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4 Attorneys for Defendant

5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
8

9 KRISTA L. FREITAG, Court-Appointed  
Permanent Receiver for World Capital Market  
10 Inc.; WCM777 Inc.; WCM777 Ltd. D/b/a/  
WCM777 Enterprises, Inc.; Kingdom Capital  
11 Market, LLC; Manna Holding Group, LLC;  
Manna Source International, Inc.; WCM  
12 Resources, Inc.; ToPacific Inc.; To Pacific Inc.;  
and their subsidiaries and affiliates

13 Plaintiff,

14 vs.

15 ROBERT SENSI

16 Defendant.

Civil Action No. 14-cv-09069-JFW (MRWx)

ANSWER TO COMPLAINT FOR DAMAGES  
:

17 Defendant Robert Sensi hereby answers plaintiff's complaint as follows:

18 **JURISDICTION AND VENUE**

- 19 1. Defendant Robert Sensi admits the allegations of paragraph 1 of the complaint.  
20 2. Defendant Robert Sensi admits the allegations of paragraph 2 of the complaint.  
21 3. Solely for the purposes of this action, defendant Robert Sensi admits the allegations of paragraph 3  
22 of the complaint.

23 **PARTIES**

- 24 4. Defendant Robert Sensi admits the allegations of paragraph 4 of the complaint.  
25 5. Defendant Robert Sensi admits the allegations of paragraph 5 of the complaint.

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28 DEFENDANT ROBERT SENSI'S ANSWER TO COMPLAINT FOR DAMAGES

**FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

6. Defendant Robert Sensi lacks the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 6 of the complaint.

7. Defendant Robert Sensi lacks the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 7 of the complaint.

8. Defendant Robert Sensi lacks the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 8 of the complaint.

9. Defendant Robert Sensi lacks the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 9 of the complaint.

10. Defendant Robert Sensi lacks the knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 10 of the complaint.

11. Defendant Robert Sensi lacks the knowledge or information sufficient to form a belief as to the truth of allegations set forth at page 4, lines 25-27 of the complaint. Defendant Robert Sensi admits the total amount paid in paragraph 11 of the complaint, however, lacks the knowledge or information sufficient to form a belief as to the truth of the allegations as to dates and payor.

12. Defendant Robert Sensi admits that he entered into a consulting agreement, but denies the allegations of paragraph 12 of the complaint at page 5, lines 10-11 “that he was hired by the Receivership Entities to help handle complaints, about the Receivership Entities’ Ponzi scheme” but admits services were rendered pertaining to Peru, Taiwan, and Dubai. Defendant Robert Sensi asserts that the allegations in paragraph 12 of the complaint do not support a claim for relief under Federal Rules of Civil Procedure Rule 8 (a)(2) and are alleged to improperly influence the trier of fact and as such are subject to strike by the court on its own motion pursuant to Federal Rules of Civil Procedure Rule 12 (f)(1) as redundant, immaterial, impertinent or scandalous matter.

13. Defendant Robert Sensi denies the allegations of paragraph 13 of the complaint and asserts that the allegations in paragraph 13 of the complaint do not support a claim for relief under Federal Rules of Civil Procedure Rule 8 (a)(2) and are alleged to improperly influence the trier of fact and as such are subject to strike by the court on its own motion pursuant to Federal Rules of Civil Procedure Rule 12

1 (f)(1) as redundant, immaterial, impertinent or scandalous matter.

2 14. Defendant Robert Sensi admits he was served with a subpoena, however, denies the allegations of  
3 paragraph 14 which characterize his involvement with the Receivership entities that infers that  
4 defendant Robert Sensi is an insider, which he in fact is not an insider of the Receivership entities.  
5 Defendant Robert Sensi denies he failed to produce any written agreements and also denies he failed to  
6 produce bank statements and other documents as alleged in paragraph 14 of the complaint. Defendant  
7 Robert Sensi admits he performed services but issued no invoices, and asserts that the allegations in  
8 paragraph 14 of the complaint do not support a claim for relief under Federal Rules of Civil Procedure  
9 Rule 8 (a)(2) and are alleged to improperly influence the trier of fact and as such are subject to strike by  
10 the court on its own motion pursuant to Federal Rules of Civil Procedure Rule 12 (f)(1) as immaterial or  
11 impertinent.

12 15. Defendant Robert Sensi denies the allegations of paragraph 15 of the complaint that the  
13 agreement to provide services was oral. Defendant Robert Sensi admits he did not issue invoices and  
14 asserts that the allegations in paragraph 15 at page 5, line 22 do not support a claim for relief under  
15 Federal Rules of Civil Procedure Rule 8 (a)(2) and are alleged to improperly influence the trier of fact  
16 and as such are subject to strike by the court on its own motion pursuant to Federal Rules of Civil  
17 Procedure Rule 12 (f)(1) as immaterial, impertinent or redundant, as these allegations were previously  
18 alleged in paragraph 14 of the complaint. Defendant Robert Sensi admits the allegation in page 5, lines  
19 23-24 that funds were used for travel expenses, however, denies the allegations in page 5, lines 24-25  
20 that no documents were produced pertaining to expenses. Defendant asserts that the allegations in  
21 paragraph at page 5, lines 24-25 do not support a claim for relief under Federal Rules of Civil Procedure  
22 Rule 8 (a)(2) and are alleged to improperly influence the trier of fact and as such are subject to strike by  
23 the court on its own motion pursuant to Federal Rules of Civil Procedure Rule 12 (f)(1) as immaterial,  
24 impertinent or redundant.

