

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

IDJB INVESTMENTS, LLC,
a Delaware Limited Liability Company;
SANDEEP BAJAJ, an individual;
ROHINI BAJAJ, an individual;
BAJAJ FAMILY LIMITED
PARTNERSHIP, a Delaware
Limited Partnership; BAJAJ
ENTERPRISES, LLC, a South
Dakota Limited Liability Company;

Plaintiffs

V.

MCGLADREY, LLP, an Illinois
Limited Liability Partnership,

Defendant

CASE NO.:

6:14CV1574-
ORL-41GJK

COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL

Plaintiffs, IDJB INVESTMENTS, LLC, a Delaware Limited Liability Company, SANDEEP BAJAJ, an individual, ROHINI BAJAJ, an individual, BAJAJ FAMILY LIMITED PARTNERSHIP, a Delaware Limited Partnership, BAJAJ ENTERPRISES LLC, a South Dakota Limited Liability Company, by and through their undersigned attorneys, hereby file their Complaint for Damages against MCGLADREY, LLP, an Illinois Limited Liability Partnership, and Demand for Jury Trial, by stating as follows:

I. NATURE OF THE ACTION

1. This action arises out of the actions of a national accounting firm, who, through misrepresentation, malfeasance, and ineptitude, approved a fraudulent financing scheme that

caused the financial ruin of central Florida's premiere Medicare Advantage Plan known as Physicians United Plan, Inc. ("PUP").

2. Sadly, the ultimate victims were the elderly, who lost their preferred Medicare Advantage Plan; valued employees and families, who lost their jobs and incomes; physicians, who lost provider networks; shareholders, who lost their investments; Florida Department of Insurance Regulation, who lost a highly respected Medicare insurer; and, the United States of America, who lost premiums and medical benefits through Medicare fraud.

3. This is a direct tort action against the international accounting firm by the majority shareholders, founders, organizer, and Chairman of the Board of the Medicare Advantage Plan, and other innocent victims, who justifiably believed that one of the world's preeminent accounting firms had the purported expertise, wisdom, and integrity to correctly guide their business dealings and personal actions to ensure financial success.

4. Rather, the global accounting firm blatantly ignored the most basic statutory accounting principles by irresponsibly approving a financing scheme that encouraged and guided self serving management's prevarications to the State while they reckless grew a Medicare plan into insolvency all seemingly justified by patent accounting misrepresentations that culminated in financial ruin, devastation, and collapse.

II. JURISDICTION AND VENUE

5. The damages being sought are in excess of five hundred million dollars (\$500,000,000), exclusive of interest, costs, and attorneys' fees, and are within the jurisdiction of this Court.

6. The Plaintiff, IDJB INVESTMENTS, LLC (“IDJB”), is a Delaware Limited Liability Company, organized under the laws of Delaware, with its principal place of business in Winter Park, Florida, which is located in Orange County Florida.

7. The Plaintiff, SANDEEP BAJAJ (“DR. S. BAJAJ”) is a Florida licensed physician, who has his principal medical practice in Winter Park, Florida located in Orange County, Florida and resides in Longwood, Florida, which is located in Seminole County, Florida.

8. The Plaintiff, ROHINI BAJAJ (“DR. R. BAJAJ”), is a Florida licensed physician, who has her principal medical practice in Winter Park, Florida, located in Orange County, Florida and resides in Longwood, Florida, which is located in Seminole County, Florida.

9. The Plaintiff, BAJAJ FAMILY LIMITED PARTNERSHIP (“BFP”) is a Delaware Limited Partnership, who is organized under the laws of Delaware, with its principal place of business in Winter Park, Florida, which is located in Orange County, Florida.

10. The Plaintiff, BAJAJ ENTERPRISES LLC (“BE”), is a South Dakota Limited Liability Company, who is organized under the laws of South Dakota, with its principal place of business in Winter Park, Florida, which is located in Orange County Florida.

11. The Plaintiffs, IDJB, DRS. BAJAJ, BFP, BE, are citizens of Florida for purposes of diversity jurisdiction.

12. The Defendant, MCGLADREY, LLP (MCGLADREY) is an Illinois Limited Liability Company, who is organized under the laws of Illinois, with its principal place of business in Chicago, Illinois.

13. The Defendant, MCGLADREY is a citizen of Illinois for purposes of diversity jurisdiction.

14. The amount in controversy, without interest and costs, exceeds the sum of value specified by 28 U.S.C. § 1332.

15. Venue is proper in the United States District Court Middle District of Florida, Orlando Division, because the causes of action occurred in Winter Park, Orlando, or Longwood, Florida, which are located in Orange County, Florida and the county of situs for the Orlando Division, and where the Plaintiffs reside for purposes of diversity.

III. PARTIES

16. At all times material hereto, the Plaintiff, IDJB, is the majority shareholder of “PHYSICIANS UNITED PLAN INC”.

17. At all times material hereto, the Plaintiff, DR. S. BAJAJ and DR. R. BAJAJ, were the managing members of IDJB (collectively “DRS. BAJAJ”).

18. At all times material hereto, DR. S. BAJAJ was the Chairman of the Board for “PHYSICIANS UNITED PLAN INC.”

19. At all times material hereto, the Plaintiff, BFP, was the family limited partnership, created by DRS. BAJAJ in 2102. and to whom DRS. BAJAJ, as part of family asset planning for their children, caused the transfer of their IDJB membership interest in exchange for BFP interest to thereby control the management of BFP assets, which then included IDJB’S majority shares in “PHYSICIANS UNITED PLAN, INC”, all based on the MCGLADREY Misrepresentations and for the benefit of their children (the “Asset Planning”).

20. At all times material hereto, the limited partnership interest of BFP are owned by DRS. BAJAJ.

21. At all times material hereto, the general partnership interest of BFP is owned by BE as service partner for BFP.

22. At all times material hereto, the Asset Planning undertaken by DRS. BAJAJ was in reliance on the “MCGLADREY Misrepresentations” and “MCGLADREY’S” purported expertise to guide PUP to ensure it continual success and solvency and to keep them fully and correctly informed as to the financial condition of PUP so as to maintain the value of the assets that were the corpus of the Asset Planning.

23. At all times material hereto, the ownership, shares, memberships, assets, and damages sustained by IDJB, DRS. BAJAJ, BFP, and BE, belong to each and of the other in common enterprise, and all actions thereof, are the joint and several actions of each and of the other on reliance on the “MCGLADREY Misrepresentations (collectively, “BAJAJ”).

24. The Defendant, MCGLADREY, is an Illinois Limited Liability Company, who is authorized to transact business in the State of Florida as accountants and business advisors.

25. PHYSICIAN’S UNITED PLAN, INC. (“PUP”) is a Florida corporation and federal Medicare Advantage Plan (the “Plan”), who was authorized to transact business in Florida as a health maintenance organization (“HMO”).

