

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
ARBITRATION**

In the Matter of the Arbitration Between:

FINRA File No. _____

Gunvant Bhatt,

Claimants,

and

Western International Securities, Inc.
(CRD #39262), NRP Financial, Inc.
(CRD #103717), and Eric Erickson
(CRD #726668),

Respondents,

STATEMENT OF CLAIM

I. INTRODUCTION AND SUMMARY OF CLAIM

Gunvant Bhatt is a retired small business owner whom Eric Erickson pitched into investing \$400,000 in a Swiss currency exchange program called "Crown Forex, S.A." in 2008. Unbeknownst to Gunvant, the "Crown Forex, S.A." investment sold by Erickson was actually "Crown Forex, LLC" – a massive Ponzi scheme operated by Trevor Cook (now in prison) and his compatriot Bo Beckman (now in receivership facing a \$190 million SEC lawsuit) out of the same offices and address as Eric Erickson.

Erickson was registered with broker-dealers NRP Financial, Inc. ("NRP") and Western International Securities, Inc. ("Western"), during the time that he

marketed the Crown Forex investment to Guntant, and then accepted and oversaw Guntant's money in the Crown Forex scheme. (Erickson is now registered with a different broker-dealer and continues to actively solicit clients and provide investment advice to people in Minnesota.) Erickson, NRP and Western never investigated or did their due diligence for the Crown Forex scheme that Erickson was pitching to Guntant and other customers. Neither did Erickson and Western act to protect their customers' investments as signs became increasingly ominous (and obvious) about the suspicious nature of the Crown Forex scheme. Instead, Erickson, NRP and Western took Guntant's money, let it ride and lost it.

Guntant's investment is gone. But Erickson and Western have moved on to new customers and more business. NRP was purchased in 2010 and continues on in a new form. As the respondents have moved on, Guntant has lost over \$350,000 and is forced to file this action to recover his lost funds and to seek damages against Erickson, Western and NRP their mismanagement, misrepresentations, negligence and violations of the law.

II. PARTIES

Claimant Guntant Bhatt is 69 years old and a retired small business owner. He came to the United States in 1967 from Gujarat, India, and graduated from North Dakota State University in 1968 with a Master's degree in mechanical engineering. He became a U.S. citizen in 1974 and founded a successful heating,

ventilation and air conditioning business in Minnesota, which he ran for over twenty years. He retired from his business in 2005.

Respondent Western International Securities, Inc. ("Western"), (CRD #39262) is a registered broker-dealer firm located in California. It is a Colorado corporation registered to do business in the State of Minnesota. Western employed Erickson February 2008 to May 2009.

Respondent NRP Financial, Inc. ("NRP"), (CRD #103717) was, until December 2010, a registered broker-dealer located in Ohio and registered to do business in the State of Minnesota. NRP's assets were purchased in July 2010 by LPL Financial Corporation ("LPL") and NRP's CEO, Bill Chetney, became the head of a new division within LPL. NRP employed Erickson from November 2005 until March 2008.

Respondent Eric Erickson (CRD #726668) is an Associated Person and investment advisor and broker who lives and works in Minnesota. In late 2007, Erickson began pitching a Swiss currency trading program to Gunvant Bhatt and signed up Gunvant as his customer in January 2008. Erickson has a long history of compliance and financial issues, including a FINRA regulatory action resulting in a January 2009 fine and suspension, previous customer complaints from 2002 and 2009, and personal bankruptcy in 2010. He was not registered with a FINRA-firm from May 2009 until March 9, 2011, when he joined Emergent Financial Group, Inc. (CRD #37891), in Bloomington, Minnesota.

III. STATEMENT OF FACTS

A. Background

After immigrating to the United States in 1967, becoming a U.S. citizen in 1974, and running a successful HVAC business, Gunvant Bhatt retired in 2005. In his retirement, Gunvant has invested his retirement funds himself and through brokers. In 2007, Gunvant was approached by a member of his temple, who recommended that Gunvant meet with Bo Beckman and Eric Erickson regarding their investment and financial planning services. Gunvant met with Bo and Eric in late 2007. After his initial meeting with Beckman and Erickson together, Gunvant's main contact and broker (including the representative who signed all his papers) was Erickson.

