

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
(Southern Division)**

In re:	*	
VINCENT L. ABELL	*	
Debtor.	*	Case No. 13-13847-PM
	*	Chapter 11
* * * * *	*	
	*	
ROGER SCHLOSSBERG, CHAPTER 11 TRUSTEE 134 W Washington St, Hagerstown, MD 21740,	*	
Plaintiff,	*	Adversary Proceeding No. 14-00417
v.	*	
VINCENT L. ABELL 20 Ritchie Ave., #32 Takoma Park, MD 20910,	*	
MARTA BERTOLA 17111 Clear Creek Drive Silver Spring, MD 20905,	*	
DR. JAMES E. ABELL 7102 Wells Parkway Hyattsville, MD 20782,	*	
ASSET LENDING CORPORATION 7102 Wells Parkway Hyattsville, MD 20782,	*	
FELA BERTOLA 46 Alpine Drive Morganville, NJ 07751,	*	

ALEXANDRA ABELL *
17111 Clear Creek Drive *
Silver Spring, MD 20905, *

CHRISTIAN ABELL *
17111 Clear Creek Drive *
Silver Spring, MD 20905, *

BRONTE ABELL *
17111 Clear Creek Drive *
Silver Spring, MD 20905, *

VINCENT L. ABELL, JR. *
17111 Clear Creek Drive *
Silver Spring, MD 20905, *

PHOENIX REAL ESTATE, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

THE PHOENIX REAL ESTATE 2, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

AMERICAN SECURITY, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

AMERICAN TRUST, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

COLUMBIA SECURITY, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

MODERN MANAGEMENT COMPANY *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

MODERN MANAGEMENT COMPANY *
EMPLOYEE BENEFIT TRUST, *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

NORTH AMERICAN TITLE COMPANY *
5301 Wisconsin Avenue NW *
Washington, D.C. 20015, *

219 ATLANTIC STREET, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

107 47TH STREET BUILDERS, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

1828 18TH STREET, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

2103 SUITLAND TERRACE LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

277 NEWCOMB STREET, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

2925 26TH STREET BUILDERS LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

3514 13TH STREET, LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

3750 BEL PRE ROAD BUILDERS, LLC *
7667 Maple Ave. *
Takoma Park, MD 20912, *

5118 HANNA LLC *
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

6014 PRINCE GEORGE STREET LLC *
7667 Maple Avenue *
Takoma Park, MD 20912, *

ALABAMA BUILDERS LLC
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

1311 T LLC
6328 Eastern Avenue NW *
Washington, D.C. 20011, *

2926 PARTNERSHIP
6328 Eastern Avenue NE *
Washington, D.C. 20011, *

PARKVIEW TOWERS, LLC
7102 Wells Parkway *
Hyattsville, MD 20782, *

MT. AIRY APARTMENTS, LLC
7102 Wells Parkway *
Hyattsville, MD 20782, *

MT. ZION VILLAGE PARTNERSHIP
7102 Wells Parkway *
Hyattsville, MD 20782, *

CANISS CONSTRUCTION, INC.
2205 Saranac Street *
Hyattsville, MD 20783, *

CRISTINO GONZALEZ
2205 Saranac Street *
Hyattsville, MD 20783, *

MARIA ANTONOPOULOS
3054 33rd Street Apt. 2F *
Astoria, NY 11102, *

ABELL FAMILY PARTNERSHIP
7102 Wells Parkway *
Hyattsville, MD 20782, *

CHANG WOOK CHON
8190 Strawberry Lane, Apt. 303 *
Falls Church, VA 22042, *

ADEBOWALE ADELEKE
3408 Cherry Hill Road *
Beltsville, MD 20740, *

FUSION CONTACTORS
3408 Cherry Hill Road *
Beltsville, Maryland 20740, *

AG AND SON MAINTENANCE
SERVICES, LLC *
6925 Fourth Street, N.W. *
Washington, D.C. 20012, *

MARIA MAYA *
2 Ritchie Avenue, #32 *
Silver Spring, MD 20910, *

SUN VALLEY BUILDERS, LLC *
2 Ritchie Avenue, #32 *
Silver Spring, MD 20910, and *

SUNTRUST BANK *
303 Peachtree Street *
Atlanta, Georgia 30308, *

Defendants. *

* * * * *

FIRST AMENDED COMPLAINT

Plaintiff Roger Schlossberg, Chapter 11 Trustee ("Trustee"), brings this complaint for money damages and declaratory and equitable relief against Defendants.

I. OVERVIEW

1. The Debtor/Defendant Vincent L. Abell ("Abell") – through his family members and close associates – has actively attempted to conceal from this Court, the bankruptcy estate, and his *bona fide* creditors millions of dollars' worth of properties and assets. As described in

this complaint, Abell has implemented a continuing scheme to camouflage his ownership of ongoing businesses and scores of properties and assets, manufacturing hundreds of phony transactions to create the appearance, on paper, that Abell is not the true owner, when in fact he is. As detailed below, despite his efforts to bury his ownership interests beneath layers of sham transactions, Abell maintains an ongoing beneficial interest in the businesses, properties, and assets described in this complaint and, accordingly, those businesses, properties, and assets must be recognized as part of the bankruptcy estate.

2. In the court systems of Maryland and the District of Columbia, Abell is an adjudicated fraudster. From the outset of his real estate career, Abell used real estate transactions to defraud vulnerable people of limited means. In connection with federal charges related to 24 "deals" that Abell brokered in the 1980s, Abell pled guilty to making a false statement on a federal form and was sentenced to six months in prison. The government noted in its January 30, 1989 sentencing memorandum that Abell used straw purchasers to create the illusion that he had sold a property, but that Abell would maintain ownership and control of the property. Specifically, the government commented that his "use of straws to conceal assets and circumvent rent control regulations is particularly venal." As detailed in this complaint, such conduct continues to this day.

3. In recent years, Abell expanded his real estate empire through repeated "mortgage rescue" scams that preyed on the elderly and other vulnerable members of the community. Pursuant to Abell's scheme, Abell (or one of his agents) approached homeowners who were behind on their mortgage payments and on the brink of foreclosure. Abell promised to pay off the outstanding mortgages in return for his victims' agreement to pay him back. In reality,

however, the documents that Abell and his estranged wife, co-defendant Marta Bertola ("Bertola") (a suspended lawyer), prepared were largely not legitimate loan documents. Rather, Abell and Bertola tricked his victims into unwittingly deeding their homes to Abell and becoming his tenants. The victims were then required to make significant "rental" payments to Abell to keep living in their homes. And when his victims were eventually unable to pay that rent (as Abell counted on), Abell evicted them, took possession of their homes, and rented the homes to new tenants or sold the homes for large profits.

4. Those victims who were fortunate enough to retain counsel obtained significant judgments for both compensatory and punitive damages against Abell and his business, defendant Modern Management Company ("Modern Management").

5. For example, a jury found that Abell lured Maria Wilson ("Wilson") into believing that he was paying off the mortgage on her house in return for her agreement to make payments on a significant loan. Instead, Abell deceived Wilson into selling her house for a small price and becoming bound to a lease with unaffordable rent. When she eventually was unable to pay her "rent," Abell evicted her. On April 13, 2007, Wilson obtained a judgment against Abell and Modern Management for compensatory and punitive damages totaling nearly \$2 million (the "*Wilson* Judgment").

6. Likewise, in 2006, the Circuit Court for Prince George's County entered a judgment for Tommie Mae Smith for \$510,968.28, including \$500,000 in punitive damages. Similarly, the Circuit Court for Montgomery County entered a series of judgments in favor of Mark Cissel, Karen Cissel, and Hedwig Cissel for a total of \$60,000 in compensatory damages, \$85,000 in punitive damages, and \$328,780.01 in attorneys' fees.

7. As a result of those lawsuits, Abell's fraudulent enterprise became the subject of several stinging judicial opinions. As the Hon. Stephen Platt, then of the Circuit Court for Prince George's County, observed in *Smith v. Abell*:

The Defendant, Mr. Abell's tortious conduct in this case constitutes the most reprehensible actions this Court has ever observed in his 28 years on the Orphans Court, the District Court, and the Circuit Court save only the physical violence and death routinely visited on the Court's conscience in criminal cases. On a scale of one to ten as to its reprehensibility, one being slightly reprehensible and ten being super reprehensib[le] . . . the Court rates this an eleven. If the Defendant sleeps at night, the Court can't help but wonder how.

8. Similarly, in an opinion affirming a judgment against Abell in the Circuit Court for Montgomery County, former Chief Judge Wilner of the Court of Special Appeals of Maryland wrote that Abell had taken "chutzpah to new heights."¹

9. In addition to the multiple cases and judgments against Abell in the Maryland courts, Abell has been a party in more than 130 different cases in the District of Columbia. A recent Order of Contempt entered by the Superior Court for the District of Columbia ("3/29/13 Order") summarized Abell's infamous history of fraud and contempt of court orders and describes Abell as a "highly experienced litigant." That order culminates in the determination that incarceration was the only remedy for Abell's refusal to provide discovery given Abell's flagrant contemptuous conduct.

10. When a few of his victims – now judgment creditors – began closing in on Abell, Abell applied the same fraudulent practices to avoid his debts. Although elaborate in many

¹ Judge Wilner explained that "[t]he closest English equivalents are nerve, gall, effrontery, insolence, audacity, impertinence, temerity. The example often given is the defendant who brutally murders both of his parents and then seeks mercy because he is an orphan. That is mild compared to the counterclaim filed by Abell, given the evidence in this case and the findings of the trial court." *Abell v. Cissel*, Case No. 0900, Sept. Term 2009, at n.5 (Md. Ct. Spec. App. June 24, 2010).

respects, the goal of his fraudulent plan has been and remains simple: To avoid paying his victims by hiding his assets and to retain everything for himself.

11. Abell's plan has two basic parts. The first part involves the orchestration of sham transactions, ranging from simple transactions where Abell uses friends or family members as "pass-throughs" or "straw man" purchasers to launder funds, to more elaborate schemes, involving a series of cleverly devised, but ultimately phony, transactions designed to make it appear that Abell is not the true owner of his assets and holdings.

12. In one category of sham transactions, Abell purports to grant liens upon his real estate (or real estate titled in the names of others on his behalf) to insiders, family members/relatives, friends and related entities (that he controls) on account of sham loans -- "loans" where in fact there is no underlying debt obligation and nothing actually owed. These purported liens are always in favor of a person or entity that is a confederate of Abell. The purpose of such liens is to capture -- for Abell's benefit -- equity in an asset to the detriment of Abell's known and unknown actual creditors. Through these wide-ranging scams, Abell's objective is to disguise himself as a man of only modest holdings.

13. A key element of the first part of Abell's plan is developing the fiction that Abell's real estate business -- which he operated in large part through his real estate property management company Modern Management -- is now defunct. According to the Abell narrative, Modern Management ceased operations, and a "new" company emerged that is supposedly separate and apart from Modern Management and immune from the claims of Abell's creditors. That "new" company -- which suddenly materialized just weeks after the *Wilson* Judgment was entered against Abell and Modern Management -- is known as Phoenix Real Estate, LLC

("Phoenix 1"), one of the Defendants herein. Abell and Bertola have claimed -- falsely -- that Phoenix 1 is a company that they own together as tenants by the entirety, when in fact Phoenix 1 is nothing more than Modern Management with a new sign on the (same) door. When Abell's creditors more recently became wise to the Phoenix 1 sham, another company suddenly emerged -- this one named The Phoenix Real Estate 2, LLC ("Phoenix 2"), also a Defendant herein. This time, Abell and Bertola claim -- again, falsely -- that Phoenix 2 belongs solely to Bertola and that Abell has no interest in the company.

14. As their names imply, the Phoenix entities are not a separate business from Modern Management; they have risen from the ashes of their predecessors, and are one and the same -- a mere continuation of Abell's prior business. The Phoenix entities perform the very same functions as Modern Management, using the same assets, office space, and personnel as Modern Management. The Phoenix entities also generate huge revenues, none of which are being used to satisfy Abell's creditors and none of which have been turned over to the estate. Abell formed Phoenix 1, and then Phoenix 2, in an attempt to cut off his personal and business judgment creditors from his assets.

15. As explained in this complaint, the Phoenix entities (and everything they own) are Abell's assets and belong to the estate.

16. In the same manner, Abell has attempted to obscure his interest in individual properties. For example, two weeks after Wilson obtained her substantial judgment, Abell purported to convey a Silver Spring property to Bertola for no consideration. Six weeks later, Bertola sold the same property to a third party for \$325,000. None of that money was used to pay Wilson.

17. During the very same time period, Abell ginned up "loans" he purportedly received from several other defendants, including Fela Bertola (Abell's mother-in-law), Maria Antonopoulos (a friend of Abell's sister-in-law) and several Abell-related entities, including Mount Airy LLC, Mount Zion Village, LLC and Park View Towers, LLC. The loans, however, were shams. These defendants did not provide funds to Abell; rather, the "loans" were engineered by Abell after-the-fact as an excuse to justify payments to his friends and associates, who had agreed to hold funds for him in a form that Abell's *bona fide* creditors, like Wilson, could not reach.

18. None of the proceeds in these transactions, or the dozens of transactions just like them, flowed to any of Abell's victims. Money traveled in and out of bank accounts that were only open for a matter of days, and Abell and Bertola refused to explain where the money had gone. As the Superior Court for the District of Columbia observed, Wilson "is totally unable to collect her judgment [against Abell] because of the intricate and ongoing ways in which Abell has hidden his assets and hidden information about his financial empire." 3/29/13 Order, at 30. "He is using every imaginable approach to avoid payment of the money judgment in this case." *Id.* at 28. All the while, Abell, his friends, and his family members continue to enjoy the proceeds of his fraud.

19. The second part of Abell's fraudulent plan is his filing of *this* bankruptcy case. Naturally, the assets that he has concealed from his victims – assets that appear on paper not to belong to him, but in which he retains a secret beneficial interest – are not listed on his Statement of Financial Affairs or on the schedules filed in the bankruptcy case. Those assets, like Phoenix 2, for example, generate substantial revenues. Abell has directed that those revenues be paid to

his friends and family members, instead of allowing that money to flow into the bankruptcy estate.

20. As to the assets that he did schedule in this action (because it was a Herculean task for Abell to hide everything in his massive portfolio), Abell either: (i) misrepresented the nature of his interest in the property; or (ii) caused them to be "liened up" with bogus mortgages held by friends and family members. In the case of the former, Abell has fraudulently misrepresented that he holds multiple properties jointly with his estranged wife as tenants-by-the-entirety when in fact the properties are owned and controlled solely by him. In the case of the latter, Abell has manufactured false liens in an attempt to ensure that the proceeds from the sales of his assets will flow to his friends and family members and away from his creditors. Indeed, Abell has gone so far as to concoct false proofs of claim from his friends and family members, some of which Bertola prepared and signed, purportedly as the "creditor's authorized agent." Abell then personally delivered these false proofs of claim to the federal courthouse in Baltimore after his failed attempt personally to file them in Greenbelt.

21. Thus, Abell has attempted to put millions of dollars' worth of assets and income from his real estate empire out of this Court's reach. Abell's endgame is to obtain a discharge without ever subjecting the vast majority of his holdings to the claims of his legitimate creditors.

22. Because "Abell uses other persons and other entities to hide information," 3/29/13 Order at 29, those other persons and entities are necessarily defendants in this action. As explained more fully below, several defendants are Abell's co-conspirators and active aiders and abettors of Abell's fraudulent enterprise. Other defendants – like Abell's children – are unwitting pawns used by Abell and Bertola for the purpose of hiding assets from the bankruptcy estate.

Because they are potentially interested parties under Rules 7019 and/or 7020 and/or are the recipients of fraudulently conveyed assets, they are also named as Defendants in this action.

23. Given the breadth and complexity of Abell's fraudulent enterprise, and because Abell has refused to cooperate in turning over all of his assets and records, the full scope of Abell's holdings is not yet known. The Trustee has undertaken (and continues to undertake) an exhaustive review of a massive amount of paperwork relating to hundreds of sham transactions involving Abell's properties. The preliminary results of that review demonstrate that Abell has concealed, and continues to conceal, hundreds of assets and millions of dollars from the bankruptcy estate. Those assets include the revenues and assets of and Abell's interest in defendants Phoenix 2, Phoenix 1, American Trust LLC ("American Trust"), American Security LLC ("American Security"), Asset Lending Corporation ("Asset Lending") and also scores of other concealed assets, identified in *Exhibit 1–Concealed Assets*. All of them belong to the bankruptcy estate.

24. In this action, the Trustee seeks declaratory, equitable, and monetary relief, including the following:

a. declarations that Phoenix 2, Phoenix 1, American Trust, American Security, Asset Lending, and the other Concealed Assets identified on *Exhibit 1* (and any additional assets added to *Exhibit 1* as the investigation continues) are assets of Abell's bankruptcy estate – properties and assets that Abell and his co-defendants have falsely represented as belonging to someone other than Abell;

b. the imposition of a constructive trust over Phoenix 2, Phoenix 1, American Trust, American Security, Asset Lending, and the other Concealed Assets (and any additional assets added to *Exhibit 1* as the investigation continues);

c. turnover of all assets and operations of Phoenix 2, Phoenix 1, American Trust, American Security, Asset Lending and the other Concealed Assets (and any additional assets added to *Exhibit 1* as the investigation continues) to the bankruptcy estate (11 U.S.C. § 542);

d. a money judgment for and avoidance of fraudulent transfers related to Abell's assets (11 U.S.C. §§ 544, 548, 549, 550; Maryland Uniform Fraudulent Conveyance Act) against those defendants to whom Abell has fraudulently conveyed assets; and

e. the disallowance or declaration of non-enforceability of liens, claims, encumbrances and interests filed by, claimed by or purportedly in favor of insiders, family members, friends/relatives and related entities, including Bertola, James Abell, Asset Lending, American Trust, Columbia Security LLC, Mount Zion Village Partnership, Abell Family Partnership, Caniss Construction, Inc., Cristino Gonzalez, Maria Antonopoulos, Mt. Airy Apartments, LLC, 219 Atlantic Street, LLC, and Fela Bertola, including, without limitation, any such liens, claims, encumbrances or interests asserted by such parties on the proceeds (the "Sale Properties Proceeds") of properties the Trustee sold (the "Sale Properties") pursuant to the Order (I) Authorizing The Sale of Certain Real Properties Free and Clear of Liens, Claims, Encumbrances, and Interests, and (II) Granting Related Relief, [Dkt. No. 483]; and

f. the denial of a discharge to Abell.

II. PARTIES

25. The Trustee is the Chapter 11 Trustee in this bankruptcy case. As such, the Trustee stands in the shoes of Abell's creditors and is authorized to assert any and all claims of the creditors. Among the body of creditors in the Debtor's bankruptcy case are numerous creditors holding unsecured claims allowable under 11 U.S.C. § 502 or disallowable only under 11 U.S.C. § 502(e).