26. PUP’s principal place of business was located at 8427, South park Circle, Suite 500, Orlando, Florida 32819.

IV. PUP MEDICARE BACKGROUND

27. On February 21st, 2005, PUP was formed as a Florida corporation pursuant to articles of incorporation filed with the Florida Department of State on even date therewith, as subsequently amended and restated.

28. The “business” of PUP was the provision of Medicare benefits to the elderly pursuant to the privatization of Original Medicare (Parts A and B) into private plans as

implemented by the Balanced Budget Act of 1997, 42 U.S.C. §1395, Part C (the “BBA”). Therefore, PUP would be defined as “Medicare Choice Plan”.

29. Based on this privatization, private plans or businesses like PUP could provide hospital services and benefits directly to the elderly based on contracts with the Centers for Medicare and Medicaid Services (“CMS”), a federal agency, of the United States, who is charged with administering public health insurance.

30. The Medicare benefits offered by PUP would be “Part A” benefits (hospital care), “Part B” benefits (medical providers and services not covered by Part A), and in some instances, “Part D” benefits (prescription drugs), that were more recently implemented by the Medicare Modernization Act, 42 U.S.C. §1395w100, et. seq. (“MMA”). Pursuant to the MMA, Medicare Choice plans became known as “Medicare Advantage Plans” (“MAP”). Therefore, PUP would have been defined as a Medicare Advantage Plan or “MAP”.

31. As a MAP, PUP provided Medicare benefits to the elderly as a health maintenance organization (“HMO”), pursuant to its contract with CMS as required by the MMA.

32. Under the contract with CMS, PUP was paid premiums on a prospective basis that had accumulated in the Hospital Insurance Trust Fund (“HITF”) and the Supplementary Medical Insurance Trust Fund (“SMITF”). The HITF payment is for Part A benefits and is financed through payroll taxes. The SMITF payment is for Part B benefits and is financed through supplemental insurance purchased after Medicare eligibility. Medicare pays the private health plans, such as PUP, a set amount every month based on diagnostically related grouping for each member (the “Capitation”).

33. Pursuant to the BBA and the MMA, all matters of licensing and solvency of a MAP are regulated by the State. In the case of PUP, its license and solvency was regulated by the Florida Office of Insurance Regulation (the “FOIR”).

34. The FOIR, in turn, subjected PUP to the operating requirements of Florida’s Health Maintenance Organization Act and the Florida Insurance Code, particularly as to matters of capital and surplus that had to be maintained in required amounts to prevent impairment, which could result in receivership and/or liquidation by the FOIR.

35. Specifically, Fla. Stat. §641.225 requires that each HMO at all times maintain a minimum surplus in an amount that is the greater of \$1,500,000, or ten percent of total liabilities, or two percent of total annualized premium.

36. To monitor capital and surplus, Fla. Stat. §641.26 also requires the submission of monthly financial statements “and” an annual report with the FOIR showing its financial condition for the immediately preceding fiscal period. Such a report must include, *inter alia*, “[a]n audited financial statement of the health maintenance organization, including its balance sheet and a statement of operations for the preceding year certified by an independent certified public accountant, prepared in accordance with statutory accounting principles;” and “[a] report prepared by the certified public accountant and filed with the office describing material weaknesses in the health maintenance organization’s internal control structure as noted by the certified public accountant during the audit.”

37. Based thereon, it was a licensing imperative that PUP maintained required capital and surplus with adequate internal controls. This was verified every month in financial statement reporting to FOIR and at year’s end with an independent audit. PUP was required pursuant to Florida Statutes to use Statutory Accounting Principles (“SAP”) as promulgated by the National

Association of Insurance Commissioners (“NAIC”) in contrast to Generally Accepted Accounting Principles (“GAAP”).

38. Consistent therewith, it was further imperative that if membership in PUP increased, that additional capital and surplus would be required to maintain the solvency of the Plan to satisfy the claims of policy holders pursuant to SAP or the growth in membership would cause capital impairment and insolvency. SAP are based on federal and state laws governing insurance and their ability to do business as a matter of strength and security for policyholders as a matter of premium and unpaid claims, which would include both medical providers and Medicare beneficiaries.

39. SAP requires maximum transparency as a matter of accounting practice by focusing on a company’s liquidation value as opposed to its going concern value. Based thereon, the focus of SAP is the ability to pay all claims if the company went out of business or was liquidated based on the availability of liquid assets that are deemed “admitted” by SAP as part of capital and surplus that would be available to policyholders.

40. According to the SAP, which values assets very conservatively, non-liquid assets that are deemed “non-admitted” by SAP cannot be included as part of capital and surplus requirements. This would include assets that are impaired as a matter of lien, encumbrance, collateralization, and/or account receivables at risk for nonpayment and otherwise not collectible pursuant to SAP principles and Florida Statutes, Section 641.35(a).

41. On or about February 22, 2005, PUP was formed as a Florida, Corporation with Dr. Sandeep Bajaj as its only incorporator, and DRS. BAJAS as being the only officers and directors.

42. To capitalize PUP as a domestic licensed HMO pursuant to Part I of Florida Statutes Chapter 641, PUP authorized the sale of up to 20 million shares of capital stock.

43. The major investor of PUP was IDBJ through DRS. BAJAJ, who also founded PUP. They initially held 100% of the issued shares of PUP.

44. DRS. BAJAJ made an initial capital investment of \$5 million of their own money through IDJB in order to meet both statutory requirements and to properly capitalize the plan. Subsequently, over the next few years PUP issued IDJB a series of subordinated surplus promissory notes totaling the approximate principal amount of \$18 million, which are accruing interest at the rate set forth therein (the "Surplus Notes"). Copies of the Surplus Notes are attached hereto as **Exhibit No. 1**.

45. At all times material hereto, IDJB is the holder of the Surplus Notes.

46. Other Shareholders purchased the balance of the issued stock as set forth more particularly in the capitation tables attached as **Exhibit No. 2**.

47. With the requirement of capital and surplus satisfied, as of July 29, 2005, PUP was authorized to transact business as a HMO in the State of Florida and was provided certificate of authority to operate as domestic insurer.

48. On January 1, 2006, PUP began business as a MAP to administer medical claims, PUP entered into contacts with various Management Service Organizations ("MSO"). A MSO is a business that provides non-clinical services to downstream medical providers such as physician practices.

49. On December 2006, after one year of operations, PUP had 894 enrollees in its MAP HMO product. By the end of 2007, that number jumped to 3,205.

50. This increase in membership concurrently increased the capital and surplus requirement that would need to be available to pay “all” claims upon theoretical liquidation, which now included claims and unearned premium of the new members.

51. By the end of 2007, PUP’s capital and surplus as accurately reported to FOIR was in the negative. However, because IDJB and DRS. BAJAJ, had ample notice of the capital and surplus impairment from the annual audit report, there was adequate time to take corrective actions.

52. DRS. BAJAJ invested additional capital in PUP, loaned additional monies to PUP and were issued additional surplus notes all based upon on the truthful financial condition of PUP as correctly reported by MCGLADREY to PUP and to the FOIR and on which DRS. BAJAJ justifiably relied.

