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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

THEODORE H. D. JONES, JEANIE KAYSER-JONES, and ROBERT FROST

Plaintiffs,

vs.

ARMANINO LLP, (formerly known as ARMANINO McKENNA LLP), a California limited liability partnership,

Defendant.

Case No. RG 13684105

CLASS ACTION

COMPLAINT FOR:

1. AIDING AND ABETTING BREACH OF FIDUCIARY DUTY;

2. SECONDARY LIABILITY FOR SECURITIES FRAUD;

3. FRAUD BY MISREPRESENTATION;

4. FRAUD BY CONCEALMENT AND SUPPRESSION OF FACT; and

5. NEGLIGENT MISREPRESENTATION

Unlimited Civil Case

JURY TRIAL DEMANDED

BY FAX

Plaintiffs Theodore H. D. Jones, Jeanie Kayser-Jones, and Robert Frost are informed and believe and thereupon allege in support of their claims against Defendant Armanino LLP (formerly known as Armanino McKenna, LLP) ("Armanino") as follows:

I. INTRODUCTION

1. This is a class action brought by Plaintiffs individually and on behalf of all those similarly situated investors who have suffered damages as a direct result of the misconduct of Armanino — California's largest accounting firm.

2. From 2003 until it resigned in 2011, Armanino served as outside auditor for R.E. Loans, LLC ("RE Loans" or "the Fund"), a California-based hard moneylender that pooled funds raised from investors to make real estate development loans. Investors in RE Loans became members ("Members") of the Fund in return for their investments.

3. Beginning at the latest during its audit report for 2005, Armanino was aware that its audit client RE Loans had sold its investors securities in violation of federal and state securities laws. Armanino accordingly knew that RE Loans had a fiduciary duty to disclose its misconduct to its investors, as well as a legal duty to offer those investors rescission and to cease raising new funds from investors. Nevertheless, Armanino knowingly and actively assisted the ongoing breaches of fiduciary duties, securities law violations and other unlawful conduct by RE Loans and its managers of RE Loans (the "Managers"), by supplying them with "clean" audit reports concealing the illegal activity – reports that RE Loans needed (a) to continue raising funds from unwitting investors and (b) to submit to its regulators to continue the false appearance of the lawful operation of RE Loans.

4. Armanino thus helped RE Loans and the Managers conceal from investors and regulators that they had raised and were raising money from the Members illegally. In particular, Armanino's 2005, 2006 and 2007 "clean" audit reports included financial statements that failed to disclose hundreds of millions of dollars in reasonably possible contingent liabilities associated with potential criminal, regulatory and civil litigation associated with RE Loans' unlawful conduct.

5. In the course of auditing RE Loans financial results for fiscal years 2003, 2004,

2005, 2006 and 2007, Armanino had become intimately familiar with the Fund's business model, its structure, its loans and its risk exposure to real estate and mortgage backed assets. Armanino was aware that its audit opinions (sometimes also referred to generically as "reports") and the RE Loans financial statements that Armanino prepared would be used and relied upon by prospective and existing investor Members to make investment decisions regarding their RE Loans securities and in their capacity as members of RE Loans. Offering Circulars used by RE Loans to solicit investment funds from the Members contained numerous representations that the Fund's annual financial statements would be audited by an independent auditor and made available to the Members in connection with annual reports and as part of the Fund's business records.

6. Armanino furthermore knew that an essential purpose of its audits was to have the firm act as a reputational intermediary who would use its unique access to RE Loans' underlying non-public information used to prepare its financial statements to ostensibly provide "independent" assurances of financial integrity, reliability and stability to RE Loans' investors and securities holders. Armanino knowingly violated the important, trusted, critical role of a truly independent auditor (which, as shown below, it was not), by electing instead to afford its client "flexibility" with respect to its audit work – a "wink and a nod" approach to auditing that Armanino touted in its marketing materials in its quest to garner more business in a highly competitive marketplace.

7. Having conducted significant accounting and audit work for RE Loans since 2003, Armanino was aware that RE Loans raised capital principally through investor contributions. But although the Membership interests constituted "securities," RE Loans' offerings were not registered with the Securities and Exchange Commission ("SEC"). Instead, RE Loans Membership interests were represented and sold as unregistered offerings, purportedly under California Corporations Code section 25113(b)(1) and certain SEC exemptions that restricted the Company's business to qualified California residents. However, RE Loans operated in flagrant violation of those exemptions, by among other things: (i) actively soliciting and selling to investors residing outside of California; (ii) loaning money on

properties located outside of California (including Texas, Florida, Wyoming, Washington, South Carolina, and Nevada); (iii) selling membership interests to more than 500 investors; and (iv) accumulating more than $10 million in total assets.

8. Armanino knew that, at a minimum, it was reasonably possible that the securities violations created enormous contingent liabilities for RE Loans to the Members. Yet Armanino did not disclose the ongoing securities violations in its audit report for 2005, and instead compounded its misconduct by including misleading half-truths about the securities violations in its audit report for 2006.

9. Because Armanino unquestionably knew (a) that RE Loans was selling unregistered securities in violation of the law, and (b) that RE loans could not survive without securing capital infusions through additional investor contributions while avoiding regulator scrutiny, it furthermore knew that continuation of the scheme required the continued issuance of "clean" audit opinions. Armanino also knew that RE Loans Managers not only failed to disclose the securities violations to new and existing Members, but also falsely represented to investors and regulators that RE Loans was operating in compliance with the operative securities registration laws. Armanino knew these facts because the Offering Circulars used by the Managers failed to disclose RE Loans' prior and ongoing securities violations, instead falsely representing that the Membership interests were subject to valid exemptions from registration. By continuing to issue audit reports used by RE Loans to raise investor capital and to ostensibly comply with regulatory requirements, Armanino knowingly and recklessly assisted the RE Loans Managers' breaches of their fiduciary duties to the Members.

10. At least as early as the issuance of its March 16, 2007 "clean" audit opinion respecting RE Loans 2006 fiscal year financial statements, and continuing thereafter, through its issuance of yet another "clean" audit opinion on April 11, 2008, Armanino knew that RE Loans' 2006 and 2007 financial statements and accounting violated Generally Accepted Accounting Principles ("GAAP").

11. Armanino was furthermore well aware at all times material of the particular and peculiar audit risks associated with RE Loans' real estate related assets. Armanino knew and

unquestionably foresaw that no reasonable investor would willingly invest or keep their money in a company or fund with the serious problems that RE Loans was experiencing if the truth about its unlawful conduct and financial condition were told. Yet, despite its ultimate knowledge (and willful disregard of facts to the contrary), Armanino issued "clean" audit reports for RE Loans' fiscal years 2006 and 2007, falsely representing that:

- Armanino had conducted its audits in accordance with Generally Accepted Accounting Standards ("GAAS"), and
- RE Loans' financial statements fairly presented, in all material respects, its financial position for fiscal years 2006, and 2007, in conformity with GAAP.

These representations were false, deceptive and misleading, and Armanino knew it. Armanino issued its "clean" audit opinions knowing and/or intending that RE Loans' investors would rely on Armanino's imprimatur as expressed in those audit opinions when they made their investment decisions, and that its audit opinions would, among other things, influence investment decisions by new and existing RE Loans Members.

