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FRESNO COUNTY SUPERIOR COURT
By _____ NAG DEPUTY

7 **Attorneys for Plaintiffs and the Class**

File by fmk

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF FRESNO**

11 **VICKEN MASSOYAN; and MAGGIE**
12 **ANTARAMIAN; both individually and on**
13 **behalf of all others similarly situated,**

13 **Plaintiffs,**

14 **v.**

15 **HL LEASING, INC., a California**
16 **Corporation; HERITAGE PACIFIC**
17 **LEASING; ESTATE OF JOHN W. OTTO;**
18 **DAN RAMIREZ; NORMA LEWIS; ANDY**
19 **FERNANDEZ; and DOES 1 to 10 inclusive,**

18 **Defendants.**

CASE NO. 09 CE CG 0183 DRF

CLASS ACTION COMPLAINT:

1. **CONCEALMENT;**
2. **NEGLIGENT MISREPRESENTATION;**
3. **BREACH OF FIDUCIARY DUTY;**
4. **BREACH OF CONTRACT; and**
5. **BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**

JURY TRIAL DEMANDED

This case has been assigned to
Judge Donald R. Franson for all purposes.

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1 Plaintiffs, individually and on behalf of all others similarly situated, as and for their Class
2 Action Complaint, allege as follows upon information and belief based, *inter alia*, upon their
3 investigation conducted by Plaintiffs and their counsel, except as to those allegations pertaining
4 to Plaintiffs personally, which are alleged upon knowledge.

5 **I. OVERVIEW OF THE COMPLAINT**

6 1. This is a class action on behalf of a class of well over 1,200 investors who lost in
7 excess of \$138 million in a Ponzi scheme called HL Leasing, Inc. From its infancy, HL Leasing,
8 Inc. was aggressively promoted and targeted individuals with promises of a nine percent (9%)
9 return based on HL Leasing, Inc.'s business of leasing dental, medical and farm equipment.
10 However, the returns were paid through the generation of unsuspecting new investors who
11 injected new dollars into the scheme. As the prospect of new investors providing loan funds to
12 HL Leasing, Inc. decreased, the scheme began to unravel, ultimately resulting in the payments to
13 investors to halt. **All of the alleged fraud was done on a standardized basis of leases, notes
14 and the same promotional materials.**

15 2. HL Leasing, Inc. did not function alone. The scheme was orchestrated by John
16 W. Otto, the Chief Executive Officer of HL Leasing, Inc. It also involved another company
17 operated by Otto called Heritage Pacific Leasing. Heritage Pacific Leasing operated as a broker
18 of the equipment leases entered into with HL Leasing, Inc. The equipment leases were allegedly
19 used as collateral for the loans investors provided to HL Leasing, Inc. **The fraud was assisted
20 by professionals such as lawyers and accountants.**

21 3. On April 28, 2009, John Otto issued a letter to all HL Leasing, Inc. investors to
22 inform them that it would not be making the monthly payments as required pursuant to investors'
23 respective loan agreements. Otto claimed that he had "entered into an agreement with another
24 company (because of confidentiality agreement, cannot disclose) to sell HL Leasing." The letter
25 further stated that the sale transaction would close "approximately May 8th."

26 4. A second letter was issued to all investors on May 8, 2009, coming from HL
27 Leasing, Inc.'s agent, the law firm of Callahan & Blaine. This letter indicated that Mr. Otto had a
28

1 stroke, which caused the deal with the undisclosed company to fall apart. A few days later, Otto
2 apparently committed suicide.

3 5. Based on information and belief, HL Leasing, Inc. and its agents and alter egos
4 had committed fraud by representing security interests in loans held by investors that never
5 existed or were sold off. Further, standardized representations of a deferred payment were untrue
6 and were never issued. The loan agreements between HL Leasing, Inc. and investors were all
7 violated when, pursuant to their respective agreements, the April 25, 2009 payments were not
8 issued.

9 **II. JURISDICTION AND VENUE**

10 6. This Court has jurisdiction over this controversy pursuant to the California
11 Constitution, Article VI, § 10 and under California Code of Civil Procedure § 410.10. The
12 amount in controversy exceeds the jurisdictional minimum of this Court.

13 7. Venue is proper in this County pursuant to California Code of Civil Procedure
14 §§ 395(a) and 395.5. All of the Defendants conduct business in Fresno, California. The
15 contracts in this action were all entered into in this County. The wrongs complained of occurred
16 in substantial part in this County.

17 **III. THE PARTIES**

18 **A. PLAINTIFFS**

19 8. Plaintiff **Vicken Massoyan** is an individual residing in the City and County of
20 Fresno, California. Massoyan entered into a loan agreement with HL Leasing, Inc. and John
21 Otto.

22 9. Plaintiff **Maggie Antaramian** is an individual residing in the City and County of
23 Fresno, California. Antaramian entered into a series of four loans with HL Leasing, Inc. and
24 John Otto.

