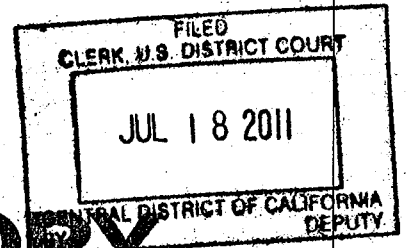


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9



COPY

10
11 **UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
13 **WESTERN DIVISION**

14 **LACV11-5871** (JAK)(JZx)
15 Case No.: _____

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EDDIE L. CRESSY,
Plaintiff,

CLASS ACTION COMPLAINT

v.

OM FINANCIAL LIFE
INSURANCE COMPANY; OGAN
FINANCIAL GROUP, INC.;
CAPITAL LINE FINANCIAL, LLC;
PARAMOUNT FINANCIAL
SERVICES, INC.; PARTNERVEST
ADVISORY SERVICES, LLC;
DOUGLAS ANDREW; WILLIAM
TESSAR; KENNETH R. OGAN, JR.;
and ROBERT KNIGHT,
Defendants.

- 1. CIVIL RICO (18 U.S.C. 1962(c));
- 2. CONSPIRACY TO VIOLATE CIVIL RICO (18 U.S.C. 1962 (d));
- 3. UNLAWFUL, UNFAIR AND FRADULENT BUSINESS PRACTICES (Cal. Bus. & Prof. Code 17200, et seq.);
- 4. UNFAIR, DECEPTIVE AND MISLEADING ADVERTISING (Cal. Bus. & Prof. Code 17200, et seq.);
- 5. VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT (Cal. Civil Code 1750);
- 6. BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING;
- 7. BREACH OF FIDUCIARY DUTY;
- 8. FRAUD

DEMAND FOR JURY TRIAL

1 NATURE OF THE ACTION

2 1. Defendants have engaged in a widespread and coordinated fraudulent
3 scheme to improperly and unlawfully sell equity-indexed universal life insurance
4 policies issued by OM Financial Life Insurance Company (“OM Financial”) to
5 individuals throughout California and the United States. Plaintiff and each
6 member of the putative classes (collectively referred to as “clients” herein) have
7 purchased one of the policies through agents and advisors operating under a
8 common marketing scheme known as “Missed Fortune 101.”

9 2. The purpose and effect of Defendants’ scheme is to reap profits for
10 themselves by deceiving their clients into stripping the equity out of their homes,
11 diverting money from legitimate investments, and using that money to purchase
12 life insurance policies which their clients do not need and that do not perform as
13 promised. The policies are uniformly inappropriate, unsuitable and misrepresented
14 as investment plans. As a direct result of Defendants’ scheme, Plaintiff and each
15 member of the putative classes each lost money when they relied upon Defendants’
16 misrepresentations and followed Defendants’ advice, instruction, and planning and
17 purchased the life insurance policies as part of a Missed Fortune 101 plan. This
18 class action seeks to end and remedy Defendants’ fraudulent scheme and the harm
19 caused by this scheme.

20 3. Defendants’ fraudulent scheme is a violation of the Racketeer

1 Influenced and Corrupt Organization statute, 18 U.S.C. § 1961, *et seq.* (hereinafter
2 “RICO”). This scheme has been ongoing for years and poses a threat of continued
3 harm. Defendants’ unlawful, unfair, and deceptive acts and practices also
4 constitute a violation of Cal. Bus. & Prof. § 17200, *et seq.*, Cal. Bus. & Prof. §
5 17500, *et seq.*, and Cal. Code Civ. Proc. § 1750, *et seq.*

6 **JURISDICTION AND VENUE**

7 4. This Court has jurisdiction over this action pursuant to 28 U.S.C. §
8 1331 and 18 U.S.C. § 1964 as Plaintiff and the putative class seek relief in part
9 under the federal RICO statute.

10 5. Venue in this case is proper under 28 U.S.C. § 1391 and 18 U.S.C. §
11 1965 in the United States Court for the Central District of California, Western
12 Division, in that a substantial portion of Defendants’ conduct which forms the
13 basis of this action occurred in this judicial district. Defendants do business in this
14 judicial district and have received and continue to receive substantial revenue and
15 profits from their unlawful conduct in this judicial district. Plaintiff resides in this
16 judicial district.

17 **PARTIES**

18 6. Plaintiff Eddie L. Cressy is, and at all times relevant herein was, a
19 citizen of the State of California, residing in Los Angeles County.

20 7. Defendant OM Financial Life Insurance Company (“OM Financial”)

1 is, and at all times relevant herein was, a corporation organized and existing under
2 the laws of the State of Maryland, with its principal place of business in Baltimore,
3 Maryland, and is authorized to transact the business of selling insurance in the
4 State of California.

5 8. Defendant Ogan Financial Group, Inc. (“Ogan Financial”) is a
6 corporation organized and existing under the laws of the State of California, with
7 its principal place of business in Ventura County, California.

8 9. Defendant Capital Line Financial Services, LLC (“Capital Line
9 Financial”) is a corporation organized and existing under the laws of the State of
10 California, with its principal place of business in Calabasas, California.

11 10. Defendant Paramount Financial Services, Inc. (“Paramount
12 Financial”) is a corporation organized and existing under the laws of the State of
13 Utah, with its principal place of business in Salt Lake City, Utah.

14 11. Defendant Partnervest Advisory Services LLC (“Partnervest”) is a
15 corporation organized and existing under the laws of the State of California, with
16 its principal place of business in Santa Barbara, California.

17 12. Defendant Douglas Andrew is, and at all times relevant herein was, a
18 resident citizen of the State of Utah.

19 13. Defendant William J. Tessar is, and at all times relevant herein was, a
20 resident citizen of the State of California.

1 Defendants' possession or control.

2 The Nationwide Class is defined as follows:

3 "all persons who reside or are located in the United States of America
4 who were sold OM Financial Life Insurance equity-indexed universal
5 life insurance policies by a Missed Fortune 'certified' agent."

6 The California Class is defined as follows:

7 "all persons who reside or are located in the state of California who
8 were sold OM Financial Life Insurance equity-indexed universal life
9 insurance policies by a Missed Fortune 'certified' agent."

10 19. Plaintiff excludes from each class any entities in bankruptcy or whose
11 obligations have been discharged in bankruptcy, Defendants and members of the
12 RICO enterprise, and any federal governmental agency, entity, or judicial officer.
13 Plaintiff maintains the right to create additional subclasses or classes, if necessary.

14 **Common Questions of Law and Fact Predominate**

15 20. There are common questions of law and fact of general interest to
16 both classes. These common questions of law and fact predominate over any
17 questions affecting only individual members of the class. Included among the
18 common questions are:

19 a. Whether Defendants engaged in a widespread and systematic practice
20 which deceived or misled Plaintiff and members of the putative class

1 into purchasing equity-indexed universal life insurance policies.

2 b. Whether Defendants misrepresented material facts concerning the
3 policies.

4 c. Whether Defendants failed to disclose material information
5 concerning the suitability, impact, risks, profitability, and detriments
6 of stripping equity out of Plaintiff's and putative class members'
7 homes to purchase the policies.

8 d. Whether an injunction is necessary to keep Defendants from
9 continuing to engage in the wrongful conduct alleged herein.

10 e. Whether Defendants' conduct as alleged herein is unconscionable.

11 f. Whether Defendants conspired to commit the wrongful acts alleged
12 herein.

13 g. Whether Defendants engaged in unlawful, unfair and fraudulent
14 business practices.

15 h. Whether Defendants engaged in unfair, deceptive and misleading
16 advertising.

17 i. Whether Plaintiff and members of the putative class were damaged by
18 Defendants' unfair and fraudulent business practices and/or
19 misleading advertising.

20 j. Whether Plaintiff and members of the putative class were damaged by

1 Defendants' fraudulent scheme.

2 k. Whether Defendants have ceased engaging in the wrongful conduct
3 alleged herein.

