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**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR ADA COUNTY**

STATE OF IDAHO, DEPARTMENT OF FINANCE,
SECURITIES BUREAU,

Plaintiff,

vs.

JUSTIN FINNEY, an individual;
RODNEY SKYLES, an individual;
BRYAN TRENARY, an individual;
CLEARWATER TRADING GP, LLC; an Idaho limited
liability company;
CLEARWATER TRADING COMPANY, LP; an Idaho
limited partnership;
CLEARWATER REAL PROPERTIES GP, LLC; an Idaho
limited liability company;
CLEARWATER REAL PROPERTIES, LP; an Idaho limited
partnership;
CLEARWATER REAL PROPERTIES, GP; a general
partnership;
SKYWARD PROPERTIES LLC; an Idaho limited liability
company; and
PEAK MARKET TRENDS LLC, an Idaho limited liability
company,

Defendants.

Case No. CV01-23-12023

VERIFIED COMPLAINT

Fee category: Exempt

COMES NOW the State of Idaho, Department of Finance, Securities Bureau, Patricia R. Perkins, Administrator/Director herein (the "Department") by and through its counsel, and upon information and belief, complains and alleges as follows:

The Department is Idaho's securities regulator, charged with protecting Idaho's investors and Idaho's capital markets. This action is brought pursuant to Idaho's Uniform Securities Act (2004), Idaho Code § 30-14-101 et seq. (the "IUSA"), specifically Idaho Code § 30-14-603, authorizing the Department to bring civil enforcement actions seeking injunctive, restitution, disgorgement, civil penalty and other relief against persons who have either violated or are about to violate provisions of the IUSA.

I. SUMMARY

From January 2013 through March 2018, Justin Finney established at least six business entities, which had three different business purposes and included up to three other managing members, or principals, within each business. Managing members in the business entities included Justin Finney, Bryan Trenary, and Rodney Skyles (the natural person "Defendants" herein). The business entities were set up such that the Defendants were sheltered under a limited liability company structure.

The business entities were funded by soliciting and selling investments in the form of an interest in a limited partnership or a limited liability company. In total, the business entities collected \$3,407,335.80 of investor funds from 46 investors residing in seven states. Most of the investors were Justin Finney's and Rodney Skyles' prior investment clients, friends, family, and persons who perceived them as successful business investors or who trusted and had previously relied on them for investment advice.

Throughout the Department's investigation, the Defendants claimed they could not recall a substantial amount of information and made it clear that offering documents and advertising documents were not read, understood, and included a substantial amount of inaccurate information and/or were essentially fluff marketing pieces. Virtually all investor funds were lost in connection to these business entities. The Defendants did not have any successful experience in connection to their stated business purpose nor did they make attempts to safeguard investor funds.

A substantial amount of the investment funds was not used for any legitimate business use. Investor funds were used to make risky investment trades, to purchase unneeded business expenses to perpetuate their claims of success, and for personal use. The Defendants did not recall what most outgoing funds were used for, including payments to themselves, and they could not explain how payments to themselves were structured.

The Defendants violated the Uniform Idaho Securities Act (2004), Idaho Code § 30-14-101 et seq. ("IUSA"), and specifically Idaho Code §§ 30-14-301, 402, and 501.

II. JURISDICTION AND VENUE

1. Jurisdiction is proper under the IUSA pursuant to Idaho Code §§ 5-514 and 30-14-610. The acts alleged herein are violations of law by the above-named Defendants that occurred mostly in Idaho and harmed Idaho investors. The issuers were organized in Idaho and investor money was raised in Idaho, and some Defendants resided in Idaho at the time the acts were committed.

2. Venue is proper, pursuant to Idaho Code § 5-404. Defendant Rodney Skyles, at all relevant times, resided in Ada County and his business, Defendant Skyward, was located in Ada

County. In addition, much of the fraud by the Defendants arose and occurred in Ada County, where various investors resided.

III. DEFENDANTS

Justin Lee Finney

3. Justin Lee Finney ("Finney"), an individual person, was a resident of Idaho up until possibly May 2015 and was listed as a member on the formation documents of Clearwater Real Properties GP, LLC, Clearwater Trading GP, LLC, and Peak Market Trends, LLC and generally held himself out as a general partner of all Clearwater named entities.

4. Finney registered as an investment adviser representative in the states of Idaho and Washington in 2005 and registered as a broker-dealer representative with Financial Industry Regulatory Authority ("FINRA") in 2007 (Central Registration Depository ("CRD") number 3159640).