A. Abell and His Family Members

26. Abell is a citizen of Maryland and, until late November 2013, he resided at 20 Ritchie Ave. #32, Takoma, MD 20910. He regularly conducts business in Maryland and at 6328 Eastern Ave. NE, Washington, DC 20011, which is his regular place of business. Since November 2013, Abell was incarcerated by order of the Superior Court for the District of Columbia as a sanction for his contemptuous failure to provide discovery in aid of execution. After spending approximately six months in jail for his contempt, he was released to a halfway house, where he currently resides. Abell's Release Order from the Superior Court that allows him now to reside at a halfway house restricts his activities when out of the halfway house "for the sole purpose of working on the completion of discovery responses..." in the Wilson case. The Release Order allows Abell to be at only three (3) locations when he is not at the halfway house to work on his discovery responses. As set forth below, Abell has flagrantly violated the terms of his Release Order.

27. Although separated from Abell and leading her own separate personal life for many years, Defendant Marta Bertola remains legally married to Abell as a matter of record. Bertola resides at 17111 Clear Creek Drive, Silver Spring, MD 20905. She has actively

conspired with and is aiding and abetting Abell in his continuing concealment of assets and fraud on creditors, and she is the recipient of fraudulently conveyed assets. Bertola, however, has not lived with Abell since 2004. The sole reason they continue their marriage is to be able to assert (even when such claims are invalid) that they own assets as tenants-by-the-entirety that they assert, therefore, are not subject to the claims of Abell's sole creditors.

28. Defendant James Abell ("James") is the father of Abell, and resides at 7102 Wells Parkway, Hyattsville, MD 20782. On July 1, 2013, this defendant filed a Proof of Claim in this matter (Claim 52-1) and thereby submitted to the jurisdiction of this Court. He has actively conspired with and is aiding and abetting Abell in his continuing concealment of assets, and he is the recipient of fraudulently conveyed assets.

29. Defendant Fela Bertola is the mother-in-law of Abell, and resides at 46 Alpine Drive, Morganville, NJ 07751. On July 1, 2013, this defendant filed a Proof of Claim in this matter (Claim 60) and thereby submitted to the jurisdiction of this Court. Abell has used Fela Bertola in his scheme to conceal assets, and she is the recipient of fraudulently conveyed assets and sham liens.

30. Defendant Alexandra Abell is a daughter of Abell whose last known residence was at 17111 Clear Creek Drive, Silver Spring, MD 20905. Abell has used Alexandra in his scheme to conceal assets, and she is the recipient of fraudulently conveyed assets.

31. Defendant Christian Abell is a son of Abell whose last known residence was at 17111 Clear Creek Drive, Silver Spring, MD 20905. Abell has used Christian in Abell's scheme to conceal assets, and he is the recipient of fraudulently conveyed assets.

32. Defendant Bronte Abell is a daughter of Abell whose last known residence was at 17111 Clear Creek Drive, Silver Spring, MD 20905. Abell has used Bronte in his scheme to conceal assets, and she is the recipient of fraudulently conveyed assets.

33. Defendant Vincent L. Abell, Jr. is a son of Abell whose last known residence was at 17111 Clear Creek Drive, Silver Spring, MD 20905. Abell has used Vincent, Jr. in Abell's scheme to conceal assets, and he is the recipient of fraudulently conveyed assets.

B. The Organizational Defendants

34. The defendants identified in Part II.B. of this complaint are business entities that Abell uses in his scheme to conceal assets. These entities are also recipients of fraudulently conveyed assets. Unless otherwise indicated, Abell has a beneficial interest in and is the *de facto* owner of each such entity, notwithstanding that others may claim to be the purported owner. Each entity is an asset that Abell has concealed from the bankruptcy estate.

35. Asset Lending is a Maryland corporation with a business address of 7102 Wells Parkway, Hyattsville, MD 20782. On July 1, 2013, this defendant filed Proofs of Claim in this matter (Claims 64, 65, 66, 67, and 68) and thereby submitted to the jurisdiction of this Court.

36. Modern Management is a Maryland limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. This defendant regularly conducts business in Maryland.

37. Phoenix 1 is a District of Columbia limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. This defendant regularly conducts business in Maryland.

38. Phoenix 2 is District of Columbia limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. This defendant regularly conducts business in Maryland.

39. American Security is a Delaware limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. On July 1, 2013, this defendant filed a Proof of Claim in this matter (Claim 54-1) and thereby submitted to the jurisdiction of this Court.

40. American Trust is a Delaware limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. On July 1, 2013, this defendant filed a Proof of Claim in this matter (Claim 55-1) and thereby submitted to the jurisdiction of this Court.

41. Defendant Columbia Security, LLC is District of Columbia limited liability company with a business address of 6328 Eastern Ave. NE, Washington, D.C. 20011. On July 1, 2013, this defendant filed a Proof of Claim in this matter (Claim 62) and thereby submitted to the jurisdiction of this Court.

42. Defendant Modern Management Company Employee Benefit Trust ("MM-EBT") is a purported trust established under the laws of the State of Maryland with a business address of 6328 Eastern Avenue, Washington, D.C. 20011. Bertola and Abell are the purported co-trustees of the MM-EBT.

43. Defendant North American Title Company is a real estate settlement corporation with a business address of 5301 Wisconsin Avenue NW, Washington, D.C. 20015. This defendant regularly conducts business in Maryland.

44. Defendant 219 Atlantic Street, LLC is a District of Columbia limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that the children of Abell from his prior marriage or his children with Bertola are identified as the ostensible members of this limited liability company, but that this company is in reality owned and controlled by Abell and that all of its funds and assets were fraudulently conveyed to it by Abell.

45. Defendant 107 47th Street Builders, LLC is a District of Columbia a limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability company, but that in reality the company is owned and controlled by Abell.

46. Defendant 1828 18th Street, LLC is a District of Columbia is a limited liability corporation with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability corporation, but that in reality the company is owned and controlled by Abell.

47. Defendant 2103 Suitland Terrace, LLC is a District of Columbia limited liability corporation with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability corporation, but that in reality the company is owned and controlled by Abell.

48. Defendant 277 Newcomb Street, LLC is a District of Columbia limited liability corporation with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability corporation, but that in reality the company is owned and controlled by Abell.

49. Defendant 1311 T LLC is a District of Columbia limited liability corporation with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability corporation, but that in reality the company is owned and controlled by Abell.

50. Defendant 2925 26th Street Builders, LLC is a District of Columbia limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability company, but that in reality the company is owned and controlled by Abell.

51. Defendant 3514 13th Street, LLC is a District of Columbia limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability company, but that in reality the company is owned and controlled by Abell.

52. Defendant 3750 Bel Pre Builders, LLC is a Maryland limited liability company with a business address 7667 Maple Avenue, Takoma Park, MD 20192. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability company, but that in reality the company is owned and controlled by Abell.

53. Defendant 5118 Hanna, LLC is a District of Columbia limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this limited liability company, but that in reality the company is owned and controlled by Abell.

54. Defendant 6014 Prince George Street, LLC is a Maryland limited liability company with a business address of 7667 Maple Avenue, Takoma Park, MD 20192. It is

believed that Abell and Bertola are identified as the ostensible members of this limited liability company, but that in reality the company is owned and controlled by Abell.

55. Defendant Alabama Builders LLC is a District of Columbia limited liability company with a business address of 6328 Eastern Avenue NE, Washington, D.C. 20011. It is believed that Abell and Bertola are members of this limited liability company, but that in reality the company is owned and controlled by Abell.

56. Defendant 2926 Partnership is a District of Columbia partnership with a business address of 6328 Eastern Avenue, Washington, D.C. 20011. It is believed that Abell and Bertola are identified as the ostensible members of this partnership, but that in reality the partnership is owned and controlled by Abell. It is also believed that this partnership has conducted and does conduct business in Maryland.

57. Defendant Parkview Towers, LLC is a Maryland limited liability company with a business address of 7102 Wells Parkway, Hyattsville, MD 20782. On July 1, 2013, this Defendant filed a Proof of Claim in this matter (Claim 61) and thereby submitted to the jurisdiction of this Court. It is believed that James purports to be the owner of this Defendant, but that in reality the company is owned and controlled by Abell.

58. Defendant Mt. Airy Apartments, LLC is a Maryland limited liability company with a business address of 7102 Wells Parkway, Hyattsville, MD 20782. On July 1, 2013, this Defendant filed a Proof of Claim in this matter (Claim 63-1) and thereby submitted to the jurisdiction of this Court. It is believed that James purports to be the owner of this Defendant, but that in reality the company is owned and controlled by Abell.

59. Defendant Mt. Zion Village Partnership is a Maryland partnership with a business address of 7102 Wells Parkway, Hyattsville, MD 20782. On July 1, 2013, this Defendant filed Proofs of Claim in this matter (Claims 56-1 and 57-1) and thereby submitted to the jurisdiction of this Court. It is believed that James purports to be the owner of this Defendant, but that in reality the company is owned and controlled by Abell.

60. Defendant Caniss Construction, Inc. ("Caniss") is a Maryland company with a business address of 2205 Saranac Street, Hyattsville, MD 20783. On July 1, 2013, this Defendant filed a Proof of Claim in this matter (Claim 59-1) and thereby submitted to the jurisdiction of this Court. It is believed that Cristino Gonzalez or other Abell family members or friends purport to be the owner of this Defendant, but that in reality the company is owned and controlled by Abell.

61. Defendant Abell Family Partnership is a partnership with a business address of 7102 Wells Parkway, Hyattsville, MD 20782. On July 1, 2013, this Defendant filed a Proof of Claim in this matter (Claim 48-1) and thereby submitted to the jurisdiction of this Court. It is believed that James purports to be the owner of this Defendant, but that in reality the company is owned and controlled by Abell.

62. Defendant Fusion Contractors, Inc. ("Fusion Contractors") is a Maryland company with a business address of 3408 Cherry Hill Road, Beltsville, MD 20740. Defendant Fusion Contractors has conducted and continues to conduct business in the State of Maryland with Abell and Bertola. Moreover, it regularly solicits business and has engaged in a persistent course of conduct in Maryland. It is believed that Adebowale Adeleke or other Abell family

members or friends purport to be the owner of this Defendant, but that in reality the company is owned and controlled by Abell.

63. Defendant AG and Son Maintenance Services, LLC ("AG and Son") is a District of Columbia company with a business address of 6925 Fourth Street, Washington, D.C. 20012. Defendant AG and Son has conducted and continues to conduct business in the State of Maryland with Abell and Bertola. Moreover, it regularly solicits business and has engaged in a persistent course of conduct in Maryland. It is believed that Abell's family members or friends purport to be the owner of this Defendant, but that in reality the company is owned and controlled by Abell.

64. Defendant Sun Valley Builders, LLC ("Sun Valley"), is, according to Abell, a limited liability company with an office located at 2 Ritchie Avenue, #32, Silver Spring, MD. Abell has falsely represented that he is merely an agent of this LLC. In reality, the company is owned and controlled by Abell.

65. Defendant SunTrust Bank ("SunTrust Bank") is a state-chartered bank that is a member of the Federal Reserve System. SunTrust Bank is a wholly owned subsidiary of SunTrust Banks, Inc., with its principal place of business at 303 Peachtree Street, Atlanta, Georgia 30308. SunTrust Bank can be served with process through its Registered Agent for Service, Raymond D. Fortin, 303 Peachtree Street, Suite 3600, Atlanta, Georgia 30308. SunTrust Bank is being sued nominally as a defendant because a bank account holding MM-EBT assets is maintained at SunTrust Bank.

C. Abell's Friends and Associates

66. Defendant Maria May is Abell's live-in girlfriend. Her address is 2 Ritchie Avenue #32, Silver Spring, MD. Abell has recruited Maya into his scheme to conceal assets and she is the recipient of fraudulently concealed assets.

67. Defendant Cristino Gonzalez is a citizen of Maryland with an address of 2205 Saranac Street, Hyattsville, MD 20783. On July 1, 2013, this Defendant filed a Proof of Claim in this matter (Claim 58) and thereby submitted to the jurisdiction of this Court.

68. Defendant Maria Antonopoulos is an individual residing at 3054 33rd Street, Apartment 2F, Astoria, NY 11102. On July 1, 2013, this Defendant filed Proofs of Claim in this matter (Claims 50-1 and 51-1) and thereby submitted to the jurisdiction of this Court.

69. Defendant Chang W. Chon is a citizen of the State of Virginia with an address of 8190 Strawberry Lane, Apt. 303, Falls Church, VA 22042. Defendant Chon has conducted and continues to conduct business in the State of Maryland with Abell and Bertola. Moreover, he regularly solicits business and has engaged in a persistent course of conduct in Maryland.

70. Defendant Adebowale Adeleke is a citizen of Maryland with an address of 3408 Cherry Hill Road, Beltsville, MD 20740. Defendant Adeleke resides in Maryland and has conducted and continues to conduct business in the State of Maryland with Abell and Bertola. Moreover, he regularly solicits business and had engaged in a persistent course of conduct in Maryland.

III. JURISDICTION AND VENUE

71. The Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 1334, 28 U.S.C. §157(a), and United States District Court Local Rule No. 402. Further, this

adversary proceeding is a “core proceeding” as contemplated in 28 U.S.C. §157(b)(2)(A),(B), (C),(E),(H),(J),(K) and (O).

72. This adversary proceeding also seeks monetary demands from various parties, the turnover of property, declaratory relief, injunctive relief, and other forms of equitable relief based upon state law claims. These claims against parties other than Abell arise out of matters related to the bankruptcy case and its administration and this Court also has supplemental jurisdiction over these matters under 28 U.S.C. § 1367 which codifies the District Court's supplemental jurisdiction.

73. Venue is proper in this district pursuant to 28 U.S.C. § 1409 because: (i) the chapter 11 case to which this action is related is pending in this District before this Court; and (ii) none of the exceptions set forth in 28 U.S.C. § 1409 applies to this action.

74. In accordance with Local Rule 7012-1(b), the Trustee states that he consents to entry of final orders or judgments by the Bankruptcy Judge.

IV. FACTUAL BACKGROUND

A. Abell's Fraudulent Enterprise

75. To secrete his assets from legitimate creditors, Abell has engaged in multiple ruses to create the appearance that his assets belong to someone else and to portray himself as having only modest holdings. Abell's ploys include:

a. creating sham transfers of property or corporate interests to friends and family members for no consideration and with little or no supporting documentation or recordation;

- b. creating more than 100 limited liability companies, which in turn own hundreds of properties;
- c. designating his friends and family members, on paper, as members of the LLCs or as property owners, when in fact Abell is the true beneficial owner of the interests in the LLCs and the friends and family are merely nominal owners;
- d. opening multiple bank accounts, so-called "escrow" accounts, and purported employee "benefit trusts" to launder funds;
- e. creating sham liens that are purportedly held by family members and friends on properties as security for non-existent loans;
- f. directing that income from the sale of assets be funneled away from himself and, instead, to others to hold in secret for him;
- g. the ongoing abuse of the corporate and LLC form; and
- h. attempting to use the "tenants by the entirety" form of titling assets as a way to cut off his creditors from his assets.

76. None of the purported transactions and transfers, however, has resulted in Abell giving up his beneficial interest or right of control over the company or property involved. Even where Abell and Bertola have prepared phony deeds or other documents that state that the assets are purportedly owned by someone other than Abell or by a limited liability company in which Abell says he has no interest, in reality, Abell is the true beneficial owner.

77. Abell has run his business through various corporations and limited liability companies over the years, with little or no regard for corporate formalities or their separate corporate existence. When asked at his initial meeting of creditors in this bankruptcy case how

he accounted for the differences between the entities in which he held an interest, Abell confirmed that he had no reason to do so: "No, because it would be like me asking to take the money out of my left pocket and put it my shirt pocket. If I own the LLC that has money in it and I need to pay a bill from the other LLC that's in my shirt pocket, I'm going to say pay it." (Transcript, Apr. 1, 2013, p. 98). He further admitted that he did not have a personal bank account for five years before filing for bankruptcy, and that, instead, he used cash, money order, or his management company's "escrow account" to pay his expenses. (*Id.* at 7-9.)

78. Although the specific Abell-controlled entity may differ from transaction to transaction, and though in some cases various family members are the purported owners of the specific entity, the entities described below are all controlled by Abell and their transactions are consistently structured to benefit Abell. As Judge Long of the Superior Court for the District of Columbia concluded with respect to an entity ostensibly owned by Abell's father: "There is no doubt that Abell controls the business transactions that are at the heart of Asset Lending and that those transactions systematically benefit Vincent L. Abell."²

79. Abell's real estate portfolio includes various companies (*e.g.*, Modern Management, Phoenix 1 and 2, Asset Lending, American Trust, and American Security). It also encompasses individual properties. *Exhibit 1* is a preliminary listing of the assets within Abell's empire. It includes properties that: (i) Abell acquired or holds directly as an individual; (ii) Abell acquired or holds through a limited liability company that Abell owns; (iii) Abell acquired or holds purportedly along with his wife Bertola as tenants-by-the-entirety; and (iv) Abell acquired

² The Court continued: "Moreover, Bertola (Abell's wife) has revealed in her email that she takes direction from Abell as far as Asset Lending is concerned" February 4, 2013 Order of the Superior Court for the District of Columbia (Long, J.), Doc. 537-3 at 4 ("4/4/13 Order").

or holds through limited liability companies purportedly owned by people other than Abell.

Exhibit 1 describes how each asset is purportedly titled on paper to the extent that is known. In each case, however, Abell is the true owner of the property, maintaining a beneficial interest in the property and controlling its disposition and the proceeds from that disposition.

Consequently, each one of the Concealed Assets is an asset of the bankruptcy estate.

80. Despite his ownership of and/or beneficial interest in the Concealed Assets, Abell has either (i) failed to identify the Concealed Assets on his bankruptcy schedules, or (ii) misrepresented the nature of his interest in those Concealed Assets on his bankruptcy schedules.

81. Given Abell's extraordinary efforts to conceal his assets and his bold refusals to provide meaningful cooperation, the Trustee anticipates identifying additional Concealed Assets during the pendency of this Adversary Proceeding. As additional Concealed Assets are identified, *Exhibit 1* will be amended accordingly.

B. Modern Management and the Phoenix Entities

82. Modern Management, a property management company for hundreds of rental properties owned by Abell, was Abell's wholly owned corporation through which Abell conducted a substantial part of this real estate business. Very shortly after the *Wilson* Judgment was entered against Abell and Modern Management, Abell discontinued the use of Modern Management and began to use Phoenix 1 instead for the *very same* functions. In reality, Phoenix 1 was merely a continuation of Modern Management. Virtually overnight, Phoenix 1 took over all assets, accounts, employees, and operations of Modern Management.

83. Abell wants his creditors to believe that Phoenix 1 is immune from their claims. In this regard, he has perpetuated the fiction that he owns Phoenix 1 with his estranged wife,

Bertola, as tenants by the entirety. Confirming that Bertola had no legitimate or equitable interest in Phoenix 1 (which she admits was the mere continuation of Modern Management), Bertola testified in 2007 that she was not even sure whether she was a member of Phoenix 1. Bertola would later say that, at the time of her 2007 testimony (and for a period of seven or eight years), she was under the influence of a drug that affected her memory.

