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Insurance Commissioner of the State of California
13 in his Capacity as Conservator of
Majestic Insurance Company
14

15 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
16 CITY AND COUNTY OF SAN FRANCISCO
17

18 DAVE JONES, INSURANCE
COMMISSIONER OF THE STATE OF
19 CALIFORNIA,

20 Applicant,

21 v.

22 MAJESTIC INSURANCE COMPANY, and
DOES 1-50, inclusive,

23 Respondents.
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Case No. CPF-11-511261

**INSURANCE COMMISSIONER DAVE JONES'
REPLY TO CONTRACTORS' OBJECTION TO
PROPOSED REHABILITATION PLAN FOR
MAJESTIC INSURANCE COMPANY**

Date: June 2, 2011

Time: 9:30 a.m.

Dept.: 301

Judge: Hon. Peter J. Busch

EXEMPT from filing fees per Govt. Code § 6103

I.

INTRODUCTION

The objection served by Plaintiffs Mark Tanner Construction, Inc., Doc Gelso Construction, Inc., Mt. Lincoln Construction, Inc., and Sierra Paint & Chemical, Inc. (collectively “Contractors”) to the proposed plan of rehabilitation (“Rehabilitation Plan”) for Majestic Insurance Company (“Majestic”) is without merit. Contractors’ objection misinterprets both the Rehabilitation Plan and California insurance law as set forth in detail below.¹

II.

DISCUSSION

Contractors’ arguments are vague, conclusory, and difficult to interpret. A theme presented in the purported “factual background” of Contractors’ Objection is that the Conservation itself was unnecessary. The need for Conservation, however, has already been determined by the California Department of Insurance (“CDI”) after its financial examination of Majestic and an uncontested Conservation Order has been entered.² Once an insurer has been conserved pursuant to California Insurance Code sections 1010 *et seq.*, the sole and exclusive method of challenging the conservation is for the company or the conservator to file an application to terminate the conservatorship under Insurance Code section 1012. Cal. Ins. Code § 1012. Majestic did not contest the conservation. A policyholder or creditor has no standing to challenge the placement of Majestic into conservation. *Id.*

Petitioners next assert arguments that fall into three general categories: (1) the Rehabilitation Plan does not adequately make provision for Contractors’ alleged policyholder and general creditor claims against Majestic’s parent and its affiliates; (2) AmTrust North America,

¹ It appears from the Court’s docket that Contractors did not file their objection with the Court in compliance with the Court’s April 21, 2011 Order setting the hearing and briefing schedule. Attached hereto as Exhibit A for the convenience of the Court are the Plaintiffs Contractors’ Objection to Rehabilitation Plan for Majestic Insurance Company (“Contractors’ Objection”) received by counsel for Insurance Commissioner Dave Jones, as the statutory conservator of Majestic (“Conservator”).

² The results of the CDI’s financial examination of Majestic are detailed in the declaration of the CDI’s Chief Actuary Ronald Dahlquist. Declaration of Ronald Dahlquist in Support of Insurance Commissioner Dave Jones’ Motion for Order Approving Rehabilitation Plan, ¶¶ 7-9; Declaration of Al Bottalico In Support of Insurance Commissioner Dave Jones’ Motion for Order Approving Rehabilitation Plan for Majestic Insurance Company, ¶ 5; Declaration of David E. Wilson in Support of Insurance Commissioner Dave Jones’ Motion for Order Approving Rehabilitation Plan for Majestic Insurance Company (“Wilson Decl.”), ¶¶ 13-14.

1 Inc. ("AmTrust") has not assumed an adequately binding obligation under the Rehabilitation
2 Agreement and related agreements; and (3) the Rehabilitation Agreement states that Majestic's
3 assets are insufficient to even close the Agreement. None of these arguments are supported by
4 evidence or law and, accordingly, they each fail in turn.

5 **A. The Rehabilitation Plan Makes Proper Provision for Both Policyholder and General**
6 **Creditor Claims.**

7 Contractors incorrectly assert that the Rehabilitation Agreement does not make provision
8 for claims such as the pending litigation by Contractors or the obligations of Majestic to former
9 members of the workers' compensation self-insurance program Contractors Access Program of
10 California ("CAP"). See Plaintiffs Contractors' Objection to Rehabilitation Plan for Majestic
11 Insurance Co. ("Contractors' Memo."), 4:8-9.³ On the contrary, the Rehabilitation Plan calls for
12 equal, ratable treatment of all allowed general creditor claims. See Wilson Decl., Ex. 2
13 (Rehabilitation Agreement), art. VIII. Thus, the Plan makes provision for Contractors' claims, to
14 the extent any of them are allowed.⁴

15 Given the provision made in the Rehabilitation Plan for general creditor claims,
16 Contractors' request "that the agreement be amended or changed to account for some recovery of
17 non-policyholder claims" is flawed. See Contractors' Memo., 21-22. Absent material
18 deterioration in Majestic's assets or an unexpected increase in liabilities, the closing of the
19 transactions contemplated under the Rehabilitation Plan is expected to leave the Majestic
20 conservation estate with more than \$15 million in residual assets to apply towards expenses of
21 administration and the satisfaction of general creditor claims and other interests, in the priority
22 order prescribed under Insurance Code section 1033(a). Wilson Decl., ¶ 14. The Rehabilitation
23 Plan thus makes appropriate provision for non-policyholder claims. Any argument by

24 ³ To the extent Contractors claim to be policyholders under insurance contracts written by Majestic, policyholder
25 liabilities are included in and covered by the Loss Portfolio Transfer/Reinsurance Agreement entered into between
26 Majestic and AmTrust under the Rehabilitation Plan. See Wilson Decl., Ex. 2 (Rehabilitation Agreement), Ex. B
(Loss Portfolio Transfer and Quota Share Reinsurance Agreement), art. II. Thus, any policyholders would receive
27 100% payment on any policyholder claims. *Id.*

28 ⁴ It is questionable whether the Contractors' general creditor claims will result in an allowed claim, particularly
given a recent tentative ruling by the Supreme Court sustaining a demurrer to Contractors' pending litigation. See
Tanner v. Majestic Capital Ltd., Case No. CGC11507678, Superior Court, County of San Francisco, Tentative
Ruling for Hearing on Demurrer set for April 29, 2011 (stayed by virtue of Conservation Order).

1 Contractors that \$15 million is inadequate fails. No competing purchaser has stepped forward to
2 better the AmTrust proposal, which provides full coverage for policyholders and addresses the
3 gaping reserve insufficiency of Majestic. The priorities in section 1033 are set forth by law and
4 cannot be altered. The Rehabilitation Plan adequately protects the rights of policyholders and
5 general creditors.

6 **B. The Agreements with AmTrust are Supported by Consideration.**

7 Contractors also erroneously claim that the Rehabilitation Agreement would not subject
8 AmTrust to any detriment, and thus would not constitute a valid contract. *See* Contractors'
9 Memo., 4:11-15. This argument completely ignores that under the Rehabilitation Plan and related
10 documents AmTrust has agreed to reinsure all of Majestic's policies without limit. Section 2.9 of
11 the Renewal Rights and Asset Purchase Agreement cited by Contractors provides AmTrust will
12 not assume certain liabilities of Majestic

13 *[o]ther than the assumption of the Assumed Contracts pursuant to*
14 *the assumption agreements in form and substance reasonably*
15 *satisfactory to the parties hereto, the assumption of the Offices*
16 *Lease pursuant to the Lease Assumption Agreements and the*
assumption of certain Liabilities of the Seller pursuant to the
Reinsurance Agreement.

17 Wilson Decl., Ex. 2 (Rehabilitation Agreement), Ex. A, art. II, Section 2.9 (emphasis added).
18 Contractors conveniently omitted the part of Section 2.9 that listed all of the liabilities AmTrust
19 assumes, including the obligation to reinsure Majestic's insurance liabilities without limit.
20 AmTrust will assume the risk that the liabilities it reinsures will exceed the consideration paid for
21 its reinsurance of those liabilities. *See* Wilson Decl., Ex. 2, Ex. B, art. II. The Rehabilitation
22 Agreement thus is supported by consideration and any argument to the contrary is meritless

23 **C. The Rehabilitation Plan Assumes the Economic Viability of the Plan.**

24 Contractors similarly misinterpret provisions of the Rehabilitation Agreement
25 conditioning closing on the economic viability of the Rehabilitation Agreement. The
26 Rehabilitation Agreement does not "provide[]" that the current consideration provided by
27 AMTRUST is inadequate to pay the costs of the Conservator to finalize the Rehabilitation
28 Agreement," as Contractors assert. *See* Contractors' Memo., 4:15-18. Instead, the Rehabilitation

1 Agreement allows the Conservator to terminate the Agreement prior to closing if he determines
2 that the financial condition of Majestic has materially deteriorated to the point that he will be
3 unable to pay AmTrust all amounts to become due under the Reinsurance Agreement. Wilson
4 Decl., Ex. 2 (Rehabilitation Agreement), Section 9.4(d), Ex. A, Section 2.9.

5 **III.**

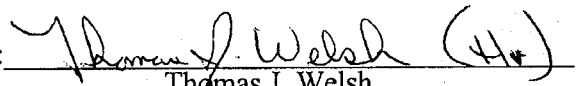
6 **CONCLUSION**

7 For all the foregoing reasons, the Conservator respectfully requests that the Court overrule
8 Contractors' Objection, approve the Rehabilitation Plan for Majestic, and enter the proposed
9 Order lodged by the Conservator authorizing the Conservator to enter into the Rehabilitation
10 Agreement and Rehabilitation Transaction Agreements, and take such other action as are
11 necessary to carry out the Rehabilitation Plan.

