UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

UNITED DEVELOPMENT FUNDING III, LP,
UNITED DEVELOPMENT FUNDING IV,
HOLLIS M. GREENLAW,
BENJAMIN L. WISSINK, THEODORE F. ETTER,
CARA D. OBERT, and DAVID A. HANSON

Defendants.

C.A. No. ____________

COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission") files this Complaint against Defendants United Development Funding III, LP ("UDF III"), United Development Funding IV ("UDF IV"), Hollis M. Greenlaw ("Greenlaw"), Benjamin L. Wissink ("Wissink"), Theodore F. Etter ("Etter"), Cara D. Obert ("Obert"), and David A. Hanson ("Hanson") (collectively, "Defendants") and alleges as follows:

SUMMARY OF THE ACTION

1. The United Development Funding family of investment funds ("UDF") deploys investor capital towards the financing of homebuilders and land developers through private and publicly-traded investment funds. From at least January 2011 through December 2015 (the "Relevant Period"), UDF used money from a newer fund to pay distributions to investors in an

older fund, without adequately disclosing the use of funds and the nature and status of loans made to developers.

2. More specifically, UDF solicited investments in a series of investment funds (UDF III, UDF IV) by stating its ability to generate 8% to 9.75% annualized returns and to pay investors regular distributions from loans for property development. UDF III began offering limited partnership interests in 2006 and raised approximately $350 million from private investors. Building on its track record of paying regular distributions to UDF III investors, UDF launched UDF IV in 2008 and raised over $610 million from investors through May 2013. UDF IV listed on the NASDAQ in June 2014.

3. By 2009, UDF III had made substantial loans to developers and was making monthly distributions to investors in amounts that at times exceeded developer interest payments during the same period. In 2011, UDF IV began loaning money to developers of UDF IV projects who had also borrowed money from UDF III. Unbeknownst to investors, however, UDF directed the developers to use the UDF IV money to pay down separate UDF III loans, instead of using the funds loaned from UDF IV to develop UDF IV projects. In most of these cases, the developers never actually received the borrowed funds at all, and UDF simply transferred the money from UDF IV to UDF III. UDF III then used the loan payments—which were comprised of funds from UDF IV—to, in part, make distributions to UDF III investors. Using these transactions, which were not adequately disclosed to investors, UDF was able to cause UDF III to pay its investors at least $67 million of distributions using funds from UDF IV.

4. UDF IV also failed to adequately disclose the nature of multi-phase projects in its loan portfolio. UDF IV told investors that none of its loans were invested in unimproved real property. This gave the impression that all of the loans in UDF IV's portfolio were funding real

estate projects that were under construction. In truth, UDF IV had loaned money for acquisition of unimproved properties designated for multi-phase development. In some cases, the properties remained in the entitlement phase even after they had been in UDF IV's portfolio for years.

5. In addition, Generally Accepted Accounting Principles ("GAAP") required UDF III to report if any of its significant outstanding loans became "impaired"—meaning UDF III believed it was unlikely to fully collect on the loan. UDF III knew or should have known before it filed its 2013 Form 10-K that it was unlikely to fully collect on an approximately $80 million loan to its second largest borrower. Although UDF III's financial statements reflected general reserves, UDF III took no specific impairment on the loan and told investors that full collectability was probable.

6. This misconduct violated Sections 17(a)(2) and (3) of the Securities Act of 1933 (the "Securities Act") and Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act") and Rules 12b-20, 13a-1, 13a-13, and 13a-14 thereunder. As a result, Defendants should be enjoined from violating the securities laws they violated as alleged herein, Defendants Greenlaw, Wissink, Etter, and Obert should be required to disgorge all ill-gotten gains with prejudgment interest, and Defendants Greenlaw, Wissink, Etter, Obert, and Hanson should be ordered to pay appropriate civil penalties.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d), 78u(e), and 78aa]. Defendants directly or indirectly made use of means or

instrumentalities of interstate commerce or the mails in connection with the transactions, acts, practices, and courses of business alleged herein.