From the first meetings in 2007, Erickson began pitching Gunvant to invest in a foreign currency trading program run by a Swiss company called Crown Forex, S.A. Erickson gave Gunvant brochures and account documents labeled "Crown Forex, S.A." Erickson was a licensed securities professional registered with FINRA through NRP and Western International during the entire time he was pitching the Crown Forex investment to Gunvant and other investors. Erickson represented to Gunvant and other investors that the Crown Forex, S.A., currency program would produce guaranteed returns ranging from 10% to 12% per year with little or no risk, and that the investments would be liquid. Erickson claimed that the Crown Forex investment was more secure than the U.S. stock

market and that it would outperform most other investments. But based on his background and experience, Erickson was in a position to know better. In fact, Erickson did not conduct adequate due diligence to support his representations to his investors about Crown Forex, S.A.

B. Gunvant's Investments with Eric Erickson, NRP and Western

In January 2008, Eric Erickson met with Gunvant at Gunvant's home in Plymouth, Minnesota. Erickson had Gunvant sign several account opening documents and collected a \$200,000 check from Gunvant payable to Oxford Global Advisors. Erickson told Gunvant he would send Gunvant copies of the signed account documents, but Erickson never did so. In February 2008, Gunvant began receiving monthly account statements from "The Oxford" for the \$200,000 he gave to Erickson. Erickson also set up periodic withdrawals ranging from \$1,750 to \$2,000 to Gunvant from the account.

In March 2008, Erickson switched to Western as his broker-dealer and he continued to pitch Gunvant to invest more money into Crown Forex, S.A. On April 29, 2008, Gunvant signed a Client Agreement, IRA Application and other documents with Western and Eric Erickson. On May 20, 2008, Erickson had Gunvant sign documents for an account with Crown Forex, S.A., which Erickson signed as representative and witness to Gunvant's signature. Because Gunvant was investing IRA funds and not cash, Erickson referred Gunvant first to Millenium Trust and then to Entrust Midwest, LLC, which marketed itself as an

IRA custodian to facilitate investment of Guntant's IRA funds into Crown Forex, S.A.

In May 2008, Guntant wired \$200,000 from his Fidelity Investments IRA to Millenium Trust, which then wired Guntant's funds to Entrust Midwest for investment in Crown Forex, S.A. Guntant only learned later (in Fall 2009) that Entrust Midwest had never completed his investment. In June 2008, Entrust Midwest wired Guntant's investment funds to Crown Forex, S.A.'s account at Credit Suisse in Delemont, CH, Switzerland. This wire transfer was never completed and the funds were returned to Entrust Midwest in July 2008. Entrust Midwest, on its own or in consultation with Erickson, never notified Guntant and instead transferred Guntant's IRA funds to "Crown Forex LLC" via an account at Associated Bank of Green Bay. Guntant never knew his funds had gone to "Crown Forex, LLC" until it was far too late.

Guntant has since learned that Crown Forex, LLC was a shell company, apparently set up by Trevor Cook, whose only purpose was to serve as the name on a Minneapolis bank account. The use of the name "Crown Forex" gave Guntant the false impression that his funds had been sent to Crown Forex, S.A., in Switzerland. Erickson never notified Guntant that his investment in Crown Forex, S.A., was not completed; instead Erickson continued to represent to Guntant that his IRA and non-IRA funds – now a total investment of \$400,000 – were invested in foreign currency trading with Crown Forex, S.A., in Switzerland.

In furtherance of this fraud, Erickson continued to facilitate periodic withdrawals for Gunvant ranging from \$1,750 to \$5,275 from Gunvant's accounts with Erickson.

C. The Collapse of the Crown Forex Ponzi Scheme

In July 2009, Gunvant read an article in the *Star Tribune* newspaper titled, "Record Casts Doubt on Money Manager." The article focused on Erickson's colleague, Bo Beckman, but also discussed a pending customer complaint against Erickson. The article began a series of reporting by the *Star Tribune* regarding the Crown Forex scheme, its promised returns, problems experienced by other investors and serious questions surrounding the investment advisors who had been hawking the scheme.

As it turned out, there were many signs available to Erickson from 2008 through May 2009 that the Crown Forex scheme was unraveling. Through 2008, Erickson's compatriot Bo Beckman was hiring attorneys and an accounting firm to investigate the Crown Forex currency program run by Trevor Cook. Neither Erickson nor Beckman ever revealed these investigations (or the suspicions that led to the investigations) to Gunvant.

With respect to the actual Crown Forex, S.A. (which Erickson marketed to Gunvant), the Swiss Financial Market Supervisory Authority (FINMA) took over Crown Forex, S.A., on December 9, 2008, placed it into liquidation on February 23, 2009 and into bankruptcy on May 19, 2009. To this day, it is unclear when

(or whether) Erickson knew about these developments with Crown Forex, S.A. He certainly should have.

Throughout May and June 2009, an increasing number of investors were unable to access their funds that had been invested in the Crown Forex scheme. Erickson officed at 1900 LaSalle alongside Bo Beckman and Trevor Cook during this entire time and knew or should have known all of these developments and concerns regarding Crown Forex. But Erickson never once communicated any of this information to Gunvant.

