163 Pages

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

In re:

AMERICAN EAGLE MORTGAGE 100, LLC; AMERICAN EAGLE MORTGAGE 200, LLC; AMERICAN EAGLE MORTGAGE 300, LLC; AMERICAN EAGLE MORTGAGE 400, LLC; AMERICAN EAGLE MORTGAGE 500, LLC; AMERICAN EAGLE MORTGAGE 600, LLC; AMERICAN EAGLE MORTGAGE MEXICO 100, LLC; AMERICAN EAGLE MORTGAGE MEXICO 200, LLC; AMERICAN EAGLE MORTGAGE MEXICO 300, LLC; AMERICAN EAGLE MORTGAGE MEXICO 400, LLC; AMERICAN EAGLE MORTGAGE MEXICO 500, LLC; AMERICAN EAGLE MORTGAGE MEXICO 600, LLC; AMERICAN EAGLE MORTGAGE I, LLC; AMERICAN EAGLE MORTGAGE II, LLC; and AMERICAN EAGLE MORTGAGE SHORT TERM, LLC.

Case No. 19-2-01458-06

DECLARATION OF EDWARD T. DECKER IN SUPPORT OF RECEIVER'S MOTION TO APPROVE SETTLEMENT AGREEMENTS WITH PACIFIC PREMIER BANK AND RIVERVIEW BANK AND GRANT RELATED RELIEF

DATE: August 18, 2023
TIME: 9:00 a.m.
JUDGE: David E. Gregerson
PLACE: Department No. 2

I, Edward T. Decker, state and declare as follows:

1. I am a partner with the law firm of Miller Nash LLP ("Miller Nash"), which acts as general counsel to Clyde A. Hamstreet & Associates, LLC, the duly appointed general receiver herein (the "Receiver"). I am a citizen of the United States, over the age of 18 years, and competent to testify herein. I make this declaration from my personal knowledge in support of

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the Receiver's Motion to Approve Settlement Agreements with Pacific Premier Bank and Riverview Bank and Grant Related Relief (the "Motion").

2. I have been one of the Miller Nash attorneys handling the litigation of the Adjunct Litigation (as defined in the Motion). A true and correct copy of the Receiver's Second Amended Complaint for Money Damages in the Adjunct Litigation (the "Receiver's Complaint") is attached hereto as Exhibit A.

3. A true and correct copy of the Second Amended Class Action Allegation Complaint for Oregon Securities Law Damages (28 U.S.C. § 1332(d)) (the "Anderson Complaint") in the Anderson Litigation (as defined in the Motion) is attached hereto as Exhibit B. I obtained this copy of the Anderson Complaint by downloading it from PACER on June 28, 2023.

4. A true and correct copy of the Third Amended Complaint (Securities Law Damages) (the "Beattie Complaint") in the Beattie Litigation (as defined in the Motion) is attached hereto as Exhibit C. I obtained this copy of the Beattie Complaint by downloading it from the Oregon eCourt Case Information System on June 28, 2023.

5. At my direction, Miller Nash associate Mark Tyler prepared a chart summarizing the allegations of the Receiver's Complaint in comparison with the Anderson Complaint and the Beattie Complaint. A true and correct copy of that chart is attached hereto as Exhibit D.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 30th day of June, 2023, at Portland, Oregon.

Edward T. Decker

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EXHIBIT A

SUPERIOR COURT OF WASHINGTON FOR CLARK COUNTY

CLYDE A. HAMSTREET & ASSOCIATES, LLC, an Oregon limited liability company, in its capacity as General Receiver for AMERICAN EAGLE MORTGAGE 100, LLC; AMERICAN EAGLE MORTGAGE 200, LLC; AMERICAN EAGLE MORTGAGE 300, LLC; AMERICAN EAGLE MORTGAGE 400, LLC; AMERICAN EAGLE MORTGAGE 500, LLC; AMERICAN EAGLE MORTGAGE 600, LLC; AMERICAN EAGLE MORTGAGE MEXICO 100, LLC; AMERICAN EAGLE MORTGAGE MEXICO 200, LLC; AMERICAN EAGLE MORTGAGE MEXICO 300, LLC; AMERICAN EAGLE MORTGAGE MEXICO 400, LLC; AMERICAN EAGLE MORTGAGE MEXICO 500, LLC; AMERICAN EAGLE MORTGAGE MEXICO 600, LLC; AMERICAN EAGLE MORTGAGE I, LLC; AMERICAN EAGLE MORTGAGE II, LLC; and AMERICAN EAGLE MORTGAGE SHORT TERM, LLC,

Plaintiff,

v.

AMERICAN EQUITIES, INC., a Washington corporation; AMERICAN EAGLE MORTGAGE MANAGEMENT, LLC, a Washington limited liability company; ROSS MILES and BEVERLY MILES, individually and the marital community property comprised thereof; MAUREEN WILE and ROBERT WILE,

Case No. 20-2-00507-06

RECEIVER'S SECOND AMENDED COMPLAINT FOR MONEY DAMAGES

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individually and the marital community property comprised thereof; RIVERVIEW COMMUNITY BANK, a Washington bank corporation; and PACIFIC PREMIER BANK, a California chartered bank,

Defendants.

ADJUNCT TO:

In re:

AMERICAN EAGLE MORTGAGE 100, LLC; AMERICAN EAGLE MORTGAGE 200, LLC; AMERICAN EAGLE MORTGAGE 300, LLC; AMERICAN EAGLE MORTGAGE 400, LLC; AMERICAN EAGLE MORTGAGE 500, LLC; AMERICAN EAGLE MORTGAGE 600, LLC; AMERICAN EAGLE MORTGAGE MEXICO 100, LLC; AMERICAN EAGLE MORTGAGE MEXICO 200, LLC; AMERICAN EAGLE MORTGAGE MEXICO 300, LLC; AMERICAN EAGLE MORTGAGE MEXICO 400, LLC; AMERICAN EAGLE MORTGAGE MEXICO 500, LLC; AMERICAN EAGLE MORTGAGE MEXICO 600, LLC; AMERICAN EAGLE MORTGAGE I, LLC; AMERICAN EAGLE MORTGAGE II, LLC; and AMERICAN EAGLE MORTGAGE SHORT TERM, LLC.

Case No. 19-2-01458-06

Plaintiff alleges as follows:

I. PARTIES

1. Plaintiff Clyde A. Hamstreet & Associates, LLC is an Oregon limited liability company. It acts as general receiver for the 15 Washington limited liability companies (collectively, the "Receivership Entities" or the "Pools") that are the subject of the receivership proceeding entitled *In re: American Eagle Mortgage 100, LLC, et* al, which is presently pending

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in this Court under Case No. 19-2-01458-06 (the "Receivership Proceeding"). Plaintiff (sometimes referred to herein as the "Receiver") was appointed general receiver for the Receivership Entities under the Court's Order Appointing General Receiver entered in the Receivership Proceeding on May 10, 2019 (as amended and in effect, the "Receivership Order"). Under the Receivership Order, the Receiver is authorized and empowered to, among other things, maintain legal actions to enforce claims and causes of action belonging to the Receivership Entities, or any of them, for the benefit and on behalf of the Pools as the Receiver deems necessary and appropriate. The Receiver brings this action for the benefit of the Pools.

2. Defendant American Equities, Inc. ("AEI") is a Washington corporation with its principal place of business in Vancouver, Washington.

3. Defendant American Eagle Mortgage Management, LLC ("AEMM") is a Washington limited liability company with its principal place of business in Vancouver, Washington.

4. Defendant Ross Miles ("Miles") is an individual domiciled in the State of Washington. Miles is a principal of AEI and AEMM and controlled the actions of AEI and AEMM. The term "Miles" includes defendant Beverly Miles, former spouse of Ross Miles, individually and to the extent of her marital community.

5. Defendant Maureen Wile ("Wile") is an individual domiciled in the State of Washington. Wile is a principal of AEI and AEMM and controlled the actions of AEI and AEMM. The term "Wile" includes defendant Robert Wile, spouse of Maureen Wile, individually and to the extent of his marital community. (AEI, AEMM, Miles and Wile are collectively referred to herein as "AEI Defendants" or "Pool Managers.")

6. Defendant Riverview Community Bank ("Riverview") is a Washington bank corporation with its principal place of business in Vancouver, Washington. Riverview provided credit to AEI Defendants that allowed AEI Defendants to operate and conceal a Ponzi scheme.

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7. Defendant Pacific Premier Bank ("Pacific Premier") is a California chartered bank. Pacific Premier, including its predecessors, provided credit to AEI Defendants that allowed AEI Defendants to operate and conceal a Ponzi scheme. (Pacific Premier and its predecessors in interest Regents Bank and Grandpoint Bank are interchangeably referred to herein as "Pacific Premier.")

II. JURISDICTION AND VENUE

8. RCW 2.08.010 vests jurisdiction with this Court.

9. Venue in this Court is proper under RCW 4.12.020.

III. FACTS

A. Background of the Pools' Business and Management Company.

10. Founded in 1979, AEI is a Washington corporation engaged in the business of making loans, purchasing, servicing, and selling first position mortgages and trust deeds secured by single and multi-family residences, income-producing property, mobile homes, and improved and unimproved land.

11. Beginning in 2002, AEI created limited liability companies to collect money from many investors and spread their investments over a pool of loans to reduce the impact of a default on the investors. Investors were told that the Pools would engage in the business of acquiring, holding, managing, and ultimately disposing of loans secured by real estate, primarily mortgages or trust deeds. AEI formed the first Pool, American Eagle Mortgage I, LLC, on December 18, 2002, and the last Pool, American Eagle Mortgage Mexico 600, LLC, on July 15, 2010. The Pools continued raising money from investors until 2019.

12. The Pools' organizational documents and filings with the Secretary of State identify AEI as their Manager. At various times beginning in or around February 2011, Miles and Wile began using AEMM to perform many of AEI's management services. Miles and Wile used AEMM to operate and make management decisions with regard to the Pools in the absence of any formal amendments to the Pools' operating and management agreements with AEI.

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AEMM was formed and used with the concurrence, if not suggestion, of the banks because AEI's financial statements disclosed its growing insolvency and that made it more difficult for the banks to justify to their auditors continuation of loans to AEI.

13. The actions of both AEI and AEMM were directed and controlled by Miles and Wile.

14. Miles and Wile also owned, controlled, or had financial interests in multiple other entities, including AEI and AEMM, which are not part of the Receivership Proceeding and which engaged in numerous financial transactions with the Pools. AEI and the Pools are all listed as having the same principal office address in Vancouver, Washington, on the Washington Secretary of State website. The Secretary of State's website also lists at least 22 entities, including AEI and AEMM, which appear to be related to the Pools (each a "Related Party" and collectively the "Related Parties") through common officers and sharing the same address.

B. Investment Program and Offering Materials.

15. AEI Defendants solicited investors to invest in each particular Pool for a specified period at a specified rate of return.

16. As part of the solicitation process, AEI Defendants provided offering materials to each investor, which consisted of a Confidential Private Placement Disclosure ("PPD"), Minimum Underwriting Criteria for Receivables ("MUC"), Limited Liability Company Agreement ("LLC Agreement"), and Management Agreement.

17. The PPD, MUC, LLC Agreement, and Management Agreement (collectively, the "Offering Materials") said that AEI was responsible for, among other things, forming each of the Pools, obtaining the funding for each Pool by offering varying tranches of investments for sale, and managing the Pools' assets. The Offering Materials summarize the offering, the use of proceeds, a description of the Pool, the nature of the investment program, risks factors, terms of the offering, and other information.

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18. The Offering Materials set forth minimum underwriting criteria for originating or acquiring secured real estate paper and defined the due diligence that the management company would undertake prior to originating or acquiring secured real estate paper. For example, the Offering Materials included a maximum 65% loan to value ratio on a loan secured by a single-family residence.

19. The Offering Materials required AEI to use the proceeds from the sale of investments to acquire secured real estate paper for the Pools. AEI was responsible for conducting all of the Pools' business and for maintaining the books and records of each Pool according to specified rules and principles, among other things.

20. Both the LLC Agreement and the Management Agreement were signed by Miles, as President of AEI acting on behalf of the Pool as its Manager, and Wile, as Secretary of AEI acting on behalf of AEI.

21. The LLC Agreement between AEI and each of the Pools grants AEI "the sole and exclusive right to manage the business" of the Pools.

22. The LLC Agreement states that AEI "shall be under a fiduciary duty to perform the duties of the Manager in good faith, in a manner it reasonably believes to be in the best interests of the Company and the Members, and with such care as an ordinarily prudent person in a like position would use under similar circumstances."

23. The LLC Agreement further states that the Manager shall cause each of the Pools "to conduct its business and operations separate and apart from that of the Manager or any Affiliate of the Manager, including, without limitation: (1) segregating Pool Property and not allowing Pool Property to be commingled with the funds or other assets of the Manager or any Affiliate of the Manager; [and] (2) maintaining books and financial records of the Company separate from the books and financial records of the Manager and any Affiliate of the Manager, and observing all Company procedures and formalities, including, without limitation,

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maintaining minutes of Company meetings and acting on behalf of the Company only pursuant to due authorization of the Members[.]"

24. The Management Agreement between AEI and the Pools provides for AEI "to take all actions necessary to manage the Receivables," to provide quarterly and annual reports to the Pools, and to "make all necessary disbursements" for the Pools' operating expenses "from the bank accounts established by the Pools."

25. The Management Agreement states that the Manager must provide each Pool a quarterly report "setting forth (i) the gross revenue collected during such month and for the year to date, (ii) expenses paid during the month, and (iii) Note payments made during such month and for the year to date," and an annual report to each Pool "showing the income and disbursements for such year."

26. Regarding potential indebtedness of the Pools, the Management Agreement states that "AEI shall not create obligations of the [Pool] other than the obligations under the [investor] Notes and normal operations of the [Pool]."

C. AEI Defendants' Breaches of Contract and of Fiduciary Duties.

27. With the assistance of the Banks, AEI Defendants routinely made unauthorized, undocumented, undisclosed, and irregular transactions involving the Pools' assets. These transactions included significant intermingling and comingling of funds among the Pools, millions of dollars in loans among the Pools, and millions of dollars in loans from the Pools to more than 16 parties related to Miles or Wile as family members, entities in which Miles or Wile, or both, were officers and/or had a financial interest, or entities that shared AEI's business address. Most of the loans to Related Parties have no security and have not been repaid and many were never set up with interest rates and repayment terms. The comingling and the related party loan transactions were inconsistent with the Offering Materials and were not disclosed to or authorized by the investors in the Pools.

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28. AEI Defendants operated the Pools as a unitary enterprise, regularly moving cash, assets, and investors from one Pool to another, and in some instances between the Pools and other related parties. AEI Defendants and the Banks routinely disregarded the legal separation of the Pools and corporate formalities required by the organizational documents. AEI Defendants did not maintain thorough and timely records and did not follow generally accepted accounting principles in their recordkeeping. AEI Defendants and the Banks used Pool assets as collateral for loans (including as collateral for loans made to them) without disclosure to or authorization by the investors, and they diverted newly invested funds to themselves as well as used them to pay other investors. These actions violated the representation and the promises in the Offering Materials provided to investors.

29. The Related Parties conducted business with the Pools and were involved in multiple, significant, and often undocumented financial transactions with the Pools. The Pools loaned at least $12.2 million to the Related Parties. Adding accrued interest increases the balance due to over $17.8 million. All or substantially all of these loans are in default; in some cases, the Related Parties never made a single payment under such loans. Each of these loans was made at the request of Miles and/or Wile, who were, at all times, officers of or owners in the Related Parties that received the loans. Only 6 of the 85 loans identified by the Receiver have underlying collateral. Family members of Miles and Wile were also involved in the Related Party businesses as employees or investors. AEI Defendants did not make a serious effort to collect on these Related Party loans.

30. AEI Defendants used Pool funds for undisclosed and unauthorized purposes, including investment in a Mexican marina enterprise and payments to an investor who knowingly invested in the Mexican enterprise. These investments and payments violated the terms of the Offering Materials.

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31. The Pools are insolvent and have been insolvent since at least January 1, 2007. AEI Defendants' self dealing and breaches of contractual and fiduciary duties after 2007 increased the insolvency of and damage to the Receivership Entities.

32. At all times material, the Pools were operated by the AEI Defendants as part of a Ponzi-like scheme where new investor money was used to pay interest and make distributions to existing investors because the business wasn't able to generate income to support those payments. Without the Bank lines of credit to buffer periods when new investor money was not sufficient to make interest payments and distributions to existing investors AEI's insolvency would have been obvious as it would have defaulted on payments to investors at least as early as 2007.

33. AEI Defendants' management activities were wrongful, and Miles and Wile knew they were wrongful. Just prior to placing the Pools in receivership, AEI Defendants attempted to "clean house" and cover up the pattern of commingling by zeroing out the loan balances between the Pools—a hopeless task that was not successful.

34. AEI Defendants' conduct described above has caused the Receivership Entities to be damaged in an amount to be proven at trial.

D. Riverview Community Bank

35. Fourteen of the Pools maintained accounts with Riverview.

36. Beginning no later than June 2001, Riverview provided a $3 million line of credit to AEI (the "Riverview LOC") that was necessary to aid AEI Defendants' operations, including their sale of secured real estate paper to the Pools. At the time, Miles and multiple entities controlled by or related to Miles, were already customers of Riverview. Their borrowings included a personal line of credit; two term real estate loans on rental properties; two commercial real estate loans to a related party entity; four residential spec loans; and other loans for other related party entities. Riverview's lending relationship with AEI continued until 2013.

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37. The Riverview LOC was ostensibly an ongoing inventory line of credit to enable AEI to purchase short term, first position real estate contracts and promissory notes secured by first position deeds of trust (collectively referred to as "contracts") at a discounted price, hold them for a few months, and then sell them to investors at or near face value, creating a profit for AEI on the sale.

38. The Riverview LOC commenced in June 2001 and was renewed annually, although at irregular renewal dates due to late submissions by AEI of financial information. In November 2004, despite noting in its credit memorandum that 75% of the contracts financed under the Riverview LOC were subprime contracts that did not meet Riverview's loan conditions, Riverview approved renewal of the Riverview LOC. In October 2007, Riverview increased the Riverview LOC to $4.0 million.

39. Riverview had extensive knowledge of AEI's business activities and its misuse of investor funds. Among other things, Riverview knew that AEI formed and managed the Pools and that it held approximately $40 million of invested funds under management. Riverview knew that AEI was the manager of the Pools and had fiduciary obligations to the Pools and their respective investors. Riverview was also aware of the restrictions on the use of cash and other Pool assets imposed on the Pool Managers as the manager of the Pools.

40. Despite its extensive knowledge of how AEI was operating, Riverview consistently ignored the legal and financial separateness of the Pools and directly facilitated the Pool Managers' misuse of Pool funds and other assets. The Riverview LOC was an essential part of AEI Defendants' misuse of Pool assets, alleged above.

41. For example, from August 2007 to August 2008, Riverview transferred Riverview LOC advances directly into four Pool bank accounts and made payments on the line of credit from the same Pool bank accounts on more than 40 occasions. Corresponding to these transfers, AEI staff requested draws and pay downs on the Riverview LOC using Pool assets. The draws were used to fund loans in Mexico, pay interest to investors, and buy new contracts. Upon

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information and belief, these draws were not linked to identifiable collateral. In making the direct transfers between the Riverview LOC and the Pool accounts, both AEI and Riverview ignored the financial and legal separateness of the Pools, treating them as an integrated part of AEI's overall real-estate enterprise and routinely comingling their funds.

42. Riverview also knowingly received money that was improperly transferred from the Pools. In 2007 and 2008, at least 11 transfers were made from the Pools to Riverview totaling $7,369,000.00. AEI transferred these funds from the Pools to Riverview to pay down amounts owed on the Riverview LOC, despite the fact that the Riverview LOC was AEI's debt, not the Pools'. As discussed above, at the time of these transfers were made, the Pools were insolvent. Riverview knew the Pools were not the borrowers on the Riverview LOC. Nonetheless, Riverview intentionally ignored the legal and financial separateness of the entities, accepting the payments and allowing the Pool Managers to misuse the Pools' funds for Riverview's benefit.

43. Riverview's internal bank analyses grouped Pool accounts with those of AEI and its related parties, as if they were part of a single business enterprise. Riverview's credit memoranda include a section listing the deposit balances of accounts held by Miles and his related entities. The listing includes the account name, account number, current balance, and year to date average balance. Many of the credit memoranda noted the high profitability of the AEI LOC and included the deposit accounts of the Pools in that calculation. These credit memoranda listed the Pool accounts, interspersed on the list among the other Miles and AEI accounts. The Pools were considered to be part of AEI's enterprise rather than independent investment funds held in trust, as if AEI had an interest in these funds and their balances reflected on AEI's own financial wherewithal.

44. Riverview LOC advances were repeatedly secured with contracts owned by the Pools. At least 48 contracts owned by the Pools were used by AEI to secure advances on the Riverview LOC. Sometimes this misuse took the form of submitting Pool-owned contracts directly as collateral. At other times, AEI caused the Pools to assign contracts to Riverview or

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back to AEI before using them as collateral. Riverview tracked its collateral and received monthly collateral reports from AEI. Both reports disclose that Riverview was using Pool contracts as its own collateral.

45. Riverview allowed AEI to borrow directly from the Pools in violation of the promises and representations made in the Offering Materials. The Offering Materials prohibit the Pools from loaning funds except under limited circumstances. In violation of this requirement, financial statements provided to Riverview by AEI list the Pools as lenders on multiple loans. For example, AEI's CPA-reviewed financial statements from 2007 and 2008 provided to Riverview discuss loans from the Pools to AEI amounting to $158,215 at FYE 2007 and $1,925,960 at FYE 2008, as the insolvency of the Pools deepened. This more than $1.7 million increase in the debt owed by AEI to the Pools over one year was significant and Riverview noted in a September 2009 memorandum that AEI's "debt to worth . . . has been increasing to alarming levels over the past two or three years as the company struggles to rid itself of nonearning real estate assets." Nonetheless, Riverview continued to extend credit to AEI.

46. Riverview also knowingly allowed the Pool Managers to cause prohibited inter-Pool borrowing. The limitations on lending found in the Offering Materials apply to loans among the Pools as well as loans to AEI and others. Moreover, the PPD limits the Pools' ability to borrow, stating that the underlying notes owing to the investors "will be the only debt obligations of the Company other than miscellaneous expenses incurred in the ordinary course of business." AEI caused the Pools to borrow from and make prohibited loans to other Pools on a regular basis, with the frequency and amount of inter-Pool borrowing increasing with time. Riverview knew about these inter-Pool transactions because they typically took place through the writing and depositing of checks to and from Riverview deposit accounts.

47. Many of the inter-Pool loans occurred near the beginning of the month just before the Pools were due to make payments to investors. The Pools' need to borrow money to make investor payments was readily apparent in Riverview's account records. In these transactions,

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AEI was illegally taking money from investors in one Pool and using it to pay investors in other Pools, a characteristic of a Ponzi scheme.

48. In September 2009, amid the global recession and citing "alarming levels of debt," Riverview converted the Riverview LOC balance of approximately $3.2 million into a term loan, which it then renewed on a semiannual basis. Leading up to this decision, Riverview had periodically acknowledged that the economic downturn in 2007 and 2008 had impacted AEI, that its ancillary real estate investments were struggling, and that the Riverview LOC was becoming stagnant. Riverview knew that AEI's business model of purchasing contracts and bundling them for resale to the Pools was no longer working. Riverview did not, however, alert Pool investors or regulatory authorities to AEI's operational deficiencies or the deteriorating status of the Pools' holdings. Instead, Riverview took steps to force AEI to payoff the Riverview loan at the expense of the Pools.

49. The 2009 restructure of the Riverview LOC was part of a strategy to enable Riverview to exit the Riverview LOC. Under the terms of a "side agreement," AEI was required to "pay [Riverview] 100% of whatever proceeds they receive monthly on the loan." Riverview acknowledged that its security consisted of 51 contracts, which, assuming they were neither sold nor impaired and that they performed consistently with loan provisions, would have taken 86 months to fully amortize the loan. With the "side agreement" in place, however, Riverview expected AEI to pay off the loan within one year. To achieve this, AEI had to sell nonperforming contracts to the Pools, which would buy them with investor funds. AEI then paid 100% of the sale proceeds to Riverview.

50. Riverview knew that AEI was selling nonperforming contracts to the Pools at face-value prices and using the proceeds to repay the Riverview loan. Riverview's plan required AEI to take advantage of its management position and abuse its fiduciary responsibility toward the Pools in order to repay Riverview.

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51. Riverview's efforts to restructure the Riverview LOC in 2009 did not succeed in getting it repaid as planned. By December 31, 2011, the LOC balance had only decreased by $725,000, or to $2.5 million. At this point, Riverview decided to categorize the loan to AEI as a "Criticized/Classified Loan" and generated a memorandum documenting that status. According to that memorandum, AEI had been unable to make the principal paydowns imposed in September 2009 due in part to: "a significant decline in revenue [which] resulted from a combination of fewer investment transactions from an aging base of customers, substantial loss in funding capacity from bank lines of credit for note/loan purchases for resale and heavier discounting of notes/loans to achieve the yield that investors require in today's economy. Additionally, Ross Miles focus on American Equities has been distracted by investment opportunities elsewhere in the US and Mexico."

52. In addition to reclassifying the loan, Riverview developed a more aggressive exit strategy in early 2013 that included writing off a portion of the loan (i.e., a loss to Riverview of $565,000) and requiring a $1.6 million payoff from AEI. AEI did not have the financial resources to pay off the loan, which Riverview knew from AEI's financial statements. In order to complete the payoff, AEI used $635,000 in Pool contracts to secure new loans from Pacific Premier, borrowed $312,000 from Ridgecrest III (a Related Party entity) and $400,000 from Pool American Eagle Mortgage 600, LLC ("AEM 600"), and transferred a contract owned by AEM 600 valued at $225,000 to Riverview. This payoff fleeced the Pools of almost $1.3 million of assets.

53. The Riverview LOC to AEI made possible the sales of investments in the Pools from the Pools' formation to the collapse of the Pools in 2019. Without the Riverview LOC, AEI Defendants would not have had the money necessary to continue their (false) illusion of solvency, safety, and prosperity and would not have been able to continue selling investments in the Pools. By providing credit advances, Riverview allowed AEI Defendants to operate and conceal the Ponzi scheme when AEI would have otherwise been out of funds. Riverview's

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actions also aided and assisted the AEI Defendants in deepening the Pools' insolvency. Riverview's actions also aided in prolonging the life of the Pools so that the AEI Defendants could continue to receive the benefits of fraudulent transactions at the expense of the Pools.

54. As discussed above, Riverview knew the AEI Defendants owed fiduciary duties to the Pools. Riverview also knew the AEI Defendants were breaching their fiduciary duties to the Pools, and Riverview substantially assisted AEI Defendants in breaching their fiduciary duties.

55. As part of the applicable standard of care, Riverview also owed an independent duty to comply with all statutes, rules, and regulations, including banking regulations, which Riverview breached by extending loans to AEI Defendants with the knowledge that said loans did not meet lawful standards.

56. By providing a line of credit that was an essential component to the continuation of the Ponzi scheme, and by failing to act in accordance with the standards of care reflected in the statutory and regulatory duties to which it was subject, Riverview knowingly provided substantial assistance to the AEI Defendants in their breaches of fiduciary duties to the Pools and breached its own independently-owed duties.

E. Pacific Premier Bank.

57. AEM 600, American Eagle Mortgage Mexico 500, LLC, and American Eagle Mortgage Mexico 600, LLC maintained accounts with Pacific Premier.

58. Beginning no later than January 2008, Pacific Premier provided a line of credit to AEI (the "Pacific Premier LOC") that was necessary to aid AEI Defendants' operations, including their sale of secured real estate paper to the Pools. The Pacific Premier LOC was structured similarly to the Riverview LOC and started with a limit of $3.1 million. Presumably the LOC was just as profitable to Pacific Premier as it was to Riverview. Just as with the Riverview LOC, advances on the Pacific Premier LOC were supposed to be used by AEI to purchase real estate loans secured by properties located primarily in the Western United States.

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The loans would then to be sold to an individual investor or the investor Pools. Pacific Premier's lending relationship with AEI continued until 2015.

59. As AEI and the Pools insolvency deepened, Pacific Premier did not end the lending relationship. Instead, Pacific Premier and Miles agreed to change the borrower on the Pacific Premier LOC from AEI to AEMM, a new entity set up by Miles. Pacific Premier was fully aware of AEI's precarious financial position, as the Miles and Wile candidly discussed it with Pacific Premier. For example, in or around December 2011, Pacific Premier provided a term sheet to the Miles, outlining the terms and conditions under which Pacific Premier would be willing to complete the underwriting for the new loan structure on the Pacific Premier LOC. In that term sheet, Pacific Premier noted that unlimited guarantees would be required from Miles and AEI. Miles responded that he understood that the plan was to have AEMM and Ross Miles as the guarantors because "AEI is going to look pretty ugly since we have all of the development dirt and other 'alligators' in that entity, that is going to be ongoing until the market gets better and we sell off." Miles further stated that "[i]t will be a lot easier to maintain 'creditworthiness' with AEMM and [Miles], then 'dragging' AEI into the loan." Even further, Miles acknowledged that Pacific Premier had helped form this strategy, stating "I thought we had discussed and determined this to be the best approach last year?"

