STATE OF VERMONT

SUPERIOR COURT
Lamoille Unit

CIVIL DIVISION
Docket No. 100-5-17 Lecv

x

ANTONY SUTTON,
individually, and on behalf of a class of
similarly situated persons,

Plaintiffs,

v.

THE VERMONT REGIONAL CENTER,
STATE OF VERMONT AGENCY OF
COMMERCE AND COMMUNITY
DEVELOPMENT, STATE OF VERMONT
DEPARTMENT OF FINANCIAL REGULATION,
JAMES CANDIDO, WILLIAM CARRIGAN,
SUSAN DONEGAN, EUGENE FULLAM,
JOAN GOLDSTEIN, JOHN W. KESSLER,
LAWRENCE MILLER, PATRICIA MOULTON,
MICHAEL PIECIAK and BRENT RAYMOND,

Defendants.

x

FIRST AMENDED CLASS ACTION COMPLAINT

Plaintiff, Antony Sutton, individually, and on behalf of a class of similar situated persons (collectively, "Plaintiffs" or "Jay Peak Investors") by and through their counsel, Barr Law Group, hereby bring this Complaint, and the causes of action herein, against the Defendants, the Vermont Regional Center (the "VRC"), the State of Vermont Agency of Commerce and Community Development (the "ACCD"), the State of Vermont Department of Financial Regulation (the "DFR"), James Candido, William Carrigan, Susan Donegan, Eugene Fullam, Joan Goldstein, John W. Kessler, Lawrence Miller, Patricia Moulton, Michael Pieciak, and Brent

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Raymond (referred to collectively herein as "VRC" and/or "VRC Team") (all parties in defense of this action are referred to collectively as "Defendants").

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I. INTRODUCTION

The damages in this cause of action arise out of Defendants administering, promoting, marketing, and, in the end, profiting from the largest EB-5 fraud in history. In particular, from the beginning of this fraud, the VRC Team worked hand-in-hand with their Jay Peak partners and principals within its projects that were a complex and high-functioning Ponzi-scheme (the myriad Jay Peak projects are referred to herein as the "Jay Peak Projects"). There were no legitimate governmental interests served by the VRC Team's partnership within the Jay Peak Projects; rather, the VRC Team took an active role in the Ponzi-scheme out of self-interest, self-preservation, personal gain, and protection of their Jay Peak partners. The VRC Team's true motivations and role within the Jay Peak fraud are evidenced by years of ignoring investor

complaints, as well as attacking and attempting to discredit those who raised issue with the wrongdoing at the Jay Peak Projects and within the VRC. Throughout its tenure, the VRC represented and marketed itself as an effective, independent, and diligent overseer of EB-5 projects. The VRC Team's representations in this regard were commonly accomplished by reference to their "stellar work" with their partners at the Jay Peak Projects. The VRC Team made these representations to inspire entrepreneurial confidence, and to encourage would-be investors to select the VRC as a safe and secure partner in the EB-5 investor world. Obviously, it is now known that the VRC Team engaged in no oversight of the Jay Peak Projects and, in fact, the VRC Team acted as agents and partners within those projects to consistently and systematically partake in the fraud at Jay Peak.

Unfortunately, many investors believed in the fallacies of the VRC Team. These investors came from countries throughout the world. Of course, at one level the EB-5 program represents a traditional investment in a for-profit endeavor. At the same time, the program represents an opportunity for many to live and work here in the United States. Many of these immigrant investors came from countries that are mired in corruption. For these investors, the EB-5 program involved an opportunity to escape that corruption for themselves and their families. While this escape was a welcomed one pursued with gratitude, it was not an easy one, as it involved the liquidation of lifesavings, acclimating children to a new language and culture, and securing employment and schooling in a foreign country. While the immigrant investors were drawn to Vermont by a variety of reasons and from a myriad of backgrounds, they all shared a common center – they were all drawn by the promises of accountability, legitimacy, oversight, and the gold-star standard trumpeted by the VRC Team and its Jay Peak project. To these investors, the false promises of the VRC Team and the decade long cover-up of the Jay Peak

fraud, have thrown all that they invested and sacrificed into an abyss, with many of them wondering how long until they and their families are forced out of this country to start over in the countries they left behind.

As such, and for the reasons set forth herein, Mr. Sutton, and other similarly situated Jay Peak Investors seek relief in this court to repair the harm caused by the Defendants' deception and fraud.

II. THE PARTIES

1. Due to the wrongful conduct alleged herein, the Plaintiffs have had their path to citizenship in the United States derailed by Defendants, have been defrauded out of the expected returns on their investment in the Jay Peak Projects, and have submitted investment and administrative fees to Defendants that were wrongfully charged based on Defendants' fraudulent scheme.
2. Plaintiff, Antony Sutton, is a United Kingdom citizen residing at 13 Cillocks Close, Hoddeson Harts EN11 8QT, U.K., who invested assets in the Jay Peak Projects.
3. Defendant, Vermont Regional Center, is the only state-run regional center designated by the United States Citizenship and Immigration Service (the "USCIS") and is responsible for the state oversight and administration of the Jay Peak Projects.
4. Defendant, State of Vermont Agency of Commerce and Community Development, is a government agency that is one of the two principal administrators of the Vermont Regional Center since its inception on June 26, 1997.
5. Defendant, State of Vermont Department of Financial Regulation, is a government agency that is one of the two principal administrators of the Vermont Regional Center since it partnered with the ACCD on December 22, 2014.

6. Defendant, James Candido, is the former executive director of the VRC from November 2004 to June 2012, or thereabouts. Upon information and belief, he is currently a Massachusetts domiciliary.

7. Defendant, William Carrigan, is the DFR's current Deputy Commissioner of the Securities Division and has been employed by the DFR since 2007 as Director of Examinations and Enforcement and Investor Education Coordinator. Upon information and belief, he is a Vermont domiciliary.

8. Defendant, Susan Donegan, is the former Commissioner of the DFR, serving from 2013 to 2016. Upon information and belief, she is a Vermont domiciliary.

9. Defendant, Eugene Fullam, is the former Executive Director of the VRC, serving from 2015 to June 2016. Upon information and belief, he is a Vermont domiciliary.

10. Defendant, Joan Goldstein is the current Executive Director of the VRC, serving as the interim-Executive Director since June 2016, or thereabouts, while also serving as ACCD's Commissioner of Economic Development since April of 2015. Upon information and belief, she is a Vermont domiciliary.

11. Defendant, John W. Kessler, is the current General Counsel for the ACCD, serving since 1997. Upon information and belief, he is a Vermont domiciliary.

12. Defendant, Lawrence Miller, is the former Secretary of the ACCD who served during the state oversight and administration of the Jay Peak Projects. Upon information and belief, he is a Vermont domiciliary.

13. Defendant, Patricia Moulton, is a former Secretary of the ACCD who served during the state oversight and administration of the Jay Peak Projects. Upon information and belief, she is a Vermont domiciliary.

14. Defendant, Michael Pieciak, is the current Commissioner of the DFR, having previously served as the DFR's Deputy Commissioner of the Securities Division during the DFR's state oversight and administration of the Jay Peak Projects. Upon information and belief, he is a Vermont domiciliary.

15. Defendant, Brent Raymond, is the former Executive Director of the VRC serving from 2012 to June 2015, or thereabouts. Upon information and belief, he is a Vermont domiciliary.

III. JURISDICTION AND VENUE

16. Jurisdiction is proper in this Court pursuant to 4 V.S.A. § 31.

17. Venue is proper in this Court pursuant to 12 V.S.A. §§ 402(a) and 5601 et al.

18. Class action certification is appropriate pursuant to Vermont Rules of Civil Procedure Rule 23.

IV. FACTUAL BACKGROUND

A. THE VRC AND JAY PEAK FORGE A PARTNERSHIP WITHIN THE BILLIONS OF DOLLARS FLOWING INTO EB-5

19. In 1990, the United States Congress enacted the employment-based fifth preference visa program (the "EB-5 Program") to stimulate the U.S. economy through job creation and capital investment by foreign investors.

20. In general terms, the USCIS administers the EB-5 program whereby foreign investors, along with their spouse and children under age twenty-one (21), are eligible for a green card if they make the required investment in a commercial enterprise in the U.S. and plan to create or preserve at least ten (10) permanent full-time jobs for qualified U.S. workers.

21. In 1992, the United States Congress enacted the Immigrant Investor Program, in which a certain number of EB-5 visas are set aside for foreigners who invest $500,000.00 in

commercial enterprises associated with regional centers approved by USCIS based on proposals promoting economic growth.

22. In 1997, the United States Immigration and Naturalization Service – the predecessor to USCIS – designated Vermont's ACCD as a "Regional Center" under the EB-5 Program. The ACCD was reaffirmed as such in 2007.

23. By its mission statement, the ACCD is charged with, *inter alia*, enhancing Vermont's business climate, marketing Vermont to businesses and individuals, along with facilitating, promoting and creating business opportunities within Vermont to contribute to the economic viability and growth of the State.

24. Within its role in the EB-5 world, through its employees, the ACCD started operating under the moniker and within the entity known as the "Vermont Regional Center" (again, referred to as the "VRC").

25. The VRC is not the only regional center in the EB-5 world.

26. In fact, at any given point of time, there are hundreds if not thousands of regional centers throughout the United States (currently there are over 1,200 regional centers).

27. These regional centers provide a pathway for a foreign national to gain permanent residency here in the United States. They also provide a pathway for the flow of billions of dollars in investor funds within the United States. Included with this massive amount of investment flow is the potential for lucrative consultancy opportunities, brokerage opportunities, and a micro-economy of administrative and transactional business opportunities.

28. Regional centers have become a competitive business, and they provide their principals and employees with income and opportunities to build relationships with entities and individuals who are managing projects in the millions and sometimes billions of dollars.

29. Some regional centers provide little more than administrative functions (submitting proper information to the USCIS for a project and its investors), while others take a much more active role in administration, oversight, auditing, and consultation. The VRC held itself as falling into the latter category.

30. Virtually all regional centers are private ventures.

31. While not the only state-affiliated regional center, the VRC was the only one that held itself out as being a "state run agency," with superlative powers of oversight and support due to this state backing.

32. At its basic and dry level, the VRC was to approve developments that apply for designation as a "Regional Center" project, and was to engage in ongoing monitoring of approved projects to assure compliance with USCIS EB-5 regulations, U.S. immigration laws/regulations, as well as with federal and state securities laws.

33. But the VRC claimed to be more than just an average regional center. From its inception, the VRC billed itself as an attractive option for development and foreign investment because of its superlative "oversight powers" as a state agency, and because of the overwhelming investor confidence that came from the VRC's "stamp of approval."

34. Indeed, the VRC billed itself as an appealing choice for developers and investors alike to use it as a venue for EB-5 projects specifically due to its diligent oversight, review, and pre-approval of EB-5 projects.

35. Underlying its self-created image, the VRC trumpeted, promoted, and used its crown jewel – the Jay Peak EB-5 project.

B. THE VRC TEAM AND JAY PEAK PROJECTS – PARTNERS IN THE LARGEST FRAUD IN VERMONT HISTORY AND THE LARGEST EB-5 FRAUD IN U.S. HISTORY

36. In 2006, Jay Peak, captained by William Stenger and Ariel Quiros, partnered with the VRC to pursue a multi-million dollar EB-5 project to develop Jay Peak, Burke, and the greater Newport area (again, the "Jay Peak Projects").

37. The various memoranda of understanding between the VRC and Jay Peak (collectively referred to herein as the "Jay Peak MOU") – like all memoranda of understanding issued by the ACCD to EB-5 projects – required quarterly compliance reports and site visits to ensure USCIS and U.S Securities and Exchange Commission (the "SEC") compliance and project progress. These quarterly compliance reports and monitoring were represented to the Jay Peak Investors to include financial oversight and project audits.

38. The Jay Peak Projects were required to pay a fee to the VRC for each EB-5 investor approved by USCIS.

39. Specifically, during the period from 2006 to 2015, the Jay Peak Projects enlisted their partners: James Candido, William Carrigan, Susan Donegan, Eugene Fullam, Joan Goldstein, John Kessler, Lawrence Miller, Patricia Moulton, Michael Pieciak, and Brent Raymond, and directed them to actively market and solicit investors for the Jay Peak Projects, including Mr. Sutton.

40. To that end, the VRC Team traveled with the Jay Peak fraudsters to solicit investors for the Jay Peak Projects. This included travelling to EB-5 tradeshows, at which the VRC Team and Jay Peak representatives would share a table and act on behalf of the Jay Peak Projects.

41. The VRC Team actively marketed and solicited investors for the Jay Peak Projects. These individuals, by and through the VRC, continually made representations on behalf of the Jay Peak Projects to third parties, to the effect that the Jay Peak Projects – their legitimacy, viability, and overall accountability – presented an attractive opportunity for EB-5 investors.

42. The representations made by the VRC on behalf of the Jay Peak Projects included, *inter alia*: (i) the added protection of state approval and oversight of VRC projects to assure investors were making a sound investment; (ii) the VRC conducting quarterly reviews of project progress to ensure project compliance with all applicable laws and regulations; (iii) the VRC engaging in the financial monitoring and auditing of projects to ensure legitimacy; (iv) the VRC requiring all projects to be bound by a "Memorandum of Understanding" imposing strict covenants and obligations on the project to ensure compliance with all applicable laws and regulations; and (v) the added credibility of a state-run regional center to assure investors were making a sound investment. These representations would ultimately turn out to be completely false.

43. Such intentional representations, omissions, and – ultimately – misrepresentations were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

44. Such intentional representations, omissions, and – ultimately – misrepresentations were repeated consistently to the named Plaintiffs herein.

45. Reasonably relying on these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

46. So too, government officials and VRC Team members had motivation to continue to assist the Jay Peak Projects in the marketing of its EB-5 investment packages. For their assistance, the VRC Team enjoyed the lavish benefits and private benefits that came with it. By way of example, in September 2013, the VRC Team and Jay Peak Projects (including William Stenger), and the Governor's office (including then-Governor Shumlin), traveled on a $100,000.00+ all expenses paid business trip to China to promote the Jay Peak Projects and solicit investors to purchase these securities.

