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*Attorneys for Defendants JP Morgan Chase Bank, N.A.,
Samantha Nelson f/k/a Samantha Kumbaleck,
Kristofer Nelson, Vikram Dadlani, and Jane Doe Dadlani*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

PETER S. DAVIS, as Receiver of
DENSCO INVESTMENT
CORPORATION, an Arizona corporation,

Plaintiff,

v.

U.S. BANK, NA, a national banking
organization; HILDA H. CHAVEZ and
JOHN DOE CHAVEZ, a married couple;
JP MORGAN CHASE BANK, N.A., a
national banking organization;
SAMANTHA NELSON f/k/a
SAMANTHA KUMBALECK and
KRISTOFER NELSON, a married couple,
and VIKRAM DADLANI and JANE
DOE DADLANI, a married couple.

Defendants.

NO. CV2019-011499

**REPLY IN SUPPORT OF MOTION TO
SUSPEND BRIEFING ON THE CHASE
DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S ORIGINAL
COMPLAINT**

(Assigned to the Honorable Daniel Martin)

1 The Plaintiff Receiver, on behalf of DenSco Investment Corporation (“DenSco”),
2 filed a Response to Chase Defendants’ Motion to Suspend Briefing on the Chase
3 Defendants’ Motion to Dismiss Plaintiff’s Original Complaint (“Response”) that is
4 misguided and unsupported by the law. The Court should disregard it, direct DenSco to
5 file its First Amended Complaint, and allow this litigation to proceed in the appropriate
6 manner so that all matters can be addressed fairly and orderly, without waste and
7 unnecessary time and expense. DenSco’s gamesmanship should be rejected.

8 1. DenSco has created this unnecessary dispute by improperly filing both a
9 response brief to the Chase Defendants’ motion to dismiss the Original Complaint and
10 the affirmative submission of a First Amended Complaint that purportedly cures all
11 defects in the Original Complaint and is incorporated into DenSco’s response to the
12 motion to dismiss the Original Complaint. Though DenSco now tries to claim otherwise
13 in its Response, the motion for leave to file the First Amended Complaint ***was not*** styled
14 in the alternative.

15 2. When asked about its filing initially, DenSco did not claim it was in the
16 alternative. Rather, DenSco represented that it wanted Defendants to respond to both
17 simultaneously—to see what arguments Defendants would raise in response to the
18 pending motion to dismiss the now inoperative Original Complaint, while also seeing
19 what arguments would be raised regarding deficiencies in the now operative First
20 Amended Complaint. Defendants explained that such a process made no sense, would
21 improperly obscure and confuse the record, and that in accordance with the rules,
22 Defendants would raise all arguments in response to DenSco’s First Amended Complaint.

23 3. This is especially so given that DenSco improperly referenced and relied on
24 allegations in the First Amended Complaint many times over in its response to the Chase
25 Defendants’ motion to dismiss the Original Complaint. (*See* DenSco’s March 2, 2020
26 response at pp. 5–6, 8–9, 16.)

27 4. All Defendants consented to filing the First Amended Complaint, but
28 DenSco still maintains its earlier position that the parties should complete briefing on the

1 motion to dismiss the Original Complaint, and then submit a new round of briefing
2 regarding the deficiencies of the First Amended Complaint. This is wrong and runs afoul
3 of the applicable Arizona rules.

4 5. DenSco contends in the Response that its amendments in the First Amended
5 Complaint (redline attached hereto as Exhibit A) are not material merely because they are
6 “discovery allegations,” and thus do not supersede the Original Complaint. (Resp. at 6–
7 7.) The only authorities DenSco offers for this proposition are **one 1978 Arizona**
8 **appellate decision *that does not address materiality whatsoever*** and an academic text.
9 DenSco’s position that the First Amended Complaint does not supersede the Original
10 Complaint is, therefore, entirely unsupported.

11 6. But even under the academic and non-binding definition of a material
12 amendment, the new allegations in the First Amended Complaint are plainly material.
13 First, the Receiver expressly claims that the new allegations are so “substantial” that they
14 would “cure the alleged defects with the Complaint raised by the Banks’ Motions to
15 Dismiss.” (Resp. at 3.) An amendment that would purportedly cure defects in a complaint
16 must be material.

17 7. Second, DenSco’s representation to this Court that the new allegations are
18 merely “discovery allegations” is incorrect. DenSco’s new allegations are decidedly not
19 mere “discovery allegations.” To wit:

- 20 a. DenSco newly concedes that it discovered Scott Menaged’s fraud “in or
21 around November 2013.” (Ex. A, ¶ 26.) This is a terrain-shifting
22 admission absent from DenSco’s Original complaint, and it goes to the
23 heart of the Chase Defendants’ statute of limitations *and* justifiable
24 reliance defenses, both of which provide a basis for a motion to dismiss
25 the First Amended Complaint.
- 26 b. The First Amended Complaint attempts to *redefine* the fraud scheme at
27 issue into “two separate and distinct fraudulent schemes,” (*id.*, ¶ 22),
28 repeatedly terming the “two” schemes a “First Fraud” and a “Second
Fraud.” (*See, e.g., id.*) This is a new theory of the case, replacing
DenSco’s prior terming of Menaged’s misconduct as simply his
overarching “fraudulent scheme.” (*Id.*, ¶¶ 131–33, 135, 216, 218.) This
narrative is unsupported—the entire fraud involved Menaged stealing
money from DenSco that he was supposed to use to buy properties—
but is also decidedly more than a “discovery” allegation.

c. The First Amended Complaint contains a new allegation describing the alleged factual basis for Defendant JPMorgan Chase Bank, N.A.'s "heightened motivation" to assist Menaged in his fraud. (*Id.*, ¶ 191.) This allegation is included for the express purpose of addressing Arizona's "extraordinary economic motivation" subfactor within the "substantial assistance" element of a fraud claim. It is absent from the Original Complaint and, once again, is a material amendment that goes far beyond a so-called discovery allegation.

d. DenSco also newly alleges that Menaged falsified sales receipts with information obtained "directly from the cashier's check issued and redeposited by Chase." (*Id.*, ¶¶ 168–69.) This is yet another material amendment to the Original Complaint.

These new allegations are decidedly material, and DenSco's argument otherwise defies the legal principles set out by the Arizona Supreme Court in *Campbell v. Deddens*, 518 P.2d 1012 (1974).

8. DenSco is also wrong that its position serves the goal of judicial economy. DenSco suggests that filing the First Amended Complaint will lead this "cycle" to repeat itself if DenSco elects to amend again, because "if the Banks are consistent, they will not oppose the proposed newly amended complaint," and the "cycle can go on and on." (Resp. at 10.) ***This position is nonsensical.*** The Chase Defendants do not oppose the filing of the First Amended Complaint because, as Rule 15 makes clear, leave to amend shall be freely given at this stage. Once the First Amended Complaint is filed, as it should be without delay given that all Defendants have consented, the litigation will properly proceed with the operative First Amended Complaint and allegations therein. This is not a concocted "cycle" as DenSco mistakenly claims, but exactly what the rules of civil procedure require.

9. In Arizona, "a defendant has a right to plead *de novo* to the amended complaint and such right is one of which he cannot be deprived." *Campbell*, 518 P.2d at 1014. DenSco is trying to make an end-run around this established principle by effectively seeking an advisory ruling on the sufficiency of the allegations in the Original Complaint, all while claiming illogically that the First Amended Complaint is simultaneously immaterial and the cure to any deficiencies in the Original Complaint. DenSco's attempt

1 to skirt the rules should be rejected, and the efficiency of the Court and all parties will be
2 best served—as the rules require—by a single round of pleadings or briefing on a fulsome
3 complaint.

4 **CONCLUSION**

5 For the foregoing reasons, the Chase Defendants respectfully request that the
6 briefing on their motion to dismiss the Original Complaint be suspended, and Plaintiff
7 directed to file the First Amended Complaint without further delay.

8
9 RESPECTFULLY SUBMITTED this 24th day of March 2020.