12. As anticipated, the "clean" audit reports issued by Armanino helped RE Loans raise money through its continued unregistered securities offerings to Plaintiffs and the other investors in the proposed Class, and importantly, reassured Members that RE Loans was in sound financial condition while operating in conformity with the law, so that they would invest in and/or continue to hold their investment interest in RE Loans' securities. With the active assistance of Armanino, RE Loans illegally raised another $500 million from its Members through the unlawful securities sales during 2005 and thereafter. Armanino knew that its "clean" audit opinions would be and that they were included with RE Loans' Offering Circulars and Offering Prospectus materials disseminated to investors and Members. Plaintiffs is informed and believes and thereupon alleges that Armanino consented to its audit opinions inclusion and use with respect to such RE Loans' communications.

13. As a consequence of Armanino's rendering such "clean" or "unqualified" audit opinions, instead of "qualified" or "adverse" audit opinions, including an exception signaling

grave doubt that RE Loans could continue as a "going concern," that Armanino should have rendered, Plaintiffs and the other Class Members (a) were duped into investing in RE Loans and (b) were, through the RE Loans Exchange Offering commencing November 2007, duped into agreeing to exchange their Membership interests for promissory notes that purportedly relieved the Managers of their fiduciary duties to RE Loans' investors and stripped the investors of their control rights with respect to RE Loans. In particular, Armanino's "clean" audit opinion rendered March 16, 2007 regarding RE Loans' financial statements for fiscal year 2006 was incorporated into RE Loans' November 2007 Exchange Offering circular and materials even as Armanino was conducting RE Loans' audit of its 2007 fiscal year financials. Then, continuing the deception, Armanino issued yet another "clean" audit opinion on April 11, 2008 as to RE Loans' 2007 fiscal year financial statements, providing additional concealment of RE Loans financial fraud, and thus deceiving unwitting Class Members to acquire new securities — now debt securities — to their detriment and harm.

14. Armanino's audit work was an extreme departure from GAAS, flagrantly ignoring numerous red flags and violations of GAAP, as more fully discussed below. Its "clean" audit opinions respecting RE Loans' fiscal year 2006 and 2007 financial statements camouflaged and concealed the truth about RE Loans' true financial condition, status and misconduct.

15. Members who invested in RE Loans in reliance upon Armanino's false and deceptive audit opinions, or otherwise agreed to exchange their Membership interests for promissory note debt securities, have suffered great harm and damages exceeding $600 million. Many invested all or virtually all of their life savings in RE Loans, and many others who even have been rendered destitute as a consequence. Armanino, on the other hand, profited handsomely by providing the "clean" audit reports essential to the Managers' scheme.

II. JURISDICTION

A. Jurisdiction

16. Jurisdiction is proper in this Superior Court under California Code of Civil Procedure ("C.C.P.") § 410.10 and the California Constitution, Article VI §10. This Court,

and not the United States District Court, has jurisdiction of this class action because Plaintiffs' claims fall within the provisions of 29 U.S.C. § 1332(d)(4)(A) (a subdivision of the Class Action Fairness Act) for the following reasons:

- more than two-thirds of the members of the proposed classes are citizens of the State of California;
- Armanino is a defendant (i) from whom significant relief is sought by members of the proposed classes, (ii) whose alleged conduct forms a significant basis for the claims asserted by the proposed classes, and (iii) is a citizen of the State of California;
- the principal injuries resulting from the alleged conduct or any related conduct of alleged herein were incurred in the State of California; and
- during the 3-year period preceding the filing of this class action, no other class actions has been filed asserting the same or similar factual allegations against Armanino on behalf of the same or other person.

17. This Court also has jurisdiction of this class action under 29 U.S.C. § 1332(d)(4)(B) because two-thirds or more of the members of all proposed plaintiff classes in the aggregate, and a primary (indeed, sole) defendant, Armanino, is a citizen of the State of California.

18. The Securities Litigation Uniform Standards Act of 2001 ("SLUSA"),15 U.S.C. §§77p, 77v, 77z-1, 78-4 and 78bb (2000), does not apply to mandate the bringing of this Class Action in federal court because:

- The securities or promissory notes that are the subject matter of this action are not "covered" securities as defined by sections 18(b)(1) and 18(b)(2) of the Securities Act of 1933.
- The securities or promissory notes that are subject matter of this action are not listed, or authorized for listing, on the New York Stock Exchange or the American Stock Exchange, or listed, or authorized for listing, on the National Market System of the Nasdaq Stock Market (or any

successor to such entities).

- The securities or promissory notes that are the subject matter of this action are not listed, or authorized for listing, on a national securities exchange (or tier or segment thereof) that has listing standards that the Commission determines by rule (on its own initiative or on the basis of a petition) are substantially similar to the listing standards of the New York Stock Exchange, American Stock Exchange or NASDAQ (or any successor entity).
- The securities or promissory notes that are the subject matter of this action were not issued by an investment company that is registered, or that filed a registration statement, under the Investment Company Act of 1840.
- Plaintiffs' claims asserted herein are made individually and on behalf of purchasers and holders of the promissory notes/securities from their issuers.

19. Venue is proper in the County of Alameda pursuant to C.C.P. §§ 395, 395.2, and 395.5: Armanino does business within the State of California and within Alameda County. The acts and practices alleged herein occurred, in part, in Alameda County and the harms alleged herein occurred, in part in Alameda County.

B. Nature of Claims

20. Plaintiffs seek to recover direct claims for monetary and statutory damages that belong to Plaintiffs and the Class respecting their investments in RE Loans. These claims are not asserted against any entity that has filed a pending action in federal court seeking protection under or pursuant to the bankruptcy laws or statutes of the United States. These claims are not derivative in nature and are not asserted against assets of a bankrupt debtor.

21. Plaintiffs seek to recover for injuries arising from the false and misleading financial statements and audit reports for RE Loans issued by Armanino for fiscal years 2005, 2006 and 2007. Plaintiffs expressly disclaim any intention to pursue derivative claims based

on mismanagement or misappropriation by the Managers.

III. PARTIES

A. Plaintiffs

22. Plaintiffs are residents and citizens of California, and RE Loans Members. Plaintiffs Theodore H.D. Jones and Jeanie Kayser-Jones are residents of San Francisco County and Plaintiff Robert Frost is a resident of Alameda County.

23. RE Loans provided Plaintiffs with various documents, including annual reports containing its audited financial statements and the "clean" audit opinions issued by Armanino, as discussed more fully herein, which Plaintiffs relied upon in deciding to purchase RE Loans' securities.

24. In November 2007, Plaintiffs received RE Loans' written Exchange Offering materials. The "clean" audit opinions rendered by Armanino and RE Loans' unaudited 8/31/07 Financial Statements were included in the Exchange Offering materials. Plaintiffs decided to vote to approve the Exchange Agreement, as a consequence of which their equity Members security was exchanged for an RE Loans' debt security — promissory notes — having represented values equal to the face amount of the notes.

25. In late 2007, Plaintiffs received "Secured Promissory Notes" from the RE Loans Managers in exchange for their membership interest, which had increased in value since their initial investments due to the reinvestment of interest. At that time, the value of Plaintiffs Jones' account exceeded $2,836,000 and the value of Plaintiff Frost's account exceeded $286,000. To date, RE Loans has not made any payments on Plaintiffs' promissory notes.

26. Had Armanino not rendered false, deceptive and misleading "clean" audit opinions as more fully discussed below, Plaintiffs would not have invested with RE Loans, would not have accepted the Exchange Offering securities and would have otherwise taken steps to protect their investment and position.

27. As a direct result of Armanino's conduct alleged herein, Plaintiffs have been damaged in an amount to be proven at trial.

B. Defendant

28. Defendant Armanino LLP, formerly known until January 2013 as Armanino McKenna LLP, is a limited liability partnership organized and existing under the laws of the State of California, with its principal office located in San Ramon, California. Armanino, which regularly does business within California, is the 35th largest accounting firm in the United States when measured by revenue. Employing more than 300 professionals, Armanino is the largest accounting, audit and business-consulting firm headquartered in California.