5. As of December 31, 2012, Finney was no longer registered to sell securities. Finney was not registered to provide investment advice from January 1, 2013, through June 30, 2013. From July 1, 2013, through June 14, 2016, Finney was the Qualifying Officer of Clearwater Trading GP, LLC, which excluded him from Idaho's investment advisor registration requirement. As of June 14, 2016, Finney was no longer registered to provide investment advice.

Rodney Eugene Skyles

6. Rodney "Rod" Eugene Skyles ("Skyles"), an individual person, was a resident of Idaho at all relevant times, and was listed as a member in the formation documents of Peak Market Trends, LLC and Skyward Properties LLC.

7. Skyles registered as a broker-dealer representative with FINRA in 1991 and as an investment adviser representative in Idaho in 1994 (CRD number 1472815). As of October 11, 2013, Skyles was no longer registered to sell securities or provide investment advice.

Bryan Wade Trenary

8. Bryan Wade Trenary (“Trenary”), an individual person, was a resident of the state of Washington, and was listed as a member in the formation documents of Clearwater Real Properties GP, LLC, Clearwater Trading GP, LLC, and Peak Market Trends, LLC.

9. Trenary met Finney in approximately 2009 through Trenary’s parents, who were Finney’s investment adviser clients.

10. Trenary has never been registered to sell securities or provide investment advice.

Clearwater Trading GP, LLC

11. Clearwater Trading GP, LLC (“CT GP, LLC”), an Idaho limited liability company, was formed on December 10, 2012, and was dissolved on March 10, 2020. CT GP, LLC held itself out as being managed by members Finney and Trenary. CT GP, LLC applied for registration as an investment adviser firm with the State of Idaho and FINRA in December 2012 (CRD number 166708). CT GP, LLC’s application for registration was terminated on June 14, 2016. CRP GP, LLC was never registered to sell securities.

Clearwater Trading Company, LP

12. Clearwater Trading Company, LP (“CTC, LP”), an Idaho limited partnership, was formed on December 10, 2012, and was dissolved on March 10, 2020. CTC, LP was managed by CT GP, LLC. CTC, LP filed for an exemption from registration under Regulation D, Rule 506 and Section 3(c)(1) of the Investment Company Act on January 11, 2013.

Clearwater Real Properties GP, LLC

13. Clearwater Real Properties GP, LLC (“CRP GP, LLC”), an Idaho limited liability, was formed on September 6, 2013, and was dissolved on December 8, 2020. CRP GP, LLC held itself out as being managed by members Finney and Trenary. CRP GP, LLC applied for registration as an investment adviser firm with the State of Idaho and FINRA in September 2013 (CRD number 169209). CRP GP, LLC’s application for registration was withdrawn on February 4, 2014. CRP GP, LLC has never been registered to sell securities.

Clearwater Real Properties, LP

14. Clearwater Real Properties, LP (“CRP, LP”), an Idaho limited partnership, was formed on September 6, 2013, and was dissolved on December 8, 2020. CRP, LP was managed by CRP GP, LLC. CRP, LP filed for an exemption from registration under Regulation D, Rule 506 on September 5, 2013.

Clearwater Real Properties, GP

15. Clearwater Real Properties, GP (“CRP, GP”), a general partnership, was never registered as a business entity with the Idaho Secretary of State or in any other state. Finney was one of the general partners of the business. CRP, GP, through Finney, claimed an exemption from securities registration under § 30-14-202 (14). CRP, GP has never been registered as an investment adviser firm nor as a broker-dealer firm.

Skyward Properties LLC

16. Skyward Properties LLC (“Skyward”), an Idaho limited liability company, was formed October 25, 2013, and was dissolved on January 10, 2019. Skyward held itself out as being

managed by Skyles and other members of his family. Skyward has never been registered as an investment adviser firm nor as a broker-dealer firm.

Peak Market Trends LLC

17. Peak Market Trends LLC (“Peak”), an Idaho limited liability company, was formed on April 5, 2016, and was dissolved on July 23, 2018. Peak held itself out as being managed by members Finney, Skyles, and Trenary. Peak, through Finney, claimed an exemption from registration under § 30-14-202 (14). Peak has never been registered as an investment adviser firm nor as a broker-dealer firm.