60. The primary source of repayment of the Pacific Premier LOC was AEI's sale of secured real estate paper to the investor Pools at inflated prices. The stated purpose of the Pacific Premier LOC was short-term funding. Each advance was documented by a separate promissory note with a maximum maturity of 12 months, by which time Pacific Premier understood there would be a "sale of the … contracts to either an individual investor or an established investment pool," i.e., one of the Pools.

61. AEI provided Pacific Premier with financial statements in 2008 that reflected the scale of its illicit "borrowing" from the Pools and its accelerating difficulty in covering repayment of its Bank loans with new investor money: the amounts embezzled from the Pools

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increased dramatically between fiscal years 2006 and 2007. In early 2008, the outstanding balance owed to the Pools on AEI's books was nearly $2 million. The Offering Materials, which Pacific Premier refers to as "prospectuses" in its internal loan memoranda, did not permit AEI to have unsecured borrowing from the Pools.

62. In 2012, Pacific Premier considered requiring industry standard appraisals to determine the value of the real property securing the real estate paper against which each advance on the guidance line would be made. Miles told Pacific Premier that AEI would be "unable to comply" with such a requirement and that AEI would "consider developing an alternative banking relationship" if Pacific Premier required industry standard appraisals. As a result of Miles' threat, Pacific Premier again renewed the Pacific Premier LOC without the change.

63. Advances on the Pacific Premier LOC were paid directly by Pacific Premier into a checking account belonging to AEI or, after December 2010, AEMM. The Pacific Premier LOC was an essential part of AEI Defendants' misuse of Pool assets, alleged above. Although Pacific Premier's interests in the real estate paper that secured its advances under the Pacific Premier LOC were recorded in the applicable local real property records, it did not require that AEI Defendants use the advances for their intended purpose of purchasing an interest in that real estate, or for any particular use. In fact, AEI Defendants freely used the cash advanced from the LOC for other purposes, including making cash transfers to Miles, Wile, Related Parties, and repaying bank debt.

64. Advances made by Pacific Premier under the Pacific Premier LOC were secured by real estate paper that belonged to the Pools. The proceeds from those advances were used to pay down AEI's other troubled loans with Pacific Premier. For example, in or around June 2006, Regents Bank loaned $600,000 to AEI for a development project in La Pine, Oregon (the "La Pine Loan"). This was not a project that was owned by any of the investor Pools. The La Pine Loan had a one-year term and was secured by a note and deed of trust from relatives of Miles.

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Ultimately, the development failed. By early 2009, the note had been extended multiple times past its initial maturity. In or around 2008 and 2009, Pacific Premier and AEI agreed to a scheme to use Pool assets to allow AEI to pay off the La Pine Loan. Despite knowing AEI managed and had fiduciary duties to the Pools, Pacific Premier worked with AEI to use seven advances on the Pacific Premier LOC totaling $605,000 to pay off the La Pine Loan. Those advances were secured by contracts Pacific Premier knew were owned by the Pools.

65. The loan memoranda Pacific Premier prepared for these advances state that the advances would be used by AEI to purchase existing contracts from the Pools and that AEI would then assign the contracts to Pacific Premier as collateral for the advances on the Pacific Premier LOC. The loan memoranda also state that it was anticipated AEI would pay off the La Pine Loan prior to Pacific Premier's funding of the advances. But Pacific Premier knew the loan memoranda were false. Emails between Pacific Premier and the Pool Managers disclose that Pacific Premier knew that the funds obtained through the seven advances would instead be used to pay down the La Pine Loan. Indeed, disbursement instructions on many of these advances transferred the funds directly to pay down the La Pine Loan, leaving no way for the Pools to receive cash for the contracts that were transferred to Pacific Premier as collateral.

66. Despite not paying the Pools these funds, as the loan memoranda contemplated, Pacific Premier and the Pool Managers still caused the contracts to be assigned to Pacific Premier as collateral for the advances on the Pacific Premier LOC. In doing so, Pacific Premier and the Pool Managers intentionally misused Pool assets to their respective benefits, taking the Pools' interests in the contracts without paying the Pools for them, and instead used the funds to pay off the La Pine Loan. This behavior violated the express promises and representations made in the Offering Materials, which prohibit assigning the Pools' rights in specific property unless done for a Pool purpose. Pacific Premier knew what it was doing was wrong, yet still engaged in a scheme with the Pool Managers scheme to use Pools assets to obtain funds to pay off the La Pine Loan.

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67. In the midst of the sub-prime mortgage crisis, Pacific Premier knew that AEI was having trouble getting rid of its troubled assets for two reasons that Pacific Premier set out in its own loan memorandum: "There has been a significant decrease in the number of refinances within the pool of contracts managed by AEI" and "[t]he downturn in the economy has negatively impacted AEI's investor activity, resulting in a reduction in the sale of the new contracts."

68. The business downturn and lack of investor interest did not discourage Pacific Premier from continuing its banking relationship with AEI and Miles. The Pools Miles managed presented Pacific Premier with another opportunity for the bank to unload a bad debt. In fact, in 2010, Pacific Premier agreed to make two new loans to AEI and Miles. Each loan was for approximately $1 million, increasing Pacific Premier's total commitment to over $5 million. The question of why Pacific Premier would increase its lending to a struggling real estate investment business in the aftermath of the greatest real estate collapse in American history is answered in the loan memorandum explaining the reason for the first loan for $1,022,000: "To finance the purchase of an existing promissory note and deed of trust from Regents Bank, which will be held within the borrower's personal portfolio for investment purposes."

69. That "existing promissory note" was in default and the borrower, Franchise Management Services, was in bankruptcy. The property securing the loan was in San Diego and was tied up by the restructuring plan. The accompanying loan agreement between Pacific Premier and Miles explains that the property and loan obligations being acquired by Miles were subject to a plan of reorganization that required the lender to file a motion for relief from the stay in bankruptcy in order to initiate a foreclosure action. Despite the obvious risks of collecting on a defaulted promissory note from a bankrupt borrower, Miles agreed to purchase the note with funds borrowed from Pacific Premier. The purchase price was set at face value of $1,011,862, plus accrued interest, for a total purchase price of $1,018,148.41.

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70. Miles was not agreeing to pay the full amount of the Franchise Management Services loan for nothing. In exchange for taking Pacific Premier's bad debt at face value, Pacific Premier agreed to loan Miles an additional $1,025,000 secured by two mortgages on property in Mexico, both of which were Pool assets. As Pacific Premier's loan officer put it: "The boarding of [the $1,025,000] loan was contingent on the approval and boarding of [the Franchise Management Services'] loan being offered to Ross Miles. This additional loan has been approved and is pending documentation." Pacific Premier was also well aware that both of the Mexican contracts were Pool assets: "These two loans were originally included within investment pools arranged and managed by Ross Miles, with the investment focus of these pools being Mexican properties. These loans were assigned from the given investment pool to Ross Miles personally and then to Regents Bank at the close of this transaction."

71. The timing of the two reciprocal loans eventually was out of sync, with Pacific Premier needing AEI to purchase the Franchise Management Services loan before Pacific Premier was ready to extend credit on the Mexican contracts. When that happened, Miles insisted that Pacific Premier sign the letter confirming that in addition to lending Miles the $1,022,000 to take the Franchise Management Services bad loan off Pacific Premier's books, Pacific Premier committed to lend Miles an additional $1,025,000 on two pieces of Mexican property that were owned by the Pools.

72. When Miles agreed to take over the Franchise Management Services loan for Pacific Premier (the loan had been downgraded as a result of the bankruptcy), he told Pacific Premier that he: "wanted added assurance that he would have sufficient excess cash flow to cover the loan payment on his note to Pacific Premier given Franchise Management Services stopped making payments to him due to the bankruptcy." The two loans, which he extracted from the Pools, carried interest at 11% and 12% and the Franchise Management Services loan required him to pay Pacific Premier interest at 5%. So, as Pacific Premier put it, "this override provides Ross Miles with sufficient excess cash flow to allow him to make his loan payment on

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the Franchise Management note in the event that Franchise Management stops making its loan payment." However, no consideration was given to the impact of taking the high yielding assets out of the Pools.

73. Pacific Premier's wrongful conduct was not limited to scheming with the Pool Managers to improperly use Pool assets, without consideration, as collateral for advances on the Pacific Premier LOC. Pacific Premier also directly transferred investor Pool funds to pay off the Pool Managers' debts. For example, in or around August 2013 and at the Pool Managers' request, Pacific Premier transferred $155,821.84 from AEM 600's bank account to pay off an AEMM loan. Pacific Premier intentionally disregarded the legal separateness of AEMM and AEM 600 and made the transfer anyway. The loan was in AEMM's name, and AEMM and AEM 600 accounts have different beneficial owners. At the time of the transfer, the loan had matured and been renewed twice to give AEMM additional time to sell the loan. Accordingly, Pacific Premier benefitted from this wrongful conduct, with another troubled loan being paid off.

74. Beginning in or around March 2013, using the Pools' real estate paper to secure advances made under the Pacific Premier LOC, without consideration to the Pools, became a widespread practice by AEI Defendants. In that month alone, AEI Defendants transferred no fewer than seven real estate loans from different Pools to AEMM and then to Pacific Premier in exchange for over $800,000 in funding. That money was first paid by Pacific Premier into an AEMM checking account, then transferred to AEI, and was then used, on information and belief, to pay down AEI's debt at Riverview (or to cover other costs or obligations, to make that paydown possible without revealing AEI Defendants' true financial condition). By advancing funds to AEI under the Pacific Premier LOC, which allowed AEI to quietly pay off its troubled debt with Riverview, Pacific Premier allowed the Pool Managers to conceal their wrongful conduct and continue to operate the Pools as part of a Ponzi scheme for several more years, worsening the Pools' insolvency and harming additional Pool investors.

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75. At least three of the real estate loans taken from the Pools in February 2013 were used again as collateral for advances made under the Pacific Premier LOC in or around June 2014. Throughout those times, the Pools' records continued to reflect that the real estate loans pledged to Pacific Premier as collateral for advances made under the Pacific Premier LOC were owned by the Pools.

76. In the spring of 2014, Pacific Premier renewed the Pacific Premier LOC for the ninth time. In underwriting the renewal, Pacific Premier analyzed AEMM's and AEI's internally prepared financial statements and the overall operations of AEI Defendants, including management of the Pools. In its memorandum approving the loan renewal—signed off on by at least five bank employees—Pacific Premier noted that AEMM revenues in 2013 were half of the 2011/2012 averages. "Prior year revenues were weighted heavily in contract sales," i.e., selling real estate loans to the Pools at substantially markups, but "[i]n 2013, this shifted away from contract sales ([down to] 29.5% [of revenue]) and more towards broker fees."

77. Pacific Premier approved the ninth renewal of the Pacific Premier LOC in April 2014. As in past loan memoranda, Pacific Premier noted favorably Ross Miles' relationship with bank founder Thomas Young, "dating back to the late 1970's," when AEI began. Miles also touted his relationship with Young to investors.

78. By 2015, when the Pacific Premier LOC came up for its tenth renewal, Young had left Regents. The bank's internal assessment of AEI Defendants by new management soured, noting that it was highly leveraged and its "in-house accounting [was] not adequate." Its hesitations, however, were counterbalanced by the continued benefits of Miles' business with the bank: "Borrower has been a strong advocate for Regents Bank in the past and has provided strong deposit relationship and has referred a number of clients … Borrower and referred clients (for which Ross maintains a certain level of influence) maintain $3.4MM in loans outstanding and $3.2MM in avg deposits."

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79. Over the course of several months, bank representatives met with Miles and, although the Pacific Premier LOC had not been renewed and existing loans on the line were maturing, Pacific Premier did not terminate its relationship or cut off funding to AEI and AEMM. Instead, it provided extensions on the maturing loans until quietly passing them off its books to a financing company associated with Young.

80. Throughout this time, Pacific Premier had also provided credit directly to Miles for AEI Defendants' operations, which continued after 2015 through 2018. In June 2008, for example, Pacific Premier approved a $50,000 line of credit to Miles "to finance short-term business cash flow needs," recognizing the "business" as AEI, its affiliates, and the Pools.

81. The Pacific Premier lines of credit to AEI Defendants made possible the sales of investments in the Pools from no later than June 2008 to the collapse of the Pools in 2019. Without those lines of credit, AEI Defendants would not have had the money necessary to continue their (false) illusion of solvency, safety, and prosperity and would not have been able to continue selling investments in the Pools. By providing credit advances of necessary funding secured by real estate paper taken from the Pools, Pacific Premier allowed AEI Defendants to operate and conceal the Ponzi scheme. Pacific Premier's actions also aided and assisted the AEI Defendants in the deepening of the Pools' debt. Pacific Premier's actions also aided in prolonging the life of the Pools so that the AEI Defendants could continue to use the Pools to receive the benefits of the fraudulent transactions.

82. As discussed above, Pacific Premier knew the AEI Defendants owed fiduciary duties to the Pools. Pacific Premier also knew the AEI Defendants were breaching their fiduciary duties to the Pools, and Pacific Premier substantially assisted AEI Defendants in breaching their fiduciary duties.

83. As part of the applicable standard of care, Pacific Premier also owed an independent duty to comply with all statutes, rules, and regulations, including banking

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regulations, which Pacific Premier breached by extending loans to AEI Defendants with the knowledge that said loans did not meet lawful standards.

84. By providing lines of credit that were an essential component to the continuation of the Ponzi scheme, and by failing to act in accordance with the standards of care reflected in the statutory and regulatory duties to which it was subject, Pacific Premier knowingly provided substantial assistance to the AEI Defendants in their breaches of fiduciary duties to the Pools and breached its own independently-owed duties.

IV. FIRST CAUSE OF ACTION
Breach of Contract
(Against All AEI Defendants)

85. Plaintiff realleges paragraphs 1 through 84 above.

86. AEI and AEMM's conduct constitutes a breach of contract. Given the conduct of Miles and Wile, the Court should disregard the corporate form of AEI and AEMM and find Miles and Wile individually liable for AEI and AEMM's breach of contract. The Receivership Entities have been damaged as a result of the breach of contract in an amount to be proven at trial.

V. SECOND CAUSE OF ACTION
Breach of Fiduciary Duties
(Against All Defendants)

87. Plaintiff realleges paragraphs 1 through 866 above.

88. Defendants' conduct constitutes a breach of their fiduciary duties under Washington law. The Receivership Entities have been damaged as a result of the breach of fiduciary duties in an amount to be proven at trial.

VI. THIRD CAUSE OF ACTION
Aiding and Abetting Breach of Fiduciary Duties
(Against Defendants Miles, Wile, Riverview, and Pacific Premier)

89. Plaintiff realleges paragraphs 1 through 888 above.

90. The conduct of Miles and Wiles constitutes aiding and abetting AEI and AEMM's breach of fiduciary duties. The conduct of Riverview and Pacific Premier constitutes aiding and

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abetting AEI Defendants' breach of fiduciary duties. The Receivership Entities have been damaged as a result of the breach of fiduciary duties in an amount to be proven at trial.

VII. FOURTH CAUSE OF ACTION
Conversion
(Against Defendants Miles and Wile)

91. Plaintiff realleges paragraphs 1 through 90 above.

92. The conduct of Miles and Wile constitutes conversion. The Receivership Entities have been damaged as a result the conversion in an amount to be proven at trial.

VIII. FIFTH CAUSE OF ACTION
Negligence
(Against Defendants Riverview and Pacific Premier)

93. Plaintiff realleges paragraphs 1 through 92 above.

94. The conduct of Riverview and Pacific Premier constitutes negligence. The Receivership Entities that had a deposit relationship with Riverview and Pacific Premier have been damaged as a result of the negligence in an amount to be proven at trial.

VIII. SIXTH CAUSE OF ACTION
Avoidance of Fraudulent Transfers
(Against Defendant Riverview)

95. Plaintiff realleges paragraphs 1 through 94 above.

96. Subsequent to January 1, 2007, the Pools made cash transfers to Riverview in the amount of $7,369,000.00.

97. Each of the transfers referenced in paragraph 96 above were made with actual intent to hinder, delay, or defraud creditors of the Pools and for the benefit of Riverview.

98. By reason of the foregoing, the transfers made by the Pools to Riverview in paragraph 96 above should be voided under RCW 19.40.041(a)(1) (1987). The transactions described herein occurred before July 23, 2017 and are governed by Chapter 444, Laws of 1987, cited as the Uniform Fraudulent Transfers Act.

IX. PRAYER FOR RELIEF

Wherefore, Plaintiff requests that the Court enter judgment in its favor as follows:

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1. On its First Cause of Action, for an award of damages to the Receiver from AEI Defendants, jointly and severally, in an amount to be proven at the time of trial as compensation for all injuries suffered by the Receivership Entities as a result of AEI Defendants' breach of contract;

2. On its Second and Third Causes of Action, for an award of damages to the Receiver from Defendants, jointly and severally, in an amount to be proven at the time of trial as compensation for all injuries suffered by the Receivership Entities as a result of Defendants' breach of fiduciary duties and aiding and abetting breach of fiduciary duties;

3. On its Fourth Cause of Action, for an award of damages to the Receiver from Miles and Wile in an amount to be proven at the time of trial as compensation for all injuries suffered by the Receivership Entities as a result of Miles' and Wile's conversion;

4. On its Fifth Cause of Action, for an award of damages to the Receiver from Riverview and Pacific Premier in an amount to be proven at the time of trial as compensation for all injuries suffered by the Receivership Entities as a result of Riverview's and Pacific Premier's negligence;

5. On its Sixth Cause of Action, for judgment against Riverview in the amount of $7,369,000 as a result of the fraudulent transfers received by Riverview;

6. For pre- and post-judgment interest to the fullest extent permitted by law;

7. For the Receiver's reasonable attorneys' fees, costs, and disbursements to the fullest extent permitted by law; and

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8. For any other and further relief this Court deems just and equitable.

DATED this 12th day of January, 2022.

MILLER NASH LLP

/s/ Joseph Vance, P.C.

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I hereby certify that I served the foregoing RECEIVER'S SECOND AMENDED COMPLAINT FOR MONEY DAMAGES on:

Peter Hawkes Angeli Law Group LLC 121 SW Morrison Street, Suite 400 Portland, Oregon 97204 Phone: (971) 420-0220 Email: peter@angelilaw.com *Attorneys for Defendants Ross Miles, American Equites, Inc., and American Eagle Mortgage Management, LLC*	☐ U.S. Mail, Postage Prepaid ☒ E-mail *(per CR 5(b)(7) written consent)* ☐ Facsimile ☐ Courier or Hand Delivery ☐ Overnight Delivery
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Under the laws of the state of Washington, the undersigned hereby declares, under the penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge.

Executed at Vancouver, Washington, this 12th day of January, 2022.

/s/ Joseph Vance, P.C.
Joseph Vance, P.C.
WSB No. 25531

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

DIANE ANDERSON, trustee of the Diane L. Anderson Revocable Trust; **BONNIE BUCKLEY**; trustee of the Bonnie K. Buckley IRA; **CARL AND KIRBY DYESS**, trustees of the Dyess Family Trust; **PETER KOUBECK**, an individual and trustee of Peter L. Koubeck IRA; **MICHAEL PETERSON**, trustee of the Michael T. Peterson IRA; and **ED WILSON**, an individual,

Plaintiffs,

v.

Case No.: 3:20-cv-01194-AC

SECOND AMENDED CLASS ACTION ALLEGATION COMPLAINT FOR OREGON SECURITIES LAW DAMAGES (28 U.S.C. § 1332(d))

DEMAND FOR JURY TRIAL

DAVIS WRIGHT TREMAINE LLP, a Washington limited liability partnership; **ROSS MILES**, an individual; **MAUREEN WILE**, an individual; **PACIFIC PREMIER BANK**, a California chartered bank; **RIVERVIEW COMMUNITY BANK, a Washington chartered bank**,

Defendants.

Plaintiffs allege:

JURISDICTION

1. By order dated February 23, 2022, the District Court determined that the Court has jurisdiction of the subject-matter pursuant to § 4(a) of the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d).

2. This case involves the sale of "real estate" securities to Oregonians who were told their investments would be well secured, responsibly managed, and safely returned to them with promised interest. Investors were told the securities consisted of "pooled" real estate receivables secured by the underlying real property. The securities were sold by American Equities, including its principals, defendants Ross Miles and Maureen Wile, with the participation and material aid of their lawyers, defendant Davis Wright Tremaine, and their bankers, defendant Riverview Community Bank and defendant Pacific Premier Bank. In reality, the investments were not well secured, responsibly managed, or safe. Investor money was misused—it was commingled and then used for improper and undisclosed purposes, including hiding earlier and ongoing losses,

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"lending" to insiders and their family members, and paying returns to earlier investors. Investor money was misused to repay loans defendant banks had made to American Equities and its affiliates. Collateral that was supposed to secure Receivables owned by and owed to the Funds was instead transferred to defendant banks for (unrelated) loans to American Equities. In May 2019, the investment funds collapsed and were taken over by a court-appointed receiver. This action arises from the sales of securities in violation of the Oregon Securities Law by American Equities, including Ross Miles and Maureen Wile, and from the participation and material aid in those sales of Davis Wright Tremaine LLP ("Davis Wright"), Riverview Community Bank ("Riverview), and Pacific Premier Bank ("Pacific Premier").

CLASS ACTION ALLEGATIONS

3. Plaintiffs are seven investors who invested in securities issued by American Equities, Inc. ("AEI") and its principals and affiliates, including defendant Ross Miles, defendant Maureen Wile, their employee Miles Minsker, and AEI affiliate American Eagle Mortgage Management, LLC ("AEMM"). This Second Amended Complaint refers to AEI and its principals and affiliates, including defendants Miles and Wile, collectively as "American Equities."

4. The securities were in the form of private notes and ownership interests in at least fourteen "American Eagle Mortgage"-branded funds, all of which are now in receivership: American Eagle Mortgage 100, LLC; American Eagle Mortgage 200, LLC;

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American Eagle Mortgage 300, LLC; American Eagle Mortgage 400, LLC; American Eagle Mortgage 500, LLC; American Eagle Mortgage 600, LLC; American Eagle Mortgage Mexico 100, LLC; American Eagle Mortgage Mexico 200, LLC; American Eagle Mortgage Mexico 300, LLC; American Eagle Mortgage Mexico 400, LLC; American Eagle Mortgage Mexico 500, LLC; American Eagle Mortgage I, LLC; American Eagle Mortgage II, LLC; and American Eagle Mortgage Short Term, LLC (together, the "Funds" or "AEM Funds").

5. Plaintiffs seek to recover their individual damages which, as of February 15, 2019, total over $3.7 million. Plaintiffs are also suing as representatives on behalf of members of a class of other similarly situated investors. The class, as determined by the Court in its order dated February 23, 2022, consists of at least 100 persons and total class losses exceed $25.3 million. Each plaintiff invested in one or more of the AEM Funds. Plaintiffs' investment accounts are shown on the attached Schedule I, which lists the investment/pool, account number, principal balance, and accrued and unpaid interest according to the Receiver. Each plaintiff was sold their AEM Fund securities by an offer to sell that was made in Oregon or by an offer to buy the security that was made and accepted in Oregon.

6. The members of the Class are:

a. each Oregon citizen who was sold a security issued by American Equities in one of the Funds in violation of the Oregon Securities Law and is owed money by American

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Equities, including by one of the Funds, with respect to the Securities, and is not excluded from the Class pursuant to ¶ 7 below; and

b. each person who is a co-claimant (*e.g.*, a co-owner) with a person described in subparagraph a. of this ¶ 6 and is not excluded from the Class pursuant to ¶ 7.

7. The following persons are excluded from the Class:

a. each person who is liable as provided in ORS 59.115(1) or (3) to any member of the Class, and including each defendant;

b. each person who is an immediate family member of a person described in ¶ 7(a); and

c. each person who opts out of the Class.

8. Plaintiffs may sue as representative parties on behalf of all the members of the Class because: (a) the class is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the class; (c) the claims or defense of the representative parties are typical of the claims or defenses of the class; and (d) the representative parties will fairly and adequately protect the interest of the class.

9. This action may be maintained as a class action because, in addition to satisfying the prerequisites alleged in ¶ 8, the questions of law or fact common to class members predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

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DEFENDANTS

10. Defendant Ross Miles ("Miles") was the founder and sole owner of AEI and, with defendant Maureen Wile ("Wile"), an owner and manager of many of AEI's affiliates, including AEMM. Miles holds himself out as a real estate developer and investment manager and he claims that he has had decades of success in real estate lending, development, sales, and investments. Miles was the face of American Equities. Miles and Wile together at all material times were in control of AEI, AEMM, and the AEM Funds. They used their positions to take significant amounts of investor money out of the AEM Funds for their own benefits and the benefit of their families. As a part of their sales of AEM Fund securities, Miles and Wile targeted Oregon investors, primarily in the Portland metropolitan area, offering them securities by phone and mail while the investors were in Oregon. In addition, Miles and Wile caused AEI and the AEM Funds to purchase receivables backed by Oregon real estate as a regular and ongoing part of the operations of the AEM Funds, AEI, and AEMM. In addition to selling the AEM Fund securities, Miles and Wile participated in and materially aided the sales.

11. When Miles and Wile decided to create and sell AEM Funds, they hired defendant Davis Wright to do all of the related legal work, including preparing all AEM Fund offering materials, filing notices of the sales with the SEC and various state agencies and serving as lawyers for the Funds. Davis Wright is a Washington limited liability partnership that at all material times maintained a large office in Portland, Oregon, where

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it has been registered to do business since 1996. A substantial number of the partners of Davis Wright are citizens of the State of Oregon. From 2002 through 2010, Davis Wright attorneys working primarily or exclusively in the firm's Portland office prepared offering materials for the AEM Funds used in connection with the sales of the AEM Fund securities, provided important legal services related to the Fund offerings, and served as general counsel to American Equities.

12. Davis Wright participated and materially aided in the sales of securities alleged in this Second Amended Complaint. Davis Wright prepared the documentation used in connection with the sales, including so-called Private Placement Disclosure Documents ("PPMs") and accompanying subscription agreements, management agreements, limited liability company operating agreements, receivables purchase agreements, promissory notes (the securities documents), and underwriting criteria, which were exhibits to and were used in conjunction with the PPMs to sell the securities. These documents included legal papers necessary for American Equities to complete the sales of securities. Davis Wright's participation and aid in all these things contributed to the completion and consummation of the sale of the securities to investors. The documentation contained untrue statements and misleading omissions. (See below ¶¶ 26-31.) Davis Wright's knowledge, judgment, and assertions were reflected in the contents of the documents. On information and belief, Davis Wright also reviewed and advised American Equities on the content of general marketing brochures, marketing video(s), and

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its website, all of which were intended to and did generate interest in American Equities securities. The Davis Wright-drafted offering materials were used to sell AEM Fund securities to plaintiffs and other investors from no later than February 2003 until the Funds entered receivership in May 2019. Davis Wright also provided aid to the sales by locating potential investors for AEM Funds and directing them to American Equities to invest, and by listing the AEM Fund offerings on their website as successful transactions that they had handled.

13. Offering materials for all of the Funds required investors to provide written notice directly to Davis Wright's Portland office, addressed to one of the firm's partners, in order to make any legally effective notice to the Fund. For every Fund except AEM Mexico 400, each page of the Fund PPMs was stamped with a footer containing the firm's full name, "Davis Wright Tremaine, LLP," and the PPM exhibits (the LLC agreement, subscription agreement, etc.) were stamped with the firm's initials, "DWT." Beginning in August 2008, the PPMs for AEM 500 and AEM 600 (the largest Fund) told investors, under the all-caps heading LEGAL MATTERS, "The law firm of Davis Wright Tremaine, LLP, Portland, Oregon, has acted as counsel to the Company in connection with the offering of Units in this offering." Davis Wright instilled investor confidence in American Equities by, among other things, affirmatively inserting its name in documents used to sell AEM Fund securities. Without Davis Wright's participation and aid, the sales of AEM Fund securities would not have been accomplished.

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14. Riverview is a Washington chartered bank with branch offices in Vancouver, Washington. On or before 2001, defendant Riverview began lending money to American Equities on what became a $3 million to $4 million line of credit. Riverview did so knowing its own credit memoranda showed that in 2003 and beginning with 2005, in every year thereafter, American Equities was insolvent—its liabilities exceed its assets—and increasingly so. (By January 31, 2008, AEI had a negative net worth of $400,000 and net operating losses of $383,000.) Riverview knew that American Equities used the line of credit to purchase "first position real estate contracts and first position notes with deeds of trusts," that American Equities then formed "packages or 'pools'" of those loans, and then sold the "'pools' [securities] to investors." In essence, on an ongoing basis, Riverview provided American Equities with the product that American Equities then securitized and sold to investors. Riverview understood that repayment of its loans to American Equities depended upon American Equities' ability to continue to generate new investors: Riverview's loans to American Equities were to be paid when American Equities sold the "pools" of loans American Equities had purchased using the line of credit. E.g., Credit Memoranda, Nov. 10, 2004, Feb. 17, 2006, Oct. 5, 2007, Oct. 3, 2008, Sep. 15, 2009, May 24, 2010. Riverview knew that with the "economic slowdown" in 2007 and 2008, investors had "decreased"—being "more concerned about keeping cash than buying real estate products." This had put "extreme pressure" on American Equities' "ability to continue to 'revolve' our line of credit," and had "left [American Equities] with no short-term source

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to liquidate their inventory of notes/contracts on our line." Credit Memoranda, Sep. 15, 2009.

