

145. Wachovia and Best chose to ignore repeated clear indications of money laundering activities, including evidence of structured transactions, and unusual concentrations of funds in accounts with no reasonable explanation requested from or provided by the customer, Nadel.

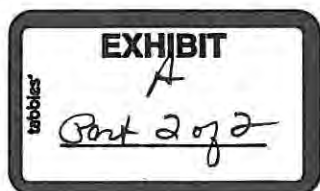
Failing to Audit Dormant Accounts

146. On June 10, 2005, Wachovia sent a letter to Nadel stating that the d/b/a Viking Fund shadow account had been dormant for some time. In the letter, the Bank asked Nadel to confirm that he was the rightful owner of the account, sign it and return it. Nadel waited three months before responding to the letter, finally signing and returning it to the Bank on September 10, 2005.

147. Pursuant to the Federal Financial Institutions Examination Council's 2005 Bank Secrecy Act Anti-Money Laundering Examination Manual, p. 37 (June 2005) ("FFIEC 2005 BSA/AML Manual"), there is a requirement for ongoing due diligence after an account is opened, thereby necessitating a review of accounts for dormancy. It is unknown whether Wachovia thoroughly investigated this account or took any action beyond issuing the above-described letter to Nadel. In accepting Nadel's individual response, and not requiring direct permission from Viking Fund for Nadel to claim rightful ownership of the account, despite Wachovia's knowledge of Viking Fund's true status, Wachovia willfully ignored the discrepancy and allowed Nadel to continue his criminal enterprise.

Ignoring Nadel's Background

148. Nadel was disbarred by the New York Supreme Court in 1982 for engaging in "dishonesty, fraud, deceit and misrepresentation." He had stolen \$50,000 from a client's escrow account to pay off a loan shark to whom a friend owed money. He subsequently spent several



years playing piano in bars around Sarasota. By 1995, he had divorced his fourth wife and claimed destitution. Sarasota public records reflected approximately eight judgments entered against him for failure to pay money owed to creditors. By 1999, Nadel had given himself a makeover and repositioned himself as a hedge fund manager and investment advisor. There is no evidence that he had any formal business training. Despite knowing this, Wachovia welcomed him and his accounts with open arms.

149. According to the FFIEC 2005 BSA/AML Manual, Appendix F (Money Laundering and Terrorist Financing "Red Flags"), a customer having a background that differs from that which would be expected on the basis of his business activities is considered a "potentially suspicious activity that may indicate money laundering." When the Bank performed its due diligence and performed a background check on Nadel at the time of his opening the Scoop Real Estate shadow account in September 2007, the Bank would have identified the above facts, and confirmed that Nadel did not fit the description of a person who would be managing and/or advising several multi-million dollar hedge funds – the very purpose for which he supposedly opened the Wachovia shadow accounts. Subsequent to the opening of the Scoop Real Estate shadow account, Wachovia was required to perform ongoing due diligence in accordance with the FFIEC 2005 BSA/AML Manual. In addition, as outlined below in Paragraphs 167 to 173, Wachovia and Best received and reviewed detailed personal financial information regarding Nadel in connection with the Bank's loaning of money to Nadel, Scoop Real Estate and Laurel Preserve, LLC, which provided additional insight into Nadel's background.

Profiting by Investing in Scoop Real Estate and Viking Fund

150. On March 26, 2007, Wachovia participated in an investment in Scoop Real Estate in the amount of \$200,000. In connection with this investment in Scoop Real Estate, Wachovia had heightened knowledge of Nadel and the Hedge Funds. Specifically, the Bank would have been provided a copy of the Fund's PPM and partnership agreement, thereby providing the Bank an additional opportunity to know that: a) the Hedge Fund held an "official" account at Northern Trust Bank, as investors were instructed to wire investment deposits to that account and they received payments of their purported principal or investment gains from that account; b) the Hedge Fund's performance statements conflicted wildly with the S&P index and the state of the real estate market; and c) that Scoop Capital, which held its own account at Wachovia, was the General Partner for Scoop Real Estate.

151. The Bank confirmed its knowledge of the fact that Scoop Real Estate held an "official" account at Northern Trust Bank by wiring the investment deposit directly into that account (number 0000760624) on March 26, 2007, and subsequently receiving its distribution from that same account on July 16, 2008.

152. Prior to participating in this investment, Wachovia did not request or review any audited performance statements for Scoop Real Estate. Rather, Wachovia asked for audited statements *after* participating in the Scoop Real Estate investment, which it never received.

153. As an experienced financial institution, Wachovia was in a position to know that the Fund's performance statements, copies of which it personally received, were too good to be true. For the 35 months prior to Wachovia's investment participation, Scoop Real Estate reported only one month with a negative return (barely negative, at -0.25%). During that same period, the S&P index had 11 months of negative returns. For the approximately 16 months

during which Wachovia participated in the Scoop Real Estate investment, the Fund did not report a single month with a negative return. For the same period, the S&P index had 8 months of negative returns.

154. During the time period that Wachovia participated in the Scoop Real Estate investment, the real estate market, which had been softening since 2005, experienced a major downturn. In March 2007, just one month prior to Wachovia's participation in the Scoop Real Estate investment – a Fund supposedly focused on real estate investments -- the subprime mortgage industry collapsed. At a time when investors were avoiding the real estate market like the plague, Wachovia actually invested. For the 16 months that Wachovia participated in the Scoop Real Estate investment, the investment enjoyed a profitable return.

155. On March 26, 2007, Wachovia also participated in an investment in Viking Fund in the amount of \$250,000. One month later, on April 27, 2007, the Bank contributed another \$100,000 towards this investment for a total investment of \$350,000. In connection with the Viking Fund investment, Wachovia would have been provided a copy of the Fund's PPM and partnership agreement, thereby providing the Bank an opportunity to know that: a) the Hedge Fund held an "official" account at Northern Trust Bank, as investors were instructed to wire investment deposits to that account; and b) the Moodys were the sole principals of Viking Fund.

156. The Bank confirmed its knowledge of the fact that Viking Fund held a legitimate account at Northern Trust Bank by wiring both investment deposits directly into that account (number 0000750928) on March 26, 2007 and April 27, 2007, respectively, as instructed by principal Chris Moody.