4 l. Whether Defendants have violated the federal RICO statute, 18
5 U.S.C. § 1962(c).

6 m. Whether Defendants have conspired to violate the federal RICO
7 statute, 18 U.S.C. § 1962(d).

8 n. Whether Defendants constitute an enterprise as contemplated by the
9 Federal RICO statute, 18 U.S.C. § 1961, *et seq.*

10 o. Whether Defendants engaged in a pattern of racketeering activity as
11 prohibited by the Federal RICO statute, 18 U.S.C. § 1961, *et seq.*

12 p. Whether Defendants violated 18 U.S.C. § 1343.

13 q. Whether Defendants violated 18 U.S.C. § 1341.

14 r. Whether Defendants conspired to violate RICO, 18 U.S.C. § 1961, *et*
15 *seq.*

16 s. Whether Defendants aided and abetted violations of RICO, 18 U.S.C.
17 § 1961, *et seq.*

18
19 **Typicality and Numerosity**

20 21. The claims of the named Plaintiff are typical of the claims of the

1 classes. The total number of members of each putative class exceed five hundred
2 (500) members.

3 **Adequate Representation**

4 22. The named Plaintiff will fairly and adequately protect the interests of
5 the members of the classes and has no interest antagonistic to those of other class
6 members. Plaintiff has retained class counsel who are competent to prosecute class
7 actions and are financially able to represent the class.

8 **Superiority**

9 23. The class action mechanism is superior to other available methods for
10 the fair and efficient adjudication of this litigation since individual joinder of all
11 members of the class is impracticable. The class action mechanism provides the
12 benefit of unitary adjudication, economies of scale and comprehensive supervision
13 by a single court. The interests of judicial economy favor adjudicating the claims
14 for Plaintiff and putative class members class rather than for Plaintiff and putative
15 class members on an individual basis.

16 24. Defendants have acted on grounds applicable to the classes as a
17 whole, thereby making appropriate final injunctive relief or corresponding
18 declaratory relief with respect to the classes as a whole.

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1 **FACTUAL ALLEGATIONS**

2 **The Defendants' Fraudulent Scheme**

3 25. The Defendants' scheme is an elaborate ruse designed and carried out
4 for the primary purpose of selling high-dollar equity-indexed universal life
5 insurance policies (the "policies") under the pretense that the policies have been
6 pre-determined by the Defendants to be the best and most effective investment
7 vehicle to be used in an investment program created and managed by the
8 Defendants.

9 The Defendants' refer to their investment program as "The Equity Asset
10 Management System" (i.e. "T.E.A.M.S."). To make this investment program
11 appear legitimate, Defendants make a host of uniform misrepresentations to their
12 clients. As set out in detail below, these misrepresentations all have the uniform
13 purpose and effect of deceiving clients into believing that Defendants are highly
14 trained investment professionals, working for their clients' best interests, and that
15 by following Defendants' advice and purchasing the policies in question the clients
16 will obtain safe, liquid, "investment grade" policies which will create greater
17 wealth and security than other investments.

18 26. To fund this investment program and to purchase the policies,
19 Defendants instruct their customers to strip the equity out of their homes and to
20 divert money away from legitimate investments. Defendants each played

1 separate, autonomous roles in the fraudulent scheme, and have worked in
2 coordination with other parties whose identities are currently unknown to Plaintiff,
3 as set forth below. Importantly, each Defendant profited directly from their
4 fraudulent scheme.

5 27. Defendant OM Financial designed and created the equity-indexed
6 universal life insurance policies (the “policies”), and underwrote each of the
7 policies sold to the class. OM Financial also designed marketing materials for the
8 policies and appointed agents to market and to sell the policies. Defendants
9 Paramount Financial and Douglas Andrew created and carried out a complex
10 marketing system to sell the policies as part of an investment program. Marketing
11 and sales of the investment program is elaborate and highly developed to falsely
12 promote the scheme as a “legitimate” investment plan. Douglas R. Andrew
13 authored a book titled *Missed Fortune 101*. In addition to the book, Mr. Andrew
14 and Paramount developed the “Missed Fortune” marketing program aimed at
15 “Insurance Professionals” (also referred to as “Asset Managers”) and “Mortgage
16 Professionals” (also referred to as “Debt Managers”). The Missed Fortune
17 marketing program is sold and/or licensed to the Asset Managers and Debt
18 Managers who commit to being a T.E.A.M. member by paying fees and other
19 charges to Paramount and/or Andrew. Through this arrangement, Paramount and
20 Andrew have a uniform training platform and a unified distribution system

1 whereby the Missed Fortune marketing materials are distributed to T.E.A.M.
2 members across the country. The marketing materials sent to T.E.A.M. members
3 across the country are substantially uniform, if not identical. Likewise, the training
4 T.E.A.M. members receive is substantially the same for all T.E.A.M. members.
5 OM Financial has approved and/or ratified the Missed Fortune marketing system.

6 28. Defendants used standard, form, pre-printed sales materials which had
7 the purpose and effect of misleading potential clients into believing that
8 Defendants and their agents were highly trained and competent investment
9 advisors. An important aspect of the marketing program and scheme is the use of
10 designations by the individuals involved. As will be explained in more detail
11 below, the individual participants in the scheme all held themselves out as
12 “advisors” and collectively as a “Team of Advisors.” Also used were the
13 designations of investment advisors, financial planners, financial professionals,
14 Certified Senior Advisors, Debt and Equity Advisors, and Mortgage Planning
15 Specialists. These designations were used to falsely and deceptively imply that the
16 Defendants had special training, education, and expertise that made them specially
17 qualified to advise the Plaintiff and others on financial and investment matters.

18 29. Defendants also use standard, form, pre-printed sales materials which
19 are designed to—and in fact did—mislead prospective clients into believing that
20 the policies Defendants sold were carefully designed to perform as a low risk

1 investment vehicle or individual retirement plan. Defendants carefully ensure that
2 the sales and marketing force which sells the policies follows the same marketing
3 scheme and parrots the same misrepresentations to potential clients.

4 30. The policies are sold by a nationwide network of individual
5 producers, agents, brokers and advisors that included Michael Voogd and
6 Defendants Kenneth Ogan, and Robert Knight. There are many other agents who
7 dealt with members of the putative class and who are active in Defendants'
8 fraudulent scheme, but whose identities are currently unknown. Each of these
9 agents are "appointed" by OM Financial. Each are also 'certified' by Paramount
10 Financial and/or Douglas Andrew and each attended training sessions put on by
11 Defendants Paramount Financial and/or Douglas Andrew where they learned the
12 fraudulent scheme and their roles in that scheme, and each enter into agreements
13 with OM Financial, Paramount Financial and/or Douglas Andrew to market and
14 sell the policies. While these agents operate independently within the scheme for
15 their own financial benefit and are legally distinct from all other Defendants, OM
16 Financial and/or Paramount Financial and Douglas Andrew approved, ratified and
17 condoned the practices, methods and manners employed by the agents at all times.

18 31. The agents are also organized under "field marketing organizations"
19 ("FMO") or "independent marketing organizations" ("IMO"). These marketing
20 organizations exist largely to provide sales leads and other sales and marketing

1 support to the agents who affiliate with them. In exchange, the marketing
2 organizations received an over-ride commission or other compensation for each
3 policy sold by the agents. For the purpose of the scheme, Paramount and Andrew
4 (who operate their own IMO known as “Missed Fortune Producer Group”),
5 coordinated with other IMOs and FMOs to distribute the Missed Fortune
6 marketing scheme to agents across the company. Agents, regardless of his or her
7 FMO/IMO affiliation, were allowed to become “Missed Fortune Certified” and to
8 participate in the scheme.

9 32. In addition to their IMO/FMO affiliation, and consistent with the
10 overall design of the scheme, “Missed Fortune Certified” Asset Managers and
11 Debt Managers organized themselves into “TEAMS”. By organizing in this
12 manner, the agents were better able to falsely hold themselves out to Clients as
13 teams of experts whose combination of training and expertise benefit Clients by
14 guiding them through “The Equity Asset Management System” (i.e.
15 “T.E.A.M.S.”).