12 Dated: May 26, 2011.

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18 By:  (H*)
19 Thomas J. Welsh
20 Attorneys for Dave Jones,
21 Insurance Commissioner for the State of
22 California in his Capacity as Conservator
23 Of Majestic Insurance Company

24 OHS WEST:261154838.1

Exhibit A

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **CITY AND COUNTY OF SAN FRANCISCO**
10

11
12 DAVE JONES, INSURANCE
13 COMMISSIONER OF THE STATE OF
CALIFORNIA,

14 Applicant,

15 vs.

16 MAJESTIC INSURANCE COMPANY, and
17 DOES 1-50, inclusive,

18 Respondents.
19

CASE NO. CPF-11-511261

PLAINTIFFS CONTRACTORS'
OBJECTION TO REHABILITATION
PLAN FOR MAJESTIC INSURANCE
COMPANY

Date: June 2, 2011
Time: 9:30 a.m.
Dept.: 301
Judge: Hon. Peter J. Busch

20 COMES NOW Plaintiffs Mark Tanner Construction, Inc., Doc Gelso Construction, Inc.,
21 Mt. Lincoln Construction, Inc., and Sierra Paint & Chemical, Inc., (collectively hereinafter
22 "Contractors") present their opposition to the Rehabilitation Plan for Majestic Insurance
23 Company.

24 **FACTUAL BACKGROUND**

25 The Contractors were each members of a worker's compensation self-insurance program,
26 Contractors Access Program of California ("CAP") from 2005 to 2009. This program,
27 Contractors believe, was organized, managed, and ultimately caused to fail as a result of the
28 actions of the several individual and other legal entities including MAJESTIC INSURANCE

1 COMPANY, which profited from CAP and other self-insured worker's compensation program
2 enterprises established in California and other states. The Complaint in the action *Mark Tanner*
3 *Construction, Inc., et al. v. Majestic Capital LTD et al., San Francisco Superior Court, Case No.*
4 *CGC-11-507678* is attached hereto as Exhibit A and the allegations contained are incorporated
5 herein.

6 This Conservatorship follows the filing of the Contractors action, a similar action in
7 Superior Court of Orange County and an action on behalf of CAP brought by the Department of
8 Industrial Relations.¹ While the moving papers to approve the Rehabilitation Plan mentions the
9 tough economic conditions, increase in claims and an action in New York arising out of similar
10 SIPs as the reason for the Conservator and Rehabilitation, it seems that MAJESTIC
11 INSURANCE COMPANY's involvement and subsequent litigation in California has contributed
12 as well as the siphoning of funds by the individuals and entities which created, maintained, and
13 finally allowed to fail the SIPs and ultimately MAJESTIC INSURANCE COMPANY. The
14 several financial reports which go back to 2003 establish that while CRM created SIPs were
15 failing, CRM, the circle of individuals involved in the ponzi-type scheme, and the supposed
16 subsidiaries of CRM, were all doing just fine. For example, in the CAP program, CRM prepared
17 an accounting which on its face indicated that prior to voluntarily going into receivership
18 MAJESTIC INSURANCE COMPANY owed approximately \$10.2 million to CAP as unearned
19 premiums. These same accounting sheets provide information as to how much CRM,
20 MAJESTIC INSURANCE COMPANY, and other subsidiaries, were taking out of CAP. In the
21 end, if the State of California, Department of Industrial Relations and the Department of
22 Insurance, had performed as required by law, and if the Conservator were to go after the money
23 trail, these objectors posit that the reorganization would be unnecessary. The failing economy
24 and the New York actions are not the cause of the problems in California.

25 According to Mr. Wilson's Declaration in support of the Conservator's motion,
26

27 ¹ *Contractors Access Program of California v. Majestic Capital, Ltd.*, Case No. CGC-
28 10-506422, S.F. Superior Court; *California Plastering, Inc. v. Pridemark-Everest Insurance*
Services, Inc., Case No. 30-2010-420488, Orange County Superior Court.

1 MAJESTIC INSURANCE COMPANY is a member of an insurance holding company system .
2 MAJESTIC INSURANCE COMPANY's immediate parent is Embarcadero Insurance Holding,
3 Inc. Embarcadero is a wholly owned subsidiary of Majestic USA Capital, Inc, which is wholly
4 owned by the ultimate parent, MAJESTIC CAPITAL, LTD. (Wilson Declaration paragraph 4.)

5 MAJESTIC INSURANCE COMPANY was represented as the provider of additional/
6 excess insurance for CAP as well as the reinsurer for the program overall. While Contractors
7 have not yet been provided with copies of the various insurance policies, the statements and
8 documents provided by CRM indicate that such coverage was provided. MAJESTIC
9 INSURANCE COMPANY has not provided any payment of any claims under its obligations as
10 an excess insurer or as the reinsurer of CAP yet has retained unearned premiums which have
11 apparently not been accounted for.

12 Apparently, MAJESTIC INSURANCE COMPANY has been used, with the purported
13 approval of the California Department of Insurance, to allocate expenses from the domestic
14 holding companies to MAJESTIC INSURANCE COMPANY. *See, e.g.,* form 10-Q filed for the
15 quarterly period ended September 30, 2010, by CRM Holdings, Ltd..

16 Finally, TWIN BRIDGES, an excess insurer for CAP, made substantial distributions of
17 surplus to the parent company in 2010. *Id.* TWIN BRIDGES and MAJESTIC INSURANCE
18 COMPANY were funding the parent company while at the same time, at least as to MAJESTIC
19 INSURANCE COMPANY, losing money on paper to the jeopardy of its insureds and injured
20 workers in the state.

21 Finally of relevance is the fact that AMTRUST has apparently been involved in the
22 business activities of MAJESTIC INSURANCE COMPANY since at least 2008. The full extent
23 of that involvement is unknown to Contractors. In the end, MAJESTIC INSURANCE
24 COMPANY OWES a duty to CAP members to provide the reinsurance advertised and to
25 reimburse CAP and its members for the unearned premiums which apparently have been
26 transferred to the CRM parent. As it now is structured, the CAP members will be possibly held
27 liable for the wrongdoing of MAJESTIC INSURANCE COMPANY and the individuals and
28 entities who profited from the Ponzi-type scheme, AMTRUST will benefit significantly without

1 assuming any detriment, and the State of California will rid itself of an embarrassment which, if
2 the regulatory bodies had done their jobs, would never have arisen.

3 **OBJECTIONS**

4 Contractors object to the Rehabilitation Plan. From Contractors' perspective the
5 Rehabilitation Agreement appears to be a transfer of assets from MAJESTIC INSURANCE
6 COMPANY to AMTRUST, assets which Contractors believe were achieved in part by its
7 wrongful acts leaving the Contractors with hundreds of thousands of dollars or workers'
8 compensation liability resulting from the failed CAP. The Rehabilitation Agreement does not
9 account for the pending litigation by Contractors and others in California and the obligations of
10 MAJESTIC INSURANCE COMPANY to former members of CAP.

11 Contractors specifically object to the Rehabilitation Agreement Section 7, Renewal
12 Rights and Asset Purchase Agreement Section 2.9, expressly excluding AMTRUST from any of
13 MAJESTIC INSURANCE COMPANY's liability. Generally, a contract requires detriment on
14 each side of the agreement. In this case, AMTRUST is not subject to any detriment.

15 Contractors object to Article 5 of the Renewal Rights and Asset Purchase Agreement
16 titled Profit Sharing in conjunction with Article 9 section 9.7 which provides that the current
17 consideration provided by AMTRUST is inadequate to pay the costs of the conservator to
18 finalize the Rehabilitation Agreement. Since the assets of MAJESTIC which will remain after
19 closing of the agreement are insufficient to even close the agreement, it seems apparent that none
20 of the non-policyholder claims that exist, including Contractors, will receive any payment.

21 Contractors request that the agreement be amended or changed to account for some
22 recovery of non-policyholder claims. Further, it would seem only appropriate that before the
23 State of California lets the CRM entities and individuals off the hook for facially running
24 MAJESTIC INSURANCE COMPANY into the ground, the State should attempt to recover
25 assets which were nothing more than part of a scheme. This would provide protection for
26 California individuals and entities. To simply act like MAJESTIC INSURANCE COMPANY's

27 ////

28 ////

1 assets should be used in a very narrow context, and for the immediate benefit of AMTRUST, is
2 unconscionable.

3 Dated: May 16, 2011

VAN DYKE LAW GROUP

4
5 By: S/
6 GLEN A. VAN DYKE, ESQ.
7 Attorneys for Objector Contractors
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Exhibit A

COPY

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ENDORSED
FILED
San Francisco County Superior Court

JAN 27 2011

CLERK OF THE COURT
BY: PARAM NATT
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

MARK TANNER CONSTRUCTION, INC.,
a California Corporation; DOC GELSO
CONSTRUCTION, INC., a California
Corporation; MT. LINCOLN
CONSTRUCTION, INC., a California
Corporation; and, SIERRA PAINT &
CHEMICAL, INC., a California
Corporation,

Plaintiffs,

vs.

MAJESTIC CAPITAL, LTD.; MAJESTIC
INSURANCE COMPANY; MAJESTIC
USA CAPITAL, INC.; CRM HOLDINGS,
LTD.; TWIN BRIDGES (Bermuda), Ltd.;
CRM USA HOLDINGS, INC.;
COMPENSATION RISK MANAGERS OF
CALIFORNIA, LLC; COMPENSATION
RISK MANAGERS, LLC;
EMBARCADERO INSURANCE
HOLDINGS, INC.; LOUIS J. VIGLOTTI;
CHESTER WALCZYK; JAMES J.
SCARDINO; MOHAMAD CHAHINE;
ROBERT HEIMERL; JAMES PAXIN;
BAYSIDE CAPITAL PARTNERS, LLC;
and DOES 1 through 100, inclusive,

Defendants.