53. To ensure better managerial guidance, oversight, direction, PUP then hired Imtiaz Haseeb Sattaur (“SATTAUR”) as President and Chief Executive Officer. After acquiring complete control of the plan, SATTAUR then hired, promoted, fired and or otherwise exercised complete control of all other management and other “C” level executives (“PUP Management”). As part of their overall compensation, they were provided stock options in PUP.

54. SATTAUR was required to perform all duties incidental to his position as President and Chief Executive Officer. This included his executive leadership and management to ensure PUP’s ongoing satisfaction of all capital and surplus requirements through controlled and stable growth of the Plan that were required to maintain solvency and must be correctly reported to FOIR in monthly financial statements and confirmed by independent, annual audits as required by SAP, on which the auditor performing the audit actually knew or should have known that DRS. BAJAJ would and did rely.

55. During this time PUP engaged MCGLADREY as its accounting and auditing firm to provide guidance, oversight, and direction to better control and grow the plan while avoiding insolvency through reckless membership increases, which is diametrically opposite to mindlessly growing the membership if the Plan was already insolvent.

56. As boastfully set forth on <http://mcgladrey.com> , which is incorporated herein by reference, MCGLADREY is a world-wide accounting firm that represented itself as being the leading provider of assurance, tax and consulting services to guide their clients through complex business challenges by understanding their needs and bringing together the right team to address them.

57. MCGLADREY bragged of its more than 7,000 professionals in 75 U.S. cities and access to more than 32,000 people in 100 countries through their membership in RSM International, and unabashedly represented that it could meet all business needs, including the needs of PUP, no matter the complexity of problem based upon its keen business insight and wisdom.

58. MCGLADREY, a self-proclaimed international leader in business innovation and problem solving, also boldly represented itself as having unique financial insights and expertise throughout all business industries, which for purposes herein, included MCGLADREY'S exceptional knowledge of health regulatory and statutory accounting requirements of Medicare Advantage Plans, such as PUP, and the absolute requirement that MAP'S, such as PUP, must satisfy all capital and surplus requirements to maintain license as a domestically licensed insurer.

59. MCGLADREY, a self-perceived bastion of corporate values, also represented that its commitment to corporate and social responsibility would preclude approval of a business

“Scheme” or misrepresentation of financial information to fraudulently mislead state insurance regulatory authorities such as FOIR.

60. Consistent therewith, MCGLADREY also represented its expertise in SAP financial reporting, business relationships with FOIR, business finance solutions, communication skills with management, directors, and shareholders, knowledge of admitted assets, capital and surplus reporting, prudence of investigations, and abilities to detect fraud, off balance sheet loans, secret liabilities, managerial weaknesses, collection problems, understand rudimentary accounting principles such as the proper classification of uncollectible accounts receivables, and, by virtue of its engagement, MCGLADREY represented and agreed it would truthfully report financial condition, never mislead FOIR and DRS. BAJAJ pursuant to Florida Statutes, Section 641.26, and never commit crime pursuant to Florida Statutes, Section, 837.06.

61. Alternatively, MCGLADREY fraudulently concealed its lack of expertise in SAP, relationships with FOIR, business finance solutions, communication skills with management, directors, and shareholders, knowledge of admitted assets, capital and surplus reporting, prudence of investigations, and abilities to detect fraud, off balance sheet loans and risk, secret liabilities, managerial weaknesses, collection problems, and understand rudimentary accounting principles such as the proper classification of uncollectible accounts receivables and, by virtue of its engagement, MCGLADREY concealed it would not truthfully report financial condition, that it would mislead FOIR and DRS. BAJAJ pursuant to Florida Statutes, Section 641.26, and commit crime pursuant to Florida Statutes, Section, 837.06.

62. At all times material hereto, the purposes of these MCGLADREY misrepresentations and concealments were to induce PUP to hire MCGLADREY, who, for a price, could assist and guide PUP to grow the PLAN by MCGLADREY approving the “Scheme”

to mislead the FOIR as to capital and surplus while at the same making the MCGLADREY Misrepresentations to DRS. BAJAJ.

63. At all times material hereto, these representations and concealments were false and misleading, of material fact, intended to be relied upon, reasonably and justifiably relied upon by DRS. BAJAJ who was damaged thereby (collectively, the “MCGLADREY Engagement Misrepresentations”).

64. At all times material hereto, MCGLADREY intended the MCGLADREY Engagement Misrepresentations to be relied upon by DRS. BAJAJ.

65. At all times material hereto, MCGLADREY actually knew or should have known that DRS. BAJAJ was relying on the MCGLADREY Engagement Misrepresentations.

66. At all times material hereto, DRS. BAJAJ justifiably relied upon the MCGLADREY Engagement Misrepresentations

67. At all times material hereto, DRS. BAJAJ relied upon the MCGLADREY Engagement Misrepresentations and were damaged.

PACWEST SCHEME

A. The Sale Leaseback

68. On or about July 15th, 2010, PUP was approached by Marquette Equipment Finance *n/k/a* Pacific Western Finance Corporation (“PACWEST”) for various “Equipment” leasing services for which PACWEST would supposedly lease “Equipment” to PUP.

69. During the discussions, PACWEST represented that it could also assist PUP to not only satisfy current capital and surplus requirements, but future capital and surplus requirements should the Plan grow by adding new members.

70. Ultimately, this was a deceptive device and mechanism to mislead the FOIR and DRS. BAJAJ that PUP had not only satisfied its current capital and surplus requirements, but could equally be used to foster future illusion that PUP had sufficient capital and surplus to justify massive growth despite insolvency.

71. However, the definitive and simple truth hidden by this ruse that MCGLADREY would approve, was that the mechanism was a way to hide insolvency, current and in the future.

72. PACWEST offered two finance options for PUP in the form of account receivable (“AR”) financing and pre-paid insurance commission financing.

73. The basic purpose of the account receivable financing was to allow PUP’S MSOs up to twenty three months to pay the past due AR under the deceptive ruse that AR would be paid by the MSOs and collected by PUP. However, based upon historical performance, the MSOs were not paying the AR and the management of PUP seemingly had no intention to collect the AR. That AR should have been written off as uncollectible pursuant to SAP 84. All of which was unknown to FOIR and DRS. BAJAJ, and was not discovered until the “Financial Collapse” of PUP in April 2014.

74. To further the ruse, and as approved by MCGLADREY in their annual audited financial reports, PUP would then carry the past due MSO AR as admitted assets under the guise of health care receivables, even though the AR were well past 90 days due, which put them at risk for non-collection, not being collected, not intended for collection, and not probable for collection pursuant to SAP 84 (collectively, the “MSO AR”).

75. This in turn, would fuel the exponential growth of the PLAN and be used to justify millions in marketing expenses which contributed to the eventual financial collapse of the

PLAN. This ruse necessitated the Sale leaseback arrangement be hidden from FOIR and DRS. BAJAJ.