25 10. All Plaintiffs sue individually and on behalf of all others similarly situated.
26 Plaintiffs Vicken Massoyan and Maggie Antaramian are hereinafter referred to collectively as
27 "Plaintiffs."
28

1 **B. DEFENDANTS**

2 11. Defendant **HL Leasing, Inc.** is a corporation organized and existing under the
3 laws of the State of California, having its principal place of business in Fresno, California.

4 12. Defendant, the **Estate of John W. Otto**, is the estate of the Chief Executive
5 Officer and owner of HL Leasing, Inc and Heritage Pacific Leasing. It is believed that the estate
6 will be opened in Riverside County, California.

7 13. Defendant **Heritage Pacific Leasing** is believed to be an equipment leasing
8 broker operating in the County of Fresno.

9 14. Defendant **Dan Ramirez** is the President of HL Leasing, Inc. and is believed to
10 reside in the County of Fresno.

11 15. Defendant **Norma Lewis** is the Executive Vice President of HL Leasing, Inc. and
12 is believed to reside in the County of Fresno.

13 16. Defendant **Andy Fernandez** is the Chief Financial Officer of Heritage Pacific
14 Leasing and is believed to reside in the County of Fresno.

15 **D. DOE DEFENDANTS**

16 17. Except as described herein, Plaintiffs are ignorant of the true names of Defendants
17 sued as Does 1-10 inclusive, and therefore, sues these Defendants by such fictitious names.
18 Plaintiffs will seek leave of the Court to amend this Complaint to allege their true names and
19 capacities when they are ascertained.

20 18. Plaintiffs allege that each of these Doe Defendants is responsible in some manner
21 for the acts and occurrences alleged herein, and that Plaintiffs' damages were caused by such Doe
22 Defendants.

23 **E. AIDERS , ABETTORS, AGENTS AND CO-CONSPIRATORS**

24 19. Defendants, and each of them, are individually sued as an agent, participant, aider
25 and abettor, joint venturer, and/or alter ego in the wrongful activities complained of herein and
26 the liability of each arises from the fact that each has with knowledge of the Ponzi scheme
27 engaged in all or part of the improper acts, plans, schemes, or transactions, to participate, induce
28 or carry out the scheme causing Plaintiffs harm.

1 20. Defendants, and each of them, have knowledge of the wrongdoing, have
2 participated in the wrongdoing or acted with or in furtherance of it, or aided or assisted in
3 carrying out its purposes alleged in this Complaint, and have performed acts and made statements
4 or representations in furtherance of the violations and conspiracy.

5 21. At all relevant times, each Defendants was and is the agent of each of the
6 remaining Defendants, and in doing the acts alleged herein, was acting within the course and
7 scope of such agency. Each Defendant ratified and/or authorized the wrongful acts of each of the
8 Defendants.

9 22. Defendants, and each of them, have participated as members of the fraud or acted
10 with or in furtherance of it, or aided or assisted in carrying out its purposes alleged in this
11 Complaint, and have performed acts and made statements in furtherance of the violations and
12 conspiracy.

13 **F. UNNAMED PARTICIPANTS**

14 23. Numerous other individuals and entities participated actively during the course of
15 and in furtherance of the Ponzi scheme herein alleged. There was a conspiracy and many acts
16 were done in the course of and in furtherance of the conspiracy by statements, conduct, and intent
17 to defraud. The individuals and entities acted in concert by joint ventures and by acting as agents
18 for principals, in order to advance the objectives of the conspiracy. The acts were intended to
19 promote the conspiratorial objectives.

20 **G. STANDARDIZED MATERIALS**

21 24. Defendants provided Plaintiffs and each class member with standardized uniform
22 written information which contained the same material misrepresentations, half-truths and
23 omissions regarding the investments.

24 25. To the extent that Defendants made any oral representations to Plaintiffs and the
25 class, they were based upon and recitations of the written material misrepresentations, half-truths
26 and failed to disclose the same material facts.

27 26. Plaintiffs and the class also entered into identical contracts which contained the
28 same material misrepresentations, half-truths and omissions.

1 27. Accordingly, there is a community of interest between all investors. *Vasquez v.*
2 *Superior Court* (1971) 4 Cal.3d 800.

3 **IV. DEFENDANTS' WRONGFUL CONDUCT**

4 **A. HL LEASING OPERATIONS**

5 28. HL Leasing, Inc. (hereinafter "HL Leasing") was a company started by Defendant
6 John W. Otto. HL Leasing was a company that either directly purchased and leased medical,
7 dental and farm equipment, or purchased and leased at a discount. In order to fund this
8 enterprise, John Otto, through HL Leasing, entered into thousands of loan agreements with
9 investors.

10 29. To assure investors that HL Leasing was using the loan funds for leases on
11 equipment, the loan agreement would reference a "Lease Number" that supposedly provided the
12 investor a source of "collateral" for their funds. However, no other information or documents
13 were provided reflecting the quality and nature of this collateral.

14 30. Through efforts to recruit ever more investors, HL Leasing provided identical and
15 standardized prospectus brochures touting its numerous references to demonstrate the security
16 and soundness of investing money with it.

17 31. No investor was allowed to alter the standardized documentation presented to
18 them for investment.