16 33. Following Defendants’ advice, instruction, and planning, Plaintiff and
17 putative class members each invested significant sums in separate OM Financial
18 Life equity-indexed universal life insurance policies. To obtain the money
19 necessary to purchase the policies, Defendants uniformly instructed Plaintiff and
20 putative class members to strip the equity out of their homes by entering into new

1 mortgages. The funds that were invested came from the proceeds of mortgages on
2 Plaintiff and putative class members individual homes, from Plaintiff and putative
3 class members' individual savings, and/or by re-directing contributions away from
4 Plaintiff and putative class members' individual 401(k)s. Defendants designed
5 investment plans for Plaintiff and putative class members and facilitated every
6 aspect of the plans. The general premise and common element for the plans was
7 referred to by Defendants as "True Asset Optimization" and/or "Equity
8 Management Implementation." The primary purpose for the marketing, sale and
9 issuance of the OM Financial policy was as an investment vehicle and/or
10 retirement plan, rather than for providing life insurance.

11 34. Contrary to their representations, Defendants were not highly skilled
12 and qualified investment advisors or financial planners and the investment plan
13 they created was a ruse designed only to sell a high dollar life insurance policy that
14 would generate significant commissions for the agent, and to sell a mortgage on
15 Plaintiff and putative class members' homes that would generate additional fees for
16 the "Mortgage Professionals" involved.

17 35. Defendants put their own interests ahead of Plaintiff and putative class
18 members' and fraudulently reaped profits and benefits at the expense of Plaintiff
19 and putative class members. Defendants were paid, either directly or indirectly,
20 substantial commissions, over-rides, fees and other compensation, and collected

1 charges for their participation in the scheme. Each of the Defendants received
2 compensation, income, revenue and/or other valuable consideration for their
3 participation in the scheme. The compensation received by the Defendants was
4 paid, either directly or indirectly, from the Plaintiff's and putative class members'
5 funds.

6 As a result of the acts and omissions of Defendants, as alleged herein,
7 Plaintiff, like the putative class members, invested and lost a substantial amount of
8 money in an unsuitable investment, encumbered his real property with an
9 additional mortgage and lost the opportunity of more suitable investments. In
10 addition to monies paid to fund the investment plan (i.e. premiums for the
11 policies), Plaintiff and putative class members also lost money by paying fees,
12 charges and interest related to the mortgage loans arranged by the Defendants as
13 part of their fraudulent scheme. Plaintiff and putative class members also incurred
14 taxes that would have been otherwise deferred, reduced or not required had they
15 not followed the directions and advice of the Defendants. Plaintiff also has
16 suffered mental anguish, emotional distress and anxiety as a direct and proximate
17 result of the Defendants wrongdoing. Plaintiff has been otherwise damaged and
18 suffered loss as direct result of the acts and omissions of the Defendants.

1 **The Uniform Misrepresentations, Half-Truths, and Omissions**
2 **Defendants Made To Plaintiff and Each Member of the Putative Class**

3 36. In furtherance of their scheme, Defendants made uniform
4 misrepresentations, half-truths, and material omissions. These misrepresentations
5 all conveyed exactly the same message to Plaintiff and members of the putative
6 class: that the policies Defendants sold were “investment grade,” safe, effectively
7 liquid, and would increase financial security. Defendants withheld material facts
8 including that the policies were worth less than represented, and fundamentally
9 inferior to other investments. Defendants falsely represented that by purchasing
10 the policies and stripping the equity from their homes, Plaintiff and putative class
11 members would “optimize” their assets.

12 37. Notably, Defendants employed a standard, form sales pitch through
13 the agents. The agents learned this standardized sales pitch, and agreed to make it
14 to the exclusion of other sales pitches, through the uniform training sessions
15 discussed above which each attended. Upon information and belief, the agents
16 adhere to a uniform script when making sales presentations.

17 38. The Defendants uniformly misrepresented:

- 18 a. That the projections illustrated by the Defendants were attainable if
19 the Plaintiff and putative class members followed the Defendants’
20 expert advice and planning, and allowed them to plan the investments

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at issue;

- b. That the OM Financial Life equity-indexed universal life policy was ‘investment grade’;
- c. That the OM Financial Life equity-indexed universal life policy was an investment vehicle;
- d. That the plan’s purpose was to optimize the Plaintiff’s and putative class members’ existing assets;
- e. That the plan had been adequately designed to achieve tax-free annual income for life for the Plaintiff and putative class members at or near retirement age of 65;
- f. That the OM Financial Life equity-indexed universal life policy was designed to achieve the Plan’s promised results;
- g. The premiums planned by the Defendants were adequate to achieve the Plan’s promised results;
- h. That the investment plan was suitable for the Plaintiff and putative class members;

39. Throughout all of their dealings with the Plaintiff and putative class members, the Defendants knew, but nonetheless concealed and/or otherwise failed to disclose, that

- a. They were conducting a scheme designed to deceive the Plaintiff and

- 1 putative class members;
- 2 b. The OM Financial Life equity-indexed universal life policy was not
- 3 'investment grade';
- 4 c. A primary purpose of the investment plan was to collect premiums for
- 5 the OM Financial Life equity-indexed universal life policy from
- 6 which the Defendants would receive compensation and profits;
- 7 d. The OM Financial Life equity-indexed universal life policy had
- 8 undisclosed charges, fees and expenses associated with it that were
- 9 detrimental to the Plaintiff and putative class members;
- 10 e. The illustrations and projections used by the Defendants were based
- 11 on inflated and unrealistic assumptions;
- 12 f. The illustrations and projections used by the Defendants were based
- 13 on incorrect calculations;
- 14 g. A primary purpose of the investment plan was to close a mortgage
- 15 loan on the Plaintiff's and putative class members' homes from which
- 16 the Defendants would receive compensation and profits;
- 17 h. The designations used by the Defendants were not issued by
- 18 authoritative or credible organizations;
- 19 i. That *Missed Fortune 101* was a marketing scheme created to sell life
- 20 insurance and mortgage financing;

1 j. That *Missed Fortune 101* was a marketing scheme created to benefit
2 insurance sales people and mortgage brokers at the expense and to the
3 detriment of consumers like the Plaintiff;

4 k. That the Defendants were acting with a conflict of interests in their
5 dealings with the Plaintiff and putative class members;

6 l. That the investment plan created and implemented by the Defendants
7 was designed to fail;

8 m. That the Defendants had no process in place to properly analyze the
9 suitability of the investment plan for the Plaintiff and putative class
10 members;

11 n. That the Defendants were not properly monitoring and supervising
12 each other's activities to adequately safeguard the Plaintiff's and
13 putative class members' interests.

14 **Causation**

15 40. These misrepresentations and omissions directly caused injury to
16 Plaintiff and members of the putative class, and such injury may be determined for
17 Plaintiff and each member of the putative class through a class-wide method of
18 proving damages. To the extent necessary, Plaintiff can establish reliance in
19 causation through common evidence. Such evidence includes, but is not limited to,
20 the fact Defendants made uniform misrepresentations to Plaintiff and each member

1 of the putative class and that in reliance on these misrepresentations Plaintiff and
2 each member of the putative class purchased the policies in question. Such
3 standardized misrepresentations may be established by generalized proof,
4 including but not limited to evidence of uniform training, scripts, written marketing
5 materials, computer programs, and other documents showing the uniform nature of
6 Defendants' fraudulent scheme. Further, evidence may establish that in this case
7 Defendants' fraudulent scheme primarily involved omissions, in which case
8 reliance may be presumed. No rational member of the putative class would have
9 purchased the policies in question but for Defendants' misrepresentations and
10 omissions. The only logical explanation for Plaintiff and each class members'
11 conduct is that they relied upon Defendants' misrepresentations and omissions.