10 GREENBERG TRAURIG, LLP

11 By: /s/ Nicole M. Goodwin

12 Nicole M. Goodwin

13 Paul J. Ferak (*pro hac vice* pending)

14 Jonathan H. Claydon (*pro hac vice* pending)

15 *Attorneys for Defendants JP Morgan Chase*
16 *Bank, N.A., Samantha Nelson f/k/a Samantha*
17 *Kumbaleck, Kristofer Nelson, Vikram Dadlani,*
18 *and Jane Doe Dadlani*

19 ORIGINAL of the foregoing e-filed with the
20 Clerk of Court this 24th day of March 2020.

21 COPY of the foregoing electronically
22 distributed this 24th day of March 2020 to:

23 Hon. Daniel Martin

24 COPY of the foregoing served via
25 TurboCourt e-Service and E-Mail this 24th
26 day of March 2020 to:

27 Brian Bergin

28 Kenneth Frakes

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EXHIBIT A

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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN THE COUNTY OF MARICOPA**

PETER S. DAVIS, as Receiver of DENSCO
INVESTMENT CORPORATION, an
Arizona corporation,

Plaintiff,

vs.

U.S. BANK, NA, a national banking
organization; HILDA H. CHAVEZ and
JOHN DOE CHAVEZ, a married couple; JP
MORGAN CHASE BANK, N.A., a national
banking organization; SAMANTHA
NELSON f/k/a SAMANTHA
KUMBALECK and KRISTOFER NELSON,
a married couple; and VIKRAM DADLANI
and JANE DOE DADLANI, a married
couple.

Defendants.

Case No.: CV2019-011499

FIRST AMENDED
COMPLAINT
(Breach of Contract)

(*TIER 3*)

(*Eligible for Commercial Court*)

Plaintiff, Peter S. Davis, as Receiver of DenSco Investment Corporation (“Plaintiff”) brings this Complaint against Defendants U.S. Bank, N.A. (“US Bank”), JPMorgan Chase Bank, N.A. (“Chase”), Hilda Chavez (“Chavez”), Samantha Nelson (“Nelson”), and Vikram Dadlani (“Dadlani”).¹

¹ US Bank, Chase, Chavez, Nelson, and Dadlani, may be collectively referred to as “Defendants”.

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Accordingly, Plaintiff brings this action to recover compensatory and punitive damages for the losses DenSco suffered as a result of Defendants' aiding and abetting Menaged's fraud.

1. At all material times relevant to the claims set forth below, DenSco was an investment company that raised approximately \$85 million from investors to make short term “hard money loans” to “foreclosure specialists” who were buying homes in foreclosure proceedings at trustee’s sales. DenSco would charge its borrowers 15% to 18% interest for these loans, and they were to be secured by a deed of trust recorded against the purchased property.

2.3. On August 18, 2016, the court in *Arizona Corporation Commission v. DenSCO Investment Corporation*, Maricopa County Superior Court, Case No. CV2016-014142 entered its *Order Appointing Receiver*, which appointed Plaintiff as Receiver of DenSCO Investment Corporation (“Receivership Order”).

1 ~~3.4.~~ The Receivership Order authorizes Plaintiff, to, among other things, employ
2 attorneys and other professionals that are necessary for the proper collection, preservation,
3 and maintenance of Receivership Assets. This includes bringing claims that the DenSco
4 Receivership Estate may have against third party tortfeasors that have damaged DenSco.

5 ~~4.5.~~ Plaintiff has determined that DenSco holds significant claims against
6 Defendants for aiding and abetting Menaged's fraudulent scheme.

7 ~~5.6.~~ Defendant US Bank is a national banking association that is authorized to
8 conduct business in the State of Arizona and conducting business in Maricopa County,
9 Arizona. This Court has personal jurisdiction over US Bank because US Bank provided
10 banking services in Arizona to Arizona residents and Arizona businesses.

11 ~~6.7.~~ At all times material hereto, Defendant Chavez and John Doe Chavez, wife
12 and husband, were and are residing in Maricopa County, Arizona.

13 ~~7.8.~~ At all times material hereto Defendant Chavez was acting for, and on behalf
14 of, the marital community. Plaintiff does not know the true name of the defendant
15 denominated as John Doe Chavez but will substitute the true name of the party prior to entry
16 of judgment.

17 ~~8.9.~~ Defendant Chase is a national banking association that is authorized to
18 conduct business in the State of Arizona and conducts business in Maricopa County,
19 Arizona. This Court has personal jurisdiction over Chase because Chase provided banking
20 services in Arizona to Arizona residents and Arizona businesses.

21 ~~9.10.~~ At all times hereto, Defendants Samantha Nelson (formerly known as
22 Samantha Kumbaleck) and Kristofer Nelson, wife and husband, were and are residing in
23 Maricopa County, in the state of Arizona.

24 ~~10.11.~~ At all times alleged Defendant Samantha Nelson was acting for, and on
25 behalf of, the marital community.

~~11.12.~~ At all times hereto, Defendants Vikram Dadlani and Jane Doe Dadlani, were
husband and wife, and were residing in Maricopa County, in the State of Arizona.

1 12.13. At all times alleged Defendant Vikram Dadlani was acting for, and on behalf
2 of, the marital community. Plaintiff does not know the true name of the defendant
3 denominated as Jane Doe Dadlani but will substitute the true name of the party prior to
4 entry of judgment.

5 13.14. This Court has subject matter jurisdiction under Article VI, § 14 of the
6 Arizona Constitution and A.R.S. § 12-123.

7 14.15. Venue is proper in Maricopa County under A.R.S. §12-401 because US Bank
8 and Chase conduct business or reside in Maricopa County.

9 **MENAGED’S FRAUDULENT SCHEMES.**

10 16. Menaged defrauded DenSco in excess of \$46 million between 2011 and 2016.

11 15.17. Upon information and belief, Menaged was the sole member of Easy
12 Investments, LLC (“Easy Investments”).

13 16.18. Upon information and belief, Menaged was the sole member of Arizona
14 Home Foreclosures, LLC (“AZHF”).

15 17.19. Menaged held himself, Easy Investments, and AZHF to be in the business of
16 purchasing homes being foreclosed upon at trustee’s sales.

17 18.20. DenSco made “hard money loans” to Menaged, Easy Investments, and AZHF
18 for the stated purpose of purchasing foreclosed upon homes at trustees’ sales.

19 21. Menaged, however, defrauded DenSco by not using the funds that he, Easy
20 Investments, or AZHF borrowed from DenSco (“DenSco Loan Proceeds”) to purchase
21 homes at trustee’s sales, but rather, he used the DenSco Loan Proceeds for his own personal
22 benefit.

23 22. Menaged perpetrated two separate and distinct fraudulent schemes against
24 DenSco.

25 23. In the first fraudulent scheme (the “First Fraud”), Menaged executed multiple
promissory notes, deeds of trust and other documents from DenSco and other hard money
lenders with the knowledge that he was soliciting two separate loans from two separate

1 lenders who unbeknownst to each other believed that they were the only lender and would
2 be the only secured creditor in first position.

3 24. Menaged orchestrated the First Fraud by obtaining two loans from separate
4 lenders through the use of fraud and deception at least one hundred and seventy-nine (179)
5 times between 2011 and 2013.

6 25. Menaged was able to orchestrate the First Fraud in part because Chittick
7 funded the loans by paying the money directly to Menaged rather than to the trustee or
8 escrow company conducting the trustee's sale as DenSco represented in its private offering
9 memoranda to investors.

10 26. DenSco discovered the First Fraud in or around November 2013 when other
11 lenders began to question why certain properties owned by Menaged had two hard money
12 loans secured against the properties.

13 27. On November 27, 2013, Menaged met with Chittick about the facts and
14 circumstances of the First Fraud.

15 28. During that meeting, Menaged lied to Chittick about Menaged's involvement
16 in the First Fraud. Menaged falsely told Chittick that his wife had cancer and that his
17 "cousin" had masterminded and perpetuated the First Fraud while he was distracted by
18 caring for his sick wife.

19 29. Chittick owed fiduciary duties to DenSco and its investors, including duties of
20 loyalty and care.

21 30. Chittick's fiduciary duties required him to place the interest of the corporation
22 and DenSco's investors above his own interests.

23 31. Chittick's fiduciary duties also required him to inform DenSco's investors of
24 all of the facts and existence of the First Fraud.

