 2010. The few investors it had in January 2011 were periodically updated by Mr. Fortenberry—primarily orally—as to the progress and

status of Premier---up to and including January 2011. No significant change had occurred in the status of Premier, or its investments, from Premier's formation through January 2011—and investors were so told. After Mr. Fortenberry became aware of the staff's investigation of Premier in March 2011, Mr. Fortenberry so advised the investors, and otherwise ceased operating or further investment activities of Premier—at least until and if the investigation were successfully concluded in Premier's favor (which he advised investors he would so inform them if that occurred). To this day that status remains unchanged. In any event Mr. Fortenberry fulfilled his 1.N. update obligations to Premier investors, and in no case did Mr. Fortenberry ever intend to violate Sec. 1.N. of the Subscription and Limited Partnership Agreement in procuring Premier investors. Rather, the staff's investigation caused Premier to suspend all operations and investments pending the investigation's outcome. Sec. 1.N. was not violated by Premier or Mr. Fortenberry as its general partner.

Finally assuming arguendo a violation of Sec. 1.F. or 1.N. of the Subscription and Limited Partnership Agreement, in addition to any such violation not being intentional, such a misrepresentation (in light of the general partner having sole discretion with respect to investments) was immaterial. Reporting to investors was advisory only, and did not provide them with any decision making power with respect to their ownership of Premier limited partnership units. Prospective investors were told this (in the Subscription and Limited Partnership Agreement) prior to purchasing Premier securities. As such any broken promise to provide reports, books and records, etc. would not have been reasonably relied upon by prospective investors—and hence not a material violation of applicable law.

CONCLUSION

For the foregoing reasons it is Mr. Fortenberry's position that he did not violate any of the securities laws or regulations cited in your August 5, 2013 correspondence. Finally please advise me in the event the Commission determines to proceed with enforcement actions against him, or if it declines to do so. I appreciate your and the Commission's thoughtful consideration of this Wells Submission, and I remain

Very Truly Yours,

S/ *John C. Nimmer*

John C. Nimmer

Cc: client

EXHIBIT "D": ENFORCEMENT DIVISION'S SENDING OF AND TEXT OF NOVEMBER 22, 2013 DRAFT COMPLAINT FOR FILING IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS—SAN ANGELO DIVISION (verbatim identical to April 28, 2014 OIP).

From: schusterc [mailto:notification@zixmessagecenter.com]
Sent: Friday, November 22, 2013 2:47 PM
To: law@nimmer.omhcoxmail.com
Subject: SEC v. Fortenberry smail

Received:Nov 22, 2013 2:47 PM
Expires:Feb 20, 2014 2:47 PM
From:schusterc@sec.gov
To: law@nimmer.omhcoxmail.com
Cc:bakermic@sec.gov, [redacted]
Subject:SEC v. Fortenberry smail
Attachments:20131122 DRAFT Fortenberry Consent.docx, htmlBody.html, 20131122 DRAFT Fortenberry complaint.docx, 20131122 DRAFT AP Offer Fortenberry.docx, Certification as to completeness of document production.docx, 20131122 DRAFT AP Settled Order Fortenberry.docx, 20131122 DRAFT USDC Final Judgment.docx

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FOR SETTLEMENT PURPOSES

John,

Attached please find drafts of the USDC Complaint, the USDC Consent, the USDC Proposed Judgment, the AP Offer, and the AP Order. We are circulating these materials in the context of the settlement negotiations under which we have been operating. Please review these documents with your client carefully; I have copied him on this email.

The remedial measures include, but are not limited to, Mr. Fortenberry consenting to U.S. District judgment and an Administrative Order that, among other things, collectively:

1. order him to pay disgorgement of $148,500 plus prejudgment interest of $13,811;

2. order him to pay a penalty of $148,500;

3. enjoin him from violating Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-(8) thereunder;

4. enjoin him from engaging in certain other conduct as described therein; and

5. bars him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

We have not received Mr. Fortenberry's Certification as to the completeness of document production, another copy of which is attached and which is required before any proposed settlement by the Commission can be considered.

Please also note that these settlement documents are the terms proposed by the staff on this matter. As we have discussed, the staff does not have the authority to enter into settlements on behalf of the Commission. All settlements must be approved by the Commission, which has not taken place. Before submitting them to the Commission, we will need Mr. Fortenberry's approval of the terms of the proposed settlement, including execution of the Offer and the Consent.