8. Venue is proper in this district pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27(a) of the Exchange Act [15 U.S.C. § 78aa(a)]. Defendants reside or have their principal place of business in this district. In addition, certain of the transactions, acts, practices, and courses of business constituting alleged violations of the federal securities laws occurred within this district. Among other things, Defendants offered and sold the securities at issue in this district.

DEFENDANTS

9. Defendant United Development Funding III, LP ("UDF III") is a Delaware limited partnership headquartered in Grapevine, Texas. UDF III limited partnership units are registered with the Commission pursuant to Section 12(g) of the Exchange Act and are not listed on any exchange. UDF III files periodic reports with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder. UDF III has not filed a Form 10-Q or 10-K for periods ended after September 30, 2015.

10. Defendant United Development Funding IV ("UDF IV") is a Maryland real estate investment trust headquartered in Grapevine, Texas. UDF IV's common shares are registered with the Commission pursuant to Section 12(g) of the Exchange Act. UDF IV's common shares traded on the NASDAQ Global Select Market under the symbol "UDF" beginning on June 4, 2014. NASDAQ halted trading in UDF IV on February 18, 2016, suspended trading on October 19, 2016 for failing to timely file audited financial statements, and filed a Form 25 with the Commission to delist UDF IV on May 18, 2017. As of the date of the Complaint, UDF IV's common shares were quoted on OTC Markets Inc. under the symbol "UDFI." UDF IV files

periodic reports with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder. UDF IV has not filed a Form 10-Q or 10-K for periods ended after September 30, 2015.

11. Defendant Hollis M. Greenlaw ("Greenlaw") is a resident of Colleyville, Texas. Greenlaw is the Chief Executive Officer of UMTH Land Development, L.P. ("UMTH LD"), which is the general partner of UDF III and asset manager of UDF IV. Greenlaw also serves as the Chief Executive Officer and Chairman of the Board of Trustees for UDF IV, and serves as one of three voting Investment Committee members for UMTH LD. Greenlaw is a licensed attorney and member of the Maine (inactive), District of Columbia, and Texas bars.

12. Benjamin L. Wissink ("Wissink") is a resident of Dallas, Texas. Wissink is the President of UMTH LD. He also serves as one of three voting Investment Committee members for UMTH LD.

13. Theodore F. Etter ("Etter") is a resident of Dallas, Texas. Etter is the Executive Vice President of UMTH LD. He also serves as one of three voting Investment Committee members for UMTH LD.

14. Cara D. Obert ("Obert") is a resident of Dallas, Texas. Obert is the Chief Financial Officer of UMTH LD, UDF IV, and UDF V. From May 2008 through April 10, 2017, she served as UDF III's principal financial officer and principal accounting officer. Obert is a licensed CPA in the state of Texas.

15. David A. Hanson ("Hanson") is a resident of Coppell, Texas. Hanson is the Chief Accounting Officer for UDF IV. From May 2008 until February 2014, Hanson also served as UDF IV's Chief Operating Officer. Hanson is a licensed CPA in the state of Texas.

FACTUAL ALLEGATIONS

A. The UDF Funds

16. Greenlaw and Etter founded UDF in 2003 with the aim of starting one or more investment funds to loan money to developers of residential real estate, with rates above those offered by commercial lenders. Over time, UDF established a family of investment funds (*i.e.*, UDF I, II, III, and IV) that each raised money from investors. UDF III and UDF IV each said that the fund would strive to make a 8% to 9.75% annualized return for investors based on the ability of the fund's borrowers to successfully develop real estate and repay their loans.

17. During 2003 and 2004, UDF sold limited partnership interests in its first two funds, United Development Funding LP ("UDF I") and United Development Funding II LP ("UDF II"). UDF I and UDF II were private investment funds offered through a select number of broker-dealers and required a minimum investment of $25,000. The funds raised a total of approximately $33 million, and were formed to make equity investments and lend money to real estate developers, including first lien and subordinate loans secured by residential real estate designated for single-family lot development.