25 32. Chittick breached the fiduciary duties he owed to DenSco and DenSco's
investors by placing his personal interests above the interests of the corporation and the
investors, and by concealing the First Fraud from the investors.

1 33. Chittick was concerned that if DenSco's investors learned about the First
2 Fraud, they would lose faith in him and would demand the return of their investments,
3 which he did not have because of Menaged's fraud.

4 34. Chittick was also concerned that he may face criminal charges for whatever
5 role he had in allowing Menaged to orchestrate the First Fraud if the investors discovered
6 learned about First Fraud.

7 35. Instead of disclosing the First Fraud to DenSco's investors, Chittick had
8 DenSco enter into a Forbearance Agreement with Menaged whereby DenSco agreed to
9 forbear its rights and remedies against Menaged and his companies provided Menaged
10 agreed, among other things, to pay certain sums and take other actions to repay the amounts
11 owed to DenSco.

12 36. Pursuant to and as of the date of the Forbearance Agreement, Menaged was
13 indebted to DenSco in the amount of \$37,420,120.47.

14 37. Pursuant to the Forbearance Agreement, DenSco continued to fund hard
15 money loans to Menaged for the purchase of real estate from foreclosure auctions.

16 38. This was done to help Menaged "fix" the problem by repaying the losses
17 caused by the First Fraud before Chittick disclosed the First Fraud to DenSco's investors.

18 39. Chittick informed and sought advice from DenSco's attorney, David
19 Beauchamp ("Beauchamp") about the First Fraud in January 2014.

20 40. Beauchamp helped DenSco negotiate and implement the Forbearance
21 Agreement with Menaged.

22 41. Beauchamp also advised Chittick that DenSco could raise new money from
23 investors to fund additional loans to Menaged without disclosing the First Fraud to those
24 investors.

25 42. Beauchamp advised Chittick to alter DenSco's lending practices with
Menaged by requiring Menaged to provide copies of the specific cashier's checks issued by
Menaged's banks made payable to the respective foreclosure trustee with the property

1 address in the memo line, and to provide copies of the receipts Menaged received from the
2 foreclosure trustee for the purchase of a real property at a trustee's sale.

3 43. Chittick relied upon Beauchamp's advice in deciding to continue to lend
4 additional monies to Menaged after the discovery of the First Fraud.

5 44. Beauchamp did not advise Chittick that he must immediately disclose the
6 First Fraud to DenSco's investors or that DenSco should not loan any additional funds to
7 Menaged.

8 45. Chittick breached his fiduciary duties to DenSco and its investors by causing
9 DenSco to (i) make 2,712 new loans to Menaged after the First Fraud for which DenSco has
10 suffered losses in excess of \$25 million; (ii) obtain more than \$15 million from investors
11 who were never told of Chittick's mismanagement of DenSco, the First Fraud, and the
12 Forbearance Agreement; and (iii) misdirect investors' money to fund the "work out"
13 contemplated by the Forbearance Agreement rather than use the money as promised to
14 investors when they invested.

15 46. After the First Fraud was discovered and ended, DenSco and Menaged altered
16 their business practices for all future loans from DenSco to Menaged.

17 47. Starting in January 2014, for new loans between DenSco and Menaged,
18 DenSco required that Menaged provide copies of the specific cashier's checks issued by US
19 Bank and Chase Bank to the respective foreclosure trustee, as well as copies of the receipts
20 received by Menaged from the foreclosure trustee for the purchase of a property by
21 Menaged at a trustee's sale.

22 48. Menaged then engaged in a systematic and comprehensive scheme to defraud
23 DenSco for a second time through the use and creation of falsified checks, deeds, contracts
24 and receipts related to the purported purchase of real estate at a trustee's sale (the "Second
25 Fraud").

49.49. As part of the Second Fraud, Menaged obtained a total of over 1,400 loans
from DenSco between January 2014 and June 2016. However, Menaged did not use these

1 loan proceeds for the purpose for which they were intended—to actually purchase real
2 estate at a trustees' sale or otherwise.

3 20.50. Menaged would email DenSco lists of properties in foreclosure proceedings
4 (“Identified Properties”).

5 24.51. In those emails, Menaged intentionally misrepresented to DenSco that (1) he
6 was the winning bidder on properties that were sold at a trustee's sale; (2) his companies,
7 Easy Investments or AZHF, needed financing to purchase the Identified Properties; and (3)
8 requested that DenSco loan Easy Investments or AZHF the funds required to complete the
9 purchase of the Identified Properties.

10 22.52. These emails included, among other things, (1) the addresses of the Identified
11 Properties that Menaged misrepresented to DenSco that he intended to complete the
12 purchase with the DenSco Loan Proceeds; and (2) the amount of the loan that Menaged
13 needed.

14 23.53. The DenSco Loan Proceeds were supposed to be secured with deeds of trust
15 recorded against the Identified Properties purchased.

16 24.54. These misrepresentations were material to DenSco.

17 25.55. Menaged never intended to purchase the Identified Properties, but rather
18 intended for DenSco to rely on these material misrepresentations and loan him money.

19 26.56. DenSco relied on the truth of Menaged's material misrepresentations and
20 loaned Menaged, Easy Investments, and AZHF the funds required for Menaged to complete
21 the purchase of the Identified Properties.

22 27.57. -DenSco did not know that Menaged's representations were false.

23 28.58. DenSco had the right to rely on the truth of Menaged's misrepresentations,
24 and such reliance were reasonable and justified under the circumstances.

25 29.59. DenSco expected that the DenSco Loan Proceeds would be used for the
specific purpose of purchasing the Identified Properties, secured by a deed of trust at the
agreed upon interest rate of 15%-18%.

1 30-60. Menaged, however, did not use the DenSco Loan Proceeds to purchase the
2 Identified Properties. Rather, he used the DenSco Loan Proceeds for his own personal
3 benefit.

4 61. As a result, DenSco was damaged.

5 **DISCOVERY OF THE SECOND FRAUD**

6 62. In April 2016, Menaged filed for Chapter 7 bankruptcy.

7 63. At the time, Menaged, AZHF and Easy Investments owed DenSco
8 approximately \$30 million in loans.

9 64. When Chittick confronted Menaged about the amounts owed to DenSco,
10 Menaged lied to Chittick and told him the money owed to DenSco was safe and was being
11 held at Auction.com, an online marketplace for foreclosure buyers.

12 65. Menaged lied and told Chittick that he would be able to retrieve the money
13 from Auction.com and repay DenSco as soon as the bankruptcy action was discharged.

14 66. Menaged told Chittick that no one can know about Auction.com because the
15 bankruptcy court would go after the money if it discovered it and Menaged would be unable
16 to repay DenSco and its investors.

17 67. Menaged also threatened Chittick by telling him that if Chittick told anyone
18 about Auction.com, Menaged would testify that Chittick was complicit in the First Fraud
19 and knew all along that DenSco's loans were unsecured.

20 68. On July 28, 2016, Chittick committed suicide.

21 69. Chittick was not aware of the Second Fraud when he committed suicide.

22 70. Based on Menaged's misrepresentations, Chittick believed that the money
23 owed to DenSco was tied up at Auction.com pursuant to a supposed agreement between
24 Auction.com and Menaged, the details of which he did not fully understand and, because of
25 the bankruptcy action, Menaged could not repay DenSco.

71. The facts involving the Second Fraud were not discovered until after the
Receiver was appointed on August 18, 2016.

1 72. On August 23, 2016, the Receiver obtained a document that vaguely
2 referenced the method in which Menaged and DenSco altered their business practices after
3 the Forbearance Agreement.

4 73. The Receiver immediately began investigating to track and document the
5 funds DenSco loaned to Menaged after the Forbearance Agreement and to determine how
6 those funds were used by Menaged.

7 74. During that investigation, the Receiver discovered that Menaged did not use
8 the funds obtained from DenSco to purchase the Identified Properties.

9 75. On or about October 3, 2016, the Receiver obtained a forensic image of
10 Menaged's computers and cellphone.

11 76. The Receiver located a number of emails from Menaged to Chase employees
12 from Menaged's computers, but still did not fully understand the nature and extent of the
13 Second Fraud and the damages.