47. No other EB-5 project within the VRC received the benefit of a dedicated regional center to exclusively promote its project and assist in the solicitation of investors on its behalf.

48. The VRC Team and Jay Peak Projects were hitched together, with the VRC Team creating promotional materials touting both its oversight and diligence using images of the ongoing development at the Jay Peak Projects.

49. The Jay Peak Projects were so brazen about creating an agency relationship with their friends at the VRC that they actively marketed a promotional video of Governor Peter Shumlin touting the State's oversight and audit requirements of the Jay Peak Projects to solicit investors.

1. THE VRC AND JAY PEAK CREATE OFFERING DOCUMENTS, ASSURING INVESTORS THAT THE VRC OVERSEES, MANAGES, AND MONITORS JAY PEAK AND THE FINANCES AT THE JAY PEAK PROJECTS

50. With each Jay Peak project, the VRC Team crafted a memorandum of understanding with their partners at the Jay Peak Projects.

51. Each of these memoranda of understanding was attached to and became an integral part of each of Jay Peak's offering documents.

52. Each of these memoranda of understanding was presented to each individual investor – including the named Plaintiff – as a part of Jay Peak's various offering documents.

53. These memoranda of understanding were a part of each offering to each Immigrant Investor and, specifically, to the named Plaintiffs.

54. The VRC was to ensure that the Jay Peak's Projects complied with and were in conformity with the job creation requirements of the EB-5 program.

55. The memoranda of understanding are agreements which dictate that the VRC would assure Jay Peak's compliance with U.S. immigration law and regulations concerning investments within a regional center in the EB-5 visa preference category.

56. Within the memoranda of understanding, the VRC represented that it would ensure compliance with its own regional center requirements.

57. As a regional center, the VRC was responsible for overseeing capital investment activities in the Jay Peak Projects.

58. Within the memoranda of understanding, the VRC represented that it would monitor and oversee the Jay Peak Projects' compliance with legal and regulatory requirements, and Jay Peak would formally report to the VRC in writing every three months regarding the activities of Jay Peak.

59. The offering documents assured investors that Jay Peak was in partnership with the VRC, and was obligated to assist the VRC with any and all regulatory compliance.

60. Within the memorandum of understanding, Jay Peak promised to assist the VRC with the VRC's oversight and management of all of Jay Peak's EB-5 investment projects.

61. Jay Peak agreed to assist the VRC to assure that Jay Peak's EB-5 investment projects were in compliance with U.S. immigration law and regulations concerning investments within a regional center.

62. Jay peak agreed to assist the VRC in the oversight, administration, management and overall compliance of the Jay Peak projects with legal and regulatory requirements.

63. As part of this assistance, Jay Peak agreed to formally report in writing every three (3) months (or more) regarding Jay Peak activities.

64. Further, Jay Peak agreed to, and the VRC represented to investors that Jay Peak would respond to any VRC inquires and assist the VRC in compliance, oversight, and monitoring of the Jay Peak Projects.

65. The VRC represented that Jay Peak would provide quarterly reports to the VRC setting forth, at a minimum, the status of all EB-5 investor capital.

66. Within the memoranda of understanding, the VRC assured would-be investors that Jay Peak would respond to any VRC inquires regarding the Jay Peak Projects.

67. Within the memoranda of understanding, the VRC assured investors that the Jay Peak Projects would be required to provide and the VRC would oversee investment information, economic analysis and modeling reports, and documenting compliance with all relevant regulatory and administrative requirements related to an EB-5 investment.

68. Not only did the VRC fail to monitor and oversee the Jay Peak projects as set forth in the offering documents, when called upon by the EB-5 Investors to satisfy these basic promises, the VRC Team specifically blocked any and all inquiries.

2. THE VRC TEAM AND THEIR JAY PEAK PARTNERS IGNORE AND THEN RETALIATE AGAINST WHISTLEBLOWERS WHO RAISE ALARMS ABOUT THE JAY PEAK FRAUD

a) An EB-5 Consultant, who was employed by the VRC and Jay Peak partnership, alerted the VRC to wrongdoing at the Jay Peak Projects

69. In or about 2009, the VRC/Jay Peak Projects partnership enlisted the help of consultancy firm, Rapid USA Visas and its owner Douglas Hulme, to solicit potential EB-5 investors for the VRC and the Jay Peak Projects.

70. For years, Rapid USA Visas acted as a promoter and immigration advisor for the Jay Peak Projects by directing investors to the VRC and the Jay Peak Projects, as well as performing other services. For these investors, the VRC collected administrative fees to operate the VRC, to pay salaries to the VRC Team, and to fund travel to meet prospective EB-5 investors – much of which included travel to exotic locations in Southeast Asia. Upon information and belief, over the course of this partnership, the amount of those fees paid by Rapid USA Visas-related Jay Peak Investors totaled approximately $1.6 million.

71. Focused entirely on their active marketing efforts for the Jay Peak Projects' EB-5 securities (without a broker-dealer license or a filed exemption), the VRC Team undertook no legitimate audit or even the slightest oversight of the Jay Peak Projects, culminating in the VRC's – and later on, the DFR's – audacious failure to investigate investor/promoter complaints.

72. Included in the VRC's active promotional efforts were intentional misrepresentations and omissions of project oversight, financial monitoring and auditing, which were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

73. Reasonably relying on these actions, behavior, and misrepresentations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

74. As a result of growing concerns, promoters began to issue formal, written, and detailed complaints in February 2012, or thereabouts, when Douglas Hulme and his attorney raised concerns with the VRC Team, including concerns that the Jay Peak Projects were misappropriating funds in violation of state and federal laws.

75. Specifically, Douglas Hulme's attorney asked for balance sheets, banks statements and wire transfers, as well as the source-and-use of funds reports for the Jay Peak Projects, all with the aim to provide written assurances that the Jay Peak Projects were in compliance with federal and state law.

76. With knowledge of these concerns, a conference call was held between the VRC Team and Douglas Hulme to discuss the potential fraud at the Jay Peak Projects.

77. Additionally, the Managing Director of USAdvisors, Michael Gibson, alerted the VRC to various securities violations by the Jay Peak Projects. However, instead of the VRC taking action, the complaints were merely archived and ignored.

78. Moreover, rather than addressing Michael Gibson's or Douglas Hulme's concerns (now known to be completely accurate) the VRC – working directly with their Jay Peak partners – engaged in a crusade of obfuscation and frivolous accusations against Douglas Hulme and Rapid USA Visas, resulting in an outright cover-up.

b) The VRC Team retaliates against the Whistleblower, with baseless allegations, in an effort to silence the revelations of the fraud

79. For example, working in concert with their Jay Peak partners, the VRC Team's baseless attacks included a concocted complaint over Douglas Hulme's use of the State of Vermont logo on the Rapid USA Visas' website, all in an attempt to discredit him.

80. Of course, the Jay Peak Projects used and continued to use the State of Vermont logo throughout its Ponzi-scheme.

81. While the logo issue was clearly illegitimate, the simultaneous use of the State of Vermont logo by the Jay Peak Projects is telling as to the VRC Team's role as agents, marketers, and promoters of the Jay Peak Projects and the securities they were selling.

82. Without receiving any assurance that the Jay Peak Projects were in compliance with federal and state law, and receiving no help whatsoever from the VRC Team as the "apparent regulators," on February 28, 2012, Rapid USA Visas terminated all business dealings with the Jay Peak Projects and issued a letter to one hundred (100) immigration attorneys warning that it had lost confidence in the finances and representations of the Jay Peak Projects and its VRC Team.

83. In response, and in a hollow attempt to feign oversight of its true principal, former VRC Director, James Candido, conduct a supposed (but, in reality, hollow) audit-visit to the Jay Peak Projects and purportedly found "no issues" with the Jay Peak Projects' financials.

84. To be clear, it is now known as fact that a non-CPA junior accountant with little practical experience could have uncovered this Ponzi-scheme within an hour of reviewing basic financial records.

c) The VRC hired a lawyer with financial ties to the success of the Jay Peak fraud, and commissioned him to issue a report falsely portraying the VRC's state oversight and to conceal the ongoing fraud

85. During James Candido's visit to the Jay Peak Projects, he and the VRC Team coordinated with immigration attorney, John Roth, to inspect the Jay Peak Projects and issue a report relative to the claims made by Douglas Hulme and Rapid USA Visas.

86. After spending an extravagant weekend with his family at the Jay Peak Projects, John Roth issued a report (the "Roth Report") painting a glowing picture of a successful EB-5 project wherein he highlights the first-class amenities at the Jay Peak Projects, its high sale figures, and the "particularly careful" oversight by the VRC to mask the concerns raised by Douglas Hulme.

87. Specifically, the Roth Report highlights that James Candido inspects the Jay Peak Projects' financial records at least four (4) times a year and that the Jay Peak Projects were set to be audited by an independent accounting firm (yet with no completion and release date made available to John Roth). However, it is now known that no such oversight existed as subsequent representations by the VRC Team specifically disclaimed any financial review whatsoever. Additionally, the audit by the "independent" accounting firm never occurred. Clearly, this State-sanctioned report was an attempt to discredit Douglas Hulme's claims and paint the VRC and the Jay Peak Projects as the gold standard in EB-5 oversight.

88. Further, the revelation of John Roth's background and relationship with the Jay Peak Projects corrupts the rosy picture he painted.

89. It turns out that John Roth is an immigration attorney that had a long-standing referral relationship with the Jay Peak Projects. His financial interest in the success of the Jay Peak Projects provided him a clear motive in-fact as he misrepresented the VRC oversight and the Jay Peak Projects' financial state.

90. Compounding John Roth's improper motive, the Roth Report was circulated with and to William Stenger prior to its release so as to all allow it to conform to William Stenger's specifications.

91. The VRC – with full knowledge of John Roth's relationship to the Jay Peak Projects – used the Roth Report as proof-positive that the Jay Peak Projects were healthy and that Douglas Hulme's concerns about the misappropriation of funds were unfounded and merely sourced from a "business dispute."

92. Such intentional misrepresentations and omissions were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to continue to join the VRC and its crown jewel, the Jay Peak Projects.

93. Reasonably relying on these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

d) The VRC and Jay Peak completed the elimination of the Whistleblower by ensuring that no business would receive state approval if it associated with him – effectively extricating him from the State of Vermont and removing him as a thorn in the VRC-Jay Peak side

94. After Rapid USA Visas terminated its business dealings with the Jay Peak Projects, the VRC Team ensured that Rapid USA Visas' calls for an investigation would be silenced and that Rapid USA Visas could not do business with any other EB-5 projects in Vermont.

95. For instance, in April 2012, or thereabouts, James Candido considered Rapid USA Visas a "representative of . . . the [VRC]" and that the VRC had concerns over Raid USA Visas "marketing exercises." These "marketing exercises" – the use of the State of Vermont

logo – were substantially similar, if not the same, to those employed by the Jay Peak Projects.

96. In the wake of Rapid USA Visas' split with the Jay Peak Projects, the VRC was notified that a prospective EB-5 project at Mt. Snow was working with Douglas Hulme and Rapid USA Visa.

97. Upon learning that Mt. Snow was using Douglas Hulme and Rapid USA Visas, and after coordinating with William Stenger, James Candido requested a meeting with Patricia Moulton and Lawrence Miller to "chat" about the Mt. Snow submission.

98. Soon thereafter, Mt. Snow proceeded with its EB-5 submission without Douglas Hulme and Rapid USA Visas.

99. Subsequently, the VRC ensured that no Vermont project, including Mt. Snow, would be granted approval if that project was in any way associated with Rapid USA Visas.

100. After Rapid USA Visas' forced exit from Vermont, the fraud – specifically the misappropriation of Jay Peak Investor funds – at the Jay Peak Projects continued unabated. All the while, the Jay Peak Projects continued to use the State of Vermont logo hand-in-hand with their VRC partners.

101. While Rapid USA Visas – a whistleblower of the fraud at the Jay Peak Projects, as discussed above – was forced out of the State, the VRC/DFR made sure that none of Rapid USA Visas' concerns would be addressed.

102. Accordingly, in March of 2012, or thereabouts, the DFR's Securities Division Director, John R. Cronin – in response to a Jay investor with deep concerns regarding his investment - explicitly stated that, "to be very clear," the Vermont Securities Division was

"not conducting an investigation of Jay Peak" in spite of the substantial and documented complaints against the Jay Peak Projects and the VRC.

103. Unimpeded, in order to prevent revelation of the prior misappropriation of Jay Peak investor funds, the VRC Team and Jay Peak Projects continued to actively funnel prospective investors to attorneys with either financial and/or immigration interests in the Jay Peak Projects.

C. THE VRC AND JAY PEAK CONSPIRE TO PROTECT THEMSELVES AT ALL COSTS

1. The VRC and Jay Peak conspired to funnel investors to EB-5 attorneys with financial and immigration interests in the Jay Peak Projects

104. During meetings with investors, James Candido touted the VRC's unique state oversight as a reason to choose an EB-5 project overseen by the VRC.

105. In a consistent pattern, such intentional misrepresentations and omissions were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

106. Indeed, James Candido recommended Jay Peak and specifically highlighted Jay Peak because it was a good project and he had a good relationship with the Jay Peak President and CEO, William Stenger.

107. In discussions with William Stenger about investing in one of the many EB-5 projects at Jay Peak, investors were directed to specific attorneys who had a vested interest with the Jay Peak projects; notably, Anthony Korda, who was an investor that received his green card through investing in Phase I of the EB-5 project at Jay Peak. However, upon information and belief, Mr. Korda had not received a return on his investment due to the fraud at the Jay Peak Projects.

108. Further, as Mr. Korda was both a Jay Peak Investor himself and an immigration attorney who represented many of the Jay Peak Investors, the VRC was aware, or should have been aware, of his conflicted relationship within the Jay Peak Projects.

109. Capitalizing on this relationship, the VRC and Jay Peak funneled prospective investors to Mr. Korda because of his status as a Jay Peak Phase I investor. The VRC Team/Jay Peak Projects scheme to funnel prospective investors to current Jay Peak Projects Investor-attorneys provided the conduit to illegally backfill the prior misappropriation of Jay Peak Investor funds with prospective investor funds.