Please let us know if you have any questions.

Thanks,
Corey

Corey A. Schuster
Securities & Exchange Commission
Division of Enforcement
100 F Street, NE
Washington, DC 20549-5010
(202) 551-4745

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	
v.	:	**Civil Action No.**
STANLEY JONATHAN FORTENBERRY, (a/k/a S.J. FORTENBERRY, JOHN FORTENBERRY, AND JOHNNY FORTENBERRY)	:	
Defendant.	:	

COMPLAINT

Plaintiff, United States Securities and Exchange Commission (the "Commission"), for its Complaint against Stanley Jonathan Fortenberry (a/k/a S.J. Fortenberry, John Fortenberry, and Johnny Fortenberry), alleges and states as follows:

SUMMARY

1. Defendant Stanley Jonathan Fortenberry is a recidivist securities laws violator. Notwithstanding cease-and-desist orders issued by the Pennsylvania Securities Commission and the Texas State Securities Board, starting in 2010, Fortenberry solicited investors for his Premier Investment Fund L.P. ("Premier"), which he marketed as a vehicle to invest in various country music-themed social media and entertainment ventures.

2. Fortenberry, orally and in the offering materials that he drafted and distributed, guaranteed to investors returns of at least 12% per annum, and he provided at least one investor

with monthly account statements showing falsely that the fund was meeting its projections and that its investments were turning a profit.

3. Based on his representations, the offering materials, and account statements, Fortenberry raised hundreds of thousands of dollars for Premier, and he actively worked to raise millions more.

4. In reality, however, Fortenberry looted the fund. Unbeknownst to his investors and those he solicited, Fortenberry withdrew approximately half of the money entrusted to him. Despite the fact that Premier had no profits—indeed, no income whatsoever—Fortenberry wrote checks to himself for tens of thousands of dollars in "management fees," and he also spent his investors' money on his living expenses, mortgage, utilities, credit card bills, personal travel, and purchases at various gas stations and liquor stores.

5. To facilitate his fraud and to impede the scrutiny of his investors, Fortenberry also kept almost no business records for Premier—despite explicit representations that the fund would maintain a "capital account" for each investor and that Fortenberry would "use generally accepted accounting principles . . . [to] keep[Premier's] books and records."

6. While Fortenberry did invest a portion of the money with which he was entrusted, Premier's investments never turned a profit, and all of the money invested with Fortenberry is now, for all intents and purposes, gone.

7. By knowingly or recklessly engaging in this and other conduct described herein, Fortenberry violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act of 1933 ("Securities Act") [*15 U.S.C. § 77q(a)*], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [*15 U.S.C. § 78j(b)*] and Rule 10b-5 thereunder [*17 C.F.R. § 240.10b-5*], and Sections 206(1), 206(2), and 206(4) of the Investment

Advisers Act of 1940 ("Advisers Act") [*15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b6-(4)*] and Rule 206(4)-8 thereunder [*17 C.F.R. § 275.206(4)-8*].

DEFENDANT

8. Stanley Jonathan Fortenberry, also known as "John Fortenberry" and "S.J. Fortenberry," age 48, is the General Partner of Premier Investment Fund L.P. ("Premier"), a Tennessee limited partnership and pooled investment vehicle.

9. As the General Partner of Premier, Fortenberry held exclusive responsibility for soliciting investments, communicating with investors, and making investment decisions on behalf of Premier.

10. As the General Partner of Premier and as an investment adviser, Fortenberry owed to Premier and its limited partners fiduciary duties, including the duty to act at all times in the best interest of the fund and its investors and to provide full and fair disclosure of all material facts to the fund and its investors.

11. At all times relevant to this action, Fortenberry resided in San Angelo, Texas.

OTHER RELEVANT PERSONS AND ENTITIES

Premier Investment Fund L.P.

12. Premier Investment Fund L.P. ("Premier") is a Tennessee limited partnership and pooled investment vehicle formed by Fortenberry in 2010. Premier's principal place of business is in San Angelo, Texas. Premier is not registered with the Commission.

13. Fortenberry is the General Partner of Premier.

14. Premier also has two limited partners by virtue of their investment in Premier.

15. Currently, Premier has no cash or other assets, except for a small equity stake in a start-up, entertainment and social media company. The value, if any, of Premier's equity stake is unknown.