84. Eventually, Abell's victims became wise to the fact that Modern Management was now operating and doing business as Phoenix 1, and that Phoenix 1 was merely a continuation of Modern Management.

85. Abell reacted in a predictable way, renaming Phoenix 1 as Phoenix 2. Phoenix 2, however, uses the very same offices, equipment, employees, accounts, telephone number, website, and email accounts as Phoenix 1 and Modern Management. Thus, like the name change from Modern Management to Phoenix 1, the name change from Phoenix 1 to Phoenix 2 was merely cosmetic and solely for the purpose of concealing assets from the creditors of Abell and Modern Management.

86. Consistent with his fraudulent narrative, Abell contends that he has no ownership interest in Phoenix 2 and that Phoenix 2 is Bertola's company. Yet, Phoenix 2 inherited all of Modern Management's assets and operations. And tellingly, Abell keeps an office within Phoenix 2's premises (which are the very same premises out of which Modern Management and virtually every other Abell-entity has operated), and he is now paid a "consulting fee" by Phoenix 2.

87. Phoenix 2 is Abell's business. That business, including Phoenix 2's holdings, ongoing revenues, and bank accounts, belongs to the bankruptcy estate. Bertola has no legitimate interest in Phoenix 2.

88. Although Abell contends that he has no interest in Phoenix 2, on the date he filed his bankruptcy Petition, he caused Phoenix 2 to pay his attorney, Philip McNutt ("McNutt") of Hughes & Bentzen, PLLC ("Hughes & Bentzen"), \$37,000. Abell later caused Phoenix 2 to pay McNutt and Hughes & Bentzen additional sums totaling approximately \$61,000.

Notwithstanding that Bankruptcy Rule 2016 required McNutt and Hughes & Bentzen to disclose their receipt and the source of those funds, both failed to disclose the same to this Court.

C. Asset Lending Corporation

89. In the same way that Abell transmuted Modern Management into Phoenix 1 and then into Phoenix 2, Abell uses other entities, ostensibly owned by family members, to run his real estate business while hiding it from his creditors. As Judge Long of the Superior Court for the District of Columbia concluded:

There is no doubt that Abell has amassed substantial assets, having spread his money and property across the United States, sometimes involving family trusts and other mechanisms for obtaining loans. He acknowledged this basic fact in sworn testimony before this Court concerning a motion for contempt for failure to comply with certain post-judgment discovery. The plaintiff [Wilson] has shown that Abell often uses family members and other trusted persons to hold office in these related entities, in part to maintain paper debt that he does not actually repay (those so-called creditors being under his control).

4/4/13 Order.

90. James Abell (Abell's father) and Asset Lending provide a perfect example of this. In 1961, a company called University Leasing Corporation ("University Leasing") was formed. University Leasing forfeited its corporate status in 1986. As of March 2, 1988, however, Abell

was the sole shareholder, sole director, and sole officer of University Leasing, which had, by that time, become known as American Trust Company ("American Trust"). On March 9, 1988, Abell filed Articles of Revival on behalf of University Leasing and formally changed the name of the company from University Leasing to American Trust. The Articles of Revival name Abell as the resident agent of American Trust.

91. Abell later changed the name of the company from American Trust to Asset Lending. Just one month before Abell pled guilty to a federal offense and shortly before he was sentenced to a federal prison, Abell purported to resign as a director and officer of Asset Lending, and appoint his father, James, as the new sole director and officer. Abell also purported to transfer all of his shares in Asset Lending to James; James, however, provided no consideration for the alleged transfer. Thus, on paper, James is the president and owner of Asset Lending; however, he paid Abell nothing for Asset Lending. In reality, the paper transfer of ownership was yet another fraud perpetrated by Abell, who was about to plead guilty and did not want the assets of Asset Lending to be used to pay restitution in his criminal case.

92. As reflected in James' attempt to give a deposition as the corporate designee for Asset Lending, James has no knowledge of Asset Lending's day-to-day business operations and no understanding of the major transactions in which Asset Lending has purportedly participated. Indeed, James testified to his belief that Asset Lending had made multiple loans to Abell over the last decade, despite the fact that the books, records and tax filings of Asset Lending – maintained by Abell and Bertola – reflect that Asset Lending has had little if any income to make such loans and in fact owes Abell several hundred thousand dollars. James has relied entirely on Abell and Bertola for all information related to Asset Lending.

93. James has no equity interest in Asset Lending and no role whatsoever in that company. Rather, he has allowed his name to be used as titular owner in order to assist his son in shielding his son's assets from creditors. Bertola falsely asserted at her deposition that Abell was listed as a stockholder of Asset Lending in error – "a mistake" – and that Asset Lending has always belonged to James. In actuality, as Judge Long recognized, Asset Lending is an extension of Abell and Abell's other business – Modern Management (as resurrected under the trade names of Phoenix 1 and 2). Abell and Bertola maintain Asset Lending's records together with the records of the Phoenix entities in Phoenix's offices (Abell's headquarters for his real estate empire). They are also the custodians of its primary bank account.

94. In fact, Abell has always been and remains the true, beneficial owner of Asset Lending. He has used Asset Lending as an instrument to obstruct his legitimate creditors from the proceeds of transactions involving his many properties and to conceal his assets.

95. For example, Abell, with Bertola's assistance, used Asset Lending to purchase a large judgment against *himself* and, in a shameless abuse of process, has recorded the judgment in the jurisdictions in which Abell holds property. In an attempt to portray himself as "judgment proof," he has made it appear as though his holdings are subject to insurmountable judgment liens.

96. Specifically, Sophia Williams ("Williams") obtained a \$3 million judgment against Abell in the Superior Court for the District of Columbia related to the lead poisoning of her daughter in one of Abell's properties. Abell convinced Williams that her chances of collecting any of the \$3 million from Abell were slim to none because of prior liens and

judgments. Abell thus negotiated a deal with Williams where he agreed to pay her \$100,000 in exchange for her agreement to release him from the judgment.

97. Instead of paying her \$100,000 and procuring an order of satisfaction for the judgment, however, Abell and Bertola saw an opportunity to use the judgment to insulate Abell from his other creditors. As part of his scheme, Abell convinced Williams not to mark the judgment as "satisfied," but rather to *assign* it in return for the \$100,000 cash payment.

98. Abell, however, did not want the judgment to be assigned directly to him. Abell and Bertola recognized that a judgment held by Abell against himself would be meaningless. Accordingly, Abell and Bertola "booked" the \$100,000 payment to Williams as a payment by Abell to Asset Lending on a "loan" from Asset Lending to Abell, so that Asset Lending became the judgment holder. There was of course no loan, and Asset Lending played no independent role in the transaction. According to James, Abell negotiated the deal with Williams on his own and, through the sale of another property, raised the \$100,000 to pay for the assignment of the judgment.

99. Abell and Bertola then recorded the judgment (which had been "assigned" to Asset Lending) in the District of Columbia, Montgomery County, and Prince George's County, effectively erecting a \$3,000,000 wall between Abell and any creditor other than Asset Lending.

100. To maintain the illusion that Abell is judgment proof by virtue of a \$3,000,000 unsatisfied judgment having been recorded against his properties, Abell and Bertola have caused Asset Lending to give a partial release of the judgment whenever they have disposed of properties that are "subject" to Asset Lending's purported judgment. This subterfuge has allowed Abell and Bertola to sell properties free and clear of the judgment and enjoy the fruits of their

fraud without making any distribution to Abell's legitimate creditors. The Williams transaction epitomizes the lengths to which Abell will go to use land records and the court system to thwart his creditors and create fictional encumbrances on his assets for the purpose of concealing his true equity position. In its March 1, 2013 Contempt Order, referring to the Williams scam, the Superior Court observed that the "ethical problems in this episode are self-evident."

101. Adding insult to injury, Asset Lending (through Abell) has filed a knowingly-false proof of claim in this bankruptcy case based on that very judgment. (Claim No. 68-1).

102. Another example of Abell's control of Asset Lending and his use of Asset Lending to defraud his creditors and to conceal assets is the transaction concerning property located at 321 18th Street. Sometime after Wilson and other Abell victims obtained judgments against Abell, Abell purported to transfer that property (which he owned) to MM-EBT. Of course, by this point, Abell had maintained that Modern Management was no longer doing business and had no employees – hence, it is unclear why it had an Employee Benefit Trust.

103. MM-EBT provided no consideration for this purported conveyance. Around the same time, Bertola – a purported co-trustee of MM-EBT – recorded a loan of \$809,000 from Asset Lending to MM-EBT secured by the property even though there was no such loan.

104. Asset Lending, controlled by Abell and represented by Bertola, then instituted a foreclosure action against the property located at 321 18th Street in the Superior Court for the District of Columbia, notwithstanding Abell's and Bertola's purported roles as co-trustees of MM-EBT. The foreclosure action was unsuccessful, apparently because Asset Lending could not establish title.

105. Not ready to give up their scheme, on March 7, 2012, Abell and Bertola caused 321 18th Street LLC to file for bankruptcy, asserting that Abell was the managing member of 321 18th Street LLC and that the company was owned by MM-EBT. Additionally, Abell and Bertola listed Asset Lending as a secured creditor. Abell and Bertola never disclosed that Abell controlled every entity involved in the bankruptcy – debtor, purported parent of debtor, and secured creditor – and that Abell was the real party in interest. They also gave no notice to any of Abell's *bona fide* creditors of the entire proceeding.

106. Eventually the Bankruptcy Court allowed 321 18th Street LLC's only asset to be sold. Abell, Bertola, and Asset Lending thus avoided the distribution of any of the proceeds from this property to Abell's legitimate creditors. Thus, unbeknownst to the DC Bankruptcy Court, Abell and 321 18th Street LLC committed multiple acts in violation of §727(a)(2)-(6) and should not have been granted a discharge.

107. In another Asset Lending transaction, on April 26, 2011, Abell sold property he owned through his 3519 10th Street, LLC for \$675,000. Abell, of course, did not disclose his interest in that LLC in his Amended Schedule or Statement of Financial Affairs, despite the fact that he was the managing member of that LLC when his schedules were filed.

108. Abell instructed the company handling the settlement, Heritage Title, to wire the sale net proceeds (\$213,782.09) as follows: \$103,000 to his father (James) and \$110,782.09 to Asset Lending. Abell gave those instructions even though there was no deed of trust or other recorded instrument that required any of the sale proceeds to be distributed to either Asset Lending or James. Thus, by this transaction, Abell successfully diverted \$213,782.09 of his funds into the hands of his father and Asset Lending – and away from his creditors.

109. Abell's control and domination of Asset Lending demonstrate that Asset Lending is Abell's company. Indeed, Judge Long determined on February 4, 2013, that "[t]here is no doubt that Abell controls the business transactions that are at the heart of Asset Lending and that those transactions systemically benefit Vincent L. Abell." The company and all of its revenues and holdings thus belong to the bankruptcy estate.

110. Moreover, Abell owns additional properties through Asset Lending that he has failed to identify on his *Amended Schedule A – Real Property*. Those properties are identified on *Exhibit 1 – Concealed Assets*. Many of them, if not all, generate substantial rent revenues that rightfully should be paid into the bankruptcy estate. Abell has concealed Asset Lending from the bankruptcy estate in order to frustrate his creditors.

D. American Trust, LLC

111. American Trust is another entity that Abell has employed to hide his assets. American Trust is not a trust at all; instead, it is a limited liability company that Abell and Bertola say they established to benefit their children as the couple was separating and ending the marriage some ten years ago. That contention, however, is contradicted by the fact that this is the second iteration of American Trust. As noted, American Trust was the predecessor company to Asset Lending, owned and operated solely by Abell. The notion that American Trust came about more recently is a fiction that Abell concocted to -- once again -- create obstacles between his assets and his creditors.

112. Despite Abell's and Bertola's contention that their children are the owners of American Trust, Abell is the true beneficial owner of American Trust, which he operates as an extension of his other businesses and has misused to isolate real estate deal proceeds from his

judgment creditors. Although Bertola has denied it, Abell has admitted in a Superior Court filing (signed by him) that he is the managing member of American Trust.

113. A transaction relating to property located at 6425 14th Street illustrates how Abell has employed American Trust to his personal advantage and to the detriment of his creditors. Abell claims to have conveyed that property to American Trust in 2004 even though no such transaction was documented or recorded at that time. When the same property was sold for more than \$3,000,000 in 2008, however, none of the funds remained with American Trust. Rather, Abell "borrowed" all of the proceeds except for \$500,000, which was distributed to a title company he was working with on another transaction.

114. By contending that the property belonged to American Trust, however, Abell was able to prevent judgment creditors like Wilson from getting any of the proceeds of the sale. Indeed, when Bertola was later asked why Abell would remove those funds from American Trust if they were for the benefit of their children, Bertola responded that Abell probably removed the funds so that Wilson and her attorney "couldn't get [their] hands on it." Demonstrating Abell's and Bertola's inability to treat Abell's assets in a consistent (and fair) manner, in 2007 during oral argument before the Court of Appeals of the District of Columbia (in yet another Abell litigation), Bertola asserted that Abell was in fact the real party in interest with respect to 6425 14th Street.

115. Consistent with the fact that American Trust is *his* company, Abell also disregarded the so-called "separateness" of American Trust when he used its funds to pay his bond in the *Wilson* case. Abell pretends to observe the corporate distinctions between American Trust and his own businesses, but only when it suits him.

116. Abell's misuse of American Trust continues in this bankruptcy case. After filing for bankruptcy protection, Abell represented in his *Amended Schedule A – Real Property* (which he filed under oath on March 27, 2013) that several additional properties are "titled in [his] name but [were] transferred to American Trust, LLC[,] an entity of which [his] minor children are beneficial owners, as part of a tax free exchange." That representation was knowingly false. Abell knows that he is real owner of those properties, just as he was the real owner of 6425 14th Street.

117. In any event, Abell is the true, beneficial owner of American Trust, an entity over which he exercises total control for his own systematic benefit and advantage. And through American Trust, Abell owns other properties that he has failed to identify on his *Amended Schedule A – Real Property*. Those properties are identified on *Exhibit I – Concealed Assets*. Many, if not all, of them, generate substantial rents that rightfully belong to the bankruptcy estate.

118. The assets of American Trust belong to and are in reality owned by Abell. Abell has concealed his interest in American Trust and its assets solely for the purpose of concealing assets from the bankruptcy estate and frustrating his creditors.

E. American Security, LLC

119. American Security is a limited liability company that was initially formed by James, but which Abell has taken over and now dominates and controls as his own. Abell, with Bertola operating as American Security's counsel, operates American Security as an extension of Abell's business. Abell manages the company, makes all decisions regarding the company's investments and distributions, and controls its business account. He is the true beneficial owner

of American Security. Indeed, Abell caused American Security to "loan" him \$75,000 for the purpose of paying his attorney, just one day before the filing of his petition for bankruptcy. Similarly, Abell used American Security's accounts to advance \$200,000 to Defendant Chang Chon ("Chon") (as described in more detail below).

120. Abell exercises total control over American Security for his own systematic benefit and advantage. And through American Security, Abell owns other properties that he has failed to identify on his *Amended Schedule A – Real Property*. Those properties are identified on *Exhibit 1 – Concealed Assets*. Many of them, if not all, generate substantial rents that should rightfully be paid into the bankruptcy estate.

121. The assets of American Security belong to and are in reality owned by Abell. Abell has concealed his interest in American Security and its assets solely for the purpose of concealing assets from the bankruptcy estate and frustrating his creditors

F. Miscellaneous Limited Liability Companies

122. Abell also owns and controls scores of limited liability companies that are frequently named for the properties they own. They are identified as Defendants in this action. None of the corporate formalities of any of these companies is observed because they all are owned and controlled by Abell. As he testified at the § 341 Creditors Meeting: "In almost every entity I had an interest, so whether it was used to pay for 1311 T Street LLC or Alabama Builders LLC, I still had an interest in and they kept track of the accounting."

123. Abell's estranged wife and former (albeit suspended) lawyer confirmed that Abell does not observe corporate formalities or treat the individual limited liability companies as separate legal entities. Bertola has testified that neither she nor Abell thinks of the LLCs as

"other companies." Rather, Bertola and Abell viewed and treated the various limited liability companies as part of a single enterprise, which Abell ran through Modern Management (and later, ostensibly through the Phoenix entities).

124. Neither American Trust nor American Security nor any of the Defendant LLCs maintains separate books from Modern Management (or Phoenix).

125. Each of these entities is controlled and dominated by Abell, and Abell enjoys a secret beneficial interest in them. Accordingly, each entity is an asset of the estate and is so identified on *Exhibit 1 – Concealed Assets*.

G. Marta Bertola's Role

126. As is evident from the facts set forth above, Bertola has aided and abetted Abell's ongoing schemes to hide his assets. Bertola, Abell's estranged wife, has been and is employed by Abell to carry out the frauds described herein.

127. Bertola is a former lawyer. On January 9, 2013, Bertola was indefinitely suspended from the practice of law in Maryland for appearing in a circuit court case on behalf of Abell and representing that she was authorized to practice law when in fact she was not. On June 13, 2013, Bertola was suspended from the practice of law in the District of Columbia for a period of 60 days with reinstatement contingent upon a showing of fitness. She has not been reinstated. Nonetheless, Bertola continues to this day to engage in the unauthorized practice of law, primarily on behalf of Abell.

128. Before she was suspended from the practice of law, Bertola formally served as Abell's lawyer and represented Abell in numerous transactions. Bertola also represented Abell, Modern Management, and Phoenix in connection with litigation filed against them. She has

performed legal services for Asset Lending, James, and American Security. As a result of her active participation in the frauds, Bertola has been a party in several lawsuits arising out of Abell's business transactions. Like her estranged husband, she was a defendant in a lawsuit filed by the District of Columbia against slum landlords.

129. In addition to her legal training, Bertola is a notary public. In that capacity, she witnessed and notarized many of the sham deeds and other legal documents executed by Abell in connection with his real estate scams. Also, Bertola was licensed as a real estate agent in Maryland and the District of Columbia. Finally, Bertola has served as the office manager for Modern Management (both when it was known as Modern Management and more recently as Phoenix 1 and Phoenix 2), managing and retaining all documents related to Abell's real estate empire, including Asset Lending and the Abell Family Partnership.

130. As a result of her background and training, Bertola is particularly well-suited to assist Abell in achieving his improper goals through fraudulent machinations. She is uniquely positioned to thwart the efforts of creditors and the Trustee from gathering information about Abell's vast holdings and has used that position to the couple's advantage.

131. Bertola is currently and actively involved in assisting Abell in carrying out the fraudulent "Phoenix" scam on creditors described above. She is the one who now receives tens of thousands of dollars of rental checks each month from Abell's many tenants. She has used (and continues to use) those funds – funds that belong to the bankruptcy estate – to pay herself, her family members, Abell, and Abell's counsel, all without the authority of this Court.