110. Many Jay Peak Investors confronted William Stenger about the rumors surrounding Rapid USA Visas' lack of confidence in Jay Peak's representations because it concerned him that the EB-5 consulting firm that introduced him to the VRC no longer wanted to do business with the Jay Peak Projects.

111. However, William Stenger – much like James Candido – dismissed the problems raised by Rapid USA Visas and informed investors that the issues surrounding Rapid USA Visas and the Jay Peak Projects were merely due to a business dispute.

112. James Candido, also, and on behalf of the Jay Peak Projects reiterated the Jay Peak party-line, that the issues between the Jay Peak Projects and Rapid USA Visas was a business dispute.

113. James Candido represented to investors that he had investigated and reviewed everything and that it was safe to make an investment

114. Such intentional representations, omissions and – ultimately – misrepresentations were repeated to both immigrant investors and would-be investors throughout the marketing of

the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

115. Wholly unaware of the VRC/Jay Peak Projects' scheme to improperly funnel investors to the Jay Peak Projects, investors reasonably relied on the coordinated efforts of James Candido's representations of state oversight, William Stenger's referral, and Mr. Korda's purported knowledge of the EB-5 investment at the Jay Peak Projects to ease any concerns raised by the fallout of Rapid USA Visas with William Stenger and the Jay Peak Projects.

116. Specifically, Mr. Korda – as he had done with many Jay Peak Investors – explicitly assured investors that he would assist with the necessary due diligence and immigration suitability of the Jay Peak Projects, along with advice about projects and regional center claims of which to be wary. However, Mr. Korda conducted no due diligence nor any immigration suitability analysis because his status as a Jay Peak Investor and the referral fees he received from the Jay Peak Projects made him loyal only to the Jay Peak Projects.

117. Additionally, investors were reassured by, and further relied on, the assertions of state oversight by James Candido and the representatives of the VRC as a state overseer of Jay Peak to allay concerns regarding the Jay Peak Projects' fallout with Rapid USA Visas.

118. However, unbeknownst to the investors, no such state oversight by the VRC existed, thus creating the situation whereby the VRC and Jay Peak Projects misrepresented state oversight and the viability of the Jay Peak Projects in order to induce investors into becoming Jay Peak Investors.

119. Due to these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

120. The VRC Team and Jay Peak Projects partnered to funnel prospective investors in an effort to illegally backfill the prior misappropriation of Jay Peak Investors' funds through a coordinated scheme to feign state oversight and attorney due diligence of the Jay Peak Projects.

121. Finally, the VRC Team's behavior and coordination with the Jay Peak Projects and their immigration attorneys became so out of control that outside investors and partners began to take notice.

2. The Jay Peak Investors uncover incontrovertible proof of the Jay Peak Projects' fraud, including, a double/fraudulent sale of the penthouse suites

122. Beginning in 2012, if not earlier, additional individuals (besides Douglas Hulme) put the VRC and Jay Peak Projects' officials on notice of the Jay Peak Projects' fraud, specifically the expenditure and misuse of investor funds as highlighted by Rapid USA Visas.

123. Nevertheless, with calls for investigation and oversight mounting, the VRC responded by stepping up promotion of the Jay Peak Projects and the VRC's superior state oversight.

124. In response to investor complaints and inquiries, James Candido informed prospective investors and Jay Peak Investors alike that nothing was wrong because Rapid USA Visa's issue was simply a "business dispute."

125. Such intentional representations, omissions and – ultimately – misrepresentations were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

126. Due to these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

127. Continuing as if there was nothing wrong, and continuing to concoct the outward appearance of legitimacy, state officials held a daylong news conference with William Stenger and Ariel Quiros touting the next phase of the Jay Peak Projects.

128. Brent Raymond and James Candido, in particular, deflected investor complaints and continued to provide the necessary cover for the Jay Peak Projects and the VRC Team's involvement.

129. As more evidence and complaints were received by the State over the next three years, the VRC – and later the Vermont Department of Financial Regulation (again, the "DFR") – expanded their scheme to shield the Jay Peak Projects and turn against the Jay Peak Investors.

130. During this time, the Jay Peak Investors cobbled together information from their various I-829, Petitions to Remove Conditions on Permanent Residence Status (the "I-829 Petition(s)"), myriad newspaper articles, complaints to financial institutions, inquiries to general contractors and architects, along with internet searches for Act 250 land use permits and Jay Zoning Board meeting minutes to determine how their investments were used in the Jay Peak Projects.

131. The evidence and Jay Peak Investor complaints of the VRC/Jay Peak Projects fraud culminated in May 2014 when approximately twenty (20) Jay Peak Investors – led by Mr. Sutton – flooded Brent Raymond with complaints about the Jay Peak Projects' misappropriation of investor funds.

132. Specifically, the Jay Peak Investors' complaints focused on concerns regarding: (i) the double (fraudulent) sale of the "Penthouse Suites" EB-5 project at Jay Peak (the "Penthouse Suites"); (ii) the abrupt, unilateral conversion of their equity interests into a dubious, unsecured promissory note (the "Unsecured Promissory Note") by William Stenger, which occurred in August 2013 without notification to the Jay Peak Investors; and (iii) their inability to acquire the Jay Peak Projects' financials showing the source-and-use of Jay Peak Investor funds.

133. The double (fraudulent) sale of the Penthouse Suites was originally billed as an EB-5 investor raise to construct fifty-five (55) deluxe suites – complete with an expansive living room, either one (1) or two (2) master bedrooms, a deluxe kitchen, and a balcony – on the top floor of the five-story Hotel Jay[1] (Phase II of the Jay Peak Projects). In total, the Penthouse Suites were to cover an area of approximately 46,000 sq. ft. with a total project cost of $37,500,000.00 ($32,500,000.00 of which was derived from Jay Peak Investor funds), and a construction schedule commencing in January 2011 and ending by late 2011/early 2012. The Hotel Jay and Penthouse Suites construction was to total approximately 296,000 sq. ft. consisting of 175 suites, 55 of which were Penthouse Suites.

134. However, after comparing their I-829 Petitions with Land Use Permit #7R0854-10-A[2] (which was omitted from their I-829 Petitions) and Jay Zoning Board meeting minutes from August 9, 2010, it was discovered that the combined construction of the Hotel Jay and Penthouse Suites projects amounted to a mere 258,300 sq. ft. with a total of 130 suites.

[1] Land Use Permit #7R0854-10 shows that the Hotel Jay was to be a five-story, approximately 250,000 sq. ft. hotel, consisting of 120 guest units.

[2] Land Use Permit #7R0854-10-A was an amendment to Land Use Permit #7R0854-10 where it permitted the additional construction of approximately 8,300 sq. ft. consisting of only ten (10) guest suites on the fifth floor of the Hotel Jay.

135. Thus, approximately 40,000 sq. ft. and 45 suites of the Penthouse Suites were never built and the vast majority of monies invested by the Jay Peak Investors in the Penthouse Suites were left unaccounted. It is clear that the Penthouse Suites were largely a fraudulent offering.

136. With regard to the Unsecured Promissory Note, William Stenger waited until January 2014 to inform the Jay Peak Investors of its existence and further waited to disclose the actual document until April 2014, or thereabouts.

137. In addition to converting the Jay Peak Investors' equity interests into an Unsecured Promissory Note, William Stenger unilaterally dissolved the limited partnership; this can only be construed as an attempt to hide the source-and-use of investor funds by extinguishing Mr. Sutton's – and the other Jay Peak Investors' – rights to an accounting as limited partners. As will be seen, the VRC dealt with this shocking event with apathy and derision towards the Jay Peak Investors.

138. When Mr. Sutton and other Jay Peak Investors were unable to elicit a response from William Stenger regarding the aforementioned issues, which ultimately boiled down to obtaining proof of the source-and-use of Jay Peak Investor funds, they approached the state overseers – the VRC's Executive Director, Brent Raymond, and the VRC Team – to make good on their prior representations of state oversight and extract the relevant documents.

3. After years of representing financial oversight to the world-at-large, the VRC falsely claims that it had no authority to review the financials of the Jay Peak Projects

139. Much to the surprise of the Jay Peak Investors and contrary to the representations made to the world-at-large, Brent Raymond claimed that the VRC had no legal authority to conduct financial reviews. However, Brent Raymond did offer his "assistance" to acquire

a response from the VRC's partners in the largest fraud in Vermont's history – William Stenger and Ariel Quiros.

140. Further, in a May 20, 2014 email to Mr. Sutton, Brent Raymond explicitly states that the VRC has "not been auditing [the Jay Peak Projects'] financials – nor are we required to, or ever represented that we were." This is in direct contradiction to the Jay Peak Investors' offering documents and years of promotional and marketing materials – which included Governor Shumlin touting the VRC's financial audits of EB-5 projects – flaunting the VRC's extra safeguard of state oversight.

141. Such intentional representations, omissions and – ultimately – misrepresentations were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

142. Due to these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

143. Unsurprisingly, Brent Raymond did not assist in having William Stenger or Ariel Quiros respond to Mr. Sutton aside from a couple of email responses to Mr. Sutton in which he copied Stenger and Quiros.

144. Instead, on May 24, 2014, Brent Raymond lambasted Mr. Sutton and the Jay Peak Investors for "how farfetched" their expectations were for the VRC to monitor, oversee, or otherwise review financial documents relating to the Jay Peak Projects. Raymond did say that the VRC "does many things to monitor projects," but omits what any of those things

were. The only "assistance" Brent Raymond provided Mr. Sutton consisted of the recommendation that he research the Revised Uniform Partnership Act of 1997.

145. On June 30, 2014, Brent Raymond made it clear that the VRC was abandoning the Jay Peak Investors by stating "I highly recommend that you begin communicating directly with both [William Stenger and Ariel Quiros] . . . I reiterate that [the VRC is] not a party to the PPM or limited partnership so we are unable to assist . . . ." This stood in direct contradiction to years of assurances and representations of the VRC Team's active role and involvement.

146. In the same June 30, 2014 communication, not only did Brent Raymond make it clear that the VRC abandoned the Jay Peak Investors, he and the VRC began working against them.

147. Illogically, and in an appalling betrayal, Brent Raymond and the VRC Team used the Jay Peak Investors' inability to acquire the Jay Peak Projects' source-and-use of investor funds as an obstacle to investigate their claims. Plainly, Brent Raymond claimed that the Jay Peak Investors had not supplied any evidence to support their allegations of fraud and would not investigate until such evidence was presented to the VRC. Since the Jay Peak Investors were asking the VRC for help in acquiring such evidence, it became apparent that the VRC would not be investigating.

148. Brent Raymond and the VRC Team turned against the Jay Peak Investors by reneging on their prior representations of state oversight by claiming they were powerless to assist, ultimately abusing the power of the state to obstruct the Jay Peak Investors' pursuit of their claims; all to protect the VRC's Jay Peak partners.

4. The VRC/Jay Peak Conspiracy to conceal the fraud becomes so effective, that even well-intentioned state officials were duped into submitting investor complaints to the VRC – effectively forwarding the complaints for investigation by the wrongdoer

149. By July 4, 2014, or thereabouts, making no progress with the VRC, the Jay Peak Projects, or the DFR, the Jay Peak Investors began to complain to the Vermont Secretary of State, Jim Condos.

150. On or about July 8, 2014, Secretary of State Condos responded and expressed concern for Mr. Sutton given the magnitude of the claims. Specifically, Secretary of State Condos's concerns centered on the unilateral conversion of the Jay Peak Investors' equity interests without their notice or consent.

151. Secretary of State Condos circulated the complaints to the appropriate governmental and executive agencies, including the DFR.

152. However, as Secretary of State Condos's office occupies a purely ministerial role in state government, he could only assist by searching for the most appropriate agency for Mr. Sutton and the Jay Peak Investors to submit their complaints.

153. Unfortunately, after checking with the Attorney General's Office and DFR, Secretary of State Condos was informed to refer Mr. Sutton and the Jay Peak Investors back to the ACCD and VRC.

154. The next day, on July 9, 2014, with options running out, Mr. Sutton contacted Jay Peak's Manager of Partnership Accounting, Heather Whipkey, requesting partnership and financial documents – which were his right as a limited partner – to verify the expenditure of Jay Peak Investors' funds.

155. With a well-intentioned state official now aware of the Jay Peak Investors' complaint, on July 10, 2014, William Stenger contacted Mr. Sutton insisting that the Jay Peak Projects

had "exhaustive accounting records on all the items [Mr. Sutton] requested and nothing, nothing exists that [the Jay Peak Projects] wish to hide or conceal." William Stenger went on to represent that he would begin compiling the information and send it to Mr. Sutton. However, William Stenger never provided the information to Mr. Sutton.

156. Left with no state recourse, on or about July 15, 2014, Mr. Sutton and the Jay Peak Investors exercised their rights as limited partners by enlisting the help of a nationally-renowned forensic accountant and certified fraud examiner, Dr. Michael Crain, for an exhaustive review of the Jay Peak Projects' financial records.

5. The VRC and Jay Peak obstruct the Jay Peak Investors' certified fraud examiner, who the investors hired to inspect the Jay Peak Projects' financial records

157. In an email to William Stenger, on or about July 15, 2014, Mr. Sutton – on behalf of the Jay Peak Investors – requested to review the following sets of records:

> (i) partnership's transactions/operational records/general ledgers; (ii) all amendments to the Partnership Agreement; (iii) records reflecting the status/movement/use over time of the funds [the Jay Peak Investors] invested; (iv) records reflecting the source of funds dedicated to repaying [the Jay Peak Investors], (i.e., whether . . . principal will be repaid from subsequent investors funds or from operational profits); (v) all financial statements for the partnership during the time [the Jay Peak Investors were] . . . owner[s] of the hotel; and (vi) all bank statements - particularly the trial balance and year-end books and financial statements - generated during the period of [Jay Peak Investors'] investment (this requested review is collectively referred to herein as the "Requests").