18. In August 2005, UDF filed a Form S-11 with the Commission to offer investments in a third fund, UDF III. UDF III was formed to originate and invest in loans for the acquisition of real property to be developed as single-family residential lots that would be sold to home builders. UDF III is a publicly-reporting, non-traded fund. The minimum investment for UDF III, however, was only $3,000, and the fund was offered by a much broader network of broker-dealers than the prior funds. UDF III concluded its primary offering in April 2009, raising approximately $350 million, which was 10 times the amount raised in its two prior funds combined.

19. UDF explained UDF III as being appropriate for investors seeking "current interest income." In an era of low investment yields, UDF III was an attractive investment because it offered to pay distributions (a/k/a investment returns) at an 8% to 9.75% annualized rate.

20. UDF III explained that it expected to earn investment returns by originating and purchasing loans as well as charging fees for providing credit enhancements to developers (*e.g.*, loan guarantees to third-party lenders). It would make short to medium-term loans to real estate developers at interest rates of 15% and above, which was higher than traditional bank financing. The developers would pledge existing real estate projects as collateral, and agree to pledge future projects as additional collateral, when needed. UDF III generally structured its loans as notes with interest payments and reductions to principal or "balloon payments" tied to cash received by the developer from the sale of a lot or parcel of land, municipal reimbursements, and refinancings. From inception of the note until a revenue or sale event, interest on the notes would accrue and then be rolled into the principal owed by the developer on a monthly or annual basis with the accrued interest amount being recognized by UDF III as income.

21. However, if and when developers made principal repayments, UDF III disclosed that its intent was to redeploy those funds "to create or invest in new loans during the term of the partnership" and that "[a]ny capital not reinvested will be used first to return to [investors'] capital contributions and then to pay distributions to [investors]." Instead, if UDF III wanted to make an investor distribution, it could borrow funds, use net proceeds from the offering, or use "cash available for distribution," which UDF III defined to include funds received from operations but ***not*** principal repayments. In sum, this meant that: (1) UDF III planned to loan investor funds to real estate developers; (2) when those developers repaid principal on their

loans, UDF III would reinvest those funds by creating or investing in new loans; and (3) UDF III was not obligated to make investor distributions, but if it did, that money would come from cash flow from operations, borrowings, or net proceeds of offerings, but not principal repayments.

22. The problem for investors under this scenario, given the nature of the limited partnership structure, is that they might find themselves responsible to pay taxes on "phantom income"—a situation where the partnership reports accrued interest as income to the IRS during a tax year, but no cash is received by the limited partners, because no distributions are paid out. As a result, UDF III disclosed in its prospectus that from time to time it "may borrow funds or use net proceeds from this offering… if we do not have cash available for distribution sufficient to cover taxes on any 'phantom income' to our limited partners." UDF III also disclosed that "we may fund our distributions from borrowings and the amount of distributions paid at any time may not reflect current cash flow from our investments." But nowhere did UDF III state that it could use funds from an affiliated fund (*e.g.*, UDF I, UDF IV) to pay distributions to UDF III investors.

23. In August 2008, UDF filed a Form S-11 with the Commission to offer investments in a new fund, UDF IV, with a plan to raise up to $500 million. UDF IV's initial registration statement, which went effective in 2009, offered common stock at $20 per share without listing on a public exchange. UDF IV concluded its primary offering in May 2013 after raising at least $610 million. In June 2014, UDF IV listed its stock on the NASDAQ under the symbol "UDF," becoming UDF's first publicly-traded fund.

24. Once funded, UDF IV issued loans at rates of 13% and above, which was again higher than rates offered by commercial lending banks. UDF IV built on the story of UDF III, and the prospectus described UDF IV being involved with investments similar to UDF III. For

example, UDF IV claimed that it would employ an "actively managed portfolio approach" to "make, originate or acquire interest in secured loans . . . for the acquisition of land and development of single-family lots" and related construction. The UDF IV prospectus section exclusively discussing UDF III also stated, "UDF III has investment objectives similar to ours and concentrates on making development loans to single-family lot developers. . . . UDF III reinvests the proceeds from loan repayments . . . [and] [p]roceeds from the repayment of loans are reinvested in new loans."

