

1 DEAN M. CONWAY
(*counsel for service*)
2 SARRA CHO
CHRISTOPHER NEE
3 Email: conwayd@sec.gov

4 Attorneys for Plaintiff
5 Securities and Exchange Commission
100 F Street NE
6 Washington, DC 20549
Telephone: (202) 551-4412
7 Facsimile: (202) 772-9245

8
9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF CALIFORNIA**

11
12 SECURITIES AND EXCHANGE
COMMISSION,

13 Plaintiff,

14 vs.

15 ROBERT A. KARMANN,

16 Defendant.
17

Case No.

COMPLAINT

18
19 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

20 **JURISDICTION AND VENUE**

21 1. The Court has jurisdiction over this action pursuant to Sections 20(b),
22 20(d)(1) and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C.
23 §§ 77t(b), 77t(d)(1) & 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27(a) of
24 the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1),
25 78u(d)(3)(A), 78u(e) & 78aa(a).

26 2. Defendant has, directly or indirectly, made use of the means or
27 instrumentalities of interstate commerce, of the mails, or of the facilities of a national
28 securities exchange in connection with the transactions, acts, practices and courses of

1 business alleged in this complaint.

2 3. Venue is proper in this district pursuant to Section 22(a) of the Securities
3 Act, 15 U.S.C. § 77v(a), and Section 27(a) of the Exchange Act, 15 U.S.C. § 78aa(a)
4 because certain of the transactions, acts, practices and courses of conduct constituting
5 violations of the federal securities laws occurred within this district. Defendant
6 committed many of the acts set forth in this Complaint in this district. For example,
7 Karmann maintained an office at Company S and initiated bank transfers and sent
8 emails from his office computer at Company S, which is located in this district.

9 **SUMMARY**

10 4. This case involves fraudulent securities offerings and a massive Ponzi
11 scheme that raked in over \$910 million in investor funds. This Ponzi scheme was
12 orchestrated by Individual 1 and Individual 2 through companies they controlled, and
13 which they used to enrich themselves at investors' expense. The Defendant in this
14 action, Robert Karmann, played an important role in this scheme to sell investment
15 opportunities offered by certain solar energy companies in the business of making,
16 leasing, and operating mobile solar generators ("Generators") -- investments that
17 were touted as presenting gains in the form of tax benefits, guaranteed lease
18 payments, and the resulting profits from the operation of the Generators. In reality,
19 the vast majority of "revenue" sent to investors came from investor money, not from
20 actual lease payments from end-users of the Generators. Beginning in approximately
21 late 2014, Karmann advanced the scheme by transferring and/or coordinating the
22 transfer of funds among various bank accounts to hide the lack of legitimate lease
23 revenue. Karmann also provided reports and financial statements that he knew
24 contained false information to brokers, investors, and/or prospective investors.

25 5. In 2011, Individual 1 and Individual 2 began selling investment contracts
26 through their privately-held alternative energy companies Company S and Company
27 D (collectively with Individuals 1 and 2 "the Company"). Through December 2018,
28 the Company raised around \$910 million from purchasers of the investment contracts.

1 The Company designed the investments to take advantage of tax credits that were
2 available to certain alternative energy related projects. To that end, investors
3 purchased Generators from Company S and then immediately leased them to
4 Company D. Company D was then supposed to sub-lease the Generators to end-
5 users. The Company touted itself as a major player in its industry, with thousands of
6 Generators in the field, lucrative contracts with big customers yielding a track record
7 of consistent revenue, and extensive experience in making and maintaining the
8 Generators and finding customers for them.

9 6. That was all a sham. The Company had manufactured and put into
10 service far fewer Generators than it claimed, and made hardly any of its revenue from
11 leasing Generators. In fact, Company S did not actually manufacture about two-
12 thirds of the Generators that it purportedly sold to investors. Recent intensive efforts
13 by investors to locate the Generators have identified just 5,858 of the approximately
14 17,600 Generators for which the Company entered into investor contracts. Investors
15 paid hundreds of millions of dollars for Generators that never existed. And,
16 legitimate lease income from actual end-users of the Generators represented a tiny
17 fraction -- less than 5% -- of Company D's revenue. The vast majority of Company
18 D's revenue was comprised of investor funds transferred from Company S. In
19 reality, the vast majority of investor funds was not being used to manufacture, place
20 into service, and maintain the thousands of Generators that the Company was using as
21 the basis for investment contracts, but was instead being pilfered by Individuals 1 and
22 2 for their personal benefit, such as the purchase of luxury vehicles and real estate,
23 and used to make lease payments and distributions to earlier investors.