76. At all times material hereto, the misleading of public officials is a crime pursuant to Florida Statutes, Section 837.06.

77. Rather than correctly writing off the entirety of uncollectible MSO AR, PUP would remove reference to the MSO AR from its books by theoretically selling the MSO AR to PACWEST, who, in fanciful pretext, assumed shared risk for non-collection of the uncollectible MSO AR with PUP, but then “leased back” the entire MSO AR to PUP under a disguised equipment lease.

78. The sale proceeds for the MSO AR would be deposited in a deposit account in PACWEST’S bank wherein the account was fully controlled by PACWEST through an account control agreement. PUP had no access to the account or the monies therein. PUP could not use the monies. PUP earned no interest on the monies, not even the proverbial penny. The account was merely shiny window dressing to mislead FOIR and DRS. BAJAJ that PUP had admitted assets in the form of cash to satisfy capital and surplus requirements.

79. At all times material hereto, any purported claim of title PUP had to the deposit account was another ruse being perpetrated by PACWEST on behalf of PUP Management under the total auspices and approval of MCGLADREY, who, in turn, negligently represented the Scheme to DRS. BAJAJ and the FOIR through their annual audit and audit opinions. MCGLADREY Misrepresentations gave PUP Management a “sword” used for reckless growth as well as spending, and a “shield” to cover the Scheme from the FOIR and DRS. BAJAJ.

80. The lease would be secured by PUP granting a security interest in the illusory deposit account and other accounts and intangibles, including certificates of deposit and the MSO AR.

81. PUP would then “re-classify” the MSO AR on the books from MSO AR to cash or cash equivalents despite the MSO AR not being historically collectible, and would likewise re-classify the encumbered deposit account, and other accounts and intangibles, including certificates of deposit as being cash and cash equivalents despite impairment of title notwithstanding the prohibition of such accounting by SAP 84.

82. The FOIR, shareholders, or DRS. BAJAJ, were unaware that PUP was not fulfilling its obligation to collect the MSO AR, was falsely reporting uncollectible MSO AR as admitted assets which the MSOs were never going to pay, or that admitted assets were actually encumbered, not available as policy holder surplus, and that PUP was headed to financial insolvency and financial collapse; and yet, SATTAUR and PUP Management continued to grow the Plan with the blessing of MCGLADREY based on the MCGLADREY Misrepresentations and their approval of the Sale Leaseback, which at all times, PUP management hid behind while DRS. BAJAJ innocently believed the MCGLADREY Misrepresentations.

83. Subsequently an addendum for each lease was executed for a term of 48 (forty eight) months with concurrent monthly payments over the same term in the principal amount equivalent to the sale price for the MSO AR. The lease used such an excessive lease factor rate that it converted to an interest rate well above market by any benchmark interest rate index.

84. As each lease payment was made, PUP reported the principal and interest payment as a “lease expense” without putting any principal portion of the MSO AR back on its books as AR despite said principal payment being made. The “asset” against which the lease

was secured was simultaneous shrinking in amount and disappearing from PUP'S books. MCGLADREY knew or should have known this was occurring.

85. This allowed PUP to spread the write-off for the uncollectible MSO AR over 48 months or the term of the lease instead of writing-off the entire uncollectible MSO AR as required by SAP 84 because it was not "probable" for collection and not being collected.

86. In so doing, a deceptive financing mechanism was created to remove and or otherwise hide the liability of loan financing off the balance sheet under the guise of a lease expense. In turn, this would cause an overstatement of earnings and understatement of liabilities. The purposes for this accounting chicanery, rather sadly if not pathetic, was to mislead the FOIR that PUP had admitted assets that should be counted as capital and surplus to satisfy solvency requirements of the Florida Insurance Code, to create a deceptive illusion that PUP could increase membership to whatever level it required under the pre-text that capital and solvency would always be satisfied with the Sale Leaseback. DRS. BAJAJ and the Board were consistently told that the plan was profitable, highly successful, and financially solvent and the envy of the industry and SATTAUR consistently was the recipient of praise and numerous accolades for his prowess as well as his abilities, based upon the audited financials and opinions rendered by MCGLADREY.

87. Even if PUP was insolvent pursuant to SAP, the Sale Leaseback was intended to be continued over the next several years under separate addendums to the Master Lease that were termed "lease schedules" that were subject to the disguised "equipment" lease. There under, PUP could mask current insolvency and future insolvency all under the Sale Leaseback approved by MCGLADREY and to which DRS. BAJAJ had no knowledge.

88. Time and again, and to dupe FOIR, the uncollectible MSO AR was removed from the books of PUP through sale to PACWEST, lease-backed, and then along with encumbered assets, re-classified as cash and cash equivalents, and written off against the lease expense over the term of the lease to avoid write off of the entire uncollectable AR. Otherwise, PUP's capital and surplus would be impaired, PUP rendered insolvent, and subject to receivership and liquidation as the ultimately were, (collectively, the "Sale Leaseback").

89. On or about September, 2011, the Sale Leaseback was presented to MCGLADREY for their review and approval. MCGLADREY approved the "Scheme" and further represented that it even had another auditing client who was performing the similar leasing arrangement in Chicago, Illinois, to mislead their client's equivalent of the FOIR.

90. MCGLADREY further represented that the Chicago auditing client was also doing the substantially same Sale Leaseback with prepaid insurance commissions that, along with the uncollectible AR, could then be reclassified as cash and cash equivalents. This would further mislead the Illinois equivalent of the FOIR that capital and surplus requirements were satisfied, which could then be confirmed by MCGLADREY in their annual audit.

91. MCGLADREY fully approved the "Sale Leaseback" and represented it fully complied with SAP in terms of monthly financial reporting of uncollectible MSO AR as admitted assets and the reporting of collateralized intangibles as admitted assets under the designation cash and cash equivalents. Based thereon, in full reliance and similar to MCGLADREY'S Chicago client, PUP entered the Sale Leaseback for uncollectible MSO AR and prepaid commissions to mislead the FOIR that it had admitted assets for inclusion in capital and surplus.

92. MCGLADREY never wavered on their representation of the legitimacy of the Sale Leaseback with PACWEST except in one instance. MCGLADREY'S similarly situated Chicago client was discovered by the Illinois equivalent of FOIR as violating basic tenets of their SAP and instructed that pre-paid insurance commissions could not be counted or reclassified as admitted assets using the same Sale Leaseback mechanism approved by MCGLADREY. In full reliance on MCGLADREY, PUP canceled the prepaid commission portion of the Sale Leaseback.

93. After additional review of the Sale Leaseback, MCGLADREY ceded that pre-paid insurance commissions could not be reclassified as admitted assets through cash or cash equivalent monikers using the Sale Leaseback, but continued to represent to PUP that the MSO AR could be reclassified as cash and cash equivalent through the Sale Leaseback to mislead FOIR as to capital and solvency to further the primary purpose of the Sale Leaseback to falsely satisfy capital and surplus and grow the Plan.