157. The Bank confirmed its knowledge that Chris Moody was a principal of Viking Fund by corresponding with him directly regarding the Bank's investment in the Hedge Fund.

158. Prior to its participation in the Viking Fund investment, Wachovia did not request or review any audited performance statements for Viking Fund. Rather, Wachovia asked for audited statements *after* participating in the Viking Fund investment, which it never received.

159. As an experienced financial institution, Wachovia was in a position to know that the Funds' performance statements, copies of which it personally received, were too good to be true. For the 63 months prior to Wachovia's participation in the investment, Viking Fund reported only one month with a negative return (barely negative, at -0.31%). During that same period, the S&P index reported 22 months of negative returns. For the approximately 21 months during which Wachovia participated in the investment in Viking Fund, the Fund did not report a single month with a negative return. For the same period, the S&P index had 11 months of negative returns. For the 18 months that Wachovia participated in the Viking Fund investment, the investment enjoyed a profitable return.

160. In 2008, after approximately 18 months of participating in investments in Scoop Real Estate and Viking Fund, the Bank received false profits in the aggregated amount of \$426,610.55, which were distributed to Wachovia from Scoop Real Estate's and Viking Fund's "official" accounts at Northern Trust Bank.

161. Even a cursory examination by Wachovia of the Hedge Funds and shadow accounts would have revealed Nadel's illegal and fraudulent activities.

Reinvesting in Viking Fund

162. On December 26, 2007, a Wachovia employee within the Fund Structured Products division e-mailed Chris Moody to inform him that the Bank wanted to invest an additional \$500,000 in Viking Fund for January 2008. The Bank asked for performance statements for both, Viking Fund and Scoop Real Estate, from September 2007 to the date of the

request, explaining that the Bank had not received performance statements for its investments in some time. The fact that Wachovia waited months to address the missing performance statements indicates that the Bank was inexplicably unconcerned about receiving any details regarding these investments up to that point in time, especially since the investments were in the process of earning false profits in the aggregated amount of \$426,610.55.

163. This reinvestment consideration provided Wachovia heightened knowledge of Nadel and the Hedge Funds, as well as an additional opportunity to know that: a) there were innocent decision-makers associated with the Fund to whom it could have reported the many instances of illegal activity; b) the Hedge Funds held "official" accounts at Northern Trust Bank, as investors were instructed to wire investment deposits to those accounts; (c) the Moodys were the sole principals of Viking Fund; and d) the Funds' performance statements conflicted with all appropriate indices.

164. As an experienced financial institution, Wachovia was in a position to know that the Funds' performance statements were too good to be true. For the 63 months prior to Wachovia's participation in the investment, Viking Fund reported only one month with a negative return (barely negative, at -0.31%). During that same period, the S&P index reported 22 months of negative returns. For the approximately 21 months during which Wachovia participated in the Viking Fund investment, the Fund did not report a single month with a negative return. For the same period, the S&P index had 11 months of negative returns. Despite Wachovia's initiation of discussions regarding an additional investment, there is no evidence that Wachovia followed through and invested any additional amount of money in Viking Fund after receiving false profits from the original investments in Scoop Real Estate and Viking Fund.

165. Additionally, Wachovia's knowledge of the "official" Northern Trust Bank accounts and the Moodys' roles as principals should have triggered an investigation of how or whether Nadel was authorized to do business as Viking Fund, and why he set up a shadow account under that Fund's name, yet Wachovia took no action whatsoever.

Lending to Nadel for Real Estate Transactions Despite Knowledge of Personal Net Worth

166. A third example of Wachovia's intimate involvement with Nadel and his scheme (the first being the management of bank accounts, and the second being the Bank's participation in investments in the Hedge Funds) is Wachovia's lending of money to Nadel on at least four separate occasions, either personally or via Scoop Real Estate and Laurel Preserve, LLC. See *supra* note 6.

167. On June 29, 2001, Wachovia funded a mortgage loan in the amount of \$180,000 to Nadel in connection with his home located at 3966 Country View Drive, Sarasota, Florida ("Nadel Home"). See *supra* note 5. Upon executing this mortgage loan, Wachovia received a security interest in the Nadel Home. The Bank also collected and received mortgage payments from Nadel pursuant to the terms of the mortgage loan. See Schedule of Fraudulent Transfers for Mortgage Loans, attached hereto as "Exhibit A." When Wachovia performed its due diligence and reviewed Nadel's loan application to determine whether to fund this loan, all of the aforementioned indicia of fraud surrounding Nadel were known to the Bank.

168. On January 4, 2005, Wachovia funded a mortgage loan in the amount of \$1,747,250 to Scoop Real Estate in connection with property located at 100 34th Street North, St. Petersburg, Florida ("BB&T Property"). Upon executing this mortgage loan, Wachovia received a security interest in the BB&T Property. The Bank also collected and received mortgage payments from Scoop Real Estate pursuant to the terms of the mortgage loan. By

issuing this mortgage loan, Wachovia injected further money into Nadel's Ponzi scheme, as the property was leased to BB&T Bank, which paid in excess of \$13,000 per month to Scoop Real Estate pursuant to a lease agreement. When Wachovia performed its due diligence and reviewed Scoop Real Estate's loan application to determine whether to fund this loan, all of the aforementioned indicia of fraud surrounding this Fund and Nadel himself were known to the Bank.

169. On May 3, 2005, Wachovia funded a mortgage loan in the amount of \$2,655,000 to Scoop Real Estate in connection with investment property located at 841 South Main Street, Graham, North Carolina ("Rite Aid Property"). Upon executing this mortgage loan, Wachovia received a security interest in the Rite Aid Property. The Bank also collected and received mortgage payments from Scoop Real Estate pursuant to the terms of the mortgage loan. By issuing this mortgage loan, Wachovia injected further money into Nadel's Ponzi scheme, as the property was leased to Rite Aid Pharmacy, which paid in excess of \$33,000 per month to Scoop Real Estate pursuant to a lease agreement. When Wachovia performed its due diligence and reviewed Scoop Real Estate's loan application to determine whether to fund this loan, all of the aforementioned indicia of fraud surrounding this Fund and Nadel himself were known to the Bank.