24 7. Defendant Karmann played a key role in the scheme by helping to create
25 the false appearance that Company D was generating legitimate lease revenue.
26 Karmann is a certified public accountant who ultimately served as the Chief Financial
27 Officer of Company S. As Company D did not have its own CFO and was closely
28 affiliated with Company S, Karmann performed essentially the same CFO duties for

1 Company D as well. Throughout much of the scheme, because Company D was
2 generating minimal amounts of legitimate lease revenue from end-users of the
3 Generators, Karmann transferred money from the bank account of Company S to the
4 bank account of Company D each month. These transfers allowed Company D to
5 make the lease payments that it owed to investors and conceal the fact that it was
6 generating hardly any revenue from sub-leasing the Generators to end-users.
7 Karmann also provided false information to investors concerning the source of
8 Company D's revenue and the sub-leases of their Generators.

9 8. As a result of the conduct alleged herein, Defendant has violated the
10 antifraud provisions of the Securities Act and the Exchange Act. The SEC brings this
11 action and seeks entry of permanent injunctions against Defendant as well as
12 disgorgement of ill-gotten gains and prejudgment interest thereon and civil penalties.

13 **THE DEFENDANT**

14 9. Robert A. Karmann is a resident of Clayton, CA. He was the CFO and
15 prior to that, the Controller, of Company S from late 2014 through 2018. He holds a
16 CPA license in California.

17 **RELATED INDIVIDUALS AND ENTITIES**

18 10. Company S is a California corporation headquartered in Benicia, CA. It
19 was owned by Individual 1. Company S is not registered with the SEC in any
20 capacity. It filed for bankruptcy protection in early 2019 and is currently in Chapter 7
21 proceedings.

22 11. Company D is a California corporation headquartered in Benicia, CA. It
23 was owned by Individual 2. Company D is not registered with the SEC in any
24 capacity. It filed for bankruptcy protection in early 2019 and is currently in Chapter 7
25 proceedings.

26 12. Individual 1 was a resident of Martinez, CA during the relevant time
27 period. In addition to owning Company S, Individual 1 was the President and a
28 Director of Company S and the Vice President and a Director of Company D.

1 13. Individual 2 was a resident of Martinez, CA during the relevant time
2 period. In addition to owning Company D, Individual 2 was the President, Secretary,
3 Treasurer, and a Director of Company D and the Secretary, Treasurer and a Director
4 of Company S.

5 14. Ronald J. Roach is a resident of Walnut Creek, California. Roach was a
6 certified public accountant and the owner of Ronald J. Roach Accountancy
7 Corporation. He has held Series 6, 7, 63 and 65 securities licenses and was a
8 registered investment adviser and a registered representative.

9 **FACTUAL ALLEGATIONS**

10 **A. Background on the Company**

11 15. Individuals 1 and 2 are the owners and principals of Company S and
12 Company D. To investors, the Company claimed that it “design[ed], manufacture[d]
13 and lease[d] renewable energy products to serve the off-grid needs of a broad and
14 diverse marketplace – while providing investors with access to the renewable energy
15 asset class.”

16 **B. The Company Offerings**

17 **(1) The Solicitation of Investors**

18 16. Since at least 2011 and continuing to December 2018, the Company
19 offered securities to investors. The securities took the form of two types of
20 investment contracts: (1) Investment Fund Contracts and (2) Sale-Leaseback
21 Contracts. Under both arrangements, the investors paid to purchase Generators from
22 Company S, while simultaneously leasing them to Company D. Company D would
23 then arrange to sub-lease the Generators to end-users. The investors expected to
24 profit from the investments due to tax credits, depreciation on the Generators, and
25 lease payments. Investors thus played an entirely passive role: the success of the
26 venture, and thus the profits to investors and the Company, turned entirely on the
27 efforts of the Company to make, maintain, market, and lease the Generators.