94. Otherwise, the MCGLADREY approval was absolute and with full representation of propriety of the Sale Leaseback from inception to end, and how it would be reported on monthly basis by PUP to mislead FOIR as to capital and surplus and then blessed by MCGLADREY in annual audited financial statement, which was a criminal violation pursuant to Florida Statutes, Section 837.06.

95. Alternatively, MCGLADREY fraudulent concealed their lack of expertise in sale leaseback transactions and treatment of MSO AR and collateralized intangibles as admitted assets for purposes of satisfying capital and surplus, as further supported by its inability and ineptitude in wrongfully classifying prepaid commissions as admitted assets, which was but another disreputable attempt to mislead FOIR that capital and surplus was satisfied.

96. At all times material hereto, these representations and concealments were false and misleading, of material fact, intended to be relied upon, reasonably and justifiably relied upon by DRS. BAJAJ and the FOIR, who were all damaged thereby (collectively, the “MCGLADREY Sale Leaseback Misrepresentations”).

97. At all times material hereto, MCGLADREY intended the MCGLADREY Sale Leaseback Misrepresentations to be relied upon by DRS. BAJAJ and FOIR, as well as investors, buyers, banks, all and any of whom were clearly within zones of foreseeability of intended use, dissemination, reliance, detrimental and otherwise, as part of MCGLADREY’S overall engagement to guide the operations and actions of DRS. BAJAJ.

98. To effectuate the Sale Leaseback, a series of financial documents would be executed, all with the approval of MCGLADREY pursuant to their defined misrepresentations set forth above.

B. The Sale Leaseback Documents

99. On or about September 26, 2011, PUP, entered into that certain Master Lease Agreement MEF0979 with PACWEST. A copy of the Master Lease Agreement is attached hereto as **Exhibit No. “3”** (the “Equipment Lease”).

100. Under the terms of the Equipment Lease, which incorporated the Uniform Commercial Code as to leases, PACWEST, as Lessor, agreed to lease to PUP, as Lessee, the “Property” described in the schedule attached to the Equipment Lease that was generally defined as:

Goods and other property, Software, Derivative Works and Data (whether embedded therein or otherwise), together with all modifications, customizations, enhancements, attachments, replacements, parts, substitutions, additions,

repairs, accessions and accessories, incorporated therein and/or affixed thereto, related warranties, rebates, licenses and renewals, maintenance, freight, installation and servicing costs and all other related costs described in any Schedule executed and delivered by Lessor and Lessee in connection with this Master Lease Agreement.

101. The definitions of goods did not include deposit accounts, certificates of deposit, or account receivables, which, despite the Equipment lease reference to the Uniform Commercial Code, cannot be leased under the Uniform Commercial Code: Leases, *Florida Statutes, Section 680.1031 1(h) & 1(j)* (2014).

102. In addition, and under the Equipment Lease, PACWEST agreed to lease to PUP other Property that may be described in subsequent "Lease Schedules" that would be separate leases that incorporated all terms of the Equipment Lease.

103. Consistent with a truthful sale or lease of goods, PACWEST: a) excluded all warranties on the goods; b) required PUP to maintain and repair the goods; c) allowed PACWEST the right to inspect the goods; d) mandated that PUP maintain insurance for the goods; and e) at the end of the lease period, provided PUP with option to purchase the goods.

104. However, PACWEST never leased PUP any goods or Property as described in the Equipment Lease Agreement. Rather, the Equipment Lease was being used as a ruse to facilitate the Sale Leaseback of uncollectible MSO AR to then be magically reclassified as cash and cash equivalents for inclusion as capital and surplus under the guise of a lease.

105. On December 13th, 2013, PUP purportedly sold to PACWEST a portion of MSO AR that were "greater than 90 (ninety) days in arrears on the books of PUP," and should have been written off as bad debts, and then leased the MSO AR back to PUP. A copy of the Assignment is attached hereto as **Exhibit No. "4"** (the "Assignment").

106. Under the Assignment, all title to the MSO AR belonged to PACWEST, who would then lease back to PUP the MSO AR's using a series of "Lease Schedules" in the substantial form as Lease Schedule No. 02B ("Lease Schedule No. 02B"). A copy of Lease Schedule No. 02B is attached hereto as **Exhibit No. "5"**.

107. Under the Lease Schedules, PACWEST would lease back to PUP the uncollectible MSO AR that it purportedly purchased. PUP would be required to make monthly rental payments on the lease backed AR over a 48 month lease term that were equivalent to the purchase price for the MSO AR plus accrued interest that was calculated at a lease rate factor that would equate to above market rate interest based on any benchmark rate indexes.

108. In reality, this was a secret loan that was carried off the balance sheet to hide liabilities and allow for the overstatement of assets to mislead FOIR and DRS. BAJAJ, hide insolvency to justify the continued and reckless growth of the Plan to maximize PUP's value, all with the approval of MCGLADREY pursuant to the "MCGLADREY Misrepresentations".

109. PUP's sale proceeds for the MSO AR as part of the "sale" of the Sale Leaseback were then deposited in a deposit account controlled by PACWEST, through account controlled agreement. A copy of the Account Control Agreement is attached hereto as **Exhibit No. "6"**.

110. To secure the performance of the Master Lease, PUP would grant PACWEST a security interest in the Deposit Account, certificate of deposits, the MSO AR, and other intangibles. A copy of the Security Agreement is attached hereto as **Exhibit No. "7."**

111. However, PUP no longer owned the uncollectible MSO AR and had no title to the MSO AR because they were sold to PACWEST as part of the "sale" of the sale-leaseback. Similarly, PUP had impaired title to the Deposit Account under the Account Control Agreement that enabled PACWEST to fully control the Deposit Account that collateralized the lease.

112. Solely based on the Sale Leaseback and the MCGLADREY Sale Leaseback Misrepresentations, PUP reported on its monthly statements to FOIR that uncollectable MSO AR were admitted assets and the sale proceeds and other intangibles were cash and equivalents despite collateralization, all to satisfy capital and surplus requirements required by SAP to mislead FOIR and DRS. BAJAJ.

113. The Sale Leaseback was entirely based on the approval of MCGLADREY, who approved and continued to represent approval of the Sale Leaseback and all documents related thereto through the defined misrepresentations above, which continued, and were part of the misrepresentations contained in the annual audits MCGLADREY prepared for the BOARD and BAJAJ, and duly disseminated thereto, as well as to investors, buyers, FOIR, all of whom reasonably relied on the misrepresentations as intended by MCGLADREY to the ultimate financial ruin of PUP and DRS. BAJAJ (collectively the "Scheme").