158. On July 16, 2014, William Stenger stated that he would be "happy to cooperate" with the Requests and would give Dr. Crain full access and would follow-up on July 18, 2014 confirming the logistics of Dr. Crain's visit to the Jay Peak Projects.

159. Unsurprisingly, like most dates and deadlines agreed to by William Stenger and the Jay Peak Projects, July 18, 2014 came and went with no follow-up.

160. In a predictable about-face, on or about July 24, 2014, William Stenger reneged on his acquiescence to Dr. Crain's review claiming that the Requests were unreasonable and that sufficient information had already been submitted to the Jay Peak Investors.

161. Additionally, William Stenger conveyed that his in-house attorneys and accountants claimed that the Jay Peak Investors had no right to the information contained in the Requests.

162. Fed up, on or about August 2, 2014, Mr. Sutton and the Jay Peak Investors dictated to William Stenger that Dr. Crain would arrive at the Jay Peak Projects on August 11, 2014 or August 18, 2014 to examine the Requests. As a result, William Stenger once again feigned his agreement to schedule a visit with Dr. Crain.

163. However, for approximately the next three (3) months, William Stenger kept delaying Dr. Crain's visit for a myriad of unsubstantiated excuses.

164. William Stenger was biding his time to coordinate with the VRC to hide the misappropriation of Jay Peak Investor funds.

165. Given the difficulties in scheduling a meeting to review the Requests, Dr. Crain asked William Stenger to advance certain documents in support of the review of the Requests. These documents included: (i) all annual and interim financial statements (balance sheets, income statements, cash flow statements); (ii) all federal income tax returns including all schedules and exhibits; (iii) detailed general ledgers (annual preferred); and (iv) journal entries and related supporting documentation. However, these documents were never received and the delays continued.

166. On October 3, 2014, Mr. Sutton contacted Brent Raymond for assistance in acquiring the Requests. Unfortunately, Brent Raymond and the VRC played right along and compounded the delay.

167. Specifically, Brent Raymond intentionally delayed by suddenly needing written authorizations from the nineteen (19) other Jay Peak Investors attesting that Mr. Sutton was their representative. Brent Raymond also claimed that he was unaware of any of the Requests.

168. After the protracted delays, extended by the VRC's "assistance," William Stenger only permitted Dr. Crain to review a portion of the Requests, but upon one prohibitive condition.

169. William Stenger conditioned the disclosure of his findings on the execution of a non-disclosure agreement (the "NDA") containing, *inter alia*, the following: (i) Dr. Crain could only share his findings upon William Stenger's written permission; (ii) the requirement for a protective order in the event of disclosure prompted by legal action; and (iii) a disclaimer of any legal liability regarding the representations contained within the financial reports. William Stenger claimed that the NDA was necessary per the legal advice of the Jay Peak Projects' in-house attorneys.

170. Frustrated with William Stenger's obvious obstruction, Mr. Sutton once again – reluctantly – sought the VRC's assistance to ensure that no obstacles existed to prevent Dr. Crain's unfettered review of the Requests and to override the NDA.

171. Predictably, and providing further proof that the VRC was acting in collusion with the Jay Peak Projects' rather than as its state overseer, Brent Raymond and the VRC continued protecting their partners and deferred to the legal advice of the Jay Peak

Projects' in-house attorneys. Thus, neither Dr. Crain nor the Jay Peak Investors were ever able to review the Requests.

6. The VRC acts as conduit to tip-off their Jay Peak partners and dead-end all investor complaints

177. Rather than assist the Jay Peak Investors with the Requests, Brent Raymond and the VRC Team concocted a narrative to deflect attention away from the VRC's protection of the Jay Peak Projects. Brent Raymond falsely claimed that the true nature of the Jay Peak Investors' complaints against the VRC were due to delayed responses to Jay Peak Investor concerns and the unauthorized communication of those concerns to Ariel Quiros and William Stenger.

178. As a result, the VRC's "assistance" in pursuing the Requests came in the form of acquiring Mr. Sutton's approval to forward the Requests to Ariel Quiros or William Stenger. Brent Raymond claimed this was necessary so that the VRC could let the Jay Peak Projects "know that [the VRC] has been contacted by an Investor Representative requesting Regional Center assistance."

179. Remember, out of the blue, Brent Raymond questioned Mr. Sutton's assertion that he represented the group of disgruntled investors. As a result, Brent Raymond had required written authorizations from each investor attesting to Mr. Sutton as their representative. This request came after all of the Jay Peak Investors represented by Mr. Sutton had submitted individual complaints against the Jay Peak Projects to the VRC. It was evident that the VRC was abusing the power of the state to shield its partner, the Jay Peak Projects, rather than protect Jay Peak Investors.

180. In disbelief over Brent Raymond's concocted narrative of improper communication with the Jay Peak Projects, on or about October 10, 2014, Mr. Sutton wrote a detailed

summary of the VRC's oversight failures, in addition to the obstacles the Jay Peak Projects presented to the Jay Peak Investors in acquiring the Requests.

D. ULTIMATELY AND UNWITTINGLY, THE VRC CONCEDES MISLEADING AND DEFRAUDING INVESTORS AND THE ENTIRE STATE OF VERMONT FOR OVER A DECADE

1. With the fraud spiraling out of control, in a last ditch attempt to create cover, the VRC rescinds all prior representations of oversight, financial control, and administration of the Jay Peak Projects

181. On or about October 10, 2014, Patricia Moulton responded to Mr. Sutton's complaint by completely disclaiming all responsibility to the Jay Peak Investors.

182. Unbelievably, Patricia Moulton claimed that the VRC Team did not have legal authority to vet the Jay Peak Projects because the VRC Team "has no authority to rescind seemingly allowable action by [William Stenger] . . . . [and] [n]o basis for determining a violation of the agreements could be found."

183. Continuing, Patricia Moulton claimed that the only reporting required of the Jay Peak Projects "relate[d] to meeting federal EB5 program objectives" and "neither you, nor any of the investors, have identified a violation of any of the federal laws and regulations governing the EB5 program."

184. Finally, Patricia Moulton discounted the Jay Peak Investors' concerns about the misappropriation of their investment by claiming it was "not only unreasonable, but impossible, to expect reporting of where individual dollars are spent in a multi-investor project."

185. In doing so, Patricia Moulton admitted that the VRC's representations of state oversight were complete and utter lies.

186. Such intentional representations, omissions and – ultimately – misrepresentations were repeated to both immigrant investors and would-be investors throughout the marketing of

the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

187. Due to these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

188. In spite of this betrayal from the VRC, Mr. Sutton and the Jay Peak Investors compiled the limited financial documents in their possession, and outlined a detailed complaint of the Jay Peak Projects, highlighting the fraudulent sale of the Penthouse Suites, improper margin loans, and the general misappropriation of Jay Peak Investor funds.

189. Accordingly, on or about November 14, 2014, Mr. Sutton and the Jay Peak Investors submitted this complaint to Raymond James & Associates, Inc., in addition to the VRC.

190. On November 18, 2014, the General Counsel for the VRC, John Kessler, acknowledged receipt of the email notification but, after years of cover-up, indicated no desire to investigate Mr. Sutton's detailed outline of fraud at the Jay Peak Projects.

191. Rather, in consistent fashion, John Kessler only requested Mr. Sutton's permission to forward the complaint to his partners at the Jay Peak Projects.

192. For the next month, the Jay Peak Investors persisted in submitting complaints to Brent Raymond and the VRC Team; all to no avail.

2. The VRC's Partners with the Vermont Department of Financial Regulation in further effort to provide cover, and in further unwitting admission that the VRC provided absolutely none of its promised oversight of Jay Peak for over a decade

193. Within its responsibilities to the Jay Peak Projects, the VRC was supposed to conduct quarterly reviews and site visits to ensure USCIS and SEC compliance and project progress. A quarterly report to ensure USCIS and SEC compliance would reveal whether

or not EB-5 immigrant investor funds are "fully at-risk" and also whether they were being used in accordance with the various Jay Peak Projects' business plans. As such, had the VRC meaningfully followed through on this base level obligation, the fraud at the Jay Peak Projects would have been uncovered. The quarterly compliance reports would have revealed that the EB-5 immigrant investor funds were misappropriated as early as 2008, from the very inception of the Jay Peak Projects and the purchase of Jay Peak Resort by Ariel Quiros.

194. However, throughout its relationship with the Jay Peak Projects, the VRC failed to conduct any quarterly reports.

195. The VRC did not engage in the state oversight marketed to EB-5 businesses and investors alike because the VRC Team acted as the agents for and in concert with the Jay Peak Projects.

196. Until the end, the VRC Team operated wholly to provide cover for its partner, the Jay Peak Projects.

197. Such intentional representations, omissions and – ultimately – misrepresentations were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

198. Due to these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

199. Even as late as July 24, 2014, or thereabouts, in a memorandum to William Stenger and Ariel Quiros, John Kessler demonstrates that they were actively working together to cover up the agency relationship between the VRC and the Jay Peak Projects.

200. However, with Jay Peak Investor complaints and media coverage building, on December 22, 2014, or thereabouts, the DFR and ACCD signed a memorandum of understanding (the "DFR MOU") whereby the DFR became a principal administrator and partner of the VRC to assist the VRC in its responsibilities.

201. With the DFR MOU, the DFR became a full-blown and explicit agent of the ACCD/VRC. In the DFR MOU, the DFR (an entity that is supposed to have independent securities oversight) agreed to assist the ACCD/VRC with marketing, as well as the handling of investigations and formal complaints. Not surprisingly, the DFR failed to act on the prior complaints from Douglas Hulme and the Jay Peak Investors (at least, as discussed herein, until its hand was forced to self-serving preservation by the inquiries from the SEC).

202. Any "independence" that the DFR may have been able to claim was extinguished when it became formal partners with the ACCD in promoting and administering the VRC.

203. Indeed, the DFR's presence further contributed to the fraud perpetrated by their partners at the Jay Peak Projects.

204. In just four (4) months of the DFR's "oversight" of the Jay Peak Projects, they approved – and the VRC promoted – the continuation of the investor raise for the QBurke and AnCBio phases of the Jay Peak Projects. It would later be found that the AnCBio phase of the Jay Peak Project was a complete fraud.

205. Shockingly, after all of the complaints, beginning on or about January 9, 2015, Brent Raymond and the VRC Team approved the Jay Peak Projects to solicit investors for QBurke and AnCBio.

206. Further, the DFR's feigned oversight became apparent as its officials, specifically Deputy Commissioner of Securities, Michael Pieciak (now the current Commissioner of the DFR), asked Brent Raymond – one of the critical players in covering up the Jay Peak Projects' fraud – for a tutorial on basic concepts of job creation and the "at-risk" nature of investor funds inherent to the EB-5 program.

207. Such incompetence was compounded when representatives of the Jay Peak Projects coordinated with the Commissioner of the DFR, Susan Donegan, Michael Pieciak, and other members of the VRC Team to craft private placement memoranda language and offering documents (which included the Jay Peak MOU) to give the false appearance of state oversight and monitoring.

208. Such intentional representations, omissions and – ultimately – misrepresentations were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

209. Due to these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

210. Even with the plethora of Jay Peak Investor complaints and documentation showing wrongdoing, the DFR never exercised any authority to acquire the documents that the Jay Peak Investors had been so desperately seeking. Rather, the DFR merely requested the

Jay Peak Projects supporting documentation to fast-track approvals of the private placement memoranda and readily accepted what the Jay Peak Projects provided to them.

211. Consequently, in April 2015, or thereabouts, the VRC and DFR both willingly approved the Jay Peak Projects to solicit prospective investors for the fraudulent Jay Peak Projects at QBurke and AnCBio.

212. Thus, the VRC and DFR continued promoting its "crown jewel" EB-5 project at Jay Peak with new phases that turned out to be complete frauds.

213. With the Jay Peak Investors in utter shock that the now-two state overseers would continue approving new phases of the Jay Peak Projects, it was only a matter of time until the media caught wind of such egregious misconduct by the State. Thus, the investigative reporters issued public records requests to both the ACCD and DFR; acting as the only form of oversight experienced by the Jay Peak Investors to date.

E. AS MEDIA COVERAGE OF THE VRC TEAM/JAY PEAK PROJECTS FRAUD GREW, THE VRC TEAM BEGAN TO DEPART STATE SERVICE TO AVOID ACCOUNTABILITY BY ACQUIRING HIGH-LEVEL EMPLOYMENT WITH THE VERY EB-5 PROJECTS THEY WERE CHARGED TO REGULATE

214. Utilizing the information acquired through the public records requests, along with the fraudulent marketing materials brazenly left in the public domain by the VRC and Jay Peak Projects (*via* their websites and EB-5 marketing materials), investigative reporters began to piece together the years-long fraud for publication.

215. As the evidence and pressure of the fraud continued to build, the VRC Team members looked to new improper leverage and profit arising from their positions, seeking to gain high-level employment within other VRC EB-5 projects throughout the state.

216. Using the notoriety gained through their Jay Peak Projects involvement, government officers and the VRC Team members began to spin-out of their roles and into lucrative

roles in the private sector, most notably with the very EB-5 projects that they were supposed to be monitoring.

217. As a telling example of the private leverage that drove the VRC Team's complicity with the fraud at the Jay Peak Projects, a top aide to the Governor's office, Alexandra MacLean, departed state service and acquired a senior management position with the Jay Peak Projects.

218. Setting up Alexandra MacLean's lucrative transition, in 2013, then-Governor Shumlin travelled with Jay Peak CEO, William Stenger, to Miami to pitch a new phase of Jay Peak Projects.

219. At a press conference, Governor Shumlin stated his purpose of the trip, as follows: "I'll be going on the road with them to assure investors that when they have choices about what EB-5 program to choose across America – and there's a lot of them – they ought to choose this program in the Kingdom."

220. Further stated by the Governor, "we're the only statewide EB-5 program in the nation, we're the only EB-5 program where the state acts as a sort of auditor in the program, which gives investors added confidence that they're investing in something that is real."

221. As the Governor's office did not have direct responsibility for the Jay Peak Projects, the origins of these statements came from the only state actors who had an actual contract with the Jay Peak Projects – the VRC Team.