Victim 1

16. Victim 1 is a resident of Kings Park, New York. On September 13, 2010 and November 16, 2010, Victim 1 invested a total of $200,000 in Premier, in two lump sums of $100,000.

17. By virtue of his investments, Victim 1 is a limited partner of Premier.

Victim 2

18. Victim 2 is a resident of San Angelo, Texas. Between August 3, 2010 and March 8, 2011, Victim 2 invested $100,000 in Premier, in what were, largely, monthly installments.

19. During the period of his investment in Premier, Victim 2 suffered from the effects of a stroke and chronic Lyme disease, which severely impaired his memory, cognition, and decision-making abilities.

20. By virtue of his investments, Victim 2 is a limited partner of Premier.

JURISDICTION

21. The Commission brings this action pursuant to Section 20(b) of the Securities Act [*15 U.S.C. § 77t(b)*], Sections 21(d) and 21(e) of the Exchange Act [*15 U.S.C. §§ 78u(d) and 78u(e)*], and Section 209(d) of the Advisers Act [*15 U.S.C. § 80b-9(d)*] to enjoin such transactions, acts, practices, and courses of business, and to obtain disgorgement, prejudgment interest, civil money penalties, and such other and further relief as the Court may deem just and appropriate.

22. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the Securities Act [*15 U.S.C. §§ 77t(b) and 77v(a)*], Sections 21(d), 21(e), and 27 of the Exchange Act [*15 U.S.C. §§ 78u(d), 78u(e), and 78aa*], Section 214 of the Advisers Act [*15 U.S.C. § 80b-14*], and 28 U.S.C. § 1331.

23. Venue in this district is proper under Section 22(a) of the Securities Act [*15 U.S.C. § 77v(a)*], Section 27 of the Exchange Act [*15 U.S.C. § 78aa*], Section 214 of the Advisers Act [*15 U.S.C. § 80b-14*], and 28 U.S.C. § 1391(b).

24. Fortenberry is a resident of San Angelo, Texas, and certain of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within the Northern District of Texas and elsewhere, and were effected, directly or indirectly, by making the use of the means, instruments or instrumentalities of transportation or communication in interstate commerce, or of the mails, or the facilities of a national securities exchange.

BACKGROUND

Fortenberry's Prior Cease-And-Desist Orders

25. Fortenberry has twice previously been subjected to cease-and-desist orders in connection with securities fraud. In 2004, both the Pennsylvania Securities Commission and the Texas State Securities Board ordered Fortenberry to cease and desist from selling unregistered securities.

26. Specifically, the Texas regulator found in its order, and Fortenberry consented to the order's entry, that Fortenberry had "intentionally failed" to disclose the following material facts:

> (A) Information regarding the assets, liabilities, profits, losses, cash flow, and operating history of the issuer sufficient to enable a

prospective investor to make an informed decision regarding the risks associated with the offering.

(B) The specific risks associated with [the] investment . . ., including the risk that a working interest owner may be liable for costs or claims in excess of the amount of his or her investment.

(C) Respondent Fortenberry was convicted of theft in cause number 309,091 in the County Court at Law No. 7, Travis County, Texas on February 2, 1990.

(D) Respondent Fortenberry filed for Chapter 13 bankruptcy in the United States Bankruptcy Court, Northern District of Texas, Lubbock Division, on August 3, 1992, in case number 92-50525, and said bankruptcy was dismissed on March 21, 1994 by motion of the Trustee.

(E) Respondent Fortenberry filed for Chapter 13 bankruptcy in the United States Bankruptcy Court, Northern District of Texas, Lubbock Division, on December 16, 1993, in case number 93-50785, and said bankruptcy was dismissed on September 30, 1994 by motion of the Trustee.

27. The Texas State Securities Board then issued the following Order against Fortenberry as result of his conduct:

1. It is therefore ORDERED that [Fortenberry] CEASE AND DESIST from offering for sale any security in Texas until the security is registered with the Securities Commissioner or is offered for sale pursuant to an exemption from registration under the Texas Securities Act.

2. It is further ORDERED that [Fortenberry] immediately CEASE AND DESIST from acting as [a] securities dealer[] or agent[] in Texas until [Fortenberry is] registered with the Securities Commissioner or [is] acting pursuant to an exemption from registration under the Texas Securities Act.

3. It is further ORDERED that [Fortenberry] CEASE AND DESIST from engaging in any fraud in connection with the offer for sale of any security in Texas.