15. Riverview understood that American Equities was "operating essentially as a 'bank.'" Credit Memoranda, Nov. 10, 2004, Feb. 17, 2006, Oct. 5, 2007, Oct. 3, 2008, Sep. 15, 2009, May 24, 2010.

16. In addition to directly aiding American Equities in the sale of its securities, Riverview also held the Funds' deposit accounts. It knew, therefore, the amount investors were paying for AEM Fund securities, and how those funds were being (mis)used. On top of that, from September 28, 2007 to April 18, 2008, Riverview received $7,369,000 in payments on American Equities' line of credit by payment directly from the AEM Funds. Riverview was, in other words, "participating" in the proceeds from the sales of securities to investors.

17. Riverview continued to lend money to American Equities (and separately to Miles personally) through the Great Recession and the collapse of the real estate market, and when American Equities was insolvent. The Riverview line of credit remained in place until Fall 2009, at which time, Riverview began pumping the brakes in the face of AEI's difficulty in raising new capital from investors. After years of AEI's insolvency and difficulties in meeting its obligations to the bank, Riverview stopped loaning funds and eventually was repaid through the combination of investor funds, the Funds' collateral, and the proceeds from a Regents Bank loan. See below.

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18. From around June 2008 until at least December 2018, defendant Pacific Premier Bank, including its predecessor Regents Bank, ("Pacific Premier") was an integral participant in the sales of AEM Fund securities. Pacific Premier is a California chartered bank with branch offices in Portland and Vancouver Washington. Pacific provided necessary financing to an insolvent American Equities through: (i) a "guidance line of credit" to AEI (and beginning in December 2010, AEMM); (ii) a credit line to defendant Miles, personally, that was earmarked for American Equities business operations; and (iii) several loans and credit lines to American Equities affiliates. Pacific Premier did so knowing that with the exception of 2005, American Equities was at all times insolvent—that its total liabilities exceeded its total assets. E.g., Loan Memoranda, Feb. 11, 2008, Aug. 10, 2009. Pacific Premier did so knowing that American Equities was in the securities business and that Pacific Premier's loans were going to be used to finance the operation of that securities business. Pacific Premier also did so knowing that as of 2009, American Equities prospects did not look good, that there had been a "significant decrease in the number of refinances within the pool of contracts managed by AEI, and the "down turn in the economy ha[d] negatively impacted AEI's investor activity, resulting in a reduction in the sale of new contracts," and that "[l]osses within the stock market and/or from other investments have reduced the amount of excess investment capital available to AEI's client base." Loan Memoranda, Aug. 10, 2009. As alleged in more detail below, the financing was secured by real estate Receivables taken from AEM Funds, with no benefit to the

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Funds, and the loans enabled Miles to continue to sell securities to investors in the insolvent American Equities/AEM Fund operation. Money from Pacific Premier was deposited into a general checking account and was used as part of commingled funds across American Equities. In 2015, Miles' personal contacts left the bank. After nine renewals of the guidance line, new bank management began questioning the propriety of the guidance line of credit. Pacific Premier worked with Miles to quietly wind down the guidance line of credit in a way that was designed to cause minimal interruption to American Equities' operations, including its continuing sales of securities in the AEM Funds. Specifically, the bank arranged for the transfer of the remaining guidance line of credit debt off its books to a different lender, which was owned by Miles' personal contacts and former bank managers. All the while, the bank continued to provide Miles and Wile with necessary funding so that American Equities could continue to operate and sell securities through 2018.

19. Advances on the AEI/AEMM guidance line were supposed to be used, in Pacific Premier's words, "to finance the acquisition of specific contracts (secured by deeds of trust or real estate contracts), to be sold to various investment pools managed by the Borrower, or outside investors, within 12 months." As Pacific Premier also put it, the purpose was to "allow" (i.e., materially aid) American Equities to "purchase real estate contracts at a discount" to be included in "various Investment Pools" that would then be "sold to individual investors." E.g., Loan Memoranda, Feb. 11, 2008, Aug. 10, 2009. The

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reference to "investment pools" was a reference to the existing Funds that AEI continued to solicit investments in from plaintiffs, the class and other investors. In essence, on an ongoing basis, Pacific Premier provided American Equities with the product that American Equities then securitized and sold to investors. Pacific Premier also understood that repayment of its loans to American Equities depended upon American Equities' ability to continue to generate new investors: Pacific's loans to AEI and AEMM were in Pacific's own loan reports, to be, "paid off by investor funds." E.g., Credit Approval Memoranda, Nov. 16, 2015, Feb. 16, 2016. The loans were to be repaid "from the sale[s] of the real estate contract[s] into a new or established Investment Pool," that is, the AEM Fund securities. E.g., Loan Memoranda, Feb. 11, 2008, Aug. 10, 2009. Pacific Premier was, in other words, "participating" in the proceeds from the sales of securities to investors. Those investors included the Oregon purchasers of AEM Fund securities, like plaintiffs and the Class they seek to represent. Many of the contracts purchased with Pacific Premier financing were secured by Oregon real estate, and Pacific Premier recorded its interests in each of the Oregon Counties where the real estate was located. Despite what American Equities was telling investors, Pacific Premier also knew American Equities was in the (securities) business of "purchas[ing] real estate contracts at a discount and then sell[ing] th[o]se contracts to investors at face value," and American Equities was earning interest income from contracts held as inventory, broker fees, management fees from the creation of investment pools, contract collection fees, and miscellaneous fees. *Id.* Pacific

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Premier's financing to American Equities made it possible to hide the insolvency of the AEM Funds and American Equities. But for Pacific Premier's ongoing financing and its cooperation in quietly winding down the AEI/AEMM guidance line, the insolvency of American Equities and the AEM Funds would have been apparent, and American Equities would not have been able to continue to sell AEM Fund securities after 2008. Pacific Premier provided material aid to and participated in the AEM Fund security sales at issue here.

20. Davis Wright's, Riverview's, and Pacific Premier's participation or material aid—their personal contributions to the transactions—were important. It was necessary to complete the sale of securities. Each of them was a participant in the sale because, among other things, without its assistance, the sales would not have been accomplished; the sales would and could not have been completed or consummated without defendants' participation and material aid.

FACTUAL ALLEGATIONS

Early Formation of the Funds and the Means by which the Securities were Sold

22. As it would repeatedly advertise to investors in all of the Fund PPMs, AEI was founded in 1979 by defendant Ross C. Miles, who was joined at the operation in 1984 by defendant Maureen Wile. At all relevant times, AEI acted through Miles and Wile. During the 1980s and 90s, their primary business was purchasing individual real estate mortgages on properties in Oregon and Washington for resale to investors in the Portland-

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Vancouver area. The business model was described as a "one-to-one ratio investment": "we purchase an individual receivable and package it for sale to one individual."

23. AEI's business of selling real estate paper required it to have a variety of licenses in Oregon and Washington, but AEI was never properly licensed. In 1995, the Oregon Department of Consumer and Business Services issued a Cease and Desist Order to AEI, demanding that it stop selling real estate paper to Oregon residents without first obtaining a mortgage broker license. The unlawful operations foreshadowed what would be a general practice over the following decades of operating outside of state and federal investor-protection laws.

24. Before 2003, some investors made money on their AEI investments but, on information and belief, many investments were unsuccessful. The one-to-one investments were not standalone real estate deals. Instead, AEI, Miles, and Wile were involved in real estate development projects in Oregon and Washington, and sold to investors securities backed by real estate receivables secured by the same real estate in the developments owned and controlled by AEI, Miles, and Wile. Defendant Davis Wright provided important legal services to AEI related to these development projects, which included RC Hanes LP; American Securities, Inc.; and Ridgecrest Properties III, LLC (together, and without excluding other development projects, "AEI Developments"). The success of a particular one-to-one investment was tied to the overall success of the particular development project, and by 2003, several of the AEI Developments, on information and

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belief, were not generating sufficient returns for AEI to satisfy promises made to one-to-one investors.

25. In early 2003 AEI introduced the AEM Funds as a new investment product it called "diversified mortgage funds." The Funds were created to purchase real estate-backed notes from AEI Developments, which were to be pooled together into a portfolio specific to each fund. Defendant Davis Wright was central to this new financing vehicle. In the words of one of its partners, Davis Wright was "producing" the offerings.

26. The AEM Fund securities sold by American Equities consisted of long-term note obligations (Notes) issued by each Fund. The Notes were securities as defined in ORS 59.015(19)(a). The Notes had varying maturity terms: five, ten, and fifteen years. After August 2008, two Funds (AEM 500 and AEM 600) also offered a one-year Note. The interest rate obligation on the Notes varied depending on the term (and, in later years, sometimes depending also on the amount invested), from 7% to 10%. Interest was to be paid monthly. Investors had the option of "reinvesting" the monthly interest paid in the Fund's securities. Each monthly interest reinvestment constituted a new sale of a security to that investor. American Equities accounted for the interest reinvestments by increasing the "principal balance" due on the investor's Note, thus effectively compounding the interest paid on the security.

27. Each offering was a "part-or-none" offering meaning that in order for the project to get underway with a reasonable chance of success, a minimum amount had to

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be raised. American Equities told investors in offering materials that each investor's investment amount would be held in escrow until such time as the minimum amount had been received by that Fund. Part-or-none offerings provide an assurance to investors that the enterprise will be at least minimally capitalized. In addition, a less knowledgeable investor may be reassured and may be more willing to buy knowing that the offering must be reviewed and found to be acceptable by other investors who, the investor may reasonably hope, are more knowledgeable. Part-or-none offerings mean that when securities are sold by means of untrue statements or misleading omissions to an investor who is part of the "minimum," the securities are sold by means of those untrue statements or misleading omissions to all investors in that Fund.

28. American Equities and defendant Davis Wright created each Fund as a nominally separate limited liability company and described them that way to investors in the PPMs and other materials prepared or edited by Defendant. The Funds were named sequentially, American Eagle Mortgage ("AEM") 100, AEM 200, 300, etc.; with two additional sequences for the Funds designated as concentrating in Mexican properties (AEM Mexico 100, AEM Mexico 200, etc.) and those available to non-accredited investors (AEM I and II). Investors in each Fund except AEM 600 were told that the offering would expire on the earlier of several different dates, but in practice the Funds were kept open for many years, as reflected in the chart below. Consistent with that practice, in 2009 the AEM 600 PPM told investors that "The Manager may, in the Manager's Discretion, extend

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the offering." Following is a list of each Fund, the date on the PPM for that fund, the dates on which it received funding from its first investor and the last funding by a new investor, and the cost of Davis Wright's services for the offering (according to Regulation D filings by Davis Wright). There were no AEM Fund PPMs other than those drafted by Davis Wright. The Funds are listed in chronological order by PPM date.

Fund	Date of Davis Wright-Drafted PPM	Date of First Investor Money	Date of Last *New* Investor Money	Cost of Davis Wright's Services for the Offering
AEM 100	2003.01.15	2003.02.01	2007.10.22	$80,000
AEM I	2003.03.26	2003.04.15	2003.11.18	$5,000
AEM II	2003.10.15	2003.12.09	2006.05.30	$5,000
AEM 200	2004.03.01	2004.04.07	2005.03.01	$5,000
AEM Short Term	2004.12.01	2005.01.12	2005.01.12	*Unknown*
AEM Mexico 100	2005.03.15	2005.02.11	2008.12.05	$10,000
AEM 300	2005.03.14	2005.03.25	2015.03.14	*Unknown*
AEM Mexico 200	2005.06.06	2005.07.11	2013.10.29	$7,500
AEM 400	2006.05.01	2006.05.09	2007.10.22	*Unknown*
AEM Mexico 300	2006.08.01	2006.08.18	2010.05.21	$7,500
AEM Mexico 400	2007.08.10	2007.06.21	2014.05.30	$7,500
AEM 500	2008.08.06	2008.08.12	2009.10.30	$7,500
AEM Mexico 500	2009.01.26	2009.04.05	2009.04.05	*Unknown*
AEM 600	2009.06.30 2009.11.05	2009.07.30	2017.12.14	*Unknown* *Unknown*

29. Although the American Equities books currently show that the last money from a new investor came into American Equities in December 2017, through a sale of a security denoted for AEM 600, existing investors continued to invest accrued interest and to reinvest money in the Funds for notes that matured through 2018 and into 2019. With the exception of the AEM 600 PPM dated June 30, 2009, the PPMs were never updated; and none of the PPMs or other offering materials ever showed new investors the historical

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results of actual operations of the particular Fund or the results of actual operations of Funds managed by American Equities.

30. American Equities sold investments in the AEM Funds to investors by means of untrue statements of material facts and 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 the buyers did not know of the untruths or omissions):

a. American Equities told investors in each Fund PPM, among other things, that:

i. The funds raised by each Fund from each investor would be used exclusively for the purpose of acquiring secured real estate receivables in the form of land sale contracts, trust deeds, real estate mortgages, and promissory notes secured by those documents, which together would make up that Fund's identified "Receivables" portfolio. Each of the Receivables would embody an obligation secured by specific real property.

ii. Each Fund and each Fund's portfolio of secured Receivables would be managed by a "Manager," which, in all cases, would be American Equities, Inc. (AEI), an entity that had been formed in 1979 by Miles and that specialized in the very business of each Fund: purchasing, servicing, and selling first position mortgage loans and trust deeds secured by interests in single and multi-family residences, income-producing property, mobile homes, and improved or unimproved land. The Manager was controlled by its president, Miles, who, in turn, had over twenty-five years' experience in financial services.

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This Manager was under a "fiduciary duty" to them and would perform its duties in good faith and with care, according to the Limited Liability Company Agreement included in each Fund PPM. Using Washington law as an example, this duty is breached when a fiduciary misappropriates an asset or an opportunity that rightfully belongs to the LLC.

iii. The Manager would determine the purchase price for each Receivable acquired, "generally based on the anticipated return that the Receivable will generate for the Company, appropriately discounted to reflect the risks associated with the Receivable." Each of the secured Receivables each Fund acquired would meet minimum underwriting criteria described in an exhibit to the Fund PPM. (The minimum underwriting criteria set forth different maximum investment to market value percentages (akin to a loan-to-value ratio) depending on the characteristics of the real property underlying the Receivable and the credit ("excellent payment") history of its owner.) The Manager would review and analyze information regarding the Receivables, and because of its experience in the industry dating back to 1979, it was confident that its investigations would be complete and that it would be able to ascertain whether the information was accurate. The Manager would act in good faith in purchasing any Receivables from its Affiliates; and that the price actually paid by the Company for any Receivable purchased an Affiliate might ("may") be "more or less" than the price that would have been paid in an arm's length transaction.

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iv. The Manager (AEI) would manage and service (including collecting on) the Receivables, manage and service the Notes (including the obligations owed to investors), and report to investors "any important developments" relative to the Receivables. (Management Agreement included in each Fund PPM.)

v. The investments (Notes) in each Fund would be repaid from amounts collected on that Fund's identified or identifiable portfolio of secured Receivables. Revenues from the collections on each Fund's secured Receivables would be used to pay, in the following order: (1) that Fund's defined expenses and reimbursable third party expenses; (2) a "Base Fee" (.5%, except for AEM 500, for which investors would pay a .75% Base Fee) and a "Reinvestment Fee" (1.5% of the amount of any Reinvestment); (3) the obligations owed to that Fund's investors on their investments (Notes); and (4) "Bonus Compensation" to the Manager of any remaining profit on the Fund's Receivables portfolio.

vi. AEI had certain potential conflicts of interest arising from its affiliate relationships and management of other Funds, but AEI would conduct the business and operations of each Fund separate and apart from the business and operations of AEI, its affiliates, and the other Funds; would segregate each Fund's assets (including revenues from the collections on each Fund's secured Receivables) and not allow them to be commingled with the assets of other Funds, AEI, or other affiliates; and would maintain books and records specific to each Fund separate and apart from the books and records of

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AEI, its affiliates, and each other Fund.

b. American Equities repeated the messages told in the PPMs, telling investors in a brochure (made around 2008), among other things, that:

i. "American Equities, Inc. offers high-yield, stable investment opportunities in real estate receivables. In business since 1979, we have accumulated a vast amount of experience buying individual notes and packaging them for resale to investors. We have cultivated a tradition of trust that we believe individual investors and brokers have come to expect.

Since opening our doors in 1979, we believe American Equities, Inc. has earned a reputation as a trusted advisor, astute investor, and an expert in the complex world of purchasing, servicing, and selling first position real estate receivables, secured by real property.

Thanks to our knowledgeable in-house investment specialists and thorough due diligence approach, we have historically maintained a steady, predictable, and safe return on investment for our clients.

We seek to provide investors a higher-than-average fixed rate of return by investing in well-secured first position real estate receivables. Historically, these receivables have typically outperformed the more volatile stock market.

We believe that our investors continue reinvesting with us because they know we will work hard to preserve their capital, provide a predictable cash flow, and deliver the responsive service they deserve."

ii. "It is our mission to continue developing our tradition of trust, by refining our investment opportunities for our clients. We intend to accomplish this by:

- Making sure that every major decision is made by our six-member senior staff with over 120 years' experience at American Equities, Inc., ensuring in-house, competent decisions.
- Maintaining a highly trained professional work force that provides unparalleled customer service.
- Continuing to refine and upgrade our education, technologies, products, and services."

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iii. "OUR VISION – Our purpose for being in business is to create investment opportunities that meet the financial goals of our clients, with the objective of allowing them to preserve their capital and providing them with predictable cash flow."

iv. "Over the course of his 30 plus years in business, [Founder and President] Ross [Miles] has personally bought, built, developed, owned and sold well in excess of $60 million worth of real estate involving everything from single family homes to rock quarries, restaurants to farms, warehouses to subdivisions. We believe you would be hard-pressed to find a type of real estate in which Ross Miles has not been involved. An expert problem solver, Ross' meticulous attention to detail and his ability to think outside the box gives him a keen eye for excellent investments."

v. "In an effort to allow our investors to diversify their investment dollars among many receivables, we offer diversified mortgage portfolios. We handle the day-to-day management of the funds, but the investors own the receivables, not AEI. We put the investors in the driver's seat, while simultaneously offering expert advice and management that historically has provided a straightforward, stable, and predictable return-on-investment."

vi. In acquiring real estate receivables, "AEI first conducts a thorough due diligence process which includes verifying credit, reviewing payment history, conducting a loan-to-value analysis, receiving documentation for approval and property title insurance. We then purchase the seller's interest in the receivable and take over the right to receive the monthly payments from the payor. We then package the receivable for resale to an investor or hold for our own portfolio. This is what we call a one-to-one (1:1) receivable investment."

vii. "Preservation of capital – We strive to give our investors confidence that their original capital will be preserved by conducting a thorough due diligence process. Although past performance does not guarantee future results, they can draw further confidence from the fact that, in our history, no AEI investor has lost any amount of capital, whatsoever."

viii. "Less than 2% default rate in most years – Our default rate is historically low. Since opening our doors in 1979, AEI has experienced less than 2% default rate in most years on our receivables. In cases where defaults occurred, most of the properties still sold for a greater amount than what was owed on the property."

ix. "A predictable cash flow – The investment offers a fixed rate of return for the

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length of the receivable so that investors can enjoy a predictability of cash flow. The only interruption to this arises if a foreclosure or early pay off occurs."

x. "How much risk is associated with these investments? – Since AEI only invests in receivables where your original investment does not exceed a total of 80% of the property value, our default rate has been historically very low. Though the national average is significantly higher, AEI has experienced a foreclosure rate of less than 2% of all receivables in most years since 1979. In fact, although past performance does not guarantee future results, not one of AEIs' investors has ever lost any of their original capital as a result of a default. You should always consider risk factors in offering circulars and related documents before making an investment decision."

xi. "What if a default occurs? – Since the value of the real estate almost always exceeds our investment amount, in most cases there is a potential profit to be realized if the property were to be foreclosed upon and resold. Historically, other real estate investors interested in purchasing distressed properties have shown interest in acquiring these loans in default."

xii. Who handles the monthly disbursement on these investments? – Investors have the option of handling these themselves, or AEI, a licensed contract collection agency, can handle monthly collections and distribution.

xiii. "COMPARISON OF RETURNS [from the CHAPTER FOUR: RISK VS. REWARD]

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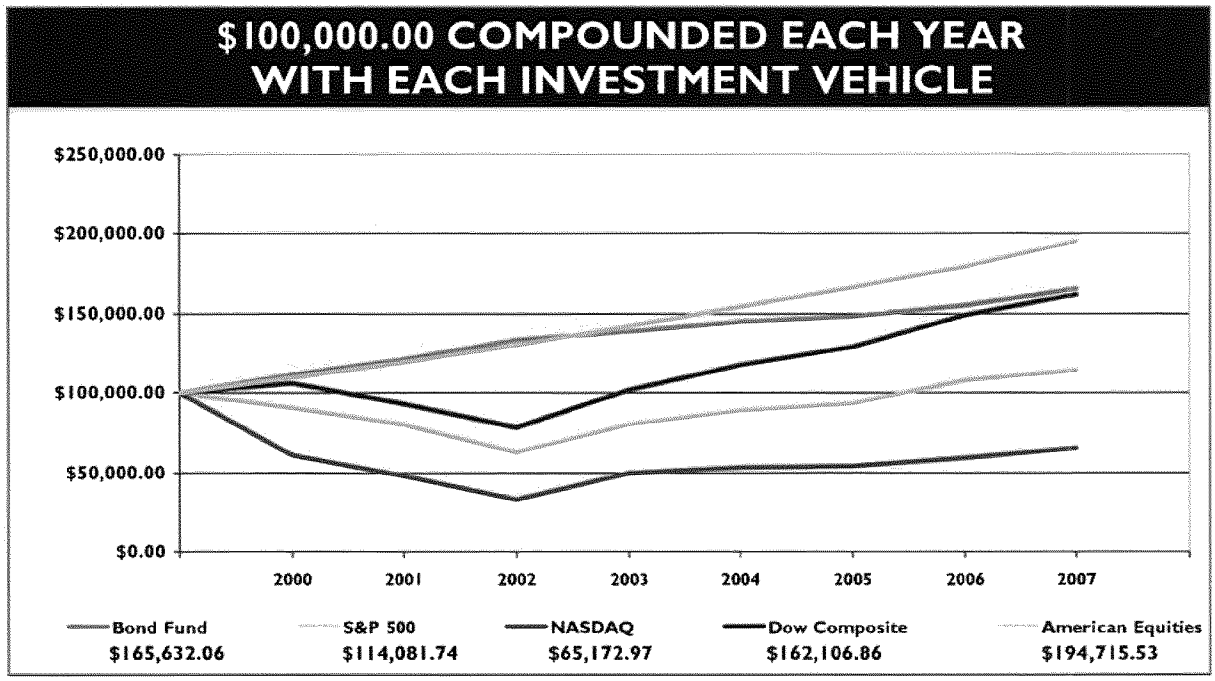

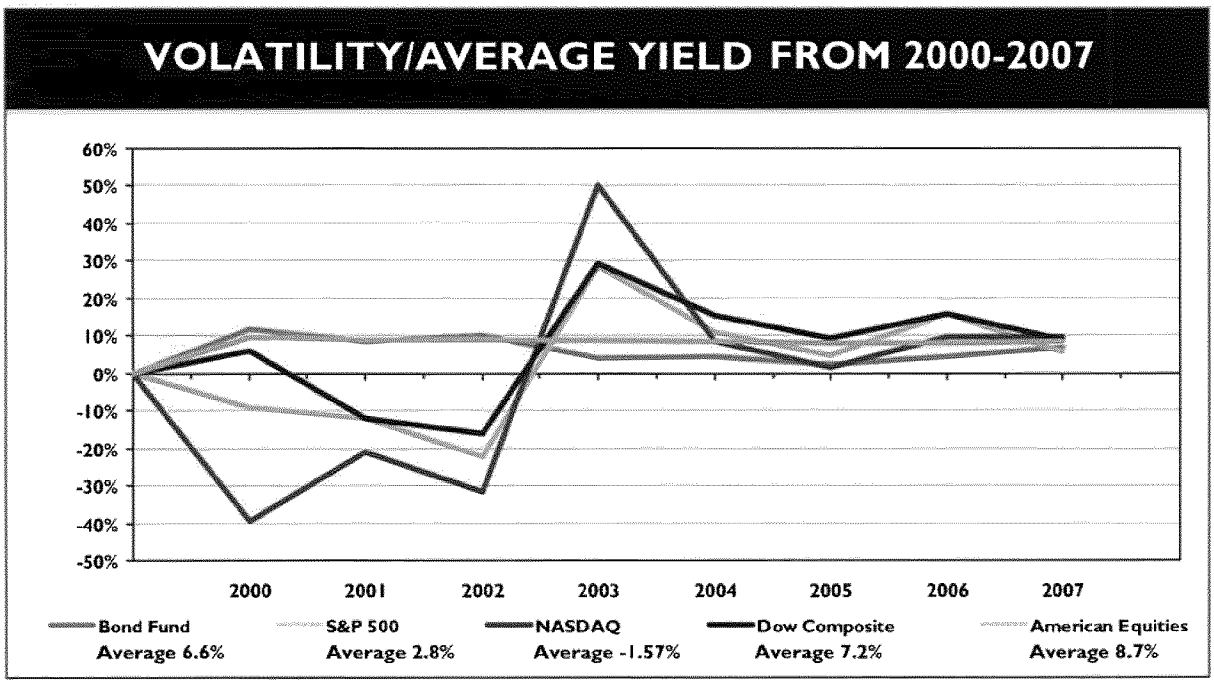

c. In a marketing video made, on information and belief, around the same time as the brochure, American Equities told investors substantially the same things, and additional statements, including:

i. The following voiceover describing the charts reprinted above:

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> "As you can see since year 2000, American Equities has out-performed the major index funds as well as most other fixed rate bond funds as per our example of one of the highest rated bond funds. If $100,000 was invested into each of these investment vehicles in January of 2000 through December of 2007, you can see that investing with American Equities Incorporated, which offers a fixed rate, less volatile return, has given the investor a significantly higher rate of return."

ii. The following explanation of American Equities' shift from 1:1 investments to mortgage pools (i.e., the Funds):

> "AEI looked to diversified mortgage funds as a way to respond to feedback from investors. A diversified mortgage fund is an opportunity for individual investors to participate in pooled investments, allowing for more diversification and potentially greater returns than 1:1 ratio receivables could offer. When we became looking into diversified mortgage funds in 2002, we saw that the vast majority of other companies owned the assets and sold divestures or bonds to investors. When investing in this type of fund, the issuing company is agreeing to pay a certain percent of interest and that promise is secured by corporate assets. From the company's point of view this is a very viable investment vehicle that gives them total control over the assets of the company regardless of the investors' input. In essence this takes all control away from the investor. If the company mismanages the investments there is little recourse for investors. In the case of mismanagement there are often legal fees and creditors to pay as well as other costs and expenses, leaving investors with a return of their investment that often ends up being pennies on the dollar.
>
> American Equities Incorporated takes a different approach. For the benefit of the investors AEI creates limited liability companies (or LLCs) that purchase or lend first position real estate receivables for a group of investors. This group owns the LLC on a pro rata basis. AEI is hired to manage these funds on their behalf. In the event that AEI went out of business the assets of the fund would not be affected, since the LLC, which is wholly owned by investors, owns 100% of the assets. AEI manages the assets under specific directives from investors and is held accountable in accordance with its management agreement with the LLC. Our day to day management activities include a specific due diligence process in selecting receivables for the funds to purchase."

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iii. "Our investors rely on our extensive experience and our ability to conduct a thorough due diligence process in selecting the receivables for the LLC. At American Equities Incorporated our goal is to mitigate any loss to investors and we show this commitment by offering our bonus compensation, both past and future compensation, as a means of protecting our investors' returns. While these investments are not guaranteed, American Equities Incorporated has attempted to lower the risk to investors through the creation of this reserve and through our due diligence processes for safer and reliable investing.

AEI has maintained a steady and predictable return on investment for our clients since 1979. While future performance is impossible to predict, our clients' investment funds have consistently grown since we opened our doors, providing yields between 7% and 12% per year. We believe our investors return to us because of our commitment to providing higher than average fixed rates of return by investing in well secured first position receivables. We also believe our clients continue reinvesting with AEI because they know we strive to preserve their capital, provide predictable cash flows, and deliver the responsive service they deserve.

Almost all our clients are repeat investors. Once a client begins investing with us, we believe our results speak for themselves. That is why most of your customers continue to increase their investments with us over time. We believe investors come back to us again and again because we present attractive options, handle their transactions competently and swiftly and maintain an intense level of personal involvement. Because we are principals, not brokers, we believe investors have confidence that we will make sound investment choices for them with diligence and with speed. We strive to operate on the worst-case scenario theory. If we would not be comfortable owning a property in the event of a foreclosure, we won't offer it to our investors. We always strive to put ourselves in our investors' position when helping them make investment decisions.