C. The MCGLADREY Audits

114. Consistent with MCGLADREY'S approval of the Sale Leaseback and sanctioning of the Scheme for which it intended IDJB, DRS. BAJAJ, BFP, FOIR, investors, banks, and buyers to rely, MCGLADREY also prepared annual audits for PUP pursuant to Florida Statutes Section 641.26 for the auditing periods ending December 31, 2011 and 2010 ("2011 Annual Audit), December 31, 2012 and 2011 ("2012 Annual Audit") and December 31, 2013 and 2012 ("2013 Annual Audit"). A copy of the 2011 Annual Audit is attached hereto as **Exhibit No. "8"**; a copy of the 2012 Annual Audit is attached hereto as **Exhibit No. "9"**; and, a copy of the 2013 Annual Audit is attached hereto as **Exhibit No. "10"** (collectively the "Audits").

115. At all times material hereto, MCGLADREY was provided and or had unlimited access to PUP, shareholders, directors, DRS. BAJAJ, or any third parties to conduct the Audits; MCGLADREY was provided or had access to all corporate books, records, Sale Leaseback documents, minutes, growth projections, and accounting journals; MCGLADREY was provided and or had access to PUP attorneys, actuaries, and other professionals; MCGLADREY was provided and or had access to all MSOs, AR collection, write offs, historical trends; MCGLADREY was provided and or had access to all monthly financial statements submitted to FOIR; MCGLADREY was provided and or had access to FOIR accountants; MCGLADREY was provided and or had access to all SURPLUS NOTES and stock registry information; MCGLADREY was provided and or had access to employment agreements and stock option plans; MCGLADREY was provided and had access to all management structure and organization.

116. At all times material hereto, and based on the proceeding, MCGLADREY was provided, and had access to all required information that would be required and needed to disapprove the Sale Leaseback and not make the MCGLADREY Misrepresentations and incorrect Audits; and, MCGLADREY knew or should have known that DRS. BAJAJ were fully relying on the MCGLADREY Misrepresentations and Audits, and taking definitive actions based on the MCGLADREY Misrepresentations and Audits; and that unlike MCGLADREY, DRS. BAJAJ had no idea of the Sale Leaseback and Scheme that MCGLADREY had approved; DRS. BAJAJ had no knowledge of the pending financial demise and ruin caused by MCGLADREY'S approval of the Scheme and Sale Leaseback; DRS. BAJAJ had no knowledge that PUP Management was using the MCGLADREY Misrepresentations and Audits as a false "shield" to justify the reckless growth of the Plan, hide insolvency, and profit from sale of the Plan.

117. In the Audits, MCGLADREY represented that: a) it performed the Audits to obtain reasonable assurances that statutory financial statements submitted to FOIR were free from material misstatements; b) procedures were implemented to assess the risk of misstatements of the statutory financial statements whether due to fraud or error; c) it evaluated the appropriateness of accounting policies used, and reasonableness of significant accounting estimates by management, as well the overall presentation of the statutory financial statements; and, d) it acted all from the perspective of independence to accurately report capital and surplus.

118. However, the Auditor Represented Responsibilities for the 2011 Annual Audit were false, misleading, deceptive and misleading in that: a) MCGLADREY misrepresented MSO AR as being 'admitted assets' in the amount of \$6,135,268.00 even though they were uncollectible and approximately one to two years in arrears based on the Sale Leaseback; c) MCGLADREY misrepresented capital and surplus as being \$5,308,439.00 by including the uncollectible MSO AR; d) MCGLADREY misrepresented net income in the amount of \$1,613,355.00; e) MCGLADREY misrepresented there were no material weaknesses when MSO AR was not being collected; f) MCGLADREY misrepresented that PUP was a going concern; and, g) MCGLADREY misrepresented that PUP was solvent when PUP was negative in its capital and surplus requirements.

119. Curiously, the 2011 Annual Audit contained no reference to the Sale Leaseback that MCGLADREY validated, approved, and knew PUP initiated in 2011, and on which PUP had relied in monthly reporting to the FOIR and on which DRS. BAJAJ had been reasonably relying at all material times material hereto. (collectively, the "MCGLADREY'S 2011 Audit misrepresentations")

120. In addition, the Auditor Represented Responsibilities for the 2012 Annual Audit were false, misleading, deceptive and misleading in that: a) MCGLADREY misrepresented MSO AR as being ‘admitted assets’ in the amount of \$13,494,461 even though they were uncollectible, never intended to be collected, and between one and two years in arrears based on the Sale Leaseback; b) MCGLADREY misrepresented cash and cash equivalents in the amount of \$26,353,290 (an unexplained increase from 2011 of approximately \$20 million) despite collateralization; c) MCGLADREY misrepresented capital and surplus as being \$7,633,678 by including the misrepresented admitted assets and cash and cash equivalents; d) MCGLADREY misrepresented net income in the amount of \$3,906,692.00 by allowing the reclassification of uncollectible MSO AR into cash and cash equivalents, which overstated assets and understated liabilities; e) MCGLADREY misrepresented there were no material weaknesses when MSO AR was not being collected; f) MCGLADREY misrepresented that PUP was a going concern; and, g) MCGLADREY misrepresented that PUP was solvent when PUP was grossly negative in capital and surplus requirements.

121. Curiously, the 2012 Annual Audit also contained no reference to the Sale Leaseback approved by MCGLADREY in 2011 and on which MCGLADREY based the entirety of the 2012 Annual Audit, and on which PUP had relied in monthly reporting to the FOIR and BAJAJ had been reasonably relying at all material times hereto (collectively, the “MCGLADREY’S 2012 Audit misrepresentations”).

122. In addition, despite communications between the FOIR, PUP and MCGLADREY, no flags were raised by MCGLADREY as to the validity of the Sales Leaseback.

123. Similarly, the Auditor Represented Responsibilities for the 2013 were false, misleading, deceptive: a) MCGLADREY misrepresented MSO at-risk receivables as being

“admitted assets” in the amount of \$44,666,706 even though they were uncollectible and approximately one year in arrears based on the Sale Leaseback; b) MCGLADREY misrepresented cash and cash equivalents in the amount of \$35,197,232 despite collateralization; c) MCGLADREY misrepresented capital and surplus as being \$11,764,914 by adding the misrepresented admitted assets and cash and cash equivalents; MCGLADREY misrepresented net income in the amount of \$4,877,556.00; (e) MCGLADREY misrepresented there were no material weaknesses; f) MCGLADREY misrepresented that PUP was a going concern; and g) MCGLADREY misrepresented that PUP was solvent when PUP was grossly negative in capital and surplus. The 2013 Annual Audit, issued on April 1st, 2014, finally referenced the Sale Leaseback that MCGLADREY had approved in 2011.

124. This was only because the FOIR issued an Order on March 14, 2014, requiring PUP to immediately “un-admit” \$12.5 million in admitted asserts because they were collateralized as part of the Sale Leaseback. The Order also inquired of \$15 million of MSO AR that now appeared to be subject to a “mystery” lease. According to FOIR, PUP had 15 (fifteen) days to provide explanation and listing of MSO AR that appeared in PUP’s monthly financial statements but had previously been assigned as part of the “sale” of the Sale Leaseback. At this point, PUP was below the required level of capital and surplus by \$7,701,379.