132. Bertola thus has played an essential and active role in Abell's business transactions:

- She created, was involved in the creation of, or assisted in the creation and recordation of many of the false deeds, deeds of trust, and other sham instruments intended to deceive and perpetuate false and misleading information concerning the ownership of Abell's companies and properties, including, without limitation, such instruments purportedly granting liens, claims, encumbrances and interests in favor of insiders, family members, relatives, friends and related entities of Abell in connection with the Concealed Assets and other assets Abell owned or owns, including the Sale Properties.
- She prepared land instrument intake sheets in connection with the recording of deeds and, on those sheets, frequently supplied some amount of purported consideration despite the fact that she knew that the stated amount had not been paid.
- She prepared the lease documents used by Modern Management and Phoenix in the mortgage rescue scam, including leases that contained buried option to purchase provisions.
- She prepared the sham documents by which Modern Management purportedly transferred its rental property leases to Phoenix even though she was not aware of any consideration that Phoenix provided in exchange for the assignment of the leases.
- She has admitted to altering deeds and at least one HUD-1 after they were signed, including adding the amount of consideration and changing the amount of reinstatement figures.

Thus, the many transactions involving documents prepared by Bertola are inherently suspect.

133. In many cases the false instruments she prepared purported to show transfers of interests to herself, or to both Abell and Bertola, purportedly as tenants by the entirety. For example, two weeks after the *Wilson* Judgment, pursuant to documents that Bertola prepared, Abell transferred to Bertola a property located at 3549 Bruton Parish Way in Silver Spring *for no consideration*. Six weeks later, Bertola sold the property to a third party for \$325,000. Wilson received none of that money.

134. Similarly, in November 2007, again, with documents prepared by Bertola, Abell transferred a property from himself, individually, to himself and Bertola jointly to avoid payment to his legitimate creditors. The property was later sold for \$610,000. Wilson received none of that money.

135. Many of the deeds prepared by Bertola were, by design, not recorded in a timely manner, undermining any claim that the underlying transaction was legitimate. For example, in 2009, Bertola prepared a no consideration deed purportedly transferring 610 Bennington Drive from Abell to Abell, as trustee for his daughter. Bertola contends that she prepared the deed in 2006, but the deed was never recorded until 2009. After the purported transfer, Abell continued to control the property, leased it, and directed that rents be paid to Phoenix. This property and its rents rightfully belong to the bankruptcy estate.

136. In similar fashion, to obscure Abell's beneficial interest in properties, Abell and Bertola created and filed multiple phony "deeds of trust," which purported to secure more than \$2,640,000 in "loans" allegedly made to Abell by family members and business associates. There were, however, no such loans. Rather, Abell and Bertola strategically used the deeds of trust to ensure that proceeds from the sales of particular properties would flow to the holder of the deed of trust – one of Abell and Bertola's co-conspirators – as opposed to one of Abell's legitimate creditors. For example, on June 30, 2009, Abell executed a deed of trust (prepared by Bertola) in favor of Cristino Gonzalez to purportedly collateralize a \$75,000 loan. There is, however, no evidence that Cristino Gonzalez ever loaned \$75,000 to Abell. In fact, on September 30, 2009, Abell prepared a statement of financial affairs, which he signed under oath,

that listed the individuals or entities to whom he owed money, and Abell did not list Cristino Gonzalez.

137. Bertola also assisted Abell to construct a dizzying array of limited liability companies, creating literally hundreds of companies for the purpose of making it impossible for a creditor (or court) to follow the proceeds of particular sales as those proceeds moved from company to company. In some cases, Abell directed Bertola to form the companies in both of their names, though in reality these entities belong to Abell. Such companies include: 3514 13th Street, LLC, 1828 18th Street, LLC, 5118 Hanna, LLC, 277 Newcomb Street, LLC, 6014 Prince George Street, LLC, 107 47th Street Builders, LLC, Alabama Builders, LLC, 2925 26th Street Builders, LLC, 2103 Suitland Terrace, LLC, 3750 Bel Pre Road Builders, LLC, and Petworth Heights, LLC.

138. Bertola has served or currently serves as the resident agent of a number of companies that are owned either by Abell or are shown on paper as being owned by Abell and Bertola jointly, including Modern Management, Phoenix 2, VAAD LLC, Alabama Builders, LLC, Alden Place Builders, LLC, American Security, Capitol Hill Builders, LLC, Channing Street Builders, LLC, Douglas Street, LLC, Governor's Condominium, LLC, Horner Builders, LLC, Petworth Heights, LLC, Phoenix Builders, LLC, Queens Chapel, LLC, St. Lo Builders, LLC, Westmeath Way, LLC, and 2925 26th Street Builders, LLC. Bertola's name appears on these entities merely as a device for Abell to thwart his creditors and hide his assets. In reality, he is the owner of all of these entities.

139. Bertola has even enlisted her own mother, Fela Bertola ("Fela"), in the sham transactions she and Abell have perpetuated. Fela, for example, is one of the Defendants who

falsely asserted that she made an undocumented loan to Abell and is the beneficiary of at least one phony deed of trust. Additionally, Bertola has listed Fela as an exchange intermediary for properties owned or managed by Abell and Bertola, although she has never been qualified by the IRS or bonded as such as exchange intermediary. Bertola has also purportedly employed Fela to assist with document production in connection with the *Wilson* litigation.

140. Abell and Bertola were aided and abetted by others, as set forth below, who knowingly participated in sham transactions creating the misimpression that Abell had divested himself of his businesses and properties or, alternatively, received and kept conveyances of property from Abell even though they knew that no consideration was given and that the purpose was to shelter Abell's assets from *bona fide* creditors.

141. In sum, Bertola is an instrumental player in Abell's fraudulent, ongoing enterprise.

H. Chang Chon

142. Abell transferred nearly \$1 million to Defendant Chang Chon in the months leading up to the bankruptcy petition, and, according to Chon's and Bertola's deposition testimony, had transferred hundreds of thousands of additional dollars to Chon over a several year period. Abell and Chon now falsely maintain that these undocumented payments were "loans," but that is not true. In direct contradiction to Chon's current claim that Abell loaned him \$1.2 million, Chon asserted in a personal financial statement submitted to financial institution PNC that he had *no debts*.

143. Also undermining Chon's claim that the payments he received were "loans" is his inability to keep his story straight about who actually "loaned" him the funds. Despite Chon's sworn testimony that all of the money provided to him *came from Abell*, Chon received checks

from various entities, including Modern Management, American Security, Phoenix, Millenium Trust Company LLC, and the Vincent Abell Self Directed IRA.³ When Chon "repaid" a portion of the funds advanced to him, however, he made the repayment to Abell and Bertola as tenants-by-the-entirety, and not to Abell. Yet again, Abell directed this method of payment in an attempt to erect a barrier between the funds and his legitimate creditors and Chon participated in this fraud.

I. Maria Maya

144. Abell has actively recruited Maya, his current girlfriend, to assist him in continuing his fraudulent scheme. Abell, with Maya's assistance, has recently attended various real estate auctions as an active (and sometimes successful) bidder. Consistent with his historical practice, Abell pretended be acting as an "agent" for another even though he was buying properties for his own personal benefit. On at least one of these occasions, Abell purported to be purchasing property on behalf of Sun Valley Builders, LLC, an entity that he (and Maya) maintain is owned by Maya. That entity, however, to the extent it exists, is owned and controlled by Abell.

J. Abell's Refusal to Provide Discovery

145. After Wilson obtained her judgment, she attempted to obtain post-judgment discovery in aid of enforcement of the judgment, but was thwarted in every meaningful way, thus hiding from her information that would have reasonably disclosed the basis for claims against Abell and his confederates. In this regard, Abell refused to answer basic questions about his assets and interests in other entities, which caused the Hon. Cheryl Long to issue a contempt

³ Chon may have had knowledge that Abell controlled all of those entities.

order against Abell. Even then, Abell refused to provide information concerning the extent of his holdings or an explanation concerning the lack of documentation supporting scores of purported transactions and, as a result of his recalcitrance, he is currently incarcerated.

146. Because of Abell's and Bertola's refusal to provide discovery or comply with the Superior Court's orders, Abell's creditors have been and remain unable to discover the full scope of his fraud or the particulars of multiple fraudulent transactions. Accordingly several creditors have had no way of knowing they had viable claims against Abell or his family members for fraudulent conveyance and for other actionable conduct.

147. Abell fraudulently concealed from his creditors (and by extension, the Trustee) the actions that he, Bertola, and the other Defendants have taken, and continue to take, to hide assets from his creditors and divert assets away from the Estate. Abell's fraudulent conduct has prevented, and continues to prevent, his creditors and the Trustee from discovering, through the exercise of reasonable diligence, the claims that the creditors and the Trustee have against Abell and the other Defendants. Because of Abell's fraud, which the other Defendants have aided and abetted, the statute of limitations is tolled until such time as the creditors and Trustee actually discover a particular cause of action.

K. Defendants' Fraudulent Receipt of Income from Estate Assets; Transactions After Appointment of Trustee

148. Abell is the record owner of a residential rental property at 636 14th Place, NE, Washington, D.C. After filing for bankruptcy protection, however, Abell represented in his *Amended Schedule A – Real Property* (which he filed under oath on March 27, 2013) that 636 14th Place, NE is "titled in [his] name but [was] transferred to American Trust, LLC[,] an entity of which [his] minor children are beneficial owners, as part of a tax free exchange." That

representation was knowingly false. Abell knows that he is real owner of that property. In any event, as noted *supra*, Abell is the true, beneficial owner of American Trust, an entity over which he exercises total control for his own systematic benefit and advantage.

149. The Trustee was appointed on September 9, 2013. At that point, only the Trustee was legally authorized to encumber or lease Abell-owned properties. Nevertheless, Abell personally showed the property to a prospective tenant and negotiated a lease with the tenant. Indeed, Abell personally provided the tenant with a lease document that the tenant signed on November 12, 2013.

150. Curiously, the lease document that Abell gave to his tenant does not reveal the identity of the landlord. Given that Abell owns the property and procured the lease himself, there is no doubt that Abell is, in fact, the landlord. Nevertheless, Abell was careful to ensure that the document did not identify him as the landlord. And although the lease document does not identify the landlord, it does identify Phoenix 2 as the landlord's "agent." As explained *supra*, Phoenix 2 is nothing more than a continuation of Modern Management, a company owned and controlled by Abell.

151. After procuring a lease for the property, Abell did not direct the tenant to make monthly rental payments to the bankruptcy estate. Instead, he directed that rents be paid to certain entities – entities that he says he does not own. Specifically, Abell directed that the tenant make certain rent payments to Phoenix 2 and other rent payments to American Trust. For example, the tenant's check for December 2013 rent was paid to American Trust and the tenant's check for March 2014 rent was paid to Phoenix 2. As explained throughout this complaint, Abell is the true beneficial owner of Phoenix 2 and American Trust. Because Abell is the

property owner, any rental income from that property belongs to the bankruptcy estate for distribution to *bona fide* creditors. Despite having received thousands of dollars from this property alone, Abell has not remitted the rents to the Trustee. Rather, consistent with his fraudulent scheme, Abell has attempted to thwart his creditors and hide this income from the Trustee.

152. On March 20, 2014, the Trustee conducted a Court-approved auction sale of these Sale Properties that were facially owned by Abell. Among the properties that were sold at the auction was this very same property – 636 14th Place, NW. Although Abell's *Amended Schedule A – Real Property* falsely states that Abell's children, through American Trust, own the property, American Trust did not come forward to oppose the sale. Tellingly, however, Abell's 90-year old father – James – attended the auction and bid on that property. To cover up Abell's involvement in procuring the lease on 636 14th Place, NW and to ensure the continuation of rental income from that property, Abell sent his father to the auction to purchase the property on Abell's behalf. Abell knew that, if he (through his father) successfully obtained the property at auction, the Trustee would likely not discover the lease and rental income that Abell procured and diverted after the Trustee's appointment in this case.

153. Most recently, and with Maya's assistance, Abell attempted to acquire property in violation of the terms of his Release Order and the rules of this Court. In the last few weeks Abell attended an auction with thousands of dollars in cash, filled out qualifying forms identifying himself as the agent of Maria Maya and/or Sun Valley Builders, LLC, and submitted a bid on 2403 Sun Valley Circle, Silver Spring, MD 20906.

L. Defendants' Fraudulent Intent and Indicia of Fraud

154. Abell and the other Defendants have engaged in the transactions and conveyances described in the Complaint and set forth in *Exhibit 1* with the fraudulent intent to hide assets and evade Abell's creditors.

155. Despite purporting to transfer the Concealed Assets to Defendants, Abell has retained rights and beneficial ownership interests in the Concealed Assets.

156. Abell purportedly transferred many of the Concealed Assets for no, or less than fair, consideration.

157. Abell purportedly transferred some of the Concealed Assets to his friends and family, including, but not limited to, Bertola, their children, and his father, James. Abell, however, retained the use and enjoyment of the Concealed Assets.

158. Abell purportedly transferred some of the Concealed Assets to limited liability companies that were established by Abell and Bertola, but are controlled and dominated by Abell; however, Abell retained the use and enjoyment of the Concealed Assets.

159. Tellingly, most, if not all, of the transfers of the Concealed Assets occurred after Wilson obtained her judgment against Abell.

M. Fraudulent Conveyances

160. Concealing assets from his creditors was a focal point of Abell's fraudulent scheme. Given the number of large claims and judgments against him, Abell understood that he could not directly receive the income generated by the Concealed Assets. Therefore, he directed and caused the income generated by the Concealed Assets to be transferred to others, including his wife, children, father, and entities that he controlled and dominated.

161. Abell has directed – and continues to direct – that substantial revenues and income generated by the Concealed Assets be conveyed to others, including, but not limited to, Bertola, James, the Phoenix entities, American Trust, and Chon. All distributions and/or transfers to any of the Defendants, the entities listed on *Exhibit 1*, or others within three years before the petition date (or such other applicable period of limitations as tolled as a result of Abell's fraudulent conduct and concealments) generated from the Concealed Assets or any other property of Abell, including but not limited to any rents received from any of the properties listed on *Exhibit 1* or other properties owned or controlled by Abell, are fraudulent conveyances.

162. Distributions and income from all or some of the Concealed Assets have been and continue to be made to the Defendants, even though they have no true equity interests in the Concealed Assets and even though they did nothing to earn any such distributions or income. For example, rents received from various properties owned by Abell, including 1776 Lyman Place, NE, 1925 Valley Terrace, SE, and 636 14th Place, NE, have been paid to American Trust and Phoenix 2, even though those entities do not own the properties and are not entitled to receive the rental income for the properties. Rents received from various properties owned by Abell have also been deposited into bank accounts for the Phoenix entities, which have then disbursed those funds to various Defendants.

163. Similarly, when Abell purported to transfer deeds into his and his wife's name or the names of the other Defendants and entities listed on *Exhibit 1*, such transfers were made without any consideration and strictly for the purpose of avoiding the claims of creditors. For example, on April 27, 2007, Abell conveyed the property at 3549 Bruton Parish Way, Silver

Spring, Maryland to Bertola for no consideration. Within six weeks, Bertola conveyed the property to Brian Newell for \$325,000.

164. Abell has also made transfers to various Defendants in the form of purported loans. For example, Abell transferred close to \$1 million to Chon in the months leading up to the bankruptcy petition, and had transferred hundreds of thousands of additional dollars to Chon over a several year period.

165. The transfers described in the paragraphs above constitute transfers of interests in Abell's property.

166. Abell and the entities under his control received less than a reasonably equivalent value for the transfers.

167. Abell made the transfers with actual intent to hinder, delay, or defraud his creditors and the Trustee, and in an attempt to remove the assets from the reach of the creditors and the Trustee.

168. At the time Abell made the transfers, Abell was insolvent as that term is defined and used in §§ 101 (32) and 548 of the Bankruptcy Code. The transfers were made at a time or times when Abell was legally insolvent or rendered insolvent by the conveyances.

169. At the time Abell made the transfers, Abell was engaged in businesses for which the property remaining in his hands after the conveyances was an unreasonably small capital.

170. At the time Abell made the transfers, Abell intended, believed, and/or reasonably should have believed that he would incur debts beyond his ability to pay such debts as they matured.

171. The transfers were made to or for the benefit of one or more of Defendants.

172. The transfers were made without fair consideration.

173. The transfers are avoidable and recoverable pursuant to §§ 548 and 550 of the Bankruptcy Code.

174. The transfers are also avoidable and recoverable pursuant to §§ 544(b) and 550 of the Bankruptcy Code because they constitute fraudulent conveyances under the Maryland Uniform Fraudulent Conveyances Act, Md. Code Ann., Com. Law II § 15-201 *et seq.*, and the Trustee is entitled to a monetary judgment against Defendants in the amounts of the transfers to be proved at trial, and to have all such transfers set aside and to levy and garnish upon all such assets, funds, and properties of Defendants, to the extent the transferred assets are no longer available to satisfy Abell's liabilities to his creditors.

175. To the extent transfers were made to Bertola, the transfers are avoidable and recoverable pursuant to §§ 544(b) and 550 of the Bankruptcy Code and Md. Code Ann., Fam. Law § 4-301(d)(2), because they were made in prejudice of the rights of Abell's creditors, and the Trustee is entitled to a monetary judgment against Bertola in the amounts of the transfers to be proved at trial, and to have all such transfers set aside and to levy and garnish upon all such assets, funds, and properties of Bertola, to the extent the transferred assets are no longer available to satisfy Abell's liabilities to his creditors.

176. Defendants and any other persons identified during the course of this action are jointly and severally liable for the value of all sums, items and property fraudulently transferred to them or for their use. Given Abell's bad faith refusal to fully disclose his financial affairs, the above-identified fraudulent conveyances do not represent all fraudulent conveyances for which

the Trustee seeks relief in this action. To the contrary, the Trustee reserves the right to identify new or different fraudulent conveyances in amended pleadings and/or during discovery.

N. Defendants' Attempt to Defraud Bankruptcy Court

177. Abell's scheme to defraud extends into Abell's bankruptcy case. Abell has hired a cadre of lawyers to assist him, his relatives and his related entities in the bankruptcy proceedings. These lawyers are primarily paid from money that belongs to the bankruptcy estate, and they have been hired to carry out Abell's agenda and pursue Abell's interests. Abell's schedules, prepared with the assistance of counsel, are knowingly false. In his initial filing, for example, Abell represented that his estimated assets were \$0 to \$50,000 and that his estimated liabilities were \$1,000,001 to \$10 million. Only twenty-two days later (and after a creditor filed a motion for appointment of a trustee), Abell amended his petition to disclose estimated assets for \$10,000,001 to \$50,000,000 and likewise increased his estimated liabilities to the same range. Abell's schedules still fail to properly and fully identify the Concealed Assets.

178. Similarly, in this bankruptcy case, Abell did not disclose the dozens of limited liability companies in which he holds an interest or management role in response to Question 18 of the Statement of Financial Affairs dated April 8, 2013. In response to Question 18 of that Statement of Financial Affairs, Abell falsely stated, with intent to mislead, that he was not "an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within six years immediately preceding the commencement of this case"

179. It was not until after Wilson listed the multiple limited liability companies that she had discovered in the course of attempting to locate Abell's assets that Abell filed an

Amended Statement of Financial Affairs that identified some of the limited liability companies in which he holds an interest. But even that Amended Statement of Financial Affairs omits many limited liability companies that Abell controls and in which Abell is the true beneficial owner.