B. UDF III Pays Distributions Using Undisclosed Transfers

25. UDF III's and IV's offering model was predicated on an expectation that it would make regular distributions to investors. UDF III began making distributions to investors in September 2006, before the offering had even closed. By 2009, the offering was complete and substantially all of its capital was deployed, because UDF III had made numerous loans to developers. At times, UDF III's monthly distributions to investors exceeded the payments UDF III received from its developer borrowers during the same period. As a result, UDF III borrowed $15 million from a third-party lender so it could continue to fund investor distributions, which it previously disclosed to investors that it might do. UDF III also sold interests (a/k/a participations) in its loans to other UDF funds to raise cash, and disclosed these related-party transactions to its investors in its periodic reports.

26. By 2011, UDF III, at times, did not have sufficient monthly cash flow to cover its distributions. UDF III investors had come to expect regular monthly income from distributions and did not want to have to pay taxes on phantom income. Also, UDF had begun offering interests in its newest fund, UDF IV. Because UDF emphasized UDF III's regular distributions in its prior performance disclosures to prospective investors in UDF IV, any suspension or

stoppage in distributions could harm its ability to raise investor funds. UDF IV was raising money in its offering that it needed to put to work; not only to generate interest income to fund distributions to its investors, but also to generate origination and asset management fees for UDF operations—a portion of which were ultimately distributed to principals of the fund's advisor—and were tied to when money was loaned out on projects.

27. At times, UDF funded UDF III distributions in part by having UDF IV make secured real estate loans to UDF IV developers who used the proceeds to pay down their previous loans from UDF III. Those developers did not use the new UDF IV money to advance the underlying UDF IV development projects, but instead—*at UDF's direction*—used it to pay down interest and principal on the developers' outstanding loans from UDF III. UDF III then used the funds it received from the borrowers to make distributions to UDF III investors.

28. The developers involved did not object because their total outstanding indebtedness to "UDF" remained the same, and in many instances their cost of borrowing went down, because UDF IV loaned funds at a lower rate than UDF III. In fact, many times the borrower never touched the money from UDF IV.

29. Furthermore, UDF's reporting of these transfers created the appearance that UDF III was receiving enough money from operations on a monthly basis to support its ongoing distributions, and that UDF IV had sufficient borrower demand for its money to justify continuing to raise more. Money advanced by UDF IV was reflected in UDF IV's disclosures as an increase in a specific loan's carrying balance, but at times was not used to advance the construction of the project. And the pay down of UDF III loans with UDF IV money reduced the carrying amount of UDF III's loan portfolio. UDF III's disclosures reflected the repayment of loans, recognized income, and the timely payment of distributions; while UDF IV's

disclosures showed developers borrowing increasing amounts related to specific real estate projects.

30. The amounts involved were substantial. From at least January 2011 through December 31, 2015, UDF III received at least $225 million in cash inflows from various sources, including approximately $80 million from UDF IV. During this time period, UDF III paid its investors at least $133 million in monthly distribution payments, of which at least $67 million came from UDF IV.

31. Each of the UDF IV-to-UDF III transfers exhibited similar characteristics. Each month UDF received an email from an outside vendor detailing how much money was needed to make distributions to investors. UDF, which monitored daily cash flows and bank balances among all UDF entities, then determined the UDF III cash requirements to fund the investor distributions. When UDF III had insufficient cash on hand, UDF sent an internal email directing a transfer of funds available from UDF IV to UDF III. Once the transfer from UDF IV to UDF III was complete, instructions were sent to the accounting department directing a distribution to UDF III investors. Further, although UDF eventually obtained approval from the borrower for these transactions, and the transfer from UDF IV was permitted pursuant to certain transaction agreements, it was the lender (*i.e.*, UDF) and not the borrower that initiated the transactions. As discussed above, in many instances, the borrower never even touched the money from UDF IV.