125. PUP was now on the verge of financial collapse and ruin. PUP’s entire business operation and monthly reports were based on MCGLADREY’S approval of the Scheme. THE FOIR directly contacted MCGLADREY.

126. Rather than admit culpability for the MCGLADREY MISREPRESENTATIONS, MCGLADREY, and, incredulously, stood by the its audits, and

further misrepresented in the 2013 Audit that the simple appeal of the Order will verify the correctness of the Audit and MCGLADREY approval of the Scheme.

127. This would purportedly justify the reporting \$32 million of MSO AR as admitted assets and the off balance sheet risk of \$26 million being sold and leased back from PACWEST. The 2013 Annual Audit also inexplicable represented changes of non-admitted assets of approximately \$9 million (collectively, the “MCGLADREY Audit Misrepresentations”).

128. At all times, all actions of PUP, IDJB, DRS. BAJAJ, BFP, and BE, in one way or the other, were based on the MCGLADREY Audit Misrepresentation as well as the MCGLADREY Sale Lease Back Representations, and MCGLADREY Engagement Representations.

129. At all time material hereto, the MCGLADREY Misrepresentations were false and misleading, fraudulently concealed, of material fact, intended to be acted upon, reasonably and justifiably relied upon by PUP, IDJB, DRS. BAJAJ, BFP and BE, who were all damaged thereby (collectively, the “MCGLADREY Misrepresentations” or the “MCGLADREY Fraud”).

130. At all times material hereto, PUP, IDJB, DRS. BAJAJ, BFP, and BE, were the persons or limited group of persons for whose benefit and guidance MCGLADREY intended the MCGLADREY MISREPRESENTATIONS to be made and relied upon for the benefit and guidance of DRS. BAJAJ, all with the knowledge of MCGLADREY.

131. At all times material hereto, the MCGLADREY Misrepresentations were unfair, false, deceptive, and in violation of public policy required and otherwise mandated by the Florida Insurance Code to protect the public and in violation of Florida Statutes, §501.201 (2014).

132. At all times material hereto, the MCGLADREY Misrepresentations were in violation of MCGLADREY’S agreement with PUP and FOIR to correctly report the financial

condition PUP, for the benefit and protection of the public, including DRS. BAJAJ, pursuant to Florida Statutes, §641.26 (2014).

133. At all times material hereto, the MCGLADREY Misrepresentations were intended to mislead, not only DRS. BAJAJ, but public servants employed by FOIR, and were criminal violations pursuant to Florida Statutes §837.06 (2014).

134. At all times material hereto, the MCGLADREY Misrepresentations were reckless, gross, with indifference, malice, and intended to injure and damage DRS. BAJAJ.

PUP'S COLLAPSE

135. On or about September 2013, FOIR began questioning PUP's book carry of encumbered assets as admitted assets and the MSO AR as admitted assets based on their improbability of collection pursuant to SAP 84.

136. On or about February 15th, 2014 the FOIR made inquiry to MCGLADREY as to the propriety of classifying the MSO Receivables as admitted assets when they were at least eight to eleven months in arrears.

137. MCGLADREY represented that the MSO AR should be treated as Admitted Assets as stated in their previous audit based on the Sale Leaseback they had previously approved and included in cash and surplus to satisfy solvency requirements.

138. Unpersuaded by the MCGLADREY Misrepresentations, on March 14th, 2014, the FOIR issued consent Order to PUP requiring them to remove encumbered assets from non-admitted and that the MSO Receivables be removed as admitted assets and reclassified. A copy of the Order is attached hereto as **Exhibit No. "11"**. If done, PUP's capital and surplus would be impaired and PUP would be insolvent.

139. On April 14, 2014, the FOIR discovered the undisclosed Sale Leaseback and began an onsite investigation.

140. Next, FOIR discovered that risk-sharing receivables reported as admitted assets on the December 31st, 2013, monthly financial statements, filed with the FOIR on January 27, 2014, included collateralized assets there were referenced on Lease Schedule No. 009. Other Sale Leaseback arrangements associated with Master Lease MEF0979 with collateralized assets were discovered and deemed not to be cash or cash equivalents pursuant to SAP.

141. On April 25, 2014, the FOIR received PUP's March 31, 2014 monthly financial statement. PUP reported on page 2, line 5, cash, cash equivalents, and short-term investments totaling \$33,937,534. That amount included approximately \$29,842,968 in encumbered assets related to the Sale Leaseback arrangements with PACWEST. On April 16, 2014, PUP received default notices from PACWEST related to the sale/leaseback arrangements. PACWEST collected \$28,919,463 (after varied payments), which is the aggregate amount of assets collateralized under the Sale Leaseback arrangements. Pursuant to Section 641.35(1), Florida Statutes, the FOIR deemed the encumbered assets of \$28,919,463 as non-admitted assets because they could not be used for payment of losses and claims of policy holders.

142. PUP also reported on the March 31, 2014 monthly financial statement, page 2, line 24, health care and other amounts receivables totaling \$45,805,675. That amount includes approximately \$34,570,244 in risk-sharing receivables due from medical providers. According to the guidance of SAP, this risk sharing receivable amount of \$34,570,244 should also be non-admitted as an asset.

143. Thus, PUP reported on its March 31, 2014 monthly financial statement total assets of \$110,724,998 and a total capital and surplus of \$14,540,090. The FOIR determined PUP's

total assets and total capital and surplus to be overstated by approximately \$63,489,707, which is \$28,919,463 in encumbered assets and \$34,570,244 in uncollected risk sharing receivables. Thus, PUP's adjusted surplus at March 31, 2014 actually registered negative \$48,949,617, rendering the company insolvent. PUP was now facing potential rehabilitation and liquidation unless capital was infused to satisfy surplus requirements for policy holders.

144. On April 16, 2014, PUP, through a majority of its directors, stockholders, members, or subscribers, executed a Consent to Order of Rehabilitation or Liquidation (the "Consent to Order"), which states: "[PUP] admits that unless a capital infusion of thirty million U.S. Dollars (\$30,000,000) is contributed to the surplus by 12:00 pm Tuesday, June 30, 2014, grounds exist for the appointment of the Department of Financial Services, Division of Rehabilitation and Liquidation, as Receiver of [PUP] for the purpose of Rehabilitation or Liquidation pursuant to Sections 631.051(1) and 631.061(1), Florida Statutes." The amount referenced in the Consent to Order represents the amount known to the FOIR at the time of execution by PUP in order to bring PUP into compliance with statutory requirements. A copy of the Consent Order is attached hereto as **Exhibit No. "12"**.

145. On May 27, 2014, the FOIR received PUP's April 30, 2014 monthly financial statement. PUP reported on page 1, line 28, net admitted assets of \$92,465,690 and on page 2, and line 24, and total liabilities of \$105,339,885. The total capital and surplus, therefore reported by PUP on page 2, line 33, was actually a deficit of \$12,934,195.

