COMPLAINT AND JURY DEMAND

Introduction

1. This action is brought by the Trustee of the I.S.T.A. Insurance Trust (the “Trust”) to recover losses sustained by the Trust because of the inappropriate investment of its assets and other serious mismanagement of the Trust and by its former fiduciaries, investment advisors, and other professionals, whose acts and omissions have brought the Trust to the brink of insolvency. Plaintiff seeks recovery on behalf of the Trust of the losses sustained by it as a result of defendants’ breach of trust and breach of fiduciary duty, fraud, negligence, malpractice, and breach of contract.
Parties

2. Plaintiff Edward P. Sullivan is, and has been since June 2, 2009, the sole Trustee of the Trust. Since May 16, 2009, Sullivan has also served as trustee of the Indiana State Teachers Association, Inc. ("ISTA"), which is the settlor of the Trust. Sullivan was appointed as ISTA trustee by ISTA’s national affiliate, the National Education Association ("NEA"), pursuant to NEA’s By-Laws. Sullivan brings this action on behalf of the Trust. Sullivan’s place of business as Trustee of the Trust is in Marion County.

3. Defendant Warren L. Williams was Executive Director of ISTA from 1984 until his resignation on May 14, 2009. As ISTA Executive Director, Williams served ex officio as a Trustee of the Trust. In 2002 Williams also became Chief Executive Officer of the Trust. He was specifically responsible for day-to-day oversight of the Trust’s assets, and was the primary contact between the Trust and its investment advisors. As Trustee and as CEO of the Trust, Williams had a fiduciary relationship with the Trust. Williams is a resident of Hamilton County.

4. Defendant David M. Karandas was the Trust’s investment advisor from 1994 until June 2009. Karandas was employed by defendant UBS Financial Services, Inc. from 2003 until February 2008, at which time he left UBS and became a Senior Vice President at defendant Morgan Stanley & Co., Inc. As the Trust’s investment advisor, Karandas analyzed the Trust’s investment goals, risk tolerance, and liquidity requirements, drafted investment policies, and retained or recommended investment managers. Karandas had a fiduciary relationship with the Trust. Karandas is a resident of Marion County.

5. Defendant UBS Financial Services, Inc. ("UBS") is a Delaware corporation with its principal office in the State of New Jersey, which does business in Indiana. UBS served with its employee Karandas as the Trust’s investment advisor until February 2008, and it continued to
manage and serve as custodian of certain of the Trust’s investments thereafter. UBS had a fiduciary relationship with the Trust. UBS’ office in Marion County is its principal office in the State of Indiana and the office out of which the claims asserted herein arose.

6. Defendant Morgan Stanley & Co., Inc. ("Morgan Stanley") is a Delaware corporation with its principal office in the State of New York, which does business in Indiana. Morgan Stanley served with its employee Karandos as the Trust’s investment advisor beginning in February 2008, and as such had a fiduciary relationship with the Trust. Morgan Stanley’s office in Marion County is its principal office in the State of Indiana and the office out of which the claims asserted herein arose.

7. Defendant Robert Frankel served, from 2002 until his resignation on April 2, 2009, as Director of the ISTA Financial Services Program ("FSP") – the trade name for the financial products and services provided through several entities affiliated with ISTA. Pursuant to the Trust’s Bylaws, the FSP Director serves ex officio as Director of the Trust. As Director of the Trust, Frankel was the named fiduciary of the Trust and was responsible for the administration of the Trust. Frankel is a resident of Hamilton County.

8. Defendant Huttleston Associates, Inc. ("Huttleston Associates" or "Huttleston") is a Wisconsin corporation with its principal offices in Madison, Wisconsin, which does business in Indiana. Continuously since at least 1989, Huttleston Associates served as the Trust’s actuarial consultant. Huttleston Associates was responsible for designing the prototypes for the long-term disability programs adopted by participating Indiana school corporations and funded through the Trust (the “LTD Programs”), for creating the actuarial basis for and advising the Trust on the contribution rates that would be necessary to fund the LTD Programs adequately, for determining whether the Trust maintained sufficient reserves to fund future benefit obligations
under the LTD Programs, and otherwise for providing opinions as to the Trust’s actuarial solvency with regard to the programs it was funding. An affiliate of Huttleston Associates, Huttleston Benefit Group, has provided third-party administration services to the Trust continuously since at least 1989.

9. Defendant McInnes Maggart Consulting Group, L.L.C. ("McInnes Maggart") is a Kansas corporation with its principal offices in Mission, Kansas, which does business in Indiana. Continuously from the late 1980s until 2009, McInnes Maggart (previously known as McInnes Consulting Group, L.L.C.) or its principal, Dennis Maggart, was an insurance consultant for the Trust with respect to the medical insurance programs adopted by participating Indiana school corporations and funded through the Trust (the "Medical Programs"). McInnes Maggart or Dennis Maggart designed the Trust’s Medical Programs and was responsible for advising the Trust with respect to design changes, underwriting, and reinsurance issues, and for procuring reinsurance policies with respect to the Medical Programs.

10. Defendant Crowe Horwath, LLP ("Crowe Horwath") is a limited liability partnership, headquartered in Oak Brook, Illinois, which does business in Indiana. Crowe Horwath – which previously operated under the name Crowe Chizek and Company LLC – is a public accounting and consulting firm. Continuously since at least 1990, Crowe Horwath has served as the Trust’s auditor. Crowe Horwath’s office in Marion County is its principal office in the State of Indiana and the office out of which the claims asserted herein arose.

Facts

The Trust

11. The Trust is a common law trust, established in 1985 by ISTA, a labor organization that through its local affiliates represents, in collective bargaining, teachers and
other employees of Indiana school corporations. Since its establishment, the Trust designed and managed defined-benefit welfare programs – principally the Medical Programs and the LTD Programs – that Indiana school corporations adopted as benefit plans for their employees.

12. A copy of the Amendment and Restatement of the Agreement and Declaration of Trust Establishing I.S.T.A. Insurance Trust ("Trust Agreement") is attached hereto as Exhibit A.

13. Participation agreements between the school corporations and the Trust specified the contributions school corporations were obligated to make. In exchange, the Trust would make Trust assets available to pay benefits to school corporation employees. The school corporations’ contributions were made from public revenues.

14. The benefit programs established by each of the participating school corporations and funded through the Trust were “governmental plans,” as defined in section 3(32) of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1002(32). The Trust is not itself an employee benefit plan within the meaning of ERISA, but instead served as a funding vehicle, which was authorized by the school corporations through their participation agreements to hold and invest the school corporations’ contributions.