14 77. On October 20, 2016, the Receiver deposed Menaged.

15 78. In November 2016, the Receiver issued subpoenas to US Bank and to Chase
16 and slowly began to receive documents from both US Bank and Chase.

17 79. By December 2016, the Receiver understood the general nature of the Second
18 Fraud but did not yet know the full extent of it.

19 80. The Receiver ultimately performed a complete forensic recreation of
20 Menaged's banking activity.

21 81. The Receiver finally understood the extent and losses constituting the Second
22 Fraud, and the substantial assistance U.S. Bank and Chase provided to Menaged, when it
23 completed an initial draft of that forensic recreation of Menaged's banking activity on or
24 about June 13, 2017.

25 34-82. The Receiver continued to learn additional information regarding the
substantial assistance US Bank and Chase Bank provided to Menaged in relation to the
Second Fraud after June 13, 2017.

1 **MENAGED’S INDICTMENT AND GUILTY PLEA.**

2 ~~32.83.~~ On or about May 16, 2017 Menaged was indicted in the United States District
3 Court, District of Arizona, Case No. CR-17-00680-PHX-GMS(MHB) (the “District Court
4 Action”), for Wire Fraud, Aggravated Identity Theft, Conspiracy to Defraud, and Forfeiture,
5 in connection with his ownership, and management, of his real estate and furniture
6 businesses.

7 ~~33.84.~~ On or about August 4, 2017, Menaged and Francine Menaged entered into a
8 Settlement Agreement with Plaintiff, whereby the Menageds consented to the entry of a
9 nondischargeable civil judgment in favor of Plaintiff in the amount of \$31,000,000.00, and
10 whereby Plaintiff agreed to offset the judgment in an amount equal to the gross recovery
11 from third parties that is related to Menaged’s cooperation.

12 ~~34.85.~~ On or about October 17, 2017, Menaged pleaded guilty to Conspiracy to
13 Commit Bank Fraud, Aggravated Identity Theft, and Money Laundering Conspiracy, in the
14 District Court Action.

15 ~~35.86.~~ Menaged was sentenced to 17 years in a federal prison.

16 ~~36.87.~~ Menaged could not conduct this scheme on his own. This is where
17 Defendants come in.

18 **MENAGED’S CASHIER’S CHECK SCHEME: THE US BANK YEARS.**

19 ~~37.88.~~ From December 2012 through May 2016, Menaged and his business Easy
20 Investments maintained a series of accounts with US Bank.

21 ~~38.89.~~ Upon information and belief, Menaged banked at US Bank’s branch located
22 at 6611 W. Bell Road, Glendale, Arizona, which is located in a Fry’s grocery store.

23 ~~39.90.~~ Upon information and belief, Defendant Chavez worked at US Bank and was
24 the manager of the US Bank branch at 6611 W. Bell Road, Glendale, Arizona.

25 ~~40.91.~~ Upon information and belief, Defendant Chavez was Menaged’s main contact
at US Bank. She committed the wrongful acts set forth below while conducting official US
Bank business.

1 41.92. US Bank and Defendant Chavez may be referred to as “the US Bank
2 Defendants.”

3 42.93. From December 2012 through May 2016, Menaged emailed DenSco a list of
4 Identified Properties that were in foreclosure proceedings. Menaged intentionally
5 misrepresented that he (or his company) attended the various trustee’s sale public auctions
6 and was the winning bidder to purchase the Identified Properties.

7 43.94. In those emails, he would set forth the address of the Identified Property that
8 he purportedly purchased, and request financing from DenSco.

9 44.95. Relying on Menaged’s misrepresentations, DenSco made the requested loans
10 and wired the DenSco Loan Proceeds to Menaged’s Easy Investments account at US Bank.

11 45.96. DenSco’s wire transfers to US Bank included the following information:

- 12 a. The name of the originator: “DenSco Investment Corp”;
- 13 b. The name of the recipient: “Easy Investments, LLC”; and
- 14 c. The amount of the DenSco loan transferred to Menaged for the
15 purchase of the Identified Properties.

16 46.97. Upon information and belief, nearly all funds in Menaged’s Easy Investments
17 account at US Bank consisted of the DenSco Loan Proceeds made to Menaged to purchase
18 the Identified Properties.

19 47.98. The US Bank Defendants knew almost all of the funds in Menaged’s Easy
20 Investments account at US Bank consisted of the DenSco Loan Proceeds because they
21 accepted the wire transfers from DenSco, kept records of Easy Investments’ account, and
22 compiled this information in the US Bank bank statements evidencing this.

23 48.99. On or about the day that DenSco wired the DenSco Loan Proceeds to
24 Menaged’s Easy Investments’ account, Menaged, or his assistant Veronica Castro, would
25 visit the US Bank branch to obtain cashier’s checks.

49.100. The cashier’s checks that Menaged or Castro obtained from US Bank

1 consisted of the DenSco Loan Proceeds.

2 ~~50.101.~~ The amount of the cashier's checks that the US Bank Defendants
3 created for Menaged were equal to the amount of the DenSco Loan Proceeds that DenSco
4 wired to Menaged's Easy Investments account on or about that particular day, less the
5 \$10,000.00 deposit that Menaged would have had to deposit with the trustee as the winning
6 bidder.

7 ~~51.102.~~ Upon information and belief, Defendant Chavez, or other US Bank
8 employees, would assist Menaged and Castro in obtaining the cashier's checks.

9 ~~52.103.~~ Menaged or Castro instructed the US Bank Defendants to (1) make the
10 cashier's checks payable to the trustee who allegedly conducted the public sale of the
11 foreclosed property; and (2) in the amount for which Menaged misrepresented to DenSco
12 that he purchased the property, less the \$10,000.00 deposit that Menaged would have had to
13 deposit with the trustee as the winning bidder.

14 ~~53.104.~~ Menaged or Castro also instructed the US Bank Defendants to
15 memorialize on each individual cashier's checks' memo line: "DenSco Payment [and
16 address of the property]" or "DenSco [and address of the property]".

17 ~~54.105.~~ The US Bank Defendants prepared the cashier's checks in accordance
18 with Menaged's or Castro's instructions.

19 ~~55.106.~~ On almost all occasions, Menaged did not use the US Bank cashier's
20 checks to purchase the Identified Properties as he had represented to DenSco.

21 ~~56.107.~~ Rather, the purpose of these cashier's checks was to defraud DenSco,
22 as it was Menaged's intention to use the DenSco Loan Proceeds for his personal benefit.

23 ~~57.108.~~ Specifically, Menaged used the US Bank cashier's checks to provide
24 assurances to DenSco, and make DenSco believe, that he would be using the DenSco Loan
25 Proceeds to purchase the Identified Properties.

~~58.109.~~ To provide these assurances to DenSco, Menaged or Castro took a
picture of each cashier's check prepared and issued by US Bank.

1 59.110. Upon information and belief, if Menaged was at the US Bank branch
2 obtaining the cashier's checks, he would electronically send the photos of the cashier's
3 checks to DenSco while at the branch.

4 60.111. Upon information and belief, if Castro was at the US Bank branch
5 obtaining the cashier's checks, she would take these pictures and send them to Menaged
6 while at the US Bank branch, and then Menaged would forward them to DenSco.

7 61.112. Immediately after the electronic photo of the cashier's checks was sent
8 to DenSco, the US Bank Defendants would then redeposit the cashier's checks, which
9 consisted of the DenSco Loan Proceeds, back into Menaged's Easy Investments' account.

10 After providing DenSco with photographic evidence of the cashier's check, Menaged would
11 falsify a trustee's sale receipt purporting to evidence the purchase of a real property that
12 never happened. The forged sales receipts typically contained information directly from the
13 cashier's check issued and redeposited by Chase. This provided further legitimacy to
14 DenSco that Menaged was using the loan proceeds for their intended purpose

15 62.113. Then, Menaged would use the DenSco Loan Proceeds for his own
16 personal benefit.

17 63.114. Menaged and the US Bank Defendants worked together to create,
18 photograph, and then immediately redeposit at least 41 cashier's checks in the total amount
19 of \$6,931,048.00, which allowed Menaged to use the DenSco Loan Proceeds for his own
20 personal benefit.