222. Upon information and belief, Governor Shumlin's trip was paid for by administrative fees levied on existing EB-5 investors.

223. The Governor's comments in this regard reflect the public face of the VRC and that presented by the VRC Team to other projects, specifically, that the VRC provided

auditing, oversight, and unmatched credibility that would enable a partnering project to raise necessary funds for pre-approved projects.

224. Such intentional representations, omissions and – ultimately – misrepresentations were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

225. Accordingly, due to these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

226. But of course, the VRC Team existed only to promote its self-interest within the Jay Peak Projects and then in seeking lucrative positions within other EB-5 projects.

227. In fact, in early 2015 or thereabouts, Brent Raymond solicited a Vermont EB-5 project (at the Morristown-Stowe State Airport) for a job, but Brent Raymond was rebuffed because of the obvious conflict of interest and breach of general ethics that it would represent. Undeterred by such things, Brent Raymond found employment at Mt. Snow, a ski resort with an active EB-5 project.

F. THE FRAUD AND PARTNERSHIP BETWEEN THE VRC AND JAY PEAK WERE COMPLETELY SHIELDED FROM SCRUTINY UNTIL THE JAY PEAK INVESTORS FORCED THEIR HAND BY SUBMITTING EVIDENCE TO THE U.S. SECURITIES AND EXCHANGE COMMISSION

228. Since the very perpetrators at the VRC departed state service to protect themselves amid the swirling suspicious arising from the release of the public records requests, in July 2016, or thereabouts, Mr. Sutton and the Jay Peak Investors submitted another comprehensive and well-documented complaint to the DFR.

229. However, once again, the DFR was slow to act and did not seek action until September 2016.

230. In spite of Mr. Sutton's comprehensive complaint, the DFR – much like the tactics used by the VRC requiring that each investor "attest" to Mr. Sutton as their representative – requested that each individual investor submit redundant complaints to "follow legal process."

231. However, Mr. Sutton – understandably wary of any Vermont State actor – informed the DFR that he and the aggrieved investors would not only comply with their "legal process," but would also submit their complaint to the SEC.

232. Consequently, with the investor complaints mounting beyond a containable level, a few short months later, in April 2016, the suspicions and complaints of fraud raised by Mr. Sutton -and the Jay Peak Investors, were finally confirmed when the United States Securities and Exchange Commission (again, the "SEC") filed a securities fraud lawsuit (the "SEC Complaint") against Jay Peak developers, Ariel Quiros and William Stenger.

233. The SEC Complaint makes clear that the Jay Peak Projects were mired in long-standing securities fraud, wire fraud, and mail fraud, and it had been for years on end, from the beginning. The SEC Complaint also makes clear that that the Jay Peak Investors and representatives who had been raising concerns were completely ignored and pushed back by the VRC Team, because the VRC was working hand-in-hand within the fraud.

234. Meanwhile, the VRC Team has simply continued as if it were "business as usual."

235. Pat Moulton, whose time as Secretary of the Vermont Agency of Commerce and Community Development ensured the loss of hundreds of millions of dollars, countless

jobs, and the savings of both Vermonters and foreign immigrants alike, quickly found State-appointed work as the President of the Vermont Technical College.

236. Indeed, Michael Pieciak is member of the Vermont State Colleges Board of Trustees – the committee that oversees Vermont's state colleges, including Vermont Technical College.

237. Again, in August of 2015, Executive Director Brent Raymond quickly exited the VRC and took charge of Mt. Snow's EB-5 projects (as director of Peak Resorts' Special Projects)

238. Not surprisingly, Mt. Snow is one of the few projects to receive a green card approval in the wake of the SEC Lawsuit. Once again, with irony too thick for words, DFR Director Pieciak, points to this adjudication with pride, saying "the success of [that adjudication] indicate[e]s that the Vermont EB-5 Regional Center is in business as usual mode with USCIS."

239. And the VRC continues to churn now hand-in-hand with the DFR to disrupt innocent projects, investors, contractors, and would-be complainants before their own culpability can be revealed.

240. Again, the Jay Peak MOU with the VRC have not been cancelled, and William Stenger continues to work at the site of the of the largest EB-5 fraud in history, which he created hand-in-hand with the VRC.

241. The VRC operated as a criminal organization hand-in-hand with a criminal organization. In order to protect those to whom the VRC entity still owes an obligation of cooperation, the VRC needs to be placed into the hands of a receiver who will carry out the VRC's operations according to its contractual and ethical mandates.

242. The history of complaints and of the VRC Team's active promotion of the Jay Peak Projects against the backdrop of exemplary state oversight, makes it absolutely clear that the VRC Team had engaged in both malfeasance and nonfeasance in regard to their celebrated administration and oversight of the Jay Peak Projects in Vermont.

243. Further, the VRC Team's active promotion of the Jay Peak Projects rendered them marketers of securities who did not acquire the proper broker-dealer registrations or exemptions.

244. Additionally, the VRC Team's active promotion included egregious misrepresentations of the VRC's financial oversight to the world-at-large, EB-5 consulting firms, other VRC-based EB-5 projects, and the Jay Peak Investors for years on end.

245. Such intentional misrepresentations and omissions were repeated to both immigrant investors and would-be investors throughout the marketing of the Jay Peak Projects, all in order to induce foreign investors to join the VRC and its crown jewel, the Jay Peak Projects.

246. Due to these actions, behavior, and representations by the VRC, the Jay Peak Investors each left their home countries, liquidated their assets, displaced their families, and turned over their life savings to the fraud at the Jay Peak Projects.

G. THE VRC AND THE DFR ACTED AS BOTH PROMOTER AND REGULATOR, CREATING A CONFLICT OF INTEREST THAT WOULD ENABLE THE LARGEST FRAUD IN EB-5 HISTORY

247. The VRC Team acted simultaneously as both promoter and regulator; an untenable conflict of interest that spawned a years-long cover-up in which the VRC Team – and subsequently the DFR – perpetrated the largest fraud in the history of Vermont, as well as the largest fraud in the history of the EB-5 program.

248. Because of the representations, marketing, and assurances provided by the Defendants' over the course of nearly a decade, the named Plaintiff and countless other immigrant investors put their hard-earned money (a half-million per investor) into the largest fraud in Vermont history, the largest fraud in EB-5 history, and the only fraud to involve a set of state-salaried employees who were working hand-in-hand with the fraudsters.

249. The damages in this cause of action arise out of Defendants administering, promoting, marketing, and, in the end, profiting from the largest EB-5 fraud in history.

250. From the beginning of this fraud, the VRC Team worked hand-in-hand with their Jay Peak partners and principals within its projects that were a complex and high-functioning Ponzi-scheme (the myriad Jay Peak projects are referred to herein as the "Jay Peak Projects").

251. There were no legitimate governmental interests served by the VRC Team's partnership within the Jay Peak Projects; rather, the VRC Team took an active role in the Ponzi-scheme out of self-interest, self-preservation, personal gain, and protection of their Jay Peak partners.

252. The VRC Team's true motivations and role within the Jay Peak fraud are evidenced by years of ignoring investor complaints, as well as attacking and attempting to discredit those who raised issue with the wrongdoing at the Jay Peak Projects and within the VRC. Throughout its tenure, the VRC represented and marketed itself as an effective, independent, and diligent overseer of EB-5 projects.

253. The VRC Team's representations in this regard were commonly accomplished by reference to their "stellar work" with their partners at the Jay Peak Projects.

254. The VRC Team made these representations to inspire entrepreneurial confidence, and to encourage would-be investors to select the VRC as a safe and secure partner in the EB-5 investor world.

255. The VRC Team engaged in no oversight of the Jay Peak Projects and, in fact, the VRC Team acted as agents and partners within those projects (as described in detail herein).

256. Hundreds of investors believed in the fallacies of the VRC Team.

257. At one level the EB-5 program represents a traditional investment in a for-profit endeavor.

258. At the same time, the program represents an opportunity for many to live and work here in the United States.

259. Many of the immigrant investors came from countries that are mired in corruption. For these investors, the EB-5 program involved an opportunity to escape that corruption for themselves and their families.

260. For many, taking part in the EB-5 program involved the liquidation of lifesavings, acclimating children to a new language and culture, and securing employment and schooling in a foreign country.

261. While the immigrant investors were drawn to Vermont by a variety of reasons and from a myriad of backgrounds, they all shared a common center – they were all drawn by the promises of accountability, legitimacy, oversight, and the gold-star standard trumpeted by the VRC Team and its Jay Peak Projects.

262. To these investors, the false promises of the VRC Team and the decade long cover-up up the Jay Peak fraud, have thrown all that they invested and sacrificed into an abyss,

with many of them wondering how long until they and their families are forced out of this country to start over in the countries they left behind.

263. In the end, the Defendants commandeered the VRC and the EB-5 program, prying it from its moorings, and transforming it into an agency that existed for the benefit of the Jay Peak fraud; so much so, that the continuation of the Jay Peak fraud became a necessity for the continuing existence of the VRC, the EB-5 program in Vermont, and the Defendants' jobs within.

264. The VRC Team's motivation to commit wrongful acts, included, but was not limited to: (i) the notoriety gained as the illusory overseers of hundreds of millions of dollars in foreign investor funds, supposedly used to stimulate the economy of Vermont's most economically depressed region; (ii) the desire to hide their wrongdoing in order to protect their high-level state employment, salaries and benefits; and (iii) the protection of their pecuniary interests by gaining lucrative positions and salaries within the State and the very EB-5 projects in which their illusory oversight was to occur.

265. For the VRC Team, the consequences of the fraud and their general and individualized participation were as planned – they enjoyed the travel, wining and dining, side-benefits, free lodging and vacationing at and with Jay Peak, as well as access to the rich and powerful people who ensured not only their protection and promotion while at the VRC but in their careers afterwards. To be clear, while many people have suffered, and while the communities continue to be dragged down the VRC sponsored fraud, not one of the named Defendants or anyone else associated with the VRC and the EB-5 program has faced anything more than a promotion, and a lucrative opportunity (both public and private) in post-VRC life.

266. And again, even in the wake of the fraud revelations, the VRC and DFR continue doing business as usual.

V. THE CLASS SATISFIES THE REQUIREMENTS OF RULES 23(A) AND 23(B)(3) OF THE VERMONT RULES OF CIVIL PROCEDURE

267. In this case, the class satisfies the requirements of the Vermont Rules of Civil Procedure.

268. The Class satisfies the numerosity requirement. There were hundreds of investors in the Jay Peak Projects. The membership of the Class is so numerous as to render joinder impracticable. The precise number of Class members remains indeterminate and can only be ascertained through discovery, but Plaintiffs believe it is in the hundreds.

269. Typicality is also satisfied. The losses suffered by the named Plaintiffs was caused by the same events, patterns of practice, and courses of conduct that give rise to the claims of the other members of Class. The named Plaintiff is a member of the Class and the losses to the named Plaintiff is based on the same legal theories.

270. The common questions requirement is also satisfied as the numerous predominant questions of law and fact that are common to the Class include the following:

a. Whether Defendants are liable for fraud in making statements through memoranda of understanding attached to the Jay Peak Projects' offering documents, through state-sanctioned websites and events, through official statements to the media, at immigrations fairs, and at individual Jay Peak Investor meetings regarding the superior state oversight and financial review to ensure compliance with federal and state law without regard to their truth or falsity;

b. Whether such statements were, alternatively, negligent misrepresentations;

c. Whether the Defendants recklessly or negligently misrepresented, *inter alia*, the services that would be provided by Defendants; the extent and quality of state oversight and financial review; the extent and quality of state approval of the Jay Peak Projects; ongoing risk monitoring, and verification of the appropriation of Jay Peak Investor funds that they would and were performing on the Jay Peak Projects; Defendants' transparency to the Jay Peak Projects and representatives; the unilateral conversion of Jay Peak Investors' equity interests in the Jay Peak Projects by Stenger; the source-and-use of each Plaintiff's monies; and Defendants' qualifications to serve as state overseer and broker-dealer for the Jay Peak Projects;

d. Whether Defendants breached their fiduciary duties to the Plaintiffs;

e. Whether Defendants violated the securities laws by making misrepresentations or material omissions;

f. Whether and to what extent Plaintiffs were damaged by the Defendants misrepresentations and omissions of fiduciary duty;

g. Whether the Defendants were grossly negligent in:

    i. Failing to perform adequate due diligence before selecting the Jay Peak Projects as a partner for the VRC;

    ii. Failing to perform adequate due diligence before promoting the Jay Peak Projects as a sound investment to the world-at-large and Plaintiffs;

    iii. Failing to monitor the Jay Peak Projects on an ongoing basis to any reasonable degree;

iv. Failing to take adequate steps to confirm the Jay Peak Projects' purported accounts, transactions, and appropriation of Jay Peak Investor funds;

v. Failing to conduct adequate due diligence and monitoring with respect to the Jay Peak Projects' compliance with USCIS and SEC laws, rules, and regulations.

vi. Failing to monitor the appropriation of Jay Peak Investor funds;

vii. Failing to follow-up on red flags, as discussed above, that would have caused Defendants to discover that the Jay Peak Projects were conducting a Ponzi-scheme;

viii. Improperly relying on the financial statements of the Jay Peak Projects because, among other things, Defendants were not qualified or able to audit the Jay Peak Projects in accordance with Defendants' previous representations and accepted auditing and oversight standards;

ix. Securing lucrative employment within the State and the various VRC EB-5 projects at the expense of the state oversight promised to Plaintiffs.

h. Whether Plaintiffs are entitled to the imposition of a constructive trust on all monies and other property in the possession of the Defendants which derive from their compensation in the form of administrative fees and other forms of compensation based on Defendants' fraudulent state oversight.

i. Whether Plaintiffs are entitled to an accounting of: (1) the actual investments and transactions done on Plaintiffs' behalf; (2) the standard fees for submitting a Jay Peak Investors' I-526 Petition to the VRC; and (3) the actual amounts taken by Defendants for each Jay Peak Investors' I-526 Petition.