15. Because of the events to be detailed below, the Trust was brought, by May 2009, to the point where its obligations under programs it funded far exceeded its assets, and the contributions and other income to the Trust were less than its ongoing benefit payments and other expenditures. On June 30 and July 31, 2009, respectively, the Trust ceased serving as a funding vehicle for the Medical Programs and the LTD Programs. As of those dates, it was without liquid resources to pay future benefits – with an estimated present value of at least $34 million – to some 650 LTD claimants, or to satisfy the claims of participating school
corporations for refunds of the Trust’s “claims stabilization reserves,” totaling an additional estimated amount of at least $20 million.

16. On May 16, 2009, NEA appointed plaintiff Sullivan as trustee of ISTA, in large measure to address the financial crisis that had emanated from the Trust’s losses and spread to ISTA and its related organizations. Shortly thereafter, Sullivan assumed authority over the Trust as its sole Trustee. Sullivan’s mandate was, with financial assistance from NEA, to ensure that the claims of LTD beneficiaries were paid, to resolve the Trust’s other obligations, and to recover as much as possible of the Trust’s losses through legal action against those whose acts and omissions were responsible for those losses.

The Trust’s Investments

17. Defendant Karandos had been the Trust’s investment advisor since 1994. Karandos was employed by Merrill Lynch until 2003, when he moved to UBS.

18. Karandos was employed by UBS and acted as its agent. In his dealings with the Trust, Karandos was acting within the scope of his authority or apparent authority. As Karandos’ employer, UBS directly or indirectly controlled him and materially aided his conduct with regard to the Trust.

19. Karandos and UBS acted as the Trust’s financial advisor, assisted in creating the Trust’s investment policy, and recommended individual securities. Karandos and UBS were fiduciaries for the Trust. Agreements between UBS and the Trust acknowledged this fiduciary relationship.

20. A copy of the August 3, 2007 Consulting Services Agreement between UBS and the Trust is attached hereto as Exhibit B.
21. As of 2003, the Trust’s investment portfolio did not contain any “alternative” investments.

22. In December 2002, following the resignation of former Trust Executive Director Bruce Rogers, Williams appointed Frankel as Director of the Trust. Williams appointed himself, however, to the newly created position of Chief Executive Officer ("CEO") of the Trust. On December 17, 2002, the Trust Agreement was amended and restated to provide for this position.

23. Although Williams delegated to Frankel responsibility for day-to-day operations of the Trust, he retained for himself, as CEO, responsibility with regard to the investment of the Trust’s assets.

24. Williams and Karandos were socially close. Karandos introduced Williams’ future wife to him, and the two couples sometimes vacationed together. Karandos also served as Williams’ personal financial advisor.

25. In 2004, Karandos drafted a “Statement of Investment Policy” for consideration by the Trust’s Board of Trustees. The policy provided that “[t]he [Trust’s] assets shall be invested in accordance with sound investment practices that emphasize long-term investment fundamentals,” and it recognized that the Trust required liquidity in its investments, because the Trust depended on its assets for operating income. Nonetheless, the policy established an aggressive investment policy that included “alternative investments” (defined as managed futures and hedge funds). The policy provided, however, that alternative investments were to be limited to a maximum of 20% of the market value of the Trust. In addition, the investment policy prohibited investment in private placements, i.e., securities not traded on a public exchange.

26. The investment policy was adopted by the Trust’s Board of Trustees on February 27, 2004, subject to certain editorial changes that were incorporated in the final document dated
April 30, 2004. The investment policy was signed by Williams on behalf of the Board of Trustees on May 7, 2004.

27. The Trustees’ statement of approval of the policy provided: “Should the Trustees permit a deviation from this policy or implement a change in policy, the circumstances and rationale for the change shall be documented and attached to this investment policy.”

28. Both Williams and Karandos were aware that Williams had no authority to deviate or approve deviations from the investment policy without authorization of the Board of Trustees.

29. The Trustees never approved any deviation from the 2004 investment policy, which remained in effect without change until October 2008.

30. In or about September 2005, Karandos and Williams began to invest the Trust’s assets in private placements.

31. As both Karandos and Williams knew or should have known, this investment of the Trust’s assets was in violation of the investment policy that had been adopted by the Board of Trustees the year before.

32. This deviation from the investment policy and the investments in private placements were undertaken without authorization of the Board of Trustees.

33. The investments in private placements were undertaken without explanation or sufficient explanation to the Trustees of the risks associated with the private equities and other alternative investments, including but not limited to their lack of liquidity and exposure to huge capital calls.
34. Nor was the Trust’s legal counsel consulted about the fiduciary and tax implications that could flow from this purchase of private placements and other alternative investments.

35. By August 2007, Karandos and Williams had invested a total of approximately $19.5 million – or half of the Trust’s total assets – in alternative investments, including hedge funds and private placements.

36. At the end of 2008, the Trust’s holdings in private placements alone amounted to nearly $16.4 million – more than 78% of its total assets. Private placements and other alternative investments combined constituted over 87% of the Trust’s total assets.

37. These investments far exceeded the 20% limit on alternative investments contained in the Trust’s 2004 investment policy. In addition, the private placements were in violation of the policy’s prohibition of such investments.

38. As both Williams and Karandos knew or should have known, such investments are highly inappropriate for an employee benefit trust that funds health insurance claims, because of their risk and lack of liquidity.

39. The private equities purchased by Karandos for the Trust were, as a consultant to the Indiana Department of Insurance (“IDOI”) determined, “dramatically illiquid.” Indeed, according to UBS itself, “[p]rivate investment securities and structured products generally are highly illiquid.”

40. Because of the lack of liquidity and level of risk associated with such investments, the United States Government Accountability Office (“GAO”), in an August 2008 report entitled “Defined Pension Benefit Plans, Guidance Needed to Better Inform Plans of the Challenges and Risks of Investing in Hedge Funds and Private Equity,” warned defined benefit pension plans
about the risks of such investments. According to a survey GAO had conducted, such plans typically invested no more than 4-5% of their assets in hedge funds and private placements.

41. That warning is even more apt with respect to defined-benefit welfare funds, like the Trust’s fund. Unlike defined-benefit pension funds, whose obligations to pay claims come due at a time well into the future, defined-benefit welfare funds have immediate obligations, so that the need for liquidity in investments is an even more serious consideration.

42. Most or all of the private equities that Karandos purchased for the Trust were UBS proprietary products.

43. On information and belief, Karandos received greater compensation by placing assets in alternative investments than in common stocks, bonds, and mutual funds.

44. In February 2008, Karandos moved from UBS to Morgan Stanley. After that date, Karandos was employed by Morgan Stanley and acted as its agent. In his dealings with the Trust, Karandos was acting within the scope of his authority or apparent authority. As Karandos’ employer, Morgan Stanley directly or indirectly controlled him and materially aided his conduct with regard to the Trust.