CASE NO. C-11-507678

COMPLAINT FOR:

1. FRAUD;
2. NEGLIGENT
MISREPRESENTATION;
3. NEGLIGENCE;
4. BREACH OF FIDUCIARY
DUTY;
5. UNIFORM FRAUDULENT
TRANSFER ACT;
6. TITLE 18 U.S.C. SECTIONS
1961, et seq. RACKETEER
INFLUENCED AND CORRUPT
ORGANIZATIONS ACT;
7. BREACH OF CONTRACT.

BY FAX

COMES NOW Plaintiffs Mark Tanner Construction, Inc., Doc Gelso Construction, Inc.,

Complaint for Damages

-1-

Tanner, et al. v. Majestic Capital, Ltd., et al.

1 Mt. Lincoln Construction, Inc., and Sierra Paint & Chemical, Inc., and allege as follows:

2 **PARTIES - PLAINTIFFS**

3 1. Plaintiff MARK TANNER CONSTRUCTION, INC. ("Tanner"), is a California
4 Corporation (Secretary of State entity number C2502235) with its primary business as that of a
5 licensed general contractor. Tanner's primary place of construction is in the greater
6 Truckee/Tahoe area with its office located in the Town of Truckee, California. Tanner
7 participated in a worker's compensation self-insurance program, Contractors Access Program of
8 California ("CAP") from 2005 to 2009, which program was organized, managed, and ultimately
9 caused to fail as a result of the actions of the several individual and other legal entities sued
10 herein, all, with the exception of Defendant Bayside Equity Holdings, Ltd., are interrelated and
11 each of which profited from CAP and other self-insured worker's compensation program
12 enterprises established in other states, including New York and Texas. Tanner has been damaged
13 in its business or property as a result of, *inter alia*, racketeering activities of enterprises
14 controlled and engaged in by the named Defendants. Prior to becoming a member of CAP,
15 Tanner was insured for worker's injuries through workers compensation insurance provided by
16 entities other than CAP. Tanner joined CAP as a result of marketing promises made by several of
17 the Defendants identified below and through insurance brokers not parties to this action. Tanner
18 individually and as a member of CAP entered into and contracted with CAP, the CRM
19 Defendants, and Embarcadero Insurance Holdings and Majestic Insurance Company. Tanner is a
20 creditor of the named Defendants as that term is defined in California Civil Code Section
21 3439.01(c). In December, 2010, Tanner was invoiced by the conservator of CAP with an
22 assessment purportedly necessary to pay for Tanner's purported share of the deficit created by the
23 actions of the named Defendants.

24 2. Plaintiff, DOC GELSO CONSTRUCTION, INC. ("Gelso") is a California
25 corporation (Secretary of State entity Number C1813205) with its primary business as that of a
26 licensed general contractor. Its primary place of construction is in the greater Truckee/Tahoe
27 area with its office located in the Town of Truckee, California. Gelso participated in CAP from
28 2007 to 2009, which program was organized, managed, and ultimately caused to fail as a result

1 of the actions of the several individual and other legal entities sued herein, all, with the exception
2 of Defendant Bayside Equity Holdings, Ltd., are interrelated and each of which profited from
3 CAP and other self-insured worker's compensation program enterprises established in other
4 states, including New York and Texas. Gelso has been damaged in its business or property as a
5 result of, *inter alia*, racketeering activities of enterprises controlled and engaged in by the named
6 Defendants. Prior to becoming a member of CAP, Gelso was insured for worker's injuries
7 through workers compensation insurance provided by entities other than CAP. Gelso joined CAP
8 as a result of marketing promises made by several of the Defendants identified below as well as
9 nonparty insurance brokers. Gelso individually and as a member of CAP entered into and
10 contracted with CAP, the CRM Defendants, and Embarcadero Insurance Holdings and Majestic
11 Insurance Company. Gelso is a creditor of the named Defendants as that term is defined in
12 California Civil Code Section 3439.01(c). In December, 2010, Gelso was invoiced by the
13 conservator of CAP with an assessment purportedly necessary to pay for Gelso's purported share
14 of the deficit created by the actions of the named Defendants.

15 3. Plaintiff MT. LINCOLN CONSTRUCTION, INC. (hereinafter "Mt. Lincoln"), is
16 a California Corporation (Secretary of State entity number C2229039) with its primary business
17 as that of a general contractor. Its primary place of construction is the greater Truckee/Tahoe
18 area with its office located in the Town of Truckee. Mt. Lincoln participated in CAP from 2006
19 to 2009, which program was organized, managed, and ultimately caused to fail as a result of the
20 actions of the several individual and other legal entities sued herein, all, with the exception of
21 Defendant Bayside Equity Holdings, Ltd., are interrelated and each of which profited from CAP
22 and other self-insured worker's compensation program enterprises established in other states,
23 including New York and Texas. Mt. Lincoln has been damaged in its business or property as a
24 result of, *inter alia*, racketeering activities of enterprises controlled and engaged in by the named
25 Defendants. Prior to becoming a member of CAP, Mt. Lincoln was insured for worker's injuries
26 through workers compensation insurance provided by entities other than CAP. Mt. Lincoln
27 joined CAP as a result of marketing promises made by several of the Defendants identified below
28 as well as nonparty insurance brokers. Mt. Lincoln individually and as a member of CAP

1 entered into and contracted with CAP, the CRM Defendants, and Embarcadero Insurance
2 Holdings and Majestic Insurance Company. Mt. Lincoln is a creditor of the named Defendants
3 as that term is defined in California Civil Code Section 3439.01(c). In December, 2010, Mt.
4 Lincoln was invoiced by the conservator of CAP with an assessment purportedly necessary to
5 pay for Mt. Lincoln's purported share of the deficit created by the actions of the named
6 Defendants.

7 4. Plaintiff SIERRA PAINT & CHEMICAL, INC. (hereinafter "Sierra Paint"), is a
8 California Corporation (Secretary of State entity number C1940257) with its primary business as
9 that of a general contractor. Its primary place of construction is the greater Truckee/Tahoe area
10 with its office located in the Town of Truckee. Sierra Paint participated in CAP from 2005 to
11 2009, which program was organized, managed, and ultimately caused to fail as a result of the
12 actions of the several individual and other legal entities sued herein, all, with the exception of
13 Defendant Bayside Equity Holdings, Ltd., are interrelated and each of which profited from CAP
14 and other self-insured worker's compensation program enterprises established in other states,
15 including New York and Texas. Sierra Paint has been damaged in its business or property as a
16 result of, *inter alia*, racketeering activities of enterprises controlled and engaged in by the named
17 Defendants. Prior to becoming a member of CAP, Sierra Paint was insured for worker's injuries
18 through workers compensation insurance provided by entities other than CAP. Sierra Paint
19 joined CAP as a result of marketing promises made by several of the Defendants identified below
20 as well as nonparty insurance brokers. Sierra Paint individually and as a member of CAP
21 entered into and contracted with CAP, the CRM Defendants, and Embarcadero Insurance
22 Holdings and Majestic Insurance Company. Sierra Paint is a creditor of the named Defendants
23 as that term is defined in California Civil Code Section 3439.01(c). In December, 2010, Sierra
24 Paint was invoiced by the conservator of CAP with an assessment purportedly necessary to pay
25 for Sierra Paint's purported share of the deficit created by the actions of the named Defendants.

26 5. Plaintiffs are pursuing this action on behalf of themselves and for the benefit of
27 the Citizens of the State of California who, by tax dollars or being personally affected by the bad
28 acts of Defendants as alleged herein, have been and will continue to be injured.

1 **PARTIES - DEFENDANTS**

2 6. Defendant MAJESTIC CAPITAL, Ltd. ("Majestic") is a Bermuda company
3 which, on information and belief, became the successor in interest to Defendant CRM
4 HOLDINGS, Ltd., a Bermuda holding company, sometime after May 5, 2010, and after the
5 claims and actions giving rise to this Complaint had arisen. On information and belief, this
6 transfer resulted in the transfer of all assets from CRM Holdings to Majestic and was the result of
7 pending litigation and administrative actions against CRM Holdings and was a fraudulent
8 transfer under California law. On information and belief, Majestic continues to receive income
9 from fee-based management services performed by subsidiaries of Majestic and income from
10 management fees, insurance, extra insurance, and reinsurance provided by subsidiaries of
11 Majestic, to various self-insured workers' compensation programs established by these
12 Defendants and/or their subsidiaries, all such income being derived from racketeering activities
13 as that term is defined in Title 18 U.S.C. Sections 1961, et seq.. Majestic is a member of an
14 enterprise that has participated and engaged in, on more than two occasions, conduct prohibited
15 by Title 18 U.S.C. Section 1961, et seq.. The activities of Majestic affect interstate and/or
16 foreign commerce. Majestic is a "person" as that term is defined in Title 18 USC Section 1961,
17 et seq.. On information and belief Majestic intends to transfer all of its assets and those assets of
18 all of Majestic's subsidiaries to DEFENDANT BAYSIDE CAPITAL PARTNERS, LLC
19 ("Bayside"), a Delaware limited liability company, in a merger and/or amalgamation. This
20 transfer by Majestic to Bayside is being made by Majestic with the actual intent to hinder, delay
21 and/or defraud the Plaintiffs herein. Majestic is a debtor as that term is defined in California
22 Civil Code Section 3439.01(e) as to the Plaintiffs herein with regard to the transfer of assets to
23 Defendant Bayside. Majestic is a transferee under the Uniform Fraudulent Transfer Act (UFTA)
24 with regard to the transfer of all assets from CRM Holdings to Majestic.