29. Armanino promotes itself to the public as possessing "extensive on-site partner" involvement with management utilizing "experienced staff at all levels," with its "partners and managers" taking a "hands-on approach to auditing," and conducting "much of their review on-site." In its aggressive effort to secure or maintain clients in a competitive market, Armanino promises to "strive to be flexible" — boasting to clients that "we understand your SEC audit and compliance needs." Armanino also holds itself out to the public as possessing "knowledge in our client's industries" — which include areas relevant to RE Loans such as "private equity," "real estate," "limited partnerships" and "mortgage pool" investments. Armanino's audit staff possess training and experience in such areas as loan loss reserves analysis, loan refinancing versus restructuring, accounting for real estate owned, held for sale and held for use, sales of real estate and a myriad of fair value issues facing mortgage investments. Armanino further advertises that "having financials audited or reviewed by a quality firm is helpful in maintaining confidence of investors." By its own account Armanino was thus no novice with respect to RE Loans' industry-specific business and audit issues, and knew full well, at all times material, that its audit opinion(s) respecting the Fund's financial statements held high importance to and would be relied upon by investors with respect to their decisions to purchase, hold or divest themselves of its client's securities or offerings.

30. At all relevant times from 2002 until January 14, 2011, Armanino served as an Independent Registered Public Accounting firm for RE Loans. Armanino audited RE Loans' financial statements for a number of years including, relevant to the claims herein, RE Loans' 2005, 2006 and 2007 fiscal years.

31. RE Loans' 2005 financial statements – for which Armanino issued a "clean" audit opinion on February 17, 2006 – was provided or made available to RE Loans' Members by the RE Loans' Managers. RE Loans 2006 and 2007 financial statements – for which Armanino issued "clean" audit opinions of March 16, 2007 and April 11, 2008, respectively – were likewise provided or made available to RE Loans' Members by the RE Loans Managers. In particular, Armanino's "clean" audit opinion of March 16, 2007 respecting RE Loans' fiscal 2006 financial statements was included in an RE Loans' Exchange Offering circular and materials disseminated to its Members commencing in November 2007, and used therein for the purpose of inducing Class Members to agree to RE Loans' proposed securities exchange transaction whereby Plaintiffs and Class Members unwittingly exchanged their membership interests in RE Loans for promissory notes, much to their substantial detriment and harm. Armanino then audited RE Loans' financial results for 2007 and issued yet another "clean" audit opinion on April 11, 2008, that was read and relied upon by Plaintiff sand Class Members in making their investment decisions to hold RE Loans' securities to their detriment, as more fully discussed below.

32. In addition, Plaintiffs are informed and believes, and thereupon alleges, that Armanino stepped outside its role as independent auditor and assisted in the preparation of the very RE Loans' financial statements it was auditing – essentially auditing its own work – thereby violating its overarching duty of strict independence.

33. Armanino knew that its "clean" audit opinions and the financial statements it helped prepare (a) were being relied upon by RE Loans' investors and Members to make investment decisions, and (b) were being submitted by RE Loans to its regulators as evidence of continued lawful operations.

IV. SUBSTANTIVE ALLEGATIONS RESPECTING ARMANINO'S FALSE AND DECEPTIVE AUDIT OPINIONS

A. RE Loans' Formation and Growth from 2002-2006

34. RE Loans was formed in 2002 as a hard-money lender that used funds obtained from investors to make real estate development loans, ostensibly returning profits from these

loans to those investors who became Members of the Fund in return for their investments.

35. After its formation, RE Loans was managed at all times material by four individuals: Bruce Horwitz, Walter Ng, Barney Ng, and Kelly Ng. Bruce Horwitz and Walter Ng, along with Walter Ng's sons, Barney and Kelly Ng, managed RE Loans through their alter ego company, B-4 Partners. Barney and Kelly Ng also operated RE Loans through another alter-ego company called Bar-K. Barney Ng served as Bar-K's President and Kelly Ng served as Bar-K's Vice-President. On or about November 2007 and pursuant to a November 2007 Exchange Offering and consequent Exchange Agreement (the "Exchange Agreement"), more fully discussed *infra*, Bar-K became a Manager of RE Loans.

36. RE Loans raised the money to fund its developer loans by selling unregistered securities to Plaintiffs and thousands of other private investors in California and other states. Investors became Members of RE Loans by purchasing shares costing $1.00 apiece, with a minimum subscription of 20,000 shares ($20,000). The Managers' message to potential investors was twofold: (1) an investment with RE Loans was safe and profitable; and (2) Members had access to their money and could withdraw some or all of their investment.

37. Managers often solicited investors to invest monies with RE Loans who were retired or approaching retirement. Many Members purchased their interests using all of their retirement funds, while many others invested their entire life savings. And many were convinced to mortgage their homes and invest the loan proceeds in RE Loans.

38. From the beginning, RE Loans promised to pay the Members periodic interest payments on their investments — monthly, quarterly, or semi-annually. The governing operating agreement did not provide a clear method or protocol explaining how these promised periodic interest payments would be determined. RE Loans' website assured investors that their investment was liquid, representing that "After your account is open, funds may be added or withdrawn at any time." The website also stated: "A fixed regular amount can be scheduled and sent to you on a monthly, quarterly, semi-annual or annual basis. If you need a check during the month, one will be cut and mailed on the Thursday following your request."

39. The ability of RE Loans Members to withdraw some or all of their capital was a major feature and selling point. Through Fund updates, RE Loans repeatedly assured Members that "[y]ou may add to or withdraw from your account at any time." They told Members: "Currently, we offer an option to make scheduled withdrawals monthly, quarterly, semi-annually, or yearly, or you may make an unscheduled withdrawal at any time."

40. Under the governing operating agreement, RE Loans Members had certain control rights. For instance, Members holding a majority of interest (more than 50% of all RE Loans shares) could remove the Managers and designate a replacement. A majority interest of Members could vote to dissolve RE Loans, or (with limited exceptions) amend the operating agreement. Members were also entitled to withdraw all or a portion of their investment, upon written notice to the Managers.

41. RE Loans grew rapidly since its inception and secured a multitude of investors from 2002 through 2006. By early 2007, the Managers had raised more than $700 million from approximately 1,400 Members.

B. RE Loans' Rampant Undisclosed Securities Violations

42. However, unbeknownst to investors, RE Loans' growth and prosperity was the product of illegal conduct that threatened its very existence. From 2002 through 2007, the Managers running RE Loans had violated state and federal securities laws in the sales of RE Loans' Memberships. Although the Membership interests constituted securities, the offerings were not registered with the Securities and Exchange Commission ("SEC"). Instead, RE Loans Membership interests were sold as unregistered offerings under California Corporations Code § 25113(b)(1) and certain SEC exemptions that restricted the Company's business to qualified California residents.

43. But the purported exemptions were not applicable because RE Loans was violating the operative securities regulatory requirements in four ways: (i) by actively soliciting and selling to investors residing outside of California; (ii) by lending money on properties located outside of California (including Texas, Florida, Wyoming, Washington, South Carolina, and Nevada); (iii) by selling membership interests to more than 800 investors;

and (iv) because RE Loans had more than $10 million in total assets. These violations not only gave the Members the right to rescind, they precluded RE Loans from raising new funds without disclosing the violations.