180. Moreover, multiple Defendants, including Bertola, Abell's father (James), Asset Lending, American Trust, Columbia Security LLC, Mount Zion Village Partnership, Abell Family Partnership, Caniss, Cristino Gonzalez, Maria Antonopoulos, and Fela Bertola have filed sham or fraudulent proofs of claim against the estate, based on sham transactions with Abell. For example, Asset Lending has filed proofs of claim based on judgments against Abell for which Abell has obtained a full release. Another example is the proof claim filed by Fela Bertola alleging that she was owed \$70,000 based on an April 20, 2007 promissory note from Abell to her. In a later affidavit, she claimed that she actually made a loan of \$50,000 on March 7, 2005, although the check she allegedly paid to Abell was actually a cashier's check made payable to Bertola for \$46,010.68.

181. The foregoing allegations are based on information uncovered to date. The Trustee anticipates that with the benefit of discovery, and if Abell finally comes clean, additional information will be uncovered that will identify additional assets and income sources that belong to the estate. The Trustee expressly reserves the right to amend the complaint to seek the recovery of such additional assets and income sources on behalf of the estate.

O. Defendants' Failure to Comply with Sanctions Orders Regarding MM-EBT

182. One significant example of Abell's and Bertola's ongoing scheme to defraud the bankruptcy court is their claimed exemption of MM-EBT and their subsequent flagrant disregard

of the Court's Order rejecting their exemption and requiring the turnover of the MM-EBT to the Trustee.

183. On March 27, 2013, the Debtor filed his Amended Schedules in his bankruptcy case. In the Amended Schedules, he claimed the MM-EBT was exempt as a retirement fund under applicable Maryland State law, with a claimed exemption value of \$175,000.00 and current value without deductions for exemptions of \$175,000.00. On December 19, 2013, the Debtor amended his Schedules to, *inter alia*, alter the current value of the MM-EBT without deducting exemptions to "unknown."

184. According to the Debtor, the MM-EBT was created in 1995 in connection with Modern Management Company and for the benefit of Modern Management Company's claimed employees, Abell and Bertola.⁴ In 2004, the MM-EBT appears to have been restated concurrently with the Modern Management Company Profit Sharing Plan.

185. Abell and Bertola are the purported co-trustees of the MM-EBT and their signatures are affixed as "trustees" to certain documents related to the MM-EBT.

186. The MM-EBT consists of assets including money and other property. The Debtor has represented that the assets in the MM-EBT include cash, loan receivables, tax certificates, and parcels of improved real property. Other than claiming an exemption in the MM-EBT assets in the amount of \$175,000, the Debtor, Marta Bertola, and/or persons or entities acting at their behest have concealed and continue to conceal the exact nature, market value, and location of the MM-EBT assets.

187. According to records produced by the Debtor and Bertola, the MM-EBT includes

⁴ The Debtor has also represented that Joy George was an employee of Modern Management Company and received distributions from the MM-EBT.

"SunTrust Bank #209432837 Employee Benefit Trust FBO VLA & MB" and possibly other bank accounts with SunTrust Bank referred to in internal bank reconciliation records prepared by Phoenix 2 as "MMCO-EBT –Suntrust Bank" (the "SunTrust Account"). The exact contents of the SunTrust Account, the current value thereof, the identity of all account number(s), and the identity of the account holder(s), are unknown to the Trustee.

188. In May 2013, creditors, including Wilson filed objections to, among other things, the Debtor's MM-EBT claimed exemption contending that the MM-EBT was not a legitimate retirement fund and thus non-exempt and property of the bankruptcy estate (the "Contested Matter"). After the Trustee was appointed, he intervened in the Contested Matter.

189. On February 18, 2014, the bankruptcy court entered an Order granting orders in favor of the Trustee and Wilson for sanctions against the Debtor in the Contested Matter (the "Sanctions Orders"). The Sanctions Orders granted affirmative relief in favor of the Trustee and Wilson that the Debtor's interest in the MME-BT was not exempt. The Trustee's Sanctions Order provided, *inter alia*, that:

ORDERED, that facts related to the non-exempt status of the Debtor's Roth IRA and MME-BT are established in favor of the Trustee and Maria Wilson for purposes of this Contested Matter; and it is further

ORDERED, that . . . (2) the MME-BT was not established in compliance with applicable state or federal law and therefore does not now constitute a retirement or pension fund capable of exemption.

190. Because the Sanctions Orders ordered that the MM-EBT was not a legitimate retirement fund and thus not exempt, the entire MM-EBT is property of the Debtor's bankruptcy estate.

191. Bertola was intimately involved in the Contested Matter, including proceedings

relating to the Sanctions Orders and the selective production of documents requested by Wilson. Bertola attended, among other proceedings, the hearing on the Trustee's and Wilson's Motions for Sanctions. On February 18, 2014, the Trustee transmitted a copy of the Sanctions Order to Bertola and demanded that she turnover to the Trustee the assets held in or by the MM-EBT, consistent with the Sanctions Orders. Bertola never responded to the Trustee's request and failed and refused to turnover any of the Debtor's MM-EBT assets.

192. On February 25, 2014, the Trustee again wrote to Bertola and demanded that she turnover to the Trustee the assets held in or by the MM-EBT. As with the Trustee's prior correspondence, Bertola never responded to the Trustee's request. She has failed and refused to turnover any of the Debtor's MM-EBT assets.

193. On March 4, 2014, the Debtor noticed an appeal to the United States District Court for the District of Maryland of the Sanctions Orders and separately sought a stay pending appeal from the Bankruptcy Court.

194. On April 10, 2014, the Bankruptcy Court denied the Debtor's motion to stay the Sanctions Orders pending appeal. The Debtor did not seek review of the Bankruptcy Court's denial of his motion to stay pending appeal and no court has subsequently imposed a stay of the Sanctions Orders.

195. On July 3, 2014, the district court affirmed the Sanctions Orders.

196. On or about July 31, 2014, the Debtor noticed an appeal to the Fourth Circuit Court of Appeals. Because the Debtor has not obtained a stay pending appeal, the Trustee is entitled to enforce the Sanctions Order.

V. COUNTS

COUNT I
Declaratory Judgment Pursuant to
28 U.S.C. §§ 2201 and 2202
(as to Phoenix 2)

197. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

198. An actual controversy exists between and among the parties.

199. Specifically, the Trustee contends that Phoenix 2 is an asset of Abell, which is rightfully an asset of the bankruptcy estate, whereas Abell and one or more of the other Defendants presumably contend that Phoenix 2 is not an asset of Abell. Similarly, the Trustee contends that Phoenix 2 generated (and continues to generate) income that Abell caused (and is causing) to be fraudulently conveyed to Defendants, whereas Abell and one or more of the other Defendants presumably deny any such conveyances.

200. Antagonistic claims exist between and among the parties which indicate and have resulted in imminent and inevitable litigation. Therefore, a controversy between and among the parties exists which entitles the Trustee to this Court's declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

201. This Court's declaratory judgment concerning the parties' rights and interests will terminate this controversy.

WHEREFORE, the Trustee requests that this Court enter a judgment, declaring, decreeing, and adjudging the rights of the parties as follows:

- A. Abell maintains an interest in Phoenix 2;
- B. Phoenix 2 is the asset of Abell, solely;

C. Phoenix 2 is property of the bankruptcy estate and subject to the claims of creditors and must be turned over to the Trustee for liquidation and distribution in accordance with the Bankruptcy Code; or, in the alternative, the Trustee is entitled to monetary awards representing the value of Phoenix 2, as of the petition date;

D. The Trustee is entitled to such other necessary or proper relief to be determined upon the adjudication of the merits of this action.

COUNT II
Constructive Trust
under Maryland and D.C. common law and D.C. Code § 28-2107
(as to Phoenix 2)

202. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

203. Bertola claims to be the owner of Phoenix 2. Bertola is not the owner, and she has no equitable right, title, or interest in Phoenix 2. Abell is the true owner of Phoenix 2. As such, Phoenix 2 belongs to the estate, and the Trustee's equitable right, title, and interest in Phoenix 2 is superior to that of any other person.

204. Bertola's claim of ownership of Phoenix 2 derives from Abell's fraud, misrepresentations, and unlawful efforts to evade his creditors and hide assets. It is inequitable for Bertola, or any other Defendant, to retain any purported interest in Phoenix 2 and/or to exercise any control over Phoenix 2. The Trustee has a higher equitable call on Phoenix 2 than any other Defendant.

205. It would be unjust and inequitable for any other person to continue to purport to own, hold, and maintain Phoenix 2 for the benefit of Abell or themselves as opposed to Abell's *bona fide* creditors, and all such properties and assets should be conveyed to the estate under

equitable principles. The Court should impose a constructive trust on Phoenix 2 for the benefit of Abell's creditors, order that Phoenix 2 be conveyed to the estate, or order that the purported owner of Phoenix 2 pay to the estate the value of such property.

WHEREFORE, the Trustee requests that this Court: (a) charge upon Defendants, including Bertola, a constructive trust of Phoenix 2 for the benefit of the Trustee; (b) declare and adjudge that Defendants, including Bertola, have held and continue to hold Phoenix in trust for the benefit of the bankruptcy estate and/or Abell's creditors; (c) order Bertola and all other Defendants as applicable to convey all purported rights, title, and interests in Phoenix 2 to the Trustee, free and clear of all liens, mortgages, and other encumbrances; (d) award a money judgment against Defendants in an amount to be established at trial representing the damages resulting from their misuse of Phoenix 2 and its assets; and (e) grant such other further relief which is just and equitable under the circumstances.

COUNT III
Turnover of Property
11 U.S.C. § 542
(as to Phoenix 2)

206. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

207. Under § 542 of the Bankruptcy Code, the Trustee may compel any entity not acting as custodian for the Trustee that is in possession, custody or control of property of the estate to deliver to the Trustee any such property and to account for such property or the value for such property.

208. Phoenix 2 (including all of its assets) and its various books, compilations, financial and accounting records, documents, and other tangible and intangible property

constitute property of the estate within the meaning of § 541 of the Bankruptcy Code (collectively, "Phoenix 2 Property").

209. Phoenix 2 Property may be used, sold or leased by the Trustee.

210. Bertola has failed to deliver and account to the Trustee for Phoenix 2 Property.

211. Cause exists for passage of an order directing Bertola to account to the Trustee for all Phoenix 2 Property or the value of such property.

212. Bertola should be required to turnover and deliver to the Trustee all Phoenix 2 Property.

WHEREFORE, the Trustee requests that this Court: (i) order that Bertola turnover and deliver to the Trustee Phoenix 2 (including all Phoenix 2 property) and its various books, compilations, financial and accounting records, documents, and other tangible and intangible property; (ii) order that Bertola account to the Trustee for Phoenix 2 (including all Phoenix 2 property), its revenues and assets; and (iii) award applicable interest, costs, and fees.

COUNT IV
Declaratory Judgment Pursuant to
28 U.S.C. §§ 2201 and 2202
(as to Phoenix 1)

213. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

214. An actual controversy exists between and among the parties.

215. Specifically, the Trustee contends that Phoenix 1 is an asset of Abell, which is rightfully an asset of the bankruptcy estate, whereas Abell and Bertola (or one or more of the other Defendants) presumably contend that Phoenix 1 is not an asset of Abell, solely. Similarly, the Trustee contends that Phoenix 1 generated (and continues to generate) income that Abell

caused (and is causing) to be fraudulently conveyed to Defendants, whereas Abell and one or more of the other Defendants presumably deny any such conveyances.

216. Antagonistic claims exist between and among the parties which indicate and have resulted in imminent and inevitable litigation. Therefore, a controversy between and among the parties exists which entitles the Trustee to this Court's declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

217. This Court's declaratory judgment concerning the parties' rights and interests will terminate this controversy.

WHEREFORE, the Trustee requests that this Court enter a judgment, declaring, decreeing, and adjudging the rights of the parties as follows:

- A. Abell maintains an interest in Phoenix 1;
- B. Phoenix 1 is the asset of Abell, solely;
- C. Phoenix 1 is property of the bankruptcy estate and subject to the claims of creditors and must be turned over to the Trustee for liquidation and distribution in accordance with the Bankruptcy Code; or, in the alternative, the Trustee is entitled to monetary awards representing the value of Phoenix 1, as of the petition date;
- D. The Trustee is entitled to such other necessary or proper relief to be determined upon the adjudication of the merits of this action.

COUNT V
Constructive Trust
under Maryland and D.C. common law and D.C. Code § 28-2107
(as to Phoenix 1)

218. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

219. Bertola and Abell claim to be the owners of Phoenix 1 as tenants by the entireties. Bertola is not an owner, and she has no equitable right, title, or interest in Phoenix 1. Abell is the true owner of Phoenix 1. As such, Phoenix 1 belongs to the estate, and the Trustee's equitable right, title, and interest in Phoenix 1 is superior to that of any other person.

220. Bertola's claim of an ownership interest in Phoenix 1 derives from Abell's fraud, misrepresentations, and unlawful efforts to evade his creditors and hide assets. It is inequitable for Bertola, or any other Defendant, to retain any purported interest in Phoenix 1 and/or to exercise any control over Phoenix 1. The Trustee has a higher equitable call on Phoenix 1 than any other Defendant.

221. It would be unjust and inequitable for any other person to continue to purport to own, hold, and maintain Phoenix 1 for the benefit of Abell or themselves as opposed to Abell's *bona fide* creditors, and all such properties and assets should be conveyed to the estate under equitable principles. The Court should impose a constructive trust on Phoenix 1 for the benefit of Abell's creditors, order that Phoenix 1 be conveyed to the estate, or order that the purported owners of Phoenix 1 pay to the estate the value of such property.

WHEREFORE, the Trustee requests that this Court: (a) charge upon Defendants, including Bertola, a constructive trust of Phoenix 1 for the benefit of the Trustee; (b) declare and adjudge that Defendants, including Bertola, have held and continue to hold Phoenix 1 in trust for the benefit of the bankruptcy estate and/or Abell's creditors; (c) order Bertola and all other Defendants as applicable to convey all purported rights, title, and interests in Phoenix 1 to the Trustee, free and clear of all liens, mortgages, and other encumbrances; (d) award a money judgment against Defendants in an amount to be established at trial representing the damages

resulting from their misuse of Phoenix 1 and its assets; and (e) grant such other further relief which is just and equitable under the circumstances.

COUNT VI
Turnover of Property
11 U.S.C. § 542
(as to Phoenix 1)

222. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

223. Under § 542 of the Bankruptcy Code, the Trustee may compel any entity not acting as custodian for the Trustee that is in possession, custody or control of property of the estate to deliver to the Trustee any such property and to account for such property or the value for such property.

224. Phoenix 1 (including all of its assets) and its various books, compilations, financial and accounting records, documents, and other tangible and intangible property constitute property of the estate within the meaning of § 541 of the Bankruptcy Code (collectively, "Phoenix 1 Property").

225. Phoenix 1 Property may be used, sold or leased by the Trustee.

226. Bertola and Abell have failed to deliver and account to the Trustee for Phoenix 1 Property.

227. Cause exists for passage of an order directing Bertola and Abell to account to the Trustee for all Phoenix 1 Property or the value of such property.

228. Bertola and Abell should be required to turnover and deliver to the Trustee all Phoenix 1 Property.

WHEREFORE, the Trustee requests that this Court: (i) order that Bertola and Abell turnover and deliver to the Trustee Phoenix 1 (including all Phoenix 1 property) and its various books, compilations, financial and accounting records, documents, and other tangible and intangible property; (ii) order that Bertola and Abell account to the Trustee for Phoenix 1 (including all Phoenix 1 property), its revenues and assets; and (iii) award applicable interest, costs, and fees.

COUNT VII
Declaratory Judgment Pursuant to
28 U.S.C. §§ 2201 and 2202
(as to American Trust)

229. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

230. An actual controversy exists between and among the parties.

231. Specifically, the Trustee contends that American Trust is an asset of Abell, which is rightfully an asset of the bankruptcy estate, whereas Abell and Bertola or James (or one or more of the other Defendants, including Abell's children with Bertola, Alexandra, Bronte, Christian and Vincent Abell) presumably contend that American Trust is not an asset of Abell, solely. Similarly, the Trustee contends that American Trust generated (and continues to generate) income that Abell caused (and is causing) to be fraudulently conveyed to Defendants, whereas Abell and one or more of the other Defendants presumably deny any such conveyances.

232. Antagonistic claims exist between and among the parties which indicate and have resulted in imminent and inevitable litigation. Therefore, a controversy between and among the parties exists which entitles the Trustee to this Court's declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

233. This Court's declaratory judgment concerning the parties' rights and interests will terminate this controversy.

WHEREFORE, the Trustee requests that this Court enter a judgment, declaring, decreeing, and adjudging the rights of the parties as follows:

- A. Abell maintains an interest in American Trust;
- B. American Trust is the asset of Abell, solely;
- C. American Trust is property of the bankruptcy estate and subject to the claims of creditors and must be turned over to the Trustee for liquidation and distribution in accordance with the Bankruptcy Code; or, in the alternative, the Trustee is entitled to monetary awards representing the value of American Trust, as of the petition date;
- D. The Trustee is entitled to such other necessary or proper relief to be determined upon the adjudication of the merits of this action.

COUNT VIII
Constructive Trust
under Maryland and D.C. common law and D.C. Code § 28-2107
(as to American Trust)

234. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

235. Abell is the true owner of American Trust. As such, that entity belongs to the estate, and the Trustee's equitable right, title, and interest in the entity is superior to that of any other Defendant or person claiming to have any right, title, or interest in this entity.

236. Any other person's claim of an ownership interest in this entity derives from Abell's fraud, misrepresentations, and unlawful efforts to evade his creditors and hide assets. It is inequitable for any Defendant, to retain any purported interest in this entity and/or to exercise

any control over this entity. The Trustee has a higher equitable call on this entity than any other Defendant.

237. It would be unjust and inequitable for any other person to continue to purport to own, hold, and maintain this entity for the benefit of Abell or themselves, as opposed to Abell's *bona fide* creditors, and all such properties and assets should be conveyed to the estate under equitable principles. The Court should impose a constructive trust on this entity for the benefit of Abell's creditors, order that the entity be conveyed to the estate, or order that the purported owners of American Trust pay to the estate the value of such property.

WHEREFORE, the Trustee requests that this Court: (a) charge upon Defendants a constructive trust of on the entity that is the subject of this count for the benefit of the Trustee; (b) declare and adjudge that Defendants have held and continue to hold such entity in trust for the benefit of the bankruptcy estate and/or Abell's creditors; (c) order Defendants as applicable to convey all purported rights, title, and interests in such entity to the Trustee, free and clear of all liens, mortgages, and other encumbrances; (d) award a money judgment against Defendants in an amount to be established at trial representing the damages resulting from their misuse of such entity and its assets; and (e) grant such other further relief which is just and equitable under the circumstances.

COUNT IX
Turnover of Property
11 U.S.C. § 542
(as to American Trust)

238. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

239. Under § 542 of the Bankruptcy Code, the Trustee may compel any entity not acting as custodian for the Trustee that is in possession, custody or control of property of the estate to deliver to the Trustee any such property and to account for such property or the value for such property.