28 17. Over the course of the offerings, the Company raised approximately

1 \$910 million in investor money. These deals had face values of more than \$2.7
2 billion because investors in the Investment Fund Contracts financed approximately 70
3 percent of the amount of their investments through promissory notes.

4 18. The Company, directly and indirectly, solicited investors through
5 brokers and salespeople using various methods, including email, conference calls and
6 in-person meetings. The Company offered and sold Investment Fund Contracts and
7 Sale-Leaseback Contracts through interstate commerce to investors across the United
8 States.

9 19. The Company marketed itself as having extensive experience and
10 capabilities in the renewable energy field and in executing successful transactions for
11 investors. For example, pitch-books for investors, which were prepared by a broker
12 working on behalf of the Company using information provided by the Company,
13 emphasized that the Company had thousands of Generators deployed and
14 manufacturing capabilities of 900 Generators per month. They also highlighted that
15 the Company had closed many prior investment funds with “headline” or “notable”
16 investors, including funds with fair market values near or over \$100 million, and that
17 the “performance of each of the funds remains in good standing.” In addition, the
18 materials claimed the Company had “customer relationships with leading companies
19 in the telecommunications, entertainment and construction industries” and provided
20 case studies of the established leasing arrangements with many of those customers.
21 Finally, certain of the pitch-books provided a “Summary of Investor Returns” with
22 estimated internal rates of return ranging from 40 to as high as 50 percent.

23 **(2) The Terms of the Investment Fund Contract Offerings**

24 20. Investment Fund Contract investors executed a standard package of
25 agreements, including: (i) a Limited Liability Company Agreement (“LLC
26 Agreement”); (ii) a Solar Equipment Purchase Agreement (“Purchase Agreement”);
27 (iii) a Secured Promissory Note (“Promissory Note”); and (iv) a Mobile Solar
28 Equipment Lease (“Equipment Lease”) (together the “Investment Fund Contracts”).

1 The documents were executed at or around the same time, with Individual 1 signing
2 the Purchase Agreements on behalf of Company S and Individual 2 typically signing
3 the Equipment Leases on behalf of Company D. While the Investment Fund
4 Contracts for certain deals had minor variations in wording, they largely had the same
5 substantive terms.

6 21. Under the terms of the LLC Agreement, an investor became the
7 “Investor Member” of the Investment Fund Limited Liability Company (“Investment
8 Fund”), an entity created specifically for the purpose of the investment. This
9 Investment Fund then purchased Generators from Company S at a price of \$150,000
10 per Generator under the Solar Equipment Purchase Agreement. The Purchase
11 Agreement specified the total number of Generators being purchased as well as the
12 total purchase price. An Exhibit to the Purchase Agreement contained a blank space
13 for the Vehicle Identification Numbers (“VINs”) for the Generators or stated that
14 “VIN for each Generator to be Supplied at Delivery.” In exchange for the payment,
15 Company S agreed to deliver the Generators by a certain date or dates and warranted
16 “to Buyer that all Equipment shall be in good working order in conformity with the
17 Specifications for a period” of five or ten years.

18 22. The delivery dates for tranches of Generators specified in the Purchase
19 Agreements were often scheduled in stages. Likewise, the Purchase Agreements
20 dictated that payments would be due to Company S in stages according to a schedule
21 in part dictated by capital contributions being made by the investor under the terms of
22 the LLC Agreement. Those capital contributions were contingent on the investor
23 receiving confirmation that the Generators were “Placed in Service” as evidenced by
24 an “IE [Independent Engineer] Certificate.”

25 23. Investors generally contributed about thirty percent of the purchase price
26 in cash and financed the balance pursuant to a Promissory Note or Notes executed by
27 the Investment Fund in favor of Company S. The Promissory Note was an exhibit to
28 the Purchase Agreement. The Company told investors, and arranged for a tax

1 opinion letter from a law firm confirming, that the Generators qualified for the
2 Energy Credit under Internal Revenue Code § 48. That provision allows for a thirty
3 percent tax credit for certain energy-related investments. Thus, investors expected to
4 be able to take a tax credit for roughly the same amount as their cash contribution to
5 the investment.