25 16. Defendant Robert Sensi denies the allegations of paragraph 16 of the complaint.

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28 DEFENDANT ROBERT SENSI'S ANSWER TO COMPLAINT FOR DAMAGES

**CLAIMS**

**FIRST COUNT**

**(California Uniform Fraudulent Conveyance Act - California Civil Code §3439)**

17. Defendant Robert Sensi repeats and realleges his responses to the allegations in paragraphs 1 through 16 of the complaint as though fully set forth herein.

18. Defendant Robert Sensi lacks the knowledge or information sufficient to form a belief as to the truth of allegations set forth in paragraph 18 of the complaint at page 6, lines 6-7, specifically “During the 60 days preceding the Receiver’s appointment, WCM and To Pacific paid \$385,000 in the aggregate to Sensi, however, Sensi admits he received \$385,000. Defendant Robert Sensi denies the allegations of paragraph 18 of the complaint, at page 6, lines 7-9, "with the intent to hinder, delay, or defraud creditors. Such payments were made from the proceeds of a Ponzi scheme which were generated from investors in the scheme." Defendant asserts that the allegations in paragraph 18 at page 6, lines 7-8, “to Sensi, with the intent to hinder, delay, or defraud creditors” is a failure to state a claim upon which relief can be granted under Federal Rules of Civil Procedure Rule 12(b)(6) and Federal Rules of Civil Procedure Rule 8 (a)(2) and are alleged to improperly influence the trier of fact and as such are subject to strike by the court on its own motion pursuant to Federal Rules of Civil Procedure Rule 12 (f)(1) as immaterial, impertinent or redundant. The debtor-transferor's fraudulent intent is required. The intent of the transferee (defendant Sensi) is immaterial. California Civil Code § 3439.04(a)(1).

19. Defendant Robert Sensi denies the allegations of paragraph 19 of the complaint.

20. Defendant Robert Sensi denies the allegations of paragraph 20 of the complaint.

21. Defendant Robert Sensi denies the allegations of paragraph 21 of the complaint.

22. Defendant Robert Sensi denies the allegations of paragraph 22 of the complaint.

23. Defendant Robert Sensi denies the allegations of paragraph 23 of the complaint.

**SECOND COUNT**

**(Unjust Enrichment)**

24. Defendant Robert Sensi repeats and realleges his responses to the allegations in paragraphs 1 through 23 of the complaint as though fully set forth herein.

1 25. Defendant Robert Sensi repeats and realleges his responses to the allegations in paragraphs 1  
2 through 24 of the complaint as though fully set forth herein to paragraph 25 of the complaint at page 7,  
3 lines 1-2, specifically "As described in more detail, above" and defendant Robert Sensi admits the  
4 allegations in paragraph 25 of the complaint at page 7, lines 1-3, "WCM and ToPacific paid in the  
5 aggregate \$385,000 to Sensi in connection with consulting services Sensi purportedly provided.."  
6 Defendant Robert Sensi denies the allegations in paragraph 25 of the complaint at page 7, lines 3-4,  
7 "Such payments were made from the proceeds of a Ponzi scheme which were generated from investors  
8 in the scheme."

9 26. Defendant Robert Sensi denies the allegations of paragraph 26 of the complaint.

10 27. Defendant Robert Sensi denies the allegations of paragraph 27 of the complaint.

11 **THIRD COUNT**

12 **(Constructive Trust)**

13 28. Defendant Robert Sensi repeats and realleges his responses to the allegations in paragraphs 1  
14 through 27 of the complaint as though fully set forth herein.

15 29. Defendant Robert Sensi denies the allegations of paragraph 29 of the complaint.

16 30. Defendant Robert Sensi denies the allegations of paragraph 30 of the complaint.

17 31. Defendant Robert Sensi denies the allegations of paragraph 31 of the complaint.

18 **AFFIRMATIVE DEFENSES**

19 Defendant Robert Sensi, in further answer to the allegations in the counts contained within the  
20 complaint and as separate affirmative defenses thereto, alleges as follows:

21 **FIRST AFFIRMATIVE DEFENSE**

22 **(California Civil Code § 3439.08(a))**

23 1. Defendant Robert Sensi received the money both in good faith and for a reasonably equivalent  
24 value.

25 **SECOND AFFIRMATIVE DEFENSE**

26 **(California Civil Code § 3432)**

27 1. The transfer made to this defendant by Receivership Entities, which transfer was alleged to be in  
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1 fraud of plaintiff's rights as creditor of the Receivership Entities, was in fact a mere preference of this  
2 defendant's claim against Receivership Entitles.

3 2. Debtor became indebted to defendant when defendant entered into a consulting agreement with  
4 debtor.