28. In participating in the conduct described herein, Fortenberry engaged in conduct that is nearly identical to that which formed the basis of the Texas cease-and-desist order, and he also violated the specific proscriptions of the Texas order.

29. In 2010 and 2011, Fortenberry intentionally used the name "John"—a misspelling of his middle name—when soliciting investors and drafting Premier's partnership agreement.

30. On information and belief, Fortenberry used the name "John" so that prospective investors would be less likely to connect him to the Texas and Pennsylvania cease-and-desist orders, which are readily available on the Internet, or to learn of his prior felony conviction and multiple bankruptcy filings.

Fortenberry's Misrepresentations and Omissions Regarding Premier

31. The instant fraud began in March 2010 when Fortenberry contacted a prominent manager of country music talent (the "Manager") and offered to raise money for the Manager's new entertainment and social media venture, which was to be called "StarMaker Central."

32. Following this initial contact, Fortenberry created what purported to be a business plan and other offering materials for StarMaker Central, and he began contacting potential investors, including Victim 1, and encouraged them to invest in Premier. Fortenberry touted his ability to invest in the entertainment and country music industries, and he frequently arranged for potential investors to meet the Manager.

33. The Manager never authorized the business plan and offering documents. Fortenberry prepared these documents without the Manager's knowledge. Upon learning of the materials, the Manager objected and instructed Fortenberry to stop using the materials.

34. The business plan and other offering documents contain numerous materially false and misleading statements, specifically regarding the risks associated with the enterprise

and its likely return on investment. For example, the business plan that Fortenberry created and distributed states as follows:

> StarMaker Central will average thirty dollars per month per member. We are confident that we will achieve one million members by August 15, 2012. Consequently, StarMaker Central will be grossing thirty million dollars per month. We expect our cost, at that point, to remain under two million dollars monthly, leaving a profit of twenty eight million dollars monthly.
>
> If you invest now, we will pay you twelve percent (12%) per annum. Repayment of principal and interest will be paid back in three years, along with you keeping your equity stake in the holdings. Most importantly, our investors will receive twelve and one half percent of twenty eight million dollars, which is three and one half million dollars divided by our one hundred investors. Thus, each investor will be paid thirty five thousand dollars per month for the rest of his or her life.

35. Fortenberry knew or was reckless in not knowing that his written and oral representations regarding Premier's actual and projected performance were false and misleading.

36. In the limited partnership agreement he created, Fortenberry also misrepresented to Premier, its investors, and Premier's prospective investors, that the fund did and would keep accurate and appropriate books and records:

> C. . . . Each partner shall have a capital account that includes invested capital plus that partner's allocations of net income, minus that partner's allocation of net loss and share of distributions. . . .
>
> . . . .
>
> F. The Company shall use generally accepted accounting principles, as amended from time to time, in keeping its books and records, and its fiscal year shall be a calendar year. The general partner shall make any tax election necessary for completion of the partnership tax return.

37. A complete set of financial statements prepared in accordance with generally accepted accounting principles ("GAAP") consist, at a minimum, of a balance sheet, income

statement, statement of comprehensive income, statement of cash flows, and accompanying footnotes to the financial statements. GAAP financial statements and footnotes also require certain treatment, presentation, and disclosure relating to various transactions and account balances.

38. In reality, Fortenberry made no attempt to comply with the recordkeeping requirements of the partnership agreement. He never kept capital accounts, balance sheets, income statements, cash flow statements, or statements of shareholder equity for Premier. Premier also never filed a tax return or prepared the papers necessary for Premier or its investors to prepare their returns. And, the account statements Fortenberry sent to one investor were materially false and misleading.

39. Fortenberry also lost, destroyed, and otherwise failed to maintain documentation relating to Premier and his activities as general partner. His failure to maintain the financial and business records of Premiere was not conducive to accurate, complete, and reliable financial reporting under GAAP.

40. Again, Fortenberry knew or was reckless in not knowing that his representations regarding Premier's recordkeeping were false.

41. Fortenberry provided these materially false and misleading marketing materials and limited partnership agreements to Victim 1 and Victim 2.

42. Fortenberry also made numerous oral misrepresentations to Victim 1. For example, Fortenberry told Victim 1 that his entire capital investment would be invested in StarMaker Central, and that Fortenberry's compensation would be limited to an equity stake in Premier. Fortenberry led Victim 1 to believe that Premier would have almost no expenses of its

own. Fortenberry never revealed that he intended to and did divert a substantial portion of Victim 1's investment for his own benefit.