44. Armanino knew that RE Loans had been illegally selling securities for many years in violation of the California and federal securities laws. Armanino knew that, contrary to its representations in the Offering Circulars used to induce investments by the Members, RE Loans had been actively soliciting investors residing outside of California, that a substantial and increasing portion of its loans to developer borrowers were secured by properties located outside of California and that RE Loans had far more than $10 million in reported assets. Armanino also knew that RE Loans had far more than 500 investors.

45. The RE Loans Offering Circulars expressly represented that "[u]nder California law, the fiduciary duties of a manager to … its members are those of a partner to …the partners of a partnership." The Offering Circulars also represented that the Managers' fiduciary duties included the obligation "to exercise good faith and integrity with respect to company affairs." Thus, Armanino knew that the RE Loans Managers owed fiduciary duties to the Members.

46. Armanino also knew that the RE Loans Managers had not disclosed to the Members that the Fund was selling securities in violation of the securities laws and that the Offering Circulars used by RE Loans to solicit investment capital from the Members were materially false and misleading. The Offering Circulars provided to Members failed to disclose the securities registration violations and falsely represented that: (a) RE Loans was operating in compliance with applicable laws, including the securities registration requirements (falsely stating that the membership interests were exempt from registration; (b) loans to related parties would not exceed 15% of the total Fund assets; and (c) RE Loans would originate or invest in loans secured by properties located primarily in California. Armanino knew that the RE Loans Managers were violating their fiduciary duties to the Members by making false and misleading statements in the Offering Circulars and failing to disclose material facts to the Members in the Fund's financial statements.

47. At the time it rendered its audit opinions for 2006, Armanino was aware of the fact that RE Loans was continuing to sell unregistered securities, thus creating the reasonable possibility for massive claims by the RE Loans Members and a resulting need for the disclosure of a significant contingent loss that would render RE Loans balance sheet insolvent, along with the issuance of a "going concern" exception. But rather than ensure that the known securities violations, or the resulting reasonably possible contingent liabilities to the Members, were disclosed in RE Loans' audited financial statements, Armanino issued "clean" audit reports for fiscal years 2005, 2006 and 2007 that said nothing about the known securities violations. Armanino knew that its "clean" audit opinions would be and that they were included with RE Loans' Offering Circulars and Offering Prospectus materials disseminated to investors and Members. Plaintiffs are informed and believe and thereupon allege that Armanino consented to its audit opinions inclusion and use with respect to such RE Loans' communications.

48. Despite its knowledge that the RE Loans Managers were violating their fiduciary duties to the Members, illegally raising funds in violation of the securities laws and soliciting investors with false and misleading Offering Circulars, Armanino continued to substantially assist the securities violations and ongoing breaches of fiduciary duties by acting as a reputational intermediary and issuing false and misleading audit reports that it knew would be used for, and were essential to, continued sales of securities to new and existing Members and to induce Members to continue holding securities rather than withdrawing their monies from RE Loans. Armanino also knew that its audits were necessary for RE Loans to obtain and renew permits and licenses from the California regulatory authorities and that the RE Loans Managers would use the financial statements and audit reports of Armanino for that purpose, again in violation of their fiduciary duties to the Members.

C. RE Loans' Rapidly Deteriorating Financial Condition

49. Beyond and compounding this illegal activity was the dilemma that in 2006, and increasingly thereafter, RE Loans was experiencing liquidity problems amid artificially and deceptively improving its financial reports, camouflaging its deteriorating financial

condition. This adverse progression toward insolvency was gravely exacerbated in 2007, when — as a result of RE Loans' violations of securities laws — its Managers were compelled to cease collecting or accepting any future investor contributions, thus turning off a spigot of cash needed to stay afloat.

50. In 2007, RE Loans was accelerating toward insolvency. Not only could RE Loans not meet its portfolio loan commitments, it lacked the liquidity to pay capital withdrawals requested by the Members. The Managers simply had no way to legally raise operating cash through infusions of additional membership capital to restore the Fund's liquidity, a fact that was well-known to Armanino at all times material. Indeed, RE Loans could not accept new investment capital – thus creating the additional impediment of not being able to fund its obligations to borrowers or pay distributions to the investors who had been promised that they could withdraw their funds at any time.

D. RE Loans' Fraudulent "Exchange Transaction"

51. Commencing November 2007, RE Loans engaged in an offering ("Exchange Offering") of its securities seeking the agreement of its Members to exchange their equity membership interests in RE Loans for promissory notes — debt securities issued by RE Loans ("Exchange Transaction").

52. RE Loans Managers, with co-schemers Greenberg Traurig and Wells Fargo, conceived and developed the planned Exchange Offering to continue to keep RE Loans afloat while concealing its true financial condition and illegal acts from the unsuspecting Members.

53. Armanino's false and misleading March 16, 2007 "clean" audit opinion was incorporated with the Exchange Offering circular and materials to continue to keep unwitting investors in the dark in the hope that RE Loans' Members would approve the Exchange Transaction — which they did.

54. As a result of the Exchange Offering, RE Loans Members were duped into agreeing to transform their interest as Members in RE Loans into creditors with debt-security interests: promissory notes with represented values equal to their represented account values. Although the RE Loans Managers represented to the investors that RE Loans would be able to

pay its obligations under the new promissory notes, the Managers and Armanino knew that the Fund could not and would not be able to pay those obligations due to its undisclosed liquidity crisis and ultimate insolvency.

55. As a result of its prior securities violations, RE Loans was never able to raise new investor capital to meet its ongoing obligations to borrowers, Wells Fargo and, most importantly, to the investor noteholders. To keep the RE Loans' house of cards standing, the Managers and Greenberg formed a new investment company – Mortgage Fund '08, LLC ("MF08") - to solicit funds from investors and funnel those funds to RE Loans. This was in essence a Ponzi scheme arrangement that enabled the Managers to give RE Loans the false appearance of financial stability.

E. RE Loans' Financial Statements Are False and Misleading

56. Disclosure in any way of the foregoing information acutely material to RE Loans Members – *i.e.*, RE Loans' securities violations, GAAP violations and especially a "going concern" exception – would undoubtedly have lead to a "run on the bank" by informed Members. RE Loans' Managers needed a "flexible" auditing approach to its financial statements, especially for its fiscal years commencing 2006 and thereafter, failing which investors and Members would demand the immediate return of their investments and flee. To that end, the Managers turned to Armanino to secure a "clean" audit opinion with regard to RE Loans' financial statements under the guise of an "independent" audit that would further comfort, lull and deceive investors and Members into investing new funds with RE Loans and stave off any demands for withdrawal or action by Members to protect their investments.

F. Armanino's Audits Were Essential to RE Loans Ability to Solicit and Retain Investment Capital and Secure Membership Agreement to the Exchange Transaction

57. For many years, Armanino served a RE Loans' outside auditor. Because of its long history with RE Loans and expertise in real estate lending related clients, Armanino was intimately familiar with its business model, structure, employees, loan portfolio and exposure to real estate and mortgage backed assets.

58. Using Armanino as its ostensible "independent" auditor gave the desired

credibility to RE Loans' presentation of its financial condition to investors, given Armanino's status as the largest auditing and consulting firm in California. In addition, the credibility and reliability of a company's financial statements when audited by an "independent" audit firm rendering an unqualified or "clean" audit opinion is reinforced or strengthened by (a) the purported adherence by that audit firm to the GAAS standards adopted and respected by the industry to ensure that GAAP have been complied with by reporting firms and (b) the purported independent and reliable assessment has been made as to whether that company can or will exist as a "going concern."