25 7. Defendant CRM HOLDINGS, Ltd. (CRM Holdings), is a Bermuda holding
26 company which has provided/provides fee-based management for workers' compensation self-
27 insured groups (SIG's) in, *inter alia*, New York, Texas, and California. On or about May 5,
28 2010, CRM Holdings changed its name to Majestic and thus, on information and belief,

1 transferred all of its assets to Majestic. CRM Holdings is a debtor as that term is defined in the
2 UFTA. This transfer was made with the actual intent to hinder, delay, and/or defraud the
3 Plaintiffs and/or recovery on the claims set forth herein. CRM Holdings, in addition to providing
4 fee-based management of SIG's, provided alleged services, each at an inflated cost to the
5 members of the SIGs, such as underwriting, risk management, medical bill review, and
6 regulatory compliance, both directly and through subsidiaries. CRM Holding's operations in
7 New York and California have failed. CRM Holdings is a "person" as that term is defined in
8 Title 18 USC Section 1961, et seq.. CRM Holdings activities affect interstate commerce. CRM
9 Holdings is a named defendant, cross-defendant, or respondent in litigation and administrative
10 proceedings which seek, *inter alia*, damages, indemnification and contribution, and revocation of
11 various licenses issued to CRM Holdings and/or its subsidiaries. CRM Holdings acted through
12 several subsidiaries and subsidiaries of subsidiaries and through several individuals, including
13 but not limited to, the individual and legal entity Defendants named herein.

14 8. Defendant CRM USA HOLDINGS, INC, (CRM USA) is a Delaware corporation
15 and is a subsidiary of Defendant CRM Holdings, and is the parent company of Defendants
16 COMPENSATION RISK MANAGERS, LLC, COMPENSATION RISK MANAGERS OF
17 CALIFORNIA LLC, EMBARCADERO INSURANCE HOLDINGS, and EIMAR MANAGED
18 CARE SERVICES, LLC. On or about May 5, 2010, the name of CRM USA was changed to
19 MAJESTIC USA CAPITAL, INC. (Majestic USA) and, on information and belief, resulted in
20 the transfer of any and all assets of CRM USA to Majestic USA. On information and belief, the
21 name change resulted from pending litigation filed against CRM Holdings, CRM LLC, certain
22 board members of the CRM Holdings group of companies, including, without limitation, those
23 named herein, and the pendency of administrative proceedings, and the desire of the individuals
24 named herein to shield themselves from the liability which may flow from the wrongful conduct
25 alleged herein. CRM USA is a debtor as that term is defined in the UFTA and made the transfer
26 identified herein to Majestic USA with the actual intent to hinder, delay, and/or defraud Plaintiffs
27 recovery as set forth herein. On information and belief, CRM USA continues to receive income
28 from fee-based management services performed by subsidiaries of CRM USA and income from

1 insurance and reinsurance provided by subsidiaries of Majestic, all such income being derived
2 from racketeering activities as that term is defined in Title 18 U.S.C. Sections 1961, et seq.. The
3 activities of CRM USA affect interstate and/or foreign commerce. CRM USA is a "person" as
4 that term is defined in Title 18 USC Section 1961, et seq..

5 9. Defendant COMPENSATION RISK MANAGERS, LLC. ("CRM LLC"), is a New
6 York limited liability company with its principal place of business in Poughkeepsie, New York,
7 that at all times relevant to this complaint was doing business in California and maintained a
8 regional office in Irvine, California, and did business in California. CRM LLC is a wholly
9 owned subsidiary of CRM USA. CRM LLC performed wrongful acts in the State of California.
10 CRM LLC during a period ending in or about 2008, was licensed by the New York State
11 Workers' Compensation Board (NYWCB) as a third party administrator authorizing CRM, LLC
12 to provide third party claims administrative services to SIP's in New York. On information and
13 belief, CRM, LLC undertook the same activities in New York that are complained of herein in
14 the State of California, including *inter alia*, establishing SIP's and requiring contracts between
15 the SIP and CRM to provide administrative services which required the payment of management
16 fees to CRM in the range of 20% of the premiums collected. On information and belief, the
17 NYWCB revoked the CRM, LLC's license as a third party administrator of self insure programs.
18 CRM, LLC continued to operate in California as a third party administrator for CAP collecting at
19 least \$23,055,829 from 2005 through 2009, a sum representing approximately at least 19.6% of
20 all premiums collected from CAP members for the period. The fees collected as management
21 fees constitute "income" derived from "racketeer activities". Further, on information and belief,
22 CRM, LLC, became the third party administrator by causing CAP to breach a contract with a
23 different administrator and thereby taking over the position. CRM LLC is a "person" as that
24 term is defined in Title 18 USC Section 1961, et seq.. Although under investigation beginning in
25 2007 for, *inter alia*, fraudulent practices related to third party administration, CRM, LLC
26 continued to market its program to California brokers and CAP members without disclosing the
27 imminent problems. The activities of CRM, LLC affect interstate and/or foreign commerce.
28 Defendant CRM Holding/Majestic reported on or about November 12, 2009, that CRM LLC was

1 not an active business operation and was a discontinued operation. On information and belief all
2 assets of CRM LLC were transferred, without any compensation being paid, to CRM USA or
3 CRM Holdings. On further information and belief, the transfer of the assets of CRM LLC was
4 done with the intent to defraud creditors, including plaintiffs named herein.

5 10. Defendant COMPENSATION RISK MANAGERS OF CALIFORNIA, LLC
6 ("CRM Cal") is a California limited liability company (entity number 200328010011) with its
7 principal place of business on Michelson Drive, Irvine, California. CRM Cal was created in
8 2003, by defendant CRM Holdings, through its subsidiary CRM USA, for the purpose of
9 operating self-insured worker's compensation programs in California. CRM Cal is a subsidiary
10 of CRM USA (now Majestic USA). CRM Cal is a "person" as that term is defined in Title 18
11 USC Section 1961, et seq.. On information and belief, CRM Cal received income from
12 management fees paid by CAP in an amount in excess of \$23,000,000. The income received by
13 CRM Cal was obtained through use of racketeering activities.

14 11. Defendant EMBARCADERO INSURANCE HOLDINGS, INC. ("Embarcadero") is
15 a subsidiary of CRM USA (Majestic USA) with its primary office in San Francisco, California.
16 Embarcadero has one principal operating subsidiary, Defendant Majestic Insurance Company.
17 On May 6, 2009, Embarcadero sold its wholly-owned dormant subsidiary, Redhorse Insurance
18 Company, Ltd., to CRM Holdings. Embarcadero was the parent of Redhorse Insurance
19 Company, Ltd. ("Redhorse"). On information and belief, Redhorse was sold to CRM Holdings
20 on or about May 6, 2009, and was merged with Defendant Twin Bridges on or about May 14,
21 2009. Embarcadero is a "person" as that term is defined in Title 18 USC Section 1961, et seq..
22 On information and belief, Embarcadero has received funds obtained through the artifices of mail
23 fraud (18 U.S.C. 1341), wire fraud (18 U.S.C. 1343), racketeering, laundering of monetary
24 instruments (18 U.S.C. 1956), and monetary transactions in property derived from specified
25 unlawful activity (18 U.S.C. 1961(1)).

26 12. Defendant MAJESTIC INSURANCE COMPANY ("Majestic Insurance") is a
27 California corporation (entity number C0977855) with its principal place of business in San
28 Francisco, California. Majestic Insurance is a principal operating subsidiary of Defendant

1 Embarcadero, and maintains a business address in Irvine, California. On information and belief,
2 Majestic Insurance was acquired by CRM Holdings in 2006, through acquisition of
3 Embarcadero. Majestic Insurance was presented, by CRM, as the reinsurance source for CAP,
4 and is the primary insurance subsidiary of CRM Holdings. On information and belief, as of
5 September, 2006, Majestic Insurance was rated B by A.M. Best Company. Majestic Insurance
6 has received in excess of \$28 million from CAP but has failed, despite tendered requests, to
7 provide reinsurance coverage to CAP and its individual members for existing worker
8 compensation claims of employees of CAP members. On information in belief, this failure is
9 despite the fact that CAP has failed and is unable to pay its current and future worker
10 compensation obligations and the obligations Majestic Insurance has pursuant to the reinsurance
11 agreement with CAP have been triggered. On information and belief, Majestic Insurance, as
12 CAP's reinsurance agent, owes to CAP and CAP members, in excess of \$10,276,000 as
13 "reinsurance recoverable" through December 31, 2009.

14 13. Defendant TWIN BRIDGES, LTD. ("Twin Bridges") is a Bermuda company which
15 was wholly owned by defendant CRM Holdings, and is now operated by defendant Majestic. On
16 information and belief, Twin Bridges is/was used by CRM's as a primary reinsurance subsidiary.
17 Twin Bridges is a "person" as that term is defined in Title 18 USC Section 1961, et seq.. On
18 information and belief, Twin Bridges has received funds obtained through the artifices of mail
19 fraud, wire fraud, racketeering, laundering of monetary instruments, and monetary transactions in
20 property derived from specified unlawful activity.