21 **US BANK DEFENDANTS KNEW THAT MENAGED WAS DEFRAUDING**
22 **DENSCO.**

23 64.115. The US Bank Defendants knew, and were generally aware, that
24 Menaged was using the cashier's checks to ~~defraud DenSco~~ commit the Second Fraud for
25 several reasons.

65.116. First, the US Bank Defendants knew that Menaged promoted himself
and Easy Investments as being in the business of purchasing foreclosed homes from public

1 auctions because he regularly told them.

2 ~~66.117.~~ Also, upon information and belief, Defendant Chavez knew that
3 Menaged and Easy Investments were in the business of purchasing foreclosed homes at
4 public auctions because she was interested in purchasing foreclosed properties as rentals,
5 and Defendant Chavez met with Menaged to mentor her in the business.

6 ~~67.118.~~ Second, Menaged told the US Bank Defendants that DenSco was his
7 and Easy Investments' lender and that DenSco loaned funds to Menaged and his companies
8 for the intended purchase of homes in foreclosure proceedings.

9 ~~68.119.~~ The US Bank Defendants knew that DenSco loaned money to
10 Menaged and Easy Investments because DenSco wired the DenSco Loan Proceeds to
11 Menaged's Easy Investments account at US Bank and the wire transfers listed DenSco as
12 "the originator."

13 ~~69.120.~~ The US Bank Defendants knew that the cashier's checks that Menaged
14 or Castro obtained consisted of DenSco Loan Proceeds because it would receive DenSco's
15 wire transfer which listed DenSco as "the originator" and then they created the cashier's
16 checks which memorialized that they were DenSco's payment for a certain property on the
17 cashier's checks' memo lines.

18 ~~70.121.~~ Third, the US Bank Defendants knew that DenSco had the expectation
19 that the DenSco Loan Proceeds wired into Menaged's Easy Investments account would be
20 used to purchase the Identified Properties because the US Defendants would prepare
21 cashier's checks that would:

- 22 a. be approximately equal to the total amount that DenSco wired to
23 Menaged's Easy Investments' account;
- 24 b. be made payable to a trustee that conducted the public auction; and
- 25 c. memorialize the cashier's checks' purported purpose by stating in their
memo lines: "DenSco Payment [property address]."

~~71.122.~~ Fourth, the US Bank Defendants knew that Menaged was not using the

1 DenSco Loan Proceeds to complete the purchase of the Identified Properties, but rather to
2 perpetuate his fraud, because the US Bank Defendants would immediately redeposit the
3 cashier's checks back into the Easy Investments account for him.

4 123. Fifth, the US Bank Defendants knew that Menaged was not using the DenSco
5 Loan Proceeds for their intended purpose of purchasing the Identified Properties at trustee's
6 sales, but rather, Menaged was using the DenSco Loan Proceeds for his personal benefit
7 because, upon information and belief, he would withdraw large amounts of the redeposited
8 DenSco Loan Proceeds in cash from the US Bank's Easy Investments' account and transfer
9 redeposited DenSco Loan Proceeds from his US Bank Easy Investments account to his
10 other US Bank accounts.

11 72.124. Because Menaged and U.S. Bank re-deposited the cashier's check 41
12 times totaling almost \$7 million, and U.S. Bank knew that Menaged was not using
13 DenSco's loan proceeds for their intended purpose, U.S. Bank knew that the cashier's check
14 scheme had no legitimate banking or business purpose, and despite this, continued to
15 provide Menaged banking services because of its own heightened motivation of maintaining
16 accounts worth millions of dollars.

16 **THE US BANK DEFENDANTS SUBSTANTIALLY ASSISTED MENAGED.**

17 73.125. As discussed above, the US Bank Defendants had actual knowledge of
18 ~~Menaged's fraud~~ the Second Fraud and substantially assisted Menaged in defrauding
19 DenSco by knowing that Menaged was defrauding DenSco and performing routine banking
20 services that allowed him to perpetuate his fraudulent scheme.

21 74.126. Upon information and belief, these routine banking services included,
22 but were not limited to:

- 23 a. accepting wire transfers from DenSco knowing that the DenSco Loan
24 Proceeds were not going to be used for their intended purpose of
purchasing homes in foreclosure proceedings;
- 25 b. creating cashier's checks knowing that they consisted of DenSco Loan
Proceeds and were not going to be used for their intended purpose of

1 purchasing homes in foreclosure proceedings;

- 2 c. redepositing the cashier's checks for Menaged into his Easy
3 Investments account knowing that they consisted of DenSco Loan
4 Proceeds and that Menaged would use the redeposited DenSco Loan
5 Proceeds for his own benefit;
- 6 d. allowing Menaged to withdraw substantial amounts of DenSco Loan
7 Proceeds in the form of cash from the Easy Investments Account; and
- 8 e. transferring the DenSco Loan Proceeds from Menaged's Easy
9 Investments accounts to his other accounts at US Bank.

10 ~~75.127.~~ Also, and upon information and belief, Menaged requested that the US
11 Bank Defendants keep substantial amounts of cash at US Bank branch at 6611 W. Bell
12 Road, Glendale, Arizona to ensure adequate cash was available for Menaged's regular and
13 substantial cash withdrawals.

14 ~~76.128.~~ Upon information and belief, the US Bank Defendants accommodated
15 this request and changed its policies at the US Bank branch at 6611 W. Bell Road, Glendale,
16 Arizona and kept up to \$20,000.00 of cash at any given time for Menaged's cash
17 withdrawals.

18 ~~77.129.~~ The US Bank Defendants also substantially assisted Menaged in
19 ~~defrauding DenSeo~~ committing the Second Fraud by ignoring its own policies and
20 procedures.

21 ~~78.130.~~ Upon information and belief, US Bank has a "hold period" on
22 redeposited cashier's checks, where the redeposited funds would not be available to the
23 account owner for several days.

24 ~~79.131.~~ Upon information and belief, the US Bank Defendants materially
25 assisted ~~Menaged's fraudulent scheme against DenSeo~~ the Second Fraud by violating their
own internal policies and procedures by intentionally "over-riding" these holds on the
redeposited cashier's checks to allow Menaged immediate access to the redeposited DenSco
Loan Proceeds.

1 ~~80.132.~~ The US Bank Defendants materially assisted ~~Menaged's fraudulent~~
2 ~~scheme against DenSco~~ the Second Fraud by continuing to furnish routine banking services
3 to Menaged, despite:

- 4 a. knowing that Easy Investments' business account was used for the
5 purchase of properties at trustee's sales;
- 6 b. knowing DenSco loaned money to Easy Investments for purchasing
7 the Identified Properties at trustee's sales;
- 8 c. knowing that Menaged was obtaining cashier's checks with the
9 DenSco Loan Proceeds for the purported purchase of the Identified
10 Properties, but instead was redepositing them back into his Easy
11 Investments account; and
- 12 d. knowing that Menaged instead used the DenSco Loan Proceeds for his
13 own personal use.

14 ~~81.133.~~ Without the material and substantial assistance that the US Bank
15 Defendants provided to Menaged, Menaged could not have conducted ~~his fraudulent~~
16 ~~scheme against DenSco~~ the Second Fraud from December 2012 through April of 2014.

17 ~~82.134.~~ The US Bank Defendants intended to assist Menaged in ~~this scheme~~
18 ~~because~~ because the Second Fraud Menaged moved millions of dollars through his Easy
19 Investment account at US Bank, and therefore, the US Bank Defendants had a financial
20 motive to maintain Menaged's business at US Bank.

21 ~~83.135.~~ The US Bank Defendants benefited from ~~Menaged's fraudulent~~
22 ~~scheme~~ the Second Fraud by maintaining Menaged's business accounts.

23 ~~84.136.~~ The US Bank Defendants, through their actions as described above,
24 acted to serve US Bank's own interests, having reason to know and consciously
25 disregarding a substantial risk that their conduct might significantly injure the rights of
others, including DenSco.

~~85.137.~~ The US Bank Defendants, through the actions as described above,
consciously pursued a course of conduct knowing that it created a substantial risk of

1 significant harm to others, including DenSco.