12 **Proposed Class Representative Mr. Cressy's Transactions**

13 41. Plaintiff Eddie L. Cressy's transactions and experiences with
14 Defendants' fraudulent scheme are representative of those of the remainder of the
15 putative class.

16 42. Around November 2006, Mr. Cressy read an advertisement for a
17 seminar to be put on by Ogan Financial and Capital Line Financial claiming to
18 help people achieve greater wealth with tax-free retirement plans. This
19 advertisement was published by Defendants, or some of them, in a newspaper. At
20 the seminar attended by Mr. Cressy, Ogan Financial and Capital Line Financial's

1 moderators urged Mr. Cressy and the other attendees to 'harvest' their home equity
2 and invest it in an 'Equity Indexed Universal Life' insurance policy, thereby
3 achieving more wealth than with IRA's, 401(K)'s, Mutual Funds, Stocks, Bonds
4 and Real Estate. This would be achieved by utilizing his home's equity, the
5 purported tax savings Mr. Cressy would realize by maintaining a high mortgage
6 balance, the purported tax deferred treatment of the life insurance accumulation
7 value, and "borrowing" from his life insurance cash value in his later years as a
8 retirement strategy. It was represented to Mr. Cressy that this strategy was safe,
9 liquid, and would earn a "good rate of return." Additionally, Mr. Cressy was
10 provided with Missed Fortune 101 marketing materials which provided the same
11 false message as was provided to all other members of the putative class.

12 43. Soon thereafter, Mr. Cressy had a meeting with Mr. Michael Voogd of
13 Ogan Financial. They spoke about Mr. Cressy's financial situation, plans and
14 goals. Mr. Cressy explained that he made about \$45,000 per year as a mechanic's
15 apprentice, was not a sophisticated investor, was not married, had no children, his
16 parents were in their sixties, and his home was his main source of savings and net
17 worth.

18 44. Mr. Cressy further stated that he wanted to pay off his house as soon
19 as possible, rent it out and purchase another house. Mr. Voogd told him that this is
20 exactly the opposite of what he should do, because paying off the house would

1 greatly increase his tax liability. Mr. Voogd told him that he should cash out his
2 home equity by refinancing at current value and put all the equity into an OM
3 Financial equity-indexed universal life insurance policy. It was stated and
4 illustrated to Mr. Cressy that he could earn more interest on his life insurance
5 policy than the interest he would be paying on his new mortgage. Mr. Voogd also
6 stated that by having a higher mortgage, Mr. Cressy would save more on income
7 taxes. It was stated to Mr. Cressy that this investment strategy was "liquid" and
8 could be withdrawn for any purpose if he chose to do so.

9 45. It was further represented to Mr. Cressy that the housing market in the
10 long run always goes up, and home equity does not get a "good rate of return".
11 Mr. Voogd generated a spreadsheet which demonstrated that every year Mr. Cressy
12 would be able to continually cash out the equity in his home, place it in life
13 insurance, and earn a better rate of return and it would have guarantees. The
14 assumption in the sales literature provided to Mr. Cressy was that housing prices
15 would go up each year, for the next thirty (30) years.

16 46. Mr. Cressy purchased his home in 1991 for approximately \$114,000.
17 In 2006, his outstanding mortgage balance was approximately \$135,000. He had
18 short-term debts of approximately \$3,500 in credit card, \$9,000 in automobile debt,
19 and \$1,700 motorcycle debt, for a total of approximately \$15,000. His mortgage
20 payment was approximately \$950 per month.

1 47. Mr. Cressy was directed by Mr. Voogd to Capital Line Financial and
2 Mr. Tessar, who had spoken at the seminar Mr. Cressy previously attended. Mr.
3 Tessar, a "Certified Mortgage Planning Specialist," in close contact with Mr.
4 Voogd, arranged the withdrawal of equity from Mr. Cressy's home (about
5 \$84,432). Mr. Tessar suggested that Mr. Cressy take out a 30-year-interest-only
6 loan for 100% loan-to-value on his home. Mr. Cressy explained again that he
7 wanted to pay off his home eventually, and did not want an interest-only loan. Mr.
8 Cressy was once again dissuaded from his position, and was told that he could pay
9 off his home even faster through the program Mr. Voogd was directing him into.
10 Mr. Cressy was encouraged to borrow long-term to pay off short-term debt,
11 thereby obligating himself to pay it off over the next 30 years.

12 48. Mr. Cressy, at the insistence of Capital Line Financial and Mr. Voogd,
13 refinanced all of his debts and withdrew his home equity, which totaled \$240,000.
14 So, instead of an approximate \$135,000 mortgage and \$15,000 in short-term debts,
15 he now has a \$240,000, 30-year interest only mortgage to pay off, a One Million
16 One Hundred Ninety Six Thousand-dollar (\$1,196,000) life insurance policy which
17 he did not, and does not need.

18 49. On February 16, 2007, after having attended the seminar and
19 presentation by Ogan Financial and Capital Line Financial, having reviewed the
20 marketing materials provided to him, and having met with Mr. Voogd several

1 times, Mr. Cressy was convinced and invested the proceeds of the refinancing in an
2 Equity Indexed Universal Life (herein referred to as "EIUL") policy (although no
3 funds over the last three years have ever been allocated to an equity index, rather,
4 the funds were completely allocated to a "fixed" rate) offered by OM Life
5 Insurance.

6 50. The payments due in the early years of the policy were more than Mr.
7 Cressy's yearly net income.

8 51. Mr. Cressy has paid \$94,258.51 into the policy as of June 16, 2011.
9 His surrender value is approximately \$65,722.72 if he were to withdraw as of the
10 date of this Complaint, not including penalties and fees.

11 52. The Defendants affirmatively concealed their fraudulent scheme by
12 making additional misrepresentations and concealing material facts after the sale of
13 the policy. Aside from the other fraudulent conduct set forth herein, in an on-
14 going effort to obtain additional funds and conceal their wrongdoing from the
15 Plaintiff and class members and consistent with the Missed Fortune marketing
16 scheme, the Defendants purportedly made annual reviews of the investment plans
17 and reiterated the earlier representations that the plan was performing consistent
18 with its design and stated purpose. Additionally, at some time after the sale of the
19 policies to the Plaintiff and putative class, upon information and belief Defendant
20 OM Financial changed its internal policies and procedures and made a

1 determination that the purchase of its life insurance policies using home equity
2 funds was not in the customers' best interest. Despite this determination, OM
3 Financial consciously decided to remain silent and not inform the Plaintiff and the
4 putative class all of who the Defendant knew had been sold a policy by a Missed
5 Fortune Certified agent. Plaintiff and members of the putative class did not and
6 could not have discovered the injuries he sustained from Defendants' fraudulent
7 scheme due to Defendants' ongoing efforts to conceal the nature and effect of this
8 scheme, as discussed herein. Further, Defendants' fraudulent acts and fraudulent
9 scheme are ongoing today.

10 53. Indeed, Mr. Cressy discovered only within the last year that the
11 'investment plan' he had been directed to participate in by the Defendants was not
12 as the Defendants had represented it to be, as described above.

13 **FIRST CAUSE OF ACTION**

14 **VIOLATION OF FEDERAL CIVIL RICO**
15 **(18 U.S.C. § 1962(c))**
16

17 54. Plaintiff adopts, re-alleges and incorporates herein each and every
18 allegation in Paragraphs 1 through 55, as though fully set forth herein. To the
19 extent necessary, this cause of action is pled in the alternative to the Second Cause
20 Of Action, *infra*.

21 55. Defendants' conduct as set out herein constitutes a violation of 18
22 U.S.C. § 1962(c). Defendants have acted together, along with individuals and

1 entities whose identities are currently unknown to Plaintiff, to conduct an
2 enterprise through a pattern of racketeering activity. As discussed in detail herein,
3 Defendants have intentionally participated in a scheme to defraud Plaintiff and the
4 putative class of money by means of material misrepresentations, omissions and
5 half-truths. Plaintiff and the putative class reasonably relied upon these
6 misrepresentations, omissions and half-truths, and, as a result of such reliance,
7 directly and proximately suffered real and specifiable damages. There is a threat
8 of long-term racketeering activity given the extensive scope of Defendants'
9 activity and the significant monetary gains such activity has garnered them.
10 Defendants use the United States Mail and the internet in furtherance of their
11 fraudulent scheme.