6 24. Under the Investment Fund Contracts, the Generator business was left
7 entirely to the Company. At the time the Investment Funds executed the Purchase
8 Agreement with Company S, the Investment Funds also executed the Mobile Solar
9 Equipment Lease with Company D for at least the first batch of Generators being
10 purchased. Depending on the size of the transaction, as additional tranches of
11 Generators were manufactured, additional Equipment Leases were executed. Under
12 the Equipment Leases, the Investment Funds leased their Generators to Company D
13 for terms ranging up to 120 months. The Equipment Leases provided that Company
14 D shall use “the Solar Equipment in a careful and proper manner” and “shall comply
15 with all laws, regulations and ordinances.” Moreover, the Equipment Leases stated
16 that Company D shall be “solely responsible for the maintenance and repair of the
17 Solar Equipment” and “shall ensure the Solar Equipment is operational and capable
18 of producing solar energy at all times.” The Equipment Leases required Company D
19 to “obtain, maintain and keep” insurance coverage on the Generators in the amount of
20 the replacement cost as well as “liability insurance.” In addition, the Equipment
21 Leases required Company D to “promptly pay when due, all license fees, registration
22 fees, sales taxes, use and property taxes, assessments, charges and other taxes”
23 imposed upon the Generators.

24 25. The Equipment Leases further provided for a set amount of “Base Rent”
25 to be paid to the Investment Fund in advance in monthly installments for the term of
26 the lease as well as payment to the Investment Fund of “Additional Rent” or
27 “Variable Rent” to the extent Company D received revenue from subleasing the
28 Generators in excess of a certain amount. The amount of additional or variable rent

1 due to the Investment Fund varied depending on the deal and the calculation was
2 specified in the Equipment Lease.

3 26. The Investment Fund Contracts were structured such that there was a
4 flow of money between the Investment Funds and the Company, all of which was
5 contingent on the Generators generating significant sub-lease revenue from legitimate
6 end-users. Company D owed monthly lease payments to the Investment Funds
7 purportedly to be paid with the sub-lease revenue it received from third-party
8 customers. The Investment Funds would then use the lease payments they received
9 from Company D under the terms of the Equipment Leases to make monthly
10 payments due to Company S under the terms of the Promissory Notes. Investors
11 expected several benefits under the arrangement, including the thirty percent energy
12 tax credit and the ability to claim significant depreciation on the Generators. In
13 addition, investors expected to receive yearly cash distributions from the Investment
14 Funds. In general, the LLC Agreements stated that “Distributable Cash,” defined as
15 the amount of cash from lease revenue remaining after loan payments and operating
16 expenses, would be paid out to investors on an annual basis. Based on financial
17 projections for the Investment Funds that were provided to investors, investors
18 expected to receive these cash distributions.

19 27. From December 2011 through December 2018, the Company closed 34
20 Investment Fund Contracts, involving 13 investors, totaling about \$2.57 billion in
21 face value. The investors made roughly \$759 million in cash contributions to their
22 Investment Fund Contracts. Twenty-four of these Investment Fund Contracts,
23 involving investor cash contributions of \$651 million, were closed after Karmann
24 joined Company S in 2014.

25 **(3) The Terms of the Sale-Leaseback Contract Offerings**

26 28. The Company began offering the second type of security, the Sale-
27 Leaseback Contracts, in around 2017. Investors in the Sale-Leaseback Contracts
28 typically executed several agreements including: (i) a Sale Agreement; (ii) an

1 Equipment Lease Agreement; and (iii) a Schedule (collectively the “Sale-Leaseback
2 Contracts”). Individual 1 typically signed the Sale Agreement on behalf of Company
3 S, or in one instance on behalf of another affiliate of the Company, and Individual 2
4 typically signed the Lease Agreement and the Schedule on behalf of Company D.
5 While the Sale-Leaseback Contracts for certain deals had minor variations in
6 wording, they largely had the same substantive terms.

7 29. The Sale-Leaseback Contracts differed from the Investment Fund
8 Contracts in that investors purchased the Generators outright from Company S, or in
9 one instance another affiliate of the Company, without executing a Promissory Note.
10 Under the Sale Agreement, investors paid \$150,000 for each Generator they
11 purchased. The Generators were identified by VIN in an exhibit attached to that
12 Agreement. In exchange for the purchase price, Company S agreed to convey to the
13 investors “all right, title and interest in” the Generators.