21 14. Defendant LOUIS J. VIGLOTTI ("Viglotti") is an individual and, on information and
22 belief, was general counsel of defendant CRM Holding (beginning in 2002) and CRM Cal
23 (beginning in 2003). Viglotti has held various offices in Majestic, CRM Holdings, and defendant
24 Compensation Risk Management, LLC, since 2005. Viglotti is a "person" as that term is defined
25 in Title 18 USC Section 1961, et seq.. On information and belief, Viglotti, in or about December
26 27, 2005, was conveyed 486,738 common shares of Defendant CRM Holdings in exchange for
27 Viglotti's interests in CRM USA and Twin Bridges. At the time of this transaction, Viglotti was
28 general counsel and secretary of CRM Holdings. On information and belief, Viglotti's interest in

1 Defendant CRM Holdings as of December 27, 2005, was in excess of 1% of the common shares
2 of CRM Holdings and Viglotti, either in fact, as the general counsel and secretary of CRM
3 Holdings, or at law, had the power to elect one or more directors of CRM Holdings. On
4 information and belief, Viglotti's interest in, and the value of that interest, was obtained through
5 mail fraud, wire fraud, financial institution fraud, racketeering, and engaging in monetary
6 transactions in property derived from unlawful activity. Viglotti was instrumental in the CRM
7 Defendants' entry into California through CAP. On information and belief, Viglotti is currently
8 representing Majestic in its merger with Bayside. On information and belief, for several years
9 Viglotti has been the recipient of funds obtained in violation of, *inter alia*, Title 18 U.S.C.
10 Sections 1341, 1343, 1952, and 1956, including transportation and receipt of such funds annually
11 beginning no later than 2002.

12 15. Defendant CHESTER WALCZYK ("Walczyk") is the Chief Operating Officer
13 (COO) of Majestic (formerly CRM Holdings), and has been since September, 2005. Walczyk
14 has served as Executive Vice President, COO, and a member of the Board of directors of
15 Majestic (formerly CRM Holdings) since November 2006 and May 2007, respectively. Walczyk
16 was the COO of CRM Holdings since November, 2004, and the COO of CRM Cal beginning
17 July, 2005. On information and belief, Walczyk, in his various positions and stock holdings and
18 in conjunction and in a conspiracy with the other named Defendants, did through the use of mail
19 fraud, wire fraud, and racketeering, engage in a pattern of racketeering activity, and as a part of
20 an enterprise engaged in racketeering activities. On information and belief, for several years
21 Walczyk has been the recipient of funds obtained in violation of, *inter alia*, Title 18 U.S.C.
22 Sections 1341, 1343, 1952, and 1956, including transportation and receipt of such funds annually
23 since no later than 2004.

24 16. Defendant JAMES J. SCARDINO ("Scardino") is the Chief Executive Officer
25 (CEO) of Majestic (formerly CRM Holdings). Scardino has also held various positions,
26 including Chief Financial Officer, CEO and acting CFO of Defendants Twin Bridges, Majestic,
27 CRM, LLC, and CRM Cal. Scardino is a "person" as that term is defined in Title 18 USC
28 Section 1961, et seq.. On information and belief, Scardino has received funds obtained through

1 the artifices of mail fraud, wire fraud, racketeering, laundering of monetary instruments, and
2 monetary transactions in property derived from specified unlawful activity. Scardino has been on
3 the board of directors of several defendant entities, including Eimar, Majestic, Twin Bridges,
4 Majestic Insurance, CRM LLC, and CRM Cal. Scardino has also operated as the chief financial
5 officer of several of the entity Defendants. On information and belief, for several years Scardino
6 has been the recipient of funds obtained in violation of, *inter alia*, Title 18 U.S.C. Sections 1341,
7 1343, 1952, and 1956, including transportation and receipt of such funds annually since no later
8 than 2005.

9 17. Defendant MOHAMAD CHAHINE ("Chahine") is, on information and belief, an
10 individual doing business in the County of Los Angeles, California. At all relevant times,
11 Chahine was an officer and Chairman of the Board of Directors of Contractors Access Program
12 of California, Inc. ("CAP").

13 18. Defendant ROBERT HEIMERL ("Heimerl") at all times relevant herein was a
14 resident of California and was a member of the Board of Directors of CAP.

15 19. Defendant JAMES PAXIN ("Paxin") at all times relevant herein was a resident of
16 California and was a member of the Board of Directors of CAP.

17 20. Defendants, DOES 1 through 100, inclusive, are sued herein under fictitious
18 names. Their true names and capacities and acts of wrongdoing, are unknown to Plaintiff at this
19 time. When said true names and capacities are ascertained, Plaintiff will amend this complaint
20 by inserting their true names and capacities herein. Plaintiff is informed and believes, and
21 thereon alleges, that each of the fictitiously-named Defendants, both individual and entity, is
22 responsible in some manner for the occurrences herein alleged, and the Plaintiffs' damages, as
23 herein alleged, were proximately caused by such Defendants. Does 1-15 are individuals who,
24 during the period of time from January, 2004 through December, 2009, served as a member of
25 the Board of Trustees of CAP. Does 16-75 are individuals or other legal entities who are
26 employed by, own, or manage some or all of the named defendant entities. Does 76-100 are
27 individuals, enterprises or entities who have received assets from the named defendant entities
28 and/or through the individual named Defendants, or who have engaged in racketeering activities

1 which have harmed the business of the plaintiffs herein.

2 **COMMON ALLEGATIONS**

3 21. This case concerns the several Defendants' fraud, negligence, breach of fiduciary
4 duties, violations of Title 18 United States Code Section 1961, et seq., California Civil Code
5 Sections 3439, et seq., breach of contract relating to extra insurance and/or reinsurance, and other
6 wrongful conduct with respect to the creation, management, provision for reinsurance, and
7 operation of the Contractors Access Program of California, Inc. ("CAP") for the period 2004
8 through part of 2010. CAP was just one of several Ponzi schemes established in industry sectors
9 in California, New York and Texas.

10 22. In or about 1999, CRM Holdings was created and began administering,
11 promoting, marketing and managing self-insurance programs (hereinafter "SIPs") in the State of
12 New York for, *inter alia*, health care, banking, and construction industries. CRM Holdings
13 created two wholly owned subsidiaries, Defendants CRM USA and Twin Bridges. CRM USA
14 primarily operated as a fee based management company while Twin Bridges was operated as the
15 primary reinsurance agency for self-insured groups. On information and belief, CRM USA was
16 licensed by the State of New York as a third party administrator.

17 23. In and around July 9, 2003, CRM Holdings, through its wholly owned subsidiaries
18 CRM USA and/or CRM LLC, incorporated Contractors Access Program of California, Inc.
19 (CAP). The By-laws for CAP were "Approved and Adopted" effective August 21, 2003, at a
20 time when there were no members. On October 10, 2003, CRM Holdings, through its wholly
21 owned subsidiaries CRM USA and/or CRM LLC, formed CRM Cal, to administer, market and
22 promote SIPs in California. One program marketed, and administered by CRM Cal was CAP.
23 CRM promoted CAP and purported that the program would provide reasonably priced workers
24 compensation insurance to a select group of low-risk contractors, to protect the CAP members
25 from risk, to provide adequate underwriting, extra insurance and reinsurance, and to provide
26 investment dividend income to its members.

27 24. After the incorporation of CAP, an entity identified as Cornerstone was contracted
28 with to be the program field consultant, providing pre-underwriting services, site inspections, and

1 creation of early return to work programs for CAP members. Cornerstone also provided
2 marketing for the CRM created CAP program. The agreement with Cornerstone provided that
3 Cornerstone would be paid a fee of 9.5% of all member contributions to the program. At the
4 time this contract was made, CAP was controlled exclusively by CRM entities.

5 25. In 2004, after CAP had enrolled members, and on information and belief, had
6 appointed a Board of Trustees, CRM caused the CAP Board of Trustees/Directors to terminate
7 Cornerstone's contract. CRM caused this action in order to take over the role as exclusive
8 program administrator and marketing agent for CAP, thus allowing CRM to realize the profits
9 which arose from marketing the membership in CAP. Cornerstone and others filed suit against
10 CAP and CRM. CRM controlled the litigation with the result that in 2006 CAP settled the suit
11 by paying to Cornerstone \$6 million. CRM paid nothing towards the settlement. The lawsuit
12 and the settlement were not disclosed to CAP members until late 2009. The settlement was paid
13 for through CAP members' premiums and CAP Board of Directors' errors and omissions
14 insurance.

15 26. CAP, having been required by CRM to employ CRM as the SIP administrator
16 paid "management fees" which, as established by CRM Holdings/CRM USA/CRM Cal/CRM
17 LLC, ranged from 22% to 25% annually of all premiums paid by CAP members for the years
18 2004 through 2009, paid CRM, out of member premiums, a sum in excess of \$24 million from
19 2004 through 2009.

20 27. The total of the fees for management and premiums for reinsurance, extra
21 insurance and/or additional insurance paid to CRM entities for the period from 2004 through
22 2009 was at least \$52 million. This figure was at a minimum 44% of the total of the premiums
23 paid by all CAP members during the same period. CRM continued to take the management fees
24 and premiums for extra insurance, reinsurance and/or additional insurance even though
25 beginning in 2006, CAP was operating at a loss in the millions of dollars and there were not
26 sufficient reserves to pay the outstanding worker's claims.

27 28. The individual members of CAP were solicited by CRM to join and to later renew
28 CAP membership with promises which were false and known by the CRM Defendants

1 collectively to be false, including, but not limited to:

2 a. CAP was a "high quality" and "cost effective" program;

3 b. A "safety net" would be provided through excess insurance to protect the members
4 (CRM advertised Majestic Insurance as providing "reinsurance" and also "additional insurance")
5 through and A rated provider;

6 c. Members premiums would be used to pay "claims and expenses" and "reasonable"
7 administrative fees;

8 d. Members were informed that the excess insurance would protect the members from
9 any payments above the self-insured retention (SIR), i.e. members' deposits and premium
10 contributions;

11 e. There was a "Program field consultant - [which] provides sales and marketing services
12 on a statewide basis", (claimed to exist after Cornerstone had been terminated);

13 f. "Members avoid the 'profit load' built in by standard insurance companies";

14 g. "A group can ride out hard and soft markets by keeping costs stable"; and

15 h. In December, 2006, in order to secure renewal of membership, stating that CAP was
16 financially strong and that "in the year 2007 your program will likely be eligible to distribute a
17 dividend" but that "this distribution will only be available to existing members of the CAP
18 program".