56. Each Plaintiff and putative class member is a "person" within the meaning of the Federal RICO statute. Each Defendant is a "person" within the meaning of the Federal RICO statute, separate from the enterprise in which they engaged. Each member of the enterprise profits from their participation in the illegal and fraudulent scheme.

12 **I. Defendants Conduct And Control A RICO Enterprise.**

13 57. Plaintiff alleges two distinct association in fact enterprises, as defined
14 in 18 U.S.C. § 1961(4), which are alleged alternatively to the extent necessary.
15 The first is comprised of Defendants and Michael Voogd, along with other

1 individuals and entities who acted as “agents” and/or “TEAM members” to market
2 and sell the policies in question to putative class members (whose identities are
3 currently unknown to Plaintiff). These individuals and entities associated together
4 with the common purpose of engaging in the wrongful conduct set forth herein.
5 Alternatively, the second association in fact enterprise is comprised of Defendants
6 OM Financial, Paramount Financial, Douglas Andrew, and individuals and entities
7 who assisted in the creation and implementation of the marketing plan for and
8 design of the policies in question (whose identities are currently unknown to
9 Plaintiff). These individuals and entities associated together with the common
10 purpose of engaging in the wrongful conduct set forth herein. The allegations
11 throughout this Complaint, both above and below, apply to both enterprises.

12 58. Each Defendant participated directly in the operation or management
13 of the enterprise and was associated in fact in furtherance of the enterprise. The
14 role of each Defendant in the fraudulent scheme and the enterprise is discussed in
15 detail *supra*. The enterprise described herein was formal and/or informal in nature.
16 The association of Defendants together furnished a vehicle for the commission of
17 multiple predicate acts set out below in detail.

18 59. The members of the enterprise have communicated throughout the
19 class period regarding the coordination and implementation of their fraudulent
20 scheme, including the marketing, misrepresenting, and sale of the policies in

1 question. Further, each member of the enterprise (including each Defendant)
2 worked with each other, and was aware of the other members of the enterprise and
3 of those members' roles in the enterprise. At the time each particular predicate act
4 was committed, each member of the enterprise at that time was acting in concert
5 with each other and with the group as a whole. Additionally, every member of the
6 enterprise was operating under an agreement (explicit or otherwise) to further the
7 fraudulent scheme set forth herein.

8 60. The enterprise in which Defendants are engaged affects interstate
9 commerce and/or its activities affect interstate commerce. Defendants operate
10 across state lines and throughout a majority of the United States. Defendants send
11 documents across state lines and collect and distribute revenue from the fraudulent
12 scheme across state lines.

13 61. Each member of the RICO enterprise, including each Defendant, is a
14 separate and distinct legal entity which is free to act independently to advance its
15 own interests, and which makes its own day-to-day business decisions. To the
16 extent that any Defendant may be a related entity of another member of the
17 enterprise (i.e. a subsidiary, parent, or sister corporation), the decision to operate as
18 separate entities facilitated the wrongful conduct in question.

19 62. The members of the enterprise are each distinct from the enterprise
20 itself. Each member is not conducting solely its own affairs, but is conducting the

1 affairs of the enterprise aside and apart from its own affairs. The members of the
2 enterprise have banded together to accomplish the fraudulent scheme and pattern
3 of racketeering activity discussed herein, which could not have been accomplished
4 by any member alone.

5 **II. Defendants Engage In A Pattern Of Racketeering Activity.**

6 63. To conduct the affairs of the enterprise, Defendants engaged in a
7 widespread pattern of racketeering activity as defined by 18 U.S.C. § 1961(5).
8 This pattern is ongoing today and presents the threat of future harm. This pattern
9 of racketeering activity consists of more than two acts of racketeering activity as
10 defined by 18 U.S.C. § 1961(1). The most recent act of racketeering activity
11 occurred within four years after the commission of the prior act.

12 64. Defendants' acts of racketeering activity include hundreds, and likely
13 thousands, of violations of the federal mail and wire fraud statutes, 18 U.S.C. §
14 1341 and 18 U.S.C. § 1343 (the "predicate acts"). Defendants violate the mail
15 fraud statute by unlawfully sending (and/or cause to be sent) documents including
16 communications, certificates, marketing materials, applications, policy statements,
17 "illustrations," reports, and invoices through the United States Postal Service, by
18 facsimile, and/or through the internet. Defendants send these documents for the
19 purpose of carrying out their fraudulent scheme, including for the purpose of
20 disseminating the misrepresentations set forth above, charging and collecting

1 premiums on the policies at issue, and distributing the money obtained by their
2 fraudulent scheme among themselves. These predicate acts were necessary for
3 Defendants to carry out their fraudulent scheme, indeed, among other things, it was
4 through these predicate acts that Defendants largely obtained Plaintiff and putative
5 class members' money.

6 65. Each member of the putative class has received one of the documents
7 sent through the mails or wires in violation of 18 U.S.C. § 1341 and/or 18 U.S.C. §
8 1343. For example, Mr. Cressy received payment due notices through the United
9 States Mail on or about February 16, 2008, February 16, 2009, February 16, 2010,
10 and February 16, 2011 from OM Financial which requested payment of premiums
11 on the policy sold to him. Mr. Cressy also received documents from Capital Line
12 regarding the mortgage he was sold subject to Defendants' scheme on or about
13 February 2, 2007, from Mr. Voogd regarding the policy he was sold on or about
14 February 8, 2011, and from Ogan Financial regarding the policy he was sold on or
15 about November 20, 2006 (including an application for that policy). Defendants
16 have used the mails and wires to further their fraudulent scheme many other times.
17 Much of this information is currently within Defendants' exclusive possession and
18 control.

19 66. The purpose of this fraudulent scheme is to obtain Plaintiff and
20 putative class members' money through false and/or fraudulent pretenses. This is

1 in violation of 18 U.S.C. § 1341.

2 67. Defendants also send and receive other writings (letters, contracts,
3 checks, invoices and other paper) and sound communications (including but not
4 limited to telephone calls, facsimile transmissions, and bank wire transfers) for the
5 purpose of executing and attempting to execute a scheme to obtain Plaintiff and
6 putative class members' money through false and/or fraudulent pretenses in
7 violation of 18 U.S.C. § 1343. Upon information and belief, Defendants regularly
8 use e-mail, which is transmitted through the wires, to coordinate the fraudulent
9 scheme amongst themselves.

10 68. To the extent that any Defendant did not itself send writings in
11 violation of 18 U.S.C. § 1341 and 18 U.S.C. § 1343, it causes these writings to be
12 sent, or knowingly and willfully aids and abets those violations.

13 69. The multiple acts of racketeering activity are not isolated events.
14 They are part of a common and continuous pattern of unlawful and wrongful acts
15 which has been ongoing for at least five years, and are a necessary part of the
16 fraudulent scheme. The separate acts of racketeering are related in that they have
17 the same or similar intended victims: Plaintiff and the putative class. The separate
18 acts of racketeering also have the same or similar purposes (obtaining clients'
19 money through the marketing and selling of the policies, mortgages, and other
20 products), results (actual acquisition of clients' money), participants (Defendants

1 along with individuals and entities whose identities are currently not known, as
2 detailed above) and methods of commission (use of certain marketing materials
3 and invoices sent through the mail, the collection and distribution of money for
4 premiums).

5 70. Additionally, many if not the majority of Defendants' wrongful acts
6 occurred within the previous four years. These acts are not simply reaffirmations
7 of previous acts, but rather are new and independent acts undertaken in furtherance
8 of the fraudulent scheme described herein. For example, Defendants have made
9 misleading statements, omitted material facts, and sent documents through the
10 mails and wires in furtherance of the fraudulent scheme within the previous four
11 years. Further, these acts have inflicted new and accumulating injury on the
12 Plaintiff, and on members of the putative class.