32. UDF did not disclose the true nature of the transactions giving rise to the distributions to its investors, either internally or externally. To the contrary, UDF III investors were led to believe that their distributions were being paid from the operations of their fund, while UDF IV investors were led to believe that their investments were being deployed towards active real estate projects. Relying in part on these UDF IV-to-UDF III transfers, UDF III made

a monthly distribution payment to UDF III investors each month until February 2016. Thereafter, all distributions stopped.

33. UDF III's and UDF IV's annual reports on Forms 10-K, for at least the periods ended December 31, 2011 through December 31, 2014, and quarterly filings on Forms 10-Q for the periods ended December 31, 2011 through December 31, 2015, failed to adequately disclose the source of funds for UDF III's distributions to investors, and UDF III and UDF IV failed to adequately disclose the use of UDF IV funds to pay down UDF III loans and to make distributions to UDF III investors.

34. UDF IV investors would have considered this information important when making an investment decision that a portion of their invested funds were being used, not for the development of residential lots, but instead to pay down UDF III loans and to make distributions to UDF III investors. Likewise, UDF III investors would have considered it important when making an investment decision that the true source of a portion of their received distributions were not actually coming from funds from operations as disclosed in UDF III's filings with the Commission, but instead were the result of transfers from UDF IV. Further, in early 2016, UDF III and UDF IV ceased making dividend payments, causing investors' income to dry up and jeopardizing their investment returns. UDF IV shares plummeted from approximately $17 per share on the NASDAQ in late 2015 to consistently less than $3.50 per share on the OTC market.

C. <u>UDF III Fails to Impair Loans in Violation of GAAP</u>

35. UDF III was required to file financial statements with the Commission that complied with Generally Accepted Accounting Principles ("GAAP"). Among other things, this meant that UDF III had to disclose certain information about the loans it had made to developers

and inform investors if any significant outstanding loans became "impaired"—*i.e.*, UDF III believed it was unlikely to be able to collect on the loan.

37. In its 2012 Form 10-K, filed on March 31, 2013, UDF III identified several loans totaling $111,749,000 that had matured but had not been repaid or extended as of December 31, 2012 and impaired eight of those loans. The largest of these loans, which was not impaired as the note was amended during March 2013, was a 2008 loan to an Austin-based developer (the "Austin Borrower") that reflected an outstanding principal balance of $76,999,000. The 2013 10-K, filed on March 31, 2014 disclosed that the loan to the Austin Borrower was extended in March 2013 to a new maturity date of March 31, 2014, and increased to a new commitment amount of approximately $85 million. The disclosures further stated that full collectability for this loan was considered probable. But, UDF knew or should have known that full collectability from the Austin Borrower was not probable and, at best, highly uncertain.

38. In early March 2014, UDF's outside auditors met with UDF in connection with the 2013 audit to discuss any impairment issues related to UDF's loans. The outside auditors requested cash flow (*i.e.,* collectability) projections for selected loans, including the loan to the Austin Borrower. UDF had previously requested the Austin Borrower to prepare a cash flow projection (the "Borrower Projection") for its loan, which the Austin Borrower sent to UDF on March 18, 2014. The Borrower Projection showed an ever-increasing loan balance and that Austin Borrower would be unable to repay the loan with cash from current projects. UDF did not provide the Borrower Projection to its outside auditors. UDF created its own cash flow projection (the "UDF Projection") that used different assumptions and included the addition of eleven new projects that were projected to provide the Austin Borrower additional cash flow to pay off the loan. But the Austin Borrower had not vetted or agreed to undertake these eleven

new projects. The UDF Projection showed the Austin Borrower paying off the loan in full. The UDF Projection also used undiscounted cash flows. GAAP requires a company like UDF to measure impairment based on the present value of expected future cash flows discounted at the loan's effective interest rate. On March 25, 2014, UDF advised its auditors that it had completed its cash flow analysis and sent them the UDF Projection without providing the Borrower Projection or the nature of the assumptions UDF used.