j. Whether Defendants breached their duties and obligations to Plaintiffs by its negligence and gross negligence in state oversight and administration of the Jay Peak Projects by:

i. Failing to perform adequate due diligence before selecting the Jay Peak Projects as a partner for the VRC;

ii. Failing to perform adequate due diligence before promoting the Jay Peak Projects as a sound investment to the world-at-large and Plaintiffs;

iii. Failing to monitor the Jay Peak Projects on an ongoing basis to any reasonable degree;

iv. Failing to take adequate steps to confirm the Jay Peak Projects' purported accounts, transactions, and appropriation of Jay Peak Investor funds;

v. Failing to conduct adequate due diligence and monitoring with respect to the Jay Peak Projects' compliance with USCIS and SEC laws, rules, and regulations.

vi. Failing to monitor the appropriation of Jay Peak Investor funds;

vii. Failing to follow-up on red flags, as discussed above, that would have caused Defendants to discover that the Jay Peak Projects were conducting a Ponzi-scheme;

viii. Improperly relying on the financial statements of the Jay Peak Projects because, among other things, Defendants were not qualified or able to audit the Jay Peak Projects in accordance with Defendants' previous representations and accepted auditing and oversight standards;

ix. Securing lucrative employment within the State and the various VRC EB-5 projects at the expense of the state oversight promised to Plaintiffs.

k. Whether Defendants aided and abetted the Jay Peak Projects' breach of fiduciary duties to Plaintiffs;

l. Whether Defendants aided and abetted the Jay Peak Projects' fraud;

m. Whether Defendants made negligent representations to Plaintiffs regarding the financial oversight, auditing, and financial status of the Jay Peak Projects;

n. Whether Defendants made false representations and omissions in connection with Plaintiffs' purchase of their interests in the Jay Peak Projects.

o. Whether Defendants were a control person liable for those misrepresentations and omissions.

p. Whether Defendants breach their fiduciary duties, by:

i. Failing to exercise due care and diligence in the selection and supervision of the Jay Peak Projects;

ii. Failing to exercise due care and diligence in the selection and supervision of the Jay Peak Projects as sub-custodians;

iii. Failing to make appropriate inquiries to confirm that the Jay Peak Projects' obligations were being competently discharged and discharged in accordance with the Jay Peak MOU;

iv. Failing to take proper steps to confirm information received from the Jay Peak Projects, William Stenger, and Ariel Quiros;

v. Misrepresenting that the Jay Peak Projects was a qualified EB-5 project that met USCIS and SEC laws, rules, and regulations, and misrepresenting

the care that Defendants had taken with respect to the selection and supervision of the Jay Peak Projects;

vi. Carelessly entrusting Plaintiffs' assets and immigration statuses to the Jay Peak Projects;

vii. Profiting at Plaintiffs' expense;

viii. Failing to monitor the Jay Peak Projects on an ongoing basis to any reasonable degree;

ix. Failing to take adequate steps to confirm the accuracy and plausibility of the data received from the Jay Peak Projects and recklessly disseminating the unsubstantiated data to Jay Peak Investors.

q. Whether the Defendants recklessly made false statements to the Jay Peak Investors;

r. Whether the Defendants committed consumer fraud by employing unfair and deceptive practices with regard to Plaintiffs by:

i. Misrepresenting, concealing information, and/or engaging in unfair practices that were likely to mislead and, in fact, did mislead Plaintiffs with regard to the services of state oversight, auditing, and financial monitoring of the Jay Peak Projects;

ii. Inducing Plaintiffs to avail themselves of the VRC for Defendants' benefit by misrepresenting that Plaintiffs would receive exemplary state oversight and services related to their investments in the Jay Peak Projects.

s. Whether Defendants breached an implied contract with Plaintiffs;

t. Similar questions of fact and law common with respect to Plaintiff's claims against other defendants.

271. The class includes all persons who purchased securities under the EB-5 program with the Jay Peak Projects using the services and in reliance upon the Vermont Regional Center and the Defendants, as described herein.

272. The class is so numerous and geographically dispersed that joinder of all members is impracticable except by means of a class action.

273. The Plaintiffs assert claims that are typical of the claims of the entire class. Plaintiffs, like all members of the class, were injured by Defendants' unlawful and deceptive conduct.

274. Plaintiffs will fairly and adequately represent and protect the interests of the class. Plaintiffs have no interest antagonistic to those of the class. Plaintiffs have retained counsel who are competent and experienced in complex litigation.

VI. CAUSES OF ACTION

COUNT 1
FRAUD AGAINST ALL DEFENDANTS

275. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

276. The Defendants falsely represented to the Plaintiffs in connection with their purchase of interests in the Jay Peak Projects that: (i) Plaintiffs' money was going into a legitimate business enterprise, principally relying upon the Defendants' representations regarding the state oversight, administration, management, and overall regulatory compliance of the Jay Peak Peak Projects' development strategy; (ii) that by purchasing their interests under the Defendants' state oversight, administration, management, and overall regulatory

compliance, Plaintiffs were investing in a project with consistent and demonstrable compliance with state and federal law, and the implementation of legitimate business practices and controls; (iii) that by purchasing their interests under the Defendants' state oversight, administration, management and overall regulation, Plaintiffs were investing in a project that was subject to exemplary oversight and compliance standards; (iv) that the Defendants had, did, and would continue to conduct state oversight, administration, management, and overall regulation of the investments with the Jay Peak Projects, and the Defendants would monitor, and verify the investments made by the Jay Peak Investors in the Jay Peak Projects were operated legitimately for the purposes set forth in the offering documents and in accordance with the required legal and regulatory requirements; (v) that the Defendants employed regulatory and auditing oversight of the Jay Peak Projects, and that such oversight indicated a legitimate business enterprise; (vi) that the Defendants possessed and employed governmental and state powers of oversight that far exceeded the oversight powers of alternative investment opportunities; and (vii) that the Jay Peak Projects operations and accounts were audited and monitored by reputable and competent overseers (including State overseers), according to accepted auditing and financial oversight standards, which provided further assurance that the Jay Peak Projects' accounts actually held used investor funds legitimately and were otherwise operated lawfully.

277. The Defendants failed to disclose the following material information, amongst other things, which rendered their representations false and misleading: (i) that the Defendants were not in fact engaging in customary, or even minimal, state oversight, administration, management, and overall regulation to verify that the investment assets were being

properly invested and used by the Jay Peak Projects, or even that the investments were being put to any legitimate use whatsoever; and (ii) the existence and ignoring of numerous red flags regarding the Jay Peak Projects including, *among others*, the lack of transparency and disclosure by the Jay Peak Projects of basic requested financial information, the lack of segregation and misuse of investor funds, inadequate auditing and financial oversight of the Jay Peak Projects, and the demonstrable unattainability of the promised returns for investors in the Jay Peak Projects.

278. The Defendants made these false and misleading representations and omissions knowingly, recklessly, without regard for their truth or falsity, and with the intent to induce Plaintiffs to rely upon them by investing assets in the Jay Peak Projects' securities.

279. When the Defendants made their false statements and committed their omissions, the Defendants knew facts and had access to information suggesting that these public statements were not accurate, and the Defendants failed to check information that they had a purported duty to monitor and which would have demonstrated the falsity of their statements.

280. Plaintiffs justifiably relied upon the false representations made by the Defendants by investing their assets in the Jay Peak Projects.

281. The Defendants' misrepresentations had the added effect of being within the context of an investment vehicle with immigration and financial consequences. Towards this end, as the result of the claimed exemplary state oversight, administration, management, and overall regulation, along with the Defendants' assurances as to the Jay Peak Projects

status as a sound investment, provided the Plaintiffs with further assurances that the Jay Peak Projects represented a safe pathway to permanent residency in the United States.

282. As a direct and proximate result of their reliance upon the false representations and omissions of the Defendants, Plaintiffs have suffered damages, including the loss of their investments in the Jay Peak Projects, and displacement from their home countries by false promises of permanent residency in the United States.

COUNT 2
VIOLATION OF 9 V.S.A. §§ 5501 AND 5509 ET AL. AGAINST ALL DEFENDANTS

283. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

284. This Count is asserted against all Defendants and is based upon Sections 5501 and 5509 of Title 9 of the Vermont Statutes Annotated.

285. The Defendants directly engaged in a common plan, scheme, and unlawful course of conduct, pursuant to which they knowingly or recklessly engaged in acts, practices, and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, practices, and courses of business which operated as a fraud and deceit upon Plaintiffs, and made various deceptive and untrue statements of material facts and omitted to state material facts necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading to Plaintiffs. The purpose and effect of this scheme, plan, and unlawful course of conduct was, among other things, to induce Plaintiffs to subscribe and invest in the Jay Peak Projects.

286. The Defendants, pursuant to said scheme, plan, and unlawful course of conduct, knowingly, and recklessly issued, caused to be issued, participated in the issuance of, the

preparation and issuance of deceptive and materially false and misleading statements to Plaintiffs as particularized above.

287. When they made false statements and committed their omissions, the Defendants knew facts or had access to information suggesting that their public statements were not accurate or recklessly failed to check information they had a duty to monitor and which would have demonstrated the falsity of their statements.

288. The Defendants' motivation to commit wrongful acts, included, but was not limited to: (i) the notoriety gained as the illusory overseers of hundreds of millions of dollars in foreign investor funds, supposedly used to stimulate the economy of Vermont's most economically depressed region; (ii) the desire to hide their wrongdoing in order to protect their high-level state employment, salaries and benefits; and (iii) the protection of their pecuniary interests by gaining lucrative positions and salaries within the State and the very EB-5 projects in which their illusory oversight was to occur.

289. In ignorance of the false and misleading nature of the statements described above and the deceptive and manipulative devices and contrivances employed by the Defendants, Plaintiffs relied, to their detriment, on such misleading statements and omissions in purchasing limited partnership interests in the Jay Peak Projects. Plaintiffs have suffered substantial damages as a result of the wrongs alleged herein.

290. By reason of the foregoing, the Defendants directly violated Sections 5501 and 5509 of Title 9 of the Vermont Statutes Annotated in that they: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances which they were made, not misleading; or (c) engaged in acts, practices,

and a course of business which operated as a fraud and deceit upon Plaintiffs in connection with their investments in the Jay Peak Projects.

COUNT 3
VIOLATION OF SECTION 10(B) AND RULE 10B-5 AGAINST ALL DEFENDANTS

291. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

292. This Count is asserted against all Defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder.

293. The Defendants directly engaged in a common plan, scheme, and unlawful course of conduct, pursuant to which they knowingly or recklessly engaged in acts, practices, and course of conduct, pursuant to which they knowingly or recklessly engaged in acts, practices, and courses of business which operated as a fraud and deceit upon Plaintiffs, and made various deceptive and untrue statements of material facts and omitted to state material facts necessary in order to make the statement made, in light of the circumstances under which they were made, not misleading to Plaintiffs. The purpose and effect of this scheme, plan, and unlawful course of conduct was, among other things, to induce Plaintiffs to subscribe and invest in the Jay Peak Projects.

294. The Defendants, pursuant to said scheme, plan, and unlawful course of conduct, knowingly, and recklessly issued, caused to be issued, participated in the issuance of, the preparation and issuance of deceptive and materially false and misleading statements to Plaintiffs as particularized above.

295. When they made false statements and committed their omissions, the Defendants knew facts or had access to information suggesting that their public statements were not

accurate or recklessly failed to check information they had a duty to monitor and which would have demonstrated the falsity of their statements.

296. The Defendants were motivated to commit wrongful acts by (i) the notoriety gained as the illusory overseers of hundreds of millions of dollars in foreign investor funds, supposedly used to stimulate the economy of Vermont's most economically depressed region; (ii) the desire to hide their wrongdoing in order to protect their high-level state employment, salaries and benefits; and (iii) the protection of their pecuniary interests by gaining lucrative positions and salaries within the State and the very EB-5 projects in which their illusory oversight was to occur.

297. In ignorance of the false and misleading nature of the statements described above and the deceptive and manipulative devices and contrivances employed by the Defendants, Plaintiffs relied, to their detriment, on such misleading statements and omissions in purchasing limited partnership interests in the Jay Peak Projects. Plaintiffs have suffered substantial damages as a result of the wrongs alleged herein.

298. By reason of the foregoing, the Defendants directly violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they: (a) employed devices, schemes, and artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances which they were made, not misleading; or (c) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon Plaintiffs in connection with their investments in the Jay Peak Projects.

COUNT 4
VIOLATION OF SECTION 20(A) AGAINST ALL DEFENDANTS

299. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

300. The Defendants each acted as a controlling person of the Jay Peak Projects within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high level position, participation in and/or awareness of the Jay Peak Projects' operations, and/or intimate knowledge of the Jay Peak Projects' products, sales, accounting, plans and implementation thereof, they had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Jay Peak Projects, including the content and dissemination of the various statements that were false and misleading. The Defendants had the ability to prevent the issuance of the statements or cause the statements to be corrected.

301. The Defendants had direct and supervisory involvement in the day-to-day state oversight, administration, management, and overall regulation of the Jay Peak Projects and, therefore, are presumed to have had the power to control or influence the particular statements giving rise to the securities violations as alleged herein, and exercised the same.

302. By virtue of the position as controlling persons, the Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of the wrongful conduct, Plaintiffs suffered damages in connection with their investments in the Jay Peak Projects and permanent residency within the United States.

COUNT 5
NEGLIGENT MISREPRESENTATION AGAINST ALL DEFENDANTS

303. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

304. Based on their purported unique and special expertise with respect to the EB-5 immigration-based investments generally, and the Jay Peak Projects in particular, the Defendants had a special relationship of trust or confidence with Plaintiffs, which created a duty on the Defendants' part to impart full and correct information to Plaintiffs.