19 **B. HL LEASING SCHEME**

20 32. On information and belief, HL Leasing was not providing the returns to its
21 investors through the generation of income from its leasing operations. Rather, HL Leasing was
22 deriving income to pay back its investors through new monies coming in from new investors.

23 33. As the economy soured in late 2008, the pool of potential new investors
24 began to dry up. As a direct result of this, HL Leasing's scheme began to unravel.

25 34. Approximately 1,200 investors ultimately invested in HL Leasing. A substantial
26 majority of those investors reside in California. All of these investors had contracts describing
27 payment schedules depending on the amount of money loaned. These investors came to invest in
28 the HL Leasing Ponzi scheme through various means including contact with other HL Leasing

1 Principals, including Dan Ramirez, President of HL Leasing and Norma Lewis, Executive Vice
2 President of HL Leasing, marketing standardized information regarding the success of the HL
3 Leasing and contact with other investors.

4 35. Through HL Leasing brochures or contracts, several standardized representations
5 were made to the investors about providing loans to HL Leasing, including:

- 6 a. A list of individual references which implied that investing with HL
7 Leasing was safe and sound investment;
- 8 b. Investment yields would provide for a simple 9% return to be paid every
9 25th of the every month with a balloon payment of the principal at the end
10 of the three year anniversary of the agreement; and
- 11 c. A leasing agreement number (presumably related to an actual lease) was
12 provided as collateral for the loan.

13 36. In addition, HL leasing represented to Plaintiff investors in writing that
14 investment in HL Leasing would pay back the principal amounts provided with interest based on
15 income derived from its leasing operations.

16 37. Although HL Leasing, through John Otto, Dan Ramirez and Norma Lewis
17 were soliciting investments, HL Leasing failed to properly fund the company through sufficient
18 leasing operations, thus requiring it to essentially “rob Peter to pay Paul.”

19 38. The company offices would issue a letter to investors with a
20 purported “Independent Accountant’s report of HL Leasing, Inc. (sic) Procedures.” The
21 Independent Accountant report was provided to attempt to lend legitimacy to HL Leasing’s
22 operations in the eyes of prospective and actual investors. A copy of a letter referencing this
23 Independent Accountant report is attached hereto as **EXHIBIT A**.

24 39. In deciding to invest in HL Leasing, the Plaintiffs and the Class reasonably relied
25 upon the common and standard written representations given to them by HL Leasing and its
26 agents. In the aggregate, it is believed that the investors invested in excess of \$138 million in HL
27 Leasing.

28 40. John Otto was directly involved in HL Leasing affairs as he:

- 1 a. Personally signed the contracts and other documents on behalf of HL
- 2 Leasing and on HL Leasing letterhead;
- 3 b. Assisted in the drafting of brochures to draw in new investors with the
- 4 help of professionals;
- 5 c. Worked with the law firm of Callahan & Blaine to communicate with
- 6 investors;
- 7 d. Held himself out as the Chief Executive Officer and Chairman of the
- 8 Board of HL Leasing.

9 41. From the time Plaintiffs and the Class made their investments until April 2009,
10 HL Leasing sent to the Plaintiffs monthly disbursements of their investment. The payments, and
11 any accompanying documents did not reveal the true state of affairs related to the source of those
12 funds. Rather, HL Leasing was taking funds from new investors to pay other investors. In
13 conjunction with the representations made to investors through HL Leasing brochures and
14 contracts with purported collateral, HL Leasing, through its agents, intended to deceive Plaintiffs
15 and the Class into believing their loan agreements were sound and secure. In fact, the statements
16 were intended to conceal from Plaintiffs and the Class the truth about HL Leasing.

17 **C. THE COLLAPSE OF HL LEASING**

18 42. On April 28, 2009, HL Leasing investors came to learn that HL Leasing's
19 scheme has come to a grinding halt. In a letter issued by John Otto to "HL Leasing Clients," he
20 states in part:

21 For the past twenty years Heritage has prided itself on its history of
22 paying its obligations on or before the due date. For the first time
23 in our history, Heritage will not be making its payment due on the
24 25th of April.

25 43. The letter further goes on to state that John Otto entered into an agreement with
26 another company to sell HL Leasing. However, he failed to identify the company purchasing HL
27 Leasing due to a "confidentiality agreement." Otto indicated that this new company will be a
28 financially "stronger company" which will be able to provide HL Leasing investors "with a wide
variety of services and products, not previously offered by HL." The letter also indicated that all

1 HL accounts will be frozen until the transaction is consummated. A true and correct copy of this
2 letter is attached hereto as **EXHIBIT B**.

3 44. The reference to Heritage in Mr. Otto's letter relates to another one of his
4 company's, Defendant Heritage Pacific Leasing (hereinafter "Heritage"). Heritage functioned as
5 a broker for HL Leasing, purchasing and selling equipment lease contracts in conjunction and
6 association with HL Leasing investment dollars. Heritage and HL Leasing were functioning as a
7 joint enterprise and/or were alter egos of one another. Heritage's Chief Financial Officer,
8 Defendant Andy Fernandez have been involved in the sales and purchases of the equipment
9 leases that were supposed to be collateral to the loan agreements.