IV. FACTS

Lawsuits

18. Finney, Skyles, and their various business entities have had multiple civil suits brought against them. A civil suit involving investors in this matter was brought on November 25, 2020, in case number CV01-20-19222, in the District Court of the Fourth Judicial District, Ada County, State of Idaho. Therein, Finney, Skyles, and multiple business entities were sued by multiple investors. The matter was resolved through a private settlement agreement.

Unsuccessful Endeavors

19. Finney and Skyles had a history of unsuccessful endeavors and financial problems. Finney was allegedly losing client funds while he was an investment adviser, sold other alternative investments which failed, and was unable to pay his multiple bank loans. Skyles had problems connected to multiple business deals, before and during the violation period.

Bank and Brokerage Accounts

20. Finney, Trenary, and Skyles had at least twenty-nine bank accounts through at least six different banks both personally and in multiple company names. Investment funds were routinely transferred between accounts, which did not have any legitimate business purpose.

21. Finney and Trenary had at least seventeen brokerage accounts through at least four different brokerage firms both personally and in multiple business names. Although most investor funds were used for trading, some funds were used for Finney and/or Trenary's personal use.

Idaho Uniform Securities Act (2004)

22. In part, Idaho Code § 30-14-102 (28) defines a security to include an investment contract. An investment contract includes interests in a limited partnership or a limited liability company and is further defined as an investment in a common enterprise with the expectation of profits to be derived primarily from the efforts of a person other than the investor.

"Common enterprise" means an enterprise in which the fortunes of the investor are interwoven with those of either the person offering the investment, a third party, or other investors."

Clearwater Trading - Issuance of Securities

23. Two business entities were formed under different ownership structures: CT GP, LLC and CTC, LP (collectively "Clearwater Trading"). Both companies maintained accounting records in Excel, filed tax returns, and had bank accounts in their own business name. Although their accounting records were separate, they frequently commingled funds in bank and brokerage accounts. The Clearwater Trading business structure more closely resembled a Limited Partnership with Finney and Trenary as general partners and investors as limited partners.

24. From January 2013 through February 2016, CTC, LP issued securities in the form of an interest in a limited partnership which were solicited and sold by Finney and Trenary. CTC, LP was the only entity issuing securities, however, nearly all investor funds were deposited into the CT GP, LLC bank account. The CTC, LP bank account had very little activity. Finney was a signer on both bank accounts and Trenary was only a signer on the CT GP, LLC account.

25. Multiple brokerage accounts existed in the CTC, LP, name for which both Finney and Trenary had trading authority. They frequently moved funds between the various CTC, LP accounts, which had no apparent legitimate business purpose. Ultimately, the funds were moved to two main trading accounts. Some funds were used for Finney and/or Trenary's own personal use, but most investment funds were lost in connection to the investment trades.

Clearwater Trading GP, LLC

26. CT GP, LLC's Operating Agreement was signed by Finney and Trenary on December 20, 2012. Finney and Trenary each had 50% ownership and the company was initially valued at \$1. The Operating Agreement stated the business purpose of CT GP, LLC was to "...conduct any and all lawful business deemed appropriate to execute the Company's objectives."

27. CT GP, LLC was the sole general partner of CTC, LP and was responsible for the general management, investment strategy, and operations of CTC, LP. CT GP, LLC was managed by Finney and Trenary.

Clearwater Trading Company, LP

28. CTC, LP was managed by Finney and Trenary through CT GP, LLC, CTC, LP's general partner. Finney's responsibilities were to execute trades, was the investors' contact, and maintained all the records. Trenary's responsibilities were to conduct the back testing and to

discuss various trading strategies with Finney. Although Finney was the primary trader, he claimed Trenary did execute some trades. Trenary was the primary person directing funds from the bank account to the brokerage accounts.

29. CTC, LP advertised they followed trends observed by Finney and Trenary. CTC, LP's investment strategy involved high-risk swing trading and day trading connected to the volatility index (VIX).

30. Investors were led to believe that Finney had prior experience in this type of trading, including claims of averaging a 25% return on investment. However, no evidence was presented supporting Finney or Trenary had any prior success trading on the VIX or day-trading. In fact, documentation supported Finney and/or Trenary's attempts to conduct this type of trading only resulted in losses.

31. Investors in CTC, LP were provided offering documents, which included a Limited Partnership Agreement ("LP Agreement"), a Private Placement Memorandum dated December 15, 2012 ("PPM"), and a Subscription Application and Agreement ("Sub Agree").

32. Finney and/or Trenary acknowledged they did not read the investment offering documents, did not understand what was written in the offering documents, and the offering document had inaccurate information.