240. The entity that is identified in the heading of this count above and all of that entity's assets, various books, compilations, financial and accounting records, documents, and other tangible and intangible property, constitute property of the estate within the meaning of § 541 of the Bankruptcy Code (collectively, "§ 541 Property").

241. The § 541 Property described in this count may be used, sold or leased by the Trustee.

242. Abell and Bertola have failed to deliver and account to the Trustee for the § 541 Property described in this count.

243. Cause exists for passage of an order directing Abell, Bertola, and any other Defendant that possesses or controls any part of the § 541 Property described in this count to account to the Trustee for such property or the value of thereof.

244. All such persons should be required to turnover and deliver to the Trustee the § 541 Property described in this count.

WHEREFORE, the Trustee requests that this Court: (i) order that Bertola and Abell and any other Defendant that possesses or controls any part of the § 541 Property described in this count to turnover and deliver to the Trustee such § 541 Property described in this count, including any related books, compilations, financial and accounting records, documents, and other tangible and intangible property; (ii) order that Bertola and Abell and any other Defendant

that possesses or controls any part of the § 541 Property described in this count account to the Trustee for such § 541 Property, its revenues and assets; and (iii) award applicable interest, costs, and fees.

COUNT X
Declaratory Judgment Pursuant to
28 U.S.C. §§ 2201 and 2202
(as to American Security)

245. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

246. An actual controversy exists between and among the parties.

247. Specifically, the Trustee contends that American Security is an asset of Abell, which is rightfully an asset of the bankruptcy estate, whereas Abell and Bertola or James (or one or more of the other Defendants) presumably contend that American Security is not an asset of Abell, solely. Similarly, the Trustee contends that American Security generated (and continues to generate) income that Abell caused (and is causing) to be fraudulently conveyed to Defendants, whereas Abell and one or more of the other Defendants presumably deny any such conveyances.

248. Antagonistic claims exist between and among the parties which indicate and have resulted in imminent and inevitable litigation. Therefore, a controversy between and among the parties exists which entitles the Trustee to this Court's declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

249. This Court's declaratory judgment concerning the parties' rights and interests will terminate this controversy.

WHEREFORE, the Trustee requests that this Court enter a judgment, declaring, decreeing, and adjudging the rights of the parties as follows:

- A. Abell maintains an interest in American Security;
- B. American Security is the asset of Abell, solely;
- C. American Security is property of the bankruptcy estate and subject to the claims of creditors and must be turned over to the Trustee for liquidation and distribution in accordance with the Bankruptcy Code; or, in the alternative, the Trustee is entitled to monetary awards representing the value of American Security, as of the petition date;
- D. The Trustee is entitled to such other necessary or proper relief to be determined upon the adjudication of the merits of this action.

COUNT XI
Constructive Trust
under Maryland and D.C. common law and D.C. Code § 28-2107
(as to American Security)

250. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

251. Abell is the true owner of American Security. As such, that entity belongs to the estate, and the Trustee's equitable right, title, and interest in the entity is superior to that of any other Defendant or person claiming to have any right, title, or interest in this entity.

252. Any other person's claim of an ownership interest in this entity derives from Abell's fraud, misrepresentations, and unlawful efforts to evade his creditors and hide assets. It is inequitable for any Defendant, to retain any purported interest in this entity and/or to exercise any control over this entity. The Trustee has a higher equitable call on this entity than any other Defendant.

253. It would be unjust and inequitable for any other person to continue to purport to own, hold, and maintain this entity for the benefit of Abell or themselves, as opposed to Abell's *bona fide* creditors, and all such properties and assets should be conveyed to the estate under equitable principles. The Court should impose a constructive trust on this entity for the benefit of Abell's creditors, order that the entity be conveyed to the estate, or order that the purported owner pay to the estate the value of such property.

WHEREFORE, the Trustee requests that this Court: (a) charge upon Defendants a constructive trust of on the entity that is the subject of this count for the benefit of the Trustee; (b) declare and adjudge that Defendants have held and continue to hold such entity in trust for the benefit of the bankruptcy estate and/or Abell's creditors; (c) order Defendants as applicable to convey all purported rights, title, and interests in such entity to the Trustee, free and clear of all liens, mortgages, and other encumbrances; (d) award a money judgment against Defendants in an amount to be established at trial representing the damages resulting from their misuse of such entity and its assets; and (e) grant such other further relief which is just and equitable under the circumstances.

COUNT XII
Turnover of Property
11 U.S.C. § 542
(as to American Security)

254. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

255. Under § 542 of the Bankruptcy Code, the Trustee may compel any entity not acting as custodian for the Trustee that is in possession, custody or control of property of the

estate to deliver to the Trustee any such property and to account for such property or the value for such property.

256. The entity that is identified in the heading of this count above and all of that entity's assets, various books, compilations, financial and accounting records, documents, and other tangible and intangible property, constitute property of the estate within the meaning of § 541 of the Bankruptcy Code (collectively, "§ 541 Property").

257. The § 541 Property described in this count may be used, sold or leased by the Trustee.

258. Abell, Bertola, and James have failed to deliver and account to the Trustee for the § 541 Property described in this count.

259. Cause exists for passage of an order directing Abell, Bertola, James, and any other Defendant that possesses or controls any part of the § 541 Property described in this count to account to the Trustee for such property or the value of thereof.

260. All such persons should be required to turnover and deliver to the Trustee the § 541 Property described in this count.

WHEREFORE, the Trustee requests that this Court: (i) order that Bertola, James, and Abell and any other Defendant that possesses or controls any part of the § 541 Property described in this count to turnover and deliver to the Trustee such § 541 Property described in this count, including any related books, compilations, financial and accounting records, documents, and other tangible and intangible property; (ii) order that Bertola, James, and Abell any other Defendant that possesses or controls any part of the § 541 Property described in this

count account to the Trustee for such § 541 Property, its revenues and assets; and (iii) award applicable interest, costs, and fees.

COUNT XIII
Turnover of Property
11 U.S.C. § 542(b)
(as to American Security)

261. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

262. Under § 542(b) of the Bankruptcy Code, the Trustee may compel an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, to pay such debt to the Trustee.

263. According to documents obtained by the Trustee, American Security owes Abell \$24,417, which is a debt that is matured, payable on demand, or payable on order.

264. American Security has failed to deliver and account to the Trustee for the debt owed to Abell.

265. Cause exists for passage of an order directing American Security to pay the debt to the Trustee.

WHEREFORE, the Trustee requests that this Court: (i) order that American Security pay the debt described in this count to the Trustee; and (ii) award applicable interest, costs, and fees.

COUNT XIV
Quantum Meruit
(as to American Security)

266. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

267. According to James, Abell provided valuable services to American Security with the expectation of being paid a management fee by American Security. American Security accepted such services, received the benefits thereof, and knew that Abell expected to be paid in full.

268. The services that Abell performed were provided under such circumstances that American Security knew that Abell expected to be paid a management fee.

269. The services that Abell performed, which were accepted by American Security and for which American Security has failed to pay to the Trustee, have a significant value. As a result of American Security's failure to pay, the Trustee is entitled to be compensated for the reasonable value of such services, plus interest.

WHEREFORE, the Trustee requests that this Court: (i) order that American Security pay the management fee described in this count to the Trustee in an amount to be proved at trial; and (ii) award applicable interest, costs, and fees.

COUNT XV
Declaratory Judgment Pursuant to
28 U.S.C. §§ 2201 and 2202
(as to Asset Lending)

270. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

271. An actual controversy exists between and among the parties.

272. Specifically, the Trustee contends that Asset Lending is an asset of Abell, which is rightfully an asset of the bankruptcy estate, whereas Abell and Bertola or James (or one or more of the other Defendants) presumably contend that Asset Lending is not an asset of Abell, solely. Similarly, the Trustee contends that Asset Lending generated (and continues to generate)

income that Abell caused (and is causing) to be fraudulently conveyed to Defendants, whereas Abell and one or more of the other Defendants presumably deny any such conveyances.

273. Antagonistic claims exist between and among the parties which indicate and have resulted in imminent and inevitable litigation. Therefore, a controversy between and among the parties exists which entitles the Trustee to this Court's declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

274. This Court's declaratory judgment concerning the parties' rights and interests will terminate this controversy.

WHEREFORE, the Trustee requests that this Court enter a judgment, declaring, decreeing, and adjudging the rights of the parties as follows:

- A. Abell maintains an interest in Asset Lending;
- B. Asset Lending is the asset of Abell, solely;
- C. Asset Lending is property of the bankruptcy estate and subject to the claims of creditors and must be turned over to the Trustee for liquidation and distribution in accordance with the Bankruptcy Code; or, in the alternative, the Trustee is entitled to monetary awards representing the value of Asset Lending, as of the petition date;
- D. The Trustee is entitled to such other necessary or proper relief to be determined upon the adjudication of the merits of this action.

COUNT XVI
Constructive Trust
under Maryland and D.C. common law and D.C. Code § 28-2107
(as to Asset Lending)

275. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

276. Abell is the true owner of Asset Lending. As such, that entity belongs to the estate, and the Trustee's equitable right, title, and interest in the entity is superior to that of any other Defendant or person claiming to have any right, title, or interest in this entity.

277. Any other person's claim of an ownership interest in this entity derives from Abell's fraud, misrepresentations, and unlawful efforts to evade his creditors and hide assets. It is inequitable for any Defendant, to retain any purported interest in this entity and/or to exercise any control over this entity. The Trustee has a higher equitable call on this entity than any other Defendant.

278. It would be unjust and inequitable for any other person to continue to purport to own, hold, and maintain this entity for the benefit of Abell or themselves, and all such properties and assets should be conveyed to the estate under equitable principles. The Court should impose a constructive trust on this entity for the benefit of Abell's creditors, order that the entity be conveyed to the estate, or order that the purported owner pay to the estate the value of such property.

WHEREFORE, the Trustee requests that this Court: (a) charge upon Defendants a constructive trust on the entity that is the subject of this count for the benefit of the Trustee; (b) declare and adjudge that Defendants have held and continue to hold such entity in trust for the benefit of the bankruptcy estate and/or Abell's creditors; (c) order Defendants as applicable to convey all purported rights, title, and interests in such entity to the Trustee, free and clear of all liens, mortgages, and other encumbrances; (d) award a money judgment against Defendants in an amount to be established at trial representing the damages resulting from their misuse of such

entity and its assets; and (e) grant such other further relief which is just and equitable under the circumstances.

COUNT XVII
Turnover of Property
11 U.S.C. § 542
(as to Asset Lending)

279. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

280. Under § 542 of the Bankruptcy Code, the Trustee may compel any entity not acting as custodian for the Trustee that is in possession, custody or control of property of the estate to deliver to the Trustee any such property and to account for such property or the value for such property.

281. The entity that is identified in the heading of this count above and all of that entity's assets, various books, compilations, financial and accounting records, documents, and other tangible and intangible property, constitute property of the estate within the meaning of § 541 of the Bankruptcy Code (collectively, "§ 541 Property").

282. The § 541 Property described in this count may be used, sold or leased by the Trustee.

283. Abell, James, and Bertola have failed to deliver and account to the Trustee for the § 541 Property described in this count.

284. Cause exists for passage of an order directing Abell, Bertola, James, and any other Defendant that possesses or controls any part of the § 541 Property described in this count to account to the Trustee for such property or the value of thereof.

285. All such persons should be required to turnover and deliver to the Trustee the § 541 Property described in this count.

WHEREFORE, the Trustee requests that this Court: (i) order that Bertola, James, and Abell and any other Defendant that possesses or controls any part of the § 541 Property described in this count to turnover and deliver to the Trustee such § 541 Property described in this count, including any related books, compilations, financial and accounting records, documents, and other tangible and intangible property; (ii) order that Bertola, James, and Abell any other Defendant that possesses or controls any part of the § 541 Property described in this count account to the Trustee for such § 541 Property, its revenues and assets; and (iii) award applicable interest, costs, and fees.

COUNT XVIII
Turnover of Property
11 U.S.C. § 542(b)
(as to Asset Lending)

286. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

287. Under § 542(b) of the Bankruptcy Code, the Trustee may compel an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, to pay such debt to the Trustee.

288. According to documents obtained by the Trustee, Asset Lending owes Abell \$203,078.31, which is a debt that is matured, payable on demand, or payable on order. Asset Lending's general ledgers confirm that Asset Lending owes a debt to Abell.

289. Asset Lending has failed to deliver and account to the Trustee for the debt owed to Abell.

290. Cause exists for passage of an order directing Asset Lending to pay the debt to the Trustee.

WHEREFORE, the Trustee requests that this Court: (i) order that Asset Lending pay the debt described in this count to the Trustee; and (ii) award applicable interest, costs, and fees.

COUNT XIX
Declaratory Judgment Pursuant to
28 U.S.C. §§ 2201 and 2202
(as to Remaining Concealed Assets)

291. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

292. An actual controversy exists between and among the parties.

293. Specifically, the Trustee contends that the remaining Concealed Assets that are not specifically the subject of counts I through XVIII ("Remaining Concealed Assets") are assets of Abell, which are rightfully the assets of the bankruptcy estate, whereas Abell and the other Defendants presumably contend that the Remaining Concealed Assets are not the assets of Abell. Similarly, the Trustee contends that the Remaining Concealed Assets generated income that Abell caused to be fraudulently conveyed to Defendants, whereas Abell and the other Defendants presumably deny any such conveyances.

294. Antagonistic claims exist between and among the parties which indicate and have resulted in imminent and inevitable litigation. Therefore, a controversy between and among the parties exists which entitles the Trustee to this Court's declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

295. This Court's declaratory judgment concerning the parties' rights and interests will terminate this controversy.

WHEREFORE, the Trustee requests that this Court enter a judgment, declaring, decreeing, and adjudging the rights of the parties as follows:

- A. Abell maintains an interest in the Remaining Concealed Assets;
- B. The Remaining Concealed Assets are the assets of Abell, solely;
- C. The Remaining Concealed Assets are property of the bankruptcy estate and subject to the claims of creditors and that they be turned over to the Trustee for liquidation and distribution in accordance with the Bankruptcy Code; or, in the alternative, the Trustee is entitled to monetary awards representing the value of the Concealed Assets as of the petition date;
- D. The Trustee is entitled to such other necessary or proper relief to be determined upon the adjudication of the merits of this action.

COUNT XX
Constructive Trust
under Maryland and D.C. common law and D.C. Code § 28-2107
(as to Remaining Concealed Assets)

296. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

297. One of more Defendants claims to be the owner of the Remaining Concealed Assets. Defendants are not owners, and have no equitable right, title, or interest in the Remaining Concealed Assets. Abell is the true owner of the Remaining Concealed Assets. As such, the Remaining Concealed Assets belong to the estate, and the Trustee's equitable right, title, and interest in the Remaining Concealed Assets is superior to that of any other person.

298. Defendants' claims of ownership of the Remaining Concealed Assets derive from Abell's fraud, misrepresentations, and unlawful efforts to evade his creditors and hide assets. It is inequitable for any Defendant to retain any purported interest in the Remaining Concealed

Assets and/or to exercise any control over them. The Trustee has a higher equitable call on the Remaining Concealed Assets than any other Defendant.

299. It would be unjust and inequitable for any other person to continue to purport to own, hold, and maintain the Remaining Concealed Assets for the benefit of Abell or themselves, as opposed to Abell's *bona fide* creditors, and all such properties and assets should be conveyed to the estate under equitable principles. The Court should impose a constructive trust on the Remaining Concealed Assets for the benefit of Abell's creditors, order that the Remaining Concealed Assets be conveyed to the estate, or order that the purported owner pay to the estate the value of such property.

WHEREFORE, the Trustee requests that this Court: (a) charge upon Defendants a constructive trust of the Remaining Concealed Assets for the benefit of the Trustee; (b) declare and adjudge that Defendants have held and continue to hold the Remaining Concealed Assets in trust for the benefit of the bankruptcy estate and/or Abell's creditors; (c) order Defendants as applicable to convey all purported rights, title, and interests in the Remaining Concealed Assets to the Trustee, free and clear of all liens, mortgages, and other encumbrances; (d) award a money judgment against Defendants in an amount to be established at trial representing the damages resulting from their misuse of Remaining Concealed Assets; and (e) grant such other further relief which is just and equitable under the circumstances.

COUNT XXI
Turnover of Property
11 U.S.C. § 542
(as to Remaining Concealed Assets)

300. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

301. Under § 542 of the Bankruptcy Code, the Trustee may compel any entity not acting as custodian for the Trustee that is in possession, custody or control of property of the estate to deliver to the Trustee any such property and to account for such property or the value for such property.

302. The Concealed Assets that are not the subject of the preceding counts for Turnover of Property and all of the assets, various books, compilations, financial and accounting records, documents, and other tangible and intangible property relating to such Concealed Assets, constitute property of the estate within the meaning of § 541 of the Bankruptcy Code (collectively, "§ 541 Property").

303. The § 541 Property described in this count may be used, sold or leased by the Trustee.

304. Abell, James, and Bertola have failed to deliver and account to the Trustee for the § 541 Property described in this count.

305. Cause exists for passage of an order directing Abell, Bertola, James, and any other Defendant that possesses or controls any part of the § 541 Property described in this count to account to the Trustee for such property or the value of thereof.

306. All such persons should be required to turnover and deliver to the Trustee the § 541 Property described in this count.

WHEREFORE, the Trustee requests that this Court: (i) order that Bertola, James, and Abell and any other Defendant that possesses or controls any part of the § 541 Property described in this count to turnover and deliver to the Trustee such § 541 Property described in this count, including any related books, compilations, financial and accounting records,

documents, and other tangible and intangible property; (ii) order that Bertola, James, and Abell any other Defendant that possesses or controls any part of the § 541 Property described in this count account to the Trustee for such § 541 Property, its revenues and assets; and (iii) award applicable interest, costs, and fees.

COUNT XXII
Turnover of Property
11 U.S.C. § 542(b)
(as to Abell Family Partnership)

307. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

308. Under § 542(b) of the Bankruptcy Code, the Trustee may compel an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, to pay such debt to the Trustee.

309. According to documents obtained by the Trustee, the Abell Family Partnership owes Abell \$223,904.19, which is a debt that is matured, payable on demand, or payable on order.

310. The Abell Family Partnership has failed to deliver and account to the Trustee for the debt owed to Abell.

311. Cause exists for passage of an order directing the Abell Family Partnership to pay the debt to the Trustee.

WHEREFORE, the Trustee requests that this Court: (i) order that the Abell Family Partnership pay the debt described in this count to the Trustee; and (ii) award applicable interest, costs, and fees.

COUNT XXIII
Turnover of Property
11 U.S.C. § 542(b)
(as to Parkview Towers, LLC)

312. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

313. Under § 542(b) of the Bankruptcy Code, the Trustee may compel an entity that owes a debt that is property of the estate and that is matured, payable on demand, or payable on order, to pay such debt to the Trustee.

314. According to Parkview Towers LLC's records, Parkview Towers, LLC ("Parkview Towers") owes Abell \$13,000, which is a debt that is matured, payable on demand, or payable on order.