43. As a result of Fortenberry's materially false and misleading statements, Victim 1 invested a total of $200,000 through two investments of $100,000 each.

44. Fortenberry also preyed on those most vulnerable to fraud: the sick and elderly.

45. Fortenberry met Victim 2, a retiree, through a 12-step program in which both participated. Victim 2 suffered from numerous physical and mental ailments, including the effects of a stroke and chronic Lyme disease, which severely impaired his memory, cognition, and decision-making abilities.

46. Fortenberry knew of Victim 2's ailments, as Victim 2 spoke openly about them at various meetings of the 12-step program attended by Fortenberry.

47. Fortenberry convinced Victim 2 to invest in Premier through materially false and misleading information. For example, Fortenberry told Victim 2 that Victim 2's entire investment would be used to invest in the entertainment industry, and Fortenberry never revealed that he intended to and did divert a substantial portion of Victim 2's investment for his own benefit.

48. On August 3, 2010, Victim 2 provided Fortenberry with a check, written from Victim 2's retirement funds, with the understanding that the funds would be invested. Unbeknownst to Victim 2, however, Fortenberry immediately deposited Victim 2's check into Fortenberry's personal bank account and never transferred the proceeds to Premier.

49. To entice Victim 2 to invest additional capital on a monthly basis, Fortenberry sent Victim 2 materially false and misleading monthly account statements, and provided other false updates concerning Premier's investments and supposed profitability. For example, within

a month of Victim 2's initial investment, Fortenberry represented to Victim 2 that Premier had invested in a movie production company when, in fact, Premier never made any such investment.

50. Fortenberry also created and sent to Victim 2 monthly account statements to Victim 2 that gave the appearance that the fund's investments were generating a profit and that Victim 2's investment in Premier was, in turn, profitable. The fund, however, never generated a profit—it has never received a single dollar of return on its investment.

51. As intended, these false statements about Premier's investments and profits induced Victim 2 to continue to make monthly investments in Premier. Over the course of several months, Victim 2 invested approximately $100,000 in Premier.

52. Tellingly, Fortenberry did not send these false and misleading monthly account statements to Victim 1, who invested in Premier in two lump sums.

53. As with Fortenberry's prior state securities laws violation, Fortenberry misrepresented and failed to provide to Premier, his investors, and prospective investors (a) "information regarding the assets, liabilities, profits, losses, cash flow, and operating history of the issuer sufficient to enable a prospective investor to make an informed decision regarding the risks associated with the offering," (b) that Fortenberry had been convicted of theft, and (c) that Fortenberry had twice filed for bankruptcy. Fortenberry also failed to disclose to Premier, investors, and prospective investors that he was subject to two cease-and-desist orders resulting from prior state securities laws violations.

54. Based on Fortenberry's written and oral misrepresentations, two investors invested a total of $300,000 in Premier.

55. Fortenberry was the sole investment adviser for Premier, and after obtaining these investment proceeds, Fortenberry enjoyed unfettered control over Premier and its bank account.

When managing Premier and its assets, Fortenberry completely ignored corporate formalities, routinely commingling Premier's, his personal, and his other business venture's funds.

Fortenberry Misappropriated Premier's Assets

56. In addition to his misrepresentations regarding the fund's prospects and recordkeeping, Fortenberry also falsely told investors and prospective investors in Premier that his compensation for his work managing Premier's investments would be solely in the form of an equity stake in Premier and a concomitant share in Premier's profits.

57. Fortenberry repeated this misrepresentation to Premier, and its investors and prospective investors, in Premier's partnership agreement, which purported to give Fortenberry 50% of Premier's equity:

> A. The undersigned acknowledges that in consideration for his pre-formation and formation activities for the benefit of the Company John Fortenberry received hereby at the time of the Company's formation 100 Units of the Company, and was hereby appointed general partner of the Company. . . .
>
> . . . .
>
> D. After tax income, net loss, and voting power of the Company shall be allocated as follows:
>
> 1. 50 percent to the general partner.
>
> 2. 50 percent to the limited partners, allocated according to their percentage of the total limited partnership capital accounts.

58. While the partnership agreement authorized Fortenberry to incur, on behalf of Premier, "reasonable administrative expenses," which could include "salaries," nothing in the partnership agreement permitted Fortenberry to use Premier's assets for his unfettered personal use and benefit.