170. The Office of the Comptroller of the Currency's 1998 Real Estate and Construction Lending Handbook ("OCC's Real Estate and Construction Lending Handbook") states that "clear and measurable [real estate loan] underwriting standards should be included in the [loan] policy to guide the lending staff when evaluating all of the credit factors associated with a loan, including:

- The capacity of the borrower, or income from the underlying property, to adequately service principal and interest on the debt...

- The overall creditworthiness of the borrower, including the demands of supporting other projects.
- The ‘hard equity.’ in the form of cash or unencumbered equity in the property, that is required to be invested by the borrower...

Office of the Comptroller of the Currency, Real Estate and Construction Lending Handbook, p. 6 (March 1998).

171. On May 2, 2008, Wachovia funded an interest-only mortgage loan to Laurel Preserve, LLC (“Laurel Preserve”) – a North Carolina limited liability company formed by Nadel in February 2006 – in the amount of \$1,900,000 in connection with 420 acres of property located near Asheville, North Carolina in Buncombe and McDowell counties (“Laurel Mountain Property”). Best facilitated and participated in the funding of this mortgage loan. Upon executing this mortgage loan, Wachovia received a security interest in the Laurel Mountain Property. The Bank also collected and received mortgage payments from Laurel Preserve pursuant to the terms of the mortgage loan.

172. In a letter dated February 15, 2008, Wachovia and Best confirmed that, in determining whether to fund this loan, they had reviewed Nadel's personal financial information. This review, in addition to the performance of Wachovia and Best's other due diligence requirements, afforded the Bank and Best an additional opportunity to look behind the curtain and see Nadel's true background – a man who, without any financial training or expertise, went from the basement to the boardroom practically overnight. The same correspondence also confirms Wachovia and Best's knowledge of an outstanding loan for \$900,000 owed on the same property to BB&T. The OCC's Real Estate and Construction Lending Handbook states that:

Evaluating the Borrower in a Construction Loan: Since the actual value of the real estate is questionable until the project is completed, a bank should assess the borrower's overall financial strength and development expertise, i.e., whether or not the borrower can complete the project within budget and according to

construction plans. A bank must assess the borrower's development expertise... Before a construction loan agreement is entered into, a bank should investigate the character, expertise and financial standing of all parties involved. A bank's documentation files should include background information concerning reputation, work and credit experience, and financial statements (preferably audited) for at least the three most recent fiscal years... If a bank makes a loan without performing the proper due diligence, it violates the safety and soundness standards in the banking industry.

Office of the Comptroller of the Currency, Real Estate and Construction Lending Handbook, p. 14 (March 1998).

173. There is no legitimate explanation for Wachovia and Best's failure to act or their decision to issue the mortgage loan to Nadel and Laurel Preserve after determining their credit worthiness.

Allowing the Commingling of Monies Across Hedge Fund Wachovia Accounts

174. On multiple occasions and without any apparent business reason, Wachovia and Best allowed, facilitated, and executed the transfer of money from one Hedge Fund's Wachovia account into another unrelated Hedge Fund's Wachovia account. *See* Schedule of Fraudulent Transfers Into and Across Wachovia Shadow Accounts, attached hereto as "Exhibit B." In violation of Wachovia's requirements under banking regulations and laws, the Bank and Best failed to take action regarding the unusual trends or patterns of Nadel's transfers across the shadow accounts. The Bank's fraud detection systems would have been triggered by all of these transactions because of the dollar amounts at issue, thereby providing the Bank and Best an opportunity to review them and detect that each transfer was, in fact, fraudulent and unlawful.

175. According to the FFIEC 2005 BSA/AML Manual, Appendix F, unusual transfers of funds occurring among related accounts or among accounts that involve the same or related principals are considered a "potentially suspicious activity that may indicate money laundering."

Federal Financial Institutions Examination Council, 2005 Bank Secrecy Act Anti-Money Laundering Examination Manual, p. 287 (June 2005).⁷ As discussed in the corresponding section below, the Manual also states that numerous large, round dollar, hundred dollar, or thousand dollar transfers, such as these, are also considered suspicious. Almost all of the transfers made by Nadel were in large rounded denominations. The transfers included the following:

Date	From	To	Amount
03.25.03	Victory Fund, Ltd. Wachovia Acct. 2000706764790	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$500,000
03.31.03	Victory Fund, Ltd. Wachovia Acct. 2000706764790	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$400,000
04.06.05	Victory Fund, Ltd. Wachovia Acct. 2000706764790	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$1,900,000
01.07.08	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	Victory Fund, Ltd. Wachovia Acct. 2000706764790	\$1,400,000
12.03.08	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$350,000

176. Additionally, because Wachovia participated in an investment in Viking Fund, received the corresponding PPM, and had a working relationship with Fund Vice President and principal Chris Moody, the Bank and Best were aware that Scoop Capital was not an officer, director, principal, managing member or partner of the three Hedge Funds created by the Moodys – Valhalla Investment, Viking Fund and Viking IRA. Nevertheless, Wachovia and Best

⁷ Comptroller of the Currency, Admin. of Nat'l Banks, Bank Secrecy Act/Anti-Money Laundering Handbook, p. 12, 14 (Sept. 2000) for transactions occurring in 2003 and 2005; Federal Financial Institutions Examination Council, 2006 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-2, F-3 (2006) for transactions occurring in 2006 and 2007; and Federal Financial Institutions Examination Council, 2007 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-3 (2007) for transactions occurring on or after August 4, 2007.

executed Nadel's transfer of money between the Scoop Capital account and the shadow accounts he created for Valhalla Investment and Viking Fund, as well as their corresponding Goldman Sachs trading accounts, including the following:

Date	From	To	Amount
06.28.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$700,000
06.29.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$800,000
07.11.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$950,000
07.17.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$400,000
07.17.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$400,000
07.18.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$750,000
10.04.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$1,100,000
10.15.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$400,000
10.17.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$300,000
01.04.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$1,500,000

01.11.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$350,000
04.10.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$1,000,000
07.07.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$2,000,000
07.11.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$1,600,000
07.24.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Scoop Capital, LLC Wachovia Acct. 2000712702157	\$460,000
07.28.08	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$260,000
08.14.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Viking Fund Goldman Sachs Acct.	\$1,400,000
08.28.08	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	Scoop Capital, LLC Wachovia Acct. 20007127021575110	\$800,000
10.10.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Viking Fund Goldman Sachs Acct.	\$700,000
10.15.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Viking Fund Goldman Sachs Acct.	\$2,100,000
10.16.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Viking Fund Goldman Sachs Acct.	\$650,000
12.05.08	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	Scoop Capital, LLC Wachovia Acct. 2000712702157	\$50,000

177. Nadel commingled the assets and accounts of the Hedge Funds with the assets of his own securities trading accounts, a fact known to Wachovia and Best based on its knowledge of the shadow accounts held by Nadel at the Bank.