14 30. One Sale-Leaseback Contract transaction differed from the others in that
15 the investor purchased used Generators and paid \$82,500 for each. As the Generators
16 were used, they did not qualify for the tax credit. However, the investment worked
17 the same as the other Sale-Leaseback Contracts with the investor immediately leasing
18 the Generators to Company D and being entirely reliant on Company D to maintain
19 and sub-lease the Generators.

20 31. Just as was done in the Investment Fund Contracts, under the Sale-
21 Leaseback Contracts the investors immediately leased the Generators back to
22 Company D (or another affiliate of the Company) in return for monthly payments
23 purportedly to be made from sub-lease payments. Under the Lease Agreement,
24 Company D committed to keeping the Generators “in good repair” and operating
25 condition and to “maintain” insurance coverage on the Generators as well as “liability
26 insurance.” The Lease Agreement also required Company D to pay, or reimburse the
27 investor for, all taxes, fees, and assessments imposed on the Generators.

28 32. Like the Investment Funds, most investors in the Sale-Leaseback

1 Contracts received an “IE Certificate,” or “IE Commissioning Report,” for each new
2 Generator that they purchased.

3 33. The Schedule to the Lease Agreement set forth the term of the lease and
4 a set lease payment due to the investors from Company D each month. An
5 attachment to the Schedule again identified the Generators by VIN. In addition to the
6 monthly lease payments, most Sale-Leaseback Contract investors expected to be able
7 to take the 30 percent energy tax credit as well as depreciation on the Generators they
8 purchased. In fact, the Schedules in certain of the Sale-Leaseback Contracts
9 specifically referenced the energy tax credit and depreciation and required Company
10 D to use the Generators so as to remain eligible for those tax benefits. Based on the
11 combination of tax benefits and lease revenue, the Sale-Leaseback Contract investors
12 expected to earn a positive return and profit from these transactions.

13 34. From 2017 through 2018, the Company completed seven Sale-
14 Leaseback Contracts, involving four investors, in transactions worth nearly \$151
15 million. All seven Sale-Leaseback Contracts were completed after Karmann joined
16 Company S.

17 **(4) The Company’s Offerings Are Securities**

18 35. The Company offered and sold the Investment Fund Contracts and Sale-
19 Leaseback Contracts through interstate commerce to investors located in multiple
20 states.

21 36. The Company’s Investment Fund Contracts and Sale-Leaseback
22 Contracts are securities in the form of investment contracts. They represented an
23 investment of money, in a common enterprise, with the expectation of profits to be
24 derived from the efforts of a third party. Investors provided money to the Company
25 for investment purposes. Because the terms of the Investment Fund Contracts and
26 Sale-Leaseback Contracts tied the fortunes of the investors to those of the Company
27 and its ability to manufacture the Generators and then sub-lease them at optimal rates,
28 investors were investing in a common enterprise. And, because the terms of the

1 Investment Fund Contracts and Sale-Leaseback Contracts made investors entirely
2 dependent on the Company to manufacture, operate and maintain their purported
3 Generators, the Company's efforts were essential to the failure or success of the
4 common enterprise. Investors also had an expectation of profits from the tax benefits
5 and payment stream to be generated from the enterprise.

6 **C. Karmann Committed Deceptive Acts in Furtherance of the Fraud**

7 37. Unbeknownst to investors, most of the lease revenue paid to investors
8 consisted of investor funds, rather than lease income from legitimate end-users of the
9 Generators. Karmann knowingly took part in hiding these facts from investors and
10 perpetuating the Company's fraud.

11 **(1) Karmann Moved Funds Among Accounts**

12 38. Lease revenue from end-users of the Generators was critical to the
13 success of the investments because it would be the source of the funds that Company
14 D needed to make lease payments to the Investment Funds and Sale-Leaseback
15 Contract investors. Although Company D purported to be earning millions each
16 month in lease revenue from end-users of the Generators, bank records demonstrate
17 that Company D generated minimal lease revenue from sub-leases to end-users. In
18 fact, the vast majority of funds flowing into Company D's bank accounts consisted of
19 transfers of investor funds from Company S.