Upon reading the news articles in July 2009, Gunvant sent emails to Erickson and Beckman regarding his accounts. On July 20, 2009, Erickson replied, "We are working on all accounts" and referred Gunvant to a website for Crown Forex, S.A., which indicated that the Swiss government had placed Crown Forex, S.A., into bankruptcy on May 19, 2009. Erickson never explained to Gunvant that Gunvant's funds had actually been invested in "Crown Forex LLC" and never made it to Switzerland.

On July 28, 2009, Gunvant received a general email from Erickson to numerous undisclosed recipients stating, "I apologize for not returning recent calls as I have no new information since my initial contact and have been in the process of moving out of 1900 LaSalle." Erickson then referred the recipients to a meeting on July 29, 2009 at the Greene Espel law firm in Minneapolis. At this meeting, Erickson's colleague Bo Beckman claimed he had no knowledge or

inkling of problems with the Crown Forex scheme and that he had retained prominent Minneapolis attorney Andy Luger (a former Assistant United States Attorney) at the Greene Espel law firm to investigate what happened to clients' funds.^{1/}

In September 2009, Gunvant again contacted Erickson regarding his investment funds. Erickson replied, "All of your withdrawal forms were submitted to the currency manager (Trevor Cook) as soon as they were received." In October 2009, the SEC filed suit against Trevor Cook and a receivership was appointed to oversee all assets and claims involving the Crown Forex LLC scheme. As part of those charges, the SEC announced that Crown Forex LLC was actually a *Ponzi* scheme run by Trevor Cook and others out of the 1900 LaSalle mansion in Minneapolis.

In December 2009, the SEC announced that the Crown Forex *Ponzi* scheme involved thousands of investors with claims in excess of \$190 million, and that investors could expect to recover only 2¢ or 3¢ on the dollar. In August 2010, Trevor Cook pleaded guilty to fraud and tax evasion and was sentenced to 25 years in prison by U.S. District Judge James Rosenbaum. On March 7, 2011,

^{1/} In December 2008, Andy Luger and Greene Espel PLLP withdrew from representing The Oxford PCG and Bo Beckman. In June 2010, Greene Espel PLLP filed a lawsuit in Hennepin County District Court against Beckman and The Oxford PCG for unpaid legal fees. The case was settled in December 2010.

the SEC filed suit against Bo Beckman, and Beckman's assets were placed into receivership for his role in the Crown Forex *Ponzi* scheme.

Gunvant has received \$6,221.45 from the Trevor Cook receivership for the funds that Erickson invested in the Crown Forex LLC *Ponzi* scheme. After deducting that payment, and the periodic withdrawals that Erickson facilitated, Gunvant has lost over \$350,000 from the original \$400,000 that he entrusted to Erickson and his broker-dealers. Neither Erickson, nor NRP, nor Western has been charged civilly or criminally for leading investors like Gunvant into the Crown Forex *Ponzi* scheme. In March 2011, Erickson joined a new broker-dealer in Minnesota and continues to solicit clients and to function as an investment advisor in Minnesota. In fact, Erickson continues to this day to contact Gunvant with new (and unsolicited) investment proposals.

IV. APPLICABLE LAW

1. The claims set forth below summarize various laws and rules violated by Respondents as a consequence of which Claimant Gunvant Bhatt is entitled to recover damages. Claimant reserves the right to present additional law to the arbitration panel. Claimant also reserves the right to present additional evidence to the arbitrators at trial, and this Statement of Claim shall be deemed amended to conform to the evidence adduced at trial. Further, the factual allegations in the entire Statement of Claim shall be deemed to be incorporated by reference in each claim set forth below.

FIRST CLAIM

**Violations of Section 10(b) of the Securities Exchange Act of 1934
and Section 10b-5 of SEC Regulations**

2. Claimant restates and realleges the foregoing paragraphs.
3. The guiding philosophy of the federal securities laws is full disclosure. The United States Supreme Court described the purpose of the Securities Act of 1933 and the Securities Exchange Act of 1934 and related statutes as follows: Act of 1934 and related statutes as follows:

A fundamental purpose, common to these statutes, was to substitute a philosophy of full disclosure for the philosophy of caveat emptor and thus to achieve a high standard of business ethics in the securities industry.

Securities and Exchange Comm'n v. Capital Gains Research Bureau, 375 U.S. 180, 186 (1963).