315. Parkview Towers has failed to deliver and account to the Trustee for the debt owed to Abell.

316. Cause exists for passage of an order directing Parkview Towers to pay the debt to the Trustee.

WHEREFORE, the Trustee requests that this Court: (i) order that Parkview Towers pay the debt described in this count to the Trustee; and (ii) award applicable interest, costs, and fees.

COUNT XXIV
Turnover of Property
11 U.S.C. § 543
(as to Parkview Towers)

317. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

318. Under § 543 of the Bankruptcy Code, the Trustee is entitled to receive the property of the debtor, proceeds, product, offspring, rents, or profits of such property.

319. James has testified at his Rule 2004 examination that Abell is an owner of Parkview Towers and is entitled to distributions and draws from Parkview Towers.

320. Accordingly, Parkview Towers is a custodian that holds property of Abell in the form of owners' distributions and draws.

321. Parkview Towers has failed to deliver and account to the Trustee for the distributions and draws owed to Abell.

322. Cause exists for passage of an order directing Parkview Towers to pay the distributions and draws to the Trustee.

WHEREFORE, the Trustee requests that this Court: (i) order that Parkview Towers pay the distributions and draws described in this count to the Trustee; and (ii) award applicable interest, costs, and fees.

COUNT XXV
Turnover of Property
11 U.S.C. § 543
(as to Mt. Zion Village Partnership)

323. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

324. Under § 543 of the Bankruptcy Code, the Trustee is entitled to receive the property of the debtor, proceeds, product, offspring, rents, or profits of such property.

325. James has testified at his Rule 2004 examination that Abell is an owner of Mt. Zion Village Partnership ("Mt. Zion Village") and is entitled to distributions and draws from Mt. Zion Village.

326. Accordingly, Mt. Zion Village is a custodian that holds property of Abell in the form of owners' distributions and draws.

327. Mt. Zion Village has failed to deliver and account to the Trustee for the distributions and draws owed to Abell.

328. Cause exists for passage of an order directing Mt. Zion Village to pay the distributions and draws to the Trustee.

WHEREFORE, the Trustee requests that this Court: (i) order that Mt. Zion Village pay the distributions and draws described in this count to the Trustee; and (ii) award applicable interest, costs, and fees.

COUNT XXVI
Monetary Judgment for and Avoidance of Fraudulent
Transfers Pursuant to 11 U.S.C. §§ 548 and 550
(The Phoenix Transfer)

329. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

330. This count is pleaded in the alternative, and is operative solely if it is determined that: (i) Phoenix 1 or Phoenix 2 are in fact separate and distinct entities from, and not merely continuations of Modern Management; (ii) Abell is not the true, sole beneficial owner of Phoenix 1 and Phoenix 2; and (iii) Bertola did, in fact, receive a tenants-by-the-entireties interest in Phoenix 1 and a sole ownership interest in Phoenix 2 (collectively, for purposes of this count, the "Alternative Determinations").

331. In the event of the Alternative Determinations, then the transactions described above that resulted in the creation of Phoenix 1 and Phoenix 2 constitute, in actuality, a fraudulent conveyance.

332. When Abell purported to establish Phoenix 1, he fraudulently conveyed to himself and to Bertola as tenants by the entireties his sole ownership interests in Modern Management; and then when Phoenix 2 was purportedly established, they fraudulently conveyed their interests in Phoenix 1 to Phoenix 2.

333. Likewise, when Abell purported to establish Phoenix 1, he directed that Modern Management fraudulently convey all of its assets to Phoenix 1; and then when Phoenix 2 was established, Abell directed Phoenix 1 to fraudulently convey all of its assets to Phoenix 2.

334. These transactions were separate and distinct fraudulent conveyances or, in the alternative, constituted a single continuous fraudulent conveyance that resulted in Abell's interests in Modern Management being ultimately (and fraudulently) transferred to Bertola, and all of that entity's assets being fraudulently conveyed to Phoenix 1 and then on to Phoenix 2 (separately and collectively, the "Phoenix Transfer").

335. The Phoenix Transfer constitutes a transfer or series of transfers of interests in Abell's property.

336. Abell and the entities under his control received less than a reasonably equivalent value for the Phoenix Transfer.

337. Abell made the Phoenix Transfer with actual intent to hinder, delay, or defraud his creditors and the Trustee, and in an attempt to remove the assets from the reach of the creditors and the Trustee.

338. At the time Abell made the Phoenix Transfer, Abell was insolvent as that term is defined and used in §§ 101 (32) and 548 of the Bankruptcy Code. The Phoenix Transfer was

made at a time or times when Abell was legally insolvent or rendered insolvent by the conveyances.

339. At the time Abell made the Phoenix Transfer, Abell was engaged in businesses for which the property remaining in his hands after the conveyances was an unreasonably small capital.

340. At the time Abell made the Phoenix Transfer, Abell intended, believed, and/or reasonably should have believed that he would incur debts beyond his ability to pay such debts as they matured.

341. The Phoenix Transfer was a transfer or series of transfers made to or for the benefit of Bertola.

342. The Phoenix Transfer was a transfer or series of transfers made without fair consideration.

343. The Phoenix Transfer was a transfer or series of transfers avoidable and recoverable pursuant to §§ 548 and 550 of the Bankruptcy Code.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against Bertola:

- A. determining that the Phoenix Transfer was a transfer or series of transfers that is avoided;
- B. awarding \$20,000,000 or such other amount to be proved at trial, plus prejudgment and post-judgment interest and costs;
- C. directing Bertola to pay to the Trustee such amount; and
- D. granting Trustee such other and further relief as is just and equitable.

COUNT XXVII
**Monetary Judgment for and Avoidance of Fraudulent
Transfers Pursuant to 11 U.S.C. §§ 544 and 550 and
Maryland Uniform Fraudulent Conveyances Act and D.C. Code § 28-2107
(The Phoenix Transfer)**

344. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

345. The Phoenix Transfer was a transfer or series of transfers avoidable and recoverable pursuant to §§ 544(b) and 550 of the Bankruptcy Code because they constitute fraudulent conveyances under the Maryland Uniform Fraudulent Conveyances Act, Md. Code Ann., Com. Law II § 15-201 *et seq.*, and the Trustee is entitled to (i) a monetary judgment against Bertola and Abell and Bertola as tenants-by-the-entirety in an amount (to be proved at trial) representing the value of the assets that were transferred to her as described in this count, and, (ii) a judgment setting aside all such transfers and (iii) a judgment permitting the Trustee to levy and garnish upon all such assets, funds, and properties of Bertola, to the extent the transferred assets are no longer available to satisfy Abell's liabilities to his creditors.

346. To the extent transfers were made to Bertola, the transfers are also avoidable and recoverable pursuant to §§ 544(b) and 550 of the Bankruptcy Code and Md. Code Ann., Fam. Law § 4-301(d)(2), because they were made to the detriment of the rights of Abell's creditors, and the Trustee is entitled to a monetary judgment against Bertola for the amount described in the preceding paragraph, and to have all such transfers set aside, and to levy and garnish upon all such assets, funds, and properties of Bertola, to the extent the "transferred" assets are no longer available to satisfy Abell's liabilities to his creditors.

WHEREFORE, Trustee requests that this Court enter a judgment for the Trustee and against Bertola:

- A. determining that the Phoenix Transfer was a transfer or series of transfers that is avoided;
- B. awarding \$20,000,000 or such other amount to be proved at trial, plus prejudgment and post-judgment interest and costs;
- C. directing Bertola to pay to the Trustee such amount; and
- D. granting Trustee such other and further relief as is just and equitable.

COUNT XXVIII

**Monetary Judgment for and Avoidance of Fraudulent
Transfers Pursuant to 11 U.S.C. §§ 548 and 550 and D.C. Code § 28-2107
(Trustee v. Alexandra Abell, Christian Abell, and Bronte Abell)**

347. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

348. Alexandra Abell ("Alexandra") is a junior currently attending college at the University of Indiana. Alexandra's tuition is approximately \$50,000 per year.

349. Christian Abell ("Christian") is a freshman currently attending the University of California, San Diego campus. Christian's tuition is approximately \$46,000 per year.

350. Bronte Abell ("Bronte") is a senior who just graduated from Smith College in Northampton, Massachusetts. Bronte's tuition has been approximately \$50,000 per year.

351. Abell, either individually or through American Trust, fraudulently conveyed to Alexandra, Christian, and Bronte a series of payments that were allegedly for the children's use to pay their college tuition and living expenses. By way of example, in the summer of 2010,

Abell caused American Trust to make a \$150,000 distribution to Alexandra and a \$150,000 distribution to Bronte.

352. Upon information and belief, Abell has conveyed at least \$150,000 to Alexandra in the past three years, at least \$46,000 to Christian in the past year, and at least \$200,000 to Bronte in the past four years.

353. Abell made the transfers to Alexandra, Christian, and Bronte with the actual intent to hinder, delay, or defraud his creditors and the Trustee, and in an attempt to remove the assets from the reach of the creditors and the Trustee.

354. At the time Abell made the conveyances to Alexandra, Christian, and Bronte, Abell was insolvent as that term is defined and used in §§ 101 (32) and 548 of the Bankruptcy Code. The conveyances to Alexandra, Christian, and Bronte were made at a time or times when Abell was legally insolvent or rendered insolvent by the conveyances.

355. At the time Abell made the conveyances to Alexandra, Christian, and Bronte, Abell was engaged in businesses for which the property remaining in his hands after the conveyances was unreasonably small capital.

356. At the time Abell made the conveyances to Alexandra, Christian, and Bronte, Abell intended, believed, and/or reasonably should have believed that he would incur debts beyond his ability to pay such debts as they matured.

357. The conveyances to his children were a series of transfers made to or for the benefit of Alexandra, Christian, and Bronte.

358. The conveyances to Alexandra, Christian, and Bronte were transfers made without fair consideration.

359. The transfers to Alexandra, Christian, and Bronte were a series of transfers avoidable and recoverable pursuant to §§ 548 and 550 of the Bankruptcy Code.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against Alexandra, Christian, and Bronte:

A. determining that the conveyances to Alexandra, Christian, and Bronte for their purported college tuition were a series of transfers that is avoided;

B. awarding the Trustee \$150,000 from Alexandra, \$46,000 from Christian, and \$200,000 from Bronte, or such other amounts to be proved at trial, plus prejudgment and post-judgment interest and costs;

C. directing Alexandra, Christian, and Bronte to pay to the Trustee such amounts;
and

D. granting the Trustee such other and further relief as is just and equitable.

COUNT XXIX

**Monetary Judgment for and Avoidance of Fraudulent
Transfers Pursuant to 11 U.S.C. §§ 544 and 550 and
Maryland Uniform Fraudulent Conveyances Act
(Trustee v. Alexandra Abell, Christian Abell, and Bronte Abell)**

360. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

361. The transfers to Alexandra, Christian, and Bronte were a series of transfers also avoidable and recoverable pursuant to §§ 544(b) and 550 of the Bankruptcy Code because they constitute fraudulent conveyances under the Maryland Uniform Fraudulent Conveyances Act, Md. Code Ann., Com. Law II § 15-201 *et seq.*, and the Trustee is entitled to a monetary judgment against Alexandra, Christian, and Bronte (in an amount to be proved at trial)

representing the value of the assets that were transferred to them as described in this count, and to have all such transfers set aside, and to levy and garnish upon all such assets, funds, and properties of Alexandra, Christian and Bronte, to the extent the transferred assets are no longer available to satisfy Abell's liabilities to his creditors.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against Defendants:

- A. determining that the transfers to Alexandra, Christian, and Bronte are avoided;
 - B. awarding \$150,000 from Alexandra, \$46,000 from Christian, and \$200,000 from Bronte, or such other amounts to be proved at trial, plus prejudgment and post-judgment interest and costs;
 - C. directing Alexandra, Christian, and Bronte to pay to the Trustee such amounts;
- and
- D. granting the Trustee such other and further relief as is just and equitable.

COUNT XXX

**Monetary Judgment for and Avoidance of Fraudulent
Transfers Pursuant to 11 U.S.C. §§ 548 and 550
(Trustee v. Caniss, Adebowale Adeleke, Fusion Contractors, and AG and Son)**

362. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

363. Abell, either individually, or through entities he owns and controls, has fraudulently conveyed to Caniss at least \$700,000 via wire transfers since 2008. These conveyances are in addition to, and separate from, the more than \$700,000 in payments by check that Abell and his entities made to Caniss for work purportedly performed by Caniss on Abell's properties.

364. Similarly, Abell, either individually, or through entities he owns and controls, has fraudulently conveyed to Adebowale Adeleke ("Adeleke") and Fusion Contractors at least \$91,000 via wire transfers between March 2010 and July 2010. These conveyances are in addition to, and separate from, the payments by check that Abell and his entities made to Adeleke and Fusion Contractors for work purportedly performed by Adeleke and Fusion Contractors on Abell's properties.

365. Abell also, either individually, or through entities he owns and controls, has fraudulently conveyed to AG and Son at least \$427,000 via wire transfers between May 2010 and June 2011. Additionally, Abell was depositing other Phoenix escrow checks, which Abell made out to "AG & Sons," directly into an undisclosed Abell Family Partnership account at Eagle Bank. As late as February 2012, Bertola was writing checks made payable to "AG & Sons" and directly depositing them into an undisclosed Abell Family Partnership account.

366. Abell made the transfers to Caniss, Adeleke, Fusion Contractors, and AG and Son with the actual intent to hinder, delay, or defraud his creditors and the Trustee, and in an attempt to remove the assets from the reach of the creditors and the Trustee.

367. At the time Abell made the conveyances to Caniss, Adeleke, Fusion Contractors, and AG and Son, Abell was insolvent as that term is defined and used in §§ 101 (32) and 548 of the Bankruptcy Code. The conveyances to Caniss, Adeleke, Fusion Contractors, and AG and Son were made at a time or times when Abell was legally insolvent or rendered insolvent by the conveyances.

368. At the time Abell made the conveyances to Caniss, Adeleke, Fusion Contractors, AG and Son, Abell was engaged in businesses for which the property remaining in his hands after the conveyances was unreasonably small capital.

369. At the time Abell made the conveyances to Caniss, Adeleke, Fusion Contractors, and AG and Son, Abell intended, believed, and/or reasonably should have believed that he would incur debts beyond his ability to pay such debts as they matured.

370. The conveyances to Caniss, Adeleke, Fusion Contractors, and AG and Son were a series of transfers made to or for the benefit of Caniss, Adeleke, Fusion Contractors, and AG and Son.

371. The conveyances to Caniss, Adeleke, Fusion Contractors, and AG and Son were transfers made without fair consideration.

372. The transfers to Caniss, Adeleke, Fusion Contractors, and AG and Son were a series of transfers avoidable and recoverable pursuant to §§ 548 and 550 of the Bankruptcy Code.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against Caniss, Adeleke, Fusion Contractors, and AG and Son:

A. determining that the conveyances to Caniss, Adeleke, Fusion Contractors, and AG and Son were a series of transfers that is avoided;

B. awarding the Trustee \$700,000 from Caniss, or such other amounts to be proved at trial, plus prejudgment and post-judgment interest and costs;

C. awarding the Trustee \$91,000 from Adeleke and Fusion Contractors, or such other amounts to be proved at trial, plus prejudgment and post-judgment interest and costs;

D. awarding the Trustee \$427,000 from AG and Son, or such other amounts to be proved at trial, plus prejudgment and post-judgment interest and costs;

E. directing Caniss, Adeleke, and Fusion Contractors to pay to the Trustee such amounts; and

F. granting the Trustee such other and further relief as is just and equitable.

COUNT XXXI

**Monetary Judgment for and Avoidance of Fraudulent
Transfers Pursuant to 11 U.S.C. §§ 544 and 550 and
Maryland Uniform Fraudulent Conveyances Act and D.C. Code § 28-2107
(Trustee v. Caniss, Adeleke, Fusion Contractors, and AG and Son)**

373. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

374. The transfers to Caniss, Adeleke, Fusion Contractors, and AG and Son were a series of transfers avoidable and recoverable pursuant to §§ 544(b) and 550 of the Bankruptcy Code because they constitute fraudulent conveyances under the Maryland Uniform Fraudulent Conveyances Act, Md. Code Ann., Com. Law II § 15-201 *et seq.*, D.C. Code § 28-2107, and the Trustee is entitled to a monetary judgment against Caniss, Adeleke, Fusion Contractors, and AG and Son (in an amount to be proved at trial) representing the value of the assets that were transferred to them as described in this count, and to have all such transfers set aside, and to levy and garnish upon all such assets, funds, and properties of Caniss, Adeleke, Fusion Contractors, and AG and Son, to the extent the transferred assets are no longer available to satisfy Abell's liabilities to his creditors.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against Defendants:

- A. determining that the transfers to Caniss, Adeleke, Fusion Contractors, and AG and Son are avoided;
- B. awarding \$700,000 from Caniss, or such other amounts to be proved at trial, plus prejudgment and post-judgment interest and costs;
- C. awarding \$91,000 from Adeleke and Fusion Contractors, or such other amounts to be proved at trial, plus prejudgment and post-judgment interest and costs;
- D. awarding \$427,000 from AG and Son, or such other amounts to be proved at trial, plus prejudgment and post-judgment interest and costs;
- E. directing Caniss, Adeleke, and Fusion Contractors to pay to the Trustee such amounts; and
- F. granting Trustee such other and further relief as is just and equitable.

COUNT XXXII
Civil Conspiracy
(as to Abell, James, and Bertola)

375. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

376. As part of a confederation by agreement or understanding, Abell, James, and Bertola conspired to engage in the unlawful, tortious, and fraudulent schemes and enterprises detailed in this complaint.

377. To accomplish their common goal of thwarting creditors for the purpose of preserving Abell's wealth, the three actively participated with each other in the frauds and acts of wrongdoing described above.

378. As described above, James, for his part, served as a willing front for his son, receiving assets and money that belong to his son, and holding himself out to creditors as the titular owner of businesses and properties that, in reality, Abell controls and dominates, and in which Abell has retained a secret beneficial interest. James agreed to play this role with full knowledge that as a result of the scheme, Abell's *bona fide* creditors would be prevented from collecting on their legitimate claims.

379. As described above, Bertola, for her part, prepared bogus instruments and documents to carry out Abell's schemes. Further, she harbored and sheltered assets and properties, and sold them out from under creditors, pretending as though she owned the assets and properties. She continues to do so today. She also served (and serves) as a willing front for Abell, receiving assets and money that belong to him, and holding herself out to creditors as the titular owner of businesses and properties that, in reality, Abell controls and dominates, and in which Abell has retained a secret beneficial interest. Bertola agreed to play these roles with full knowledge that as a result of the scheme, Abell's *bona fide* creditors would be prevented from collecting on their legitimate claims.

380. As direct result of their conspiracy, the Trustee and the creditors have sustained substantial economic damages. Through the active participation of James and Bertola, sums of money that should have been directed to pay Abell's legitimate debts were funneled away from creditors and directed to Bertola, James, Abell, and their family members.