10 45. On May 8, 2009, the self proclaimed "California's Premier Litigation Firm,"
11 Callahan & Blaine, issued a letter on behalf of HL Leasing. The letter had a "Re:" line stating
12 "Status of Short Delay in Payments."

13 46. On May 8, 2009 letter informed HL Leasing investors that John Otto was having
14 a severe health issue, including a purported stroke and a diagnosis of lung cancer. The letter
15 states that the "unforeseen health conditions unfortunately had an impact on the acquisition of HL
16 Leasing, and to date the sale has not been consummated."

17 47. The letter sent by Callahan & Blaine sought to reassure investors by indicating
18 that HL Leasing had "retained [Callahan & Blaine] . . .and [they] are diligently working through
19 a plan of action to ensure that the monthly payments to [the investors] get back on track in short
20 order." A true and correct copy of this letter is attached hereto as **EXHIBIT C**.

21 **V. PLAINTIFFS' CLASS ALLEGATIONS**

22 48. Plaintiffs bring this action as a class action pursuant to California Code of Civil
23 Procedure § 382 on behalf of themselves and a class defined as follows:

24 All persons who reside in California (excluding Defendants and
25 their co-conspirators) who entered into a standard loan agreement
26 with HL Leasing, Inc. which was breached by failure to make the
27 April 2009 installment payment.

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1 49. Plaintiffs believe that the total number of Class members is in excess of 1,200
2 investors who are residents of California and is so large that individual joinder of all members of
3 the Class is impracticable.

4 50. Plaintiffs' claims are typical of the claims of the members of the Class, and fairly
5 encompass the claims of the members of the Class. Claims of the representative plaintiff are
6 typical because they arise from the identical and standard agreements in the course of conduct
7 that gave rise to claims of all other Class members.. Plaintiffs and the members of the Class have
8 been harmed by Defendants' conduct in identical ways. As HL Leasing's failure to make a
9 payment on April 2009 to all investors is common to all Class members.

10 51. Class action treatment is superior to all other methods for the fair and efficient
11 adjudication of this controversy in that a class action will equitably apportion the fees and
12 expenses in bringing this lawsuit among all members of the Class, including those whose
13 damages may be relatively small when compared with the expense and burden of bringing an
14 individual action. Moreover, a class action will avoid any risk of inconsistent or conflicting
15 adjudications saving time, reducing waste, and limiting duplication of effort. Because of these
16 efficiencies, a class action is superior to hundreds of individual actions. There will be no
17 difficulty in the management of this action as a class action.

18 52. Plaintiffs will fairly and adequately protect and represent the interests of the
19 members of the Class, and have retained counsel who are competent and experienced in class
20 actions and complex litigation of this nature.

21 53. There is an identical community of interest in the questions of law and fact
22 involved in this case. Among the questions of law and fact common to the members of the Class
23 which predominate over questions which may affect individual Class members are:

- 24 a. Whether HL Leasing breached the standard loan agreements with
25 Plaintiffs and the Class;
26 b. Whether standard leases were a form of collateral for the loan agreements;

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- c. Whether HL Leasing through Heritage operated by deriving its income from new investment dollars rather than from returns from a legitimate business enterprise;
- d. Whether HL Leasing, through Heritage, improperly sold the supporting collateral promised to investors;
- e. Whether the Independent Accountant’s report was an accurate and standard representation to investors;
- f. Whether HL Leasing’s standard brochures and standard contracts were misrepresentations made to induce Plaintiffs into entering into investments.
- g. Whether the HL Leasing Principals converted money or property of Plaintiffs and the Class;
- h. Whether the Court should impose a constructive trust on money and/or property in the possession or control of Defendants in favor of Plaintiffs and the Class;
- i. Whether Plaintiffs and the Class are entitled to recover damages, punitive damages, interest, costs and attorneys’ fees against Defendants.

54. Because Defendants, and each of them, engaged in a common course of conduct, the facts establishing liability are common to all Class members. The fact that there may be differences in damages or defenses will not prevent a class from being certified.

55. Plaintiffs have no interests which conflict with those of the Class.

56. Defendants’ unlawful conduct with regard to the HL Leasing Ponzi scheme has been a substantial factor in the losses suffered by all members of the Class as Class members were swindled out of their money and lost all investments remaining in HL Leasing when HL Leasing collapsed in or about April 2009.

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1 **VI. FRAUDULENT CONCEALMENT AND DISCOVERY**

2 57. The HL Leasing and Heritage Principals fraudulently concealed their conduct,
3 preventing Plaintiffs from discovering the facts supporting this Complaint until late April/May
4 2009.

5 58. Plaintiffs exercised due diligence in attempting to ascertain the facts on which this
6 Complaint is based.

7 59. Many of the facts alleged herein have only been discovered after the April 28,
8 2009 letter was issued by John Otto, as there was no triggering aspect prior to this date to
9 indicate that anything had gone wrong.