59. Moreover, irrespective of any specific provision of the partnership agreement, as the General Partner of Premier and as an investment adviser, Fortenberry owed to Premier and its

limited partners fiduciary duties, including the duty to act at all times in the best interest of the fund and its investors and to provide full and fair disclosure of all material facts to investors.

60. Notwithstanding these representations and duties, upon receiving investments from Victims 1 and 2, Fortenberry proceeded to loot the fund. Against his prior representations, he took over a hundred and forty thousand dollars in "management fees" and in the form of personal expenses that he charged to the fund.

61. Fortenberry never disclosed to Premier or its investors that he intended to or, in fact, paid himself "management fees," and the partnership agreement makes no mention whatsoever of such compensation. Nevertheless, between September 2010 and March 2011, Fortenberry wrote "management fee" checks to himself in the amount of approximately $68,550—over 22% of the total amount with which he was entrusted. Even assuming, counterfactually, that such remuneration was authorized by the partnership agreement, the amount here far exceeded any reasonable or foreseeable management fee, which normally ranges from 1-2% of assets under management.

62. Fortenberry also never disclosed to Premier or its investors that he intended to and, in fact, used the money invested in Premier for his unfettered personal use and benefit, yet Fortenberry also took approximately $79,950 of Premier and its investor's money for what appear to be entirely personal expenses and cash withdrawals.

63. Fortenberry used Premier's capital to pay for travel and concert tickets for his family members, personal credit card payments, clothing, jewelry, groceries, cable bills, utilities, insurance, unknown expenditures via PayPal, a Netflix subscription, car repairs and maintenance, gasoline, convenience and liquor store purchases, and trips to various restaurants and coffee shops.

64. Fortenberry's failure to maintain accurate books and records in accordance with GAAP facilitated the concealment of these expenses from investors and regulators. Indeed, on information and belief, that was the intended purpose of Fortenberry's conduct in this regard.

65. In all, Fortenberry took at least $148,500 of investor proceeds in undisclosed management fees, personal expenses, and cash withdrawals, none of which was disclosed to Premier or his investors.

66. On information and belief, Fortenberry invested the balance of the money entrusted to him so that he could continue to represent that he was associated with the Manager and StarMaker Central and, as such, continue his fraud.

FIRST CLAIM FOR RELIEF
Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder
[15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]

67. Paragraphs 1 through 66 are realleged and incorporated herein by reference.

68. By his conduct alleged above, Fortenberry, in connection with the purchase or sale of securities, by the use of the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices, or courses of business which have been or are operating as a fraud or deceit upon other persons, including purchasers and sellers of such securities.

69. In engaging in such conduct, Fortenberry acted with scienter, that is, with intent to deceive, manipulate, or defraud or with a severely reckless disregard for the truth.

70. By reason of the foregoing, Fortenberry has violated (and unless enjoined will continue to violate) Section 10(b) of the Exchange Act [*15 U.S.C. § 78j(b)*] and Rule 10b-5 thereunder [*17 C.F.R. § 240.10b-5*].

SECOND CLAIM FOR RELIEF
Violations of Securities Act Section 17(a)(1)
[15 U.S.C. § 77q(a)(1)]

71. Paragraphs 1 through 70 are realleged and incorporated herein by reference.

72. By his conduct alleged above, Fortenberry, in the offer or sale of securities, by the use of the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly, has employed devices, schemes, and/or artifices to defraud.

73. In engaging in such conduct, Fortenberry acted with scienter, that is, with intent to deceive, manipulate, or defraud or with a severely reckless disregard for the truth.

74. By reason of the foregoing, Fortenberry has violated (and unless enjoined will continue to violate) Section 17(a)(1) of the Securities Act [*15 U.S.C. § 77q(a)(1)*].

THIRD CLAIM FOR RELIEF
Violations of Securities Act Sections 17(a)(2) and 17(a)(3)
[15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)]

75. Paragraphs 1 through 74 are realleged and incorporated herein by reference.

76. By his conduct alleged above, Fortenberry, in the offer or sale of securities, by the use of the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly, has obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or has engaged in transactions, practices, or courses of business which have been operating as a fraud or deceit upon purchasers of securities.

77. By reason of the foregoing, Fortenberry has violated (and unless enjoined will continue to violate) Sections 17(a)(2) and 17(a)(3) of the Securities Act [*15 U.S.C. §§ 77q(a)(2) and 77q(a)(3)*].