13 71. Defendants also fraudulently concealed their fraudulent scheme
14 throughout the class period, and due to this concealment Plaintiff and members of
15 the putative class could not have discovered the scheme through the exercise of
16 due diligence.

17 **III. Defendants Proximately And Directly Injured Plaintiff And The**
18 **Putative Class.**

19
20 72. Plaintiff and putative class members have been directly and
21 proximately damaged by the misrepresentations in that they caused Plaintiff and
22 putative class members to reasonably rely upon such misrepresentations and to pay

1 premiums and fees. The amount of damages incurred by Plaintiff and putative
2 class members is specifiable and easily determined from documents maintained by
3 Defendants. Plaintiff and putative class members were the intended victims of
4 Defendants' racketeering activity, enterprises, and scheme.

5 73. Defendants' wrongful acts proximately caused damage to Plaintiff and
6 putative class members' business and property. Plaintiff and putative class
7 members were directly injured by the Defendants' racketeering activity.
8 Defendants' violation of 18 U.S.C. § 1961, *et seq.* (and of 18 U.S.C. § 1341 and 18
9 U.S.C. § 1343) was the but for cause of Plaintiff and putative class members'
10 injuries.

11 74. By the acts of racketeering and the conduct of the scheme discussed
12 above, Defendants acquired Plaintiff and putative class members' money in the
13 form of payment of premiums, fees, and charges. Plaintiff and the putative class
14 relied upon Defendants' misrepresentations, half-truths, and omissions by paying
15 such premiums, fees, and charges.

16 75. Plaintiff and putative class members were the direct and intended
17 victims—as opposed to the indirect victims—of Defendants racketeering violations
18 as Defendants racketeering acts were targeted at Plaintiff and putative class
19 members.

20

1 members to market and sell the policies at issue. Additionally, included among
2 these overt acts, are acts of mail and wire fraud in violation of 18 U.S.C. § 1341
3 and 18 U.S.C. § 1343. Details of some of these violations, including the date,
4 purpose, and persons directly involved, are set forth above. Information as to other
5 violations is currently within Defendants' exclusive possession or control.

6 79. Defendants each agreed to commit the predicate acts of mail and wire
7 fraud set forth herein, to participate in the fraudulent scheme set forth herein, and
8 to participate in the pattern of racketeering activity set forth herein. At a
9 minimum, each Defendant agreed to the commission of at least two predicate acts
10 by someone associated with the RICO enterprise. Defendants each knew that the
11 predicate acts were a part of a pattern of racketeering activity, and in no way were
12 isolated events.

13 80. Plaintiff and putative class members have been directly and
14 proximately damaged by Defendants' conspiracy. Additionally, Plaintiff and
15 putative class members were directly injured by the Defendants' racketeering
16 activity. Plaintiff and each putative class member relied upon Defendants'
17 misrepresentations, half-truths, and omissions by paying money for policies, fees,
18 and charges. Defendants have each obtained money wrongfully from such
19 payment. The amount of damages incurred by Plaintiff and putative class
20 members is specifiable and easily determined from documents maintained by

1 Defendants. Plaintiff and putative class members were the direct and intended
2 victims of Defendants' conspiracy, racketeering activity, enterprise, and fraudulent
3 scheme, and Defendants intentionally targeted Plaintiff and putative class
4 members.

5 **THIRD CAUSE OF ACTION**

6 **UNLAWFUL, UNFAIR AND FRAUDULENT BUSINESS PRACTICES**
7 **(Cal. Bus. & Prof. § 17200, *et seq.*)**
8

9 81. Plaintiff adopts, re-alleges and incorporates herein each and every
10 allegation in Paragraphs 1 through 82, as though fully set forth herein.

11 82. Plaintiff brings this claim individually, on behalf of the class and on
12 behalf of the general public.

13 83. Through the conduct and scheme described herein, and particularly
14 through the marketing and selling of OM Financial equity-indexed universal life
15 insurance policies to Plaintiff and members of the public, Defendants engaged in
16 unlawful, deceptive, and unfair business acts within the meaning of California
17 Business and Professions Code § 17200 *et seq.* Defendants' acts and practices
18 offend an established public policy, and Defendants engage in immoral, unethical,
19 oppressive, and unscrupulous activities that are substantially injurious to
20 consumers including Plaintiff.

21 84. Defendants' acts of unfair competition and unlawful business
22 practices include violations of the Civil RICO statute, California Civil Code

1 §§1572, 1573, 1709, 1711, 1770, California Insurance Code §§ 330, 331, 332,
2 other portions of the California Insurance Code and related regulations and rules,
3 and the common law. Such acts include, but are not limited to,

- 4 a. selling Plaintiff and members of the public equity-indexed universal
5 life insurance policies that were unsuitable for their investment, estate
6 planning, insurance, and/or financial needs;
- 7 b. misrepresenting and inflating the returns and results Plaintiffs and
8 members of the putative class could achieve by purchasing equity-
9 indexed universal life insurance policies;
- 10 c. misrepresenting to Plaintiff and members of the public that OM
11 Financial equity-indexed universal life insurance policies are
12 “investment grade”;
- 13 d. misrepresenting to Plaintiff and members of the public that an
14 investment in equity-indexed universal life insurance is “liquid”;
- 15 e. misrepresenting to Plaintiff and members of the public that
16 withdrawing 100% of one’s home equity and investing the proceeds in
17 an policy was “safe”;
- 18 f. failing to adequately disclose the true nature of equity-indexed
19 universal life insurance policies and the penalties imposed for
20 liquidating such policies.

1 85. Plaintiff reserves the right to allege other violations which constitute
2 other unlawful business acts or practices. Upon information and belief,
3 Defendant's wrongful conduct in violation of § 17200, *et seq.* is ongoing and
4 continues to this date.

5 86. There were reasonably available alternatives to further Defendant's
6 legitimate business interests, other than the conduct described herein.

7 87. Defendant's actions, claims, nondisclosures, and misleading
8 statements, as alleged in this Complaint, likely to deceive Plaintiff and the public,
9 and were intended to deceive Plaintiff and members of the public. Plaintiff and
10 class members have in fact been deceived and have relied on Defendant's
11 representations and omissions. This reliance has caused harm to Plaintiff and class
12 members. Plaintiff and class members have suffered injury in fact and lost money
13 as a result of Defendant's unlawful, unfair, and fraudulent practices.

14 88. As a result of its deception, Defendant has been able to reap unjust
15 revenue and profit. Further, upon information and belief, unless restrained and
16 enjoined, Defendant will continue to engage in the above-described conduct.
17 Accordingly, injunctive relief is appropriate.

18 **FOURTH CAUSE OF ACTION**

19 **UNFAIR, DECEPTIVE AND MISLEADING ADVERTISING**
20 **(Cal. Bus. & Prof. § 17500, *et seq.*)**
21

22 89. Plaintiff adopts, re-alleges and incorporates herein each and every

1 allegation in Paragraphs 1 through 90, as though fully set forth herein.

2 90. Plaintiff brings this claim individually, on behalf of the class and on
3 behalf of the general public.

4 91. Through the conduct and scheme described herein, and particularly
5 through the marketing and selling of OM Financial equity-indexed universal life
6 insurance policies to Plaintiff and members of the public, Defendants engaged in
7 unfair, deceptive, and misleading advertising within the meaning of California
8 Business and Professions Code § 17500 *et seq.* Defendants' acts and practices
9 offend an established public policy, and Defendants engage in immoral, unethical,
10 oppressive, and unscrupulous activities that are substantially injurious to
11 consumers including Plaintiff.