4. Section 10(b) of the Securities and Exchange Act of 1934, 15 U.S.C. § 78j(b), prohibits the use of "any manipulative or deceptive device or contrivance in contravention" of the rules and regulations adopted by the federal Securities and Exchange Commission ("SEC"). As declared in Section 10(b), the rules of the SEC are intended "for the protection of investors" such as Claimants. 15 U.S.C. §78j(b).

5. Rule 10b-5, promulgated by the Securities and Exchange Commission pursuant to authority granted by Congress, provides as follows:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate

commerce, or of the mails or of any facility of any national securities exchange,

- a. To employ any device, scheme or artifice to defraud,
- b. To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
- c. To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

17 C.F.R. §240.10b-5. A violation of Rule 10b-5 involves severe recklessness or “highly unreasonable omissions or misrepresentations” on the part of the defendant. *K-Tel Int’l Sec. Litig.*, 300 F.3d 881, 893 (8th Cir. Aug. 7, 2002). A fact is material under the securities laws “if it is substantially likely that a reasonable investor would consider the matter important in making an investment decision.” *Austin v. Loftsgaarden*, 675 F.2d 168, 176 (8th Cir. 1982) (citing *TSC Indus., Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976)). The plaintiff need not prove reliance, although Claimants relied completely on Respondents to manage their investment in a manner consistent with their instructions, obvious plans and needs. *See In re Nationsmart Corp. Sec. Litig.*, 130 F.3d 309, 318 (8th Cir. 1997).

6. The acts and omissions of Respondents described above constitute violations of Section 10(b) of the 1964 Act and Section 10b-5 of the regulations.

Erickson failed to investigate the Crown Forex investment program that he recommended to Claimant, failed to ensure that Claimant's funds were invested as instructed, failed to track and follow up on Claimant's investment funds and failed to warn Claimant of the increasing uncertainty surrounding the Crown Forex scheme. Erickson had no experience, training or education in foreign currency trading as an investment scheme. Respondents NRP and Western failed to oversee or supervise Respondent Erickson in his actions.

7. Respondents' violation of Sections 10(b) and 10b-5 proximately caused damages to Claimant in an amount at least \$350,000, to be proved at trial.

SECOND CLAIM
Violation of Minnesota Securities Act
Minn. Stat. Chapter 80A

8. Claimant restates and realleges the foregoing paragraphs.

9. Respondents' acts and omissions as alleged herein constitute fraud under the Minnesota Securities Act. The Act states:

a. Fraud in providing investment advice. It is unlawful for a person that advises others for compensation, either directly or indirectly or through publications or writings, as to the value of securities or the advisability of investing in, purchasing, or selling securities or that, for compensation and as part of a regular business, issues or promulgates analyses or reports relating to securities:

(1) To employ a device, scheme, or artifice to defraud another person; or

- (2) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

Minn. Stat. § 80A.69.

10. Section 509 of the Minnesota Securities Act specifies civil liability for violations of the Act.

11. As experts in financial planning, Respondents had special knowledge of material facts and access to specific tools and information to which Claimant did not have access at the time they advised and carried out the investment of Claimant's funds in the Crown Forex *Ponzi* scheme.

12. Respondents either did not adequately investigate the Crown Forex currency trading scheme or deliberately withheld information from Claimants regarding the risks of a Crown Forex investment, or both.

13. Respondents NRP and Western continued to allow their names to be used by Respondent Erickson with respect to Claimant's investments, but clearly failed to supervise Respondent Erickson or oversee any of his actions or communications with Claimant.

14. Despite their statutory obligations, Respondents invested Claimant's funds not as they had represented to Claimant but rather in a Ponzi scheme operated by now-convicted felon Trevor Cook and his cohorts. Respondents utterly failed in all aspects to investigate the financial scheme they promoted and sold to Claimant, failed to follow up on Claimant's investment,

failed to investigate and oversee Entrust Midwest even as they referred Claimant to it in order to gather more of Claimant's funds, and failed to inform or warn Claimant when it became obvious that the Crown Forex scheme was about to collapse.

15. Respondents knew or should have known their actions and omissions were fraudulent in inducing Claimant to invest in the Crown Forex Ponzi scheme and continuing their fraud as Claimant's funds sat, not as he had directed, but in a collapsing scheme. Respondents made these actions and omissions in circumstances where Claimant was justified in relying on them. Respondents' actions constitute fraud in providing investment advice as defined by the Minnesota Securities Act. By their fraud, Respondents are liable under Minnesota Statutes Chapter 80A for damages to Claimant, consideration paid and all reasonable attorney's fees, totaling an amount at least \$350,000, to be proved at trial.