Allowing Wire Transfers from Trading Accounts to Non-Matching Shadow Accounts

178. On multiple occasions, Wachovia and Best allowed Nadel to transfer money from Goldman Sachs trading accounts to Wachovia shadow accounts that did not match. Goldman Sachs' policy is to prohibit the transferring of money between a trading account and bank account when the two account names are not identical. In violation of Wachovia's requirements under banking regulations and laws, the Bank and Best failed to take action regarding unusual trends or patterns in transfers from trading accounts to non-matching shadow accounts. The Bank's fraud detection systems would have been triggered by all of these transactions because of the dollar amounts at issue, thereby providing the Bank and Best an opportunity to review them and detect that each transfer was, in fact, fraudulent and unlawful. According to the FFIEC 2007 BSA/AML Manual, Appendix F, unusual transfers of funds occurring among related accounts or among accounts that involve the same or related principals are considered a "potentially suspicious activity that may indicate money laundering." Federal Financial Institutions Examination Council, 2007 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-2, F-3 (2007). Notably, the transfers, as seen below, are consistently in large, rounded denominations, which in and of itself is suspicious. Federal Financial Institutions Examination Council, 2007 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-2.

Date	From	To	Amount
12.31.07	Victory IRA Goldman Sachs Acct.	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$1,800,000
04.11.08	Victory IRA Goldman Sachs Acct.	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$300,000
08.22.08	Valhalla Investment Partners Goldman Sachs Acct.	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$900,000

12.22.08	Viking IRA Fund Goldman Sachs Acct.	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$350,000
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Allowing Transfers Between Non-Profit and Business Accounts

179. On May 29, 2008, Nadel opened Wachovia account number 2000043373598 for the Guy-Nadel Foundation, Inc. This Florida non-profit corporation was formed by Nadel in December 2003 for "charitable, educational and scientific purposes." The Foundation was in fact funded by the Ponzi scheme. On multiple occasions, with the Bank and Best's knowledge, and without any apparent business reason, Nadel transferred money out of the non-profit's account and into the Hedge Funds' shadow accounts. In violation of Wachovia's requirements under banking regulations and laws, the Bank and Best failed to take action regarding unusual trends or patterns in transfers between this non-profit account and the Hedge Fund accounts. Federal Financial Institutions Examination Council, 2007 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-2, F-3 (2007). The Bank's fraud detection systems would have been triggered by all of these transactions because of the dollar amounts at issue, thereby providing the Bank and Best an opportunity to review them and detect that each transfer was, in fact, fraudulent and unlawful. The transfers included the following:

Date	From	To	Amount
06.25.08	Guy-Nadel Foundation Wachovia Acct. 2000043373598	Scoop Capital, LLC Wachovia Acct. 2000712702157	\$1,250,000
07.28.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Guy-Nadel Foundation Wachovia Acct. 2000043373598	\$50,000
12.23.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Guy-Nadel Foundation Wachovia Acct. 2000043373598	\$50,000

Allowing Transfers Between Personal and Business Accounts

180. There are several instances wherein Nadel transferred money between personal and business accounts at Wachovia and Northern Trust. There is no apparent business reason for Nadel's transferring money from personal bank accounts into Hedge Fund and Management Company accounts. In violation of Wachovia's requirements under banking regulations and laws, the Bank and Best did not take action regarding unusual trends or patterns in transfers between Nadel's personal accounts and the Hedge Fund accounts. The Bank's fraud detection systems would have been triggered by all of these transactions because of the dollar amounts at issue, thereby providing the Bank and Best an opportunity to review them and detect that each transfer was, in fact, fraudulent and unlawful.

181. According to the FFIEC 2005 BSA/AML Handbook, where fund transfer activity is unexplained, repetitive, or shows unusual patterns, it is considered a "potentially suspicious activity that may indicate money laundering." Federal Financial Institutions Examination Council, 2005 Bank Secrecy Act Anti-Money Laundering Examination Manual, p.287 (June 2005).⁸ Unusual transfers of funds occurring among related accounts or among accounts that involve the same or related principals are also considered suspicious. The Manual also notes that a customer's use of a personal account for business purposes constitutes a suspicious activity. Notably, the transfers are consistently in large, rounded denominations as well (see following section). The transfers included the following:

Date	From	To	Amount
06.08.06	Personal MM Wachovia Acct.	Scoop Capital, LLC Wachovia Acct.	\$200,000

⁸ Federal Financial Institutions Examination Council, 2006 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-2 and F-3 (2006) for transactions occurring in 2006 and 2007; Federal Financial Institutions Examination Council, 2007 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-3 (2007) for transactions occurring on or after August 4, 2007.