12 92. Defendants' acts of unfair, deceptive, and misleading advertising
13 include violations of the Civil RICO statute, California Civil Code §§1572, 1573,
14 1709, 1711, 1770, California Insurance Code §§ 330, 331, 332, other portions of
15 the California Insurance Code and related regulations and rules, and the common
16 law. Such acts include, but are not limited to:

17
18 a. selling Plaintiff and members of the public equity-indexed universal
19 life insurance policies that were unsuitable for their investment, estate
20 planning, insurance, and/or financial needs;

1 b. misrepresenting and inflating the returns and results Plaintiffs and
2 members of the putative class could achieve by purchasing equity-
3 indexed universal life insurance policies

4 c. misrepresenting to Plaintiff and members of the public that OM
5 Financial equity-indexed universal life insurance policies are
6 “investment grade”;

7 d. misrepresenting to Plaintiff and members of the public that an
8 investment in equity-indexed universal life insurance is “liquid”;

9 e. misrepresenting to Plaintiff and members of the public that
10 withdrawing 100% of one’s home equity and investing the proceeds in
11 an policy was “safe”;

12 f. failing to adequately disclose the true costs necessary to sustain the
13 policies necessary to achieve the intended results of the investment
14 plan;

15 g. failing to adequately disclose the true nature of equity-indexed
16 universal life insurance policies and the penalties imposed for
17 liquidating such policies;

18 93. Plaintiff reserves the right to allege other violations which constitute
19 other unlawful business acts or practices. Upon information and belief,
20 Defendant’s wrongful conduct in violation of § 17200, *et seq.* is ongoing and

1 continues to this date.

2 94. There were reasonably available alternatives to further Defendant's
3 legitimate business interests, other than the conduct described herein.

4 95. Defendant's actions, claims, nondisclosures, and misleading
5 statements, as alleged in this Complaint, likely to deceive Plaintiff and the public,
6 and were intended to deceive Plaintiff and members of the public. Plaintiff and
7 class members have in fact been deceived and have relied on Defendant's
8 representations and omissions. This reliance has caused harm to Plaintiff and class
9 members. Plaintiff and class members have suffered injury in fact and lost money
10 as a result of Defendant's unlawful, unfair, and fraudulent practices.

11 96. As a result of its deception, Defendant has been able to reap unjust
12 revenue and profit. Further, upon information and belief, unless restrained and
13 enjoined, Defendant will continue to engage in the above-described conduct.
14 Accordingly, injunctive relief is appropriate.

15 **FIFTH CAUSE OF ACTION**

16 **VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT**
17 **(Cal. Civil Code § 1750 et seq.)**
18

19 97. Plaintiff adopts, re-alleges and incorporates herein each and every
20 allegation in Paragraphs 1 through 98, as though fully set forth herein.

21 98. As set forth herein, Defendants misrepresented the nature and
22 liquidity of the equity-indexed universal life insurance policies in question.

1 99. Such actions constitute unfair methods of competition, and deceptive
2 and unfair acts and practices pursuant to the Consumer Legal Remedies Act.
3 Defendants disseminated misrepresentations common to Plaintiff and members of
4 the putative class.

5 100. Defendants' actions were intended to, and did result in a sale of goods
6 and/or to Plaintiff members of the putative class.

7 101. Plaintiff and members of the putative class are consumers under the
8 Consumer Legal Remedies Act.

9 102. Defendants violated the Consumer Legal Remedies Act by, among
10 other things:

- 11 a. representing the policies to have uses and benefits which they do not
12 have;
- 13 b. representing that the policies are of "investment grade" or similarly
14 suitable;
- 15 c. representing that Plaintiff and members of the putative class would
16 receive an economic benefit that was to occur subsequent to purchase
17 of the policies which did not, and could not have, occurred; and
- 18 d. engaging in other prohibited and unlawful acts.

19 103. Defendants' actions have caused harm to Plaintiff and members of the
20 putative class. Plaintiff seeks to remedy this harm by appropriate injunctive relief,

1 actual damages, and any other relief the court deems proper.

2 **SIXTH CAUSE OF ACTION**

3 **BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR**
4 **DEALING**

5
6 104. Plaintiff adopts, re-alleges and incorporates herein each and every
7 allegation in Paragraphs 1 through 105, as though fully set forth herein.

8 105. Defendants have breached their duty of good faith and fair dealing
9 owed to Plaintiff and members of the putative class, in the following respects:

10 106. Defendants unreasonably and in bad faith misrepresented pertinent
11 facts and policy provisions relating to the liquidity and appropriateness of
12 coverage;

13 107. Defendants failed to give equal consideration to the interests of
14 Plaintiff in relation to their own interests; and

15 108. Defendants knowingly allowed the policy to be issued despite the fact
16 it was inappropriate for Plaintiff.

17 109. Upon information and belief, Defendants have breached their duty of
18 good faith and fair dealing owed to Plaintiff and members of the putative class by
19 other acts and omissions of which he is not presently aware. Plaintiff may seek
20 leave of court to amend this Complaint at such time as he ascertains and discovers
21 the other acts or omissions constituting further breach. As a proximate result of the
22 aforementioned wrongful conduct of Defendants, as set forth in detail herein,

1 Plaintiff and members of the putative class have suffered and will continue to
2 suffer, damages stemming from Defendant's breach of the implied covenant of
3 good faith and fair dealing for a total amount to be shown at trial.

4 110. As a further proximate result of the aforementioned wrongful conduct
5 of Defendants, Plaintiff and members of the putative class have suffered and will
6 continue to suffer incidental damages and out of pocket expenses, all to Plaintiff's
7 and members' of the putative class detriment in a total amount to be shown at trial.

8 111. As a further and proximate result of the aforementioned wrongful
9 conduct of Defendants, Plaintiff was compelled to retain legal counsel to protect
10 his interests. Therefore, Defendants are liable to Plaintiff for those attorney fees
11 and costs reasonably and necessarily incurred to protect his interests in a sum to be
12 determined at trial;

13 112. Plaintiff alleges that the aforementioned conduct was undertaken by
14 Defendants and/or their agents with an intent to harm Plaintiff and members of the
15 putative class, or was undertaken with a conscious disregard for Plaintiff's and
16 members' of the putative class rights and was despicable, or fraudulent in nature,
17 such as to warrant an award of punitive damages against Defendants, as set forth in
18 California Civil Code § 3294 in an amount to be proven at trial.

19
20

1 **SEVENTH CAUSE OF ACTION**

2 **BREACH OF FIDUCIARY DUTIES**

3 113. Plaintiff adopts, re-alleges and incorporates herein each and every
4 allegation in Paragraphs 1 through 114, as though fully set forth herein.

5 114. To the extent necessary, this claim is pled in the alternative to those
6 claims asserted on behalf of the putative class and/or is asserted on behalf of
7 Plaintiff alone.

8 115. There exists a fiduciary duty between Plaintiff and each Defendant,
9 because Plaintiff reposed in each of them great trust with his financial affairs and
10 investments, and trusted them with his retirement plan;

11 116. Plaintiff alleges that Defendants each breached the fiduciary duty
12 owed to Plaintiff in the following respects:

13 a. Defendants advised him to refinance his home, and invest the
14 proceeds in an equity-indexed universal life policy, which greatly
15 exceed his stated risk-tolerance and stated financial goals;

16 Defendants represented to Plaintiff that his investment in life
17 insurance would be liquid when in fact by an average person's
18 understanding it is not;

19 b. Said Defendants directed him into a life insurance policy which has
20 initial payments exceeding his annual income;

1 c. Defendants' interests conflicted with the Plaintiff's and the
2 Defendants put their interests before the Plaintiff's;

3 d. he Defendants engaged in self-dealing at the expense of the Plaintiff;
4 and

5 e. Defendants caused forfeiture on the part of Plaintiff by exorbitant fees
6 and penalties for early withdrawal from the life insurance policy.

7 **EIGHTH CAUSE OF ACTION**

8 **FRAUD**

9 117. Plaintiff adopts, re-alleges and incorporates herein each and every
10 allegation in Paragraphs 1 through 119, as though fully set forth herein.