THIRD CLAIM
Breach of Fiduciary Duty

16. Claimant restates and realleges the foregoing paragraphs.

17. Under Minnesota law, Respondents owed a fiduciary duty to Claimant. Respondents held themselves out as "financial consultants" and received compensation as such, which creates a fiduciary relationship under Minnesota Statutes § 45.026.

18. Moreover, a fiduciary duty exists whenever one person places his trust and confidence in the knowledge or skill or integrity of another. Claimant placed his trust in Respondents, who owed fiduciary duties to him by reason of the fact that they held themselves out as knowledgeable in matters of investments and financial management, by reason of their status as Claimant's agents, and by reason of the trust and confidence reposed in them by Claimant. Simply stated, Respondents owed fiduciary duties to Claimant because Claimant trusted them to obey the laws and act in his best interests at all times.

19. Fiduciaries have special obligations under the law. Fiduciaries owe the highest duties of loyalty, fair dealing, honesty, good faith and full disclosure to their clients. Fiduciaries are prohibited by law from taking any action that is against the best interests of their clients. As fiduciaries, Respondents were required, by law, to disclose *all* facts which might affect Claimants' interests and to lay bare the truth, without ambiguity or reservation, in all stark significance. As The Honorable Judge Cardozo explained:

Many forms of conduct permissible in a work a day world for those acting at arm's length are forbidden to those bound by fiduciary ties. A [fiduciary] is held to something stricter than the morals of the market place. Not honesty also, but the punctilio of an honor the most sensitive, is then the standard of behavior. As to this there has developed a tradition that is unbending and inveterate. Uncompromising rigidity has been the attitude of courts of equity when petitioned to undermine the rule of undivided loyalty by the 'disintegrating erosion' of particular exceptions.

* * *

Only thus has the level of conduct for fiduciaries been kept at a level higher than that trodden by the crowd. It will not consciously be lowered by any judgment of this court.

Meinhard v. Salmon, 249 N.Y. 458, 164 N.E. 545, 546 (1928).

20. A breach of fiduciary duty occurs when a fiduciary abuses their client's trust to the disadvantage of the client. In addition, allegations that support claims of securities fraud or negligent misrepresentation will also support claims of breach of fiduciary duty. *First Presbyterian Church of Mankato, Minn. v. John G. Kinnard & Co.*, 881 F. Supp. 441, 446 (D. Minn. 1995). Respondents breached their fiduciary duties to Claimant by their unlawful, reckless, negligent, or otherwise improper acts and omissions as alleged herein and otherwise.

21. In patent abuse of his fiduciary role, Respondent Erickson never investigated the Crown Forex scheme that he promoted to Claimant, never followed up on the actual investment of Claimant's funds and never informed or warned Claimant of the ominous signs of the Crown Forex *Ponzi* scheme.

22. Respondent Erickson further abused his fiduciary role by strongly encouraging Claimant to invest in the Crown Forex scheme even though Erickson had no experience or education in foreign currency trading.

23. In similar patent abuse of their fiduciary roles, Respondents NRP and Western abused their fiduciary role in allowing Respondent Erickson to use

their names as his affiliated brokerage firms but failing to supervise or otherwise oversee Respondent Erickson in his actions *vis à vis* Claimant.

24. As a result of Respondents' breach of fiduciary duty, Claimant has suffered damages for which Respondents are liable in an amount at least \$350,000, to be proved at trial.

FOURTH CLAIM
Negligence

25. Claimant restates and realleges the foregoing paragraphs.

26. Respondents owed Claimant a duty to act in a reasonable and prudent manner in their dealings and to act as a reasonable and prudent financial consultant and financial planner would act in investigating and understanding the Crown Forex scheme as they marketed and sold the investment to Claimant. Respondents NRP and Western had duties to act in a reasonable and prudent manner in supervising Respondent Erickson. Failure to act as a reasonable and prudent person would act under the same or similar circumstances is negligence.

27. Respondents breached their duties of due care to Claimant when they failed to act as reasonable and prudent persons would have acted in the same or similar circumstances. Respondents breached their duty of care to Claimant when they failed to investigate the Crown Forex scheme and the individuals who oversaw it – individuals who are now in receivership and one of whom is in federal prison. Respondents further breached their duty of care when they failed

to inform Claimant of obvious signs indicating the collapse of the Crown Forex scheme.

28. Respondent Erickson breached his duty of care to Claimant when he referred Claimant to Entrust Midwest, an entity that failed to act as a proper custodian of Claimant's IRA funds and failed to inform Claimant that his instructions to transfer his funds to "Crown Forex, S.A." had never been completed.

29. Respondents NRP and Western breached their duties of care to Claimants when they allowed Respondent Erickson to use their names as his affiliated brokerage but failed to supervise his actions in investing Claimant's funds.