33. Select inaccurate disclosures and business representations are below:

a. CTC, LP's PPM described the investment objective as:

*The Partnership's investment objective is to **maximize longterm total returns while emphasizing preservation of capital**. The Partnership intends to invest in a portfolio comprised of publicly traded equity securities, exchange traded funds, as well as futures and stock and index options, but may also invest in debt securities and other*

specified securities. The Investments may be made in a leveraged (margin) and/or non-leveraged manner. [Emphasis added]

CTC, LP misrepresented their investment objective as investments used for the preservation of capital typically have little to no risk and provide smaller returns. Finney and/or Trenary acknowledged that VIX are not typically considered long-term investments and investing in futures was a risky investment.

- b. CTC, LP's PPM described investors allowed to participate in the offering as:

*...Subscriptions for Partnership Interests will be accepted only from persons who satisfy the requirements of an "accredited investor" as defined in Rule 501(a) under Regulation D of the Securities Act **and** of a "Qualified Investor" as defined under Section 205(a) and Rule 205-3 of the Investment Advisors Act. [Emphasis added]*

Investors self-certified if they were accredited or qualified investors through the Sub Agree investment document provided by CTC, LP. CTC, LP investor documents only supported one CTC, LP investor claiming they were both an accredited and a qualified investor.

- c. CTC, LP's PPM described the custody of partnership assets as:

*The General Partner intends to entrust the assets of the Partnership to the custody of TD Ameritrade. **In no event will the General Partner have custody of any of the Partnership's assets.** The General Partner may change the Partnership's custodial firm or allocate assets of the Partnership to other custodial firms in its sole discretion. [Emphasis added]*

Partnership assets would include investor funds and investments. CTC, LP misrepresented that it would not have custody of these assets. However, Finney and Trenary, as the general partners through CT GP, LLC, had custody of all investor assets which went into the business bank accounts. Additionally, as both Finney and Trenary had full authority in the brokerage accounts they continued to maintain full custody of the assets at all times.

- d. CTC, LP's PPM described the risk factors as:

An investment in Partnership Interests is subject to various risks, including risks relating to the Partnership's investment strategy and fee structure, the General Partner, and the illiquid nature of the Partnership Interests. Investors should carefully consider the risks relating to this investment, including those discussed below under "Certain Risk Factors."

Although general risks were disclosed, the disclosed risks did not state the true risks of the investment such as CTC, LP being a high-risk investment or that Finney and/or Trenary did not have any prior success in this type of trading.

Clearwater Trading Fees

34. CTC, LP's LP "General Partner Fee" and "Management Fee" were to be paid to CT GP, LLC and split 50/50 between Finney and Trenary. Any additional withdrawals outside of the disclosed fees were not approved by or disclosed to investors.

35. CT GP, LLC was allowed to withdraw, at most, a total of \$62,412.72 for General Partner Fees (\$36,454) and Management Fees (\$25,958.72). However, \$83,889 was withdrawn between the bank and brokerage accounts after accounting for valid operating expenses. CT GP, LLC exceeded the amount disclosed they were allowed to withdraw by at least \$21,476.28.

Clearwater Trading Investors

36. From January 2013 through February 2016, \$1,822,700 was invested in CTC, LP, by at least twenty-two investors. One investor was partially repaid \$7,500. No funds have been returned to the remaining investors.

37. Investors had little experience in this type of investment and were aware their investment funds would be pooled with other investors' funds, but Finney did not discuss the true risks of the investment with the investors. In fact, CTC, LP was misrepresented as being a risk free, or at most, a moderately risky investment.

38. The following four investor(s) are examples reflecting many of the CTC, LP investors experiences including examples of the material misrepresentations and omissions made by the Defendant(s):

Investor(s) A

39. Investor(s) A are married residents of Idaho who are retired. They learned about the investment from their prior investment adviser, Finney. They claimed they thought their return on investment was lower than it should have been during the time Finney was their investment adviser. After sustaining multiple losses due to Finney's advice, they obtained a different financial advisor.

40. When Finney solicited CTC, LP to them, he described the investment as a *"real sweet investment that was going to make such a large return we would want to rent the Flying B Ranch facility for a large Christmas party to celebrate with all the other investors."* Finney misrepresented that they would double or triple their investment and they were of the understanding this was a low-risk investment. Due to their trust in Finney and attempting to make up for prior investment losses, they decided to invest in CTC, LP.