39. UDF III violated GAAP because it recognized no specific impairment on its loan to the Austin Borrower in UDF III's 2013 Form 10-K filed on March 31, 2014, and in all subsequent periodic reports. Had UDF III properly complied with applicable GAAP, it would have recognized a specific loan loss allowance in addition to its general reserve balance and put the loan on non-accrual status with suspended income recognition at least as early as UDF III's 2013 Form 10-K. Impairment of the loan to the Austin Borrower was material to investors because it affected the status of the loan for UDF III's second-largest borrower.

40. Thereafter, UDF and the Austin Borrower engaged in protracted negotiations to unwind the failing relationship. Ultimately, UDF was unable to consummate the transfer of the Austin Borrower's loan portfolio to another developer. On January 6, 2017, UDF III filed a Form 8-K announcing certain agreements involving the Austin Borrower, including UDF III's forgiveness of more than $122 million of indebtedness.

D. <u>UDF IV Does Not Adequately Disclose Status of Real Property</u>

41. UDF IV disclosed to investors in its risk disclosures that "0%" of its loans were invested in "unimproved real property" for the periods ended December 31, 2012 through December 31, 2014. For example, UDF IV's 2014 Form 10-K states:

> We may invest in loans to purchase unimproved real property. As of December 31, 2014, we have invested 0% of our assets in such loans. Unimproved real property is generally defined as real property which has the following three characteristics: (a) an equity interest in real property which was not acquired for the purpose of producing rental or other income; (b) has no development or construction in process on such land; and (c) no development or construction on such land is planned in good faith to commence within one year.

42. These disclosures were important, because it led investors to believe that *all* the loans in UDF IV's portfolio, particularly those with large, multi-million dollar balances, were funding real estate projects that were actually under construction. The disclosures, however, did not adequately differentiate between loans under development versus actual construction. Several significant UDF IV properties were in entitlement and planning, but not being constructed. In some cases, there was no development at all on the properties, even after they had been in UDF IV's portfolio for years.

43. Nevertheless, UDF IV underwrote several loans that were disclosed in its 2014 Form 10-K that were for unimproved real property, including one where a UDF asset manager specifically requested property that would not need development for a period of years.

45. In November 2015, UDF's outside auditor declined to stand for reappointment and, since then, no UDF fund has released audited financial statements or periodic reports. Further, UDF III has now forgiven more than $100 million in debt on real estate in some of the fastest appreciating markets in the United States, but the exact write-offs by UDF III and UDF IV are unknown because no audited financials have been released.

E. <u>The Roles of Greenlaw, Etter, Wissink, and Obert</u>

46. Throughout the Relevant Period, Greenlaw, Etter, and Wissink were the only three voting members of UDF's Investment Committee, which made all of the investment, loan underwriting and impairment decisions for UDF III and IV. Obert was a regular attendee of and

participant in the Investment Committee meetings and knew the nature and status of these decisions. Greenlaw, Etter, Wissink, and Obert each knew, or should have known, about the transactions between UDF IV and UDF III giving rise to the distributions at issue, the payment of the distributions to UDF III investors using UDF IV funds, the collectability of UDF III's loan to the Austin Borrower, and UDF IV's loans to purchase unimproved real property.

47. Greenlaw and Obert signed every UDF III and UDF IV Forms 10-K and 10-Q filed with the Commission during the Relevant Period, and Etter signed every UDF III Form 10-K filed with the Commission during the Relevant Period. Greenlaw and Obert also, as required under Section 302 of the Sarbanes-Oxley Act, certified each of UDF III's and UDF IV's periodic filings during the Relevant Period. In addition, Greenlaw and Obert signed several UDF IV registration statements and amendments thereto filed with the Commission during the Relevant Period and through which UDF IV offered and sold securities. Greenlaw, Obert, and Wissink signed management representation letters to UDF's outside auditor during the Relevant Period.