19 i. Only the contractors who are of the lowest risk for claims would be accepted into
20 CAP.

21 29. From 2005 through 2009 when the above statements were made in writing by the
22 CRM Defendants collectively they knew them to be false and made them for the purpose of
23 inducing Plaintiffs to initially enroll and/or renew their memberships in CAP.

24 30. In 2006, CRM Holdings, through CRM USA, purchased Embarcadero and its
25 wholly owned subsidiary, Majestic Insurance. Beginning in 2006, Majestic Insurance was
26 advertised by CRM as the reinsurance agency for CAP. As the reinsurance agent for CAP,
27 Majestic Insurance was paid, by CRM, premiums which amounted to more than 24% of the gross
28 premiums paid by Plaintiffs to CAP for membership. On information and belief, by contract,

1 Majestic Insurance was to return to CAP and its members, as "reinsurance recoverable", a
2 portion of the reinsurance fees paid to Majestic Insurance. On information and belief, the
3 amount owed by Majestic Insurance to CAP members as of January 1, 2010, was in excess of
4 \$10 million.

5 31. CRM Cal and/or CRM LLC was the management company and/or administrator
6 for CAP. On information and belief this arrangement was memorialized by a written contract
7 which was prepared by CRM and provided that CRM Cal would be entitled to a management fee
8 which was in excess of 20% of the total premiums paid by the CAP members. CRM Cal
9 continued to collect the management fees at a rate in excess of 20% of the gross premiums paid
10 by CAP members, including Plaintiffs, even though the CAP program, beginning in 2006, was
11 insolvent.

12 32. Each named Plaintiff herein invested in the program for the periods alleged
13 herein. The funds invested in the program were to be used, according to the CRM Defendants
14 and the individual Defendants, to pay workers for injuries incurred while working for the
15 members (workers compensation responsibilities of CAP's members imposed by California law)
16 with only reasonable administrative fees being diverted from the payments of workers claims.
17 The program was designed at the outset such that the payment of the management fees, the
18 marketing fees, reinsurance and additional insurance premiums paid to the various insurance
19 Defendants (Majestic Insurance, Twin Bridges, and Embarcadero), and for other CRM services,
20 guaranteed that CAP would fail unless significant numbers of new members joined every year
21 along with the retention of existing members.

22 33. Each contractor enrolling in CAP was required to pay assessments into the
23 program. From this pool of funds, CRM, the third-party administrator, paid itself management
24 fees, which fees were transmitted to the several CRM Defendants by use of interstate commerce,
25 including wire, and mail. CRM Defendants further caused CAP to make payments to at least one
26 wholly owned subsidiary, defendant Majestic Insurance, for "excess insurance" or "reinsurance"
27 or "additional insurance" which provided little or no payments or benefits to or for the benefit of
28 the member plaintiffs. On information and belief, defendant Majestic Insurance began providing

1 this reinsurance in 2006 after it was acquired by CRM Holdings/CRM USA. This increased the
2 funds taken by CRM for management and other fees and services to almost 50% of the total
3 premiums paid by CAP members.

4 34. In April, 2005, Cornerstone and its principles brought suit against CRM and CAP
5 for the alleged breach of its agreement with CAP for marketing and/or administration of CAP. In
6 2006, this suit was settled by CRM and CAP with a payment by CAP of \$6 million in or about
7 September, 2006, of which \$1.75 million was paid under a general E & O policy. The remaining
8 \$4.25 million was paid by using premiums paid by CAP members. Premiums which were
9 authorized to be paid only for workers compensation claims and reasonable administrative
10 expenses. The lawsuit and the payments were not disclosed to CAP members until the failure of
11 the program at the end of 2009. The CAP members were not informed that the sums which were
12 to be retained for the payment of worker's compensation claims and a reserve as required by law
13 were used to pay for the suit and the settlement. The CAP Board of Directors, at the insistence of
14 CRM, allowed CRM to direct the defense of the action, blocked the filing of a cross-complaint
15 against the CRM Defendants by CAP for indemnification and/or contribution, and directed the
16 settlement which required the conversion of CAP funds from worker's compensation payments
17 and reserves to settlement of a suit, an expenditure which was not authorized by the CAP
18 Bylaws.

19 35. In or about 2008, CRM caused CAP to enter into a 5-year contract extension for
20 management services with CRM which was to run through June 30, 2013. As part of the
21 agreement, the CRM Defendants agreed to reimburse CAP for the Cornerstone litigation in the
22 amount of \$2 million to be paid over a 5 year period (\$400,000 annually) commencing on July 1,
23 2009. These payments have not been made. On information and belief, some, if not all, of the
24 \$2 million reimbursement was and has been transmitted via wire or postal service to the
25 individual named Defendants, Viglotti, Scardino, and Walczyk, and/or the other Defendants.

26 36. In late 2009, and as a result of previously undisclosed financial losses,
27 mismanagement of funds, inadequate underwriting procedures, siphoning of member payments
28 from CAP to CRM controlled entities and individuals, the failure to retain a reserve as required

1 by law, inclusion of members who were not "low risk" of workers compensation claims, the
2 failure to secure a bond of the SIP's obligations as required by law and other wrongful conduct
3 by the Defendants, and the payment of additional insurance to CRM Defendants, the CAP
4 program collapsed.

5 37. After the CAP collapse, CRM Holdings and CRM Holdings USA changed their
6 respective names to Majestic and Majestic USA. Further, Majestic, in or about September, 2010,
7 entered into an agreement with Bayside Equity Holdings, Ltd., to merge, transferring all assets
8 from majestic to Bayside. On information and belief, this merger will cause all of the assets of
9 Majestic, CRM Holdings, and all of the CRM/Majestic subsidiaries to be transferred to Bayside
10 for less than the value of the assets of the entities.

11 38. The State of California, Department of Industrial Relations ("DIR") has appointed
12 a conservator to take over the CAP program. The conservator has announced initial assessments
13 on the member Plaintiffs to meet the financial obligations of the program. Each of the Plaintiffs
14 have been provided an "invoice" for the amount of the assessment due.

15 39. On information and belief, the several Defendants, including the individually
16 named Defendants, no later than 2004, had insured the insolvency of CAP by engaging in
17 racketeering activities which included mail fraud, wire fraud, racketeering, laundering of
18 monetary instruments, and engaging in monetary transactions in property derived from specified
19 unlawful activities. On information and belief, the individual and entity named Defendants, and
20 each of the Doe Defendants, each received income derived from a pattern of racketeering activity
21 and participated as a principal to use or invest, directly or indirectly, the income received, to
22 acquire interests in and the establishment of, an enterprise or enterprises engaged in interstate
23 commerce, including the acquisition and sale of stock. Further, each of the named Defendants,
24 both individual and entity, through a pattern of racketeering activity, acquired and maintained an
25 interest in or control of an enterprise engaged in interstate commerce. Further, each of the
26 Defendants conspired to engage in the prohibited activities described in this complaint.

27 40. The SIP, and each SIP created by CRM, were set up where the programs'
28 successes were dependant upon a significant number of new members joining the program from

1 year to year and complete retention of existing members from year to year to fund existing
2 operations (Ponzi-type scheme). For the reasons set forth in the complaint herein, the CRM run
3 SIPs including CAP were destined to fail and this fact was known by the named Defendants
4 herein but not disclosed to plaintiffs. CRM knew that this failure was imminent but failed to
5 disclose this information to CAP members. Even though the program was failing as a result of
6 the actions of the named Defendants herein as of 2007, CRM continued to market the program
7 making the false representations that the program was in surplus, that dividends were likely
8 because of the excess revenue generated by the program, and continued to siphon the funds that
9 were to be used for injured workers to the individual named Defendants and the various
10 CRM/Majestic entities.

11 41. Additionally, on June 1, 2007, CRM had additional actual knowledge that SIPs
12 administered by it were going to fail. On June 1, 2007, the certification of the Plastic
13 Manufacturers Self Insurance Program, Inc., a SIP created by CRM, was revoked. CRM
14 followed the same business model for CAP as that followed for the Plastic Manufacturers. At no
15 time did any of the Defendants or the non party insurance brokers inform Plaintiffs of the failure
16 of the Plastic Manufacturers. Every SIP administered by the CRM in New York and California
17 has failed. The funds paid to the CRM Defendants for administering one of the SIP was used to
18 set up, market, and establish another SIP for the sole purpose of continuing the Ponzi scheme
19 which is its business model as described herein through use of wire and mail fraud by creating
20 additional SIPs.

21 42. The failure of the CAP exposes Plaintiffs to millions of dollars of liability for the
22 losses and claims existing against its members. This obligation exists pursuant to the indemnity
23 agreement Plaintiffs executed as a condition of enrollment. The assessments to the Plaintiffs to
24 pay CAP's shortfall have already begun and are hundreds of thousands of dollars. On
25 information and belief, these assessments are based, at least in part, as a result of contracts
26 entered into between Plaintiffs and CAP, Plaintiffs and CRM Defendants, and Plaintiffs as CAP
27 members and other CAP members, each of which contract Plaintiffs seek to have rescinded. The
28 recession is sought due to Plaintiffs consent being given by mistake, fraud, and/or undue

1 influence, exercised by or with the connivance of CRM, the CAP Board of Directors, and/or
2 Majestic Insurance, or of any other party to the contract jointly interested with such parties.
3 Additionally, Plaintiffs seek recession as a result of the Defendants consideration for the
4 Plaintiffs' obligations failed, in whole or in part, through the fault of CRM, the CAP Board of
5 Directors, and/or Majestic Insurance. Recession is also sought because the contract between
6 CRM and Plaintiffs and CAP and Plaintiffs was unlawful for causes which did not appear in its
7 terms or conditions, and the parties are not equally at fault, and the public interest will be
8 prejudiced by permitting the contract to stand.