45. Karandos and Morgan Stanley, along with UBS, thereafter acted as the Trust’s financial advisor, assisted in creating the Trust’s investment policy, and recommended individual securities, and as such were fiduciaries for the Trust.

46. A copy of the March 14, 2008 Institutional Consulting Agreement between Morgan Stanley and the Trust is attached hereto as Exhibit C.

47. After his move to Morgan Stanley, Karandos prepared and provided to Williams or Frankel a ranking of the Trust’s private equity holdings, in which Karandos made recommendations with regard to the private equities.
48. In a “consolidated portfolio review” prepared for the Trust in May 2008, Karandos and Morgan Stanley reported that over $21.6 million of the Trust’s $23 million in assets – or 93.91% – were invested in “alternative strategies.” On information and belief, Karandos and Morgan Stanley failed to advise the Trust that such huge exposure to risky and illiquid investments was inappropriate and dangerous and that the Trust should promptly move to reduce its holdings of such investments in an orderly fashion.

49. During the fall of 2008, the Trust required significant amounts of cash in order to pay current claims. Because of the Trust’s lack of liquid assets, it was forced to sell some of its private placements at substantial losses, in many cases for less than half their value. The IDOI consultant’s analysis in the spring of 2009 valued the Trust’s remaining alternative investments at only 25% of their cost.

50. The Trust’s private equity holdings required the Trust to pay several capital calls, in the amount of at least $7.5 million.

51. Because the Trust’s private equity investments were in UBS proprietary products, they could not be transferred to Morgan Stanley along with the rest of the Trust’s investment portfolio, but rather remained under UBS management. The Trust was required to continue to pay UBS a fee for managing these assets.

52. During the fall of 2008, after Karandos had joined Morgan Stanley, and while the Trust was in the process of liquidating many of the private placements in which Karandos had invested its assets – incurring significant losses as a result – Karandos complained to Williams about the compensation he received from the Trust, which had fallen because it was defined as a percentage of the Trust’s portfolio value. Notwithstanding the catastrophic results of Karandos’ stewardship of the Trust’s investment portfolio, Williams agreed to restate Karandos’
compensation as a flat fee, with the result that his rate of annual compensation in 2008 doubled in the subsequent months.

53. By paying Karandos and Morgan Stanley, as well as UBS, for managing its investments with UBS, the Trust was paying more than reasonable compensation for the management of its investment portfolio.

54. Karandos and Morgan Stanley continued to provide investment services to the Trust until at least June 2009, while UBS continued to manage and serve as custodian of the Trust’s alternative investments and private placements.

55. As a result of the acts alleged above, the Trust’s investments lost substantial value, while at the same time the Trust could not access its remaining assets invested in private placements because of liquidity restrictions.

56. The Trust’s imprudent investments left it without the liquidity to address the problems in its benefit programs, detailed below, that came to a head in 2008 and 2009.

The LTD Programs

57. From its inception in 1985 until 1989, the LTD Programs were fully insured by American Fidelity, through one or more policies procured by the Trust.

58. Beginning in 1989, the LTD Programs became self-insured, that is, the benefits under the LTD Programs were secured only by the assets of the Trust. As it underwrote the risk for the LTD Programs, the Trust was required to determine the premiums, charged to the school corporations, that would provide sufficient revenues to cover the payments to beneficiaries for which the Trust would be liable, as well as any associated administrative costs.

59. In setting such premiums, an actuary must establish a pricing regime that will yield revenues sufficient to: (i) pay the anticipated future beneficiary claims and associated
administrative expenses; and (ii) contribute to the maintenance of a capital reserve to provide for unanticipated contingencies.

60. Defendant Huttleston Associates, the Trust's actuarial consultant, failed to set premiums at a level that yielded revenues sufficient for those purposes.

61. Even more serious was the failure of Huttleston Associates to test its calculation of the required reserves for future LTD Program benefits and associated administrative expenses against the Trust's actual assets. As a result, Huttleston was never able to determine whether actual assets backed the reserves it was establishing from which LTD Program claims and administrative expenses would be paid.

62. In fact, the Trust's assets that should have been segregated to provide reserves for the LTD Programs were simultaneously being used to support reserves for the Trust's obligations under its Medical Programs and other programs as well.

63. Huttleston Associates' failure to report that the reserves, which it had identified as necessary to pay the anticipated claims against the Trust, did not in fact exist, was a result of its failure to examine the adequacy of the Trust's actual assets and of basing its reserve determinations instead on the representations of the Trust's management and on the LTD Program premiums and claims experience.

64. Even after Huttleston Associates discovered that the Trust's assets for LTD Program reserves were being double-counted as Medical Program reserves, Huttleston continued to issue actuarial reports that made no mention of the lack of the assets supporting the reserves it established, while simultaneously showing exhibits that contained amounts of investment income earned on the asset portfolio.
65. Even the “paper” reserves Hurtleston established for the limited purpose of estimating future anticipated LTD Program benefit payments and associated administrative expenses were insufficient.

66. At least by 2002, it was apparent that LTD Program premiums were set at levels that were not sufficient to provide for the benefits and administrative expenses under the LTD Programs.

67. Hurtleston recognized in 2002 that the LTD Programs were underpriced, were not generating sufficient revenue to provide the necessary reserves, and that premium increases of 15% were necessary. In 2004, Hurtleston Associates determined that an increase of 20% was necessary. In 2007, Hurtleston determined that a 10.5% increase was required.

68. Indeed, by February 2008 the Trust was paying out more in current LTD claims and administrative costs than it was collecting in premiums. As there was no reason at this time to believe that the Trust’s liability for future LTD benefit payments was decreasing, the Trust was depleting what assets it did have, rather than building reserves supported by underlying assets from which future anticipated and unanticipated obligations could be paid.

69. The premium increases Hurtleston recommended in 2002 and 2007 were not implemented. In at least one instance, a proposal to increase premiums was vetoed by defendant Williams.

70. When premiums were not increased in the face of evidence that the LTD Programs were not generating sufficient revenue to be sustainable, it was essential for the Trust to quantify, record, and fund deficiency reserves in order to be in a position to pay for the accrued benefit obligations of the LTD Programs.
71. Huttleston Associates nonetheless failed, in its actuarial reports and otherwise, to establish a deficiency reserve, even though Huttleston knew that its recommendations for premium increases were not being followed.

72. The errors of the Trust’s actuarial consultant were compounded by the failure of the Trust’s auditors, Crowe Horwath, to recognize and advise the Trust that the actuarial reports the Trust was receiving were inadequate, that the Trust’s LTD Programs were unsustainable, and that the assets that should have been supporting the LTD Program reserves were being used for other purposes.