10 60. Plaintiffs Vicken Massoyan and Maggie Antaramian discovered the facts
11 supporting the claims within the year preceding this Complaint and could not have discovered
12 such earlier in the exercise of due diligence.

13 **VII. CLAIMS FOR RELIEF/CAUSES OF ACTION**

14 **FIRST CAUSE OF ACTION**

15 **FOR CONCEALMENT**

16 61. Plaintiffs hereby incorporate by reference all of the foregoing paragraphs as
17 though fully set forth hereinafter.

18 62. At all times relevant, Defendant HL Leasing had entered into contractual relations
19 with Plaintiffs. HL Leasing indicated on its contacts with Plaintiffs that a lease would be
20 provided as collateral to secure the amounts loaned to HL Leasing. This representation was
21 made through HL Leasing's Chief Executive Officer John Otto. In addition, HL Leasing also
22 promised a standard 9% return per month for a three year period which return was to be paid
23 from the profit derived from the leasing equipment . These representations were uniformly made
24 to Plaintiffs and the class. These reassured Plaintiffs that their investment was secure and that
25 they would get a sound return for their investment.

26 63. HL Leasing promoted itself as a safe investment. Through a standard brochure,
27 HL Leasing provided a list of numerous personal references with the intent of having potential
28 investors rely on the sheer number of people that this was a safe investment.

1 64. These representations were made through HL Leasing brochures and the contracts
2 which the contracts included an associated lease number.

3 65. Furthermore, HL Leasing failed to indicate in any representation that it was not
4 properly licensed to broker equipment leases, but rather, it was doing so through a joint
5 enterprise and/or alter ego, Heritage and its Chief Financial Officer Defendant Andy Fernandez.

6 66. HL Leasing and its agents John Otto, Dan Ramirez and Norma Lewis recklessly
7 and intentionally omitted, concealed and failed to disclose to Plaintiffs and the Class on a
8 uniform basis through written material the true facts that HL Leasing was not safe, that HL
9 Leasing was a Ponzi scheme, and that they had not verified that HL Leasing was safe or
10 profitable. HL Leasing and its agents also concealed the fact that it operated its leasing
11 operations through Heritage.

12 67. Plaintiffs are informed and believe and thereon allege that these
13 misrepresentations, concealments and failures to disclose were deliberately misleading and
14 known to HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma Lewis
15 to be misleading at the time the representations were made in that, among other things, they did
16 not set forth such true facts as are described above.

17 68. At all relevant times, Plaintiffs were ignorant of the true facts and reasonably
18 relied upon the representations of HL Leasing and its agents and were induced to invest in HL
19 Leasing in reliance on the misleading representations of HL Leasing and its agents.

20 69. Plaintiffs are informed and believe and thereon allege that HL Leasing, Estate of
21 John Otto (through John Otto), Dan Ramirez, and Norma Lewis knew or should have known the
22 material facts concerning the above-described investments, including that HL Leasing was not
23 safe and was a Ponzi scheme, and that the collateral claimed for the agreements were not real.
24 HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma Lewis knew that
25 such facts were not known or readily accessible to Plaintiffs and intentionally concealed and
26 failed to disclose such facts and engaged in other fraudulent practices.

1 70. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma
2 Lewis made assertions to Plaintiffs and the Class of facts that were not true and which they had
3 no reasonably ground to believe were true.

4 71. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma
5 Lewis suppressed facts that they were obligated to disclose to Plaintiffs and the Class, or gave
6 information of other facts which were likely to mislead for want of communication of those facts.

7 72. This conduct was a substantial factor in the injury suffered by Plaintiffs and the
8 Class and Plaintiffs and the Class were damaged in the manner described above in an amount to
9 be proved at trial.

10 73. Each Defendant knew a fraud was occurring. Notwithstanding their knowledge of
11 the fraud, Defendants, and each of them engaged in conduct, hereinbefore described which
12 rendered substantial assistance to, encouraged and/or aided and abetted the other Defendants'
13 fraud.

14 74. Each Defendant was a direct, necessary and substantial participant in the
15 conspiracy, common enterprise and common course of conduct complained of herein, and was
16 aware of his/her/its overall contribution to, and furtherance of, the conspiracy common enterprise
17 and common course of conduct, and by their actions to ok steps to further the scheme.
18 Defendants' acts of conspiracy include, *inter alia*, all of the acts that each of them are alleged to
19 have committed in furtherance of the wrongful conduct complained of herein.

20 75. In doing the foregoing acts, HL Leasing, Estate of John Otto (through John Otto),
21 Dan Ramirez, and Norma Lewis acted fraudulently and with malice and oppression as those
22 terms are use in California Civil Code § 3294. By reason of the foregoing, the Plaintiffs and the
23 Class are entitled to punitive and exemplary damages in an amount to be proved at trial against
24 HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma Lewis.

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1 **SECOND CAUSE OF ACTION**

2 **FOR NEGLIGENT MISREPRESENTATION**

3 76. Plaintiffs hereby incorporate by reference all of the foregoing paragraphs as
4 though fully set forth hereinafter.