Contact us today to find out more about sound investment opportunities with American Equities Incorporated. Our accessible investor specialists are available to work with you to find an appropriate and flexible investment strategy."

d. The statements made to investors described in ¶¶ 30 a. – c. were material—a reasonable investor would find them important in making a decision to invest. Likewise, the facts that were not disclosed that, in light of the circumstances under which the

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statements were made, made those statements misleading, also were material. If American Equities had published its actual track record, its true financial condition, its inability to perform its obligations to investors and other creditors, its misuse of proceeds (see below ¶¶ 32-33), and its noncompliance with state and federal laws and regulations (see below ¶¶ 34-40), it would have adversely affected the market for its securities; it would have shattered the illusion that American Equites created and maintained with the material aid of defendants (see below ¶ 31).

e. The untrue and/or misleading statements made by American Equities in connection with the sale of securities (and the illusion they created and maintained) created a market for the AEM Fund securities, even if a particular investor did not see the statement.

Illusion of Credibility and False Expectations

31. The untrue statements and misleading omissions by means of which American Equities sold the securities (see above ¶¶ 30 a.–c.) created and maintained an (false) illusion of credibility, prosperity, and false expectations; created and maintained a false impression that AEI was solvent, that it had a track record of successful investments in real estate and real estate-backed notes, that it could keep and perform its obligations, that an investor was taking upon him or herself nothing more than the ordinary risks incident to a debt investment in a well-operated business of that sort run by successful managers, and that investments with AEI, including the AEM Funds, were safe and

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secure. The untrue statements and misleading omissions and the resulting illusion and impression they created, instilled, and maintained investor confidence in American Equities, and created and maintained a market with investors for AEI securities, including the AEM Funds. The untrue statements and misleading omissions and the illusion and impression they created covered up the undisclosed risks, including significant credit and default risks associated with the real estate receivables that American Equities purchased and packaged purportedly with money raised from investors. The untrue statements and misleading omissions created the illusion that American Equities possessed all the necessary state and federal licenses and registrations permitting it to sell securities and permitting it to conduct its securities and business operations, the purpose of such state and federal licenses and registrations being to protect investors. (See below ¶¶ 34-40). They were misleading (at the times specified below) because American Equities did not disclose:

a. Beginning in 2003, American Equities had significant credit and default risks associated with the real estate receivables that American Equities purchased and packaged with money raised from investors.

b. Beginning in 2003, American Equities and the AEM Funds suffered liquidity problems that put it at risk of insolvency greater than the ordinary risks incident to a real estate investment.

c. Beginning in 2003, American Equities did not have a track record of entirely

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successful investments in real estate and real estate-backed notes.

d. By 2007, and on information and belief, beginning in 2003, American Equities could not keep and perform its obligations. An investor was taking upon him or herself more than the ordinary risks incident to a well-operated business of that sort run by successful managers, and the AEM Fund investments offered by American Equities were not safe and secure; and

e. By 2008, American Equities was insolvent or was at risk of insolvency.

f. American Equities was in the (securities) business of "purchas[ing] real estate contracts at a discount and then sell[ing] th[o]se contracts to investors at face value." There was no "may" be about it.

g. American Equities was secretly earning interest income from contracts held as inventory, broker fees (see below ¶¶ 32 g.,55), management fees from the creation of investment pools, contract collection fees, and miscellaneous fees.

Through their conduct alleged in this Second Amended Complaint, defendants participated and materially aided in the sales of securities by aiding American Equities in creating and maintaining the illusion(s).

Misuse of Proceeds

32. American Equities' statements to investors about how funds raised by each Fund from investors would be used; how the amounts collected on each Fund's Receivables would be used; how the business and operations of each Fund would be

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conducted separate and apart from the business and operations of American Equities and the other Funds; how each Fund's assets would be segregated and not commingled with the assets of other Funds, American Equities, or other affiliates; and how each Fund would maintain its own books and records separate and apart from the books and records of American Equities and each other Fund, were untrue and were misleading because American Equities omitted to disclose facts a reasonable investor would find important in making a decision to invest. In particular:

a. By no later than 2007, and on information and belief, beginning in 2003, on a regular and consistent basis, one or more Funds did not have the cash flow to keep and perform its/their obligations to investors.

b. On a regular and consistent basis during that time, one or more Funds required money to be taken from other Funds or from American Equities or its affiliates to cover and hide losses, an operation-wide inability to keep and perform obligations to investors, and other defaults; and to maintain the illusion that investing in American Equities securities was a safe and sound investment. That misuse covered up the undisclosed risks, including significant credit and default risks.

c. As a part of the misuse of proceeds, American Equities regularly took money from one Fund's account (or, especially in early years, from an American Equities or an affiliate account), commingled it with other Funds' money, then used the commingled money to pay Funds' expenses, Fees, obligations, and Bonus Compensation. Money

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transferred from Fund to Fund, and among Fund(s) and American Equities, was not lent or repaid on any commercially standard terms. American Equities also used Fund money to make loans and gifts to Miles, Wile, and their family members and business affiliates.

d. By no later than 2006, and, on information and belief, beginning in 2003, American Equities commingled the funds raised by each Fund from investors (among Funds and among other American Equities monies) and commingled the amounts collected on each Fund's Receivables (including with amounts collected through AEI or its affiliates). Assets of each Fund were not segregated and were commingled with the assets of other Funds, American Equities, and other affiliates. Each Fund did not maintain its own books and records separate and apart from the books and records of American Equities and each other Fund. When one Fund did not have the cash flow to keep and perform its obligations, *i.e.*, to pay its expenses, Fees, obligations, and Bonus Compensation, money was taken from other Funds to cover the obligations, *i.e.*, to pay the expenses, Fees, obligations, and (unearned) Bonus Compensation. On top of that, "gifts" and undocumented "loans" were made out of the commingled accounts to affiliates and family members of the owners of American Equities. The inter-Fund transfers never carried commercially reasonable terms such as interest rates, payment schedules, or maturity dates. In the early years, some inter-Fund transfers were repaid to the transferor-Fund at the same amount (*i.e.*, without any interest), but no such repayment was promised and often it did not happen.

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e. For example, at the end of 2006 (the earliest year for which plaintiffs currently have AEI financial statements), AEI's books reflected that it owed no less than $150,000 to the AEM Funds then in existence without any benefit to the AEM Funds and without any commercially reasonable terms governing AEI taking the money. That amount ballooned to over $1.9 million by the end of 2007. Those amounts reflect only unpaid debts owed to the AEM Funds, as recorded on AEI's books, and do not reflect debts that were paid back (which debts never carried interest or any commercially reasonable terms and were not in the interest of the AEM Funds). Consistent with American Equities' practice of commingling all AEM Fund and American Equities money, AEI's financial statements do not specify from which AEM Fund AEI had taken money—American Equities moved money freely among all AEM Funds.

f. As just one illustration of the extent of cash transfers between the Funds (as set out in the declaration of an AEI employee based on a review of records and filed by the Receiver), at month's end in November 2016, AEM 600 had transferred approximately $925,000 to AEI, $6.2 million to other Funds, and $189,000 in undocumented loans to affiliates or family members of Miles and Wile.

g. Beginning no later than 2011, American Equities caused the AEM Funds to pay a newly created affiliate, AEMM, "Broker Fees." On information and belief, AEMM served no business purpose other than to facilitate commingling within American Equities and to hide American Equities' insolvency. The Broker Fees were paid to AEMM by an

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AEM Fund each time the Fund purchased Receivables, served no legitimate purpose, and AEM Funds received nothing in exchange for the Broker Fees.

h. According to the Receiver, as of April 2019, the balance of outstanding inter-Fund cash transfers was $10.9 million. This is separate from and does not account for the use of a central bank account to direct cash across the operation as needed.

i. American Equities used offering proceeds (*i.e.*, investor cash) to gift or loan money to at least sixteen people or entities affiliated with American Equities or related to Ross Miles or Maureen Wile. These transfers were not carried out through normal corporate procedures or on commercially reasonable terms. The transfers were often not recorded in the books and records, and the money was often not paid back to the transferor-Fund. Forensic investigation by the AEM Funds' Receiver found that, as of May 9, 2019, outstanding "loans" from the Funds to these people and entities totaled about $10.7 million in principal amount. Nearly all of the "loans" to these people and entities were in default and in some instances, the people and entities never made any payment on the "loans." There was no meaningful effort by American Equities to collect on "loans" to these people and entities.

j. By 2007, and on information and belief, beginning in 2003, American Equities had a practice of pledging Fund Receivables as security to obtain third-party financing (including, by no later than June 2010, to obtain financing from defendant Pacific Premier Bank) for its benefit, without regard to the best interest of the Fund which had purchased

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the receivable or investors in that Fund. Specifically, American Equities would assign a Receivable that had been held by a Fund to itself (*i.e.*, to AEI, AEMM, Miles, etc.) without consideration, then would pledge the Receivable as collateral for a bank loan. On information and belief, the bank financing was used: (i) to satisfy obligations to investors in various other Funds; (ii) to further the operations of AEI Developments described in ¶ 24, and (iii) generally to benefit American Equities. It was not uncommon for a Receivable to later be reassigned back to one of the fourteen Funds, without regard to which Fund initially held it. This directly contradicted what investors were told: that they were the sole owners of the Fund Receivables, that they held first position liens, and that Receivables would be held by the Fund they invested in until maturity.

k. As just one example, between March 2007 and July 2014, one Receivable contract that a Fund had initially purchased from an AEI Development was then transferred at least six times among six different Funds and American Equities. At three different time periods during those years, the Receivable contract served as collateral to a bank for a loan to American Equities.

33. In essence, at all relevant times, American Equities treated investor money and assets as its own to use freely for its own benefit or the benefit of Miles and Wile, their relatives, and their other business interests. Investors were never told their money could be treated that way or that American Equities needed to borrow money and the Receivable contracts from the AEM Funds in order to continue operating. Instead

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investors were always told that their money would be used exclusively to purchase Receivables that would be held by the Fund in which they invested to maturity of the loan.

Lack of State and Federal Licenses and Registrations

34. Throughout the life of the Funds, American Equities was out of compliance with numerous investor and consumer safety laws and regulations. As Davis Wright prepared the Fund offerings, the 1995 Cease and Desist Order from the State of Oregon referenced in ¶ 23 was not the only regulatory compliance matter that was not disclosed to investors. Undisclosed regulatory compliance issues were of two broad categories: compliance with laws protecting consumers in real estate transactions and compliance with laws protecting consumers in securities transactions. By not complying with the licensing and registration requirements, American Equities was able to unlawfully avoid disclosing its true financial condition to regulators and investors.

35. American Equities told investors that each Fund and its portfolio of secured Receivables would be managed by a Manager: who had years of experience in the very business of each Fund; who was under a fiduciary duty to each Fund; who would perform its duties in good faith and with care; who would ensure that each secured Receivable met minimum underwriting criteria; who would review and analyze information regarding the Receivables and ensure that its investigations were complete and the information was accurate; who would manage and service the Receivables and the Notes; who would

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report to investors "any important developments" relative to the Receivables; who would conduct the business and operations of each Fund separate and apart from the business and operations of American Equites and the other Funds; and who was a licensed collection agency. Those statements were untrue or misleading because American Equities failed to disclose that:

a. During its decades of experience and ongoing operations, AEI had not obtained or maintained licenses and registrations from the states in which it operated that were necessary to successfully conduct business and operations in the manner it told investors it would, or even to conduct them at all. It was not a "licensed contract collection agency." (See ¶ 30 b.xii.) Its track record included the 1995 Oregon Cease and Desist Order. At all material times, the failures to register or comply with regulations created material risks of substantial monetary fines, and a risk that one or more of its business operations could be shut down or significantly restricted by regulatory authorities.

b. At all material times, AEI did not have the escrow agent license that was required for it to collect and process payments on seller-financed real-property loans that were held by others. State regulation of licensed escrow agents included state authority to "[r]emove or prohibit any principal officer, controlling person, director, employee, or licensed escrow officer from participation in the conduct of the affairs of any licensed escrow agent." Wrongfully operating without a license is a criminal misdemeanor and punishment includes the possibility for prison time and daily fines. (In April 2018, AEI

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entered into a Consent Agreement with the Washington Department of Financial Institutions, agreeing that it was required to have an escrow agent license. It agreed to stop "conducting any servicing or contract collections activities that would require a license" until it obtained the license or qualified for an exemption.)

c. AEI did not have a Washington Consumer Loan Act license, which was required to service residential mortgage loans on properties in the State of Washington. (The State of Washington told AEI to stop servicing mortgage loans in Washington without a license.)

d. AEI was not licensed as an investment adviser in the State of Washington, which was required for it to provide investment advisory services in the State of Washington, including to the AEM Funds, which it managed.

e. AEI was not registered with the Securities and Exchange Commission (SEC) as a Registered Investment Adviser under the federal Investment Advisers Act of 1940 ("Advisers Act"), which was required to provide investment advisory services to the Funds, which it managed.

f. AEI was not registered as a securities broker in accordance with the Securities Exchange Act of 1934, nor was it licensed as a securities broker by the States of Washington and Oregon. All three of these licenses were required for it to effect securities transactions for the Funds. In addition, AEI's sales employees, including Miles Minsker,

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were not licensed as securities salespersons by the States of Washington or Oregon, which was likely required because they were paid to sell AEI securities.

g. Because neither AEI, its principals, agents or AEMM had the registrations and licenses required by state and federal laws, American Equities could not lawfully conduct its business operations, and there was a continuing material risk that its business operations could be shut down or significantly restricted.

h. Because neither AEI, its principals, agents, or AEMM had the registrations and licenses required by state and federal laws and American Equities could not lawfully conduct its business operations, it was incurring significant contingent liabilities that could prevent it from keeping and performing its obligations to investors, including paying its debts as they came due, and could render it insolvent.

36. The omissions alleged in ¶ 35 were material. A reasonable investor would consider AEI's failure to have the federal and state licenses that were required, and its consequent inability to lawfully conduct its business operations, to be important in making a decision to invest. In addition, it evidenced a scofflaw attitude that belied the idea that the Manager was a highly-experienced, faithful, and careful fiduciary. Reasonable investors would find it important in deciding whether to invest that American Equities failed to comply with applicable laws, especially laws put in place to protect investors; they would find it important that the State's investor protections were not in place for an investment in American Equities.

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37. In 2009, defendant Davis Wright prepared the offering materials for AEM 600. The first PPM for AEM 600 was dated June 30, 2009. It contained no disclosures related to securities regulation risk, consistent with all of the previous offering materials for AEM Funds.

38. Davis Wright prepared a new version of the AEM 600 PPM dated November 5, 2009. In that new version, Davis Wright and American Equities added the following paragraph.

> **Risks Related to Status of the Company and the Manager Securities Regulators.** [sic]
>
> The Manager and the Manager's employees and agents are not registered with the SEC as investment advisers under the Investment Advisers Act of 1940, and are not registered with the SEC as brokers under the Securities and Exchange Act of 1934. The Company is not registered with the SEC as an investment company under the Investment Company Act of 1940. The Company, the Manager, and the Managers employees and agents are not registered as brokers or investment advisers with any state securities regulators. If state or federal regulators were to investigate and determine that exemptions from registration are not available to the Company, the Manager, or the Manager's employees and agents, such determination would have a material adverse impact on the Company's operations and financial results, and may result in the financial failure of the Company.

39. That November 2009 disclosure was never provided to AEM 600 investors who first invested in an AEM Fund before November 5, 2009. What's more, no similar disclosure was added to any other Fund's PPM. Therefore, it was not provided to investors in any of the other Funds, all of which continued soliciting existing investors to reinvest accruing interest and otherwise-matured investments, and at least the following

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Funds which continued to solicit and receive new investor money: AEM 300 (until no earlier than 10/29/15), AEM Mexico 200 (until no earlier than 10/29/13), AEM Mexico 300 (until no earlier than 5/21/10), AEM Mexico 400 (until no earlier than 5/30/14), and AEM 500 (until no earlier than 10/30/09). Moreover, the November 2009 disclosure to AEM 600 investors did not provide any factual information by which an investor could have assessed the level of that risk, let alone disclose that such registration was, in fact, required and the likelihood that the SEC or one of the states in which AEI was selling securities or operating its receivables business would discover AEI's noncompliance and take regulatory action. The underlying facts and the "risk" arising from AEI's (i.e., "the Manager's") failure to register with the SEC or the states in which it was operating as an investment adviser or broker would be important to reasonable investors considering investments or reinvestments in any AEM Fund.

40. The November 2009 disclosure given to AEM 600 investors failed to disclose that AEI had been required to register with the State of Washington as an investment adviser since before 2003 and had failed to do so. It also omitted to state either on what basis AEI supposedly was exempt from the registrations described in ¶ 38 above, or the likelihood that regulators, upon investigation, would "determine that exemptions from registration are not available." On information and belief, there was no lawful exemption for AEI's failure to register with either state or federal regulators as an investment adviser and also likely as a broker, and that fact was not disclosed to investors.

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41. The omissions alleged in the previous paragraph made the November 2009 disclosure on regulatory risk to new investors in AEM Fund 600 misleading, because without those omitted disclosures, investors were given the impression that AEI (the Fund Manager) was in compliance with all applicable laws and regulations. Reasonable investors would find the omissions in the previous paragraphs 28 through 34 important in deciding whether to invest in AEM Funds.

Riverview Community Bank

42. The line of credit described above (see above ¶¶ 14-17) was very profitable for Riverview—producing a high return on the bank's equity ("ROE") of close to 36%. Credit Memorandum, Oct. 5, 2007. Riverview continued to extend credit to American Equities even when its financial statements revealed that it was insolvent. The line of credit was known as a "guidance" line because any advances required that the use of the funds meet specific criteria and that the purchased Receivables needed proper documentation and an acceptable risk. Most of the advances, however, lacked the required documents, and American Equities chronically failed to comply with material terms of the guidance line of credit such as timely providing financial statements. American Equities continued to struggle, but Riverview continued to accommodate its ongoing operations, embarking on a quiet exit from the relationship. In the face of AEI's insolvency and years' long difficulties in meeting its obligations to the bank, as late as

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2012, Riverview allowed AEI to defer loan payments, counting on AEI to have the loan "refinanced with investor funds by year end," saying:

> American Equities is seeking investors to refinance RCB loan prior to 12/31/12. Borrower will pay the two Quarterly payments on 12/31/12 from company's operating cash flow if the subject loan is not refinanced with investor funds by year end."

Credit Memorandum, Oct. 23, 2012.

43. When new investors for the AEM Funds became harder for American Equities to find, Riverview responded by refusing to renew the line of credit and terming out the balance that American Equities owed. Noting that American Equities' "debt to worth…has been increasing to alarming levels over the past two or three years as the company struggles to rid itself [of] non-earning real estate assets," Riverview decided that "because of [American Equities'] lack of profitability and lack of revolving on the line, it is prudent for the bank to discontinue the revolving function." Credit Memorandum, Sep. 15, 2009, May 24, 2010, Sep. 15, 2010. Despite all this, Riverview did not take steps to foreclose on its loans, and, instead chose the strategy of making a quiet exit that would help (aid) ensure that investors did not learn about the precarious financial condition of American Equities and the Funds and would help facilitate the repayment of its loan, at least in part, from investor funds. Foreclosing on the line of credit and the Fund Receivables would have shattered the (false) illusion of solvency, safety, and prosperity that was necessary for American Equities to continue selling securities and for Riverview to be repaid. By following the quiet exit strategy, the bank managed to end its credit

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relationship with AEI and to be made whole, and thereby enabling (aiding) American Equities to victimize more investors.

Pacific Premier Bank

44. In 2008, after a period of rapid increase in real estate values, the real estate market crashed. The market collapse affected the AEI Developments, American Equities, and its borrowers as well. As a result, there was a decline in performing loans and an increase in defaults, particularly from more recent loans where the loss of value of the real estate exceeded the loan the property secured. This was true not only of loans made by American Equities and the Funds to unrelated parties, but also to investments the Funds had made to related parties and affiliates. American Equities had become functionally insolvent in that it could not liquidate its assets for enough money to repay investors and it needed new investor money to continue to pay interest and redeem investors whose notes came due.

45. American Equities did not tell investors that by no later than 2008, American Equities' and the Funds' undisclosed previous liquidity problems had developed into functional insolvency. Nor did American Equities tell investors that new investor money coming into the Funds was needed to keep the operations afloat and make payments of interest and redeem notes that were due and that the only way American Equities could continue to maintain the appearance of stability and safety was through the rampant commingling across the operations described in ¶¶ 23-33, above.

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46. Beginning no later than June 2008, defendant Pacific Premier Bank provided a guidance line of credit to AEI that was necessary to American Equities' operations, including in selling the AEM Fund securities. Like Riverview's guidance line, Pacific Premier required American Equities (and later AEMM) to meet certain criteria before any money could be drawn on the loan. The guidance line was first provided to AEI in the amount of $3.1 million. Advances on the line were purportedly to be used by AEI to purchase real estate-secured promissory notes, with the notes secured primarily by properties located within the Western United States, including many in Oregon.

47. AEM Fund security sales to investors were the "primary source of repayment" to Pacific Premier for the life of the guidance line, which remained in place through no earlier than early 2015. The stated purpose of the guidance line was short-term funding. American Equities (and later AEMM) was supposed to document each advance with a separate promissory note with a maximum maturity of 12 months, by which time Pacific Premier understood there would be a "sale of the … contracts to either an individual investor or an established investment pool," *i.e.*, one of the AEM Funds.

48. AEI provided the bank with financial statements in 2008 that reflected the scale of its liberal borrowing from the AEM Funds and its accelerating difficulty in covering for its borrowing with new investor money: outstanding debt owed by AEI to the AEM Funds increased by over 1,100% between fiscal year ends 2006 and 2007. In early 2008, the outstanding balance owed to the AEM Funds on AEI's books was nearly $2

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million. The Davis Wright-drafted AEM Fund PPMs and offering materials, which Pacific Premier refers to as "prospectuses" in its internal loan memoranda, did not permit AEI to borrow from the AEM Funds.

49. Guidance line of credit advances were made by Pacific Premier based on "drive by appraisals" to determine the value of the real property securing each loan, perpetuating American Equites' general business practice of acquiring real estate interests that were overvalued. And the property "value" that the bank approved as supporting an advance often included a broker's fee, paid by American Equities to a third party or to an affiliate. When AEI purchased a Receivable contract for resale to an AEM Fund (the purpose of the guidance line funding), American Equities capitalized broker's fees into the supposed value of the contract on its books. When it sold a contract to a Fund (the bank's expected primary source of repayment), the fee continued to be included in the contract's "value," contributing to the overvaluation of contracts on the Funds' books.

50. In 2012, the bank considered requiring industry standard appraisals to determine the value of the real estate securing each advance on the guidance line. Miles told Pacific Premier that AEI would be "unable to comply" with such a requirement and that AEI would "consider developing an alternative banking relationship" if Pacific Premier required industry standard appraisals. As a result, the guidance line of credit was renewed again without the change.

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51. Advances on the guidance line of credit were paid directly by Pacific Premier into a checking account belonging to AEI or, after December 2010, AEMM. The guidance line of credit was an essential part of American Equities' misuse of proceeds, alleged above in ¶¶ 32-33. Although the bank recorded a security interest in real property to secure each advance, it did not require that American Equities use the advances for their intended purpose of purchasing an interest in that real estate, or for any particular use. And in fact, American Equities freely used funds from the guidance line for its wider operational costs, transferring the money to Miles, Wile, and among affiliates.

52. Also, advances on the guidance line were sometimes secured by Receivable contracts that belonged to the AEM Funds. In or around March 2013, reassigning Receivable contracts out of an AEM Fund to secure advances on the Pacific Premier line, without consideration to the AEM Fund, became a widespread practice by American Equities. In that month alone, American Equities transferred no fewer than six Receivable contracts from different AEM Funds to AEMM and then to Pacific Premier in exchange for over $833,000 in funding. That money was first paid by Pacific Premier into an AEMM checking account, then transferred to AEI, and was then used, on information and belief, to pay down AEI's debt at Riverview (or to cover other costs or obligations, to make that paydown possible without revealing American Equities' true financial condition).

53. At least three of those Receivable contracts taken from AEM Funds in March 2013 were later transferred back to a Fund, only to be transferred out again in or around

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June 2014, again to be used as collateral for a Pacific Premier advance on the guidance line. Throughout those times, the records of the Funds continued to reflect the Receivables as held by the Funds, even though they had been assigned to the bank to collateralize a loan to American Equities.

54. In the spring of 2014, the bank renewed the guidance line of credit for the ninth time. In underwriting the renewal, the bank analyzed AEMM's and AEI's internally prepared financial statements and the overall operations of American Equities, including management of the pools (*i.e.*, the Funds). In its memorandum approving the loan renewal—signed off on by at least five bank employees—the bank noted that AEMM revenues in 2013 were half of the 2011/12 averages. "Prior year revenues were weighted heavily in contract sales," *i.e.*, selling real estate contracts to the AEM Funds, but "[i]n 2013, this shifted away from contract sales ([down to] 29.5% [of revenue]) and more towards broker fees."

55. The bank explained in its memorandum that these "broker fees" were a means for American Equities to profit on the front end of an AEM Fund purchase of a Receivable contract: "Broker fees are earned when AEMM facilitates the purchase of contracts/notes directly by the individual pool [Fund], instead of acquiring within AEMM and subsequently selling to the pool. The broker fees represent the difference between the purchase price and the price that provides the desired return to the pool." In other words, investor money into a Fund was used to pay an undisclosed "Broker Fee" to AEMM on

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top of each Receivable contract purchase. "In 2013," the bank observed, "Broker fees were significant at $723M. Broker fees were zero in 2012. This is expected to remain high in the future."

56. Pacific Premier also explained that AEMM was using the investor money in part to pay $15,000 each month to an AEI Development for money it lent American Equities to pay off other third-party debt. (See above ¶¶ 32-33.)

57. Pacific Premier approved the ninth renewal of the guidance line in April 2014. As in past loan memoranda, the bank noted favorably Ross Miles' relationship with bank founder Thomas Young, "dating back to the late 1970's," when American Equities began. Miles also touted his relationship with Young to investors.

58. By 2015, when the guidance line came up for its tenth renewal, Young had left Regents, Pacific Premier's predecessor. The bank's internal assessment of American Equities by new management soured, noting that it was highly leveraged and its "in-house accounting [was] not adequate." Its hesitations, however, were counterbalanced by the continued benefits of Miles' business with the bank: "Borrower has been a strong advocate for Regents Bank in the past and has provided strong deposit relationship and has referred a number of clients … Borrower and referred clients (for which Ross maintains a certain level of influence) maintain $3.4MM in loans outstanding and $3.2MM in avg deposits."

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59. Over the course of several months, the bank met with Miles and, although the guidance line of credit had not been renewed and existing loans on the line were maturing, the bank did not terminate its relationship or cut off funding to American Equities. It provided extensions on the maturing loans until quietly passing them off its books to Young's new financing company.

60. Throughout this time, Pacific Premier had also provided credit directly to Miles for American Equities operations, which continued after 2015 through 2018. In June 2008, for example, the bank approved a $50,000 line of credit to Miles "to finance short-term business cash flow needs," recognizing the "business" as AEI, its affiliates, and the AEM Funds.

61. In late 2009 and early 2010, Miles took bad debt off of the bank's hands and the bank, in exchange, lent additional money to Miles secured by deeds of trust taken from the AEM Funds for no consideration. (See above ¶¶ 32-33.) Specifically, in December 2009, Miles purchased a loan from the bank at par; the loan was secured by a promissory note and deed of trust, the borrower on which, Franchise Management Services, Inc., was in bankruptcy. Given the uncertainty of the borrower's ability to pay, Miles approached the bank looking for more "cash flow." The bank agreed to lend Miles $1.025 million. The bank described the loan as being "a result of negotiations with the Borrower on the sale of a problem credit by the Bank to Mr. Miles." The $1.025 million reciprocal loan to Miles was secured by two real estate receivables, which Pacific Premier recognized "were

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originally owned by American Eagle Mortgage 100 and American Eagle Mortgage 400." The bank accepted them as collateral for the loan to Miles after they were "assigned from the given investment [fund] to Ross Miles personally and then assigned to [Pacific Premier's predecessor] Regents Bank" as a requirement to close the loan, which happened in May 2010. Earlier in January 2009, Pacific Premier "loaned" Miles $600,000 in order that that Miles could pay off another bad Miles-related loan Pacific Premier had made on a property in La Pine. Miles provided as collateral six Receivables that were owned by and owed to AEM Funds. The AEM Funds received no consideration for transferring the real estate loans to Pacific Premier. Miles willingness to take the bad debts off the bank's hands motivated Pacific Premier to continue to extend credit to American Equities and then quietly wind down the guidance line of credit—all the while providing American Equities the money necessary to maintain its (false) illusion of solvency, safety, and prosperity, and necessary for it to continue selling securities.

62. As a part of that $1.025 million loan in May 2010, Miles and the bank agreed that all payments by the underlying borrowers on the two real estate loans now securing his personal debt, which had been part of the Receivables owned by AEM 100 and AEM 400, would go directly to a Pacific Premier account, from which Miles' loan payments to the bank would automatically be deducted. Miles was expected to personally net over $6,000 each month from the transaction—*i.e.*, from the reassignment of two contracts from

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AEM Funds to Pacific Premier as security for a personal loan. The AEM Funds received no consideration for transferring the real estate loans to Pacific Premier.