73. As a result of the foregoing acts and omissions, when the Trust ultimately was forced to terminate the LTD Programs on July 31, 2009, it remained liable for the incurred LTD claims of approximately 650 participants. In April 2009, Huttleston calculated that the necessary loss payable reserve for LTD claims, as of August 31, 2008, was approximately $34 million. The Trust lacked any liquid reserve assets from which those obligations could be paid.

**The Medical Programs and the Claims Stabilization Reserves**

74. The Medical Programs were first offered to and adopted by Indiana school corporations in the early 1990s.

75. The Medical Programs were designed under the assumption that the Trust could do no worse than break even on these Programs, and with the understanding that any surplus the Programs generated from better-than-expected claims experience would be credited to the participating school corporations as “claims stabilization reserves” (“CSR”). In point of fact, the Medical Programs’ design and implementation rendered it impossible for the Trust ever to accumulate any capital and reserves from which unanticipated losses or expenses could be
funded. And, as with the LTD Programs, the problem was compounded by the fact that no assets were ever set aside to fund the Trust’s CSR liabilities to participating school corporations.

76. Under the Medical Program’s design, when premiums charged to a participating school corporation proved to be greater than necessary to fund the school corporation’s claims—along with reinsurance premiums, an “IBNR” reserve to pay “run-out” claims incurred during the coverage period but paid after the end of the coverage period, and the school corporation’s share of the Program’s administrative expenses—the balance would be credited to the school corporation’s CSR account.

77. School corporations were sent annual accountings of the amounts that had accumulated in their CSR accounts, and these funds could be used by the school corporations to take “premium holidays” or as a “pledge” against part of a future year’s premiums.

78. Although the CSR was intended initially only as a way in which school corporations could use their favorable claims experience for the benefit of their employees by mitigating the Trust’s premiums, the Trust ultimately entered into credit refund agreements with some school corporations that gave them the right to withdraw the funds in their CSR accounts in the event that the school corporation terminated its participation in the Trust.

79. These agreements, which in effect gave away the legal rights to the Trust’s reserves, were made for marketing purposes and without analysis of their fiscal soundness, with the full knowledge and participation of Williams, Frankel, McInnes Maggart, and Huttleston Associates. The Trust received no compensation for ceding to the participating school corporation the unrestricted right to all of the benefit of that school corporation’s favorable claims experience.
80. On the other hand, no school corporation was ever required to pay a surcharge when its claims experience was negative, or to repay any negative balance that remained when the school corporation ceased funding its Medical Program through the Trust.

81. School corporations were, moreover, guaranteed an interest rate on their CSR accounts. The design of the Medical Programs provided for no reserves from which liabilities to the school corporations, due to investment earnings below that rate, could have been funded.

82. Nor did the design of the Medical Programs permit the Trust to accrue capital and reserves that could have been used to fund unanticipated losses.

83. This absence of reserves to pay for unanticipated losses was particularly problematic because the Trust’s Medical Programs were so designed that during the first years of a school corporation’s participation the school corporation could be in a deficit position. Thus, if the school corporation terminated its participation – or had significantly fewer employees enrolled in its Medical Program – after the initial year or years, the premiums it had paid could be insufficient to cover its claims and expenses. The Trust had no way to recoup such deficiencies from the school corporation.

84. In fact, the Trust suffered significant losses in several such cases, notably in the case of the Indianapolis Public Schools (“IPS”), where the Trust lost approximately $6 million because of a significant drop in that school corporation’s participation after the first year.

85. In addition, the Trust suffered substantial losses in at least one case because of mathematical errors made by its underwriter.

86. Defendants Williams, Frankel, McInnes Maggart, and Huttleston Associates were aware or should have been aware that, because of the way the CSR was treated, the Trust was accruing no reserves that could be used to compensate for anticipated or unanticipated losses
when school corporations terminated or reduced coverage while in deficit positions, because of
ersors in calculating premiums, errors in calculating administrative expenses, poor investment
results, or other possible sources of losses.

87. Even after the $6 million loss suffered by the Trust’s Medical Programs as a result
of the IPS debacle, these defendants nonetheless failed to make any adjustments to the design or
implementation of the Medical Programs and the CSR that would have allowed the Trust to
accumulate capital and reserves from which such unanticipated losses could, in the future, be
funded. The defendants continued, until plaintiff Sullivan gained authority over the governance
of the Trust in June 2009, to implement the Medical Programs and the CSR as set forth above,
and they continued to enter into credit refund agreements with participating school corporations
that turned over to the school corporation the rights to their CSR accounts whether or not they
continued to participate in the Trust’s programs.

88. As a result, at the time the Trust terminated the Medical Programs in June 2009, it
retained a net CSR liability to participating school corporations in the amount of at least $20
million.

89. No assets had actually been set aside as CSR reserves from which this liability
could have been paid. Rather, the claims stabilization reserves existed only in the sense that they
reflected, on paper, the surplus of premiums over claims and other expenses. No effort was
made to reconcile these “reserves” with the Trust’s actual assets.

90. Defendant Crowe Horwath, the Trust’s auditors, failed to report that no CSR
reserves or assets backing CSR reserves actually existed.
91. The Trust’s assets that should have been segregated to provide reserves for the
Trust’s CSR liabilities were simultaneously being used to support reserves for the Trust’s
obligations under its LTD Programs.

92. Defendant Huttleton Associates began to issue annual actuarial opinions with
respect to the Trust’s Medical Programs in January 2006, which were intended to reassure the
Indiana Department of Insurance about the actuarial soundness of those Programs. In these
opinions, Huttleton concluded that the Trust’s Medical Programs were actuarially sound.
Huttleton did so in part by mischaracterizing the CSR as a contingent liability. Huttleton
continued to advance the view that the Medical Programs were actuarially sound in subsequent
opinions, including one issued in January 2008.

93. Crowe Horwath exacerbated the problem by accepting Huttleton’s
mischaracterization of the CSR as a contingent liability. Crowe Horwath’s audit reports thus
significantly understated the Trust’s actual liabilities and misled the Trustees about the Trust’s
actual capital position.

94. Defendants McInnes Maggart and Huttleton Associates, who were responsible
for making pricing recommendations, issuing actuarial opinions, and determining the necessary
level of reserves for the Medical Programs and the LTD Programs, made those determinations
without access to information about the Trust’s actual assets, in violation of their professional
obligations.

95. At the urging of McInnes Maggart, the Trust purchased stop-loss insurance
coverage for many Medical Programs on an individual rather than pooled basis. Doing so
provided no significant additional protection for the Trust, wasted resources, and provided excess
compensation to McInnes Maggart, which received commissions on the stop-loss policies.
96. Because of the Medical Program losses for which no reserves had been established, the LTD Program losses for which no reserves had been established, the transfer of the entire benefit from favorable claims experience to the school corporations’ CSR accounts, and the Trust’s investment losses detailed above, the Trust had a negative capital position of tens of millions of dollars by the spring of 2009.