59. Given this obligation to follow GAAS, investors are comforted by an ostensibly independent auditors' assurances that financial statements comply with GAAP and fairly state the financial condition of a company, and by the absence of qualifications or adverse exceptions — such as a "going concern" exception — issued by that audit firm. Armanino and RE Loans Managers knew the value of such a "clean" audit opinion and its inevitable impact on investors.

1. ***GAAP — Generally Accepted Accounting Principles***

60. By way of background, financial statements are a central feature of financial reporting and are a principal means of communicating accounting information to parties external to an entity, such as investors. (Statement of Financial Accounting Concepts ("FASCON") No. 1, *Objectives of Financial Reporting by Business Enterprises* ("FASCON 1"), ¶ 6). An important barometer of the reliability and integrity of a company's financial statements and reporting is the "Auditors Opinion": a certification that accompanies financial statements and is provided by the independent accountants who audit a company's books and records. When an audit is performed, it is the financial auditor's job to make sure that records are examined in an honest and forthright manner. Independent auditors are often used – or even mandated – to protect shareholders and potential investors from fraudulent or unrepresentative financial statements made or issued by companies. The auditor's opinion defines the scope of the audit, the accountant's opinion of the procedures and records used to produce the statements, and the accountant's opinion of whether or not the financial

statements present an accurate picture of the company's financial condition.

61. There are generally three types of auditors' opinions. A "clean" or unqualified opinion states that the financial statements present a fair and accurate picture of the company and comply with GAAP. A "qualified" opinion contains exceptions, which may include the scope of the audit. An "adverse" opinion contains a major exception or warning. The most well-known adverse opinion is the "going-concern" exception or warning, in which the auditor expresses doubts about the company's ability to remain in business. The auditor's opinion is important to investors who rely on independent views of a company's books and records when making their decisions to invest in or continue to hold their investment in a company, including investing in or holding securities sold or issued by a company, fund or entity such as RE Loans.

62. The important role of the independent auditor and its audit opinion, and the achievement of the salutary goals of integrity and transparency respecting financial statements is dependent, in part, on compliance with well documented and universally respected accounting standards and principles. Among them, GAAP are those principles recognized by the accounting profession and the SEC as the uniform rules, conventions, and procedures necessary to define accepted accounting practices at a particular time. RE Loans was required to prepare its financial statement in accordance with GAAP.

63. GAAP includes not only broad guidelines of general application, but also detailed practices and procedures. GAAP principles are the official standards accepted by the SEC and promulgated in part by the American Institute of Certified Public Accountants ("AICPA"). SEC Regulation S-X (17 C.F.R. § 210.4-01(a)(1)) states that financial statements filed with the SEC that are not prepared in compliance with GAAP are presumed to be misleading or inaccurate, despite footnote or other disclosures. SEC Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosures that would be duplicative of disclosures accompanying the most recent annual financial statements. 17 C.F.R. § 210.10-01(a)(5). SEC registrants are required under SEC rules to maintain sufficient systems of internal controls to

ensure fair reporting in conformity with GAAP.

64. GAAP requires that *useful* information be provided to present and potential investors, creditors and other users. (FASCON No. 1, *Objectives of Financial Reporting by Business Enterprises* ("FASCON 1"), ¶34). Further, the information should be comprehensible to those who have a reasonable understanding of business and economic activities and are willing to study the information with reasonable diligence. (FASCON 1, ¶34). FASCON 1 also provides that financial statements should include information about the company's economic resources, its obligations and the events that would change any of those resources or any claims to those resources. (FASCON 1, ¶40). Indeed, the two primary qualities or characteristics that make accounting information useful for decision-making are *relevance* and *reliability*. (FASCON 2, ¶¶ 15, 33)

65. Under GAAP, to be relevant, "…accounting information must be capable of making a difference in a decision by helping users to form predictions about the outcomes of past, present, and future events or to confirm or correct expectations." (FASCON 2, ¶ 47) FASCON 2 further notes that an ancillary aspect of relevance is timeliness; *i.e.*, the concept of having information available to decision makers before it loses its capacity to influence decisions. (FASCON 2, ¶ 56)

66. Reliable information must have representational faithfulness, and it must be verifiable and neutral. (FASCON 2, ¶¶ 33,59, 62) Reliability is "[t]he quality of information that assures that information is reasonably free from error and bias and faithfully represents what it purports to represent." (FASCON 2, *Glossary of Terms*)

67. FASCON 2, ¶79 also states that another fundamental principle — "*completeness*" — requires that nothing material is left out of the information that may be necessary to ensure that the financial statements validly represent underlying events and conditions.

68. The GAAP principles and standards promulgated in part by AICPA, exist and are required to be complied with in order to achieve honesty, reliability, accuracy integrity and transparency with respect to a company's reported financial results. Armanino was well-

aware of GAAP and its salutary principles and goals, and the fact that any imprimatur placed by an auditing firm on the reported financial results that they have been prepared and are reported in compliance with GAAP is a powerful representation that is relied upon by investors and that is known to induce their reliance. It was absolutely incumbent on Armanino to conduct a truly independent audit and speak truthfully when providing an "audit opinion," lest it deceive and harm RE Loans' Members.

2. ***GAAS — Generally Accepted Auditing Standards***

69. In order to obtain a reliable independent opinion on whether a company's financial statements fairly present, in all material respects, the financial position of the company in conformity with GAAP, audits must be conducted in accordance with GAAS, which are codified in Statements of Auditing Standards ("SAS") that are referred to with an "AU" number. In performing its audit work for RE Loans, Armanino agreed and had a duty to perform its work in conformity with GAAS.

70. As acknowledged in Armanino's audit opinions, and as set forth in AU 110.02, the firm had the affirmative duty under GAAS to plan and perform its audits to obtain reasonable assurance that RE Loans' financial statements were free of material misstatement, whether caused by error or fraud.

71. An independent auditor must perform the procedures called for by GAAS. Then, after performing these procedures, the auditor must decide if anything came to the auditor's attention that would lead the auditor to believe that the financial statements are not fairly presented in accordance with GAAP. AU 150.02 (*Standards of Fieldwork*). Thus, the audit process requires professional skepticism to be employed throughout the audit. AU 333.02, AU 230.07, AU 230.09. The audit opinion is valuable precisely because the auditor is supposedly conducting an independent and skeptical examination of the information provided by management.

72. Under GAAS, the auditor must consider both audit risk and materiality in (a) planning the audit and designing audit procedures, and (b) in evaluating the results of the audit in relation to the financial statements as a whole. AU 312.11. The auditor must plan the audit

to obtain reasonable assurance of detecting material misstatements that the auditor believes could be large enough, individually or in the aggregate, to be quantitatively material to the financial statements. AU 312.18.

73. The audit must be performed by persons who are adequately trained and proficient as auditors and who must maintain an "independence" in mental attitude at all times. Field work must be adequately planned, properly supervised, and with a sufficient understanding of the clients' internal controls so that necessary or required audit testing can be prepared. Importantly, the auditor must secure, through inspection, observation, inquiry and confirmation, competent evidential matter sufficient to afford a reasonable basis for an opinion regarding the financial statements under audit.

74. AICPA specifically requires an audit team to be knowledgeable about its client's industry, business and operations, as well as for such knowledge to be adequately considered in the planning phase of an audit. (AU 311.03).

75. Importantly, AU 311 states that the auditor should consider "matters affecting the industry in which the entity operates, such as economic conditions [or] government regulations … as they relate to his audit," as well as "[o]ther matters, such as accounting practices common to the industry, competitive conditions, and, if available, financial trends and ratios." (AU 311.07).