63. In January 2011, Pacific Premier renewed Miles' $50,000 "short-term business cash flow" line of credit for the fourth time. The bank noted that as a revolving line of credit, it was intended to be used "at 50% of the commitment amount" and fully "revolve"—*i.e.*, rest at a zero balance for some time—each year. During 2010, however, the outstanding balance was never below $40,000 and was maxed out at the time of renewal. Despite that, the bank renewed the line of credit.

64. When Pacific Premier quietly wound down the guidance line of credit in 2015, it not only left Miles' line of credit in place, but it increased the available credit to $75,000. Pacific Premier's credit line to Miles was used, on information and belief, to pay obligations to existing investors and as needed throughout American Equities to hide its insolvency. In 2017, Miles still was not meeting the bank's requirement that the line rest at a zero balance for 30 days, but the bank continued to renew it. In December 2018, with American Equities in freefall, it was renewed yet again.

65. The Pacific Premier lines of credit to American Equites (including to AEI, AEMM, and Ross Miles) made possible the sales of AEM Fund securities from no later than June 2008 to the collapse of the Funds in 2019. Without those lines of credit, American Equities would not have the money necessary to continue its (false) illusion of solvency, safety, and prosperity; it would have not been able to continue selling securities.

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By providing credit advances of necessary funding secured by receivable contracts taken from the AEM Funds, Pacific Premier participated in American Equities unlawful securities sales and its unlawful operations of a securities business.

Collapse of American Equities

66. By early 2019, obligations to investors finally overwhelmed American Equities' capacity for bringing in new money. In order to stave off investors and other claimants, Miles and Wile hired a workout specialist to attempt to negotiate with creditors and investors. When the workout specialist reviewed the situation, he told Miles and Wile that they should consent to the appointment of a Receiver to take charge of the Funds.

67. In May 2019, on Ross Miles' motion, the Funds were put into a court-supervised Receivership and an injunction was entered preventing plaintiffs from suing AEI and the Funds. The Court has since granted the Receiver's request that all of the Funds be treated as a single operating entity due to the extensive commingling of assets and cash among the Funds.

FIRST CLAIM FOR RELIEF

Oregon Securities Law
Sales in Violation of ORS 59.115(1)(b);
Recovery under ORS 59.115(2)
Against Defendants Miles and Wile

68. Plaintiffs reallege ¶¶ 1-67.

69. Miles and Wile (along with others in American Equities) sold securities to plaintiffs and members of the Class by means of untrue statements of material facts or

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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, in violation of ORS 59.115(b). The untrue or misleading statements of fact are described in ¶¶ 22-65 above. Each of the untrue or misleading statements were material in that a reasonable person in the position of plaintiffs and the other investors would have considered the information important in making a decision to invest in an AEM Fund.

70. A schedule of plaintiffs' investment accounts is attached as Schedule I. Pursuant to ORS 59.115(1), (2), and (3), plaintiffs and members of the Class are each entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 9% interest or the rate provided in the security, less any amount received on the securities. In those cases where an investor received an interest dividend and simultaneously reinvested it (*i.e.*, where an investor did not receive an immediate cash payment of the interest), the interest is accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 9% from the date of payment. The damages of plaintiffs and the members of the Class are in an approximate amount in excess of $25.3 million. Interest accrues until the date of payment. Plaintiffs will tender their securities at a time before entry of judgment.

71. In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less

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the value of the security when the purchaser disposed of it and less interest on such value at the rate of 9% per annum from the date of disposition.

72. Pursuant to ORS 59.115(10), this Court should award plaintiffs their reasonable attorney fees.

SECOND CLAIM FOR RELIEF

Oregon Securities Law
Sales in Violation of ORS 59.115(1)(b);
Liability under ORS 59.115(3); Recovery under ORS 59.115(2))
Against Defendants Davis Wright, Riverview, and Pacific Premier

73. Plaintiffs reallege ¶¶ 1-67.

74. American Equities sold securities to plaintiffs and members of the Class by means of untrue statements of material facts 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, in violation of ORS 59.115(b). The untrue or misleading statements of fact are described in ¶¶ 22-65 above. Each of the untrue or misleading statements were material in that a reasonable person in the position of plaintiffs and the other investors would have considered the information important in making a decision to invest in an AEM Fund.

75. Defendant Davis Wright is jointly and severally liable with American Equities, including Miles and Wile, for participating or materially aiding in the sales in the manner described in ¶¶ 11-13, 20, and 34-41 above. (ORS 59.115(3).)

76. Defendant Riverview Community Bank is jointly and severally liable with

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American Equities, including Miles and Wile, for participating or materially aiding in the sales in the manner described in ¶¶ 14-17, 20, and 42-43 above. (ORS 59.115(3).)

77. Defendant Pacific Premier Bank is jointly and severally liable with American Equities, including Miles and Wile, for participating or materially aiding in the sales in the manner described in ¶¶ 18-20 and 44-65 above. (ORS 59.115(3).)

78. A schedule of plaintiffs' investment accounts is attached as Schedule I. Pursuant to ORS 59.115(1), (2), and (3), plaintiffs and members of the Class are each entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 9% interest or the rate provided in the security, less any amount received on the securities. In those cases where an investor received an interest dividend and simultaneously reinvested it (*i.e.*, where an investor did not receive an immediate cash payment of the interest), the interest is accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 9% from the date of payment. The damages of plaintiffs and the members of the Class are in an approximate amount in excess of $25.3 million. Interest accrues until the date of payment. Plaintiffs will tender their securities at a time before entry of judgment.

79. In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and less interest on such value

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at the rate of 9% per annum from the date of disposition.

80. Pursuant to ORS 59.115(10), this Court should award plaintiffs their reasonable attorney fees.

THIRD CLAIM FOR RELIEF

Oregon Securities Law –
Sales in violation of ORS 59.135;
Recovery under ORS 59.115(2)
Against Defendants Ross Miles and Maureen Wile

81. Plaintiffs reallege ¶¶ 1-67.

82. Miles and Wile, along with American Equities, sold securities in violation of ORS 59.135(2) through (3) (civil liability under ORS 59.115(1)). Miles and Wile, directly or indirectly, in connection with the sale of the securities or the conduct of a securities business:

(1) made untrue statements of a material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; and

(2) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

83. A schedule of plaintiffs' investment accounts is attached as Schedule I. Pursuant to ORS 59.115(1), (2), and (3), plaintiffs and class members are each entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 9% interest or the rate provided in the security, less any amount received on the securities. In those cases where an investor

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received an interest dividend and simultaneously reinvested it (*i.e.*, where an investor did not receive an immediate cash payment of the interest), the interest is accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 9% from the date of payment. The damages of plaintiffs and the members of the Class are in an approximate amount in excess of $25.3 million. Interest accrues until the date of payment. Plaintiffs will tender their securities at a time before entry of judgment.

84. In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and less interest on such value at the rate of 9% per annum from the date of disposition.

85. Pursuant to ORS 59.115(10), this Court should award plaintiffs their reasonable attorney fees.

FOURTH CLAIM FOR RELIEF

Oregon Securities Law –
Sales in violation of ORS 59.135;
Liability under ORS 59.115(1) and ORS 59.115(3);
Recovery under ORS 59.115(2))
Against Defendants Davis Wright, Riverview, and Pacific Premier

86. Plaintiffs reallege ¶¶ 1-67.

87. American Equities, including Miles and Wile, sold securities in violation of ORS 59.135(2) through (3) (civil liability under ORS 59.115(1)). American Equities,

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including Miles and Wile, directly or indirectly, in connection with the sale of the securities or the conduct of a securities business:

(1) made untrue statements of a material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; and

(2) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

88. Defendants Davis Wright, Riverview, and Pacific Premier are jointly and severally liable with American Equities for participating or materially aiding in the sales in the manner described above in ¶¶ 11-13, 20, and 34-41, for Davis Wright, ¶¶ 14-17, 20, and 42-43, for Riverview, and ¶¶ 18-20 and 44-65, for Pacific Premier. (ORS 59.115(3)).

89. A schedule of plaintiffs' investment accounts is attached as Schedule I. Pursuant to ORS 59.115(1), (2), and (3), plaintiffs and class members are each entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 9% interest or the rate provided in the security, less any amount received on the securities. In those cases where an investor received an interest dividend and simultaneously reinvested it (*i.e.*, where an investor did not receive an immediate cash payment of the interest), the interest is accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 9% from the date of payment. The damages of plaintiffs and the

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members of the Class are in an approximate amount in excess of $25.3 million. Interest accrues until the date of payment. Plaintiffs will tender their securities at a time before entry of judgment.

90. In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and less interest on such value at the rate of 9% per annum from the date of disposition.

91. Pursuant to ORS 59.115(10), this Court should award plaintiffs their reasonable attorney fees.

92. Plaintiffs demand a jury trial.

WHEREFORE, plaintiffs, on their own behalf and on behalf of members of the Class, respectfully demand an award against defendants in an approximate amount in excess of $25.3 million, along with interest from the dates of payments of consideration equal to the greater of 9% interest or the rate provided in the security; awarding plaintiffs

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their reasonable attorney fees; awarding plaintiffs their costs and disbursements; and providing for such further relief as the Court may deem appropriate.

DATED this 25th day of March 2022.

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Schedule I

Plaintiff	"Pool"	Account Number	Principal Balance	Accrued & Unpaid Interest Per Receiver
Anderson, Diane, trustee of Diane Anderson Trust	American Eagle Mortgage 200 LLC	4108	$ 47,570.72	$ 634.28
Anderson, Diane, trustee of Diane Anderson Trust	American Eagle Mortgage 400, LLC	6103	$ 124,940.73	$ 1,665.88
Anderson, Diane, trustee of Diane Anderson Trust	American Eagle Mortgage Mexico 200 LLC	0144	$ 53,620.54	$ 848.99
Buckley, Bonnie, trustee of Bonnie K. Buckley IRA	American Eagle Mortgage 600, LLC	8113	$ 70,000.00	$ 875.00
Buckley, Bonnie, trustee of Bonnie K. Buckley IRA	American Eagle Mortgage 600, LLC	8114	$ 70,000.00	$ 933.33
Buckley, Bonnie, trustee of Bonnie K. Buckley IRA	American Eagle Mortgage 600, LLC	8115	$ 70,000.00	$ 991.67
Dyess, Carl and Kirby, trustees of Dyess Family Trust	American Eagle Mortgage Mexico 200 LLC	0102	$ 223,553.32	$ 3,725.89
Dyess, Carl and Kirby, trustees of Dyess Family Trust	American Eagle Mortgage Mexico 400 LLC	0107	$ 688,105.67	$ 11,468.43
Dyess, Carl and Kirby, trustees of Dyess Family Trust	American Eagle Mortgage 100 LLC	1171	$ 957,596.82	$ 11,171.96
Koubeck, Peter L., an individual	American Eagle Mortgage Mexico 100 LLC	5139	$ 334,504.65	$ 7,944.48
Koubeck, Peter, trustee of Peter L. Koubeck IRA	American Eagle Mortgage Mexico 400 LLC	0141	$ 440,368.80	$ 10,465.17
Peterson, Michael, trustee of Michael T. Peterson IRA	American Eagle Mortgage 500, LLC	7122	$ 124,686.15	$ 1,558.58
Peterson, Michael, trustee of Michael T. Peterson IRA	American Eagle Mortgage 500, LLC	7123	$ 128,795.78	$ 1,824.61
Peterson, Michael, trustee of Michael T. Peterson IRA	American Eagle Mortgage 600, LLC	8222	$ 98,500.00	$ 1,231.25
Peterson, Michael, trustee of Michael T. Peterson IRA	American Eagle Mortgage Mexico 200 LLC	0147	$ 134,612.08	$ 2,131.36
Wilson, Ed, an individual	American Eagle Mortgage Mexico 100 LLC	5101	$ 64,675.00	$ 1,024.02
Wilson, Ed, an individual	American Eagle Mortgage Mexico 200 LLC	137	$ 68,891.99	$ 1,090.79
TOTALS			**$ 3,700,422.25**	**$ 59,585.69**

EXHIBIT C

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

SHERRY BEATTIE, an individual; **BARBARA FITE,** an individual; **BELINDA FRANKE** and **DEAN FRANKE,** individuals; **ROBERT KALMBACH** and **PATRICIA WITT,** individuals; **RSM REVOCABLE TRUST,** Robert and Gay MacLellan as trustees; **M2M DEVELOPMENT INC. 401K PSP,** Robert and Gay MacLellan as trustees;

Plaintiffs,

v.

DAVIS WRIGHT TREMAINE LLP, a Washington limited liability partnership; **ROSS MILES**, an individual; **MAUREEN WILE**, an individual; **PACIFIC PREMIER BANK**, a California chartered bank; and **RIVERVIEW COMMUNITY BANK**, a Washington chartered bank;

Defendants.

Case No. 20CV09419

THIRD AMENDED COMPLAINT (Securities Law Damages)

Claim Not Subject to Mandatory Arbitration

Filing Fee Authority: ORS 21.160(d) (Claim amount is $1 million or more and less than $10 million)

Plaintiffs allege:

1.

This case arises from a real estate investment scheme known as American Equities. The scheme was a venture between defendants Ross Miles and Maureen Wile,

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along with the banks that financed and profited from the scheme, defendants Pacific Premier Bank and Riverview Community Bank. Plaintiffs and hundreds of others were sold interests in what they were told were "pools" of real-estate backed securities: promissory notes supposedly purchased at fair market value and purportedly secured by underlying real property at favorable loan-to-value ratios. Investors were told that pools would be responsibly managed and their investment safely returned to them with promised interest. In reality, the investments were not well secured, responsibly managed, or safe. Investor money was misused—it was commingled among more than a dozen "pools" and other affiliate entities, and it was used for improper and undisclosed purposes, including hiding earlier and ongoing losses, "lending" to insiders, and paying returns to earlier investors. Investor money was misused to repay loans to defendants Pacific Premier and Riverview banks.

2.

In May 2019, the investment scheme collapsed. All of the pools were taken over, along with their parent entity, American Equities, Inc., by a court-appointed receiver. Plaintiffs filed this action to recover for the unlawful sales of securities in violation of the Oregon Securities Law and Oklahoma Uniform Securities Act by Ross Miles and Maureen Wile. They also seek to recover for the participation and material aid in those sales by the law firm Davis Wright Tremaine LLP ("Davis Wright") and the banks, Pacific Premier and Riverview.

3.

The securities were in the form of private notes and ownership interests in at least fourteen "American Eagle Mortgage"-branded funds, which are now in receivership: American Eagle Mortgage 100, LLC; American Eagle Mortgage 200, LLC; American Eagle Mortgage 300, LLC; American Eagle Mortgage 400, LLC; American Eagle Mortgage 500, LLC; American Eagle Mortgage 600, LLC; American Eagle Mortgage

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Mexico 100, LLC; American Eagle Mortgage Mexico 200, LLC; American Eagle Mortgage Mexico 300, LLC; American Eagle Mortgage Mexico 400, LLC; American Eagle Mortgage Mexico 500, LLC; American Eagle Mortgage I, LLC; American Eagle Mortgage II, LLC; and American Eagle Mortgage Short Term, LLC (together, the "pools," "Funds" or "AEM Funds").

4.

Each AEM Fund security that was sold to each plaintiff was sold by that AEM Fund (as denoted in the chart in Schedule I). The securities were also sold, and the sales were successfully solicited by, American Equities, Inc. ("AEI"), the organizer and manager of each Fund; and by defendants Miles and Wile, the principals who controlled AEI and each of the AEM Funds. The AEM Funds, AEI, Miles, and Wile were issuers of the AEM Fund securities.

PLAINTIFFS

5.

Plaintiffs are eight investors who invested in the AEM Funds. Plaintiffs' investment accounts are shown on the attached Schedule I, which lists, for each plaintiff: date of initial investment, principal amount invested, Fund (or "pool") in which they invested, account number, applicable interest rate, and damages as of May 18, 2023. Plaintiffs Sherry Beattie, Robert Kalmbach, Patricia Witt, Robert MacLellan, and Gay MacLellan are citizens of the State of Washington who were sold their AEM Fund securities by an offer to sell that was made in Oregon or by an offer to buy the security that was made and accepted in Oregon.

6.

Plaintiffs Robert and Gay MacLellan, citizens of the State of Washington, split their residence between Medford, Oregon, and Vancouver, Washington, spending almost equal time between the two. The MacLellans' business office, in which they conduct

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financial affairs, is located in Medford, Oregon. Substantial, if not all, steps of the sale of AEM securities to the MacLellans occurred in Medford, Oregon, including but not limited to offers and solicitations to purchase AEM Fund securities by defendant Ross Miles.

7.

Prior to investing in AEM Funds, plaintiffs Robert Kalmbach and Patricia Witt, citizens of the State of Washington, were in central Oregon for an extended period of time. It was while in central Oregon that defendant Ross Miles reached out to plaintiffs Kalmbach and Witt to offer the sale of AEM Fund securities.

8.

Plaintiff Sherry Beattie, a citizen of the State of Washington, owned and maintained a home in Rhododendron, Oregon since the early 2000s. While staying at her home in Rhododendron, plaintiff Beattie was contacted by defendant Ross Miles to offer the sale of AEM Fund securities.

9.

Plaintiffs Barbara Fite, Belinda Franke, and Dean Franke are citizens of the State of Oklahoma who were sold their AEM Fund securities by an offer to sell that was made in Oklahoma or by an offer to buy the security that was made and accepted in Oklahoma. AEM Fund offering materials drafted by Davis Wright were provided to them in Oklahoma.

DEFENDANTS MILES AND WILE

10.

Defendant Ross Miles ("Miles") was the founder and sole owner of AEI and, with defendant Maureen Wile ("Wile"), an owner and manager of many of AEI's affiliates, including American Eagle Mortgage Management, LLC ("AEMM"). Miles holds himself out as a real estate developer and investment manager and he claims that he has had

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decades of success in real estate lending, development, sales, and investments. Miles was the face of AEI. Miles and Wile together at all material times were in control of AEI, AEMM, and the AEM Funds. They used their positions to take significant amounts of investor money out of AEM Funds for their own benefits and the benefits of their families. As part of the sales of AEM Fund securities, Miles and Wile targeted investors located in Oregon and made offers by phone and mail while investors were in Oregon. In addition, Miles and Wile caused AEI and the AEM Funds to purchase receivables backed by Oregon real estate as a regular and ongoing part of the operations of the AEM Funds, AEI, and AEMM. In addition to selling and successfully soliciting sales of the AEM Fund securities, Miles and Wile participated and materially aided the sales.

11.

When Miles and Wile decided to create and sell investments in the AEM Funds, they hired defendant Davis Wright to do all of the related legal work, including preparing all AEM Fund offering materials, filing notices of the sales with the Securities and Exchange Commission and various state agencies, and serving as lawyers for the Funds. Davis Wright is a Washington limited liability partnership that at all material times maintained a large office in Portland, Oregon, where it has been registered to do business since 1996. A substantial number of the partners of Davis Wright are citizens of the State of Oregon. From 2002 through 2010, Davis Wright attorneys working primarily or exclusively in the firm's Portland office prepared offering materials for the AEM Funds used in connection with the sales of the AEM Fund securities, provided important legal services related to the Fund offerings, and served as general counsel to AEI.

DEFENDANT DAVIS WRIGHT

12.

Davis Wright participated and materially aided in the sales of securities alleged in this Third Amended Complaint. Davis Wright prepared the documentation used in

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connection with the sales, including so-called Private Placement Disclosure Documents ("PPMs") and accompanying subscription agreements, management agreements, limited liability company operating agreements, receivables purchase agreements, promissory notes (the securities documents), and underwriting criteria, which were exhibits to and were used in conjunction with the PPMs. These documents included legal papers necessary for AEI and the Funds to complete the sales of securities. Davis Wright's participation and aid in all these things contributed to the completion and consummation of the sale of the securities to investors. The documentation included untrue statements and misleading omissions. Davis Wright's knowledge, judgment, and assertions were reflected in the contents of the documents. On information and belief, Davis Wright also reviewed and advised Miles and AEI on the content of general marketing brochures, marketing video(s), and AEI's website, all of which were intended to and did generate interest in AEI's securities, including the AEM Funds. The Davis Wright-drafted offering materials were used to sell AEM Fund securities to plaintiffs and other investors from February 2003 until the Funds entered receivership in May 2019. Davis Wright also provided material aid to the sales by locating potential investors for AEM Funds and directing them to AEI to invest, and by listing the AEM Fund offerings on their website as successful transactions that they had handled.

13.

Offering materials for all of the Funds required investors to provide written notice directly to Davis Wright's Portland office, addressed to one of the firm's partners, in order to make any legally effective notice to a Fund. For every Fund except AEM Mexico 400, each page of the Fund PPMs was stamped with a footer containing the firm's full name, "Davis Wright Tremaine, LLP," and the PPM exhibits (the LLC agreement, subscription agreement, etc.) were stamped with the firm's initials, "DWT." Beginning in 2008, the PPMs for AEM 500 and AEM 600 (the largest Fund) told investors, under the

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all-caps heading LEGAL MATTERS, "The law firm of Davis Wright Tremaine, LLP, Portland, Oregon, has acted as counsel to the Company in connection with the offering of Units in this offering." Defendant Davis Wright instilled investor confidence in American Equities by, among other things, authorizing and/or affirming Davis Wright's name to be included in documents used to sell AEM Fund securities. Without defendant's participation and aid, the sales of AEM Fund securities would not have been accomplished.

DEFENDANT RIVERVIEW

14.

Riverview is a Washington chartered bank with branch offices in Vancouver, Washington; and in Portland, Gresham, and Tualatin, Oregon. On or before 2001, Riverview began lending money to AEI on a "revolving guidance line of credit" to finance the purchase of real estate contracts that would be securitized and sold to investors, and the proceeds would then pay down the credit line. Riverview's financing of AEI was secured with interests in Oregon real estate, including Oregon real estate that provided the basis for the security sales to plaintiffs. Riverview recorded its interests in each of the Oregon counties where the real estate was located. By 2006 the LOC was $3 million and in 2007 it was increased to $4 million. Riverview knew that advances on its guidance line were going to be used to finance AEI's securities business—that is, to purchase real estate receivables to be resold at a profit to the Funds.

15.

Through the revolving credit line, Riverview provided the financing and provisioned the assets for AEI's securities business. Riverview did so knowing that AEI was insolvent in 2003, 2005, and every year thereafter—AEI's liabilities exceeded its assets, and increasingly so. After years of dealing with AEI's insolvency, its inability to provide timely financial statements, and its difficulties in meeting its obligations to the

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bank, Riverview stopped new advances to AEI and began quietly winding down its business relationship with AEI. It eventually was repaid through a combination of investor money, the Funds' collateral, and the proceeds of a loan from Regents Bank—predecessor to defendant Pacific Premier.

DEFENDANT PACIFIC PREMIER

16.

Pacific Premier Bank, including its predecessor Regents Bank ("Pacific Premier"), was an integral participant in the sales of AEM Fund securities beginning no later than 2007. Pacific Premier is a California chartered bank with branch offices in Portland and in Vancouver, Washington. Pacific Premier provided a revolving "guidance line of credit" to AEI that was similar in most respects to the credit line provided by Riverview.

17.

Pacific Premier financed and provisioned the assets for AEI's securities business, knowing that AEI and the Funds were insolvent—that their total liabilities exceeded their total assets. Pacific Premier knew that advances on its guidance line were going to be used to purchase real estate receivables to be resold at a profit to the Funds. Many of the contracts purchased with Pacific Premier financing were secured by Oregon real estate, and Pacific Premier recorded its interests in each of the Oregon counties where the real estate was located. Like Riverview, Pacific Premier participated in the sale of securities to plaintiffs and other investors by financing the purchase of receivables by AEI and then receiving payments from the investors' funds to pay down the guidance line.

18.

Davis Wright's, Riverview's, and Pacific Premier's participation and material aid – their individual contributions to the transactions – were important. They were necessary to complete the sale of securities. Each of them was a participant in the sale

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because, among other things, without such assistance, the sales would not have been accomplished; the sales would not and could not have been completed or consummated without defendants' participation and material aid.

JURISDICTION AND VENUE

19.

This Court has jurisdiction over the defendants under ORCP 4. Venue in Multnomah County is proper under ORS 14.080 because part of the causes of action alleged arose in Multnomah County.

GENERAL FACTUAL ALLEGATIONS

Formation of the Funds

20.

As it would repeatedly advertise to investors in all of the Fund PPMs, AEI was founded in 1979 by defendant Ross C. Miles, who was joined at the operation in 1984 by Maureen Wile. During the 1980s and 90s, AEI's primary business was purchasing individual real estate mortgages on properties in Oregon and Washington for resale to investors in the Portland-Vancouver area. The business model was described as a "one-to-one ratio investment": "we purchase an individual receivable and package it for sale to one individual."

21.

In early 2003, AEI introduced the AEM Funds as a new investment product it called "diversified mortgage funds." The Funds were created to purchase real estate-backed notes to be pooled together into a portfolio specific to each fund. Defendant Davis Wright was central to this new financing vehicle. In the words of one of its partners, Davis Wright was "producing" the offerings for American Equities. Defendant Riverview was also central to getting this new investment product off the ground. It

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provided a revolving credit line specifically to provide for the purchase of the real estate contracts to be sold to the funds.

22.

The AEM Fund securities consisted of long-term note obligations (Notes) issued by each Fund. The Notes were securities, as defined in ORS 59.015(19)(a). The Notes had varying maturity terms: five, ten, and fifteen years. After August 2008, two Funds (AEM 500 and AEM 600) also offered a one-year Note. The interest rate obligation on the Notes varied depending on the term (and, in later years, sometimes depending also on the amount invested), from 7% to 10%. Interest was to be paid monthly. Investors had the option of "reinvesting" the monthly interest in the Fund's securities. Each monthly interest reinvestment constituted a new sale of a security to that investor. AEI accounted for the interest reinvestments by increasing the "principal balance" due on the investor's Note, thus effectively compounding the interest paid on the security.

23.

Each offering was a "part-or-none" offering meaning that in order for the project to get underway with a reasonable chance of success, a minimum amount had to be raised. AEI told investors that each investor's subscription (investment) amount would be held in escrow until such time as the minimum amount had been received by that Fund. Part-or-none offerings provide an assurance to investors that the enterprise will be at least minimally capitalized. In addition, a less knowledgeable investor may be reassured and may be more willing to buy knowing that the offering must be reviewed and found to be acceptable by other investors who, the investor may reasonably hope, are more knowledgeable. Part-or-none offerings mean that when securities are sold by means of untrue statements or misleading omissions to an investor who is part of the "minimum," the securities are sold by means of those untrue statements or misleading omissions to all investors in that Fund.

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24.

AEI and defendant Davis Wright created each Fund as a nominally separate limited liability company and described them that way to investors in the PPMs and other materials prepared or edited by Davis Wright. The Funds were named sequentially, American Eagle Mortgage ("AEM") 100, AEM 200, 300, etc.; with two additional sequences for the Funds designated as concentrating in Mexican properties (AEM Mexico 100, AEM Mexico 200, etc.) and those available to non-accredited investors (AEM I and II). Investors in each Fund except AEM 600 were told that the offering would expire on the earlier of several different dates, but in practice the Funds were kept open for many years, as reflected in the chart below. Consistent with that practice, in 2009 the AEM 600 PPM told investors that "The Manager may, in the Manager's Discretion, extend the offering." Following is a list of each Fund, the date on the PPM drafted by defendant Davis Wright for that fund, and the date on which it received funding from its first investor:

Fund	Date of Davis Wright-Drafted PPM	Date of First Investor Money	Date of Last *New* Investor Money
AEM 100	2003.01.15	2003.02.01	2007.10.22
AEM I	2003.03.26	2003.04.15	2003.11.18
AEM II	2003.10.15	2003.12.09	2006.05.30
AEM 200	2004.03.01	2004.04.07	2005.03.01
AEM Short Term	2004.12.01	2005.01.12	2005.01.12
AEM Mexico 100	2005.03.15	2005.02.11	2008.12.05
AEM 300	2005.03.14	2005.03.25	2015.03.14
AEM Mexico 200	2005.06.06	2005.07.11	2013.10.29
AEM 400	2006.05.01	2006.05.09	2007.10.22
AEM Mexico 300	2006.08.01	2006.08.18	2010.05.21
AEM Mexico 400	2007.08.10	2007.06.21	2014.05.30
AEM 500	2008.08.06	2008.08.12	2009.10.30
AEM Mexico 500	2009.01.26	2009.04.05	2009.04.05
AEM 600	2009.06.30 2009.11.05	2009.07.30	2017.12.14

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25.

Although the books currently show that the last money from a new investor came into AEI in December 2017, through a sale of a security denoted for AEM 600, existing investors continued to invest and reinvest money in the Funds for notes that matured through 2018 and into 2019. With the exception of the June 30, 2009, PPM for AEM 600, the PPMs were never updated and none of the PPMs or other offering materials ever showed new investors the historical results of actual operations of the particular Fund or the results of actual operations of Funds managed by AEI.

Statements to Investors

26.