30. As a result of Respondents' negligence, Claimant has suffered damages for which Respondents are liable in an amount at least \$350,000, to be proved at trial.

FIFTH CLAIM
Negligent Misrepresentation

31. Claimants restate and reallege the foregoing paragraphs.

32. Respondents' acts and omissions as alleged herein constitute negligent misrepresentation. Minnesota law defines negligent misrepresentation as follows:

One who, in the course of his business, profession or employment, or in a transaction in which he has a

pecuniary interest, supplies false information for the guidance of others in their business transactions, is subject to liability for pecuniary loss caused to them by their justifiable reliance upon the information, if he fails to exercise reasonable care or competence in obtaining or communicating the information.

Bonhiver v. Graff, 248 N.W.2d 291, 299 (Minn. 1976). Omission of information necessary to clarify information already disclosed, especially when a confidential or fiduciary relationship exists between the parties, may also result in liability for negligent misrepresentation. *M.H. v. Caritas Family Servs.*, 488 N.W.2d 282, 288 (Minn. 1992). Brokers and broker-dealers may be found liable for negligent misrepresentation. *First Presbyterian Church of Mankato, Minn. v. John G. Kinnard & Co.*, 881 F. Supp. 441, 446 (D. Minn. 1995).

33. Respondents received a benefit from the investment of Claimant's funds in the Crown Forex currency trading scheme, yet by their actions they invested Claimant's funds in a *Ponzi* scheme that ultimately caused the near-total loss of Claimant's investment. Respondents failed to investigate or disclose that the Crown Forex, S.A., investment that they sold to Claimant was actually an investment in Crown Forex LLC – a *Ponzi* scheme operated by Trevor Cook, Bo Beckman and others.

34. Respondent Erickson further misrepresented the nature of the Crown Forex scheme when he continued to facilitate Claimant's periodic

withdrawals of funds without informing or warning Claimant of the ominous signs of the Crown Forex scheme's collapse.

35. By their negligent misrepresentations, Respondents have actually and proximately caused damages to Claimant in an amount at least \$350,000, to be proved at trial.

SIXTH CLAIM
Fraud

36. Claimant restates and realleges the foregoing paragraphs.

37. The acts and omissions of Respondents as alleged herein constitute fraud. False statements made with intent to induce reliance are fraudulent. Further, a duty to disclose the material facts of a transaction arises where one party stands in a fiduciary confidential relationship to another party to the transaction, or where one party has special knowledge of material facts to which another party does not have access. *Klein v. First Edina Nat. Bank*, 196 N.W.2d 619, 622 (Minn. 1972); *Appletree Square 1 Ltd. Partnership v. Investmark, Inc.*, 494 N.W.2d 889, 892 (Minn. Ct. App. 1993) ("Where a fiduciary relationship exists, silence may constitute fraud.").

38. As Claimant's financial consultants, Respondents stood in a fiduciary and confidential relationship to Claimant. Further, as experts in financial planning, Respondents all purported to have special knowledge of material facts to which Claimants did not have at the time Respondents invested

Claimant's funds in the Crown Forex scheme, and throughout the term of Claimant's investment until the scheme collapsed.

39. Respondents either did not adequately investigate the Crown Forex currency trading scheme or deliberately withheld information from Claimants regarding the risks of a Crown Forex investment, or both.

40. Respondent Erickson deliberately misled Claimant by holding himself out as an investment professional and hawking Claimant's investment in the Crown Forex scheme without ever disclosing to Claimant that Erickson had no education or experience in foreign currency trading.

41. Respondent Erickson deliberately sought to mislead Claimant when he facilitated periodic withdrawals of funds for Claimant and when Erickson sent Claimant update emails. All the while, Respondent Erickson knew or should have known that Crown Forex, S.A., was in liquidation in Switzerland, Bo Beckman had withdrawn large amounts of money from the Crown Forex scheme in late 2008 and early 2009, and the SEC had executed a search warrant at the 1900 LaSalle offices. Despite all this, Erickson conducted business as usual *vis á vis* Claimant this entire time, deliberately misleading Claimant as to the security and nature of Claimant's investment.

42. Respondents NRP and Western continued to allow their names to be used by Respondent Erickson with respect to Claimant's investments, but

clearly failed to supervise Respondent Erickson or oversee any of his actions or communications with Claimant.

43. Respondents' actions constitute common law fraud. By their fraud, Respondents proximately caused damages to Claimant in an amount at least \$350,000, to be proved at trial.