20 39. For example, during the period of January 2013 through December
21 2018, a total of about \$409,930,000 was deposited to Company D's bank accounts.
22 Of that amount, approximately \$383,347,000 -- or 93.5% -- consisted of transfers
23 from Company S's bank accounts. And, another \$8,268,000 -- or 2.0% -- consisted
24 of transfers from the bank accounts of different Investment Funds. At most,
25 \$18,316,000 -- or 4.5% -- of the deposits to Company D's bank accounts during the
26 time period represented sub-lease payments from end-users of the Generators.

27 40. But, during this period, Company D paid about \$347,800,000 to various
28 Investment Funds and Sale-Leaseback Contract investors, most of which took the

1 form of “lease payments” owed under the operative Equipment Lease Agreements.
2 Accordingly, Company D’s payments were not funded by legitimate sub-lease
3 revenue, but instead by investor funds cycled through Company S.

4 41. Karmann played a key role in the monthly transfers of funds from
5 Company S to Company D throughout his time working with DC Solar. Karmann
6 was introduced to the Company in 2013, when he was hired by Roach as a consultant
7 for Roach’s accounting firm to work on various tax and book-keeping matters for the
8 Company. During this period, Karmann became aware of the monthly transfers of
9 funds between Company S and Company D and was part of communications with
10 employees of Company S, including Individuals 1 and 2, about the amounts that
11 needed to be transferred so that Company D could make its lease payments to the
12 Investment Funds.

13 42. In approximately August 2014, Karmann was hired as the Controller of
14 Company S. When he first started as an employee of Company S, Karmann did not
15 have the ability to initiate bank transfers himself. However, he calculated the
16 amounts that were owed by Company D to the Investment Funds each month and the
17 amounts owed by the Investment Funds to Company S under the terms of the
18 Promissory Notes. He also calculated the amount that needed to be transferred from
19 Company S to Company D each month so that Company D could make the lease
20 payments owed to the Investment Funds and created spreadsheets that specified the
21 exact amounts that needed to be transferred among the various entities and in what
22 order. After making these calculations, Karmann provided the information to
23 Individual 2 or other employees, who would then make the transfers.

24 43. In early 2015, Karmann gained the ability to initiate transfers between
25 the bank accounts of Company S, Company D, and the Investment Funds himself.
26 Near the end of 2015, he became the CFO of Company S. He continued to have the
27 ability to make transfers between the bank accounts of Company S, Company D and
28 the Investment Funds from early 2015 through the end of 2018. Once he gained this

1 ability, Karmann became the person responsible for the cycling of the funds between
2 the bank accounts of those entities to mask the lack of legitimate lease revenue from
3 end-users of the Generators being earned by Company D. Karmann, or other
4 Company S employees working under Karmann, continued to calculate the amounts
5 that were owed by Company D to the Investment Funds (and to some of the Sale-
6 Leaseback Contract investors after those investments began in 2017) each month and
7 the amounts owed by the Investment Funds to Company S under the terms of the
8 Promissory Notes, as well as the amount that needed to be transferred from Company
9 S to Company D to make all of these payments possible. Each month, once the
10 calculations were made, Karmann made the transfers between the various accounts.

11 44. There were times when Company S had sufficient money in its bank
12 account to fund all of the payments that Company D needed to make to the
13 Investment Funds and the Sale-Leaseback Contract investors simultaneously.
14 However, there were months when Company S did not have sufficient money in its
15 bank account to fund all of the lease payments that Company D needed to make. As
16 a result, transfers of money needed to be staggered to allow money to be cycled back
17 to Company S from certain Investment Funds in payments under the Promissory
18 Notes before additional transfers could be made from Company S to Company D to
19 fund lease payments to different Investment Funds. There also were instances when
20 Company D missed making timely lease payments due to insufficient money being
21 available in the bank account of Company S. Due to the risk of there being
22 insufficient money, Karmann's role in the determination of the transfer order was of
23 critical importance.