Miles, Wile, AEI, and the Funds sold AEM Fund securities to investors by means of untrue statements of material facts and by omitting to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading (and the buyers did not know of the untruths or omissions):

a. In each Fund PPM, investors were told, among other things, that:

i. Investor money raised by each Fund that issued the security would be used by that Fund exclusively for the purpose of acquiring real estate receivables in the form of land sale contracts, trust deeds, real estate mortgages, and promissory notes secured by real property, which together would make up that Fund's identified "Receivables" portfolio. Each of the Receivables was an obligation secured by specific real property.

ii. Each Fund and each Fund's portfolio of secured Receivables would be managed by a "Manager," which, in all cases, would be AEI.

iii. AEI, the Fund's manager, was formed in 1979 by Ross Miles and specialized in the very business of each Fund: purchasing, servicing, and selling first position mortgage loans and trust deeds secured by interests in single and

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multi-family residences, income-producing property, mobile homes, and improved or unimproved land. The Manager was controlled by its president, Ross Miles, who, in turn, had over twenty-five years' experience in financial services. This Manager was under a "fiduciary duty" to them and would perform its duties in good faith and with care, according to the Limited Liability Company Agreement included in each Fund PPM.

iv. The Manager would determine the purchase price for each Receivable acquired by a Fund. Receivables would meet minimum underwriting criteria described in an exhibit to the Fund PPM. (The minimum underwriting criteria set forth different maximum investment-to-market-value percentages (akin to a loan-to-value ratio) depending on the characteristics of the real property underlying the Receivable and the credit ("excellent payment") history of its owner.) The Manager would review and analyze information regarding the Receivables, and because of its experience in the industry dating back to 1979, it was confident that its investigations would be complete and that it would be able to ascertain whether the information was accurate.

v. The Manager would act in good faith in purchasing any Receivables from its affiliates, and the price paid by the Fund for any Receivable purchased from an Affiliate might be "more or less" than the price that would have been paid in an arm's length transaction.

vi. Pursuant to the Management Agreement included in each Fund PPM, the Manager would manage and service (including collecting on) the Receivables, manage and service the Notes (including the obligations owed to investors), and report to investors "any important developments" relative to the Receivables.

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vii. The investments (Notes) in each Fund would be repaid from amounts collected on that Fund's identified or identifiable portfolio of secured Receivables. Revenues from the collections on each Fund's secured Receivables would be used to pay, in the following order: (1) that Fund's defined expenses and reimbursable third party expenses; (2) a "Base Fee" (.5%, except for AEM 500, for which investors would pay a .75% Base Fee) and a "Reinvestment Fee" (1.5% of the amount of any Reinvestment); (3) the obligations owed to that Fund's investors on their investments (Notes); and (4) "Bonus Compensation" to the Manager of any remaining profit on the Fund's Receivables portfolio.

viii. AEI had certain potential conflicts of interest arising from its affiliate relationships and management of other Funds, but AEI would:

- conduct the business and operations of each Fund separate and apart from the business and operations of AEI, its affiliates, and the other Funds;
- segregate each Fund's assets (including revenues from the collections on each Fund's secured Receivables) and not allow them to be commingled with the assets of other Funds, AEI, or other affiliates; and
- maintain books and records specific to each Fund separate and apart from the books and records of AEI, its affiliates, and each other Fund.

b. In a brochure and in presentations (made around 2008), AEI, Miles, Wile, and the Funds repeated the messages told in the PPM, telling investors, among other things, that:

i. "American Equities, Inc. offers high-yield, stable investment opportunities in real estate receivables. In business since 1979, we have accumulated a vast amount of experience buying individual notes and packaging them for resale to investors. We have cultivated a tradition of trust that we believe individual investors and brokers have come to expect.

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Since opening our doors in 1979, we believe American Equities, Inc. has earned a reputation as a trusted advisor, astute investor, and an expert in the complex world of purchasing, servicing, and selling first position real estate receivables, secured by real property.

Thanks to our knowledgeable in-house investment specialists and thorough due diligence approach, we have historically maintained a steady, predictable, and safe return on investment for our clients.

We seek to provide investors a higher-than-average fixed rate of return by investing in well-secured first position real estate receivables. Historically, these receivables have typically outperformed the more volatile stock market.

We believe that our investors continue reinvesting with us because they know we will work hard to preserve their capital, provide a predictable cash flow, and deliver the responsive service they deserve."

ii. "It is our mission to continue developing our tradition of trust, by refining our investment opportunities for our clients. We intend to accomplish this by:

- Making sure that every major decision is made by our six-member senior staff with over 120 years experience at American Equities, Inc., ensuring in-house, competent decisions.
- Maintaining a highly trained professional work force that provides unparalleled customer service.
- Continuing to refine and upgrade our education, technologies, products, and services."

iii. "OUR VISION – Our purpose for being in business is to create investment opportunities that meet the financial goals of our clients, with the objective of allowing them to preserve their capital and providing them with predictable cash flow."

iv. "Over the course of his 30 plus years in business, [Founder and President] Ross [Miles] has personally bought, built, developed, owned and sold well in excess of $60 million worth of real estate involving everything from single family homes to rock quarries, restaurants to farms, warehouses to subdivisions. We believe you would be hard-pressed to find a type of real estate in which Ross Miles has not been involved. An expert problem solver, Ross' meticulous attention to detail and his ability to think outside the box gives him a keen eye for excellent investments."

v. "In an effort to allow our investors to diversify their investment dollars among many receivables, we offer diversified mortgage portfolios. We handle the day-to-day management of the funds, but the investors own the receivables, not AEI. We put the investors in the driver's seat, while simultaneously offering expert advice and management that historically has provided a straightforward, stable, and predictable return-on-investment."

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vi. In acquiring real estate receivables, "AEI first conducts a thorough due diligence process which includes verifying credit, reviewing payment history, conducting a loan-to-value analysis, receiving documentation for approval and property title insurance. We then purchase the seller's interest in the receivable and take over the right to receive the monthly payments from the payor. We then package the receivable for resale to an investor or hold for our own portfolio. This is what we call a one-to-one (1:1) receivable investment."

vii. "Preservation of capital – We strive to give our investors confidence that their original capital will be preserved by conducting a thorough due diligence process. Although past performance does not guarantee future results, they can draw further confidence from the fact that, in our history, no AEI investor has lost any amount of capital, whatsoever."

viii. "Less than 2% default rate in most years – Our default rate is historically low. Since opening our doors in 1979, AEI has experienced less than 2% default rate in most years on our receivables. In cases where defaults occurred, most of the properties still sold for a greater amount than what was owed on the property."

ix. "A predictable cash flow – The investment offers a fixed rate of return for the length of the receivable so that investors can enjoy a predictability of cash flow. The only interruption to this arises if a foreclosure or early pay off occurs."

x. "How much risk is associated with these investments? – Since AEI only invests in receivables where your original investment does not exceed a total of 80% of the property value, our default rate has been historically very low. Though the national average is significantly higher, AEI has experienced a foreclosure rate of less than 2% of all receivables in most years since 1979. In fact, although past performance does not guarantee future results, not one of AEIs' investors has ever lost any of their original capital as a result of a default. You should always consider risk factors in offering circulars and related documents before making an investment decision."

xi. "What if a default occurs? – Since the value of the real estate almost always exceeds our investment amount, in most cases there is a potential profit to be realized if the property were to be foreclosed upon and resold. Historically, other real estate investors interested in purchasing distressed properties have shown interest in acquiring these loans in default."

xii. Who handles the monthly disbursement on these investments? – Investors have the option of handling these themselves, or AEI, a licensed contract collection agency, can handle monthly collections and distribution.

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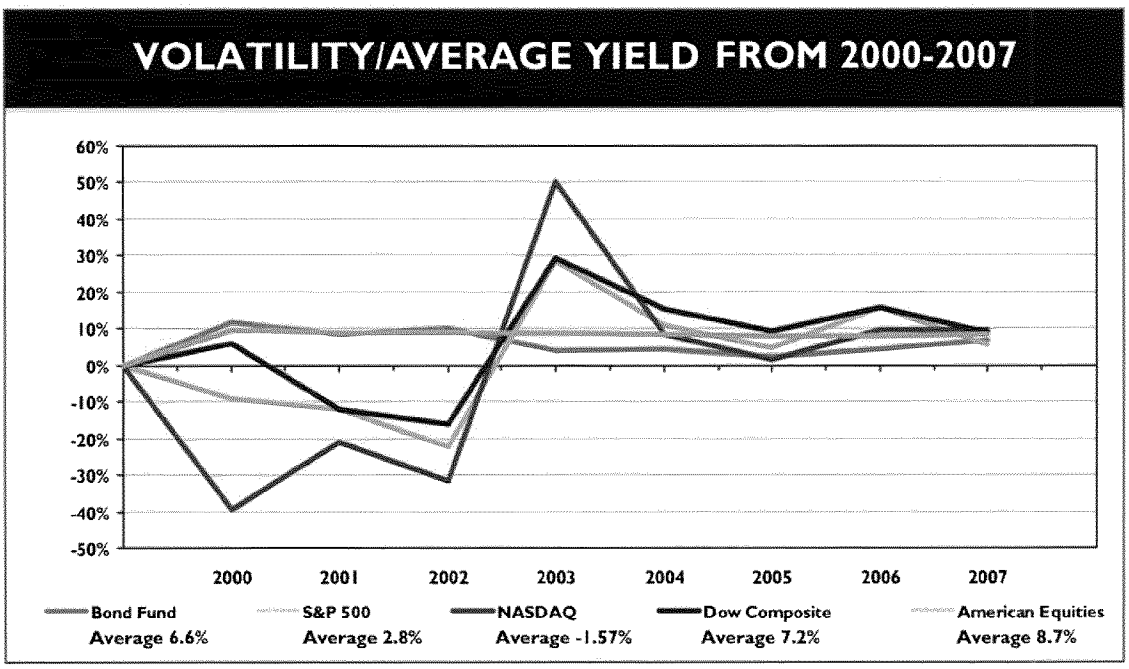
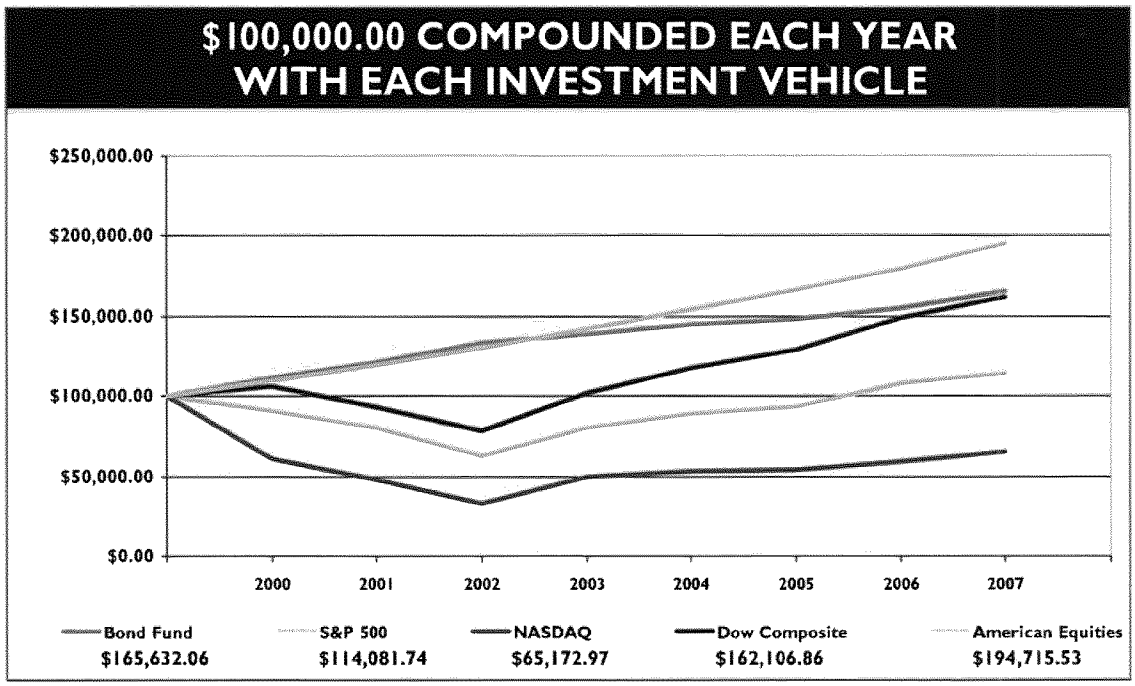
xiii. "COMPARISON OF RETURNS [from the CHAPTER FOUR: RISK VS. REWARD]





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c. In a marketing video made, on information and belief, around the same time as the brochure, AEI told investors substantially the same things, and additional statements, including:

i. The following voiceover describing the charts reprinted above:

> "As you can see since year 2000, American Equities has out-performed the major index funds as well as most other fixed rate bond funds as per our example of one of the highest rated bond funds. If $100,000 was invested into each of these investment vehicles in January of 2000 through December of 2007, you can see that investing with American Equities Incorporated, which offers a fixed rate, less volatile return, has given the investor a significantly higher rate of return."

ii. The following explanation of AEI's shift from 1:1 investments to mortgage pools (i.e., the Funds):

> "AEI looked to diversified mortgage funds as a way to respond to feedback from investors. A diversified mortgage fund is an opportunity for individual investors to participate in pooled investments, allowing for more diversification and potentially greater returns than 1:1 ratio receivables could offer. When we began looking into diversified mortgage funds in 2002, we saw that the vast majority of other companies owned the assets and sold divestures or bonds to investors. When investing in this type of fund, the issuing company is agreeing to pay a certain percent of interest and that promise is secured by corporate assets. From the company's point of view this is a very viable investment vehicle that gives them total control over the assets of the company regardless of the investors' input. In essence this takes all control away from the investor. If the company mismanages the investments there is little recourse for investors. In the case of mismanagement there are often legal fees and creditors to pay as well as other costs and expenses, leaving investors with a return of their investment that often ends up being pennies on the dollar.
>
> American Equities Incorporated takes a different approach. For the benefit of the investors AEI creates limited liability companies (or LLCs) that purchase or lend first position real estate receivables for a group of investors. This group owns the LLC on a pro rata basis. AEI is hired to manage these funds on their behalf. In the event that AEI went out of business the assets of the fund would not be affected, since the LLC, which is wholly owned by investors, owns 100% of the assets. AEI manages the assets under specific directives from investors and is held accountable in accordance with its management agreement with the LLC. Our day to day management activities include a specific due diligence process in selecting receivables for the funds to purchase."

iii. "Our investors rely on our extensive experience and our ability to conduct a thorough due diligence process in selecting the receivables for the LLC.

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> At American Equities Incorporated our goal is to mitigate any loss to investors and we show this commitment by offering our bonus compensation, both past and future compensation, as a means of protecting our investors' returns. While these investments are not guaranteed, American Equities Incorporated has attempted to lower the risk to investors through the creation of this reserve and through our due diligence processes for safer and reliable investing.
>
> AEI has maintained a steady and predictable return on investment for our clients since 1979. While future performance is impossible to predict, our clients' investment funds have consistently grown since we opened our doors, providing yields between 7% and 12% per year. We believe our investors return to us because of our commitment to providing higher than average fixed rates of return by investing in well secured first position receivables. We also believe our clients continue reinvesting with AEI because they know we strive to preserve their capital, provide predictable cash flows, and deliver the responsive service they deserve.
>
> Almost all our clients are repeat investors. Once a client begins investing with us, we believe our results speak for themselves. That is why most of your customers continue to increase their investments with us over time. We believe investors come back to us again and again because we present attractive options, handle their transactions competently and swiftly and maintain an intense level of personal involvement. Because we are principals, not brokers, we believe investors have confidence that we will make sound investment choices for them with diligence and with speed. We strive to operate on the worst-case scenario theory. If we would not be comfortable owning a property in the event of a foreclosure, we won't offer it to our investors. We always strive to put ourselves in our investors' position when helping them make investment decisions.
>
> Contact us today to find out more about sound investment opportunities with American Equities Incorporated. Our accessible investor specialists are available to work with you to find an appropriate and flexible investment strategy."

d. The statements made to investors described in ¶¶ 26 a. - c. were material—a reasonable investor would find them important in making a decision to invest. Likewise, the facts that were not disclosed that, in light of the circumstances under which the statements were made, made those statements misleading, also were material. If AEI had published its actual track record, its true financial condition, its inability to perform its obligations to investors and other creditors, its misuse and commingling of proceeds and Fund assets (see below ¶¶ 28-29), and its noncompliance with state and federal laws and regulations (see below ¶¶ 30-37), it would have adversely affected the market for its

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securities; it would have shattered the illusion that AEI created and maintained with the material aid of defendants (see below ¶ 27).

e. The untrue and/or misleading statements made by AEI in connection with the sale of securities (and the illusion they created and maintained) created a market for the AEM Fund securities, even if a particular investor did not see or hear the statement.

Omissions to Investors: AEI's Illusion of Credibility and False Expectations

27.

The untrue statements and misleading omissions by means of which AEI sold the securities (see above ¶¶ 26 a.–c.) created and maintained a false illusion of credibility and prosperity; created and maintained a false impression that AEI was solvent, that it had a track record of successful investments in real estate and real estate-backed notes, that it could keep and perform its obligations, that an investor was taking upon him or herself nothing more than the ordinary risks incident to a debt investment in a well-operated business of that sort run by successful managers, and that investments with AEI, including the AEM Funds, were safe and secure. The untrue statements and misleading omissions—and the resulting illusion and impression—instilled and maintained investor confidence in AEI, and created and maintained a market with investors for AEI securities, including the AEM Funds. The untrue statements and misleading omissions, and the illusion and impression they created, covered up the undisclosed risks, including significant credit and default risks associated with the real estate receivables that AEI purchased and packaged purportedly with money raised from investors. The untrue statements and misleading omissions created the illusion that AEI possessed all the necessary state and federal licenses and registrations permitting it to sell securities and permitting it to conduct its securities and business operations, the purpose of such state and federal licenses and registrations being to protect investors.

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The statements by which AEI sold the securities were misleading (at the times specified below) because AEI did not disclose:

a. AEI was never properly licensed to engage in its business of selling real estate paper. In 1995, the Oregon Department of Consumer and Business Services issued a Cease and Desist Order to AEI, demanding that it stop selling real estate paper to Oregon residents without first obtaining a mortgage broker license, which AEI failed to do;

b. Beginning in 2003, the real estate receivables AEI had purchased and packaged with money raised from investors posed significant credit and default risks to AEI and the Funds;

c. Beginning in 2003, AEI and the AEM Funds suffered liquidity problems that put AEI and the Funds at risk of insolvency greater than the ordinary risks incident to a real estate investment.

d. Beginning in 2003, AEI did not have a track record of entirely successful investments in real estate and real estate-backed notes.

e. By 2007, and on information and belief, beginning in 2003, AEI could not keep and perform its obligations. An investor in the AEM Funds was taking upon him or herself more than the ordinary risks incident to a well-operated business of that sort run by successful managers, and the AEM Fund investments offered by AEI were not safe and secure.

f. By 2008, AEI and the AEM Funds were insolvent or were at risk of insolvency.

g. AEI was in the (securities) business of "purchas[ing] real estate contracts at a discount and then sell[ing] th[o]se contracts to investors at face value." There was no "may" be about it.

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h. AEI was earning interest income from contracts held as inventory, broker fees, management fees from the creation of investment pools, contract collection fees, and miscellaneous fees.

Through their conduct alleged in this Third Amended Complaint, defendants participated and materially aided in the sales of securities by aiding AEI in creating and maintaining the illusion(s).

Omissions to Investors: Misuse of Proceeds

28.

AEI's statements to investors about how money raised by each Fund from investors would be used; how the amounts collected on each Fund's Receivables would be used; how the business and operations of each Fund would be conducted separate and apart from the business and operations of AEI and the other Funds; how each Fund's assets would be segregated and not commingled with the assets of other Funds, AEI, or its affiliates; and how each Fund would maintain its own books and records separate and apart from the books and records of AEI and each other Fund, were untrue and were misleading because AEI omitted to disclose facts a reasonable investor would find important in making a decision to invest. In particular:

a. By no later than 2007, and on information and belief, beginning in 2003, on a regular and consistent basis, one or more Funds did not have the cash flow to keep and perform its/their obligations to investors.

b. On a regular and consistent basis during that time, one or more Funds required money to be taken from other Funds or from AEI or its affiliates to cover and hide losses, an operation-wide inability to keep and perform obligations to investors, and other defaults; and to maintain the illusion that investing in AEI securities was a safe and sound investment. That misuse covered up the undisclosed risks, including significant credit and default risks.

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c. As a part of the misuse of proceeds, AEI regularly took money from one Fund's account (or, especially in early years, from an AEI or affiliate account), commingled it with other Funds' money, then used the commingled money to pay Fund expenses, fees, obligations, and bonus compensation. Money transferred from Fund to Fund, and among Fund(s) and AEI, was not lent or repaid on any commercially standard terms. AEI also used Fund money to make loans and gifts to Miles, Wile, and their family members and business affiliates.

d. By no later than 2006, and, on information and belief, beginning in 2003, AEI commingled the funds raised by each Fund from investors (among Funds and among other AEI monies) and commingled the amounts collected on each Fund's Receivables (including with amounts collected through AEI or its affiliates). Assets of each Fund were not segregated and were commingled with the assets of other Funds, AEI, and other affiliates. Each Fund did not maintain its own books and records separate and apart from the books and records of AEI and each other Fund. When one Fund did not have the cash flow to keep and perform its obligations, i.e., to pay its expenses, fees, obligations, and bonus compensation, money was taken from other Funds to cover the obligations, i.e., to pay the expenses, fees, obligations, and (unearned) bonus compensation. On top of that, "gifts" and undocumented "loans" were made out of the commingled accounts to affiliates and family members of the owners of AEI. The inter-Fund transfers never carried commercially reasonable terms such as interest rates, payment schedules, or maturity dates. In the early years, some inter-Fund transfers were repaid to the transferor-Fund at the same amount (i.e., without any interest), but no such repayment was promised and often it did not happen.

e. For example, at the end of 2006 (the earliest year for which plaintiffs currently have AEI financial statements), AEI's books reflected that it had borrowed no less than $150,000 from the AEM Funds then in existence without any benefit to the AEM

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Funds and without any commercially reasonable terms governing AEI taking the money. AEI's debts to the AEM Funds ballooned to over $1.9 million by the end of 2007. Those amounts reflect only unpaid debts owed to the AEM Funds, as recorded on AEI's books, and do not reflect debts that were paid back (which debts never carried interest or any commercially reasonable terms and were not in the interest of the AEM Funds). Consistent with AEI's practice of commingling all AEM Fund and AEI money, AEI's financial statements do not specify from which AEM Fund AEI had taken money—AEI moved money freely among all AEM Funds.

f. As just one illustration of the extent of cash transfers between the Funds, at month's end in November 2016, AEM 600 had transferred approximately $925,000 to AEI, $6.2 million to other Funds, and $189,000 in undocumented loans to affiliates or family members of Miles and Wile.

g. Beginning no later than 2011, AEI caused the AEM Funds to pay a newly created affiliate, American Eagle Mortgage Management, or AEMM, what AEI referred to internally and with defendant banks as "Broker Fees." On information and belief, AEMM served no legitimate business purpose and provided no brokerage (or other) services. Miles and Wile formed and operated AEMM to make their securities business appear solvent, to facilitate obtaining financing from lenders (including defendant bank); to facilitate commingling among AEI, AEM Funds, and other affiliates; and to generate commissions from investors. By 2011, each time an AEM Fund purchased a Receivable, AEI caused the Fund to pay a "Broker Fee" to AEMM; the fees served no legitimate purpose and the AEM Funds received nothing in exchange for paying them.

h. As of April 2019, the balance of outstanding inter- Fund cash transfers was $10.9 million. This is separate from and does not account for the use of a central bank account to direct cash across the operation as needed.

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i. AEI used offering proceeds (i.e., investor cash) to gift or loan money to at least sixteen people or entities affiliated with the business or related to Ross Miles or Maureen Wile. These transfers were not carried out through normal corporate procedures or on commercially reasonable terms. The transfers were often not recorded in the books and records, and the money was often not paid back to the transferor-Fund. Forensic investigation by the AEM Funds' Receiver found that, as of May 9, 2019, outstanding "loans" from the Funds to these people and entities totaled about $10.7 million in principal amount. Nearly all of the "loans" to these people and entities were in default and in some instances, the people and entities never made any payment on the "loans." There was no meaningful effort by AEI to collect on "loans" to these people and entities.

j. By 2007, and on information and belief, beginning in 2003, AEI had a practice of pledging Fund assets (the Receivables) as security to obtain third-party financing (including, by no later than June 2010, to obtain financing from defendant Pacific Premier Bank) for its benefit, without regard to the best interest of the Fund which had purchased the receivable or investors in that Fund. Specifically, AEI would cause a Fund to assign a Receivable to AEI, AEMM, or Miles (without consideration to the Fund), then would pledge the Receivable as collateral for a bank loan. On information and belief, the bank financing was used: (i) to satisfy obligations to investors in various other Funds; (ii) to further the operations of AEI's real estate development projects, and (iii) generally to benefit AEI and its affiliates. It was not uncommon for a Receivable to later be reassigned back to one of the fourteen Funds, without regard to which Fund initially held it. This directly contradicted what investors were told: that they were the sole owners of the Fund Receivables, that they held first position liens, and that Receivables would be held by the Fund they invested in until maturity.

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k. As just one example, between March 2007 and July 2014, one Receivable contract that a Fund had initially purchased from an AEI real estate development affiliate was then transferred at least six times among six different Funds and AEI. At three different time periods during those years, the Receivable contract served as collateral to a bank for a loan to AEI.

29.

In essence, at all relevant times, AEI treated investor money and assets as its own to use freely for its own benefit or the benefit of Miles and Wile, their relatives, and their other business interests. Investors were never told their money could be treated that way or that AEI needed to borrow money and the Receivable contracts from the AEM Funds in order to continue operating. Instead investors were always told that their money would be used exclusively to purchase Receivables that would be held by the Fund in which they invested, to maturity of the loan.

Lack of State and Federal Licenses and Registrations

30.

Throughout the life of the Funds, AEI was out of compliance with numerous investor and consumer safety laws and regulations. As Davis Wright prepared the Fund offerings, the 1995 Cease and Desist Order from the State of Oregon was not the only regulatory compliance matter that was not disclosed to investors. Undisclosed regulatory compliance issues were of two broad categories: compliance with laws protecting consumers in real estate transactions and compliance with laws protecting consumers in securities transactions. By not complying with the licensing and registration requirements, AEI was able to unlawfully avoid disclosing its true financial condition to regulators and investors.

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31.

AEI's statements to investors included that each Fund and its portfolio of secured Receivables would be managed by a Manager who had years of experience in the very business of each Fund; who was under a fiduciary duty; who would perform its duties in good faith and with care; who would ensure that each secured Receivable met minimum underwriting criteria; who would review and analyze information regarding the Receivables and ensure that its investigations were complete and the information was accurate; who would manage and service the Receivables and the Notes; who would report to investors "any important developments" relative to the Receivables; who would conduct the business and operations of each Fund separate and apart from the business and operations of American Equites and the other Funds; and who was a licensed collection agency. These statements were untrue or misleading because AEI failed to disclose that:

a. During its decades of experience and ongoing operations, AEI had not obtained or maintained licenses and registrations from the states in which it operated that were necessary to successfully conduct business and operations in the manner it told investors it would, or even to conduct them at all. It was not a "licensed contract collection agency." (See ¶ 26 b.xii.) Its track record included the 1995 Oregon Cease and Desist Order. At all material times, the failures to register or comply with regulations created material risks of substantial monetary fines, and a risk that one or more of its business operations could be shut down or significantly restricted by regulatory authorities.

b. At all material times, AEI did not have the escrow agent license that was required for it to collect and process payments on seller-financed real-property loans that were held by others. State regulation of licensed escrow agents included state authority to "[r]emove or prohibit any principal officer, controlling person, director, employee, or

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licensed escrow officer from participation in the conduct of the affairs of any licensed escrow agent." Wrongfully operating without a license is a criminal misdemeanor and punishment includes the possibility for prison time and daily fines. (In April 2018, AEI entered into a Consent Agreement with the Washington Department of Financial Institutions, agreeing that it was required to have an escrow agent license. AEI agreed to stop "conducting any servicing or contract collections activities that would require a license" until it obtained the license or qualified for an exemption.)

c. AEI did not have a Washington Consumer Loan Act license, which was required to service residential mortgage loans on properties in the State of Washington. (The State of Washington told AEI to stop servicing mortgage loans in Washington without a license.)

d. AEI was not licensed as an investment advisor in the State of Washington, which was required for it to provide investment advisory services in the State of Washington, including to the AEM Funds, which it managed.

e. AEI was not registered with the Securities and Exchange Commission (SEC) as a Registered Investment Adviser under the federal Investment Advisers Act of 1940 ("Advisers Act"), which was required to provide investment advisory services to the Funds, which it managed.

f. AEI was not registered as a broker in accordance with the Securities Exchange Act of 1934, nor was it licensed as a broker by the States of Washington and Oregon. All three of these licenses were required for it to effect securities transactions for the Funds. In addition, AEI's sales employees, including Miles Minsker, were not licensed as securities salespersons by the States of Washington or Oregon, which was likely required because they were paid to sell AEI securities.

g. Because neither AEI, its principals, agents or AEMM had the registrations and licenses required by state and federal laws, AEI could not lawfully conduct its

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business operations, it was incurring significant contingent liabilities that could prevent it from keeping and performing its obligations to investors, including paying its debts as they came due, and could render it insolvent.

h. Because neither AEI, its principals, agents, or AEMM had the registrations and licenses required by state and federal laws and American Equities could not lawfully conduct its business operations, it was incurring significant contingent liabilities that could prevent it from keeping and performing its obligations to investors, including paying its debts as they came due, and could render it insolvent.