**SEVENTH CLAIM
Breach of Contract**

44. Claimant restates and realleges the foregoing paragraphs.

45. As described herein, an enforceable contract existed between Claimant and Respondents. Respondents had a contractual obligation to give reasonable financial advice with respect to the funds which Claimant put in their care.

46. Respondents breached their contractual obligations to Claimant when they failed to investigate the Crown Forex investment they marketed and sold to Claimant. Respondents further breached their contractual obligations to Claimant when Respondents failed to follow-up on Claimant's investment and failed to inform Claimant of obvious concerns regarding the security of the investment they sold to Claimant.

47. As a proximate result of Respondents' breaches of contractual duties, Claimant has suffered damages in an amount at least \$350,000, to be proved at trial.

EIGHTH CLAIM
Violation of the Minnesota Consumer Fraud Statute,
Minn. Stat. § 325F.69

48. Claimants restate and reallege the foregoing paragraphs.

49. The conduct of Respondents in this case constitutes violations of the Minnesota Prevention of Consumer Fraud Act (“Consumer Fraud Act”) codified at §§ 325F.68-325F.71. Specifically, the Minnesota legislature enacted the Consumer Fraud act to enjoin:

[t]he act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby...

Minn. Stat. § 325F.69, subd. 1. Under the Consumer Fraud Act, merchandise includes “intangibles.” Minn. Stat. § 325F.68, subd. 2; *In re Professional Fin. Management, Ltd.*, 703 F. Supp. 1388, 1397 (D. Minn. 1989).

50. The Consumer Fraud Act aims to protect innocent customers like Claimants. *Humphrey v. Alpine Air Prods., Inc.*, 490 N.W.2d 888, 892 (Minn. Ct. App. 1992) (Public policy prompting the Consumer Fraud Act was “the protection of innocent customers”). Courts therefore consider the Consumer Fraud Act remedial in nature and construe it liberally in favor of protecting customers. *Id.* The Consumer Fraud Act also provides protection from negligent or unintentional acts. *Church of the Nativity of Our Lord v. Watpro, Inc.*, 474 N.W.2d 605, 612

(Minn. Ct. App. 1991), *aff'd*, 491 N.W.2d 1 (Minn. 1992). Its protection extends to both unsophisticated consumers and sophisticated participants in commercial transactions. *Id.*

51. The Consumer Fraud Act allows Claimant "to recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney's fees and all other equitable relief as determined by the court." Minn. Stat. § 325F.71, subd. 4.

52. Respondents held themselves out to Claimant as financial consultants, but instead invested Claimant's funds in a manner that no qualified financial consultant would recommend. Respondents misled Claimant when they marketed and sold an investment product they had not investigated and which they failed to track to ensure that they were not placing Claimant's funds into a *Ponzi* scheme.

53. Respondent Erickson further misled Claimant when he held himself out as an investment professional but in actuality had no education or training in foreign currency trading.

54. Respondent Erickson continued to mislead Claimant when he pretended the Crown Forex investment was moving ahead business as usual, even though Erickson knew or should have known that the Swiss government had taken over Crown Forex, S.A., in December 2008, that Bo Beckman had withdrawn large amounts of money from the Crown Forex scheme in late 2008

and early 2009 and the SEC had executed a search warrant at 1900 LaSalle in May 2009.

55. Respondents' conduct is thus misleading and deceptive in violation of Minn. Stat. § 325F.69. By their unlawful conduct, Respondents have proximately caused damages to Claimant in an amount at least \$350,000, to be proved at trial. Pursuant to Minn. Stat. § 8.31, subd. 3a, Claimant is entitled to damages, costs, and attorney's fees.

NINTH CLAIM
Rescission Under Section 29
of the Securities Exchange Act of 1934

56. Claimant restates and realleges the foregoing paragraphs.

57. Section 29 of the Securities Exchange Act of 1934 Act provides that any contract made in violation of the 1934 Act is void.

58. The contract between Claimant and Respondents was made in violation of Section 10(b). The contract was based on Respondents' failure to investigate Crown Forex, S.A., Crown Forex LLC and to identify the nature of the Crown Forex *Ponzi* scheme. As a result of these violations, the contracts between Claimant and Respondents are void under Section 29. Accordingly, Claimant is entitled to rescission of the contract and restitution of all funds paid pursuant thereto, in an amount exceeding \$350,000 to be proved at trial.

TENTH CLAIM

Conversion

59. Claimant restates and realleges the foregoing paragraphs.

60. Conversion occurs when one person willfully deprives another of his rights in personal property. Respondents converted Claimant's funds when they invested Claimant's funds in the Crown Forex scheme without any investigation of Crown Forex, S.A., Crown Forex LLC and knowing that Respondent Erickson had no experience or training in foreign currency trading.