	1010125671484	2000712702157	
09.14.06	Scoop Capital, LLC Wachovia Acct. 2000712702157	Personal Northern Trust Acct.	\$1,100,000
03.30.07	Personal Wachovia Acct. 1000408544895	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$1,650,000
11.16.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Personal Northern Trust Acct.	\$125,000
01.07.08	Personal Wachovia Acct. 1000408544895	Victory Fund, Ltd. Wachovia Acct. 2000706764790	\$400,000
01.07.08	Personal Wachovia Acct. 1000408544895	Nadel d/b/a Valhalla Investments Wachovia Acct. 2000706755110	\$500,000
01.11.08	Personal Acct. Wachovia 1000408544895	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$550,000
03.26.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Personal Wachovia Acct. 1000408544895	\$100,000
10.15.08	Personal Wachovia Acct. 1000408544895	Scoop Capital, LLC Wachovia Acct. 2000712702157	\$1,550,000

Allowing Large Transfers in Rounded Denominations

182. Wachovia and Best allowed Nadel to make numerous large transfers into, out of, and across his various accounts. In violation of Wachovia's requirements under banking regulations and laws, the Bank and Best did not take action regarding unusual trends or patterns in these transfers. The Bank's fraud detection systems would have been triggered by all of these transactions because of the dollar amounts at issue, thereby providing the Bank and Best an opportunity to review them and detect that each transfer was, in fact, fraudulent and unlawful.

183. In the OCC 2000 Manual, it states that, when many transfers are sent in large, round dollar, hundred dollar, or thousand dollar amounts, this is considered a "potentially suspicious activity that may indicate money laundering."⁹ Comptroller of the Currency, Admin. of Nat'l Banks. Bank Secrecy Act/Anti-Money Laundering Handbook, p. 12, 14 (Sept. 2000). The majority of transfers made by Nadel were in large rounded denominations. A few examples of such transfers are as follows:

Date	From	To	Amount
04.06.05	Victory Fund, Ltd. Wachovia Acct. 2000706764790	Nadel d/b/a Valhalla Wachovia Acct. 2000706755110	\$1,900,000
12.27.06	Scoop Capital, LLC Wachovia Acct. 2000712702157	Victory Fund, Ltd. Wachovia Acct. 2000706764790	\$1,000,000
07.06.07	Tradewind, LLC	Scoop Capital, LLC Wachovia Acct. 2000712702157	\$1,100,000
10.04.07	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$1,100,000
01.04.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Victory Fund, Ltd. Wachovia Acct. 2000706764790	\$1,900,000
01.07.08	Nadel d/b/a Valhalla Wachovia Acct. 2000706755110	Victory Fund, Ltd. Wachovia Acct. 2000706764790	\$1,000,000
04.24.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Victory Fund, Ltd. Wachovia Acct. 2000706764790	\$1,000,000
07.07.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$2,000,000
07.10.08	Scoop Capital, LLC Wachovia	Victory Fund, Ltd. Wachovia	\$1,000,000

⁹ Federal Financial Institutions Examination Council, 2006 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-2 and F-3 (2006) for transactions occurring in 2006 and 2007; Federal Financial Institutions Examination Council, 2007 Bank Secrecy Act Anti-Money Laundering Examination Manual, F-3 (2007) for transactions occurring on or after August 4, 2007.

	Acct. 2000712702157	Acct. 2000706764790	
07.11.08	Scoop Capital, LLC Wachovia Acct. 2000712702157	Nadel d/b/a Viking Fund Wachovia Acct. 2000712344984	\$1,600,000
08.27.08	Scoop Real Estate, LP Wachovia Acct. 2000034073632	Scoop Capital, LLC Wachovia Acct. 2000712702157	\$2,200,000
10.15.08	Personal Wachovia Acct. 1000408544895	Scoop Capital, LLC Wachovia Acct. 2000712702157	\$1,550,000

CAUSES OF ACTION

184. The delayed discovery doctrine, the continuing violations doctrine and equitable tolling apply to all causes of action herein.

COUNT I Aiding and Abetting Common Law Fraud

185. Plaintiff re-alleges Paragraphs 1 through 184 above as if fully set forth herein.

186. As described above, Nadel served as investment manager to the Hedge Funds and actually or effectively controlled all trading activity. Accordingly, Nadel owed a duty to the Hedge Funds to honestly and adequately manage the Funds, their trading activities and transactions in a manner reasonably believed to be in the Hedge Funds' best financial interests.

187. Nadel breached his duty to the Hedge Funds by operating a Ponzi scheme, wherein he: a) opened shadow bank accounts under the names "Arthur Nadel d/b/a Valhalla Investments" and "Arthur Nadel d/b/a Viking Fund" despite the fact that he had no authority to act on behalf of these Hedge Funds, as alleged in Paragraphs 115 through 125; b) commingled monies across the shadow accounts, as alleged in Paragraphs 174 through 177; c) transferred monies between non-profit and business accounts, as alleged in Paragraph 179; d) transferred monies between the Hedge Funds' accounts and his personal accounts, as alleged in Paragraphs

180 through 181; e) created fictitious performance results for the Hedge Funds to be provided to investors, as alleged in Paragraphs 91 through 92; and f) stole monies invested in the Funds. By doing so, Nadel committed fraud, deceit and misrepresentation towards the Hedge Funds.

188. Defendants aided and abetted, and rendered substantial assistance to Nadel to accomplish the above-described fraud. In aiding and abetting and substantially assisting the commission of the acts complained of, Defendants acted with an awareness of Nadel's illegal activities and with full knowledge that its conduct would substantially assist the accomplishment of the illegal activities and scheme described herein, including, but not limited to: a) violating banking regulations, as identified in Paragraphs 102 through 183; b) allowing Nadel to open shadow accounts under the names "Arthur Nadel d/b/a Valhalla Investments" and "Arthur Nadel d/b/a Viking Fund" despite the fact that Nadel had no authority to act on behalf of these Hedge Funds; c) ignoring discrepancies in account opening documents, as alleged in Paragraphs 126 through 136; d) failing to implement adequate account monitoring programs and guidelines, as alleged in Paragraphs 137 through 145; e) allowing, facilitating, and executing the commingling of monies across the shadow accounts, as alleged in Paragraphs 174 through 177; f) allowing, facilitating, and executing wire transfers from trading accounts into destination Wachovia accounts that did not match, as alleged in Paragraph 178; g) allowing, facilitating, and executing transfers between non-profit and business accounts, as alleged in Paragraph 179; h) allowing, facilitating, and executing transfers between the Hedge Funds' accounts and Nadel's personal accounts, as alleged in Paragraphs 180 through 181; i) failing to inform any of the Hedge Funds' limited partners or shareholders of Nadel's misconduct, as alleged in Paragraph 113; j) failing to report Nadel's misconduct to law enforcement and/or regulatory agencies, as alleged in Paragraph 113; k) failing to freeze or close the Hedge Funds' accounts upon discovering Nadel's

misconduct, as alleged in Paragraph 132 and 136; l) allowing and facilitating Nadel's theft from the Hedge Funds, as alleged in Paragraphs 114 through 183; and m) aiding and abetting Nadel's conversion and breach of fiduciary duty, as alleged in Paragraphs 203 through 208, and 192 through 201.