305. The Defendants falsely represented to the Plaintiffs in connection with their purchase of interests in the Jay Peak Projects that: (i) Plaintiffs' money was going into a legitimate business enterprise, principally relying upon the Defendants' representations regarding the state oversight, administration, management, and overall regulation of the Jay Peak Projects' development strategy; (ii) that by purchasing their interests under the Defendants' state oversight, administration, and management, Plaintiffs were investing in a project with consistent and demonstrable compliance with state and federal law, and the implementation of legitimate business practices and controls; (iii) that by purchasing their interests under the Defendants' state oversight, administration, management and overall regulation, Plaintiffs were investing in a project that was subject to exemplary oversight and compliance standards; (iv) that the Defendants had, did, and would continue to conduct state oversight, administration, management, and overall regulatory compliance of the investments with the Jay Peak Projects, and the Defendants would monitor, and verify the investments made by the Plaintiffs in the Jay Peak Projects were operated legitimately for the purposes set forth in the offering documents and in accordance with the required legal and regulatory requirements; (v) that the Defendants employed

regulatory and auditing oversight of the Jay Peak Projects, and that such oversight indicated a legitimate business enterprise; (vi) that the Defendants possessed and employed governmental and state powers of oversight that far exceeded the oversight powers of alternative investment opportunities; and (vii) that the Jay Peak Projects' operations and accounts were audited and monitored by reputable and competent overseers (including State overseers), according to accepted auditing and financial oversight standards, which provided further assurance that the Jay Peak Projects' accounts actually held used investor funds legitimately and were otherwise operated lawfully.

306. The Defendants failed to disclose the following material information, amongst other things, which rendered their representations false and misleading: (i) that the Defendants were not in fact engaging in customary, or even minimal, state oversight, administration, management, and overall regulation to verify that the investment assets were being properly invested and used by the Jay Peak Projects, or even that the investments were being put to any legitimate use whatsoever; and (ii) the existence and ignoring of numerous red flags regarding the Jay Peak Projects including, *among others*, the lack of transparency and disclosure by the Jay Peak Projects of basic requested financial information, the lack of segregation and misuse of investor funds, inadequate auditing and financial oversight of the Jay Peak Projects, and the demonstrable unattainability of the promised returns for investors in the Jay Peak Projects.

307. The Defendants made these false and misleading representations and omissions knowing that Plaintiffs would use and rely upon the representations and omissions for the

particular purpose of determining where and how to invest their assets and, in particular, to decide to invest their assets in the Jay Peak Projects' securities.

308. When the Defendants made their false statements and committed their omissions, the Defendants had access to information suggesting that these public statements were not accurate, and the Defendants failed to check information that they had a purported duty to monitor and which would have demonstrated the falsity of their statements.

309. Plaintiffs justifiably relied upon the false representations made by the Defendants by investing their assets in the Jay Peak Projects.

310. The Defendants knew that the Plaintiffs were potential immigrant investors and understood that they would rely upon the false statements and material omissions for the particular purpose of investing their assets in the Jay Peak Projects.

311. The Defendants' misrepresentations had the added effect of being within the context of an investment vehicle with immigration and financial consequences. Towards this end, as the result of the claimed exemplary state oversight, administration, management, and overall regulation, along with the Defendants' assurances as to the Jay Peak Projects status as a sound investment, provided the Plaintiffs with further assurances that the Jay Peak Projects represented a safe pathway to permanent residency in the United States.

312. As a result of their reliance upon the false representations and material omissions of the Defendants, Plaintiffs have suffered damages, including the loss of their investments in the Jay Peak Projects, and displacement from their home countries by false promises of permanent residency in the United States.

COUNT 6
GROSS NEGLIGENCE/WILLFUL MISCONDUCT AGAINST ALL DEFENDANTS

313. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

314. The Defendants – as state overseers, managers, principal administrators, and overall regulators of the USCIS Immigrant Investor Program in Vermont, and acting as promotional agents with discretionary control over the Jay Peak Projects – had a special relationship with Plaintiffs that gave rise to a duty to exercise due care in the oversight and administration of Plaintiffs' assets in the Jay Peak Projects, and in the selection and monitoring of the Jay Peak Projects' managers and sub-custodians. The Defendants knew or should have known that Plaintiffs were relying on the Defendants to oversee, manage, administer, and ensure the regulatory compliance of the investments entrusted to the Jay Peak Projects with reasonable care, and Plaintiffs did reasonably and foreseeably rely on the Defendants to exercise such care by entrusting their assets to the Jay Peak Projects.

315. The Defendants grossly failed to exercise due care, and acted in reckless disregard of their duties, and thereby injured Plaintiffs. The Defendants failed to exercise the degree of prudence, caution, and good business practice that would be expected of any reasonable state overseer, manager, administrator, and regulator of the Immigrant Investor Program. The Defendants failed to perform the adequate due diligence before selecting the Jay Peak Projects as a partner for the VRC; the Defendants failed to perform the adequate due diligence before promoting the Jay Peak Projects as a sound investment to the world-at-large and the Jay Peak Investors; failed to monitor the Jay Peak Projects on an ongoing basis to any reasonable degree; and failed to take adequate steps to

confirm the Jay Peak Projects purported account statements, transactions, and appropriation of Jay Peak Investor funds.

316. If the Defendants had not been grossly negligent with respect to Plaintiffs' assets invested in the Jay Peak Projects, they would have discovered that the Jay Peak Projects were a fraud, and would not have represented that Plaintiffs invest in the Jay Peak Projects.

317. As a direct and proximate result of Defendants' gross negligence with respect to the state oversight, management, administration, and overall regulation of the Jay Peak Projects, Plaintiffs have lost all, or substantially all, their investment in the Jay Peak Projects, along with the endangerment of Plaintiffs' permanent residency in the United States.

318. By reason of the foregoing, Defendants are jointly and severally liable to Plaintiffs.

319. Because of the outrageous nature of the Defendants' willful and wanton conduct, Plaintiffs are entitled to punitive damages.

COUNT 7
BREACH OF FIDUCIARY DUTY AGAINST ALL DEFENDANTS

320. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

321. The Defendants had substantial discretion and control over the Jay Peak Projects, the marketing of the Jay Peak Projects, and communications to Plaintiffs.

322. This discretion and control gave rise to a fiduciary duty and duty of care on the part of the Defendants to the Plaintiffs.

a. The Defendants occupied a superior position over Plaintiffs with respect to their state oversight, management, administration, control and overall regulation of the Jay

Peak Projects, and had superior access to confidential information about the appropriation of the Plaintiffs' investments and about Ariel Quiros, William Stenger, and the Jay Peak Projects.

b. The Defendants' superior position necessitated that Plaintiffs repose their trust and confidence in the Defendants to fulfill their duties, and Plaintiffs did so by investing in the Jay Peak Projects.

c. The Defendants held themselves out as providing superior state oversight, management, administration, and overall regulation, evincing an understanding that they were the fiduciaries of the Plaintiffs. Plaintiffs reasonably relied on such representations, and trusted the Defendants' purported expertise and skill.

323. Defendants served as the principal administrators of the Immigrant Investor Program in Vermont since June 26, 1997, and state overseers, administrators, managers, and overall regulators of the Jay Peak Projects since December 21, 2006. As the principal state overseers, administrators, managers, and overall regulators, Defendants were responsible for (i) ensuring that Plaintiffs' money was going into a legitimate business enterprise, whereby Plaintiffs principally relied upon the Defendants' representations regarding the state oversight, administration, management, and overall regulatory compliance of the Jay Peak Projects' development strategy; (ii) that by purchasing their interests under the Defendants' state oversight, administration, and management, Plaintiffs were investing in a project with consistent and demonstrable compliance with state and federal law, and the implementation of legitimate business practices and controls; (iii) that by purchasing their interests under the Defendants' state oversight, administration, management and overall regulatory compliance, Plaintiffs were investing in a project that was subject to exemplary oversight and compliance standards; (iv) that the Defendants had, did, and would continue to conduct state oversight, administration, management, and overall

regulation of the investments with the Jay Peak Projects, and the Defendants would monitor, and verify the investments made by the Plaintiffs in the Jay Peak Projects were operated legitimately for the purposes set forth in the offering documents and in accordance with the required legal and regulatory requirements; (v) that the Defendants employed regulatory and auditing oversight of the Jay Peak Projects, and that such oversight indicated a legitimate business enterprise; (vi) that the Defendants possessed and employed governmental and state powers of oversight that far exceeded the oversight powers of alternative investment opportunities; and (vii) that the Jay Peak Projects' operations and accounts were audited and monitored by reputable and competent overseers (including State overseers), according to accepted auditing and financial oversight standards, which provided further assurance that the Jay Peak Projects' accounts actually held used investor funds legitimately and were otherwise operated lawfully.

324. The VRC was and is responsible for the supervision of the Jay Peak Projects in the completion of their duties. Specifically, Defendants recognized their fiduciary duties to Plaintiffs, prospective investors, and the world-at-large in which its various publications included, *inter alia*, assurances of:

a. State Oversight – VRC monitors all EB-5 projects with compliance with USCIS regulations and policy guidance. This partnership reaffirms Vermont's dedication to first-rate regulation and exceptional oversight in all aspects of financial services.

b. Reviews – State officials visit EB-5 projects on a quarterly basis to monitor not only the progress of development, but also to provide any kind of help and support that an EB-5 project may need to further implement the visa program.

c. Pre-approval of Projects – VRC officials must review and pre-approve each and every EB-5 project to utilize the Vermont State Regional Center designation. Upon approval of each EB-5 project, VRC requires the business to enter a "Memorandum of Understanding" with the State which imposes strict covenants and obligations upon the business.

d. Credibility – VRC has a long record of success and takes a long view for multiple successful projects rather than seeking a single lucrative project. Moreover, Vermont's EB-5 programs create jobs right where the policy makers want them, not in a gerrymandered geography linking high and low unemployment areas, but right where the jobs are needed.

325. The Jay Peak MOU, and its various iterations, imposes the strict covenants and obligations on both the VRC and Jay Peak Projects to, *inter alia*, "assist with the oversight, administration, management and overall compliance of the Jay Peak project with legal and regulatory requirements, . . ."

326. The Defendants breached their fiduciary duties to Plaintiffs by failing to conduct adequate state oversight, administration, management, and overall regulation with respect to the Jay Peak Projects' compliance with USCIS and SEC regulations, by failing to monitor the appropriation of investors' funds, by failing to follow-up on red flags that would have caused them to discover that the Jay Peak Projects were conducting a Ponzi-scheme, and by securing lucrative employment within the State and the various VRC EB-5 projects all at the expense of the state oversight promised to Defendants.

327. Plaintiffs have been damaged as a proximate result of these breaches of fiduciary duty and are entitled to damages, and appropriate equitable relief, including an accounting and imposition of a constructive trust.

COUNT 8
THIRD-PARTY BENEFICIARY BREACH OF CONTRACT AGAINST ALL DEFENDANTS

328. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

329. Plaintiffs are third-party beneficiaries of contracts entered by certain Defendants with the Jay Peak Projects, including the Jay Peak MOU and DFR MOU entered into the by the VRC, DFR and William Stenger, evincing a clear intent to benefit the Plaintiffs as limited partners in the Jay Peak Projects, for instance, by including the Jay Peak MOU in the package of Plaintiffs' offering documents and by claiming on its state-operated website that VRC EB-5 projects are "attractive options for foreign investors seeking visas for themselves and their immediate family members."

330. The benefits to Plaintiffs under the Jay Peak MOU between the Jay Peak Projects and VRC were immediate, not simply incidental, in that the Jay Peak Projects' only motivations for executing the Jay Peak MOU were to provide investors with conditional green cards (with a path to permanent residency) and returns on their investments in the Jay Peak Projects.

331. The VRC has been the state overseer, administrator, manager, and overall regulator of the Jay Peak Projects since 2006, and in that capacity, had direct and supervisory involvement in the day-to-day oversight of the Jay Peak Projects.

a. The VRC's duties include ensuring "the management, administration and overall compliance of the Alien Entrepreneur Project organized by Jay Peak with U.S. immigration laws and regulations controlling the investment process and participation in a regional center, and to report upon the activities of the project to ACCD and respond to ACCD inquiries about the project and assist ACCD to comply with its obligations as a regional center with respect to this project[.]"

b. The VRC was to use the Jay Peak Projects' assistance in "providing investment-related and supporting documentation to prospective investors, supplying economic analysis and modeling reports on direct and indirect job creation, defining investment opportunities within the Jay Peak project, and . . . to comply with relevant regulatory or administrative requirements in support of the individual petitions filed with CIS by immigrant investors affiliated with the Jay Peak Project."

c. The Jay Peak Projects were to "further support ACCD's compliance with regional center requirements by providing on a quarterly basis formal written progress reports on its activities, overseas meetings and other relevant efforts within and outside the United States to promote investment in the Jay Peak project . . . . The Quarterly reports will set forth the preceding quarter and year-to-date the number of investors, the status of alien investor capital (in escrow, transfers from escrow to the limited partnership) and activity of the limited partnership in furtherance of the project."

332. The DFR has also served as state overseer, administrator, manager, and overall regulator of the Jay Peak Projects since December 22, 2014. As one of the principal administrators and state overseers of the Jay Peak Projects, the DFR undertook similar responsibilities as the ACCD in joining the VRC.

333. Defendants breached the Jay Peak MOU and DFR MOU by grossly failing to meet the obligations and these agreements to provide competent state oversight, administration, management, and overall regulation of the Jay Peak Projects. They also breached their contracts by receiving and holding benefits and fees based on services not properly performed. Both are liable as third party beneficiaries of those contracts.

COUNT 9
CONSTRUCTIVE TRUST AGAINST ALL DEFENDANTS

334. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

335. The Defendants had a fiduciary relationship with Plaintiffs which included an obligation to ensure that Plaintiffs' investments in the Jay Peak Projects complied with USCIS and SEC laws and regulations, and to perform adequate state oversight, administration, management, and overall regulation as set forth in the Jay Peak MOU, DFR MOU, and Plaintiffs' offering documents.

336. The VRC was compensated by Plaintiffs with fees that were collected as a requirement for each investors' I-526 Petition submitted through the VRC.

337. The VRC was unjustly enriched by the retention of fees that were predicated on the VRC's fictitious state oversight, administration, managements, and overall regulation of the Jay Peak Projects. Plaintiffs are entitled to have a constructive trust imposed on the amount of all monies and other property in the possession of the Defendants which related to fees paid to them on account of fictitious state oversight, administration, management, and overall regulation of the Jay Peak Projects, the amount of which is to be determined.