24 45. Karmann made the transfers of money in order to perpetuate the
25 Company's fraudulent scheme and to give the false appearance to investors that
26 Company D was generating sufficient lease revenue from end-users of the Generators
27 for the investments to be profitable. As the Controller and then CFO, Karmann had
28 access to the bank accounts and the accounting records maintained in QuickBooks of

1 both Company S and Company D. He knew Company D was collecting minimal
2 lease revenue from end-users of the Generators. He also knew that Company S was
3 subsidizing Company D each month, mostly using investor funds, so that Company D
4 could make the lease payments due to the Investment Funds and Sale-Leaseback
5 Contract investors. And, he knew that investors were not informed of this
6 arrangement. His actions helped to keep the scheme running as new and existing
7 investors purchased additional Investment Fund Contracts or Sale-Leaseback
8 Contracts during the years he was cycling money through the various accounts.

9 **(2) Karmann Provided False Information to Investors**

10 46. In addition to cycling money to perpetuate the scheme, at various points
11 during his tenure as an employee of Company S from mid-2014 through late 2018,
12 Karmann provided false information to investors about the actual amount of lease
13 revenue generated from end-users of the Generators, the true source of the funds
14 coming into Company D, and the status and performance of their investments.

15 47. Prospective investors routinely requested financial statements from
16 Company D and Company S before investing. In response, the Company often
17 provided investors with financial statements, including financial statements
18 accompanied by “Accountants’ Compilation Reports” for Company D and Company
19 S covering various periods between 2011 through July 2018 and financial statements
20 accompanied by “Independent Auditor’s Reports” for Company S for each year from
21 2012 through 2017. The financial statements accompanying these reports contained
22 false and misleading information.

23 48. The income statements for Company D accompanying the compilation
24 reports falsely stated that Company D generated hundreds of millions of dollars of
25 revenues in “Rental Income.” In reality, the overwhelming majority of purported
26 “Rental Income” consisted of intercompany transfers from Company S. The income
27 statements were intended to mislead investors and potential investors into believing
28 that Company D made hundreds of millions of dollars in “Rental Income” from end-

1 users of the Generators.

2 49. Similarly, the financial statements in the various compilation reports and
3 independent auditor's reports for Company S also contained false information. The
4 cash infusions of hundreds of millions of dollars from Company S to Company D
5 were hidden in the "Direct Costs" category of Company S's income statements. In
6 reality, these payments had nothing to do with the costs of manufacturing the
7 Generators. Company S categorized the payments in this manner to conceal from
8 investors the fact that Company S funded Company D's "Rental Income."

9 50. At various points between 2014 and 2018, Karmann sent certain of the
10 financial statements and the accompanying reports via email to brokers to be passed
11 on to investors or prospective investors and, on at least one occasion in 2015, directly
12 to an existing investor which later made additional investments. As the Controller
13 and then CFO, Karmann had access to the accounting records for Company S and
14 Company D, and was fully aware that Company D had very little actual lease revenue
15 and that Company S infused it with cash. Karmann therefore knew that the various
16 compiled and audited financial statements contained false information. Karmann
17 never told investors, prospective investors or brokers that information contained in
18 these financial statements was false or inaccurate, but he recognized that such
19 information would be important to them.

20 51. Karmann also provided false information to an investor (together with
21 affiliates "Investor DV") about the details of the leases for the Generators owned by
22 the Investment Funds in which Investor DV had invested. Investor DV invested in
23 four Investment Funds between 2013 and 2015. After making these investments,
24 Investor DV required quarterly reports for each of its Investment Funds. Beginning
25 at least as early as the start of 2016, Karmann, or other employees of Company S
26 working under and at the direction of Karmann, prepared these quarterly reports and
27 provided them to Investor DV via email or through an online portal. The reports
28 prepared for one of the Investment Funds contained the VIN, location, name of

1 company sub-leasing the Generator, lease term, and lease amount in dollars for each
2 Generator owned by the Investment Fund. The reports prepared for the other
3 Investment Funds contained similar information but were not as detailed because all
4 of the Generators owned by those Investment Funds were purportedly allocated to a
5 single lessee.

6 52. The information provided to Investor DV in these quarterly reports,
7 including information about the companies sub-leasing the Generators and the
8 amounts of the leases, was false. Although Karmann relied on a member of the
9 operations department at the Company and Individual 1 to provide the information
10 about the Generators that he and/or his team then placed into the quarterly reports,
11 Karmann knew that the information contained in the reports was false. Karmann had
12 access to the bank accounts and the accounting records in QuickBooks of Company
13 D and, as a result, he knew that Company D was collecting virtually no money from
14 the companies identified as the sub-lessees of the Generators. And, he came to learn
15 from an employee in the operations department that the Company could not track the
16 locations of the Generators.