2 ~~86.138.~~ Because the US Bank Defendants aided and abetted Menaged in
3 defrauding DenSco, DenSco was damaged in an amount to be proved at trial, but no less
4 than \$1,000,000.00.

5 **MENAGED’S CASHIER’S CHECK SCHEME: THE CHASE YEARS.**

6 ~~87.139.~~ From April 2014 through at least November 2016, Menaged and
7 AZHF banked with Chase.

8 ~~88.140.~~ Upon information and belief, Menaged banked at Chase’s branch
9 located at 8999 East Shea Boulevard, Scottsdale, Arizona.

10 ~~89.141.~~ From April 2014 through at least November 2016, Defendants Nelson
11 and Dadlani worked at Chase and were managers at the Chase branch located at 8999 East
12 Shea Boulevard, Scottsdale, Arizona. They committed the wrongful acts set forth below
13 while conducting official Chase business.

14 ~~90.142.~~ Upon information and belief, Defendants Nelson and Dadlani were
15 Menaged’s main contacts at Chase.

16 ~~91.143.~~ Chase, Nelson, and Dadlani may be referred to as “the Chase
17 Defendants.”

18 ~~92.144.~~ From April 2014 through at least November 2016, Menaged emailed
19 DenSco a list of properties that were in foreclosure proceedings. He intentionally
20 misrepresented that he (or his company) attended the trustee’s sale public auctions and was
21 the winning bidder to purchase the Identified Properties.

22 ~~93.145.~~ In those emails, he would set forth the address of the Identified
23 Property purportedly purchased, and request financing from DenSco.

24 ~~94.146.~~ Relying on Menaged’s misrepresentations, DenSco wired the
25 requested DenSco Loan Proceeds to Menaged’s AZHF account at Chase.

~~95.147.~~ DenSco’s wire transfers to Chase included the following information:

- a. The name of the originator: “DenSco Investment Corp”;

1 b. The name of the recipient: “Arizona Home Foreclosure, LLC”; and

2 c. The amount of the DenSco loan transferred to Menaged for the
3 purchase of the Identified Properties.

4 ~~96.148.~~ Upon information and belief, nearly all funds in Menaged’s AZHF
5 account at Chase consisted of the DenSco Loan Proceeds to purchase the Identified
6 Properties.

7 ~~97.149.~~ The Chase Defendants knew that most of the funds in Menaged’s Easy
8 AZHF account at Chase consisted of the DenSco Loan Proceeds because Chase accepted
9 the wire transfers from DenSco, kept records of AZHF’s account transactions, and compiled
10 this information in the Chase bank statements evidencing this.

11 ~~98.150.~~ After Chase received a DenSco wire transfer, Menaged would email
12 the Chase Defendants and request them to issue cashier’s checks from his AZHF account.

13 ~~99.151.~~ In those emails to the Chase Defendants, Menaged instructed them to
14 (1) make the cashier’s check payable to the trustee who allegedly conducted the public
15 auction of the foreclosed property; and (2) in the amount for which Menaged
16 misrepresented to DenSco that he purchased the property, less the \$10,000.00 deposit that
17 Menaged would have had to deposit with the trustee as the winning bidder.

18 ~~100.152.~~ In those emails to the Chase Defendants, Menaged also instructed the
19 Chase Defendants to memorialize on each individual cashier’s check’s memo line: “DenSco
20 Payment [and address of the property]” or “DenSco [and address of the property]”.

21 ~~101.153.~~ The Chase Defendants prepared the cashier’s checks from AZHF’s
22 account in accordance with Menaged’s emailed instructions.

23 ~~102.154.~~ The Chase cashier’s checks consisted of DenSco Loan Proceeds.

24 ~~103.155.~~ In addition, when a Chase Defendant prepared the cashier’s checks in
25 accordance with Menaged’s instructions, he or she stamped the back of the cashier’s checks
 “Not Used For Intended Purposes,” and prepared a withdrawal slip and a corresponding
 deposit slip for the identical amount of the cashier’s checks so that Menaged could redeposit

1 the cashier's checks back into his AZHF account after he took pictures of them.

2 ~~104.156.~~ The withdrawal slip would contain the total amount of all cashier's
3 checks being issued (e.g., four or five checks at a time) and the deposit slip would be for the
4 same amount as the withdrawal slip.

5 ~~105.157.~~ The Chase Defendants prepared this packet prior to Menaged's arrival
6 at the branch and had the packet waiting for him to further his fraudulent scheme.

7 ~~106.158.~~ When Menaged arrived at the Chase branch, the Chase Defendants
8 would then hand him the withdrawal slips, cashier's checks, and deposit slips in one
9 paperclip.

10 ~~107.159.~~ Menaged did not prepare any of the paperwork himself. He instead
11 relied on Chase to fill out the withdrawal slips and the deposit slips for him before he
12 arrived at the branch.

13 ~~108.160.~~ On almost all occasions, Menaged did not use the DenSco Loan
14 Proceeds to purchase the Identified Properties as he had represented to DenSco.

15 ~~109.161.~~ Rather, the purpose of these cashier's checks was to defraud DenSco,
16 as it was Menaged's intention to use the DenSco Loan Proceeds for his personal benefit.

17 ~~110.162.~~ Specifically, Menaged used the Chase cashier's checks to provide
18 assurances to DenSco, and make DenSco believe, that he would be using the DenSco Loan
19 Proceeds to purchase the Identified Properties.

20 ~~111.163.~~ To provide these assurances to DenSco, Menaged would take photos
21 of the cashier's checks and electronically send the photos to DenSco.

22 ~~112.164.~~ Menaged often took a picture of the cashier's checks in front of a
23 Chase Defendant.

24 ~~113.165.~~ The Chase Defendants had no problem assisting Menaged in
25 defrauding DenSco. Upon information and belief, on at least one occasion, a Chase
Defendant took the picture for Menaged on his cell phone so that he could provide the false
assurances to DenSco.

1 ~~114.166.~~ The Chase Defendants typically did not ask Menaged to show his
2 identification at any point during the transaction of receiving and redepositing the cashier's
3 checks.

4 ~~167.~~ Immediately after Menaged sent the electronic photo of the cashier's checks
5 to DenSco, the Chase Defendants would then redeposit the cashier's check, comprised of
6 the DenSco Loan Proceeds, back into Menaged's AZHF account.

7 ~~168. After providing DenSco with photographic evidence of the cashier's check,~~
8 ~~Menaged would falsify a trustee's sale receipt purporting to evidence the purchase of a real~~
9 ~~property that never happened.~~

10 ~~115.169. The forged sales receipts typically contained information directly from~~
11 ~~the cashier's check issued and redeposited by Chase. This provided further legitimacy to~~
12 ~~DenSco that Menaged was using the loan proceeds for their intended purpose.~~

13 ~~116.170.~~ Then, Menaged would use the DenSco Loan Proceeds for his own
14 personal benefit.

15 ~~117.171.~~ Menaged and the Chase Defendants worked together to create,
16 photograph, and then immediately redeposit at least 1,349 cashier's checks, in the total
17 amount of \$312,108,679.00, which Menaged used for his personal benefit.

18 **CHASE DEFENDANTS KNEW THAT MENAGED WAS DEFRAUDING**
19 **DENSCO.**

20 ~~118.172.~~ The Chase Defendants knew, and were generally aware, that Menaged
21 was using this cashier's check scheme to ~~defraud DenSco~~ commit the Second Fraud for
22 several reasons.

23 ~~119.173.~~ The Chase Defendants knew that Menaged promoted himself and
24 AZHF as being in the business of purchasing foreclosed homes from public auctions
25 because he regularly ~~sold~~ told them.

~~120.174.~~ Also, upon information and belief, Defendant Nelson (or another bank
officer or employee) knew that Menaged was in the business of purchasing foreclosed

1 properties as she expressed interest in purchasing a foreclosed home for her personal use.

2 ~~121.175.~~ Menaged told the Chase Defendants that DenSco was his and AZHF's
3 lender and that DenSco loaned funds to Menaged and his companies for the intended
4 purchase of homes in foreclosure proceedings.