189. Nadel's defrauding of the Hedge Funds, as aided and abetted by Defendants, actually and proximately caused financial injury to the Hedge Funds in an amount exceeding \$168 million dollars.

190. WHEREFORE, Plaintiff asks this Court to enter judgment against Defendants for: a) actual compensatory, consequential and incidental damages in an amount to be established at trial; b) such civil penalties as allowed by law; c) pre- and post-judgment interest as allowed by law; and d) such other and further relief as the Court may deem just and proper.

COUNT II
Aiding and Abetting Breach of Fiduciary Duty

191. Plaintiff re-alleges Paragraphs 1 through 184 above as if fully set forth herein.

192. This is an action seeking damages resulting from Defendants' aiding and abetting Nadel's breach of fiduciary duties owed to the Hedge Funds.

193. At all material times, Nadel was a principal of Scoop Capital, which served as General Partner for Scoop Real Estate, Victory Fund and Victory IRA. Nadel and his management company, Scoop Management, were retained as investment advisors to the above-listed Hedge Funds. These Funds and Scoop Capital paid Scoop Management and Nadel service and management fees in exchange for their management of the Funds' trading activities and provision of office space, office management and "back office" services. As a principal for the Scoop Real Estate, Victory Fund and Victory IRA's General Partner and investment advisor to the Funds, Nadel owed these Funds a fiduciary duty to discharge his duties in good faith, with

the care that an ordinarily prudent principal in a like position would exercise, and in a manner reasonably believed to be in Victory Fund, Victory IRA and Scoop Real Estate's best financial interests.

194. At all material times, Valhalla Management served as General Partner for Valhalla Investment. Valhalla Management retained Scoop Management and its principal, Nadel, as investment advisors to Valhalla Investment. Valhalla Management paid Scoop Management and Nadel service and management fees in exchange for their management of the Valhalla Investment's trading activities and provision of office space, office management and back office services. As the investment advisor, Nadel owed Valhalla Investment a fiduciary duty to discharge his duties in good faith, with the care that an ordinarily prudent principal in a like position would exercise, and in a manner reasonably believed to be in Valhalla Investment's best financial interests.

195. At all material times, Viking Management served as General Partner for Viking Fund and Viking IRA. Both Funds retained Scoop Management and its principal, Nadel, as investment advisors. Viking Management and Viking IRA paid Scoop Management and Nadel service and management fees in exchange for their management of the Funds' trading activities and provision of office space, office management and back office services. As the investment advisor, Nadel owed Viking Fund and Viking IRA a fiduciary duty to discharge his duties in good faith, with the care that an ordinarily prudent principal in a like position would exercise, and in a manner reasonably believed to be in Viking Fund and Viking IRA's best financial interests.

196. As described *supra* in Paragraph 90, Nadel stole money from the Hedge Funds by transferring it into and among the shadow accounts after trading activity concluded.

197. Nadel breached his fiduciary duty owed to the Hedge Funds by operating a Ponzi scheme through which he stole from the Hedge Funds, as described herein. In furtherance of his scheme, Nadel exhibited a willful, fraudulent, reckless and/or negligent disregard for the best financial interests of the Hedge Funds by: a) opening shadow bank accounts at Wachovia under the names “Arthur Nadel d/b/a Valhalla Investments” and “Arthur Nadel d/b/a Viking Fund” despite the fact that Nadel had no authority to act on behalf of these Hedge Funds, as alleged in Paragraphs 115 through 125; b) creating fictitious performance results for the Hedge Funds to be provided to investors, as alleged in Paragraphs 91 through 92; c) commingling monies across the shadow accounts, as alleged in Paragraphs 174 through 177; and d) transferring monies between the Hedge Funds’ accounts and his personal accounts, as alleged in Paragraphs 180 through 181.

198. Nadel’s breach of the fiduciary duty owed to the Hedge Funds actually and proximately caused financial injury to the Hedge Funds in an amount exceeding \$168 million dollars.

199. Defendants had actual knowledge of Nadel’s breach of fiduciary duty and rendered substantial assistance in regard to such breach by: a) violating banking regulations, as identified in Paragraphs 102 through 183; b) allowing and facilitating Nadel’s opening of shadow accounts under the names “Arthur Nadel d/b/a Valhalla Investments” and “Arthur Nadel d/b/a Viking Fund” despite the fact that Nadel had no authority to act on behalf of these Hedge Funds, as alleged in Paragraphs 115 through 125;; c) ignoring discrepancies in account opening documents, as alleged in Paragraphs 126 through 136; d) failing to implement adequate account monitoring programs and guidelines, as alleged in Paragraphs 137 through 145; e) allowing, facilitating, and executing the commingling of monies across the shadow accounts, as alleged in Paragraphs 174 through 177; f) allowing, facilitating, and executing wire transfers from trading

accounts into destination Wachovia accounts that did not match, as alleged in Paragraph 178; g) allowing, facilitating, and executing transfers between non-profit and business accounts, as alleged in Paragraph 179; h) allowing, facilitating, and executing transfers between the Hedge Funds' accounts and Nadel's personal accounts, as alleged in Paragraphs 180 through 181; i) failing to inform any of the Hedge Funds' limited partners or shareholders of Nadel's misconduct, as alleged in Paragraph 113; j) failing to report Nadel's misconduct to law enforcement and/or regulatory agencies, as alleged in Paragraph 113; k) failing to freeze or close the Hedge Funds' accounts upon discovering Nadel's misconduct, as alleged in Paragraphs 132 and 136; l) allowing and facilitating Nadel's theft from the Hedge Funds, as alleged in Paragraphs 114 through 183; and m) aiding and abetting Nadel's fraud and conversion, as alleged in Paragraphs 186 through 190, and 203 through 208.