17 53. Karmann, and/or members of his team acting at his direction, provided
18 the quarterly reports to Investor DV for each quarter at least as early as the start of
19 2016 through the third quarter of 2018. During those years, numerous additional
20 investors purchased Investment Fund Contracts and Sale-Leaseback Contracts. In
21 providing these reports to Investor DV, Karmann assisted in keeping the fraudulent
22 scheme afloat by lulling Investor DV into believing that its investments were
23 performing as intended. Karmann understood that had investors discovered that their
24 Generators were not actually sub-leased to end-users and were not generating lease
25 revenue, they likely would have taken action to protect their interests, the scheme
26 would have been uncovered, and the Company would not have been able to defraud
27 additional investors.

28 54. Karmann profited from his work for the Company over the years,

1 earning at least \$1.4 million in salary, bonuses, and other compensation between
2 August 2014 and December 2018.

3 **FIRST CLAIM FOR RELIEF**

4 **Fraud in Connection With the Sale of Securities**
5 **Violations of Section 10(b) of the Exchange Act**
6 **and Rules 10b-5(a) and (c) Thereunder**

7 55. The SEC realleges and incorporates by reference paragraphs 1 through
8 54 above.

9 56. Defendant Karmann, by engaging in the conduct described above,
10 directly or indirectly, in connection with the purchase or sale of a security, by the use
11 of means or instrumentalities of interstate commerce, of the mails, or of the facilities
12 of a national securities exchange, with scienter:

- 13 a. employed devices, schemes, or artifices to defraud; or
14 b. engaged in acts, practices, or courses of business which operated
15 or would operate as a fraud or deceit upon other persons.

16 57. By engaging in the conduct described above, Defendant Karmann
17 violated, and unless restrained and enjoined will continue to violate, Section 10(b) of
18 the Exchange Act, 15 U.S.C. § 78j(b), and Rules 10b-5(a) and (c) thereunder, 17
19 C.F.R. §§ 240.10b-5(a) & 240.10b-5(c).

20 **SECOND CLAIM FOR RELIEF**

21 **Fraud in the Offer and Sale of Securities**
22 **Violations of Sections 17(a)(1) and (3) of the Securities Act**

23 58. The SEC realleges and incorporates by reference paragraphs 1 through
24 54 above.

25 59. Defendant Karmann, by engaging in the conduct described above, in the
26 offer or sale of securities by the use of means or instruments of transportation or
27 communication in interstate commerce or by use of the mails, directly or indirectly:

- 28 a. with scienter, employed devices, schemes, or artifices to defraud;

1 or

2 b. engaged in transactions, practices, or courses of business which
3 operated or would operate as a fraud or deceit upon the purchaser.

4 60. By engaging in the conduct described above, Defendant Karmann
5 violated, and unless restrained and enjoined will continue to violate, Sections 17(a)(1)
6 and (3) of the Securities Act, 15 U.S.C. § 77q(a)(1) and (3).

7 **PRAYER FOR RELIEF**

8 WHEREFORE, the SEC respectfully requests that the Court:

9 **I.**

10 Issue judgments, in forms consistent with Fed. R. Civ. P. 65(d), permanently
11 enjoining Defendant, and his agents, servants, employees, and attorneys, and those
12 persons in active concert or participation with any of them, who receive actual notice
13 of the judgment by personal service or otherwise, and each of them, from violating
14 Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), Section 10(b) of the
15 Exchange Act, 15 U.S.C. §§ 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-
16 5.

17 **II.**

18 Upon motion of the Commission, order Defendant to disgorge all ill-gotten
19 gains he received, together with prejudgment interest thereon.

20 **III.**

21 Upon motion of the Commission, order Defendant to pay civil penalties under
22 Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the
23 Exchange Act, 15 U.S.C. § 78u(d)(3).

24 **IV.**

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

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V.

Grant such other and further relief as this Court may determine to be just and necessary.

Dated: December 17, 2019

/s/ Dean M. Conway
Dean M. Conway
Sarra Cho
Christopher Nee
Attorneys for Plaintiff
Securities and Exchange Commission