32.

The omissions alleged in ¶ 31 were material. A reasonable investor would consider AEI's failure to have the federal and state licenses that were required, and its consequent inability to lawfully conduct its business operations, to be important in making a decision to invest. In addition, it evidenced a scofflaw attitude that belied the idea that the Manager was a highly-experienced, faithful, and careful fiduciary. Reasonable investors would find it important that the State's investor protections were not in place for an investment in AEM Fund securities.

33.

In 2009, defendant Davis Wright prepared the offering materials for AEM 600. The first PPM for AEM 600 was dated June 30, 2009. It contained no disclosures related to securities regulation risk, consistent with all of the previous offering materials for AEM Funds.

34.

Defendant Davis Wright prepared a new version of the AEM 600 PPM, dated November 5, 2009. In that new version, defendant and American Equities added the following paragraph.

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> **"Risks Related to Status of the Company and the Manager Securities Regulators.** [sic]
>
> The Manager and the Manager's employees and agents are not registered with the SEC as investment advisers under the Investment Advisers Act of 1940, and are not registered with the SEC as brokers under the Securities and Exchange Act of 1934. The Company is not registered with the SEC as an investment company under the Investment Company Act of 1940. The Company, the Manager, and the Managers employees and agents are not registered as brokers or investment advisers with any state securities regulators. If state or federal regulators were to investigate and determine that exemptions from registration are not available to the Company, the Manager, or the Manager's employees and agents, such determination would have a material adverse impact on the Company's operations and financial results, and may result in the financial failure of the Company."

35.

That November 2009 disclosure was never provided to AEM 600 investors who first invested in American Equities before November 5, 2009. What's more, no similar disclosure was added to the PPM for any other Fund. Therefore, it was not provided to investors in any of the other Funds, all of which continued soliciting existing investors to reinvest accruing interest and otherwise-matured investments, and at least the following of which continued to solicit and receive new investor money: AEM 300 (until no earlier than 10/29/15), AEM Mexico 200 (until no earlier than 10/29/13), AEM Mexico 300 (until no earlier than 5/21/10), AEM Mexico 400 (until no earlier 5/30/14), and AEM 500 (until no earlier than 10/30/09). Moreover, the November 2009 disclosure to AEM 600 investors did not provide any factual information by which an investor could have assessed the level of that risk, let alone disclose that such registration was, in fact, required and the likelihood that the SEC or one of the states in which AEI was selling securities or operating its receivables business would discover American Equities noncompliance and take regulatory action. The underlying facts and the "risk" arising from AEI's (i.e., "the Manager") failure to register with the SEC or the states in which it was operating as an investment adviser or broker would be important to reasonable investors considering investments or reinvestments in any AEM Fund.

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36.

The November 2009 disclosure given to AEM 600 investors failed to disclose that AEI had been required to register with the State of Washington as an investment adviser since before 2003 and had failed to do so. It also omitted to state either on what basis AEI supposedly was exempt from the registrations described in ¶ 36 above, or the likelihood that regulators, upon investigation, would "determine that exemptions from registration are not available." On information and belief, there was no lawful exemption for AEI's failure to register with either state or federal regulators as an investment adviser and also likely as a broker, and that fact was not disclosed to investors.

37.

The omissions alleged in the previous paragraph made the November 2009 disclosure on regulatory risk to new investors in AEM Fund 600 misleading, because without those omitted disclosures, investors were given the impression that AEI (the Fund Manager) complied with all applicable laws and regulations. Reasonable investors would find the omissions in the previous paragraphs 33 through 39 important in deciding whether to invest in AEM Funds.

Riverview's Participation and Material Aid in the Sales

38.

Beginning in 2001, AEI used a revolving guidance line of credit from Riverview Bank to, in the bank's words, purchase "first position real estate contracts and first position notes with deeds of trust," form "packages or 'pools'" of those loans, and then sell the "pools to investors." Riverview understood that it would be repaid when AEI sold to investors those pools of loans that it, Riverview, had provisioned.

39.

Riverview knew that with the "economic slowdown" in 2007 and 2008, the number of AEI's target investors had "decreased," being "more concerned about

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keeping cash than buying real estate products." This had put "extreme pressure" on AEI's "ability to continue to 'revolve' [Riverview's] line of credit," and had "left [AEI] with no short-term source to liquidate their inventory of notes/contracts on [Riverview's] line."

40.

Riverview understood that AEI was "operating essentially as a 'bank.'" In addition to directly aiding and participating in the sales of Fund securities, Riverview also held the Funds' deposit accounts. It knew, therefore, the amount investors were paying for AEM Fund securities, and how investor payments were being (mis)used. On top of that, from September 28, 2007, to April 18, 2008, Riverview received $7,369,000 directly from the AEM Funds as payment on AEI's line of credit. Riverview was participating in the proceeds from the sales of securities to investors in a very real sense.

41.

The line of credit was very profitable for Riverview—producing a high return on the bank's equity ("ROE") of close to 36%. Riverview continued to extend credit to AEI even when its financial statements revealed that it was insolvent. The line of credit was known as a "guidance" line because, by its terms, any advances required that the use of the funds meet specific criteria and AEI required the bank's approval for each particular advance. The Receivables to be purchased on the line should have to be needed properly documented and to be an acceptable risk to the bank. Most of the advances, however, lacked the required documents, and AEI chronically failed to comply with material terms of the guidance line, such as timely providing financial statements.

42.

Even as AEI continued to struggle to comply with Riverview's terms, Riverview continued to accommodate its ongoing operations, ultimately embarking on a quiet exit from the relationship. In the face of AEI's insolvency and years' long difficulties in

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meeting its obligations to the bank, as late as 2012, Riverview allowed AEI to defer loan payments, counting on AEI to have the loan "refinanced with investor funds by year end." Riverview documented its interest in AEI continuing to sell AEM Fund securities: "American Equities is seeking investors to refinance RCB loan prior to 12/31/12. Borrower will pay the two Quarterly payments on 12/31/12 from company's operating cash flow if the subject loan is not refinanced with investor funds by year end."

43.

When new investors for the AEM Funds became harder for AEI to find, Riverview responded by refusing to renew the line of credit and terming out the balance owed. Noting that AEI's "debt to worth … has been increasing to alarming levels over the past two or three years as the company struggles to rid itself [of] non-earning real estate assets," Riverview decided that "because of [AEI's] lack of profitability and lack of revolving on the line, it is prudent for the bank to discontinue the revolving function."

44.

Despite all of this, Riverview did not take steps to foreclose on its loans. Instead, Riverview chose the strategy of making a quiet exit, which would materially aid the ongoing sales of Fund securities: it helped ensure that investors did not learn about AEI's and the Funds' precarious financial conditions. In turn, it helped facilitate AEI's repayment of the Riverview credit line, at least in part from investor money. Foreclosing on the line of credit and the Fund Receivables would have shattered the illusion of solvency, safety, and prosperity that was necessary for AEI, the Funds, Miles, and Wile to continue selling Fund securities (and for Riverview to be repaid). By following its quiet exit strategy, the bank managed to end its credit relationship with AEI and to be made whole, while aiding AEI in its ongoing securities sales.

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45.

Riverview's guidance line of credit made possible the sales of AEM Fund securities from no later than 2001 to the collapse of the Funds in 2019. Without the guidance line, AEI would not have had the assets to pool into the Funds. And without the guidance line, AEI and the Funds would not have had the money necessary to continue their (false) illusions of solvency, safety, and prosperity. The guidance line made possible the sales of AEM Fund securities. By provisioning Fund assets, providing credit advances in exchange for security in Receivables taken from the AEM Funds, and by structuring its business relationship with AEI such that the bank would be repaid from proceeds of Fund securities sales, Riverview materially aided and participated in unlawful sales of AEM Fund securities and the unlawful operations of AEI's and the Funds' securities businesses.

Pacific Premier Bank

46.

Beginning no later than 2007 (and lasting until at least December 2018), Pacific Premier Bank provided a guidance line of credit to AEI that was necessary to AEI's and the Funds' operations, including sales of AEM Fund securities. Like Riverview's guidance line, Pacific Premier required AEI (and, by 2011, AEMM) to meet certain criteria before any money could be drawn on the line. The guidance line was first provided to AEI in the amount of $3.1 million. Advances on the line were purportedly to be used by AEI to "to finance the acquisition of specific contracts (secured by deeds of trust or real estate contracts), to be sold to various investment pools managed by the Borrower, or [to] outside investors, within 12 months." As Pacific Premier also put it, the purpose was to "allow" (i.e., materially aid) AEI to "purchase real estate contracts at a discount" to be included in "various Investment Pools" that would then be "sold to individual investors."

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47.

Pacific Premier noted that it was to be "paid off by investor funds" and AEM Fund security sales to investors were the "primary source of repayment" to Pacific Premier for the life of the guidance line. The loans were to be repaid "from the sale[s] of the real estate contract[s] into a new or established Investment Pool." AEI (and later AEMM) was supposed to document each advance with a separate promissory note with a maximum maturity of 12 months, by which time Pacific Premier understood there would be a "sale of the … contracts to either an individual investor or an established investment pool," i.e., one of the AEM Funds.

48.

Pacific Premier was, in other words, "participating" in the proceeds from the sales of securities to investors. On an ongoing basis, Pacific Premier provisioned the products that AEI securitized and sold to investors.

49.

Despite what AEI was telling investors, Pacific Premier knew that AEI was in the (securities) business of "purchas[ing] real estate contracts at a discount and then sell[ing] th[o]se contracts to investors at face value;" and AEI was earning interest income from contracts held as inventory, broker fees, management fees from the creation of investor pools, contract collection fees, and miscellaneous fees.

50.

In 2008, after a period of rapid increase in real estate values, the real estate market crashed. The market collapse affected AEI's real estate development projects, AEI, and its borrowers as well. As a result, there was a decline in performing loans and an increase in defaults, particularly from more recent loans where the loss of value of the real estate exceeded the loan the property secured. This was true not only of loans made by AEI and the Funds to unrelated parties, but also to loans AEI had caused the Funds to make

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to related parties and affiliates. AEI and the AEM Funds had become functionally insolvent; after years of commingling and misusing investor money, AEI and the Funds could not liquidate their assets for enough money to repay AEM Fund investors, and needed new investor money to continue to pay interest and redeem investors whose notes came due.

51.

Pacific Premier's financing made it possible to hide the growing insolvency of the AEM Funds and AEI. AEI did not tell investors that by no later than 2008, its and the Funds' undisclosed previous liquidity problems had developed into functional insolvency. Nor did AEI tell investors that new investor money coming into the Funds was needed to keep the operations afloat and make payments of interest and redeem notes that were due, and the only way it could continue to maintain the appearance of stability and safety was through rampant commingling across the operations.

52.

AEI provided the bank with financial statements in 2008 that reflected the scale of its liberal borrowing from the AEM Funds and its accelerating difficulty in covering for its borrowing with new investor money: outstanding debt owed by AEI to the AEM Funds increased by over 1,100% between fiscal year ends 2006 and 2007. In early 2008, the outstanding balance owed to the AEM Funds on AEI's books was nearly $2 million. The Davis Wright-drafted AEM Fund PPMs and offering materials, which Pacific Premier refers to as "prospectuses" in its internal loan memoranda, did not permit AEI to borrow from the AEM Funds.

53.

Guidance line advances to purchase Fund Receivables were made by Pacific Premier based on "drive by appraisals" of the real property securing each loan, perpetuating AEI's general business practice of acquiring real estate interests that were

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overvalued. And the property "value" that the bank approved as supporting an advance often included a broker's fee, paid by AEI to a third party or to an affiliate. When AEI purchased a Receivable contract for resale to an AEM Fund (the purpose of the guidance line funding), AEI capitalized broker's fees into the supposed value of the contract on its books. When it sold a contract to a Fund (the bank's primary source of repayment), the fee continued to be included in the contract's "value," contributing to the overvaluation of contracts on the Funds' books.

54.

In 2012, Pacific Premier considered requiring industry standard appraisals to determine the value of the real estate securing each advance on the guidance line. Miles told the bank that AEI would be "unable to comply" with such a requirement and that AEI would "consider developing an alternative banking relationship" if Pacific Premier required industry standard appraisals. As a result, the guidance line of credit was renewed again without the change.

55.

Advances on the guidance line of credit were paid directly by Pacific Premier into a checking account belonging to AEI and, after December 2010, AEMM. The guidance line of credit was an essential part of AEI's misuse of proceeds. Although the bank recorded a security interest in real property to secure each advance, it did not require that AEI use the advances for their intended purpose of purchasing an interest in that real estate, or for any particular use. And in fact, AEI freely used funds from the guidance line for its wider operational costs, transferring the money to Miles, Wile, and among affiliates.

56.

Advances on the guidance line were sometimes secured by Receivable contracts that belonged to the AEM Funds. In or around March 2013, reassigning Receivable

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contracts out of an AEM Fund to secure advances on the Pacific Premier line, without consideration to the AEM Fund, became a widespread practice by AEI. In that month alone, AEI transferred no fewer than six Receivable contracts from different AEM Funds to AEMM and then to Pacific Premier in exchange for over $833,000 in funding. That money was first paid by Pacific Premier into an AEMM checking account, then transferred to AEI, and was then used, on information and belief, to pay down AEI's debt at Riverview (or to cover other costs or obligations, to make that paydown possible without revealing American Equities' true financial condition).

57.

At least three of those Receivable contracts taken from AEM Funds in March 2013 were later transferred back to a Fund, only to be transferred out again in or around June 2014, again to be used as collateral for a Pacific Premier advance on the guidance line. Throughout those times, the records of the Funds continued to reflect the Receivables as held by the Funds, concealing that they had been assigned to the bank to collateralize a loan made to AEI or AEMM.

58.

In the spring of 2014, the bank renewed the guidance line of credit for the ninth time. In underwriting the renewal, the bank analyzed AEMM's and AEI's internally prepared financial statements and the overall operations of AEI's business, including management of the pools (i.e., the Funds). In its memorandum approving the loan renewal—signed off on by at least five bank employees—the bank noted that AEMM revenues in 2013 were half of the 2011/12 averages. "Prior year revenues were weighted heavily in contract sales," i.e., selling real estate contracts to the AEM Funds, but "[i]n 2013, this shifted away from contract sales ([down to] 29.5% [of revenue]) and more towards broker fees."

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59.

Pacific Premier explained in its memorandum that these "broker fees" were a means for AEI to profit on the front end of an AEM Fund purchase of a Receivable contract: "Broker fees are earned when AEMM facilitates the purchase of contracts/notes directly by the individual pool [Fund], instead of acquiring within AEMM and subsequently selling to the pool. The broker fees represent the difference between the purchase price and the price that provides the desired return to the pool." In other words, investor money into a Fund was used to pay an undisclosed "Broker Fee" to AEMM on top of each Receivable contract purchase. "In 2013," the bank observed, "Broker fees were significant at $723M. Broker fees were zero in 2012. This is expected to remain high in the future."

60.

Pacific Premier also explained that AEMM was using investor money in part to pay $15,000 each month to an AEI real estate development affiliate for money the affiliate had lent AEI to pay off other third-party debt.

61.

Pacific Premier approved the ninth renewal of the guidance line in April 2014. As in past loan memoranda, the bank noted favorably Ross Miles' relationship with bank founder Thomas Young, "dating back to the late 1970's," when AEI began. Miles also touted his relationship with Young to investors.

62.

By 2015, when the guidance line came up for its tenth renewal, Young had left Regents Bank (Pacific Premier's predecessor). The bank's internal assessment of AEI by new management soured, noting that it was highly leveraged and its "in-house accounting [was] not adequate." Its hesitations, however, were counterbalanced by the continued benefits of Miles' business with the bank: "Borrower has been a strong

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advocate for Regents Bank in the past and has provided strong deposit relationship and has referred a number of clients … Borrower and referred clients (for which Ross maintains a certain level of influence) maintain $3.4MM in loans outstanding and $3.2MM in avg deposits."

63.

Over the course of several months, the bank met with Miles and, although the guidance line of credit had not been renewed and existing loans on the line were maturing, the bank did not terminate its relationship or cut off funding to AEI. It provided extensions on the maturing loans until quietly passing them off its books to Young's new financing company.

64.

Throughout this time, Pacific Premier had also provided credit directly to Miles for AEI's operations, which continued after 2015 through 2018. In June 2008, for example, the bank approved a $50,000 line of credit to Miles "to finance short-term business cash flow needs," recognizing the "business" as AEI, its affiliates, and the AEM Funds.

65.

In January 2009, Pacific Premier "loaned" Miles $600,000 in order that Miles could pay off another bad Miles-related loan Pacific Premier had made on a property in La Pine. Miles provided as collateral six Receivables that were owned by and owed to AEM Funds. The AEM Funds received no consideration for transferring the real estate loans to Pacific Premier.

66.

In late 2009 and early 2010, Miles again took bad debt off of the bank's hands and the bank, in exchange, lent additional money to Miles secured by deeds of trust taken from the AEM Funds for no consideration. Specifically, in December 2009, Miles purchased a loan from the bank at par; the loan was secured by a promissory note and

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deed of trust, the borrower on which, Franchise Management Services, Inc., was in bankruptcy. Given the uncertainty of the borrower's ability to pay, Miles approached the bank looking for more "cash flow." The bank agreed to lend Miles $1.025 million. The bank described the loan as being "a result of negotiations with the Borrower on the sale of a problem credit by the Bank to Mr. Miles." The $1.025 million reciprocal loan to Miles was secured by two real estate receivables, which Pacific Premier recognized "were originally owned by American Eagle Mortgage 100 and American Eagle Mortgage 400." The bank accepted them as collateral for the loan to Miles after they were "assigned from the given investment [fund] to Ross Miles personally and then assigned to [Pacific Premier's predecessor] Regents Bank" as a requirement to close the loan, which happened in May 2010.

67.

Miles' willingness to take the bad debts off the bank's hands motivated Pacific Premier to continue to extend credit to Miles, AEI, and AEMM and ultimately to quietly wind down the guidance line of credit—all the while providing the American Equities securities business the money necessary to maintain its illusion of solvency, safety, and prosperity, and necessary for ongoing Fund securities sales.

68.

As a part of the $1.025 million loan in May 2010, Miles and the bank agreed that all payments by the underlying borrowers on the two real estate loans now securing his personal debt, which had been part of the Receivables owned by AEM 100 and AEM 400, would go directly to a Pacific Premier account, from which Miles' loan payments to the bank would automatically be deducted. Miles was expected to personally net over $6,000 each month from the transaction—i.e., from the reassignment of two contracts from AEM Funds to Pacific Premier as security for a personal loan. The AEM Funds received no consideration for transferring the real estate loans to Pacific Premier.

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69.

In January 2011, Pacific Premier renewed Miles' $50,000 "short-term business cash flow" line of credit for the fourth time. The bank noted that as a revolving line of credit, it was intended to be used "at 50% of the commitment amount" and fully "revolve"—i.e., rest at a zero balance for some time—each year. During 2010, however, the outstanding balance was never below $40,000 and was maxed out at the time of renewal. Despite that, the bank renewed the line of credit.

70.

When Pacific Premier quietly wound down the AEI/AEMM guidance line of credit in 2015, it not only left Miles' business line of credit in place, but it increased his available credit to $75,000. Pacific Premier's credit line to Miles was used, on information and belief, to pay obligations to existing investors and as needed throughout AEI's operations to hide its and the Funds' insolvency. In 2017, Miles still was not meeting the bank's requirement that the line rest at a zero balance for 30 days, but the bank continued to renew it. In December 2018, with AEI in freefall, it was renewed yet again.

71.

The Pacific Premier lines of credit to AEI, AEMM, and Ross Miles made possible the sales of AEM Fund securities from no later than January 2007 to the collapse of the Funds in 2019. Without those lines of credit, AEI would not have had the assets to pool into the Funds. And without the guidance line, AEI and the Funds would not have had the money necessary to continue their (false) illusions of solvency, safety, and prosperity. The guidance line made possible the sales of AEM Fund securities. By provisioning Fund assets, providing credit advances in exchange for security in Receivables taken from the AEM Funds, and by structuring its business relationship with AEI such that the bank would be repaid from proceeds of Fund securities sales, Pacific Premier materially aided

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and participated in unlawful sales of AEM Fund securities and the unlawful operations of AEI's and the Funds' securities businesses.

Collapse of American Equities

72.

By early 2019, obligations to investors finally overwhelmed AEI's capacity for bringing in new money. In order to stave off investors and other claimants, Miles and Wile hired a workout specialist to attempt to negotiate with creditors and investors. When the workout specialist reviewed thew situation, he told Miles and Wile that they should consent to the appointment of a Receiver to take charge of the Funds.

73.

In May 2019, on Ross Miles' motion, the Funds were put into a court-supervised Receivership and an injunction was entered preventing plaintiffs from suing AEI and the Funds. The Court has since granted the Receiver's request that all of the Funds be treated as a single operating entity due to the extensive commingling of assets and cash among the Funds.

FIRST CLAIM FOR RELIEF
Oregon Securities Law – Sales in Violation of ORS 59.115(1)(b); Liability under ORS 59.115(3); Recovery under ORS 59.115(2) Against Defendants Miles and Wile

74.

Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) reallege ¶¶ 1-73.

75.

Miles and Wile sold and successfully solicited the sales of securities to plaintiffs Sherry Beattie, Robert Kalmbach and Patricia Witt, and Robert MacLellan and Gay MacLellan by means of untrue statements of material facts or by omissions of material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of ORS 59.115(1)(b). The untrue or

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misleading statements of fact are described in ¶¶ 26-73, above. Each of the untrue or misleading statements were material in that a reasonable person in the shoes of the investors would have considered the information important in making a decision to invest in an AEM Fund.

76.

A schedule of plaintiffs Beattie's, Kalmbach's, Witt's, and MacLellans' investment accounts is attached as Schedule I. Pursuant to ORS 59.115(1), (2), and (3), each of plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) is entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 9% interest or the rate provided in the security, less any amount received on the securities. In those cases where a plaintiff received an interest dividend and simultaneously reinvested the interest dividend, i.e., the plaintiff did not receive an immediate cash payment of the interest—the interest is accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 9% from the date of payment. The damages of plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) total over $4.79 million as of the filing of the Third Amended Complaint. Interest accrues until the date of payment. Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) will tender their securities at a time before entry of judgment.

77.

In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and less interest on such value at the rate of 9% per annum from the date of disposition.

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78.

Pursuant to ORS 59.115(10), this Court should award plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) their reasonable attorney fees.

SECOND CLAIM FOR RELIEF
Oregon Securities Law
Sales in violation of ORS 59.115(1)(b);
liability under ORS 59.115(3); recovery under ORS 59.115(2))
Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s)
Against Defendants Davis Wright, Riverview, and Pacific Premier

79.

Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) reallege ¶¶ 1-73.

80.

The AEM Funds, AEI, Miles, and Wile sold securities to plaintiffs Sherry Beattie, Robert Kalmbach and Patricia Witt, and Robert MacLellan and Gay MacLellan by means of untrue statements of material facts or omissions of material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of ORS 59.115(1)(b). The untrue or misleading statements of fact are described in ¶¶ 26-73, above. Each of the untrue or misleading statements were material in that a reasonable person in the shoes of the investors would have considered the information important in making a decision to invest in an AEM Fund.

81.

Defendant Davis Wright is jointly and severally liable with the AEM Funds, AEI, Miles, and Wile, for participating or materially aiding in the sales. (ORS 59.115(3)).

82.

Defendant Riverview Community Bank is jointly and severally liable with the AEM Funds, AEI, Miles, and Wile, for participating or materially aiding in the sales. (ORS 59.115(3)).

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83.

Defendant Pacific Premier Bank is jointly and severally liable with the AEM Funds, AEI, Miles, and Wile, for participating or materially aiding in the sales. (ORS 59.115(3)).

84.

A schedule of plaintiffs Beattie's, Kalmbach's, Witt's, and MacLellans' investment accounts is attached as Schedule I. Pursuant to ORS 59.115(1), (2), and (3), each of plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) is entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 9% interest or the rate provided in the security, less any amount received on the securities. In those cases where a plaintiff received an interest dividend and simultaneously reinvested the interest dividend, i.e., the plaintiff did not receive an immediate cash payment of the interest—the interest is accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 9% from the date of payment. The damages of plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) total over $4.79 million as of the filing of the Third Amended Complaint. Interest accrues until the date of payment. Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) will tender their securities at a time before entry of judgment.

85.

In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and less interest on such value at the rate of 9% per annum from the date of disposition.

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86.

Pursuant to ORS 59.115(10), this Court should award plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) their reasonable attorney fees.

THIRD CLAIM FOR RELIEF
Oregon Securities Law
Sales in violation of ORS 59.135;
liability under ORS 59.115(1) and ORS 59.115(3);
recovery under ORS 59.115(2))
Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s)
Against Defendants Ross Miles and Maureen Wile

87.

Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) reallege ¶¶ 1-73.

88.

Miles and Wile sold and successfully solicited sales of securities in violation of ORS 59.135(1) and (3) (civil liability under ORS 59.115(1)(b)). Miles and Wile, directly or indirectly, in connection with the sale of the securities or the conduct of a securities business:

(1) made untrue statements of a material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; and

(2) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

89.

A schedule of plaintiffs Beattie's, Kalmbach's, Witt's, and MacLellans' investment accounts is attached as Schedule I. Pursuant to ORS 59.115(1), (2), and (3), each of plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) is entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 9% interest or the rate provided in the security, less any

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amount received on the securities. In those cases where a plaintiff received an interest dividend and simultaneously reinvested the interest dividend, i.e., the plaintiff did not receive an immediate cash payment of the interest—the interest being accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 9% from the date of payment. The damages of plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) total over $4.7 million as of the filing of the Second Amended Complaint. Interest accrues until the date of payment. Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) will tender their securities at a time before entry of judgment.

90.

In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and less interest on such value at the rate of 9% per annum from the date of disposition.

91.

Pursuant to ORS 59.115(10), this Court should award plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) their reasonable attorney fees.

FOURTH CLAIM FOR RELIEF
Oregon Securities Law
Sales in violation of ORS 59.135;
liability under ORS 59.115(1) and ORS 59.115(3);
recovery under ORS 59.115(2)
Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s)
Against Defendants Davis Wright, Riverview, and Pacific Premier

92.

Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) reallege ¶¶ 1-73.

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93.

The AEM Funds, AEI, Miles, and Wile sold securities in violation of ORS 59.135(1) and (3) (civil liability under ORS 59.115(1)). The AEM Funds, AEI, Miles, and Wile, directly or indirectly, in connection with the sale of the securities or the conduct of a securities business:

(1) made untrue statements of a material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; and

(2) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person.

94.

Defendants Davis Wright, Riverview, and Pacific premier are jointly and severally liable with The AEM Funds, AEI, Miles, and Wile for participating or materially aiding in the sales. (ORS 59.115(3)).

95.

A schedule of plaintiffs Beattie's, Kalmbach's, Witt's, and MacLellans' investment accounts is attached as Schedule I. Pursuant to ORS 59.115(1), (2), and (3), each of plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) is entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 9% interest or the rate provided in the security, less any amount received on the securities. In those cases where a plaintiff received an interest dividend and simultaneously reinvested the interest dividend, i.e., the plaintiff did not receive an immediate cash payment of the interest—the interest being accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 9% from the date of payment. The damages of plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) total over $4.7 million as of the filing of the

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Second Amended Complaint. Interest accrues until the date of payment. Plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) will tender their securities at a time before entry of judgment.

96.

In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and less interest on such value at the rate of 9% per annum from the date of disposition.

97.

Pursuant to ORS 59.115(10), this Court should award plaintiffs Beattie, Kalmbach, Witt, and MacLellan(s) their reasonable attorney fees.

FIFTH CLAIM FOR RELIEF
Oklahoma Uniform Securities Act – Sales in Violation of 71 Ok St § 1-501(2); Liability under 71 Ok St § 1-509(G); Recovery under 71 Ok St § 1-509(B)(1)
Plaintiffs Franke(s) and Fite against Defendants Ross Miles, Maureen Wile, and Davis Wright

98.

Plaintiffs Franke(s) and Fite reallege ¶¶ 1-73.

99.

The AEM Funds, AEI, Miles, and Wile sold and successfully solicited sales of securities to plaintiffs Franke(s) and Fite by means of untrue statements of material facts or omissions of material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of 71 Ok St § 1-501(2).

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100.

Defendant Davis Wright is liable jointly and severally with the AEM Funds, AEI, Miles, and Wile materially aiding in the conduct giving rise to the liability under 71 Ok St § 1-509(B). 71 Ok St § 1-509(G).

101.

A schedule of plaintiffs Frankes' and Fite's investment accounts is attached as Schedule I. Pursuant to 71 Ok St § 1-509(B)(1), plaintiffs Franke(s) and Fite are each entitled to damages in the amount of the consideration that was paid for the securities, and interest from the date of payment equal to the greater of 6% interest or the rate provided in the security, less any amount received on the securities. In those cases where a plaintiff received an interest dividend and simultaneously reinvested the interest dividend, i.e., the plaintiff did not receive an immediate cash payment of the interest—the interest being accounted as (a) an "amount received on [a] security"; and (b) the "consideration paid for [a] security," and it bears interest at the rate of 6% from the date of payment. The damages of plaintiffs Franke(s) and Fite total over $412,000 as of the filing of the Second Amended Complaint. Interest accrues until the date of payment. Plaintiffs will tender their securities at a time before entry of judgment.