97. As a result of its lack of liquid assets, the Trust had no alternative to accepting an agreement on May 4, 2009, under pressure from the Indiana Department of Insurance which had brokered the arrangement, whereby the funding of the Medical Programs was transferred to a private insurer, United Healthcare, on terms that were highly disadvantageous to the Trust. Had the Trust’s capital position not been so desperate, the Trust would have been able to negotiate an agreement with a private insurer that would have returned some value to the Trust that could have been used to offset the Trust’s liabilities.

The Auditors

98. Defendant Crowe Horwath served as the Trust’s auditors pursuant to a written engagement letter, a copy of which is attached hereto as Exhibit D.

99. Crowe Horwath failed in its professional obligation to understand and report to the Trustees the serious errors of the Trust’s management and of other service providers, as set forth above.

100. Thus, Crowe Horwath failed to recognize and report that the Trust’s LTD Programs were unsustainable and that the actuarial reports on the LTD Programs were inadequate.
101. The auditors also failed to recognize and report that assets needed as LTD Program reserves were being used for other purposes, such as paying Medical Program claims and backing the CSR, and that no separate assets existed for the LTD Program reserves.

102. The auditors failed to alert the Trustees to the disparity between the Trust’s paper reserves and its actual assets, and to report that the reserves that existed on paper had been used for other purposes.

103. The auditors failed to warn the Trustees about the consequences of assets being diverted from one program to another program.

104. The auditors accepted Huttleston Associates’ mischaracterization of the CSR as a contingent liability, thus wildly understating the Trust’s liabilities and misleading the Trustees about the Trust’s capital position.

105. The auditors failed to recognize and warn the Trustees that the Trust’s assets were being invested in private placements and other alternative investments that were illiquid, inappropriate for the Trust, and contrary to the Trust’s investment policy.

106. Crowe Horwath’s failure to report these serious problems contributed significantly to the Trust’s losses. Had the auditors performed their professional duty to call attention to these issues at an earlier date, they could have been remedied in a more orderly fashion that would have avoided the substantial losses the Trust suffered in 2008-2009.

**First Cause of Action**
**Breach of Trust/Breach of Fiduciary Duty**
*(Defendants Williams, Karandos, UBS, and Morgan Stanley)*

107. The averments of paragraphs 1-106 are incorporated as if fully set forth herein.

108. Defendants Karandos, UBS, and Morgan Stanley provided investment advice to the Trustees for a fee and were fiduciaries with respect to the Trust.
109. Defendant Williams, as the Trust’s Executive Director and a Trustee, was a fiduciary with respect to the Trust.

110. The members of the Trust’s Board of Trustees were lay persons with respect to financial issues, who accordingly relied on the advice provided to them by their investment advisors.

111. "Alternative investments" in the amount of up to 20% of Trust assets, as allowed by the Trust’s 2004 investment policy, are inappropriate for welfare benefit plans like the LTD Programs and Medical Programs funded through the Trust.

112. Karandos, UBS, and Williams breached their fiduciary duty to the Trust in proposing, and securing the adoption of, an investment policy that allowed the investment of up to 20% of the Trust’s assets in "alternative" investments.

113. Just over a year after the 2004 investment policy was formally adopted by the Board of Trustees, Karandos, UBS, and Williams began to invest the Trust’s assets in private placements.

114. Such investments are highly inappropriate for welfare benefit plans like the LTD Programs and Medical Programs funded through the Trust, which require a high degree of liquidity, and private placements were specifically prohibited by the Trust’s investment policy.

115. In further disregard of the terms of the 2004 investment policy, Karandos, UBS, and Williams placed a large portion of the Trust’s total assets in alternative investments, including private placements, far exceeding the 20% maximum allowed for alternative investments by the 2004 investment policy.

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116. Karandos, UBS, and Williams failed sufficiently to apprise the Board of Trustees of the risks associated with such investments, of their lack of liquidity, and generally of the reasons why such investments were inappropriate for the Trust.

117. Until the Trust’s liquidity crisis in the fall of 2008, Karandos, UBS, and (beginning in February 2008) Morgan Stanley had a fiduciary obligation to advise the Trust that its heavy investment in illiquid and risky alternative investments, including particularly private placements, was inappropriate and that the Trust should move to dispose of these investments in an orderly manner. Karandos, UBS, and Morgan Stanley failed to do so, even as the Trust’s holdings in private placements rose to 58% of its total assets in June 2008 and to nearly 79% of its total assets by the end of 2008.

118. Similarly, Williams failed in his fiduciary obligation to take appropriate steps to reduce or eliminate the Trust’s inappropriate holdings in a timely manner.

119. Williams breached his fiduciary duty to the Trust in agreeing to pay Karandos the increased fees Karandos demanded in the fall of 2008.

120. In their acts and omissions described above, Karandos, UBS, Morgan Stanley, and Williams breached their fiduciary duty to the Trust, in violation of Indiana law.

121. Because of these breaches of trust, the Trust suffered severe investment and business losses, including but not limited to losses from being forced to sell illiquid assets at a fraction of their value, the loss of business revenue from being forced to transfer the funding of the Medical Programs to a private insurer without receiving value in exchange because of the Trust’s lack of liquidity, and the payment of excess fees to the Trust’s investment advisors.
Second Cause of Action
Securities Fraud
(Defendants Karandos, UBS, and Morgan Stanley)

122. The averments of paragraphs 1-121 are incorporated as if fully set forth herein.

123. Karandos, UBS, and Morgan Stanley were the Trust’s investment advisors. They provided investment advice for a fee, and they participated in the Trust’s purchase and sale of securities.

124. The actions of Karandos, UBS, and Morgan Stanley set forth in detail above, in knowingly recommending and selling unsuitable investments to the Trust, failing to disclose the risks associated with these investments, and failing to advise that such investments be sold at an appropriate time, constitute fraudulent and deceptive behavior in violation of the Indiana Securities Law and the Indiana Uniform Securities Act.

125. Through these acts and omissions the Trust was injured as set forth above.

Third Cause of Action
Negligence
(Defendants Karandos, UBS, and Morgan Stanley)

126. The averments of paragraphs 1-125 are incorporated as if fully set forth herein.

127. In performing their duties as investment advisors to the Trust, defendants Karandos, UBS, and Morgan Stanley had a duty to act prudently and to exercise reasonable care.

128. Karandos and UBS breached their duty of care by placing the Trust’s assets, and recommending the placement of the Trust’s assets, in investments that they knew or should have known were unsuitable for the Trust.