76. AU 312, entitled "*Audit Risk and Materiality in Conducting an Audit*," provides guidance on the auditor's consideration of audit risk and materiality when performing an audit of financial statements in accordance with GAAS. Audit risk is defined as the risk that the auditor may unknowingly fail to appropriately modify his or her opinion on financial statements that are materially misstated. (AU 312.02).

77. AU 312 also provides that "[f]inancial statements are materially misstated when they contain misstatements whose effect, individually or in the aggregate, is important enough to cause them not to be presented fairly, in all material respects, in conformity with generally accepted accounting principles." (AU 312.04) As AU 312 asserts, "[m]istatements can result from errors or fraud." (AU 312.04).

78. AU 316, entitled *"Consideration of Fraud in a Financial Statement Audit,"* reiterates and expands upon AU 110, *Responsibilities and Functions of the Independent Auditor* ("AU 110") in the following manner:

> The auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.

(AU 316.01; AU 110.02).

79. AU 316 requires the auditor to specifically assess the risk of material misstatement of the financial statements due to fraud and consider that assessment in its audit. (AU 316.45). The requirement to exercise professional skepticism is also reiterated by AU 316 in the context of its importance to the auditor's consideration of the risk of material misstatement due to fraud. Colloquially, fraud risk factors are often referred to as "red flags."

80. Ultimately, AU 316 provides that the presence of red-flags merits an "overall response" by the auditor, described by AU 316 as "[a] response that has an overall effect on how the audit is conducted—that is, a response involving more general considerations apart from the specific procedures otherwise planned," amongst others. (AU 316.48). Considerations would include, but are not limited to, exercising heightened professional skepticism and having a heightened focus on the entity's selection and application of accounting principles and policies. Examples of the application of professional skepticism in response to the auditor's assessment of the risk of material misstatement due to fraud include increased sensitivity related to the nature and extent of audit documentation obtained, and increased recognition of the need to corroborate management's representations. (AU 316.46).

81. The audit report must state whether the financial statements are presented in accordance with GAAP. (AU 410) The report is required to identify those circumstances in which such principles have not been consistently observed in the current period in relation to the preceding period. The report shall either contain an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be

expressed. When an overall opinion cannot be expressed, the reasons therefore should be stated.

82. There are multiple reasons that would require an independent auditor to refrain from issuing an unqualified or "clean" opinion. AU 508 states, in relevant part:

> Certain circumstances may require a qualified opinion. A qualified opinion states that, *except for* the effects of the matter to which the qualification relates, the financial statements present fairly, in all material respects, financial position, results of operations, and cash flows in conformity with generally accepted accounting principles. Such an opinion is expressed when—
>
> a. There is a lack of sufficient competent evidential matter or there are restrictions on the scope of the audit that have led the auditor to conclude that he or she cannot express an unqualified opinion and he or she has concluded not to disclaim an opinion…
>
> b. The auditor believes, on the basis of his or her audit, that the financial statements contain a departure from generally accepted accounting principles, the effect of which is material, and he or she has concluded not to express an adverse opinion.

(AU 508.20) AU 508 also states:

> An adverse opinion states that the financial statements do not present fairly the financial position or the results of operations or cash flows in conformity with generally accepted accounting principles. Such an opinion is expressed when, in the auditor's judgment, the financial statements taken as a whole are not presented fairly in conformity with generally accepted accounting principles.

(AU 508.58).

G. Armanino Issues False and Deceptive "Clean" Audits and Financial Statements

83. For fiscal years 2006 and 2007, and willfully ignoring numerous "red flags" and the related risk factors they unveiled, Armanino provided and issued clean audit opinions for RE Loans on March 16, 2007, and April 11, 2008, respectively, which represented that:

- Armanino had conducted its audits in accordance GAAS; and
- RE Loans' financial statements fairly presented, in all material respects, its financial position for fiscal years 2006, and 2007, in conformity with GAAP.

84. These clean audit reports issued by Armanino were essential to RE Loans' ability to continue raising money through its unregistered securities offerings to Plaintiffs and other investors in the proposed Class and, importantly, to reassure existing investors that RE

Loans was in sound financial condition and operating in conformance with the law.

85. In conducting its audits, Armanino had unique access to the underlying information used to prepare RE Loans' financial statements. This information was not available to the public. Armanino knew that a central purpose of its audits was to have the firm act as a reputational intermediary who would use its unique access to inside information to provide independent assurances of financial stability to RE Loans investors.

86. RE Loans' financial statement for 2006, bearing the imprimatur of Armanino's false and deceptive unqualified audit opinion of March 16, 2007, was incorporated in its Exchange Offering circular and related offering materials in November 2007. Its "clean" audit opinion was used to induce Members to unwittingly vote to approve the Exchange Transaction, thereby relinquishing their equity memberships in exchange for promissory notes – and later reinforced by its audit opinion of April 11, 2008 respecting RE Loans' consolidated financial statements and footnotes for the 2007 calendar year.

87. RE Loans' issued financial statements (including the related footnote disclosures thereto) as of and for the years ended December 31, 2006 and 2007 violated GAAP. Armanino did not disclose these violations, willfully electing instead to falsely represent in its "clean" or "unqualified" audit opinion that RE Loans financial statements were presented in accordance with GAAP. Indeed, RE Loans violated the fundamental principles of financial reporting, discussed above, by failing to provide: (a) useful information to present and potential investors and creditors, (b) comprehensible information to those with a reasonable understanding of business and economic activities, (c) reliable information (i.e., information that faithfully represented what it purported to represent), and (d) complete information.

88. Armanino foresaw, knew and intended at all times material that investors would rely on its audits and that RE Loans would use them to induce investments and comfort existing investors to their ultimate detriment. Its flagrant violation of, and egregious departure from, auditing standards, while ignoring substantial red flags and fraud by its client that was willful, intentional and reckless, substantially aided and abetted wholesale breaches of

fiduciary duties owed by RE Loans and its management to Plaintiffs and Class Members and was itself – by virtue of its false and deceptive clean audit opinions and reported financial statements — fraudulent.

89. By giving unqualified audit opinions for RE Loans' financial statements for fiscal years 2006 and 2007, Armanino represented that its audits of RE Loans' books and records were done in accordance with GAAP and GAAS. They were not, and Armanino's audit reports were materially misleading and falsely reported RE Loans' financial condition to the Company's investors.

H. Armanino's Clean Audit Opinions Caused Unsuspecting Class Members Great Harm

90. As a direct consequence of Armanino's false and deceptive audit opinions and flagrant violations of GAAS, Members elected to hold and continue to maintain their investments in RE Loans securities rather than divest. Its March 16, 2007 clean audit opinion was also a substantial factor in causing members to agree to exchange their equity memberships in RE Loans for less valuable promissory notes, which they continued to hold thereafter amid yet another fraudulent and deceptive audit opinion rendered by Armanino on April 11, 2008. Eventually, RE Loans defaulted on the Wells Fargo line of credit loan and ultimately defaulted on the promissory notes it had issued to the Members as part of the exchange transaction. RE Loans, MF 08, Barney Ng, Kelly Ng, Bruce Horwitz, Walter Ng and B-4 Partners later became engaged in bankruptcy proceedings in California and Texas.

91. The financial harms suffered by Plaintiffs and the Class as defined herein are tragic. The Managers targeted individuals who were retired or approaching retirement. As a result of Defendant's unlawful conduct, many of the RE Loans Members have lost their retirement funds and life savings and many of them are now destitute.