41. They invested \$25,000 in July 2013. \$24,500 of the investment funds were transferred into CTC, LP's TD brokerage account and a 2% GP fee of \$500 was collected and ultimately transferred to CRT LP's TD bank account. Brokerage statements for the period ending June 30, 2013, indicated that prior investors had lost over \$500,000, which was not disclosed to Investor(s) A.

Investor(s) B

42. Investor(s) B were married residents of Idaho who were retired. One of them has passed away. They learned about the investment from their prior investment adviser, Finney.

43. Their account opening documents, from Finney's previous brokerage firms, showed they had low to moderate risk objectives, their investment objective was in the growth and

income category, their investment experience was primarily in mutual funds, and they had planned to retire in 2014.

44. They were of the understanding this was a moderately risky investment. Due to their trust in Finney, they decided to invest in CTC, LP.

45. They invested \$100,000 in January 2013. \$98,000 of the investment funds were transferred into CTC, LP's TD brokerage account and a 2% GP fee of \$2,000 was collected.

Investor C

46. Investor C is a single resident of Washington who is retired. Investor C learned about the investment from his friend, Trenary.

47. Trenary described the investment as having a good possibility for growth in a hedge fund and would be involved in short-selling. Investor C understood Trenary had a partner, Finney, who was executing the trades. Trenary claimed Finney was making some money investing this way.

48. Investor C was of the understanding this was a moderately risky investment. Due to his friendship with Trenary and Finney's positive reputation, Investor C decided to invest in CTC, LP.

49. Investor C invested \$50,000 in September 2014. \$49,000 of the investment funds were transferred into CTC, LP's TD brokerage account and a 2% GP fee of \$1,000 was collected, of which \$900 was transferred into the Vale bank account. Brokerage statements for the period ending August 31, 2014, indicated that prior investors had lost over \$1.4 million, which was not disclosed to Investor C.

Investor(s) D

50. Investor(s) D are married residents of Idaho who are a business manager and a stay-at-home spouse, respectively. Investor(s) D learned about the investment from Finney, whom they met through Skyles, their family's financial adviser.

51. Investor(s) D were investing in CRP, LP, but the investment documents they received were for CTC, LP. When they inquired about the discrepancy, Finney solicited CTC, LP to them, describing the business as a hedge fund related to CRP, LP via common principals.

52. Finney told them CTC, LP's hedge fund invested in natural gas, gold, and the volatility index. Finney claimed it would be a good investment for them to hedge against a down market.

53. Finney misrepresented the investment by telling them that CTC, LP's process and algorithms were sophisticated, there was no way to lose, and it was only a matter of time before they would receive multiples times their investment back. They were of the understanding this was a low-risk investment. Due to being told they would see significant returns, they decided to invest in CTC, LP.

54. They invested \$75,000 in January 2014. \$73,500 of the investment funds were transferred into CTC, LP's TD brokerage account and a 2% GP fee of \$1,500 was collected and transferred into the Vale bank account. Brokerage statements for the period ending December 31, 2013, indicated that prior investors had lost over \$800,000, which was not disclosed to Investors (D).

55. Their first K-1 showed they had over a \$65,000 loss. However, Finney told them it was not a real loss. Finney claimed the negative amount was like a deduction showing CTC, LP

purchasing the investment and the funds were fine and the investment was working as planned.

56. On March 7, 2016, Investor(s) D received an Investment Advisory Agreement for CT GP, LLC from Finney, which they did not sign.

57. In October 2018, Finney claimed he was allegedly working toward setting up brokerage trading accounts in connection to Peak. Through Peak's platform, CTC, LP investors would get all their investment funds back plus a return without putting any more money into it.

Clearwater Trading Continued

58. The exemption from registration was filed with the Department, on January 15, 2013. The exemption from registration was filed within 15 days after the first sale of the securities in the offering as required by Rule 53.02 of the Rules Pursuant to the Act.

59. CT GP, LLC applied for registration as an investment adviser firm with the State of Idaho and FINRA in December 2012 and received CRD number 166708. CT GP, LLC was responsible for the securities trades executed, by Finney and Trenary, on behalf of CTC, LP. CT GP, LLC's application for registration was terminated on June 14, 2016. CT GP, LLC was registered as an investment adviser firm during all relevant periods, regarding Clearwater Trading, as required by § 30-14-403.