5 ~~122.176.~~ The Chase Defendants knew that DenSco loaned money to Menaged
6 and AZHF because DenSco wired the DenSco Loan Proceeds to Menaged's accounts at
7 Chase and the wire transfers listed DenSco as "the originator."

8 ~~123.177.~~ The Chase Defendants knew that the cashier's checks consisted of
9 DenSco Loan Proceeds because Chase would receive DenSco's wire transfer which listed
10 DenSco as "the originator," and then they created the cashier's checks which memorialized
11 that the checks were DenSco's payment for a certain property on the cashier's checks'
12 memo lines.

13 ~~124.178.~~ The Chase Defendants knew that DenSco had the expectation that the
14 DenSco Loan Proceeds that it wired into Menaged's Chase accounts would be used to
15 purchase the Identified Properties because the Chase Defendants would prepare cashier's
16 checks that would:

- 17 a. be approximately equal to the total amount that DenSco wired to
18 Menaged's Easy Investments' account;
- 19 b. be made payable to a particular trustee that conducted the public
20 auction; and
- 21 c. memorialize the cashier's checks' purported purpose by stating in their
22 memo lines: "DenSco Payment [property address]."

23 ~~125.179.~~ The Chase Defendants knew that Menaged was using the cashier's
24 checks to provide false assurances to DenSco because (1) a Chase Defendant had asked
25 Menaged why he would take pictures of the cashier's checks; (2) Menaged told her that he
was sending photos of the cashier's checks to DenSco to provide assurances to DenSco that
the DenSco funds were actually being used to purchase the Identified Properties; and (3) the
Chase Defendants redeposited the checks back into Menaged's AZHF's account.

1 ~~126.180.~~ The Chase Defendants knew that Menaged was generally not using the
2 cashier's checks to purchase the Identified Properties because (1) when a Chase Defendant
3 prepared the cashier's checks in accordance with Menaged's instructions, he or she stamped
4 the back of the cashier's checks "Not Used For Intended Purpose;" and (2) they prepared a
5 corresponding deposit slip for the identical amount of the cashier's checks so that Menaged
6 could redeposit cashier's checks back into his AZHF account after he took pictures of them.

7 ~~127.181.~~ From time to time, Menaged used a cashier's check for its intended
8 purpose to purchase one of the Identified Properties at a trustee's sale.

9 ~~128.182.~~ The Chase Defendants and Menaged came up with a system whereby
10 Menaged provided them with notice that he was going to take a cashier's check and did not
11 want the Chase Defendants to redeposit that particular cashier's check back into AZHF's
12 account.

13 ~~129.183.~~ Upon information and belief, the Chase Defendants instructed
14 Menaged that Chase would assume all of the cashier's checks would be redeposited in the
15 AZHF account and would mark the cashier's checks as "Not Used For Intended Purposes"
16 prior to Menaged's arrival at the Chase branch, unless Menaged indicated in his email to the
17 Chase Defendants that he intended to take a certain cashier's check with him when he left
18 the branch.

19 ~~130.184.~~ If Menaged did not inform the Chase Defendants that he intended to
20 take a cashier's check with him when he left the branch, Chase would automatically prepare
21 the cashier's checks for redeposit and would mark the cashier's checks "Not Used For
22 Intended Purposes" before Menaged arrived to "pick up" the checks.

23 ~~131.185.~~ When Menaged intended to take a cashier's check, he indicated in his
24 emails to Chase "taking with me," or something similar, next to the dollar amount or
25 trustee's name. That was Menaged's signal to the Chase Defendants that the cashier's
check would not be redeposited so that the Chase Defendants would not mark it "Not Used
For Intended Purposes."

1 ~~132.186.~~ In nearly every other case, however, and unbeknownst to DenSco,
2 Menaged and the Chase Defendants redeposited the checks back into AZHF's account at
3 Chase.

4 ~~133.187.~~ Menaged and the Chase Defendants did this nearly every single
5 business day of the week from April 2014 through June 2015.

6 ~~134.188.~~ Upon information and belief, there are thousands of transactions
7 whereby Menaged and the Chase Defendants would withdraw the DenSco Loan Proceeds in
8 the form of cashier's checks and redeposit those funds on the very same day.

9 ~~135.189.~~ The Chase Defendants knew that Menaged was not using the DenSco
10 Loan Proceeds to complete the purchase of the Identified Properties because the Chase
11 Defendants would redeposit the cashier's checks back into Menaged's bank account for him
12 immediately after he took pictures of the cashier's checks.

13 ~~190.~~ The Chase Defendants knew that Menaged was not using the DenSco Loan
14 Proceeds for their intended purpose of purchasing the Identified Properties at trustee's sales,
15 but rather, Menaged was using the DenSco Loan Proceeds for his personal benefit because,
16 upon information and belief, he would withdraw large amounts of the redeposited DenSco
17 Loan Proceeds in cash from his Chase accounts and transfer the redeposited DenSco Loan
18 Proceeds from his AZHF account to Menaged's other Chase accounts.

19 ~~136.191.~~ Because Menaged and Chase re-deposited the cashier's check 1,349
20 times totaling over \$312,108,679.00, and Chase knew that Menaged was not using
21 DenSco's loan proceeds for their intended purpose, Chase knew that the cashier's check
22 scheme had no legitimate banking or business purpose, and despite this, continued to
23 provide Menaged banking services because of its own heightened motivation of maintaining
24 accounts worth millions of dollars.

25 **THE CHASE DEFENDANTS SUBSTANTIALY ASSISTED MENAGED.**

~~137.192.~~ As discussed above, the Chase Defendants had actual knowledge of
Menaged's fraud the Second Fraud and substantially assisted Menaged in defrauding

1 DenSco by knowing that Menaged was defrauding DenSco and performing routine banking
2 services that allowed him to perpetuate his fraudulent scheme.

3 ~~138.193.~~ Upon information and belief, these routine banking services included,
4 but were not limited to:

- 5 a. accepting wires from DenSco knowing that the funds were not going
6 to be used for their intended purpose of purchasing homes in
7 foreclosure proceedings;
- 8 b. creating cashier's checks knowing that they consisted of DenSco Loan
9 Proceeds and that they were not going to be used for their intended
10 purposes of purchasing homes in foreclosure proceedings;
- 11 c. redepositing the cashier's checks for Menaged into his accounts
12 knowing that they consisted of DenSco Loan Proceeds and that
13 Menaged would use the redeposited DenSco Loan Proceeds for his
14 own benefit;
- 15 d. allowing Menaged to withdraw substantial amounts of DenSco Loan
16 Proceeds in the form of cash;
- 17 e. and transferring DenSco Loan Proceeds from Menaged's AZHF
18 Accounts to his other accounts at Chase.

15 ~~139.194.~~ The Chase Defendants materially assisted ~~Menaged in defrauding~~
16 ~~DenSco~~ the Second Fraud by instructing Menaged on how to circumvent Chase and
17 government procedures to avoid scrutiny when he engaged in these cash transactions.

18 ~~140.195.~~ For instance, the Chase Defendants informed Menaged that a cash
19 transaction over \$10,000 needed to be reported to government authorities.

20 ~~141.196.~~ The Chase Defendants also informed Menaged that any cash
21 transactions just under \$10,000, such as \$9,900, could trigger an internal suspicious activity
22 report, which is a report Chase generates when it appears someone is conducting
23 transactions in a manner that suggests that the person is trying to intentionally circumvent
24 the \$10,000 reporting requirement.

25 ~~142.197.~~ The Chase Defendants advised and instructed Menaged to withdraw or

1 deposit cash in amounts that would not cause Chase to write up a suspicious activity report.

2 ~~143.198.~~ Menaged followed the Chase Defendants' instructions on how to
3 avoid scrutiny and deposited or withdrew cash from his AZHF's account in amounts that
4 did not require the transaction to be reported to governmental authorities, nor cause Chase to
5 write up a suspicious activity report.

6 ~~144.199.~~ The Chase Defendants also substantially assisted ~~Menaged's fraud~~the
7 Second Fraud by facilitating Menaged's gambling with DenSco Loan Proceeds.

8 ~~145.200.~~ Menaged frequently gambled with DenSco Loan Proceeds by using
9 his AZHF debit card at casinos.