200. Accordingly, Defendants are liable for all damages actually and proximately caused to the Hedge Funds through Nadel's breach of fiduciary duty.

201. WHEREFORE, Plaintiff asks this Court to enter judgment against Defendants for: a) actual compensatory, consequential and incidental damages in an amount to be established at trial; b) such civil penalties as allowed by law; c) pre- and post-judgment interest as allowed by law; and d) such other and further relief as the Court may deem just and proper.

COUNT III
Aiding and Abetting Conversion

202. Plaintiff re-alleges Paragraphs 1 through 184 above as if fully set forth herein.

203. This is an action seeking damages resulting from Defendants' aiding and abetting Nadel's conversion of monies received by the Hedge Funds from investors.

204. Nadel wrongfully asserted dominion and control over the property of the Hedge Funds by misappropriating monies in excess of \$168 million for his personal use and benefit, causing financial injury and damage to the Hedge Funds.

205. Defendants had actual knowledge of Nadel's acts in misappropriating money from the Hedge Funds by virtue of the transactions described herein, which occurred during the banking relationship among Wachovia, Best, Nadel and the Hedge Funds.

206. Defendants rendered substantial assistance to Nadel in the conversion of the monies from the Hedge Funds by violating banking regulations, as identified in Paragraphs 102 through 183, and by: a) allowing and facilitating Nadel's opening of shadow bank accounts under the names "Arthur Nadel d/b/a Valhalla Investments" and "Arthur Nadel d/b/a Viking Fund" despite the fact that Nadel had no authority to act on behalf of these Hedge Funds, as alleged in Paragraphs 115 through 125; b) ignoring discrepancies in account opening documents, as alleged in Paragraphs 126 through 136; c) failing to implement adequate account monitoring programs and guidelines, as alleged in Paragraphs 137 through 145; d) allowing, facilitating, and executing the commingling of monies across the shadow accounts, as alleged in Paragraphs 174 through 177; e) allowing, facilitating, and executing wire transfers from trading accounts into destination Wachovia accounts that did not match, as alleged in Paragraph 178; f) allowing, facilitating, and executing transfers between non-profit and business accounts, as alleged in Paragraph 179; g) allowing, facilitating, and executing transfers between the Hedge Funds' accounts and Nadel's personal accounts, as alleged in Paragraphs 180 through 181; h) failing to inform any of the Hedge Funds' limited partners or shareholders of Nadel's misconduct, as alleged in Paragraph 113; i) failing to report Nadel's misconduct to law enforcement and/or regulatory agencies, as alleged in Paragraph 113; j) failing to freeze or close the Hedge Funds'

accounts upon discovering Nadel's misconduct, as alleged in Paragraphs 132 through 136; k) allowing and facilitating Nadel's theft from the Hedge Funds, as alleged in Paragraphs 114 through 183; and l) aiding and abetting Nadel's fraud and breach of fiduciary duty, as alleged in Paragraphs 186 through 190, and 192 through 201.

207. Accordingly, Defendants are liable for all damages actually and proximately caused to the Hedge Funds through the conversion of monies undertaken by Nadel.

208. WHEREFORE, Plaintiff asks this Court to enter judgment against Defendants for: a) actual compensatory, consequential and incidental damages in an amount to be established at trial; b) such civil penalties as allowed by law; c) pre- and post-judgment interest, as allowed by law; and d) such other and further relief as the Court may deem just and proper.

COUNT IV
Common Law Negligence

209. Plaintiff re-alleges Paragraphs 1 through 184 above as if fully set forth herein.

210. This is an action seeking damages resulting from Defendants' negligent and reckless conduct in connection with the Hedge Fund's shadow accounts and their participation in and facilitation of Nadel's Ponzi scheme.

211. Between December 2000 and September 2007, Nadel opened and operated shadow accounts at Wachovia pertaining to the Hedge Funds, including Scoop Real Estate and Victory Fund.

212. Defendants owed the Hedge Funds the duty of ordinary and reasonable care applicable to banks and financial institutions because of the opening, operation, maintenance and management of the shadow accounts, and the Bank's issuance of a mortgage loan to Scoop Real Estate.

213. Defendants breached their duty of care to the Hedge Funds by: a) allowing and facilitating Nadel's opening of shadow bank accounts under the names "Arthur Nadel d/b/a Valhalla Investments" and "Arthur Nadel d/b/a Viking Fund" despite the fact that Nadel had no authority to act on behalf of these Hedge Funds, as alleged in Paragraphs 115 through 125; b) ignoring discrepancies in account opening documents, as alleged in Paragraphs 126 through 136; c) failing to implement adequate account monitoring programs and guidelines, as alleged in Paragraphs 137 through 145; d) lending money to Nadel for real estate transactions, despite knowledge of his background and personal net worth, as alleged in Paragraphs 166 through 173; e) allowing, facilitating, and executing the commingling of monies across the shadow accounts, as alleged in Paragraphs 174 through 177; f) allowing, facilitating, and executing wire transfers from trading accounts into destination Wachovia accounts that did not match, as alleged in Paragraph 178; g) allowing, facilitating, and executing transfers between non-profit and business accounts, as alleged in Paragraph 179; h) allowing, facilitating, and executing transfers between the Hedge Funds' accounts and Nadel's personal accounts, as alleged in Paragraphs 180 through 181; i) failing to inform any of the Hedge Funds' limited partners or shareholders of Nadel's misconduct, as alleged in Paragraph 113; j) failing to report Nadel's misconduct to law enforcement and/or regulatory agencies, as alleged in Paragraph 113; k) failing to freeze or close the Hedge Funds' accounts upon discovering Nadel's misconduct, as alleged in Paragraphs 132 through 136; l) allowing and facilitating Nadel's theft from the Hedge Funds, as alleged in Paragraphs 114 through 183; and m) aiding and abetting Nadel's fraud, breaches of fiduciary duty and conversion, as alleged in Paragraphs 186 through 190, 192 through 201, and 203 through 208.

214. As a direct and proximate result of Defendants' negligence and recklessness, as set forth herein, Plaintiff suffered damages in excess of \$168 million for which Defendants are liable.