FOURTH CLAIM FOR RELIEF
Violations of Advisers Act Section 206(1)
[15 U.S.C. § 80b-6(1)]

78. Paragraphs 1 through 77 are realleged and incorporated herein by reference.

79. By his conduct alleged above, Fortenberry, acting as an investment adviser, and using the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly, employed devices, schemes, and artifices to defraud one or more advisory clients and/or prospective clients.

80. In engaging in such conduct, Fortenberry acted with scienter, that is, with intent to deceive, manipulate, or defraud or with a severely reckless disregard for the truth.

81. By reason of the foregoing, Fortenberry has violated (and unless enjoined will continue to violate) Section 206(1) of the Advisers Act [*15 U.S.C. § 80b-6(1)*].

FIFTH CLAIM FOR RELIEF
Violations of Advisers Act Section 206(2)
[15 U.S.C. § 80b-6(2)]

82. Paragraphs 1 through 81 are realleged and incorporated herein by reference.

83. By his conduct alleged above, Fortenberry, acting as an investment adviser, and using the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly, engaged in transactions, practices, and courses of business which would and did operate as a fraud and deceit on one or more advisory clients and/or prospective clients.

84. By reason of the foregoing, Fortenberry has violated (and unless enjoined will continue to violate) Section 206(2) of the Advisers Act [*15 U.S.C. § 80b-6(2)*].

SIXTH CLAIM FOR RELIEF
Violations of Advisers Act Section 206(4) and Rule 206(4)-8(a) Thereunder
[15 U.S.C. § 80b-6(4) and 17 C.F.R. 275.206(4)-8]

85. Paragraphs 1 through 84 are realleged and incorporated herein by reference.

86. By his conduct alleged above, Fortenberry, acting as an investment adviser, and using the means and instrumentalities of interstate commerce and/or by the use of the mails, directly or indirectly, engaged in acts, practices, and/or courses of business that were fraudulent, deceptive, and manipulative.

87. Fortenberry, acting as an investment adviser to a pooled investment vehicle: (a) made untrue statements of material facts and/or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, to investors or prospective investors in the pooled investment vehicle; and/or (b) engaged in acts, practices, and/or courses of business that were fraudulent, deceptive, or manipulative with respect to investors or prospective investors in the pooled investment vehicle.

88. By reason of the foregoing, Fortenberry violated (and unless enjoined will continue to violate) Section 206(4) of the Advisers Act [*15 U.S.C. § 80b-6(4)*] and Rule 206(4)-8 thereunder [*17 C.F.R. § 275.206(4)-8*].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a judgment:

A. Making findings of fact and conclusions of law that Fortenberry committed the alleged violations;

B. Permanently enjoining Fortenberry, his agents, servants, employees, attorneys, and all persons in active concert or participation with him, and each of them, from further violations of Section 17(a) of the Securities [*15 U.S.C. § 77q(a)*], Section 10(b) of the Exchange

Act [*15 U.S.C. § 78j(b)*] and Rule 10b-5 thereunder [*17 C.F.R. § 240.10b-5*], and Sections 206(1), 206(2), 206(4) of the Advisers Act [*15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4)*] and Rule 206(4)-8 thereunder [*17 C.F.R. § 275.206(4)-8*];

C. Permanently enjoining Fortenberry from directly or indirectly, including, but not limited to, through any entity owned or controlled by Fortenberry, participating in the issuance, purchase, offer, or sale of any security, including, but not limited to, engaging in activities for purposes of inducing or attempting to induce the purchase or sale of any security; provided, however, that such injunction shall not prevent Fortenberry from purchasing or selling securities listed on a national securities exchange for his own personal account;

D. Ordering Fortenberry to disgorge his ill-gotten gains, derived directly or indirectly from the conduct complained of herein, together with prejudgment interest thereon;

E. Ordering Fortenberry to pay appropriate civil monetary penalties pursuant to Section 20(d) of the Securities Act [*15 U.S.C. § 77t(d)*], Section 21(d)(3) of the Exchange Act [*15 U.S.C. § 78u(d)(3)*], and Section 209(e) of the Advisers Act [*15 U.S.C. § 80b-9(e)*];

F. Retaining jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and to carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of the Court; and

G. Granting such further relief as the Court may deem appropriate.

Dated: December ___, 2013

Respectfully submitted,

/s/ Stephan J. Schlegelmilch

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