COUNT 10
MUTUAL MISTAKE AGAINST THE ALL DEFENDANTS

338. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

339. Pursuant to the various MOUs and other agreements with investors, the VRC was paid fee amounts ranging from approximately $1,500.00 to $3,000.00 per each investors' I-526 Petition submitted to the VRC.

340. The VRC was paid those fees under a mutual mistake of the parties as to state oversight, administration, management, and overall regulation of the Jay Peak Projects. In fact, there was no state oversight, administration, management, and overall regulation of the Jay Peak Projects.

341. Plaintiffs' investments and administrative fees were used to pay the foregoing fees to the VRC.

342. Plaintiffs demand recovery of the foregoing fee payments made pursuant to a mutual mistake.

COUNT 11
AIDING AND ABETTING BREACH OF FIDUCIARY DUTY AGAINST ALL DEFENDANTS

343. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

344. As the state overseer, administrator, manager, and overall regulator of the Jay Peak Projects, the VRC was aware of the fiduciary duties owed by the Jay Peak Projects to Plaintiffs as alleged above. The VRC acted with willful blindness or recklessness in conducting its oversight and is thus charged with constructive knowledge that:

a. The Jay Peak Projects had the discretion and control giving rise to a fiduciary duty and duty of care to Plaintiffs.

b. The Jay Peak Projects occupied a superior position over Plaintiffs with respect to their state oversight, administration, management, control, and overall regulation of their assets in the Jay Peak Projects, and had superior access to confidential information about the investment of

Plaintiff's funds and about William Stenger and Ariel Quiros.

c. The Jay Peak Projects superior position necessitated that Plaintiffs repose their trust and confidence in the Jay Peak Projects to fulfill their duties, and that Plaintiffs did so by investing in the Jay Peak Projects.

d. The Jay Peak Projects held themselves out as being subject to superior state oversight, administration, management, and overall regulation, and evinced an understanding that they were fiduciaries of the Plaintiffs. The VRC was further aware that Plaintiffs reasonably and foreseeably relied on such representations, and trusted in the Jay Peak Projects purported expertise and skill of being subject to additional state oversight, administration, managements, and overall regulation.

345. The VRC substantially assisted the Jay Peak Projects by discrediting investors and EB-5 consultants regarding their claims of the misappropriation of investor funds at the Jay Peak Projects, deflecting investor and EB-5 consultant complaints of the misappropriation of investor funds at the Jay Peak Projects, and failing to conduct proper state oversight, administration, management, and overall regulation of the Jay Peak Projects, including the VRC's failure to disclose that the representations made by both state officials and the Jay Peak Projects in their marketing and offering documents could not be relied upon.

346. As a direct and natural result of (a) the Jay Peak Projects' breaches of their fiduciary duties and (b) the VRC's aiding and abetting those breaches, the Plaintiffs have suffered substantial damages.

COUNT 12
AIDING AND ABETTING FRAUD AGAINST ALL DEFENDANTS

347. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

348. As alleged above, a fraud was perpetrated on Plaintiffs by the Jay Peak Projects.

349. The VRC acted with willful blindness or recklessness in conducting its state oversight, administration, management, and overall regulation of the Jay Peak Projects and is thus charged with constructive knowledge that:

a. The Jay Peak Projects falsely represented to Plaintiffs in connection with their investment in the Jay Peak Projects and/or equity interests in the Jay Peak limited partnership that: (i) the Jay Peak Projects would invest their monies in accordance with USCIS and SEC laws and regulations, principally relying on the representations of state oversight, administration, management, and overall regulation of the Jay Peak Projects; (ii) that by relying on these representations, the Jay Peak Projects were a sound investment that had a 100 percent issuance rate of conditional green cards for immigrant investors; (iii) that the VRC would conduct state oversight, administration, management, and overall regulation by obtaining quarterly reports from the Jay Peak Projects in order to monitor and verify the appropriation of investor funds in accordance with their Jay Peak offering documents, and to confirm that the Jay Peak Projects were operated legitimately, using the stated representations of state oversight, administration, management, and overall regulation of the Jay Peak Projects, and in accordance with the relevant legal and regulatory requirements.

b. The Jay Peak Projects failed to disclose the following material information, among other things, which rendered their representations false and misleading: (i) that the VRC was in fact not engaging in customary, or even minimal state oversight, administration, management, and overall regulation to verify that the Plaintiffs' monies were being properly appropriated and managed by William Stenger, Ariel Quiros, and the Jay Peak Projects, or that the monies still existed; and (ii) the existence of numerous red flags regarding the Jay Peak Projects including, *among others*, the lack of transparency and disclosure by the Jay Peak Projects of basic requested financial information, the lack of segregation and misuse of investor funds, inadequate financial monitoring of the Jay Peak Projects, and the demonstrable unattainability of the promised returns for investors in the Jay Peak Projects.

c. The VRC induced investors to hold their positions in the Jay Peak Projects by falsely representing to Plaintiffs that: (i) the VRC had conducted due diligence and exercised state oversight, administration, management, and overall regulation of the Jay Peak Projects' operations and determined that those operations were legitimate, and relied upon the continued representations of state oversight and administration of the Jay Peak Projects, and had a long track record of achieving conditional green cards for immigrant investors; (ii) Plaintiffs' monies invested in the Jay Peak Projects would, in turn, be appropriated in accordance with USCIS and SEC laws and regulations due to the state oversight and administration; (iii) the VRC would monitor the funds invested by the Plaintiffs in the Jay Peak Projects operated by William Stenger and Ariel Quiros, and in accordance with the Jay Peak MOU, and further that the VRC would verify the Jay Peak Projects' transactions, including that the investor monies were properly appropriated in accordance to the Jay Peak Projects' offering documents and USCIS and SEC laws and regulations; (iv) the due diligence and state oversight, and the administrative, managerial, and overall regulatory processes employed by the VRC was so through as to be privileged in providing total transparency to all aspects of the Jay Peak Projects' operations, which allowed the VRC to assure that the Plaintiffs' monies invested with the Jay Peak Projects were being actually and legitimately appropriated; and (v) that the Jay Peak Projects' operations and accounts were overseen and audited by reputable, state or independent overseers utilizing appropriate and accepted accounting and auditing procedures, which provided further assurance that the Plaintiffs' monies invested with the Jay Peak Projects were properly appropriated and were otherwise operated lawfully.

d. The VRC made representations knowing that they were false in that: (i) the VRC did not, in fact, conduct thorough or appropriate due diligence of, nor exercise proper state oversight, administration, management, and overall regulation of the Jay Peak Projects and its operations, and had not determined that the Jay Peak Projects had properly appropriated Plaintiffs' monies, or verified the evidence to support the long track record of achieving conditional green cards for immigrant investors; (ii) the Jay Peak Projects did not properly appropriate investors monies to ensure

compliance with USCIS and SEC law and regulations due to state oversight and administration; (iii) the VRC did not intend to provide state oversight, administration, management, and overall regulation of the funds invested by the Plaintiffs in the Jay Peak Projects operated by William Stenger and Ariel Quiros, and in accordance with the Jay Peak MOU, and further that the VRC did not intend to verify the Jay Peak Projects' transactions, including that the investor monies were properly appropriated in accordance to the Jay Peak Projects' offering documents and USCIS and SEC laws and regulations; (iv) the due diligence and state oversight, administrative, managerial, and overall regulatory processes employed by the VRC was non-existent, much less thorough as to be privileged in providing total transparency to all aspects of the Jay Peak Projects' operations, and thus did not allow the VRC to assure that the Plaintiffs' monies invested with the Jay Peak Projects were being actually and legitimately appropriated; and (v) that the Jay Peak Projects' operations and accounts were not overseen nor audited by reputable, state or independent overseers utilizing appropriate and accepted accounting and auditing procedures, and thus did not provide further assurance that the Plaintiffs' monies invested with the Jay Peak Projects were properly appropriated and were otherwise operated lawfully.

350. The VRC substantially assisted the Jay Peak Projects by discrediting Plaintiffs and EB-5 investors and consultants regarding their claims of the misappropriation of investor funds at the Jay Peak Projects, deflecting Plaintiff and EB-5 investor and consultant complaints of the misappropriation of investor funds at the Jay Peak Projects, and failing to conduct proper state oversight, administration, management, and overall regulation of the Jay Peak Projects, including the VRC's failure to disclose that they representations made by both state officials and the Jay Peak Projects in their marketing and offering documents could not be relied upon.

351. As a direct and natural result of (a) the Jay Peak Projects' fraudulent scheme and (b) the VRC's aiding and abetting that fraudulent scheme, the Plaintiffs have suffered substantial damages.

COUNT 13
NEGLIGENCE AGAINST ALL DEFENDANTS

352. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

353. In providing state oversight, administrative, managerial, and overall regulatory services to the Jay Peak Projects, Defendants had a special relationship with Plaintiffs that gave rise to a duty to exercise due care in the performance of its duties. Defendants knew or should have known that Plaintiffs were relying on it to exercise reasonable care in providing state oversight, administrative, managerial, and overall regulatory services to the Jay Peak Projects, and Plaintiffs did reasonably and foreseeably rely on Defendants to exercise such care by investing in the Jay Peak Projects.

354. Defendants negligently failed to exercise due care in its role as state overseer, administrator, manager, and overall regulator, and failed to exercise the degree of prudence, caution, and good business practice that would be expected of any reasonable state overseer, administrator, manager, and overall regulator of the Jay Peak Projects.

355. Plaintiffs have been damaged as a proximate result of Defendants gross negligence.

COUNT 14
UNJUST ENRICHMENT AGAINST ALL DEFENDANTS

356. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

357. This Count is asserted against all Defendants.

358. The Defendants all benefitted from their unlawful acts and omissions and breached their fiduciary duties to Plaintiffs. These unlawful acts and omissions and fiduciary breaches caused Plaintiffs to suffer injury and monetary loss.

359. As a result of the foregoing, it is unjust and inequitable for the Defendants to have enriched themselves through the collection of fees for their services.

360. Equity and good conscience require that Defendants disgorge all such unjust enrichment and that Defendants should pay the amounts by which they were unjustly enriched to Plaintiffs in an amount to be determined at trial.

361. Plaintiffs seek restitution from these Defendants, and seek an order of this Court disgorging all profits, benefits, and other compensation obtained by Defendants from their wrongful conduct and fiduciary breaches.

362. Plaintiffs are entitled to the establishment of a constructive trust impressed upon the benefits derived by the Defendants from their unjust enrichment and inequitable conduct.

COUNT 15
CONSUMER FRAUD – UNFAIR AND DECEPTIVE ACTS & VIOLATION OF THE CONSUMER FRAUD ACT - 9 V.S.A. §§ 2451, ET AL.

363. Plaintiffs incorporate the allegations throughout this Complaint as if fully set forth hereunder.

364. Defendants made misrepresentations, concealed information, and engaged in unfair practices that were likely to mislead and, in fact, did mislead Plaintiffs with regard to the services of state oversight, administration, management, and overall regulation of the Jay Peak Projects.

365. Specifically, in order to induce Plaintiffs to avail themselves of the VRC for Defendants' benefit, the Defendants represented that Plaintiffs would receive exemplary

state oversight, administrative, managerial, and overall regulatory services related to their investments in the Jay Peak Projects.

366. Plaintiffs reasonably interpreted the Defendant's misrepresentations in this regard, and continued to provide investments and administrative fees for the Defendants' benefit.

367. The misleading effect of Defendants' misrepresentations, willful omissions, or fraudulent practices were material because they affected Plaintiffs' decision to select the VRC and Jay Peak Projects as a sound investment in reliance upon the promises as to the services of state oversight, administration, management, and overall regulation of the Jay Peak Projects.

368. The Defendants' misrepresentations, willful omissions, or fraudulent practices were made with wanton disregard for the rights of Plaintiffs.

369. As a result, Plaintiffs suffered and continue to suffer harm and damages.

COUNT 16
BREACH OF IMPLIED CONTRACT AGAINST ALL DEFENDANTS

370. The foregoing paragraphs are realleged herein.

371. Defendants' representations, acts, and course of conduct evinced an agreement to provide state oversight, administration, management, and overall regulation of the Jay Peak Projects.

372. Plaintiffs provided fees and other good and valuable consideration in order to secure the state oversight, administration, management, and overall regulation that Defendants failed to provide.

373. All conditions precedent to provide state oversight, administration, management, and overall regulation of the Jay Peak Projects have been met.

374. By failing to provide the state oversight, administration, management, and overall regulation of the Jay Peak Projects to Plaintiffs, Defendants have breached the agreement between the parties.

375. Defendants received good and valuable consideration for the benefit of would-be and actual investors, in order to provide the promised services in the state oversight, administration, management, and overall regulation of the Jay Peak Projects, along with the promise to shepherd the immigrant investors through their investment processes.

376. Defendants utterly failed to provide these services and perform these services and obligations on behalf of the Plaintiffs.

377. As a result, Plaintiffs have suffered and continue to suffer harm and damages.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request the following:

1. Certification of this action as a class action proper and maintainable pursuant to Rules 23(a) and 23(b)(3) of the Vermont Rules of Civil Procedure and declaration of the proposed named Plaintiffs as proper Class representatives;
2. Such preliminary and permanent equitable relief, including imposition of a constructive trust, as is appropriate to preserve the assets wrongfully taken from Plaintiffs;
3. Compensatory, consequential, and general damages in an amount to be determined at trial;
4. Disgorgement and restitution of all earnings, profits, compensation and benefits received by Defendants as a result of their unlawful acts and practices;

5. Punitive damages for each claim to the maximum extent available under law on account of the outrageous nature of Defendants' willful and wanton disregard for Plaintiffs' rights;
6. Award treble damages under 9 V.S.A. §§ 2453 and 2461 in an amount to be determined at trial;
7. Costs and disbursements of the action;
8. Pre- and post-judgment interest;
9. Reasonable attorneys' fees; and
10. Such other relief as this Court deems just and proper

VII. JURY TRIAL DEMANDED

Plaintiffs hereby demand a jury trial on all issues so triable.

Dated: June 12, 2017
Stowe, Vermont

Respectfully Submitted,

Barr Law Group

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