5 77. In connection with the execution of the contracts between Plaintiffs and HL
6 Leasing as described above, HL Leasing indicated on its contacts with Plaintiffs that a lease
7 would be provided as collateral to secure the amounts loaned to HL Leasing. This representation
8 was made through HL Leasing's Chief Executive Officer John Otto. In addition, HL Leasing
9 also promised a 9% return per month for a three year period. These were important facts that
10 reassured Plaintiffs that their investment was secure and that they would get a sound return for
11 their investment. HL Leasing also promoted itself as a safe investment. Through a brochure, HL
12 Leasing provided a list of numerous personal references with the intent of having potential
13 investors rely on the sheer number of people that this was a safe investment.

14 78. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma
15 Lewis negligently made uniform false representations and failed to disclose the whole truth by
16 making misleading half-truths which contained incomplete information, which they had a duty to
17 disclose since they had undertaken to provide some information. As such, Defendants had a duty
18 to disclose all other facts which materially qualify the limited facts disclosed. *See Randi . v.*
19 *Muroc Joint Unified School Dist.* (1997) 14 Cal.4th 1066, 1081-84.

20 79. In making the representations they did, HL Leasing, Estate of John Otto (through
21 John Otto), Dan Ramirez, and Norma Lewis failed to state the true material facts that HL Leasing
22 was not safe, that HL Leasing was a Ponzi scheme, and that the collateral purported to support
23 the contracts was not real, thus they falsely represented half-truths to Plaintiffs and the Class.

24 80. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma
25 Lewis asserted facts that were not true, while having no reasonable ground for believing them to
26 be true.

27 81. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma
28 Lewis made positive assertions in a manner not warranted by the information in their possession,

1 of that which is not true, though they may have believed them to be true. They made these
2 assertions to induce the reliance of Plaintiffs.

3 82. At all relevant times, Plaintiffs were ignorant of the true facts and reasonably
4 relied upon the representations and half-truths of HL Leasing, Estate of John Otto (through John
5 Otto), Dan Ramirez, and Norma Lewis and were induced to invest in HL Leasing in reliance on
6 the negligent misrepresentation of HL Leasing, Estate of John Otto (through John Otto), Dan
7 Ramirez, and Norma Lewis.

8 83. As a direct and proximate result of the conduct described above, Plaintiffs and the
9 Class were damaged in the manner described above in an amount to be proved at trial.

10 84. Heritage and Andy Fernandez are liable to Plaintiffs and the Class for damages as
11 aiders abettors in the wrongful activities complained of herein and their liability arises from the
12 fact that each has engaged in all or part of the improper acts, plans, schemes, or transactions
13 complained of herein.

14 **THIRD CAUSE OF ACTION**

15 **FOR BREACH OF FIDUCIARY DUTY**

16 85. Plaintiffs hereby incorporate by reference all of the foregoing paragraphs as
17 though fully set forth hereinafter.

18 86. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, and Norma
19 Lewis owed Plaintiffs and the Class a fiduciary duty arising from their claim in contract that the
20 agreements were secured through the lease agreements HL Leasing had with third-parties. By
21 virtue of their relationship, activities and actions, Defendants, and each of them, set out to create
22 and did in fact create a special relationship of trust and confidence, and thereby owed Plaintiffs a
23 fiduciary duty. By virtue of Plaintiffs' contractual relation upholding a purported lease
24 agreements as collateral to the underlying contracts Plaintiffs placed trust and confidence in the
25 fidelity and integrity of Defendants in entrusting Defendants with their money and believing that
26 the collateral was real. Defendants, and each of them, set out to induce and did induce Plaintiffs
27 to rely wholly on the representation of collateral supporting the respective loan agreements and
28 that HL Leasing and its agents would do nothing to jeopardize this collateral. Accordingly, a

1 confidential and fiduciary relationship existed at all times herein. Plaintiffs relied upon
2 Defendants' false representations, concealments, and nondisclosures in investing in HL Leasing,
3 which reliance was justified.

4 87. Heritage and its agents also owed a fiduciary duty to Plaintiffs and the Class.
5 John Otto was the Chief Executive Officer of both Heritage and HL Leasing. His knowledge of
6 the collateral agreements that existed between Plaintiffs and HL Leasing can be assessed upon
7 Heritage. Therefore, Heritage was on notice that the collateral should not be jeopardized through
8 a sale to a third-party, as it would undermine the very collateral in those agreements.
9 Accordingly, a confidential and fiduciary relationship can be imputed against Heritage and
10 existed at all times herein.

11 88. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, Heritage, and
12 Norma Lewis each owed duties of loyalty to the Plaintiffs and the Class, fiduciary in nature, to
13 carry out the leasing operations and to protect the collateral of Plaintiffs in good faith arising out
14 of the client relationship. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez,
15 Heritage, and Norma Lewis had a duty to disclose all material facts known to them or that should
16 have been known to them, and not misrepresent facts or conceal any facts in connection with the
17 agreements, business operations or the collateral associated with their agreements. The fiduciary
18 duty of HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, Heritage, and Norma
19 Lewis required them to use due diligence to verify the legitimacy and soundness of HL Leasing
20 and the collateral supporting the loan agreements with Plaintiffs and the Class and not to act in
21 conflict with their clients' interests for their own benefit.