9 43. Beginning in 2005, CAP began operating at a loss. The excess insurance CRM
10 claimed it would provide was from defendant Majestic Insurance and other CRM subsidiaries,
11 and such insurance was not adequate to protect the CAP members. On information and belief,
12 the income received by Majestic Insurance by CRM Defendants from CAP resources, was
13 derived from a pattern of racketeering activity, including, but not limited to mail fraud, wire
14 fraud, racketeering, laundering of monetary instruments and engaging in monetary transactions in
15 property derived from unlawful activities, including fraud, and was used to maintain the interest
16 and control of Majestic, CRM Holding, Embarcadero, Twin Bridges, CRM USA, Majestic USA,
17 and all other named Defendants. These activities affect interstate commerce.

18 44. Venue is proper in this court because two or more Defendants are located in this
19 County (Embarcadero and Majestic Insurance). Title 18 USC section 1965(d).

20 45. This is an unlimited civil action in that the amount by which Plaintiffs have been
21 damaged exceeds one million dollars.

22 **FIRST CAUSE OF ACTION**

23 **FRAUD - CRM Holdings, CRM Cal, CRM, Llc, CRM USA, 24 Majestic Insurance, Majestic, Majestic USA, and Embarcadero**

25 46. Plaintiffs reallege and incorporate herein by reference each and every allegation
26 contained in each and every paragraph of this Complaint, and further allege:

27 47. In order to induce each Plaintiff's investments into the CAP program, and to
28 induce each Plaintiff to remain in the program from year to year, CRM Holdings, CRM Cal,

1 CRM, LLC, and CRM USA made the intentional and unwarranted misrepresentations of fact and
2 failed to disclose material facts, as set forth above.

3 48. Defendants made intentional and unwarranted misrepresentations, either directly
4 or indirectly, to CAP members and the Plaintiffs herein, that excess insurance would be provided
5 through CAP at the direction of CRM, and that such reinsurance would be provided by an "A"
6 rated carrier, Majestic Insurance. In fact, in September, 2006, Majestic Insurance was a "B"
7 rated carrier.

8 49. In connection with inducing Plaintiffs to renew their membership in CAP, the
9 CRM Defendants stated in writing that 1) CAP was strong financially, 2) "[s]urplus continues to
10 grow", and 3) "in the year 2007 your program [CAP] will likely be eligible to distribute a
11 dividend to its members". Each of these statements were false. The true facts were that 1) as of
12 December 2006, CAP was operating at a net income loss of over \$2.56 million for 2006, 2) the
13 surplus which occurred in 2005, was declining at the rate of approximately 60%, and 3) there
14 were no dividends to be distributed. Similar written statements were made to the other Plaintiffs.

15 50. In connection with describing its "program model", CRM described its
16 underwriting process as "an absolute science", including use of Majestic Insurance as the
17 statutorily required reinsurer. Majestic Insurance, through CRM, represented that Majestic
18 Insurance would provide the "excess insurance" required by law, which insurance was to pay for
19 losses/claims that exceed a certain amount and to "protect the group's assets." In fact, adequate
20 reinsurance was not provided and extra insurance was and apparently is not adequate to cover the
21 outstanding claims.

22 51. Plaintiffs were unaware of the true facts, and in reliance on the misrepresentations
23 and omissions of these Defendants, Plaintiffs made the CAP investments in each year of
24 membership and paid the deposits and premiums due. If Plaintiffs had been aware of the true
25 facts, they would not have become a member of CAP and would have withdrawn from the
26 investment when so aware and taken steps to avoid the assessments and losses which are now
27 being publicized.

28 52. Plaintiffs herein have tendered to Majestic Insurance a claim for the entire amount

1 of the assessment and have requested that Majestic Insurance be responsible for any unpaid
2 claims which may later be determined.

3 53. As a direct and proximate result of the fraud of the named Defendants in this
4 cause of action, Plaintiffs have incurred and continue to incur, damages in excess of
5 \$25,000,000.

6 54. The actions of the named Defendants in this cause of action were performed with
7 oppression, fraud and malice, thereby entitling Plaintiffs to exemplary damages.

8 **SECOND CAUSE OF ACTION**

9 **NEGLIGENT MISREPRESENTATION - CRM Holdings, CRM Cal, 10 CRM, Llc, CRM USA, Majestic Insurance, Majestic, Majestic USA, and Embarcadero**

11 55. Plaintiffs reallege and incorporate herein by reference each and every allegation
12 contained in each and every paragraph of this Complaint, and further allege:

13 56. In making the representations set forth above, and in failing to disclose the
14 material information, the Defendants named in this cause of action acted with the intent to
15 induce, and did induce, Plaintiffs to enter into and to renew with the CAP program. Majestic and
16 Majestic USA are named in this cause of action as the successor in interest to CRM Holdings and
17 CRM USA.

18 57. The Defendants named in this cause of action made the representations
19 negligently and with no reasonable grounds for believing their statements to be true.

20 58. Plaintiffs relied on the statements made by the Defendants named in this cause of
21 action, and as a result thereof have, and continue to, incur damages in excess of \$25,000,000.

22 **THIRD CAUSE OF ACTION**

23 **NEGLIGENCE - Mohamad Chahine, Robert Heimerl, 24 James Paxin, and Does 1-15.**

25 59. Plaintiffs reallege and incorporate herein by reference each and every
26 allegation contained in each and every paragraph of this Complaint, and further allege:

27 60. The Defendants named herein, members of the Board of Directors of CAP, owed
28 a duty to the Plaintiffs to oversee, manage, and become informed and inform the membership in
CAP of all financial arrangements with third parties and the financial condition of CAP. These

1 named Defendants were under an obligation to exercise reasonable care.

2 61. The Defendants named herein, by virtue of the actions described above, including,
3 inter alia, the failure to oversee and manage CAP with regard to the wrongful conduct of the third
4 party administrator and its insurance affiliates, breached their duty to Plaintiffs.

5 62. As a direct and proximate result of the breach of the duties owed to Plaintiffs by
6 these Defendants named herein, Plaintiffs have incurred damages in excess of \$25,000,000.

7 **FOURTH CAUSE OF ACTION**

8 **BREACH OF FIDUCIARY DUTY - Mohamad Chahine, Robert Heimerl,
9 James Paxin, and Does 1-15**

10 63. Plaintiffs reallege and incorporate herein by reference each and every
11 allegation contained in each and every paragraph of this Complaint, and further allege:

12 64. As officers and members of the Board of Directors of CAP, and by virtue and
13 confidence thereby placed in them by Plaintiffs, the Defendants named in this claim owed a
14 fiduciary duty to Plaintiffs, as members of CAP, including the duty to manage the finances and
15 funds of the program and to place Plaintiffs' interests above their own interests. These
16 Defendants named in this claim owed a fiduciary duty to Plaintiffs by virtue of their superior
17 knowledge of the CAP program, which was obtained in the course of their roles as officers and
18 members of the Board of Directors and their intimate contact with CRM Defendants, the third
19 party administrator. This knowledge was not possessed by Plaintiffs.

20 65. These named Defendants breached this duty by virtue of the acts, omissions and
21 conduct described above, including the failure to disclose to Plaintiffs that CAP was operating at
22 a loss and that CAP members, based upon their joint and several liability for all claims, faced
23 significant financial losses. On information and belief, the Defendants named in this claim were
24 aware that the reinsurance allegedly provided by Majestic Insurance and/or Twin Bridges, both
25 subsidiaries of CRM Holdings and/or CRM USA, was inadequate and that the funds paid by the
26 Defendants named in this claim was nothing more than a scheme by the CRM Defendants, with
27 the complicity of the Defendants named in this claim, to launder funds in violation of Title 18
28 U.S.C. Section 1956.

1 66. As a direct result of the breaches of fiduciary duty by the Defendants named in
2 this claim, Plaintiffs have incurred and continue to incur, damages in an amount in excess of
3 \$25,000,000.

4 **FIFTH CAUSE OF ACTION**

5 **VIOLATION OF UNIFORM FRAUDULENT TRANSFER ACT**
6 **CALIFORNIA CIVIL CODE SECTIONS 3439, et seq. - Majestic,**
7 **Majestic USA, CRM Holdings, Embarcadero, Twin Bridges, Scardino,**
8 **Viglotti, and Walczyk, and Does 76-100**

9 67. Plaintiffs reallege and incorporate herein by reference each and every
10 allegation contained in each and every paragraph of this Complaint, and further allege:

11 68. The Defendants named in this claim were each party to transfers and/or incurred
12 obligations which were fraudulent as to the Plaintiffs herein with the actual intent to hinder,
13 delay, and/or defraud the Plaintiffs herein. The transfers include, but are not limited to, the
14 transfer from CRM Holdings to Majestic, the transfer from CRM USA to Majestic USA, the
15 transfer from CRM LLC to CRM USA, the transfer from Eimar LLC to CRM USA, and the
16 transfer of Redhorse Insurance Company, Ltd., to CRM Holdings to Twin Bridges. The transfers
17 of assets as alleged herein, with the exception of the transfer to non-party Bayside, were to
18 insiders, the debtors retained possession and control of the property transferred, the debtor had
19 been sued and threatened with suit before the transfer was made, the transfer was of all of the
20 debtors assets, the debtors, Majestic and CRM Holdings, have absconded with all assets by
21 maintaining them in Bermuda, the debtors CRM Holding and CRM USA became insolvent at the
22 time of the transfer, the transfer occurred shortly after debts were incurred. The transfer to
23 Bayside by Majestic Defendants is without Majestic receiving a reasonable value in
24 consideration for the transfer.