61. Respondents' conduct alleged herein constitutes conversion of Claimant's property. As a direct and proximate result of Respondents' act of conversion, Claimant has suffered damages in an amount at least \$350,000, to be proved at trial.

ELEVENTH CLAIM

Vicarious Liability

62. Claimant restates and realleges the foregoing paragraphs.

63. All of Respondent Erickson's acts and omissions as alleged herein were performed in the course and scope of his employment with Respondent NRP (until March 2008) and Respondent Western (from March 2008 to May 2009) and in the scope of his agency relationship with those entities during those times.

64. As Respondent Erickson's employer and principal, and as the broker-dealers with whom Respondent Erickson was associated, Respondents NRP and Western are liable for the acts and omissions of Respondent Erickson

alleged herein under principles of agency, *respondeat superior*, breach of the duty to supervise (*under* NASD Conduct Rule 3010), and controlling person liability pursuant to Section 20(a) of the Securities Exchange Act of 1934 (15 U.S.C. § 78t(a)).

65. As an actual and proximate result of Respondent Erickson's acts and omissions alleged herein, Claimant has suffered damages in an amount in excess of \$350,000, for which Respondents NRP and Western are liable.

TWELFTH CLAIM
Punitive Damages

66. Claimant restates and realleges the foregoing paragraphs.

67. Punitive damages are intended to punish wrongdoers and deter future abuses by demonstrating to the wrongdoer and others that bad conduct will not be tolerated. Minnesota Statutes Section 549.20 permits punitive damage awards against those who act with "deliberate disregard for the rights" of others. The conduct of Respondents clearly shows "deliberate disregard for the rights" of Claimant, thereby entitling Claimant to an award of punitive damages.

68. The factors the arbitration panel must consider in determining the amount of the punitive award include "the seriousness of the hazard to the public arising from Respondents' misconduct, the profitability of the misconduct to the Respondent, the duration of the misconduct and the concealment of it,...[and] the

attitude and conduct of the Respondent upon discovery of the misconduct.”

Minn. Stat. § 549.20, subd. 3.

69. Punitive damage awards are imposed in securities fraud cases because experience has shown that only such awards can deter abuses of the investing public as alleged herein. *See, e.g., Davis v. Merrill Lynch, Pierce, Fenner & Smith*; 906 F.2d 1206 (8th Cir. 1990) (affirming \$2,000,000 punitive damages award). Both the Eight Circuit Court of Appeals and the Minnesota Court of Appeals have upheld the power and authority of arbitrators to award punitive damages against brokers and broker-dealers. *See Kennedy, Mathews, Landis, Healy & Pecora, Inc. v. Young*, 524 N.W.2d 752 (Minn. Ct. App. 1994) (confirming punitive damage award against broker). The Minnesota Supreme Court’s holding in *Jensen v. Walsh*, 623 N.W.2d 247, 251 (Minn. 2001) (rejecting argument that punitive damages are available only for personal injury), confirmed Minnesota’s long-standing rule permitting punitive damages in non-personal injury claims. *See also, Molenaar v. United Cattle Co.*, 553 N.W.2d 424, 427 (Minn. Ct. App. 1996); *Hanks v. Hubbard Broadcasting Co.*, 493 N.W.2d 302, 311 Minn. Ct. App. 1992).

70. Consistent with the punitive, deterrent, and remedial purposes of Minnesota’s punitive damage law, punitive damages should be awarded here. Respondent Erickson knowingly and willingly deceived Claimant as to his investment of Claimant’s funds in the Crown Forex scheme, and continued in this

deception through 2009, until the SEC itself revealed the fraud in this case. Respondents NRP and Western allowed Respondent Erickson to use their names and hold himself out as affiliated with and an agent of their brokerage firms, but they failed completely in their supervisory responsibilities; in fact, Respondents NRP and Western abrogated their responsibilities completely. As such, Claimants seek an award of punitive damages here.

PRAYER FOR RELIEF

WHEREFORE, Claimant prays for the following relief against Respondents Eric Erickson, NRP Financial Corp. and Western International Securities, Inc., jointly and severally, named herein:

1. Compensatory damages in an amount at least \$350,000 to be proved at trial;
2. Punitive damages, in an amount to be determined at trial, under Minn. Stat. § 549.20;
3. Pre-judgment and post judgment interest, according to law;
4. Attorneys' fees and costs incurred in bringing this action as set forth under Minnesota Statutes; and
5. Such other and further relief as the panel shall find just and equitable.

Dated: April 27, 2011 CHRISTIAN SANDE LLC

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