APPLICATION OF THE DISCOVERY RULE AND THE FRAUDULENT CONCEALMENT DOCTRINE

92. Plaintiffs did not and could not reasonably have discovered the tortuous and fraudulent misconduct of Armanino in rendering false and deceptive "clean" audit opinions

and their violations of GAAS, as more fully discussed herein, prior to April 10, 2010 at the earliest. In addition, Plaintiffs could not reasonably discover that, given the general market conditions, they had been injured by or have claims arising from the false financial statements and audit reports issued by RE Loans and Armanino.

93. The RE Loans Managers continued to actively solicit investment capital for RE Loans, using Walter Ng Investors and MF08 as intermediary conduits, despite being told in March of 2007 that RE Loans could no longer raise investor capital. The Managers continued to solicit investor funds throughout 2008 through false assurances of financial stability contained in a constant stream oral and written communications to RE Loans and MF08 investors and prospective investors. Investor capital continued to flow into RE Loans through MF08 well into 2009 because the investors had no inkling of the securities violations, of the financial insolvency of RE Loans, or of the Ponzi scheme that RE Loans and MF08 had become. Nor did they have any reason to suspect wrongdoing by anyone had caused them injury, as opposed to general market conditions. To the contrary, MF08 itself was formed as an illegal funding source to give RE Loans the false appearance of financial solvency.

94. Furthermore, the Managers owing the investors fiduciary duties of truthfulness and full disclosure continued instead to feed them false assurances through a series of investor reports designed to prevent them from suspecting any wrongdoing by the Managers, or the other participants and enablers of the fraudulent scheme, including Armanino. Upon information and belief, many of these reports were reviewed by Armanino. This stream of knowingly false comfort reports, falsely attributing the liquidity problems and defaults of RE Loans and MF08 solely to general market conditions, continued well into 2010.

95. Plaintiffs and the Class aver that, based on the false and misleading information fed to them, and the material information concealed from them by the Managers, Armanino and the other participants in the alleged fraudulent scheme, under California's discovery rule they did not discover and did not have reason to discover their causes of action relating to the scheme involving RE Loans, the Exchange Transaction and the creation of MF08 before April 10, 2010, at the earliest. Prior to that date Plaintiffs and the other investors did not have a

reasonable factual basis to suspect that they had been harmed through any breach of fiduciary duty, fraud, negligent misrepresentation or violations of California's securities laws – as amply illustrated by the SEC's failure to ascertain any such misconduct in January 2010.

96. Alternatively, under California's fraudulent concealment doctrine, the limitations period was likewise tolled at least through April 10, 2010, based on the active deceptive conduct of the Mangers, Armanino and the other scheme participants in concealing Plaintiffs' causes of action for breach of fiduciary duty, negligent misrepresentation, fraud and violations of California's securities statutes – a deception sufficient to conceal the ongoing securities violations even from the SEC in January 2010. Indeed, the SEC did not commence its own enforcement action against certain of the Managers until February 28, 2013.

97. In addition, Armanino executed a tolling agreement on December 30, 2011, which was subsequently amended, as a consequence of which the statute of limitations was further tolled from December 30, 2011 through and including March 31, 2013.

CLASS ALLEGATIONS

98. Plaintiffs bring this action on behalf of the following individuals (the "Class"):

> All persons who, within the applicable statute of limitations (a) purchased a membership interest in R.E. Loans, LLC or (b) received a promissory note(s) from R.E. Loans on or after November 1, 2007, that have not been fully repaid their principal investment.

99. Excluded from the Class are: (a) the Managers, Armanino, Greenberg Traurig and Wells Fargo, and (b) members of their families, their estates, any entity in which they have a controlling interest or which is a parent, subsidiary or affiliate of or is or was controlled by RE Loans, MF 08, Walter Ng Investments, Bar-K, B-4 Partners, The Mortgage Fund and their officers, directors, managers, employees, affiliates, agents, legal representatives, heirs, predecessors, successors, and assigns.

100. Membership in the Class is so numerous that joinder of all members is impracticable. The disposition of their claims in a class action will provide substantial benefits to the parties, Class members, and the Court. Although the number of Class Members and their names are presently unknown, this information can be readily determined from the

records of RE Loans. Upon information and belief, the Class includes thousands of investors, most of whom are California citizens.

101. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class that predominate over questions that may affect only individual members of the Class include:

- whether Armanino's audit opinions and RE Loans' stated financial results were false and misleading and/or violated GAAS and/or GAAP;
- whether RE Loans' sales or offering of investment interest violated state or federal securities law and regulation;
- whether Armanino aided and abetted others in breaching their fiduciary duties owed to the Class;
- whether Armanino made false misrepresentations and/or omitted to disclose material information to the Class and/or aided and abetted others, and whether the Class sustained injury by reason of Armanino's actions, misrepresentations and omissions;
- whether Armanino is jointly and severally liable for the actions, misrepresentations and omissions of RE Loans;
- whether the Class is entitled to equitable relief; and
- whether the Class is entitled to recover damages and, if so, the amount of damages that members of the Class are entitled to recover.

102. Plaintiffs' claims are typical of the Class members' claims, and are based on and arise out of uniform misrepresentations, omissions and breaches as described above. If litigated individually, the claims of each Class member would require proof of the same material and substantive facts, rely upon the same remedial theories, and seek the same relief. Then, once Armanino's liability is established, the Court and a jury can determine the claims of each member of the Class on the uniform basis of the value and date of their investments. There will also be no difficulty in the management of this litigation as a class action.

103. Plaintiffs have retained counsel competent and experienced in class action,

securities fraud, and claims against audit and accounting firms. Plaintiffs have no interests antagonistic to or in conflict with those of the Class, will fairly and adequately protect the interests of the Class members and is committed to the vigorous prosecution of this action.

104. A class action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all members of the Class is impracticable. Proceeding as a class action will permit an orderly and expeditious administration of the claims of the Class, will foster economies of time, effort and expense and will ensure uniformity of decisions.

FIRST CAUSE OF ACTION
AIDING AND ABETTING BREACH OF FIDUCIARY DUTY

105. Plaintiffs hereby incorporate by reference each of the preceding paragraphs as though fully set forth herein.

106. At all times relevant hereto, B-4 Partners, Bar-K, Walter Ng, Bruce Horwitz, Barney Ng and Kelly Ng acted and failed to act as Managers of RE Loans. In their capacity as the RE Loan's Managers, they owed certain fiduciary obligations to Plaintiffs and the Class, including but not limited to those duties prescribed under the RE Loans' Operating Agreement and the several published Offering Circulars under which Plaintiffs and the Class purchased their membership units.

107. The Managers also owed Plaintiffs and the Class the following fiduciary obligations under Cal. Civ. Code § 17153 and by its reference § 16404(a):

a. the duty of undivided loyalty and the duty to refrain from engaging in unfair transactions with Members;

b. the duty to fully disclose all material facts germane to the fiduciary relationship;

c. the duty to refrain from acting on behalf of any party having an interest adverse to the Members interests; and/or

d. the duty to act in the highest good faith to the Members and to refrain from obtaining or accepting any advantage over them in the Company's affairs by the slightest misrepresentation or concealment.

108. Additionally, Plaintiffs and the Class reposed trust and confidence in the Managers to handle their investments. And in turn, the Managers accepted that trust and confidence, thereby creating a fiduciary relationship.

109. The Managers breached their fiduciary obligations to Plaintiffs and the Class and caused damages to Plaintiffs and the Class in an amount to be proven at trial through their specific actions and inaction.

110. Armanino acted with complicity and knowledge of those breaches.

111. Armanino aided and abetted, encouraged, and rendered substantial assistance to B-4 Partners, Bar-K, Walter Ng, Bruce Horwitz, Barney Ng and Kelly Ng in breaching their fiduciary duties to Plaintiffs and the Class.