10 ~~146.201.~~ The Chase Defendants knew that Menaged gambled significant
11 amounts of DenSco Loan Proceeds at casinos because they kept records and because of the
12 facts set forth below.

13 ~~147.202.~~ The Chase Defendants assisted ~~Menaged in defrauding DenSeo~~the
14 Second Fraud by helping him use DenSco Loan Proceeds in the AZHF account for
15 gambling purposes.

16 ~~148.203.~~ Menaged's AZHF debit card had a spending limit and Chase would
17 decline the card when Menaged exceeded the limit at the casino.

18 ~~149.204.~~ The Chase Defendants assisted ~~Menaged in defrauding DenSeo~~the
19 Second Fraud by increasing the spending limits on Menaged's AZHF debit card to
20 approximately \$40,000 so he could gamble at casinos with the DenSco Loan Proceeds
21 without Chase's fraud prevention department flagging the account or declining his debit
22 card.

23 ~~150.205.~~ Upon Menaged's request, the Chase Defendants assisted ~~Menaged in~~
24 ~~defrauding DenSeo~~the Second Fraud by contacting the Chase debit-card fraud prevention
25 department to remove suspensions or "flags" on the AZHF debit card due to the high dollar
amounts that were being charged at casinos so that he could gamble with the DenSco Loan
Proceeds.

1 ~~151.206.~~ The Chase Defendants also assisted ~~Menaged in defrauding~~
2 ~~DenSeo~~the Second Fraud by initiating outgoing wire transfers and issuing cashier's checks
3 from the DenSco Loan Proceeds in Menaged's AZHF account to various casinos.

4 ~~152.207.~~ In short, the Chase Defendants knew that the funds in Menaged's
5 AZHF account were DenSco Loan Proceeds, but facilitated Menaged's fraud by making it
6 easier, among other things, to gamble with those funds.

7 ~~153.208.~~ The Chase Defendants also assisted ~~Menaged in defrauding~~
8 ~~DenSeo~~the Second Fraud by confirming with various casinos that the cashier's checks or
9 wire transfers from AZHF's account were legitimate, if the casinos called them to verify the
10 transactions.

11 ~~154.209.~~ The Chase Defendants also assisted ~~Menaged in defrauding~~
12 ~~DenSeo~~the Second Fraud because even though the Chase Defendants knew the DenSco
13 Loan Proceeds were to be used for the purchase of Identified Properties at trustee's sales,
14 the Chase Defendants transferred DenSco Loan Proceeds funds from AZHF's account into
15 other accounts held by Menaged personally and by his other businesses, for Menaged's own
16 use.

17 ~~155.210.~~ The Chase Defendants substantially assisted ~~Menaged's fraud~~the
18 Second Fraud by not following its own policies and procedures.

19 ~~156.211.~~ Upon information and belief, Chase's system does not recognize wire
20 transferred funds as being immediately available to be withdrawn.

21 ~~157.212.~~ The Chase Defendants routinely and intentionally "over-rode" holds
22 on the AZHF account to allow them to immediately issue cashier's checks after Chase
23 received DenSco's wire transfer.

24 ~~158.213.~~ Upon information and belief, Chase ordinarily had a policy for a 5-7
25 day hold on redeposited cashier's checks. Against its own policy, Chase routinely and
intentionally "over-rode" those holds to allow Menaged to immediately use the redeposited
DenSco Loan Proceeds for his own gain. Thus, Chase would release these holds so that the

1 funds were immediately available to Menaged for his own personal use.

2 ~~159.214.~~ It was also contrary to Chase's policy to issue cashier's checks by
3 email request. Upon information and belief, Chase's policy required the account holder to
4 be at the bank in person to sign the required documentation to obtain a cashier's check.
5 Chase ignored that policy and issued cashier's checks to Menaged based upon his email
6 requests.

7 ~~160.215.~~ The Chase Defendants also substantially assisted ~~Menaged in~~
8 ~~defrauding DenSco~~ the Second Fraud by continuing to furnish routine banking services to
9 Menaged, despite:

- 10 a. knowing the AZHF business account was for the purchase of
11 Identified Properties at trustee's sales;
- 12 b. knowing DenSco loaned the DenSco Loan Proceeds to AZHF for
13 purchasing properties at trustee's sales;
- 14 c. knowing Menaged was assuring DenSco the DenSco Loan Proceeds
15 were being used to purchase properties at trustee's sales; and
- 16 d. knowing that Menaged instead used the DenSco Loan Proceeds for his
17 own personal use.

18 ~~161.216.~~ Without the material and substantial assistance that the Chase
19 Defendants provided to Menaged, Menaged could not have operated ~~his fraudulent~~
20 ~~scheme~~ the Second Fraud against DenSco from April of 2014 through June 2015.

21 ~~162.217.~~ The Chase Defendants intended to assist Menaged in ~~this scheme~~ the
22 Second Fraud because Menaged moved millions of dollars through his accounts at Chase,
23 and therefore, the Chase Defendants had a financial motive to maintain Menaged's
24 business.

25 ~~163.218.~~ The Chase Defendants benefited from ~~Menaged's fraudulent~~
~~scheme~~ the Second Fraud by, among other things, maintaining Menaged's business
accounts.

1 ~~164.219.~~ The Chase Defendants, through its actions as described above, acted to
2 serve Chase's interests, having reason to know and consciously disregard a substantial risk
3 that its conduct might significantly injure the rights of others, including DenSco.

4 ~~165.220.~~ The Chase Defendants, through their actions as described above,
5 consciously pursued a course of conduct knowing that it created a substantial risk of
6 significant harm to others, including DenSco.

7 ~~166.221.~~ Because the Chase Defendants aided and abetted Menaged in
8 defrauding DenSco, DenSco was damaged in an amount to be proved at trial, but no less
9 than \$1,000,000.00.

10 **COUNT ONE**
(Aiding and Abetting: US Bank; Chavez)

11 ~~167.222.~~ DenSco re-alleges and reincorporates paragraphs 1 through ~~166.221~~ of
12 this Complaint as if fully set forth herein.

13 ~~168.223.~~ Menaged was engaged in fraudulent conduct for which he would be
14 liable to DenSco.

15 ~~169.224.~~ The US Bank Defendants were aware that Menaged was engaging in
16 such conduct.

17 ~~170.225.~~ The US Bank Defendants provided substantial assistance or
18 encouragement to Menaged with the intent of promoting Menaged's fraudulent conduct.

19 **COUNT TWO**
(Aiding and Abetting: Chase; Nelson; Dadlani)

20 ~~171.226.~~ DenSco re-alleges and reincorporates paragraphs 1 through ~~170.225~~ of
21 this Complaint as if fully set forth herein.

22 ~~172.227.~~ Menaged was engaged in fraudulent conduct for which he would be
23 liable to DenSco.

24 ~~173.228.~~ The Chase Defendants were aware that Menaged was engaging in such
25 conduct.

~~174.229.~~ The Chase Defendants provided substantial assistance or

1 encouragement to Menaged with the intent of promoting Menaged’s fraudulent conduct.

2 **PRAYER FOR RELIEF**

3 Wherefore, based upon the foregoing, Plaintiff prays for judgment against
4 Defendants as follows:

- 5 A. For an award of compensatory damages against U.S. Bank, N.A. in an
6 amount to be determined at trial.
- 7 B. For an award of compensatory damages against Defendants Hilda Chavez and
8 John Doe Chavez, wife and husband, in an amount to be determined at trial.
- 9 C. For an award of compensatory damages against J.P. Morgan Chase Bank,
10 N.A. to be determined at trial;
- 11 D. For an award of compensatory damages against Defendants Samantha Nelson
12 and Kristofer Nelson, wife and husband, in an amount to be determined at
13 trial.
- 14 E. For an award of compensatory damages against Defendants Vikram Dadlani
15 and Jane Doe Dadlani, husband and wife, in an amount to be determined at
16 trial.
- 17 F. For an award of punitive damages;
- 18 G. For an award of prejudgment interest and costs;
- 19 H. For such other and further relief as this Court deems just and proper under the
20 circumstances.

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DATED this ____ day of ~~August~~, 20~~19~~20.

**Bergin, Frakes, Smalley & Oberholtzer,
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