381. Bertola, James, and Abell are liable for the full amount of all claims of the legitimate creditors. As a result of their conspiracy, assets that were available and of sufficient value to satisfy legitimate claims of Abell's creditors have been encumbered and secreted;

further, cash has been siphoned away the estate's accounts. Consequently, each Defendant in this count is jointly and severally liable for the full amount of all legitimate claims of creditors.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against Abell, James Abell, and Bertola, jointly and severally, in the amount of \$20,000,000 or such other amount to be proved at trial, plus prejudgment and post-judgment interest and costs, and grant the Trustee such other and further relief as is just and equitable.

COUNT XXXIII
Aiding and Abetting
(as to James, Bertola, Chon and Maya)

382. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

383. As described herein, Abell engaged in independent tortious and wrongful conduct.

384. As described herein, James, Bertola, Chon and Maya provided substantial assistance, encouragement, and aid to Abell in the perpetration of his fraudulent scheme, including the concealment of assets and fraudulent conveyances described herein.

385. James, Bertola, Chon and Maya knew of Abell's wrongful conduct and knew and appreciated their role in furthering such conduct.

386. As direct result of James, Bertola, Chon and Maya aiding and abetting Abell, the Trustee and the creditors have sustained substantial economic damages. By aiding and abetting Abell in his schemes and frauds, Defendants have caused sums of money that should have been directed to pay Abell's legitimate debts to be funneled away from creditors and directed to Bertola, James, Abell, Maya and their family members.

387. As aiders and abettors of Abell's wrongful conduct, James, Bertola, Chon and Maya are liable for the full amount of all claims of the legitimate creditors. As a result of such aiding and abetting, assets were encumbered and secreted that were available and of sufficient value to satisfy legitimate claims of Abell's creditors, and cash has been (and continues to be) siphoned away from such creditors in amounts sufficient to satisfy such claims. Consequently, James, Bertola, Chon and Maya are jointly and severally liable for the full amount of all legitimate claims of creditors.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against James Abell, Bertola, Chon and Maya jointly and severally, in the amount of \$20,000,000 or such other amount to be proved at trial, plus prejudgment and post-judgment interest and costs, and grant the Trustee such other and further relief as is just and equitable.

COUNT XXXIV
Turnover of Property
11 U.S.C. § 542
(Trustee v. Chon)

388. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

389. Under § 542 of the Bankruptcy Code, the Trustee may compel any person or entity not acting as custodian for the Trustee that is in possession, custody or control of property of the estate to deliver to the Trustee any such property and to account for such property or the value for such property.

390. As set forth above, as the recipient of payments made on a "sham loan," Chon is in possession of tangible and intangible property of the estate within the meaning of § 541 of the Bankruptcy Code.

391. Chon has failed to deliver and account to the Trustee for these payments.

392. Cause exists for passage of an order directing Chon to account to the Trustee for all payments on account of the "sham loan."

393. Chon should be required to turnover and deliver to the Trustee all payments made to him by Abell, Bertola or any Abell controlled entity.

WHEREFORE, the Trustee requests that this Court: (i) order that Chon turnover and deliver to the Trustee any payments made to Chon by Abell, Bertola or any Abell controlled entity; (ii) order that Chon account to the Trustee for any such payments ; and (iii) award applicable interest, costs, and fees.

COUNT XXXV
Avoidance of Postpetition Transactions
Pursuant to 11 U.S.C. §§ 549 and 550
(Trustee v. all Defendants)

394. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

395. The transfers and conveyances of assets described in the complaint (and any others that the Trustee later discovers as part of his investigation) that occurred *after* the commencement of Abell's bankruptcy case are post-petition transactions.

396. Those post-petition transactions were not authorized by the Court or the Bankruptcy Code.

397. The post-petition transfers are avoidable and recoverable pursuant to §§ 549 and 550 of the Bankruptcy Code, and the Trustee is entitled to a monetary judgment against Defendants in the amounts of the post-petition transfers to be proved at trial, and to have all such

post-petition transfers set aside, and to levy and garnish upon all such assets, funds, and properties, to the extent they are no longer available to satisfy Abell's liabilities to his creditors.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against all Defendants:

- A. determining that any post-petition transfers to Defendants are avoided;
- B. awarding an amount to be proved at trial, plus prejudgment and post-judgment interest and costs;
- C. directing Defendants to pay to the Trustee such amount; and
- D. granting the Trustee such other and further relief as is just and equitable.

COUNT XXXVI

**Disallowance or Equitable Subordination Pursuant to 11 U.S.C. § 510(c)
(Trustee v. James, Asset Lending, American Security, American Trust, Columbia Security,
Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership,
Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC,
and Marta Bertola)**

398. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

399. This count is asserted against the following purported "creditors" of Abell: James Abell, Asset Lending Corporation, American Security, LLC, American Trust, Columbia Security, Mount Zion Village, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC, and Marta Bertola (collectively and individually, in this count, the "Count XXXVI Defendants"), each of whom have filed claims against the Estate or, in the case of 219 Atlantic Street, LLC, purports to be a holder of a lien, claim, encumbrance or interest against the proceeds of a Sale Property or a Concealed Asset.

400. As explained above, the purported "debts" for which the Count XXXVI Defendants have filed proofs of claim are not valid; therefore, any claims of the Count XXXVI Defendants relating to those debts are invalid. Alternatively, pursuant to 11 U.S.C. § 510(c), the principles of equitable subordination dictate that such claims should be subordinated to all other allowed claims.

401. The Trustee hereby incorporates, as if fully set forth in this paragraph, his objections to the claims filed by the Count XXXVI Defendants, including the objections at Docket Nos. 429 - 439 in Abell's bankruptcy case.

WHEREFORE, the Trustee requests that this Court enter a judgment for the Trustee and against the Count XXXVI Defendants, disallowing all claims filed by the Count XXXVI Defendants (including Claim Nos. 48, 50-58, and 60-68); alternatively, the Trustee requests that this Court enter a judgment for Trustee and against the Count XXXVI Defendants equitably subordinating such claims to all other allowed claims of creditors in this bankruptcy case. The Trustee further requests such other and further relief as is just and equitable.

COUNT XXXVII

**Disallowance of Secured Claim Pursuant to 11 U.S.C. § 506(d)
(Trustee v. James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola)**

402. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

403. The Trustee hereby incorporates, as if fully set forth in this paragraph, his objections to the claims filed by the Count XXXVI Defendants, including the objections at Docket Nos. 429 - 439 in Abell's bankruptcy case.

404. Each of James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola purports to hold a lien, claim, encumbrance or interest against certain of the Sale Properties Proceeds and/or a Concealed Asset.

405. The liens, claims, encumbrances or interests that James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola purport to hold against certain of the Sale Properties Proceeds and/or a Concealed Asset are, among other things, invalid, unenforceable, sham, fraudulent and not legitimate *bona fide* transactions. Such liens, claims, encumbrances or interests were granted by Abell to such defendant without an underlying debt obligation being owed, without any consideration therefor, and thus without a proper commercial transaction having actually occurred between Abell and such defendant to support the grant of such lien, claim, encumbrance or interest. Such liens, claims, encumbrances or interests were made by Abell to such defendant as a means of capturing for Abell's benefit equity in an asset to the detriment of Abell's known and unknown creditors. In certain instances, the documents that purport to grant these defendants a lien, claim, encumbrance or interest against certain Sale Properties (which now purports to attach to the Sale Properties Proceeds) or a Concealed Asset are facially specious.

406. Bankruptcy Code § 506(d) provides:

To the extent a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void, unless – (1) such claim was disallowed only under

section 502(b)(5) or 502(e) of this title; or (2) such claim is not an allowed secured claim due only to the failure of any entity to file a proof of such claim under section 501 of this title.

407. Each of the Claims that the Trustee objected to at Docket Nos. 429 – 439 are not valid, secured claims.

WHEREFORE, Trustee requests that this Court enter a judgment in his favor disallowing such claims and determining that such liens, claims, encumbrances or interests claimed by James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola against any of the Sale Properties Proceeds and/or any Concealed Asset are void.

COUNT XXXVIII

Determination of Validity, Priority and Extent of Liens

Pursuant to 11 U.S.C. §544

(Trustee v. James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola)

408. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

409. The liens, claims, encumbrances or interests that James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola purport to hold against certain of the Sale Properties Proceeds and/or a Concealed Asset are void *ab initio* or voidable by the Court and do not take priority over the Trustee's superior lien under 11 U.S.C. § 544(a).

WHEREFORE, Trustee requests that this Court enter a judgment in his favor (i) avoiding the liens, claims, encumbrances or interests claimed by James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola against any of the Sale Properties Proceeds and/or any Concealed Asset, (ii) declare that such liens, claims, encumbrances or interests claimed by James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola against any of the Sale Properties Proceeds and/or any Concealed Asset are invalid and unenforceable, (iii) determine that the Trustee's rights under 11 U.S.C. § 544(a) are superior to, and take priority over, such claimed liens, claims, encumbrances or interests.

COUNT XXXIX

**Declaratory Judgment Pursuant to
28 U.S.C. §§ 2201 and 2202**

(Trustee v. James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola)

410. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

411. An actual controversy exists between and among the parties, specifically between the Trustee, on the one hand, and James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and

Marta Bertola, on the other hand, with respect to the liens, claims, encumbrances or interests claimed by James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola against any of the Sale Properties Proceeds and/or any Concealed Asset.

412. Antagonistic claims exist between and among the parties as set forth immediately above which indicate and have resulted in imminent and inevitable litigation. Therefore, a controversy between and among the parties exists which entitles the Trustee to this Court's declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

413. This Court's declaratory judgment concerning the parties' rights and interests will terminate this controversy.

WHEREFORE, the Trustee requests that this Court enter a judgment, declaring, decreeing, and adjudging the rights of the parties as follows: (i) that the liens, claims, encumbrances or interests claimed by James, Asset Lending, American Security, American Trust, Columbia Security, Mount Zion Village Partnership, Mt. Airy Apartments, LLC, Abell Family Partnership, Cristino Gonzalez, Maria Antonopoulos, Fela Bertola, 219 Atlantic Street, LLC and Marta Bertola against any of the Sale Properties Proceeds and/or any Concealed Asset are void *ab initio*, voidable, invalid or unenforceable and (ii) that the Trustee's rights as to the Sale Properties Proceeds and Concealed Assets with respect to any such claimed liens, claims, encumbrances or interests are superior to, and take priority over, such claimed liens, claims, encumbrances or interests.

COUNT XL
Objection to Debtor's Discharge
Pursuant to 11 U.S.C. § 727(a)(2) through (5)

414. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

415. With the intent to hinder, delay, and/or defraud his creditors and the Trustee, Abell purportedly transferred, removed, destroyed, mutilated, or concealed, or has permitted to be transferred, removed, destroyed, mutilated, or concealed property of Abell and of the estate.

416. Abell has concealed, destroyed, mutilated, falsified, or failed to keep or preserve recorded information, including books, documents, records, and papers, from which Abell financial condition or business transactions might be ascertained.

417. In or in connection with this case, Abell knowingly and fraudulently made a false oath or account; presented or used a false claim; and/or withheld from the Trustee information relating to Debtor's property or financial affairs.

418. Abell failed to explain satisfactorily alleged losses of assets or deficiencies of assets to meet Abell's liability.

419. Abell fraudulently concealed assets, as described herein.

420. Accordingly, pursuant to § 727 of the Bankruptcy Code, Abell is not entitled to – and this Court should deny Abell – a discharge.

WHEREFORE, Trustee requests that this Court enter a judgment denying a discharge to Abell and granting to Trustee such other necessary or proper relief to be determined upon the adjudication of the merits of this action.

COUNT XLI
Turnover of Property to the Estate
Pursuant to 11 U.S.C. §§ 542 & 543
(Trustee v. Abell, Bertola, MM-EBT, and SunTrust)

421. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

422. The MM-EBT and the assets held therein in an amount not less than \$175,000.00 are property of Debtor's bankruptcy estate within the meaning of 11 U.S.C. § 541.

423. Trustee is entitled to possession of the Debtor's complete interest in the MM-EBT, in an amount not less than \$175,000.00.

424. According to the Debtor's Amended Schedule C, the value of his interest in the MM-EBT is at least \$175,000.00.

425. The Debtor is in actual and/or constructive possession, custody, or control of the MM-EBT because, *inter alia*, the Debtor is the owner of at least \$175,000.00 of the assets in the MM-EBT and is a "co-trustee" of the MM-EBT.

426. Bertola is in actual and/or constructive possession, custody, or control of the MM-EBT because, *inter alia*, she is a "co-trustee" of the MM-EBT and she (or entities she claims to own and/or operate such as Phoenix 2) account for and administer the MM-EBT and the assets contained therein.

427. SunTrust is in actual and/or constructive possession, custody, or control of the MM-EBT or is a custodian of the MM-EBT because, *inter alia*, certain assets of the MM-EBT are held in a bank account at SunTrust Bank.

WHEREFORE, Trustee requests that this Court enter an Order (1) compelling Abell, Bertola, MM-EBT, and SunTrust to turnover to the Trustee assets in the MM-EBT representing

the Debtor's full interest therein with a value of not less than \$175,000.00; (2) entering a money judgment against Abell, Bertola, MM-EBT, and SunTrust in an amount not less than \$175,000.00; and (3) granting the Trustee such other relief as the Court may deem necessary or appropriate.

COUNT XLII
Accounting of MM-EBT
Pursuant to 11 U.S.C. §§ 542 & 543 and/or Common Law
(Trustee v. Abell, Bertola, MM-EBT, and SunTrust)

428. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

429. The assets contained in the MM-EBT and the proceeds, product, offspring, rents, or profits of such assets, including, without limitation, all income received and expenditures made from the MM-EBT since its inception are unknown to the Trustee in any appreciable detail.

430. Debtor and Bertola are in actual or constructive possession, custody, or control of the MM-EBT. SunTrust Bank is also a custodian of the SunTrust Account, containing assets of the MM-EBT.

431. The Trustee is entitled to an accounting of: (1) all assets contained in the MM-EBT, (2) the location of such assets, (3) any proceeds, product, offspring, rents, or profits of such assets, (4) the current value of the aforesaid, and (5) all income received and expenditures made from the MM-EBT between the date of its inception and the date of any judgment entered by the Court.

WHEREFORE, the Trustee requests that this Court enter and Order (1) compelling Abell, Bertola, MM-EBT, and SunTrust to provide an accounting of the MM-EBT, including (a) all

assets contained therein, (b) the location of such assets, any proceeds, product, offspring, rents, or profits of such assets, (c) the value of the aforesaid, (d) and all income received and expenditures made from the MM-EBT between the date of its inception and the date of any judgment entered by the Court; and (2) granting the Trustee such other relief as the Court may deem necessary or appropriate.

COUNT XLIII
Actual and Punitive Damages for Willful Violation of the Automatic Stay
Pursuant to 11 U.S.C. § 362
(Trustee v. Abell and Bertola)

432. Each of the allegations contained in each of the numbered paragraphs of this complaint are re-alleged as if fully set forth in this paragraph.

433. Bertola is in actual and/or constructive possession, custody, or control of the MM-EBT and the assets therein.

434. The Debtor is in actual and/or constructive possession, custody, or control of the MM-EBT and the assets therein.

435. As a result of the Sanctions Orders, the Debtor's interest in the MM-EBT, in an amount not less than \$175,000.00, is property of the Debtor's bankruptcy estate.

436. On February 18, 2014, counsel for the Trustee transmitted the Trustee's Sanctions Order to Bertola and demanded that she turnover to the Trustee all assets held in or by the MM-EBT as a result of that Order. Bertola did not respond and did not turnover the aforesaid property of the estate.

437. Bertola and the Debtor have an affirmative duty under 11 U.S.C. § 542(a) to turnover property of the estate to the Trustee.

438. Bertola and the Debtor, both personally or through entities they jointly operate,

are exercising custody and control over the MM-EBT and the assets therein in willful violation of the automatic stay provided for under 11 U.S.C. § 362(a).

439. The Trustee has been and continues to be injured by the Debtor's and Marta Bertola's willful violation of the automatic stay and has suffered actual damages as a result thereof, including, but not limited to, the costs and attorneys' fees expended to bring this Adversary Proceeding and any further proceeding to recover the assets sought to be recovered herein.

440. Bertola's failure to turn over the Debtor's full interest in the MM-EBT, in an amount not less than \$175,000.00, is intentional and egregious and warrants the imposition of punitive damages. Bertola was actively involved in the Contested Matter and the Sanctions Orders and had actual knowledge that she personally or through entities she operates (with the Debtor) were exercising control over property of estate as early as February 18, 2014.

441. The Debtor's failure to turn over his full interest in the MM-EBT, in an amount not less than \$175,000.00, is intentional and egregious and warrants the imposition of punitive damages. As the party-in-interest, the Debtor was actively involved in the Contested Matter and the Sanctions Orders and had actual knowledge that he personally or through entities he operates were exercising control over property of estate as early as February 18, 2014.

WHEREFORE, the Trustee requests that this Court enter and Order (1) finding that Abell and Bertola willfully violated and continue to willfully violate the automatic stay by exercising control over the MM-EBT; (2) awarding the Trustee actual damages, including attorneys' fees, in an amount to be proven at trial; (3) awarding the Trustee punitive damages in an amount to be

proven at trial; and (4) granting the Plaintiff such other relief as the Court may deem necessary or appropriate.

Respectfully submitted,

/s/ Catherine M. Manofsky

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CERTIFICATE OF SERVICE

I hereby certify that on this thirteenth day of August, 2014, a copy of the First Amended Complaint was filed via the CM/ECF system, which caused a copy to be electronically served on all counsel of record and was mailed via first-class United States mail, postage fully pre-paid, addressed to:

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Takoma Park, Maryland 20910

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Silver Spring, Maryland 20905

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Hyattsville, Maryland 20782

The Phoenix Real Estate 2, LLC
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Washington, D.C. 20011

Asset Lending Corporation
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Hyattsville, Maryland 20782

American Security, LLC
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Fela Bertola
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Morganville, New Jersey 07751

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Christian Abell
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Silver Spring, Maryland 20905

Modern Management Company
Employee Benefit Trust
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Washington, D.C. 20011

Bronte Abell
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North American Title Company
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Washington, D.C. 20015

219 Atlantic Street, LLC
6328 Eastern Avenue NE
Washington, D.C. 20011

107 47th Street Builders, LLC
6328 Eastern Avenue NE
Washington, D.C. 20011

1828 18th Street, LLC
6328 Eastern Avenue NE
Washington, D.C. 20011

2103 Suitland Terrace LLC
6328 Eastern Avenue NE
Washington, D.C. 20011

277 Newcomb Street, LLC
6328 Eastern Avenue NE
Washington, D.C. 20011

2925 26th Street Builders LLC
6328 Eastern Avenue NE
Washington, D.C. 20011

3514 13th Street, LLC
6328 Eastern Avenue NE
Washington, D.C. 20011

3750 Bel Pre Road Builders, LLC
7667 Maple Avenue
Takoma Park, Maryland 20912

5118 Hanna LLC,
6328 Eastern Avenue NE
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6014 Prince George Street LLC
7667 Maple Avenue
Takoma Park, Maryland 20912

Alabama Builders LLC
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1311 T LLC
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2926 Partnership
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