25 69. On or about September 21, 2010, the Defendants named in this claim, and in
26 particular Majestic, CRM Holdings, Viglotti, Walczyk, and Scardino, entered into another
27 fraudulent transfer, or intent to transfer, with Defendant Bayside. On information and belief, the
28 Defendants named in this claim intend to transfer all of the assets to Bayside in an effort to shield
the Defendants, and each of them, from liability for their actions.

1 70. As a result of the transfers described above, Plaintiffs are entitled to relief through
2 avoidance of all transfers hereto for undertaken and to avoidance of any transfer to Bayside.
3 Plaintiffs are further entitled to appointment of a receiver to take charge of all assets transferred
4 or their proceeds, including, but not limited to, all assets of Majestic and Majestic USA, Majestic
5 Insurance, and Embarcadero.

6 71. The claims alleged herein against the named Defendants arose prior to the
7 transfers alleged, including, but not limited to, the transfers from CRM Holdings to Majestic,
8 from CRM USA to Majestic USA, and from Majestic to Bayside. Each Plaintiff is entitled to
9 avoid each of the transfers, as necessary, to the extent necessary to satisfy the Plaintiffs' claims
10 herein.

11 72. Pursuant to Civil Code Section 3439.07(a)(3)(A) Plaintiffs are entitled to an
12 injunction against further disposition by the named Defendants, and in particular Majestic and
13 Majestic USA, of any assets whatsoever including any transfer to Bayside.

14 **SIXTH CAUSE OF ACTION**

15 **VIOLATION OF TITLE 18 U.S.C. SECTIONS 1961, et seq.,**
16 **RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT -**
17 **Majestic, CRM Holdings, Majestic USA, CRM USA, CRM Cal, CRM Llc,**
18 **Embarcadero, Majestic Insurance, Twin Bridges, Viglotti, Walczyk, and**
19 **Scardino, and Does 76-100**

20 73. Plaintiffs reallege and incorporate herein by reference each and every
21 allegation contained in each and every paragraph of this Complaint, and further allege:

22 74. By engaging in the activities alleged above, the named Defendants have violated
23 the provisions of Title 18 U.S.C. Sections 1961, et seq., including, but not limited to engaging in
24 the following racketeering activities: mail fraud (Section 1341), wire fraud (1343);

25 75. Each of the named Defendants have received income derived from at least two
26 instances of racketeering activity, have used and/or invested all or part of the income so derived
27 in the acquisition of an interest in, the establishment and/or operation of an enterprise which is
28 engaged in activities which affect interstate and/or foreign commerce;

 76. Each of the named Defendants, through a pattern of racketeering activity which
has occurred on at least two occasions since 2004, have acquired and/or maintained, either

1 directly or indirectly, an interest in or control of at least one enterprise which is engaged in or
2 whose activities affect interstate and/or foreign commerce;

3 77. Each of the named Defendants are employed by and/or associated with an
4 enterprise which is engaged in, or the activities of which affect, interstate and/or foreign
5 commerce, and have conducted and/or participated in the conduct of such enterprise's affairs
6 through a pattern of racketeering activities;

7 78. Each of the named Defendants have conspired one with the others to violate each
8 of the prohibitions set forth in Paragraphs 60, 61, and 62, above.

9 79. As a result of the above, the Plaintiffs have been injured in an amount in excess of
10 \$25,000,000.

11 **SEVENTH CAUSE OF ACTION**

12 **BREACH OF CONTRACT - REINSURANCE AND/OR**
13 **EXTRA INSURANCE**
14 **Embarcadero, Majestic Insurance, and Twin Bridges, and Does 16-75**

15 80. Plaintiffs reallege and incorporate herein by reference each and every
16 allegation contained in each and every paragraph of this Complaint, and further allege:

17 81. On information and belief, each of the Defendants named in this cause of action
18 contracted with Plaintiffs, as members of CAP, and CAP, for the benefit of its members, to
19 provide extra insurance or reinsurance to pay injured workers' claims.

20 82. Plaintiffs performed all actions and conditions required to be performed under the
21 contract, including the payment of over \$28 million in premiums. Plaintiffs have requested that
22 the Defendants named in this cause of action perform as required by the several contracts.

23 83. The Defendants named in this cause of action failed to perform and continue to
24 fail to perform under these contracts by:

25 a. failing to provide reinsurance to cover all workers' compensation claims to the
26 extent that such claims were not paid for by CAP;

27 b. failing to provide extra insurance to cover all workers' compensation claims
28 over \$500,000; and

c. failing to pay to CAP those funds identified as "reinsurance recoverable", in

1 the amount of at least \$10,276,000.

2 84. Plaintiffs have been damaged by the actions of Defendants as described above.

3 **PRAYER:**

4 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as
5 follows:

6 **ON EACH CAUSE OF ACTION**

7 1. A determination that and all contracts between Plaintiffs and CAP, Plaintiffs
8 and the CRM Defendants relating to administration of the CAP, and Plaintiffs and Defendants
9 Embarcadero and Majestic Insurance, and as to each successor in interest to the named
10 Defendants have been rescinded;

11 2. For an order and judgment that the named Defendants pay to the Plaintiffs
12 consequential damages, including costs and reasonable attorneys fees, and interest at the rate of
13 10% on all such damages;

14 3. Attorneys' fees and costs pursuant to CCP 1021.5

15 **FIRST CAUSE OF ACTION**

- 16 1. For all special and general damages arising out of the fraud;
17 2. For punitive damages;
18 3. For recession of the contracts between Plaintiffs and Defendants;
19 4. For such other and further relief as the Court might deem just and proper

20 **SECOND CAUSE OF ACTION**

- 21 1. For special damages according to proof, including but not limited to, liability to
22 the State of California, premiums and other moneys paid as part of the enrollment
23 and participation in the program;
24 2. For interest at the legal rate; and
25 3. For such other and further relief as the Court may deem just and proper.

26 **THIRD CAUSE OF ACTION**

- 27 1. For special and general damages according to proof, including but not limited to,
28 liability to the State of California, premiums and other moneys paid as part of the

1 enrollment and participation in the program;

2 2. For interest at the legal rate; and

3 3. For such other and further relief as the Court may deem just and proper.

4 **FOURTH CAUSE OF ACTION**

5 1. For special and general damages according to proof, including but not limited to,
6 liability to the State of California, premiums and other moneys paid as part of the
7 enrollment and participation in the program;

8 2. For punitive damages;

9 3. For interest at the legal rate; and

10 4. For such other and further relief as the Court may deem just and proper.

11 **FIFTH CAUSE OF ACTION**

12 1. An order stopping the transfer to Bayside until the obligation of the Defendants to
13 Plaintiffs is determined and satisfied in full;

14 2. An attachment or other provisional remedy against the assets of Defendants
15 sought to be or actually transferred to Bayside;

16 3. An injunction stopping the merger and/or transfer to Bayside or any other entity;

17 4. Appointment of a receiver or receivers, as necessary, to recapture the assets
18 transferred in violation of the UFTA and to make the Plaintiffs herein whole;

19 5. Any other relief authorized by the Act to prevent the conveyance of property in
20 avoidance of Defendants' obligations to Plaintiffs including disgorgement of the
21 assets from Bayside.

22 **SIXTH CAUSE OF ACTION**

23 1. An order against Defendants that they divest themselves of all and any interest in
24 the enterprises of the Defendants ;

25 2. An order of dissolution of all of the enterprises of all of the Defendants;

26 3. A restraining order prohibiting any action of Defendants pending the outcome of
27 this litigation;

28 4. Compensatory damages according to proof;

- 1 5. Three times compensatory damages as a penalty authorized by statute;
2 6. Cost of suit including attorneys' fees and cost;

3 **SEVENTH CAUSE OF ACTION**

- 4 1. Payment of Plaintiffs' obligations owed to CAP as assessments as well as all
5 future liabilities Plaintiffs owe to the program;
6 2. Consequential damages resulting from the failure to provide required insurance
7 coverage;
8 3. For such other and further relief as the Court may deem just and proper;
9 4. For such other and further relief as the Court may deem just and proper.

10
11 Dated: January 27, 2011

VAN DYKE LAW GROUP

12
13 By: 

14 GLEN A. VAN DYKE, ESQ.
15 Attorneys for Plaintiffs
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PROOF OF SERVICE

STATE OF CALIFORNIA

Jones v. Majestic Insurance Co., et al.

COUNTY OF PLACER

} ss.

Case No.: CPF-11-511261

I am employed in Placer County. My business address is 12277 Soaring Way, Suite 206, Truckee, California 96161, where this mailing occurred. I am over the age of 18 years and am not a party to the within action.

On May 16, 2011, I served the foregoing documents, bearing the titles:

**PLAINTIFF CONTRACTORS' OBJECTION TO REHABILITATION PLAN FOR
MAJESTIC INSURANCE COMPANY**

to the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows: SEE SERVICE LIST

☐ **U.S. MAIL**

I placed such an envelope for collection and mailing on this date following ordinary business practices. I am readily familiar with the practices of Van Dyke Law Group for collection and processing of correspondence for mailing with the United States Postal Service the same day it is collected in the ordinary course of business.

☒ **(BY OVERNIGHT COURIER)**

I caused such an envelope to be delivered by United Postal Service overnight courier.

☒ **(BY EMAIL)**

I caused such document to be sent via email transmission on this date, following ordinary business practices, to the email addresses as set forth by the parties.

☐ **BY FACSIMILE**

I caused such document to be sent via electronic transmission on this date following ordinary business practices. I am readily familiar with the requirements of prior agreement to such delivery system and received stated permission to serve the attached document by such method.

☒ **(State)**

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 16, 2011, at Truckee, California.

Carol L. Ritter

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