102.

In those cases where a plaintiff no longer owns a security, a plaintiff is entitled to recover damages in the amount that would be recoverable upon a tender, less the value of the security when the purchaser disposed of it and less interest on such value at the rate of 6% per annum from the date of disposition.

103.

Pursuant to 71 Ok St § 71-509(B)(1), this Court should award plaintiffs Franke(s) and Fite their reasonable attorneys' fees incurred in this action.

//

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WHEREFORE, plaintiffs Beattie, Kalmbach, Witt and MacLellan respectfully demand an award against defendants in an amount over $2.8 million, along with interest from the dates of payments of consideration equal to the greater of 9% interest or the rate provided in the security and plaintiffs Franke and Fite respectfully demand an award against defendants Miles, Wile, and Davis Wright in an amount over $300,000, along with interest from the dates of consideration equal to the greater of 6% interest or the rate provided in the security; awarding plaintiffs their reasonable attorney fees; awarding plaintiffs their costs and disbursements; and providing for such further relief as the Court may deem appropriate.

DATED this 18th day of May, 2023.

BOISE MATTHEWS DONEGAN LLP

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SCHEDULE I
to Third Amended Complaint

Plaintiff	Investment Date	Investment Amount	"Pool"	Account Number	Interest Rate*	Damages as of May 17, 2023
Sherry Beattie, an individual	6/6/2007	$50,000.00	AEM Mexico 200, LLC	320117	10.00%	$ 102,249.85
Sherry Beattie, an individual	2/1/2008	$20,235.00	AEM Mexico 200, LLC	320132	10.00%	$ 96,504.03
Sherry Beattie, an individual	5/15/2012	$45,310.00	AEM Mexico 400, LLC	330150	9.50%	$ 120,701.69
Barabara Fite and Belinda A. Franke, individuals	11/29/2014	$78,309.78	AEM I, LLC	302109	8.00%	$ 108,948.45
Barabara Fite and Belinda A. Franke, individuals	6/20/2017	$50,000.00	AEM 600, LLC	308355	8.50%	$ 67,810.71
Barabara Fite and Belinda A. Franke, individuals	8/22/2017	$130,000.00	AEM 600, LLC	308356	8.50%	$ 175,849.86
Dean and Belinda A. Franke, individuals	6/20/2017	$65,000.00	AEM 600, LLC	308354	8.50%	$ 88,153.94
Robert Kalmbach and Patricia Witt, individuals	6/13/2013	$100,000.00	AEM 600, LLC	308296	9.00%	$ 219,179.12
Robert Kalmbach and Patricia Witt, individuals	7/24/2014	$160,000.00	AEM 600, LLC	308322	9.00%	$ 290,567.23
Robert Kalmbach and Patricia Witt, individuals	8/5/2016	$125,000.00	AEM 600, LLC	308351	9.00%	$ 163,527.66
Robert and Gay MacLellan, as Trustess of RSM Revocable Trust	11/30/2009	$285,000.00	AEM 600, LLC	308118	10.00%	$ 383,409.86
Robert and Gay MacLellan, as Trustess of RSM Revocable Trust	2/24/2011	$800,000.00	AEM 600, LLC	308184	9.50%	$ 1,166,411.89
Robert and Gay MacLellan, as Trustees of M2M Development Inc. 401K PSP	2/24/2011	$607,000.00	AEM 600, LLC	308183	9.50%	$ 1,486,516.37
Robert and Gay MacLellan, as Trustees of M2M Development Inc. 401K PSP	9/15/2011	$114,000.00	AEM 600, LLC	308201	9.50%	$ 263,264.70
Robert and Gay MacLellan, as Trustess of RSM Revocable Trust	11/30/2010	$300,000.00	AEM 600, LLC	308171	9.00%	$ 411,418.89
				Total Damages		**$ 5,144,514.25**

* For plaintiffs with Oregon claims, interest is the greater of 9% or the promised rate.
For plaintiffs with Oklahoma claims, interest is the greater of 6% or the promised rate.

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2023, I served a true copy of Third Amended Complaint through e-file and serve on the following:

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EXHIBIT D

Allegation:	¶ Anderson	¶ Beattie	¶ Hamstreet
Riverview lent money knowing AEI was insolvent.	14	14	42
Riverview understood the nature of AEI's business including securitizing notes and selling investments in pools	14	14, 15	37, 39
Riverview knew the economic slowdown in 2007 and 2008 decreased the number of investors putting extreme pressure on AEI's ability to continue to revolve the LOC.	14	15	48
Riverview understood that AEI was operating essentially as a bank.	15	16	39
Because they held the deposit accounts, Riverview knew the amount investors were paying for AEI securities and how the funds were being (mis)used.	16	16	35
Riverview received $7,369,000 in payments on AEI's LOC by payment directly from the pools.	16	16	42
Riverview continued to lend to AEI through the recession and collapse of the real estate market while AEI was insolvent.	17	17	48
The Riverview LOC remained in place until Fall 2009 when Riverview reduced lending as AEI had difficulting in raising new capital from investors.	17	17	48, 49
Riverview stopped loaning funds and was eventually repaid through the combination of investor funds, pool collateral, and proceeds from Regents Bank loan.	17	17	50, 52
PPB provided necessary financing to an insolvent AEI through a guidance LOC, an LOC to Miles personally, and several loans and credit lines to AEI affiliates.	18	18	81
PPB did so knowing AEI was at all times insolvent.	18	19	59
PPB did so knowing AEI was in the securities business and that PPB loans were going to be used to finance the operations of that securities business.	18	19	60
PPB financing was secured by real estate receivables taken from pools with no benefit to pools, enabiling Miles to continue to sell securities to investors.	18	20	74, 75
Money from PPB was deposited into a general checking account and commingled with funds from across AEI.	18	20	63

PPB worked with Miles to quietly wind down the guidance LOC in a way that was designed to cause minimal interruption to AEI's operations.	18	20	79
PPB arranged for the transfer of the reamining guidance LOC off it's books to a different lender.	18	20	79
PPB understood the nature of AEI's business including securitizing notes and selling investments in pools	19	21	60
PPB's financing to AEI made it possible to hide the insolvency of the pools and AEI.	19	25	81
But for PPB's ongoing financing and its cooperating in quietly winding down the guidance LOC, the insolvency of AEI and the pools would have been apparent and AEI would not have been able to continue after 2008.	19	25	81
Most advances on the Riverview LOC lacked required documents and advances on the LOC continued despite AEI chronically failing to comply with material terms of the LOC.	42	48	38
Despite knowing of AEI's financial difficulties, Riverview did not foreclose on its loans but instead chose a strategy of making a quiet exit that would ensure investors did not learn about the fianncial condition of AEI and the pools.	43	51	53
If Riverview had foreclosed on the LOC, the illusion of solvency and prosperty would have been shattered. Riverview enabled AEI to continue and victimize more investors.	43	51	53
Through financial statements provided to the bank, PPB knew AEI liberally borrowed from the pools.	48	56	61
Although PPB recorded a security interest in real property to secure advanced on their LOC, PPB did not require AEI to use the advances for their intended purpose.	51	59	63
PPB allowed advances to be secured by receivables owned by the pools.	52	60	64
PPB and Miles organized the sale of the Franchise Management Services loan to AEI and PPB accepted notes owned by the pools for security.	61	70	69

PPB loaned Miles money for the La Pine property securing the loan with notes owned by the pools for which the pools received no consideration.	61	69	64
When winding down the guidance LOC, PPB left Miles' personal LOC for $75k which was used to pay obligations to existing investors.	64	74	80

Anderson et. al Pleading (United States District Court of Oregon)	Beattie et al. Pleading (Multnomah County, Oregon)	Receiver Pleading
"On or before 2001, defendant Riverview began lending money to American Equities on what became a $3 million to $4 million line of credit. Riverview did so knowing its own credit memoranda showed that in 2003 and beginning with 2005, in every year thereafter, American Equities was insolvent--its liabilities exceed its assets--and increasingly so." ¶ 14.	"On or before 2001, Riverview began lending money to AEI on a 'revolving guidance line of credit' to finance the purchase of real estate contracts....By 2006 the LOC was $3 million and in 2007 it was increased to $4 million. Riverview knew that advances on its guidance line were going to be used to finance AEI's securities business--that is, to purchase real estate receivables to be resold at a profit to the Funds." ¶ 14. "Riverview did so knowing that AEI was insolvent in 2003, 2005, and every year thereafter--AEI's liabilitys exceed its assets, and increasingly so." ¶ 15.	"Beginning no later than June 2001, Riverview provided a $3 million line of credit to AEI...that was necessary to aid AEI Defendants' operations, including their sale of securited real estate paper to the Pools." ¶ 36.
"Riverview knew that American Equities used the line of credit to purchase 'first position real estate contracts and first position notes with deeds of trusts,' that American Equiteies then formed 'packages or pools' of these loans, and then sold the 'pools [securities] to investors.'" ¶ 14.	"AEI used a revolving guidance line of credit from Riverview Bank to, in the bank's words, purchase 'first position real estate contracts and first position notes with deeds of trust,' form 'packages or "pools"' of these loans, and then sell the 'pools to investors.'" ¶ 38.	"The Riverview LOC was ostensibly an ongoing inventory line of credit to enable AEI to purchase short term, first position real estate contracts and promissory notes securied by first position deeds of trust...at a discounted price, hold them for a few months, and then sell them to investors at or near face value, creating a profit for AEI on the sale." ¶ 37. "Riverview had extensive knowledge of AEI's business activities and its misuse of investor funds. Among other things, Riverview knew that AEI formed and managed the Pools and this it held approximately $40 million of invested funds under management." ¶ 39.

"Riverview knew that with the 'economic slowdown' in 2007 and 2008, investors had 'decreased'--being 'more concerned about keeping cash than buying real estate products.'" ¶ 14.	"Riverview knew that with the 'economic slowdown' in 2007 and 2008, the number of AEI's target investors had 'decreased,' being 'more concerned about keeping cash than buying real estate products.'" ¶ 39.	"Riverview had periodically acknowledged that the economic downturn in 2007 and 2008 had impacted AEI, that its ancillary real estate investments were struggling, and that the Riverview LOC was becoming stagnant." ¶ 48.
"Riverview understood that American Equities was 'operating essentially as a bank.'" ¶ 15.	"Riverview understood that American Equities was 'operating essentially as a bank.'" ¶ 40.	"Riverview knew that AEI formed and manged the Pools and that it held approximately $40 million of invested funds under management." ¶ 39.
"Riverview also held the Funds' deposit accounts. It knew, therefore, the amount investors were paying for AEM Fund securities, and how those funds were being (mis)used." ¶ 16.	"Riverview also held the Funds' deposit accounts. It knew, therefore, the amount investors were paying for AEM Fund securities, and how investor payments were being (mis)used." ¶ 40.	"Fourteen of the Pools maintained accounts with Riverview." ¶ 35.
"[F]rom September 28, 2007 to April 18, 2008, Riverview received $7,369,000 in payments on American Equities' line of credit by payment directly from the AEM Funds." ¶ 16.	"[F]rom September 28, 2007, to April 18, 2008, Riverview received $7,369,000 directly from the AEM Funds as payment on AEI's line of credit." ¶ 40.	"Riverview also knowingly received money that was improperly transferred from the Pools. In 2007 and 2008, at least 11 transfers were made from the Pools to Riverview totaling $7,369,000.00. AEI transferred these funds from the Pools to Rierview to pay down amounts owed on the Riverview LOC, despite the fact that the Riverview LOC was AEI's debt, not the Pools.'" ¶ 42.
"Riverview continued to lend money to American Equities…through the Great Recession and the collapse of the real estate market, and when American Equities was insolvent." ¶ 17.	No similar provision	"In September 2009, amid the global recesion and citing 'alarming levels of debt,' Riverview converted the Riverview LOC balance of approximately $3.2 million into a term loan, which it then renewed on a semiannual basis." ¶ 48.

"After years of AEI's insolvency and difficulties in meeting its obligations to the bank, Riverview stopped loaning funds and eventually was repaid through the combination of investor funds, the Funds' collateral, and the proceeds from a Regents Bank loan." ¶ 17.	"After years of dealing with AEI's insolvency, its inability to provide timely financial statements, and its difficulties in meeting its obligations to the bank, Riverview stopped new advances to AEI and began quietly winding down its business relationship with AEI. It eventually was repaid through a combination of investor money, the Funds' collateral, and the proceeds of a loan from Regents Bank--predecessor to defendant Pacific Premier." ¶ 15.	"In addition to reclassifying the loan, Riverview developed a more aggressive exit strategy in early 2013 that included writing off a portion of the loan...and requiring a $1.6 milion payoff from AEI. AEI did not have the financial resources to pay off the loan, which Riverview knew from AEI's financial statements. In order to complete the payoff, AEI used $635,000 in Pool contracts to secure new loans from Pacific Premier, borrowed $312,000 from Ridgecrest III (a Related Party entity), and transfered a contract owned by AEM 600 valued at $225,000 to Riverview." ¶ 52.
"Pacific Premier [provided lending to American Equities] knowing that with the exception of 2005, American Equities was at all times insolvent--that its total liabilities exceeded its total assets." ¶ 18.	"Pacific Premier provided that necessary financing knowing that with the exception of 2005, American Equities was at all times insolvent--that its total liabilities exceeded its total assets." ¶ 19.	"Beginning no later than January 2008, Pacific Premier provided a line of credit to AEI that was necessary to aid AEI Defendants' operations, including their sale of secured real estate paper to the Pools." ¶ 58. "As AEI and the Pools insolvency deepened, Pacific premier did not end the lending relationship." ¶ 59.
"Pacific Premier [provided lending] knowing that American Equities was in the securities business and that Pacific Premier's loans were going to be used to finance the operation of that securities business." ¶ 18.	"Pacific Premier financed and provisioned the assets for AEI's securities business, knowing that AEI and the funds were insolvent--that their total liabilities exceeded their total assets. Pacific Premier knew that advances on its guidance line were going to be used to purchase real estate receivables to be resold at a profit to the Funds. ¶ 17.	"The primary source of repayment of the Pacific Premier LOC was AEI's sale of secured real estate paper to the investor Pools at inflated prices. The stated purpose of the Pacific Premier LOC was short-term funding. Each advance was document by a separate promissory note with a maximum maturity of 12 months, by which time Pacific Premier understood there would be 'sale of the...contracts to either an individual investor or an established investment pool.'" ¶ 60.

"[T]he financing was secured by real estate Receivables taken from AEM funds, with no benefit to the Funds, and the loans enabled Miles to continue to sell securities to investors in the insolvent American Equities/AEM Fund operation." ¶ 18.	"Advances on the guidance line were somteimes secured by Receivable contracts that belogned to the AEM Funds. In or around March 2013, reassigning Receivable contracts out of an AEM Fund to secure advances on the Pacific Premier line, without consideration to the AEM Fund, became a widespread practice by AEI." ¶ 56.	"Beginning in or around March 2013, using the Pools' real estate paper to secure advances made under the Pacific Premier LOC, without consideration to the Pools, became a widespread practice by AEI Defendants." ¶ 74.
"Money from Pacific Premier was deposited into a genearl checking account and was used as part of commingled funds across American Equities." ¶ 18.	"Money from Pacific Premier was deposited into a general checking account and was used as part of commingled funds across American Equities." ¶ 20.	"Advances on the Pacific Premier LOC were paid into a checking account belonging to AEI or, after December 2010, AEMM." ¶ 63.
"Pacific Premier worked with Miles to quietly wind down the guidance line of credit in a way that was designed to cause minimal interruption to American Equities' operations, including its continuing sales of securities in the AEM funds. Specifically, the bank arranged for the transfer of the remaining guidance line of credit debt off its books to a different lender, which was owned by Miles' personal contacts and former bank managers." ¶ 18.	"Miles' willingness to take the bad debts off the bank's hands motivated Pacific Premier to continue to extend credit to Miles, AEI, and AEMM and ultimately to quietly wind down the guidance line of credit--all the while providing the American Equities securities business the money necessary to maintin its illusion of solvency, safety, and prosperity, and necessary for ongoing Fund securities sales." ¶ 67. "[Pacific Premier] provided extensions on the maturing loans until quietly passing them off its books to Youngs' new financing company." ¶ 63.	"Over the course of several months, bank representatives met with Miles and, although the Pacific Premier LOC had not been renewed and existing loans on the line were maturing, Pacific Premier did not terminate its relationship or cut off fund to AEI and AEMM. Instead, it provided extentions on the maturing loans until quietly passing them off its books to a financing company associated with Young." ¶ 79.

"Advances to the AEI/AEMM guidnace line were supposed to be used, in Pacific Premier's words, 'to finance the acquisition of specific contracts (secured by deeds of trust or real estate contracts), to be sold to various investment pools managed by the Borrower, or outside investors, within 12 months.' As Pacific Premier also put it, the purpose was to 'allow' (i.e., materially aid) American Equities to 'purchase real estate contracts at a discount' to be included in 'various Investment Pools' that would then be 'sold to individual investors.'" ¶ 19.	"Advances on the line were purportedly to be used by AEI to (sic) 'to finance the acquisition of specific contracts (secured by deeds of trust or real estate contracts), to be sold to various investment pools managed by the Borrower, or [to] outside investors, within 12 months.' As Pacific Premier also put it, the purpose was to 'allow' (i.e., materially aid) AEI to 'purchase real estate contrats at a discount' to be included in 'various Investment Pools' that would then be 'sold to individual investors.'" ¶ 46.	"The primary source of repayment of the Pacific Premier LOC was AEI's sale of secured real estate paper to the investor Pools at inflated prices. The stated purpose of the Pacific Premier LOC was short-term funding. Each advance was document by a separate promissory note with a maximum maturity of 12 months, by which time Pacific Premier understood there would be a 'sale of the...contracts to either an individaul investor or an established investment pool,' i.e., one of the Pools." ¶ 60.
"Pacific Premier's financing to American Equities made it possible to hide the insolvency of the AEM Funds and American Equities. But for Pacific Premier's ongoing financing and its cooperation in quietly winding down the AEI/AEMM guidance line, the insolvency of American Equities and the AEM Funds would have been apparent, and American Equities would not have been able to continue to sell AEM Fund securities after 2008. Pacific Premier provided material aid to and participated in the AEM Fund security sales at issue here." ¶ 19.	"Pacific Premier's financing made it possible to hide the growing insolvency of the AEM Funds and AEI." ¶ 51 "The Pacific Premier lines of credit to AEI, AEMM, and Ross Miles made possible the sales of AEM Fund securities from no later than January 2007 to the collapse of the Funds in 2019. Without those lines of credit, AEI would not have bad the assets to pool into the Funds. And without the guidance line, AEI and the Funds would not have had the money necessary to continue their (false) illusions of solvency, safety, and propserity." ¶ 71.	"The Pacific Premier lines of credit to AEI Defendants made possible the sales of investments in the Pools from no later than June 2008 to the collapse of the Pools in 2019. Without those lines of credit, AEI Defendants would not have had the money necessary to continue their (false) illusion of solvency, safety, and prosperity and would not have been able to continue selling investments in the Pools...Pacific Premier's actions also aided and assisted the AEI Defendants in the deepening of the Pools' debt. Pacific Premier's actions also aided in prolonging the life of the Pools so that the AEI Defendants could continue to use the Pools to receive the benefits of the fraudulent transactions." ¶ 81.

"Most of the advances [on the Riverview LOC], however, lacked the required documents, and American Equities chronically failed to comply with material terms of the guidance line of credit such as timely providing financial statements." ¶ 42.	"Most of the advances [on the Riverview LOC], however, lacked the required documents, and AEI chronically failed to comply with material terms of the guidance line, such as timely providing financial statements." ¶ 41.	"The Riverview LOC commenced in June 2001 and was renewed annually, although at irregular renewal dates due to late submissions by AEI of financial information. In November, despite noting in its credit memorandum that 75% of the contracts financed under the Riverview LOC were subprime contracts that did not meet Riverview's loan conditions, Riverview approved renewal of the Riverview LOC." ¶ 38.
"Despite [knowing of American Equities' financial issues], Riverview did not take steps to foreclose on its loans, and, instead chose the strategy of making a quiet exit that would help (aid) ensure that investors did not learn about the precarious financial condition of American Equities and the Funds and would help facilitate the repayment of its loan, at least in part, from investors funds." ¶ 43.	"Despite [knowing of American Equities' financial issues], Riverview did not take steps to foreclose on its loans. Instead, Riverview chose the strategy of making a quiet exit, which would materially aid the ongoing sales of Fund securities: it helped ensure that investors did not learn about AEI's and the Funds' precarious financial condition. In turn, it helped facilitate AEI's repayment of the Riverview credit line, at least in part from investor funds." ¶ 44.	"In September 2009...Riverview converted the Riverview LOC balance of approximately $3.2 million into a term loan, which it then renewed on a semiannual basis. Leading up to this decision, Riverview had periodically acknowledged that the economic downturn in 2007 and 2009 had impacted AEI, that its ancillary real estate investments were struggling, and that the Riverview LOC was becoming stagnant. Riverview knew that AEI's business model of purchasing contracts and bundling them for resale to the Pools was no longer working. Riverview did not, however, alert Pool investors or regulatory authorities to AEI's operational deficiencies or the deteriorating status of the Pools' holdings. Instead, Riverview took steps to force AEI to payoff the Riverview loan at the expense of the Pools." ¶ 48.

"Foreclosing on the line of credit and the Fund Receivables would have shattered the (false) illusion of solvency, safety, and propserity that was necessary for American Equities to continue selling securities and for Riverview to be repaid. By following the quiet exit strategy, the bank managed to end its credit relationship with AEI and to be made whole, and thereby enabiling (aiding) Americian Equities to victimize more investors." ¶ 43.	"Foreclosing on the line of credit and the Fund Receivables would have shattered the illusion of solvency, safety, and propserity that was necessary for AEI, the Funds, Miles, and Wile to continue selling Fund securities (and for Riverview to be repaid). By following its quiet exit strategy, the bank managed to end its credit relationship with AEI and to be made whole, while aiding AEI in its ongoing securities sales." ¶ 44.	"Without the Riverview LOC, AEI Defendants would not have had the money necessary to continue their (false) illusions of solvency, safety, and propserity and would nto have been able to continue selling investments in the Pools. By providing credit advances, Riverview allowed AEI Defendants to operate and conceal the Ponzi scheme when AEI would have otherwise been out of funds." ¶ 53.
"AEI provided [Pacific Premier] with financial statements in 2008 that reflected the scale of its liberal borrwing from the AEM Funds and its accelerating difficulty in covering for its borrowing with new investor money: outstanding debt owed by AEI to the AEM Funds increased by over 1,100% between fiscal year ends 2006 and 2007." ¶ 48.	"AEI provided [Pacific Premier] with financial statements in 2008 that reflected the scale of its liberal borrowing from the AEM Funds and its accelerating difficulty in covering for its borrowing with new investor money: outstanding debt owed by AEI to the AEM Funds increased by over 1,100% between fiscal year ends 2006 and 2007." ¶ 52.	"AEI provided Pacific Premier with financial statements in 2008 that reflected the scale of its illicit 'borrowing' from the Pols an dits accelerating difficulty in covering repayment of its Bank loans with new investor money: the amounts embezzed from the Pools increased dramatically between fiscal years 2006 and 2007." ¶ 61.
"Although [Pacific Premier] recorded a security interest in real property to secure each advance, it did not require that American Equities use the advances for their intended purpose of purchasing an interest in that real estate, or for any particular use. And in fact, American Equities freely used funds from the guidance line for its wider operational costs, transferring the money to Miles, Wile, and among affiliates." ¶ 51.	"Although [Pacific Premier] recorded a security interest in real property to secure each advance, it did not require that AEI use the advances for their intended purpose of purchasing an interest in that real estate, or for any particular use. And in fact, AEI freely used funds from the guidance line for its wider operational costs, transferring the money to Miles, Wile, and among affiliates." ¶ 55.	"Although Pacific Premier's interest in the real estate paper that secured its advances under the Pacific Premier LOC were recorded in the applicable local real property records, it did not require that AEI Defendants use the advances for their intended purpose of purchasing an interest in that real estate, or for any particular use. In fact, AEI Defendants freely used the cash advanced from the LOC for other purposes, including making cash transfers to Miles, Wile, Related Parties, and repaying bank debt." ¶ 63.

"Also, advance on the [Pacific Premier] guidance line were sometimes secured by Receivable contracts that belonged to the AEM Funds. In or around March 2013, reassigned Receivable contracts out of an AEM Fund to secure advances on the Pacific Premier line, without consideration to the AEM Fund, became a widespread practice by American Equities." ¶ 52.	"Advances on the [Pacific Premier] guidance line were sometimes secured by Receivable contracts that belonged to the AEM Funds. In or around March 2013, reassigning Receviable contracts out of an AEM Fund to secure advances on the Pacific Premier line, without consideration to the AEM Fund, became a widespread practice by AEI." ¶ 56.	"Advances made by Pacific Premier under the Pacific Premier LOC were secured by real estate paper that belonged to the Pools. The proceeds from those advances were used to pay down AEI's other troubled loans with Pacific Premier." ¶ 64.
"[I]n December 2009, Miles purchased a loan from the bank at par; the loan was secured by a promissory note and deed of trust, the borrower on which, Franchise Management Services, Inc., was in bankruptcy. Given the uncertainty of the borrower's ability to pay, Miles approached the bank looking for more 'cash flow.' The bank agreed to lend Miles 1.025 million. The bank described the loan as being 'a result of negotiations with the Borrower on the sale of a problem credit by the Bank to Mr. Miles.' The $1.025 million reciprocal loan to Miles was secured by two real estate receiveables, which Pacific Premier recognized 'were originally owned by American Eagle Mortgage 100 and American Eagle Mortgage 400.'" ¶ 61.	"[I]n Decemeber 2009, Miles purchased a loan from the bank at par; the loan was secured by a promissory note and deed of trust, the borrower on which, Franchise Management Services, Inc., was in bankruptcy. Given the uncertainly of the borrower's ability to pay, Miles approached the bank looking for more 'cash flow.' The bank agreed to lend Miles $1.025 million. The bank described the loan as being 'a result of negotiations with the Borrower on the sale of a problem credit by the Bank to Mr. Miles.' The $1.025 million reciprocal loan to Miles was secured by two real estate receivables, which Pacific Premier recognized 'were originally owned by American Eagle Mortgage 100 and American Eagle Mortgage 400.'" ¶ 66.	"The Pools Miles managed presented Pacific Premier with another opportunity for the bank to unload a bad debt. In fact, in 2010, Pacific Premier agreed to make two new laons to AEI and Miles...'To finance the purchase of an existing promissory note and deed of trust from Regents Bank, which will be held within the borrower's personal portfolio for investment purposes.' That 'existing promissory note' was in default and the borrower, Franchise Management Services, was in bankruptcy...In exchange for taking Pacific Premier's bad debt at face value, Pacific Premier agreed to loan Miles an additional $1,025,000 secured by two mortgages on property in Mexico, both of which were Pool assets." ¶¶ 68-70.

"Earlier in January 2009, Pacific Premier 'loaned' Miles $600,000 in order that that [sic] Miles could pay off another bad Miles-related loan Pacific Premier had made on a property in La Pine. Miles provided as collateral six Receivables that were owned by and owed to AEM Funds. The AEM Funds received no consideration for transferring the real estate loans to Pacific Premier." ¶ 61.	"In January 2009, Pacific Premier 'loaned' Miles $600,000 in order that Miles could pay off another bad Miles-related loan Pacific Premier had made on a property in La Pine. Miles provided as collateral six Receivables that were owned by and owed to AEM Funds. The AEM Funds received no consideration for transferring the real estate loans to Pacific Premier." ¶ 65.	"[I]n or around June 2006, Regents Bank loaned $600,000 to AEI for a development project in La Pine, Oregon…This was not a project that was owned by any of the investor Pools…In or around 2008 and 2009, Pacific Premier and AEI agreed to a scheme to use Pools assets to allow AEI to pay of the La Pine Loan. Despite knowing AEI managed and had fiduciary duties to the Pools, Pacific Premier worked with AEI to use seven advances on the Pacific Premier LOC totaling $605,000 to pay off the La Pine Loan. Those advances were secured by contracts Pacific Premier knew were owned by the Pools." ¶ 64.
"When Pacific Premier quietly wound down the guidnace line of credit in 2015, it not only left Miles' line of credit in place, but it increased the available credit to $75,0000. Pacific Premier's credit line to Miles was used, on information and belief, to pay obligations to existing investors and as needed throughout American Equities to hid its insolvency." ¶ 64.	"When Pacific Premier quietly wound down the AEI/AEMM guidance line of credit in 2015, it not only left Miles' business line of credit in place, but it increased his available credit to $75,000. Pacific Premier's credit line to Miles was used, on information and belief, to pay obligations to existing investors and as needed throughout AEI's operations to hide its the the Funds' insolvency." ¶ 70.	"Throughout this time, Pacific Premier had also provided credit directly to Miles for AEI Defendants' operations, which continued after 2015 through 2018." ¶ 80.