5 3. The transfer sought to be set aside in fact operated to discharge this defendant's claim and was  
6 made for reasonably equivalent value in that it was a fair equivalent *or* not in an amount  
7 disproportionately small as compared to the value of the money transferred and was made in good faith.

8 **THRID AFFIRMATIVE DEFENSE**

9 **(Fraud)**

10 1. Plaintiff failed to allege and prove its burden of the representations that constitute the fraud.

11 2. Defendant is not an insider.

12 3. The transfer was not concealed.

13 4. The debtor did not retain control of possession of the money after it was transferred to defendant.

14 5. The debtor was not sued prior to making the transfer of money to defendant.

15 6. Plaintiff fails to allege and prove its burden of the fraudulent acts.

16 7. Plaintiff cannot prove the debtor did not receive a reasonably equivalent value in exchange for the  
17 transfer.

18 **FOURTH AFFIRMATIVE DEFENSE**

19 **(California Civil Code § 3517 - Clean Hands)**

20 1. To the extent that plaintiff seeks equitable relief, debtor's inequitable conduct constitutes unclean  
21 hands and therefore bars the granting of relief to plaintiff herein.

22 **FIFTH AFFIRMATIVE DEFENSE**

23 **(Failure to State a Cause of Action)**

24 1. Each and every count fails to state a claim.

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1           **SIXTH AFFIRMATIVE DEFENSE**

2           **(Equitable Estoppel)**

3           1.The defendant asserts that the debtor specifically represented to the defendant that the monies he  
4 was paid were lawfully obtained and the defendant reasonably relied upon this representation to his  
5 detriment and now asks the court to decide this case as if this representation were true.

6           **SEVENTH AFFIRMATIVE DEFENSE**

7           **(Waiver)**

8           1. Defendant is informed and believe and on such information and belief allege, that the  
9 appointment of the Receivers constitutes a waiver of her rights under the consulting agreement between  
10 defendant and debtor. By reason of said waiver, defendant is excused from further performance of the  
11 obligations under the agreement.

12           **EIGHTH AFFIRMATIVE DEFENSE**

13           **(Unjust Enrichment)**

14           1. The defendant asserts that the plaintiff is seeking to recover more than plaintiff is entitled to  
15 recover in this case, and the award of the judgment sought by plaintiff would unjustly enrich the  
16 plaintiff.

17           **NINTH AFFIRMATIVE DEFENSE**

18           **(Restatement of Restitution §140 (1937)**

19           1. Plaintiff cannot obtain restitution through unjust enrichment when criminal or other wrongful  
20 conduct was utilized to confer the benefit.

21           **TENTH AFFIRMATIVE DEFENSE**

22           **(Restatement of Restitution § 142 (1937)**

23           1. Unjust enrichment is unavailable when a change in circumstances renders services to the debtor by  
24 the appointment of the Receiver/plaintiff for the benefit conferred inequitable.

25           **ELEVENTH AFFIRMATIVE DEFENSE**

26           **( Klein v. Chevron U.S.A., Inc., 202 Cal. App. 4th 1342 (Cal. App. 2d Dist. 2012) )**

27           1. Unjust enrichment is a quasi-contract claim that only applies in the absence of an express written  
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1 agreement and an express written agreement exists between defendant and debtor.

2 **TWELFTH AFFIRMATIVE DEFENSE**

3 **(Foster Poultry Farms v. Alkar-Rapidpak-MP Equip., Inc, 2011 U.S. Dist. LEXIS 61008 (E.D.**  
4 **Cal. June 8, 2011))**

5 1. Unjust enrichment is unavailable when there exists a legal basis for recovery, and plaintiff has  
6 alleged a claim under a legal basis of recovery; California Civil Code §3439.

7 **THIRTEENTH AFFIRMATIVE DEFENSE**

8 **(California Civil Code § 3439.07(a). Forum Ins. Co. v. Devere Ltd., 151 F. Supp. 2d 1145, 1148**  
9 **(C.D. Cal. 2001))**


10 1. UFTA allows only equitable remedies such as avoidance, attachment, an injunction, or  
11 appointment of a receiver. Upon finding an UFTA violation, the court may cancel the transfer or impose  
12 a lien against the transferred property, but it may not award damages.

13 **FOURTEENTH AFFIRMATIVE DEFENSE**

14 **(Set Off Value - California Civil Code § 3439.7)**

15 1. Notwithstanding voidability of any transfers a good faith transferee is entitled, to the extent of the  
16 value given the debtor for the transfer a reduction in the amount of any judgment

17  
18 Dated: February 9, 2015

17   
18 By: Bruce A. Thabit J.D.  
Attorney At Law

19 Bruce Thabit  
20 Attorney for Defendant Robert Sensi

21 **DEMAND FOR JURY TRIAL**

22 Defendant Robert Sensi hereby demands a jury trial in this action.

23  
24 Dated: February 9, 2015

23   
24 By: Bruce A. Thabit J.D.  
Attorney At Law

25 Bruce Thabit  
26 Attorney for Defendant Robert Sensi