129. Karandos and UBS further breached their duty of care by placing the Trust’s assets, and recommending the placement of the Trust’s assets, in investments that were in violation of the Trust’s investment policy adopted by its Board of Trustees.
130. On information and belief, Karandos and UBS further breached their duty of care by failing to advise the Trust of the risks associated with alternative investments, of their lack of liquidity, and generally of the reasons why such investments were inappropriate for the Trust.

131. Karandos, UBS, and Morgan Stanley further breached their duty of care by failing to advise the Trust in a timely fashion to move to dispose of or reduce its holdings of its heavy investments in private placements and other alternative investments.

132. Through these acts and omissions the Trust was injured as set forth above.

**Fourth Cause of Action**

**Constructive Fraud**

(Defendants Karandos and UBS)

133. The averments of paragraphs 1-132 are incorporated as if fully set forth herein.

134. Defendants Karandos and UBS owed a fiduciary duty to the Trust, as set forth above.

135. That duty required Karandos and UBS to advise the Trust’s Board of Trustees of the risks associated with the private placements and other alternative investments in which defendants were investing the Trust’s assets, of their lack of liquidity, and generally of the reasons why such investments were inappropriate for the Trust.

136. Defendants failed to advise the Trustees of the significant risks, including but not limited to the lack of liquidity and the exposure to huge capital calls, associated with the private placements and other alternative investments in which Karandos was placing the Trust’s assets. Thus, on March 11, 2005, August 5, 2005, May 12, 2006, August 3, 2006, August 3, 2007, December 14, 2007, February 16, 2007, May 11, 2007, February 15, 2008, May 9, 2008, July 31, 2008, and September 12-13, 2008, when defendant Karandos reported on the Trust’s investments at meetings of the Board of Trustees, he failed to advise the Trustees of these risks.
137. The Board of Trustees relied on Karandos and UBS for their information with respect to the Trust’s investments.

138. Through their deceptive material misrepresentations or omissions of material facts that they had a duty to provide, Karandos and UBS gained an advantage, in the form of additional commissions and fees, at the expense of the Trust.

139. As a proximate result of the material misrepresentations and omissions of Karandos and UBS, the Trust was injured as set forth in detail above.

**Fifth Cause of Action**

_Civil Action by Crime Victim_  
_Defendants Karandos, UBS, and Morgan Stanley_

140. The averments of paragraphs 1-139 are incorporated as if fully set forth herein.

141. By their acts detailed above, defendants Karandos, UBS, and Morgan Stanley misapplied and exercised unauthorized control over the Trust’s funds that were entrusted to them for investment in a manner that they knew involved a substantial risk of loss to the Trust. Defendants Karandos, UBS, and Morgan Stanley also knowingly and intentionally caused the Trust to suffer pecuniary loss by deception.

142. Through these actions the Trust was injured as set forth above.

143. The acts of Karandos, UBS, and Morgan Stanley constituted deception, including securities fraud, within the meaning of Ind. Code § 35-43-5-3, conversion, within the meaning of Ind. Code § 35-43-4-3(a), and criminal mischief, within the meaning of Ind. Code § 35-43-1-2(a)(2), and these defendants accordingly are liable to the Trust for treble damages under the Civil Action by Crime Victim Act, Ind. Code § 34-24-3-1.
Sixth Cause of Action
Breach of Contract
(Defendants Karandos, UBS, and Morgan Stanley)

144. The averments of paragraphs 1-143 are incorporated as if fully set forth herein.

145. The Trust entered into written consulting agreements with Karandos and his employers, UBS and Morgan Stanley. In these agreements, the investment advisors contracted to analyze the Trust’s investment goals and risk tolerance, and to select suitable investments for the Trust.

146. Karandos, UBS, and Morgan Stanley breached these agreements by selecting unsuitable investments for the Trust’s assets, and by failing in their contractual obligations to act prudently with respect to the Trust’s assets.

147. Through these acts and omissions the Trust was injured as set forth above.

Seventh Cause of Action
Conspiracy
(Defendants Williams, Karandos, UBS, and Morgan Stanley)

148. The averments of paragraphs 1-147 are incorporated as if fully set forth herein.

149. Defendant Williams agreed and conspired with defendants Karandos and UBS to place the bulk of the Trust’s assets in private placements and other alternative investments without informing the Trust’s Board of Trustees of the risks, including but not limited to the lack of liquidity and the exposure to large capital calls, associated with such investments.

150. Pursuant to that agreement, defendants Karandos and UBS did in fact place the bulk of the Trust’s assets in such investments.

152. Through these actions, these defendants conspired to defraud and constructively defraud the Trust, and to breach duties to the Trust.

153. As a result of this conspiracy, the Trust was injured as set forth above.

**Eighth Cause of Action**

**Aiding and Abetting**

*(Defendants Williams, Karandos, UBS, and Morgan Stanley)*

154. The averments of paragraphs 1-153 are incorporated as if fully set forth herein.

155. As set forth above, defendants Karandos, UBS, and Morgan Stanley knowingly assisted in the breaches of trust and breaches of fiduciary duty by defendant Williams described above.

156. As also set forth above, defendant Williams knowingly assisted in the breaches of trust and breaches of fiduciary duty by defendants Karandos, UBS, and Morgan Stanley described above.

157. As also set forth above, defendants UBS and Morgan Stanley knowingly assisted in the breaches of trust and breaches of fiduciary duty by defendant Karandos described above.

158. Each of these defendants benefited from the others’ breaches of trust and breaches of their fiduciary duties.

**Ninth Cause of Action**

**Breach of Trust/Breach of Fiduciary Duty**

*(Defendants Williams and Frankel)*

159. The averments of paragraphs 1-158 are incorporated as if fully set forth herein.

160. As the Trust’s Chief Executive Officer and Director, respectively, Williams and Frankel exercised discretionary authority and therefore were fiduciaries with respect to the Trust.

161. Williams and Frankel were obligated to act with ordinary care, skill, and prudence in managing the affairs of the Trust.
162. Williams and Frankel failed to act with such care, skill, and prudence and thus breached their duty to the Trust in their management of the Trust.

163. The actions through which Williams and Frankel, acting in concert with other defendants as set forth herein, breached their duty to the Trust included, but were not limited to, the following:

a. designing the Trust’s LTD Programs in a manner that failed to produce sufficient income to the Trust to provide reserves for LTD Program claims the Trust would be obligated to pay in the future, as well as reserves for unexpected contingencies;

b. failing to set aside the reserves generated by LTD Program premiums in a fund that would be available to pay future LTD Program claims;

c. expending funds that should have constituted the Trust’s LTD Program reserves for current operating expenses, for excessive compensation to the Trust’s service providers, to pay Medical Program claims, and for other purposes;

d. failing to raise LTD Program premiums when advised that the current level of premiums was not generating sufficient revenue to provide the necessary reserves, and in addition failing to establish a deficiency reserve to pay future claims;

e. ceding to participating school corporations legal rights to Trust assets in the claims stabilization reserves, notwithstanding that no assets existed to back such reserves;

f. failing to provide the Trust’s underwriters and actuaries access to information about the Trust’s assets;
g. allowing participation in the Medical Programs by the Indianapolis Public
   Schools on terms that exposed the Trust to risk beyond that covered by the Trust’s
   reinsurance contracts, resulting in heavy losses;

h. failing to ensure that the Trust’s assets designated as reserves for specific
   purposes would be used only for such purposes; and

i. failing to reconcile their actuaries’ and underwriters’ reports about reserves being
   generated by the LTD Programs and the Medical Programs with the Trust’s actual
   assets.