48. As a result, Greenlaw, Obert, Wissink, and Etter knew, or should have known, that the disclosures and statements discussed above were false and misleading. UDF IV's capital raising activities also provided a portion of the fees paid to the funds' advisor. Greenlaw, Etter, Obert, and Wissink collectively received millions of dollars in compensation from the advisor during the Relevant Period in the form of distributions, guaranteed payments, salary, dividends, and miscellaneous income.

F. The Role of Hanson

49. During the Relevant Period, Hanson did not hold a position at UDF III and did not serve on the UDF Investment Committee or participate in its investment, loan underwriting, and impairment decisions. Hanson was, however, the Chief Accounting Officer of UDF IV, and in

that capacity signed every UDF IV Form 10-K, several UDF IV registration statements and amendments thereto through which UDF IV offered and sold securities, and numerous management representation letters to UDF IV's outside auditor. Hanson placed undue reliance on other UDF personnel and did not take sufficient actions to ensure the accuracy of or a sufficient basis for many of the representations contained therein, including representations related to loan losses, cash flows, disclosures, and internal controls.

FIRST CLAIM FOR RELIEF

Violations of Section 17(a)(2) of the Securities Act
(against UDF III, UDF IV, Greenlaw, Etter, and Obert)

50. The Commission realleges and incorporates by reference each and every allegation contained in the paragraphs above.

51. By engaging in the conduct described herein, UDF III, UDF IV, Greenlaw, Etter, and Obert, directly or indirectly, singly or in concert with others, in the offer or sale of securities, by use of the means and instrumentalities of interstate commerce and/or by use of the mails obtained money or property by means of untrue statements of a material fact and omitted 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.

52. By reason of the foregoing, UDF III, UDF IV, Greenlaw, Etter, and Obert have violated and, unless enjoined, will continue to violate Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)].

SECOND CLAIM FOR RELIEF

Aiding and Abetting Violations of Sections 17(a)(2)
(against Wissink and Hanson)

53. The Commission realleges and incorporates by reference each and every allegation contained in the paragraphs above.

54. By engaging in the conduct described herein, Wissink and Hanson knowingly or recklessly gave substantial assistance to UDF III, UDF IV, Greenlaw, Etter, and Obert in their violations of Sections 17(a)(2) of the Exchange Act [15 U.S.C. § 77q(a)(2)].

55. By reason of the foregoing, Wissink and Hanson aided and abetted UDF III's, UDF IV's, Greenlaw's, Etter's, and Obert's violations of Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)], and unless enjoined, will continue to aid and abet violations thereof.

THIRD CLAIM FOR RELIEF

Violations of Section 17(a)(3) of the Securities Act
(against UDF III, UDF IV, Greenlaw, Wissink, Etter, Obert, and Hanson)

56. The Commission realleges and incorporates by reference each and every allegation contained in the paragraphs above.

57. By engaging in the conduct described herein, UDF III, UDF IV, Greenlaw, Wissink, Etter, Obert, and Hanson, directly or indirectly, singly or in concert with others, in the offer or sale of securities, by use of the means and instrumentalities of interstate commerce and/or by use of the mails have engaged in transactions, practices, and courses of business which operate or would operate as a fraud and deceit upon the purchasers.

58. By reason of the foregoing, UDF III, UDF IV, Greenlaw, Wissink, Etter, Obert, and Hanson have violated and, unless enjoined, will continue to violate Section 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(3)].

FOURTH CLAIM FOR RELIEF

Violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13 (against UDF III and UDF IV)

59. The Commission realleges and incorporates by reference each and every allegation contained in the paragraphs above.

60. By engaging in the conduct described herein, UDF III and UDF IV, whose securities are registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78]), failed to file annual and quarterly reports (on Forms 10-K, 10-KSB, 10-Q, and 10-QSB) with the Commission that were true and correct, and failed to include material information in its required statements and reports as was necessary to make the statements made, in light of the circumstances under which they were made, not misleading.