11 118. To the extent necessary, this claim is pled in the alternative to those
12 claims asserted on behalf of the putative class and/or is asserted on behalf of
13 Plaintiff alone.

14 119. At all times material hereto, Defendants were under a duty to not
15 misrepresent, or to disclose, the true nature of the equity-indexed universal life
16 insurance policy and investment plan, to Plaintiff.

17 120. Defendants' representations set forth herein were false. Defendants'
18 representations that the policy was "investment grade," "safe," "liquid," and better
19 for Plaintiff's needs than other investments or comparable products were false.
20 Further, Defendants' representations regarding the potential and/or expected rate of

1 return on the policy, and regarding the financial need and wisdom of stripping the
2 equity out of Plaintiff's home to purchase the policy in question were also false.
3 Defendants also made additional misrepresentations which can be uncovered
4 through discovery.

5 121. Defendant makes these, and similar misrepresentations, on marketing
6 materials, in emails and other correspondence, in "illustrations," and in other
7 documents which were sent or given to Plaintiff. The dates of some of these
8 occurrences are set forth herein. Other dates are currently within Defendants' sole
9 possession or control. Defendants also falsely held themselves out as a team of
10 experts, well-versed in financial matters, who were representing Plaintiff's
11 interests above their own.

12 122. Defendants knew these representations were false at the time they
13 made them. Defendants made these representations and omitted material facts
14 with the intent to defraud and deceive Plaintiff.

15 123. Plaintiff believed Defendants' statements to be true and, in reliance on
16 those statements, paid fees and other costs and retained Defendants' services.
17 Plaintiff was ignorant of the falsity of Defendants' representations and believed
18 them to be true.

19 124. Plaintiff reasonably relied on Defendants' representations because of
20 the reasons set out herein, including Defendant's affirmative acts of concealment.

1 Plaintiff had no reason to suspect that Defendants' statements were untrue or
2 misleading or that Defendant was intentionally omitting material facts.

3 125. As a direct and proximate result of Defendants' intentional
4 misrepresentations and intentional concealment of material facts, Plaintiff
5 purchased the policy in question, stripped equity out of their homes to do so, paid
6 related fees and charges, and otherwise changed their course of conduct.

7 126. The above-described conduct by Defendants was willful, wanton, and
8 fraudulent, and was intended to, did, and does cause injury to Plaintiff. Plaintiff is
9 therefore entitled to an award of punitive or exemplary damages.

10 127. Defendants' misrepresentation and failure to disclose important
11 information to Plaintiff was material to Plaintiff's decisions and ensuing conduct.
12 As a result of Plaintiff's reasonable reliance on Defendants' representations and
13 repeated assurances, Plaintiff changed his financial position and put himself in
14 harm's way, causing financial injury.

15 **PRAYER FOR RELIEF**

16 **WHEREFORE**, Plaintiff prays for judgment against Defendants and each
17 of them, as follows:

18 128. For an Order certifying this action as a class action under Federal Rule
19 of Civil Procedure 23 as set forth herein;

20 129. For actual and compensatory damages in such amount as the Court or

1 jury deems just and proper;

2 130. For statutory, treble, and punitive damages for all Cause of Action
3 alleged herein for which such damages are permissible under applicable law,
4 including RICO, sufficient to punish Defendants and to deter further malicious
5 fraudulent, and oppressive conduct, in such amount as the Court or jury deems just
6 and proper;

7 131. For attorney's fees and costs for all Cause of Action alleged herein for
8 which such amounts are permissible under applicable law, including California
9 Code of Civil Procedure § 1021.5 and Federal RICO, in such amount as the Court
10 or jury deems just and proper;

11 132. For prejudgment interest;

12 133. For an Order requiring Defendant to provide notice to the class and to
13 pay for such notice;

14 134. For imposition of a constructive trust, recessionary relief, and
15 injunctive relief, including prohibition of Defendants' unfair, illegal and fraudulent
16 business practices set forth herein, and including restitution and disgorgement of
17 ill-gotten profits; and

18 135. All other relief which the Court and/or jury deems equitable and just.

19 **DEMAND FOR JURY TRIAL**

20 Plaintiff on his own behalf and on behalf of the putative class, demands a

1 jury trial in the above captioned matter.

2

3 DATED: July 14, 2011

4

5

By: 

6

Nicholas W. Armstrong

7

8 Nicholas W. Armstrong, Esq. (Bar No. 270963)

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge John Kronstadt and the assigned discovery Magistrate Judge is Jacqueline Chooljian.

The case number on all documents filed with the Court should read as follows:

CV11- 5871 (JAK) (JCx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address:

OM Financial Life Insurance Company
Attn.: Karen Harris
c/o Corporation Service Company
2730 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

LACV11-5871JAK(JLH)

PLAINTIFF(S)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:

Ogan Financial Group, Inc.
c/o Reg. Agent, Kenneth R. Ogan, Jr.
2775 Tapo Street, Suite 204
Simi Valley, CA 93063

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

LACV11-5871JAK(JL)

PLAINTIFF(S)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:

Capital Line Financial, LLC
c/o Reg. Agent, William J. Tessar
23925 Park Sorrento, # 200
Calabasas, CA 91302

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

LACV11-5871JAK(WJ)

PLAINTIFF(S)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seat of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:

Paramount Financial Services, Inc.
c/o Reg. Agent, Douglas R. Andrew
6340 S. 3000 E # 280
Salt Lake City, Utah 84121

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

LACV11-5871JAK(JLA)

PLAINTIFF(S)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:

Partnervest Advisory Services, Inc.
c/o Golden State Documents, Inc.
10943 Mayfield Road
Houston, TX 77043-3908

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

PLAINTIFF(S)

LACV11-5871 JAK (JL)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:

Douglas Andrew
2420 Wrenhaven Lane
Salt Lake City, Utah 84121-2365

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

LACV11-5871 JAK(JLA)

PLAINTIFF(S)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seat of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:

William J. Tessar
638 Oak Tree Street
Simi Valley, CA 93065-8224

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

PLAINTIFF(S)

LACV11-5871JAK(JL)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight

DEFENDANT(S).

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seat of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:

Kenneth R. Ogan, Jr.
980 Enchanted Way, Suite 206
Simi Valley, CA 93065-0913

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

PLAINTIFF(S)

LACV11-5871 JAK (JL)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight

DEFENDANT(S)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address:

Robert Knight
980 Enchanted Way, Suite 206
Simi Valley, CA 93065-0913

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Eddie L. Cressy

CASE NUMBER

LACV11-5871JAK(JLA)

PLAINTIFF(S)

v.

OM Financial Life Ins. Co.; Ogan Financial Group, Inc.;
Capital Line Financial, LLC; Paramount Financial Services,
Inc.; Partnervest Advisory Services, LLC; Douglas
Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and
Robert Knight.

DEFENDANT(S)

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Nicholas W. Armstrong, whose address is McCallum, Methvin & Terrell, P.C., 2201 Arlington Ave. South, Birmingham, AL 35205. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: JUL 18 2011

By: [Signature]
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) Eddie L. Cressy	DEFENDANTSOM Financial Life Ins. Co.; Ogan Financial Group, Inc., Capital Line Financial, LLC; Paramount Financial Services, Inc.; Partnervest Advisory Services, LLC; Douglas Andrew; William J. Tessar; Kenneth R. Ogan, Jr.; and Robert Knight
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Nicholas W. Armstrong, Esq. McCallum, Methvin & Terrell, P.C.; 2201 Arlington Avenue South Birmingham, AL 35205 Tel: (205) 939-0199	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:30%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify):
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No
 MONEY DEMANDED IN COMPLAINT: \$ undetermined

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

18 UCS 1962; 18 USC 1964

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input checked="" type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

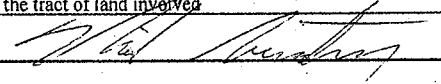
(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Ventura, Los Angeles, Santa Barbara	Maryland, Utah

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
 Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
 Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date 7/14/2011

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))