112. Armanino foresaw, realized and intended that its conduct would substantially assist the accomplishment of the wrongful conduct and scheme alleged herein.

113. As a result of the substantial assistance of Armanino, Plaintiffs and the Class have suffered and continue to suffer monetary losses, all in an amount to be determined according to proof at trial.

114. Armanino's individual and collective acts and omissions were substantial contributing factors and causes of violations of the duties as set forth in this Count and to Plaintiffs and the Class' indivisible harm and damages, rendering Armanino jointly and severally liable to Plaintiffs and the Class.

SECOND CAUSE OF ACTION
SECONDARY LIABILITY FOR SECURITIES FRAUD

115. Plaintiffs hereby incorporate by reference each of the preceding paragraphs as though fully set forth herein.

116. The RE Loans investment units sold to Plaintiffs and the Class, as described under the several published Offering Circulars conveying membership interests, were securities under Cal. Corp. Code § 25019.

117. The November 1, 2007 exchange of Plaintiffs' and the Class members' membership interest securities for promissory notes created a debt interest security, which is

itself a security under Cal. Corp. Code § 25019.

118. RE Loans' securities were sold in, within or from California. In connection with the offer and sale of securities, RE Loans directly and indirectly made untrue statements of material fact and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of under Cal. Corp. Code § 25401, including but not limited to and specifically including Armanino's false and deceptive "clean" audit opinions placing Armanino's imprimatur on the fraudulent RE Loans' financial statements that were also incorporated by or form part of the Exchange Offering circular and materials.

119. Armanino knowingly and substantially assisted the securities law violations by RE Loans and the Managers in the manner and for the reasons set forth *supra.* Armanino's misrepresentations materially assisted in the securities fraud and were a substantial factor in causing harm and damage to Plaintiffs and the Class.

120. Accordingly, pursuant to Cal. Corp. Code § 25504.1, Armanino is jointly and severally liable to Plaintiffs and the Class for recessionary damages, monetary restitution and pre- and post-judgment interest at the legal rate, costs, and any additional relief as this Court may deem appropriate under the circumstances.

THIRD CAUSE OF ACTION
FRAUD BY MISREPRESENTATION

121. Plaintiffs incorporate by reference each of the preceding paragraphs as though fully set forth herein. Armanino made material misrepresentations to Plaintiffs and the Class as alleged *supra.*

122. As described *supra,* Armanino knew that these statements to Plaintiffs and the Class were false.

123. Armanino made these statements with the intent to defraud Plaintiffs and the Class as set forth *supra.*

124. Armanino's misrepresentations were conveyed through uniform writings mailed to each Member, including Plaintiffs and the Class, as set forth *supra.*

125. Plaintiffs and the Class believed the representations made by Armanino were true or were ignorant of their falsity.

126. In direct reliance on Armanino's misrepresentations, Plaintiffs and Class members were induced to, and did invest in RE Loans, held their investments and accept the Exchange Offering converting their membership holdings into virtually worthless debt security holdings, much to their substantial detriment and loss. Had Plaintiffs or the Class known the true facts, they would not have taken such action.

127. Plaintiffs and the Class' reliance upon Armanino's representations were reasonable and justified.

128. As a proximate result, Plaintiffs and the Class have been injured by Armanino's fraudulent actions.

129. According to Cal. Civil Code § 1709, Armanino is liable for Plaintiffs and the Class members' damages.

130. The actions of Armanino as alleged herein, constitute oppression, fraud, or malice, as those terms are defined in California Civil Code § 3294, entitling Plaintiffs and the Class, and each of them, to an award of punitive damages.

FOURTH CAUSE OF ACTION
FRAUD BY CONCEALMENT & SUPPRESSION OF FACTS

131. Plaintiffs incorporates by reference each of the preceding paragraphs as though fully set forth herein.

132. Armanino concealed and suppressed material facts from the Members. Armanino had a duty to disclose these facts because it undertook a duty to conduct an independent audit of RE Loans financial statements and (2) it communicated information it foresaw, knew and intended would be disseminated to RE Loans investors such as Plaintiffs and the Class that was misleading in light of the facts concealed and suppressed.

133. Armanino concealed and suppressed facts from the Members as set forth *supra*.

134. As described *supra,* Armanino knew that these concealed and suppressed facts were necessary to make material statements made not misleading.

135. Armanino made misrepresentations and concealed and suppressed facts with the intent to defraud Members as set forth *supra.*

136. Armanino withheld the concealed and suppressed these facts from uniform writings disseminated to each Member, including Plaintiffs and the Class.

137. Plaintiffs and the Class believed that the representations made were true or were ignorant of their falsity or misleading nature.

138. In reliance Armanino's misrepresentations, which concealed and suppressed material facts, Plaintiffs and the Class were induced to, and did invest in RE Loans and participate in and accept the Exchange Agreement.

139. If Plaintiffs and the Class had known the actual facts, they would not have made their investments, exchanged their ownership interests for promissory notes, or taken other actions injurious to their interests.

140. Plaintiffs' and the Class' reliance upon these representations, which concealed and suppressed material facts, was reasonable and justified.

141. As a proximate result, Plaintiffs and the Class have been injured by the Armanino's fraudulent actions.

142. According to Cal. Civil Code § 1709, Armanino is liable for Plaintiffs' and the Class' damages.

143. The actions of Armanino as alleged herein, constitute oppression, fraud, or malice, as those terms are defined in California Civil Code § 3294, entitling Plaintiffs and the Class, and each of them, to an award of punitive damages.

FIFTH CAUSE OF ACTION
NEGLIGENT MISREPRESENTATION

144. Plaintiffs incorporate by reference each of the preceding paragraphs as though fully set forth herein.

145. As alleged *supra,* Armanino prepared audit reports and RE Loans financial statements that made multiple assertions of past or existing material facts that were false and for which Armanino had no reasonable grounds for believing to be true.

146. Armanino intended that its misrepresentations as alleged herein respecting the financial statements it prepared would induce the reliance of Plaintiffs and Class Members.

147. Moreover, aside from its intent to induce Plaintiffs' and the Class' reliance, Armanino had access to extensive non-public information from RE Loans that disconfirmed the misrepresentations contained in the communications it prepared, and Armanino therefore played more than a "secondary role" in preparing those communications, as alleged supra.

148. In reliance on these misrepresentations, Plaintiffs and the Class were induced to, and did invest in RE Loans and/or participate in and accept the Exchange Agreement. Plaintiffs and Class Members would not have taken such action as holders had they known the truth.

149. Under the circumstances as alleged *supra*, Plaintiffs and the Class' reliance on Armanino's representations was reasonable and justified.

150. As a proximate result, Plaintiffs and the Class have been injured by Armanino's negligent misrepresentation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the Class, pray for an order and judgment against Armanino as follows:

A. certifying the Class as set forth in this Complaint, and appointing Plaintiffs as Class Representatives for the Class;

B. awarding Plaintiffs and the Class rescission;

C. awarding Plaintiffs and the Class restitution with interest at the legal rate;

D. awarding Plaintiffs and the Class monetary damages and interest at the legal rate;

E. awarding Plaintiffs and the Class the costs and disbursements of this action, including reasonable counsel fees, costs and expenses in amounts to be determined by the Court;

F. awarding pre- and post-judgment interest; and

G. granting such other and further relief as is just and proper.

REQUEST FOR JURY TRIAL

Plaintiffs hereby request a trial by jury on all issues triable by jury.

DATED: June 18, 2013

CHAVEZ & GERTLER LLP

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