61. By reason of the foregoing, UDF III and UDF IV violated, and unless enjoined, will continue to violate, Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13].

FIFTH CLAIM FOR RELIEF

Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act (against UDF III and UDF IV)

62. The Commission realleges and incorporates by reference each and every allegation contained in the paragraphs above.

63. By engaging in the conduct described herein, UDF III and UDF IV, whose securities are registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l]: (a) failed to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected the transactions and dispositions of its assets; and (b) failed to devise and maintain a system of internal controls sufficient to provide reasonable assurances that: (i) transactions were

recorded as necessary to permit preparation of financial statements in conformity with GAAP or any other criteria applicable to such statements, and (ii) to maintain accountability of assets.

64. By reason of the foregoing, UDF III and UDF IV violated, and unless enjoined, will continue to violate, Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)].

<u>SIXTH CLAIM FOR RELIEF</u>

Aiding and Abetting Violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13 (against Greenlaw, Wissink, Etter, Obert, and Hanson)

65. The Commission realleges and incorporates by reference each and every allegation contained in the paragraphs above.

66. By engaging in the conduct described herein, Greenlaw, Wissink, Etter, Obert, and Hanson knowingly or recklessly gave substantial assistance to UDF III and UDF IV in their violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13].

67. By reason of the foregoing, Greenlaw, Wissink, Etter, Obert, and Hanson aided and abetted UDF III's and UDF IV's violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13], and unless enjoined, will continue to aid and abet violations thereof.

SEVENTH CLAIM FOR RELIEF

Violations of Exchange Act Rule 13a-14 (against Greenlaw and Obert)

68. The Commission realleges and incorporates by reference each and every allegation contained in the paragraphs above.

69. Rule 13a-14 of the Exchange Act [17 C.F.R. § 240.13a-14] requires quarterly and annual reports on Forms 10-Q and 10-K to include certifications of the issuer's principal executive and principal financial officers in the form set forth under Section 302 of the Sarbanes-Oxley Act [15 U.S.C. § 721].

70. Pursuant to Section 302 of the Sarbanes-Oxley Act [15 U.S.C. § 721], Greenlaw and Obert certified that, based upon their knowledge, UDF III’s and UDF IV’s quarterly and annual reports did not contain any material misstatements or omissions, disclosed all significant deficiencies in internal controls, and fairly presented in all material respects the issuer’s financial condition and results of operations. Greenlaw and Obert knew, or should have known, these certifications were false.

71. By reason of the foregoing, Greenlaw and Obert violated Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14].

RELIEF REQUESTED

The Commission respectfully requests that the Court enter a final judgment:

a. permanently enjoining all Defendants from, directly or indirectly, violating Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. § 77q(a)(2) and (3)] and Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules 12b-20, 13a-1, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13];

b. permanently enjoining Defendants Greenlaw and Obert from, directly or indirectly, violating Exchange Act Rule 13a-14 [17 C.F.R. § 240.13a-14];

c. ordering Defendants Greenlaw, Wissink, Etter, and Obert to disgorge all ill-gotten gains, with prejudgment interest;

d. ordering Defendants Greenlaw, Wissink, Etter, Obert, and Hanson to pay civil penalties under Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3) and 78uA]; and

e. granting such other and further relief as the Court may deem just and appropriate.

Dated: July 3, 2018

Respectfully submitted,

<u>*/s/ Keefe M. Bernstein*</u>

Keefe M. Bernstein
Lead Attorney
Texas Bar No. 24006839
B. David Fraser
Texas Bar No. 24012654
Securities and Exchange Commission
801 Cherry Street, Suite 1900
Fort Worth, TX 76102
(817) 900-2607 (phone)
(817) 978-4927 (facsimile)
bernsteink@sec.gov

Attorneys for Plaintiff