22 89. HL Leasing, Estate of John Otto (through John Otto), Dan Ramirez, Heritage, and
23 Norma Lewis breached their fiduciary duties to Plaintiffs and the Class by failing to protect
24 Plaintiffs' collateral to their respective loan agreements and intentionally and/or recklessly
25 misrepresenting material facts and making material omissions regarding HL Leasing.
26 Defendants' quest to secure profits for themselves led them to breach his fiduciary duty of
27 loyalty.

EXHIBIT A



HL LEASING, INC.

Fresno Office:
3439 West Shaw Ave.
Fresno, CA 93711-3204

Palm Desert Office:
49-355 Sunrose Lane
Palm Desert, CA 92260

I would like to take this opportunity to thank you for your interest in lending to HL Leasing, Inc.

Over the past years, it has been our pleasure to have borrowed and repaid millions of dollars to a number of lenders. We are proud that all loans to date have been repaid in accordance with their terms.

As you know, it is HL Leasing, Inc.'s policy to assign to its lenders a lease or leases as collateral for the repayment of their loans. For your review, I am pleased to enclose a form of Loan Agreement and an Assignment of Lease(s) as Collateral.

I also enclose for your review: 1) an HL Leasing, Inc. Lender Profile and Information Sheet; 2) HL Leasing, Inc. Authorization for Direct Payment (for direct deposit); 3) Independent Accountant's report on HL Leasing, Inc. Procedures; 4) an HL Leasing, Inc. Profile; and 5) a Lender's Certification. Should you have any questions or desire additional information, please do not hesitate to call or write.

Thank you again for your interest. We look forward to hearing from you soon.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dan Ramirez', is written over a light-colored, possibly embossed or faintly printed, signature line.

Dan Ramirez
President

Fresno Office: Toll Free: (800) 473-1370 ♦ (559) 435-9220 ♦ Fax: (559) 435-9295

Palm Desert Office: (760) 568-1850 ♦ Fax: (760) 779-0095

Web Site: www.heritage-specific.com ♦ E-Mail: heritage@anis.net

EXHIBIT B

HL Leasing, Inc.
3439 West Shaw Avenue
Fresno, CA 93711
559/435-9220 – phone
559/435-9295 - fax

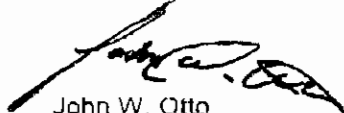
April 28, 2009

Dear HL Leasing Clients,

For the past twenty plus years Heritage has prided itself on its history of paying its obligations on or before the due date. For the first time in our history, Heritage will not be making its payment due on the 25th of April. I have entered into an agreement with another company (because of confidentiality agreement, cannot disclose) to sell HL leasing. This was not an easy decision to make, as HL was founded and nurtured by me for many years, and I truly enjoyed the business. The new owners have assured me that they will be able to close this transaction approximately May 8th thus delaying your monthly check for about two weeks. This will allow time for the review and completion of the transaction to the satisfaction of all parties. The new company will financially be a stronger company and will be able to provide you with a wide variety of services and products, not previously offered by HL.

Until this agreement is consummated HL will freeze all accounts. No payments will be made and no new monies will be accepted by HL Leasing. I will do everything in my power to speed this transaction up, so as to get your check to you as quickly as possible. This is a positive thing for HL Leasing and it is my sincere hope that you will accept it as so.

Yours truly,



John W. Otto
Chief Executive Officer

EXHIBIT C

CALLAHAN & BLAINE

California's Premier Litigation Firm SM

DANIEL J. CALLAHAN
STEPHEN F. BLAINE
MICHAEL J. SACHS
EDWARD SUSOLIK
BRIAN J. MCCORMACK
JAVIER H. VAN OORDT
SARAH C. SERPA
MARC P. MILES

LISA J. DORODKIN
DOUGLAS M. CARASSO
KIMBERLY A. CARASSO
KATHLEEN I. DUNHAM
DAVID E. HAYEN
JOHN W. HURNEY
TAE J. IM
SUE Y. PARK
JAMES H. HOUSE
KRISTY SCHLESINGER
MICHKA SHIMARE
JILL A. THOMAS
KONRAD L. TROPE

OF COUNSEL
CAROLINE A. MOLLOY
SHELLEY M. LIBERLO
IN HABIT, MOROCCO
NICOLE VETTRAINO

OFFICE ADMINISTRATOR
LAURALI M. KOBAL

OUR FILE NUMBER:

9999-04

Member of the
International Law Firm



May 8, 2009

Clients of HL Leasing

RE: Status of Short Delay in Payments

Dear Valued Client:

Please be advised that HL Leasing has retained our firm to assist it with several unforeseen circumstances that have recently arisen. I understand that HL Leasing has recently not made its regular monthly payment to you. The company knows how frustrating this is for you, especially in these trying economic times. Please allow this correspondence to serve as a status report as to the issues and what you can expect in the very near future.