164. Because of these breaches of trust, the Trust was left without assets sufficient to
   pay its future LTD Program claims as well as school corporation claims to the CSR. As a result,
   the Trust was forced to cease funding both the Medical Programs and the LTD Programs, and
   was left with unpaid obligations of at least $54 million.

Tenth Cause of Action
Negligence and Professional Malpractice
(Defendant Huttleston Associates)

165. The averments of paragraphs 1-164 are incorporated as if fully set forth herein.

166. Defendant Huttleston Associates was the Trust’s consulting actuary from 1989 to
   2009 with respect to the Trust’s LTD Programs.

167. In recommending premiums and establishing reserves for the LTD Programs and
    otherwise performing its actuarial functions with respect to both the LTD Programs and the
    Medical Programs, Huttleston Associates had a duty to exercise that degree of skill, diligence,
    and professional care possessed and customarily exercised by professional actuaries.

168. As set forth in detail above, Huttleston Associates failed to perform its duties in
    accordance with actuarial standards of practice.
169. As a direct and proximate result of Huttleston Associates’ negligence and professional malpractice, the Trust was injured as set forth above.

**Eleventh Cause of Action**

**Constructive Fraud**

(Defendant Huttleston Associates)

170. The averments of paragraphs 1-169 are incorporated as if fully set forth herein.

171. Defendant Huttleston Associates had a special relationship with the Trust, as a close and trusted advisor and actuarial consultant who possessed superior knowledge and expertise on which the Trust relied.

172. As a result of that relationship, Huttleston Associates owed a special duty to the Trust, in making actuarial determinations and reports to the Trust and its auditors.

173. Huttleston Associates violated that special duty by failing, in its actuarial reports dated August 6, 2004, August 4, 2005, August 4, 2006, August 2, 2007, August 1, 2008, and otherwise, to establish a deficiency reserve for the LTD Programs, notwithstanding Huttleston’s recognition on multiple occasions that premiums were set at levels that were insufficient to generate reserves from which future claims could be paid.

174. Huttleston Associates further violated its special duty by mischaracterizing the CSR as a contingent liability and by issuing opinions that misrepresented the Medical Programs as being actuarially sound, including but not limited to its Statements of Actuarial Opinion dated January 13, 2006 and January 9, 2008.

175. As a result of Huttleston’s misrepresentations and its silence in the face of its professional duty to the Trust, the Trust was injured as set forth in detail above.

176. Huttleston Associates, and its affiliated Huttleston Benefit Group – which provided third-party administration services to the Trust’s LTD Programs – received substantial
revenues from the Trust. Had Huttleston Associates established all necessary reserves at appropriate levels – which Huttleston knew the Trust could not fund – the Trust likely would have been required to terminate its LTD Programs, with the result that Huttleston Associates and Huttleston Benefit Group would have lost substantial fees and revenues.

177. By remaining silent when it had a duty to speak, Huttleston Associates thus gained an advantage at the expense of the Trust.

**Twelfth Cause of Action**
**Breach of Contract**
**(Defendant Huttleston Associates)**

178. The averments of paragraphs 1-177 are incorporated as if fully set forth herein.

179. Defendant Huttleston Associates was party to an oral contract with the Trust, pursuant to which it agreed to perform actuarial functions with respect to both the LTD Programs and the Medical Programs, exercising that degree of skill, diligence, and professional care possessed and customarily exercised by professional actuaries.

180. Huttleston Associates breached its contract by performing its actuarial duties for the Trust in a manner that, as set forth above, was not in accordance with the professional standards it had contracted to observe.

181. Through these acts and omissions the Trust was injured as set forth above.

**Thirteenth Cause of Action**
**Negligence and Professional Malpractice**
**(Defendant McInnes Maggart)**

182. The averments of paragraphs 1-181 are incorporated as if fully set forth herein.

183. Defendant McInnes Maggart was an insurance consultant to the Trust, advising on design, underwriting, and pricing of the Medical Programs. McInnes Maggart also negotiated reinsurance contracts for the Medical Programs on behalf of the Trust.
184. In that capacity, McInnes Maggart had a duty to exercise that degree of skill, diligence, and professional care possessed and customarily exercised by insurance professionals.

185. As set forth above, McInnes Maggart failed to perform its duties in accordance with these professional standards, including but not limited to its failure to warn the Trust of the inadequacy of its reserves for the Medical Programs.

186. In addition, McInnes Maggart caused the Trust to purchase stop-loss coverage for many Medical Programs on an individual rather than a pooled basis, thereby incurring unnecessary costs, while providing additional compensation to McInnes Maggart.

187. As a direct and proximate result of McInnes Maggart’s negligence and professional malpractice, the Trust was injured as set forth above.

Fourteenth Cause of Action
Constructive Fraud
(Defendant McInnes Maggart)

188. The averments of paragraphs 1-187 are incorporated as if fully set forth herein.

189. Defendant McInnes Maggart had a special relationship with the Trust, as a close and trusted advisor and insurance consultant who possessed superior knowledge and expertise on which the Trust relied.

190. As a result of that relationship, McInnes Maggart owed a special duty to the Trust, in performing its consulting services on behalf of the Trust.

191. McInnes Maggart violated that special duty by failing, during its presentations to the Trust’s Board of Trustees on August 3, 2006, July 31, 2008, September 12-13, 2008, and February 20, 2009, and otherwise, to alert the Trust to the inadequacy of its reserves for the Medical Programs.
192. McInnes Maggart further violated its special duty to the Trust by representing to the Trust, at each of the times stop-loss insurance was purchased for the Medical Programs of participating school corporations from 2003 to 2009, that stop-loss insurance policies should be purchased on an individual rather than a pooled basis.

193. As a result of McInnes Maggart’s silence and misrepresentations in the face of its professional duty to the Trust, the Trust was injured as set forth in detail above.