146. By letter dated June 3, 2014, Kevin M. McCarty, Commissioner of the FOIR, notified PUP that the FOIR had determined that one or more grounds exist for the initiation of delinquency proceedings, pursuant to Chapter 631, Florida Statutes against PUP. A copy of the letter is attached hereto as **Exhibit No. "13"**

147. Attached to the letter, was an affidavit of FOIR attesting to the insolvency of PUP based on SAP. A copy of the Affidavit is attached hereto as **Exhibit No. "14"**. By virtue thereof, PUP was now officially insolvent and would be liquidated to protect policy holders. A copy of the Order liquidating PUP is attached hereto as **Exhibit No. "15"**.

148. If DRS. BAJAJ had been timely made aware of PUP's true financial condition rather than relying upon the MCGLADREY FRAUD, then: a) BAJAJ, IDJB and DRS. BAJAJ would have obtained additional capital by sale or otherwise to satisfy capital and surplus requirements to save PUP from liquidation; b) IDJB and DRS. BAJAJ would have loaned monies to PUP to satisfy capital and surplus requirements; c) IDJB and DRS. BAJAJ would have scaled back growth; d) IDJB and DRS. BAJAJ would have reorganized PUP as necessary to ensure PUP'S survival as a going concern; e) IDBJ and DRS. BAJAJ would have capitalized PUP with private equity; f) IDJB and DRS. BAJAJ would have changed organizational control by removing old, and inserting new management to run PUP; g) IDJB and DRS. BAJAJ would have sold PUP to a larger plan; h) DRS. BAJAJ would not have engaged in asset planning for their children through the creation of BFP and BE all based on the continuing viability of PUP, the value of PUP and its shares as a going concern, PUP's creditworthiness to pay the Surplus Notes, and continuing ability to generate revenue for the benefit of their children.

149. The MCGLADREY FRAUD destroyed the equity, ownership, investment, return, future profits, family estate, surplus notes, and reputation of DRS. BAJAJ, who are all the objects of public scorn caused by the Scheme as approved by MCGLADREY and confirmed by the MCGLADREY Misrepresentations.

150. At all times material hereto, all actions of MCGLADREY described below are reckless, wanton, malicious, and gross so as to justify future amendment for exemplary damages based thereon.

151. DRS. BAJAJ have engaged the undersigned attorneys to bring this action for which fees are recoverable pursuant to the fraud provisions of Florida Deceptive and Unfair Trade Practices Act.

COUNT I – NEGLIGENT MISREPRESENTATION

152. DRS. BAJAJ reallege and reaver paragraphs 1 through 151 as if fully set forth herein.

153. This is an action against MCGLADREY for negligent misrepresentation.

154. The elements of negligent misrepresentation are: (1) misrepresentation of a material fact; (2) the representor must either know of the misrepresentation, must make the representation without knowledge as to its truth or falsity, or must make the representation under circumstances in which he ought to have known of its falsity; (3) the representor must intend that the representation induce another to act on it; and (4) injury must result to the party acting in justifiable reliance on the misrepresentation. First Florida Bank NA. v. Max Mitchell & Co. 558 So. 2d 9 (Fla. 1990)

155. The MCGLADREY Misrepresentations were of material fact.

156. MCGLADREY knew of the MCGLADREY Representations, made the MCGLADREY Misrepresentations either without knowledge of truth or falsity, or made the MCGLADREY Misrepresentations under circumstances in which they should have known of falsity.

157. MCGLADREY intended BAJAJ to act on the MCGLADREY Misrepresentations.

158. BAJAJ justifiably relied on the MCGLADREY Misrepresentations.

159. BAJAJ was injured by acting in justifiable reliance on the MCGLADREY Misrepresentations.

160. BAJAJ has special damages caused by the MCGLADREY Misrepresentations, including loss of profit, destruction of business, opportunity costs, stigma, loss of going concern, lost contracts, estate assets, investment, and all other matters incidental thereto,

WHEREFORE, the Plaintiffs, IDJB, DRS. BAJAJ, BFP and BE, demand judgment for all damages against MCGLADREY in excess of \$500 million, together with interest costs and attorneys fees, and any and all other relief deemed just and proper.

COUNT II – FRAUD AND CONCEALMENT

161. DRS BAJAJ reallege and reaver paragraphs 1 through 151 as if fully set forth herein.

162. The elements of fraud are: (1) a false statement concerning a specific material fact; (2) the maker's knowledge that the representation is false; (3) an intention that the representation induces another's reliance; and (4) resulting injury by the other party acting in justifiable reliance. Fontana Investors LLC v. South Beach Resort 2014 U.S. Dist. Lexis 28554 (S.D. Fla 2014).

163. The MCGLADREY Misrepresentations were of material fact.

164. MCGLADREY knew the MCGLADREY Misrepresentations were false

165. MCGLADREY intended IDJB to act on the MCGLADREY Misrepresentations

166. DRS. BAJAJ justifiably relied on the MCGLADREY Misrepresentations.

167. DRS. BAJAJ was injured by acting in justifiable reliance on the MCGLADREY Misrepresentations.

168. DRS. BAJAJ has special damages including loss of profit, destruction of business, opportunity costs, stigma, and loss of going concern, lost contracts, and lost investment, estate assets, and all other matters incidental thereto,

WHEREFORE, the Plaintiffs, IDJB, DRS. BAJAJ, BFP, and BE demand judgment for all damages against MCGLADREY in excess of \$500 million, together with interest costs and attorneys fees, and any and all other relief deemed just and proper.

COUNT III-DECEPTIVE TRADE PRACTICES

169. DRS. BAJAJ reallege and reaver paragraphs 1 through 151 as if fully set forth herein.

170. The elements to state a cause of action under the Florida and Deceptive and Unfair Trade Practices Act, Sections 501.201-501.213, Florida Statutes (2014) are: 1) a deceptive act or unfair trade practice; 2) causation; 3) actual damages. Bookwood Trade Inc. v. Daughters of St. Paul Inc., 532 F. Supp 2d. 1350 (MD Fla. 2007)

171. The MCGLADREY Misrepresentations were a deceptive, unfair practice, and in violation of public policy.

172. The MCGLADREY Misrepresentations caused DRS. BAJAJ damages.

173. DRS. BAJAJ have special damages including loss of profit, destruction of business, opportunity costs, stigma, and loss of going concern, lost contracts, estate assets, and all other matters incidental thereto and authorized in FDUTPA,

WHEREFORE, IDJB, DRS. BAJAJ, BFP, and BE demand judgment for all damages against MCGLADREY in excess of \$500 million, together with interest costs and attorneys fees, and any and all other relief deemed just and proper.

DEMAND FOR JURY TRIAL

The Plaintiffs hereby demand trial by jury on all issues so triable as a matter of fact and law.

Dated this 25th, day of September 2014

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed as of date reflected in electronic filing.

/s/ Daniel A. Nicholas
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