Recently, a company sought to acquire HL Leasing. That acquisition was scheduled to be completed by the end of last month, and there would have been a seamless transition in HL Leasing's business and payment to its clients. Unfortunately, the owner of HL Leasing, John Otto, suffered a minor stroke three weeks ago and was also diagnosed with lung cancer. These unforeseen health conditions unfortunately had an impact on the acquisition of HL Leasing, and to date the sale has not been consummated. However, because all of the parties had anticipated a smooth transition with respect to the sale of the company, accounts were suspended in preparation of the new owner taking them over. Because the sale was not completed, there needs to be some reworking of the accounts to reinstate them to their original condition.

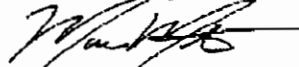
Please be assured that HL Leasing is just as concerned in getting this process righted again as you are. To that end, the company has retained our firm and we are diligently working through a plan of action to ensure that the monthly payments to you get back on track in short order. However, this is not a process which can be done overnight, and we will need some time to execute the plan of action. In the meantime, HL Leasing appreciates your patience in this regard. The company is well aware of your frustration over the recent situation, and therefore it is simply not necessary to place threatening or harassing telephone calls to the staff of HL Leasing, who are working diligently to remedy the situation.

HL Leasing has been in business for more than 30 years and it is certainly not going to jeopardize its pristine reputation over this particular incident. Instead, the company is working to get all of the payments to its clients back on track, after the unfortunate, but unavoidable, health condition and circumstances which caused the otherwise smooth acquisition of the company to fall through.

Valued Clients of IIL Leasing
May 8, 2009
Page 2

HL Leasing, its owner, its staff, and my firm respectfully request that you remain patient over the next couple of weeks as we get everything flowing in the right direction again. In the meantime, to the extent you have any questions or comments, please do not hesitate to contact me at any time.

Very truly yours,



MARC P. MILES

MPM:jsk

cc: John Otto

G:\Miles\IIL Leasing (2009) wpd

EXHIBIT D

**AGREEMENT ASSIGNING INTEREST IN LEASE AS COLLATERAL FOR
LOAN AGREEMENT**

1. Parties – Preamble

1.1 **HL LEASING, INC.**, a California Corporation doing business as **HL LEASING, INC.** ("Borrower"), licensed by the California Department of Corporations, has entered into a Loan Agreement and desires to enter into this Agreement Assigning Interest in Lease As Collateral For Loan Agreement.

Maggie J. Antaramian ("Lender"), has entered into a Loan Agreement with Borrower and requests Borrower to execute this Agreement Assigning Interest in Lease As Collateral for Loan Agreement

2. Acknowledgement of Loan

2.1 Borrower acknowledges receipt from Lender of the proceeds from the "Loan Number" identified below, and agrees to repay the same in accordance with a certain Loan Agreement bearing even date herewith.

3. Grant of Collateral

3.1 As collateral for the repayment of the said loan, Borrower assigns to Lender an interest in the following "Lease Number(s)", on the terms set forth herein:

3.1.1 Loan Number: LN080818

3.1.2 Lease Number(s): H276725A

3.1.3 Remaining Monthly Payments: 36

3.1.4 Interest Rate: 9%

3.1.5 Payment Amounts: \$450.00

3.1.6 Receivable Balance \$76,200.00

4. Collateral Not Sale

4.1 Said interest in said Leases are assigned to Lender as collateral for a loan and they are not to be deemed sold to Lender. Borrower shall be liable for any deficiency by reason of the failure of any Lessees to remit funds, and Borrower shall be entitled to any surplus, if such be the case.

5. Leases Valid and Free from Defenses

5.1 Borrower represents and warrants:

- (A) Each of said leases is genuine and valid.
- (B) The amounts of the leases stated herein are true amounts due.
- (C) Borrower is the true and sole owner of said leases.

6. Collection of Proceeds by Borrower Prior to Default

6.1 Prior to default, as that term is defined in the said Loan Agreement, Borrower shall have the right to collect all amounts due from the above-described leases.

7. Collection of Proceeds by Lender After Default

7.1 In the event of default of any of the terms of the said Loan Agreement, after 90 day written notice by Lender to Borrower, Lender shall be entitled to demand, collect, receive, sue for, negotiate, and otherwise compromise any and all amounts due under said leases, and may do so either in its own name or the name of Borrower.

8. California Law

8.1 This Agreement shall be governed by and construed according to the laws of the State of California.

9. Amendments

9.1 This agreement shall not be modified or amended except by written instrument signed by the parties hereto. Any such modification or amendment, which is not in writing and signed by the parties hereto, shall be of no force and affect.

10. Entire Agreement

10.1 This Agreement constitutes the entire agreement between the parties hereto concerning the collateral for the Loan Agreement and supersedes any prior oral or prior written agreement concerning the same.

Executed this 18th day of August, 2008, at Fresno County, California.

HL Leasing, Inc.

By



John W. Otto

Title: CEO/Chairman of the Board