194. McInnes Maggart received substantial fees from the Trust and earned substantial additional commissions on the reinsurance policies it brokered. Had McInnes Maggart alerted the Trust to the inadequacy of its Medical Program reserves, the Trust might have been forced to terminate its funding of the Medical and LTD Programs, with the result that McInnes Maggart would have lost substantial fees and commissions. In addition, McInnes Maggart significantly increased the commissions it earned by advising the Trust to purchase stop-loss insurance on an individual rather than a pooled basis.

195. Through these acts and omissions, McInnes Maggart gained an advantage at the expense of the Trust.

Fifteenth Cause of Action
Breach of Contract
(Defendant McInnes Maggart)

196. The averments of paragraphs 1-195 are incorporated as if fully set forth herein.

197. Defendant McInnes Maggart was party to an oral contract with the Trust, pursuant to which it agreed to exercise that degree of skill, diligence, and professional care possessed and customarily exercised by insurance professionals, in advising the Trust on design, underwriting, and pricing of the Medical Programs and in procuring reinsurance policies for the Medical Programs.
198. McInnes Maggart breached its contract by performing its duties for the Trust in a manner that, as set forth above, was not in accordance with the professional standards it had contracted to observe.

199. Through these acts and omissions the Trust was injured as set forth above.

**Sixteenth Cause of Action**  
**Negligence and Professional Malpractice**  
*(Defendant Crowe Horwath)*

200. The averments of paragraphs 1-199 are incorporated as if fully set forth herein.

201. At all relevant times, defendant Crowe Horwath was a professional accounting firm.

202. Crowe Horwath was retained by the Trust to audit and report on the Trust’s financial statements.

203. In performing its duties as auditor, Crowe Horwath had a duty to exercise that degree of skill, diligence, and professional care possessed and customarily exercised in the accounting profession, and to perform its audits in accordance with auditing standards generally accepted in the United States of America.

204. As set forth above, Crowe Horwath failed to perform its duties in accordance with these professional standards, and instead performed its services to the Trust with gross negligence.

205. As a direct and proximate result of Crowe Horwath’s failure to conduct its audits according to professional standards, the Trust’s serious problems detailed above, and the breaches of fiduciary duty by the Trust’s fiduciaries and investment advisors that led to those problems, were not recognized until they resulted in severe losses and the Trust’s near-insolvency.
Seventeenth Cause of Action  
Constructive Fraud  
(Defendant Crowe Horwath)

206. The averments of paragraphs 1-205 are incorporated as if fully set forth herein.

207. Defendant Crowe Horwath had a special relationship with the Trust, as the Trust’s longstanding auditor. Crowe Horwath possessed superior knowledge and expertise on which the Trust and its Trustees relied.

208. As a result of that relationship, Crowe Horwath owed a special duty to the Trust, in issuing its audit reports.

209. Crowe Horwath violated that special duty by repeatedly and continuously failing, in its audit reports dated November 17, 2006, February 6, 2008, and March 16, 2009, and otherwise, to report the serious problems in the Trust’s structure and operations set forth in detail above, which if not corrected would only become compounded and render the Trust’s operations unsustainable.

210. In addition, Crowe Horwath violated its special duty by accepting Hurtleston Associates’ mischaracterization of the CSR as a contingent liability, thus understating the Trust’s liabilities and misrepresenting the Trust’s financial position, in its audit reports dated November 17, 2006, February 6, 2008, and March 16, 2009.

211. As a result of this misrepresentation and of Crowe Horwath’s silence in the face of its professional duty to report the Trust’s financial problems to the Trustees, the Trust was injured as set forth in detail above.

212. Crowe Horwath received substantial fees from the Trust. Had Crowe Horwath reported the Trust’s serious financial problems in its audit reports, the Trust might well have
been forced to terminate its LTD and Medical Programs, with the result that Crowe Horwath would have lost revenues.

213. By remaining silent when it had a duty to speak, Crowe Horwath thus gained an advantage at the expense of the Trust.

**Eighteenth Cause of Action**
**Breach of Contract**
*(Defendant Crowe Horwath)*

214. The averments of paragraphs 1-213 are incorporated as if fully set forth herein.

215. Defendant Crowe Horwath entered into a series of written contracts with the Trust to provide audit services. In these agreements, Crowe Horwath contracted to plan and perform its audits in accordance with generally accepted auditing standards.

216. Crowe Horwath breached its agreements by performing its audits for the Trust in a manner that, as set forth above, was not in accordance with generally accepted auditing standards.

217. Through these acts and omissions the Trust was injured as set forth above.

**Nineteenth Cause of Action**
**Aiding and Abetting**
*(Defendants Huttleston Associates, McInnes Maggart, and Crowe Horwath)*

218. The averments of paragraphs 1-217 are incorporated as if fully set forth herein.

219. As set forth above, defendants Huttleston Associates, McInnes Maggart, and Crowe Horwath knowingly assisted in the breaches of trust and breaches of fiduciary duty committed by defendants Williams and Frankel described above.

220. Each of these defendants benefited from the breaches of trust and breaches of fiduciary duty by defendants Williams and Frankel, in that such breaches enabled these defendants’ continued receipt of substantial fees and commissions.
Prayer for Relief

WHEREFORE, plaintiff Sullivan respectfully prays that the Court grant the following relief:

A. Order the defendants, jointly and severally, to make the Trust whole for its losses suffered because of their actions, as set forth above.

B. Award the Trust compensatory damages, payable by the defendants jointly and severally, in the amount of the losses suffered by the Trust because of defendants’ actions.

C. Award the Trust consequential damages, payable by the defendants jointly and severally.

D. Award the Trust punitive damages, payable by the defendants jointly and severally.

E. Order defendants UBS and Karandos to rescind any and all investments made by the Trust in private placements and any other investments inappropriate for a Trust fund of this nature and contrary to the Trust’s 2004 investment policy, and to restore to the Trust the full value, including an appropriate measure of foregone investment earnings, of the funds paid by the Trust for such investments.

F. In the alternative, award the Trust damages in the amount of the difference between the purchase price and the value when disposed of, of the private placements and other inappropriate investments.

G. Order that plaintiff shall recover from defendants Karandos, UBS, and Morgan Stanley the fees paid by the Trust for defendants’ fraudulent investment advice, as well as all losses suffered by the Trust due to such advice.
H. Order the defendants to disgorge all commissions, fees, and profits earned or received as a result of their breach of trust, negligence, fraud, breach of contract, and other wrongful acts.

I. Order Karandos, UBS, and Morgan Stanley to pay the Trust treble damages, pursuant to the Civil Action by Crime Victim Act, for losses suffered due to their actions.

J. Award prejudgment interest.

K. Award the Trust its reasonable attorneys’ fees and costs incurred in pursuing this action.

L. Grant such other and further relief as the Court may deem appropriate.

**Jury Demand**

Plaintiff demands a trial by jury of all issues so triable.

Respectfully submitted,

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