215. WHEREFORE, Plaintiff asks this Court to enter judgment against Defendants for:

- a) actual compensatory, consequential and incidental damages in an amount to be proven at trial;
- b) such civil penalties as allowed by law; c) pre- and post-judgment interest as allowed by law;
- and d) such other and further relief as the Court may deem just and proper.

COUNT V
Florida Statutes § 726: Uniform Fraudulent Transfer Act

216. Plaintiff re-alleges Paragraphs 1 through 184 above as if fully set forth herein.

217. By intentionally and wrongfully causing the transfer into and amongst Wachovia shadow bank accounts of monies invested in the Hedge Funds in the amounts identified in Exhibit B, and under the circumstances alleged in this complaint, the Hedge Funds, through the Receiver, have a right to repayment of at least those amounts from Defendants.

218. Further, by intentionally and wrongfully causing the transfer to Wachovia of security interests in the five properties identified in Paragraphs 167, 168, 169, 171 and note 6, and under the circumstances alleged in this complaint, including the fact that the mortgage loans were issued in furtherance of the scheme, the Bank's receipt of the security interests in the five properties constitute fraudulent transfers.

219. By intentionally and wrongfully causing the transfer to Wachovia of mortgage payments towards the above-described five mortgage loans, which were paid out of proceeds from the scheme, and under the circumstances alleged in this complaint, the Hedge Funds, through the Receiver, have a right to repayment of at least those amounts from Defendants, as identified in Exhibit A.

220. In light of the aforementioned rights to repayment (and independently because Nadel's conduct alleged in this complaint with respect to the Hedge Funds amounted to embezzlement, breach of fiduciary duty, fraud, and/or other violations of law), the Hedge Funds have a claim against Nadel and consequently are creditors of Nadel under FUFTA. Accordingly, Nadel is a debtor under that Act.

221. The above-described transfers of monies invested in the Hedge Funds that Nadel caused the Hedge Funds to make into and amongst the shadow bank accounts held at Wachovia were inherently fraudulent because the transfers were made as a part of the Ponzi scheme alleged in this complaint.

222. The above-described transfers of security interests and mortgage payments that Nadel caused to be made to Wachovia were inherently fraudulent because the transfers were made as a part of the Ponzi scheme alleged in this complaint or constituted transfers of assets derived from the scheme.

223. Each of the aforementioned transfers was fraudulent under Florida Statutes § 726.105(1)(a) because Nadel caused the transfers with actual intent to hinder, delay, or defraud the Hedge Funds and others as creditors of Nadel.

224. On behalf of the Hedge Funds from which money was transferred into and amongst shadow bank accounts held at Wachovia, as identified in Exhibit B, the Receiver is entitled to avoid and recover transfers equal to the amounts Nadel caused those Hedge Funds to transfer into and amongst the shadow bank accounts (and to any other pertinent remedy, including those available under § 726.108, Fla. Stat.).

225. On behalf of the other Hedge Funds, which did not hold accounts at Wachovia, the Receiver is entitled to avoid and recover those transfers because a) money was commingled amongst the Hedge Funds, and b) Nadel used the Hedge Funds as a single, continuous scheme.

226. On behalf of the Hedge Funds from which security interests and mortgage payments were transferred to Wachovia, as identified in Exhibit A, the Receiver is entitled to avoid and recover transfers equal to the amounts Nadel caused to be transferred to Wachovia in the form of mortgage payments (and to any other pertinent remedy, including those available under § 726.108, Fla. Stat.).

227. WHEREFORE, Plaintiff asks this Court to enter judgment against Defendants: a) avoiding transfers into and across the Hedge Funds' Wachovia shadow accounts; b) avoiding transfers of mortgage payments in the amount of the fraudulent transfers received by Defendants; c) pre- and post-judgment interest as allowed by law; and d) such other and further relief as the Court may deem just and proper.

COUNT VI

Unjust Enrichment (Against Defendant Wells Fargo Bank, N.A. Only)

228. Plaintiff re-alleges Paragraphs 1 through 184 above as if fully set forth herein.

229. Wachovia received fees from the Hedge Funds as payment for managing the shadow accounts and for facilitating the transactions associated with each account. Given the longevity of the shadow accounts and colossal number of associated transactions, Wachovia generated substantial profits for itself from the Hedge Funds in the form of such fees. Accordingly, the Hedge Funds conferred a benefit upon Wachovia by making the transfers described in Paragraphs 174 through 183.

230. Wachovia knowingly, voluntarily, and in bad faith accepted and retained the benefits conferred upon it by the Hedge Funds with respect to such transfers.

231. As alleged in Paragraphs 174, 178, 179, 180 and 182, each of the transfers for which Wachovia received fees from the Hedge Funds constituted a fraudulent transfer. These transfers served no legitimate business or apparent lawful purpose, but rather were initiated and completed in furtherance of Nadel's Ponzi scheme. Thus, the circumstances are such that it would be inequitable and unjust for Wachovia to retain the benefits conferred by the Hedge Funds without paying Plaintiff the value thereof.

232. Wachovia has been unjustly enriched at the expense of the Hedge Funds.

233. Plaintiff is entitled to the return of those amounts by which Wachovia was unjustly enriched, through disgorgement or another appropriate remedy.

234. WHEREFORE, Plaintiff asks this Court to enter judgment against Wachovia in the amount it was unjustly enriched, including pre- and post-judgment interest and costs, and such other and further relief as the Court may deem just and proper.

NOTICE OF INTENTION TO SEEK PUNITIVE DAMAGES

235. The actions of Wachovia and Best, as described in this Complaint, were intentional and/or grossly negligent and entitle Plaintiff to seek punitive damages. Notice is hereby given that Plaintiff will, at the appropriate time, request the Court to include a claim for punitive damages in this case pursuant to the procedures established in §768.22 Fla. Stat.

DEMAND FOR JURY TRIAL

236. Plaintiff hereby demands a trial by jury as to all facts, issues and claims so triable.

Dated: February 9, 2012

Respectfully submitted,

JAMES, HOYER, NEWCOMER &
SMILJANICH, P.A.

/s/ Terry A. Smiljanich

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