60. Finney and Trenary are defined as an "agent" per §30-14-102 (2); "an individual ...who represents an issuer in effecting... sales of the issuer's securities". From 2013-2016, Finney and Trenary represented CTC, LP by offering and selling the issuers securities. Finney and Trenary were not registered to sell securities, and no exemption from registration was claimed, as required by and in violation of § 30-14-402(a).

61. CTC, LP associated with and compensated at least two agents, Finney and Trenary, who were not registered to sell securities in violation of § 30-14-402(d).

62. Trenary was acting as an “investment adviser representative(s)” as defined in §30-14-102 (16), as:

an individual employed by or associated with an investment adviser ... who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds herself or himself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing.

63. From 2013-2016, Trenary provided investment advice through the trading of securities within CTC, LP’s brokerage accounts. Trenary was not registered to provide investment advice, and no exemption from registration was claimed, as required by and in violation of § 30-14-404(a).

Material Misrepresentations

64. Finney and/or Trenary and/or CTC, LP made several material misrepresentations to investors to promote investing in the Clearwater Trading enterprise, including the reasons stated below, and they are false, including for the reasons as may be stated in this Verified Complaint:

- a. The investment objective was to maximize long-term total returns while emphasizing preservation of capital.
- b. Only investors that were both accredited and qualified could invest.
- c. General partners would not have custody of CTC, LP’s assets.
- d. Finney represented to all investors that the investment had either a low or moderate risk.
- e. A successful past of this type of trading, averaging up to a 25% return on investment.
- f. Finney represented a return on investment of up to triple their investment.
- g. Finney represented promises of no losses.

Material Omissions

65. Finney and/or Trenary did not tell their investors certain information that would be necessary to make other statements not misleading and that a reasonable investor would likely consider as material to a decision to invest in CTC, LP, including:

- a. Finney and Trenary's lack of, or unsuccessful trading, on the VIX or day-trading.
- b. CTC, LP's prior losses to later investors.
- c. Using investor funds for purposes other than the disclosed fees and for investment purposes.
- d. The true risks of the investment.
- e. Information about the financial condition and financial operating history of CTC, LP.
- f. That Finney and Trenary were not registered as agents to sell the securities being offered as required by the IUSA.
- g. That Trenary was not registered as investment adviser representative to advise on the buying and selling of securities as required by the IUSA.

66. In connection with the offer and sale of the securities, \$21,476.28 of investor funds were used by Finney, Trenary, or one of their businesses for their own personal use which was not disclosed to investors.

Clearwater Real Properties' Relationship with Skyward Properties, LLC

67. CRP, LP and Skyward held themselves out as a "partnership" both verbally to CRP, LP investors and referred to CRP, LP as Skyward's "financial partner" "or equity partner" in their marketing materials. No legal partnership was formed between the two companies, but their business structure resembled a joint venture.

68. CRP, LP was essentially funding Skyward while Skyles managed all Skyward's real estate projects. There are few legal documents that otherwise provide insight into how the partnership truly ran and no documentation exists showing how profits were to be split

between Skyward and CRP, LP. Legally binding documents and title records, supporting and collateralizing the funds CRP, LP provided to Skyward, were virtually non-existent.

69. Prior to Skyward's formation, Skyles had little construction experience, none of which was highly successful. Like Skyles, the other members of Skyward did not have prior experience running a structured real estate investment business renovating properties (a.k.a. home renovation, house flipping, flipping houses) and it was more of an interest or hobby.

70. Finney did not do any due diligence on Skyles or Skyward outside of believing Skyles claims of success. Although Skyles essentially made no effort to repay the funds he or Skyward previously received from CRP, LP, Finney continued to provide Skyles and Skyward funds for approximately four years after the first investment, including personal loans.

Clearwater Real Properties - Issuance of Securities

71. Three Clearwater Real Properties entities were formed under different ownership structures; CRP GP, LLC, CRP, LP, and CRP, GP (collectively "Clearwater Real Properties"). Overall, Clearwater Real Properties collective business structures more closely resembled a Limited Partnership with Finney as the general partner and all investors as limited partners.

72. From October 2013 through October 2017, CRP, LP issued securities in the form of an interest in a limited partnership which were solicited and sold by Finney, Skyles, and Trenary. From October 2014 through February 2015, CRP, GP issued securities in the guise of an interest in a general partnership which were solicited and sold by Finney. Although CRP, GP was held out as a general partnership, they were conducting business as a limited partnership.

73. CRP GP, LLC and CRP, LP maintained accounting records in excel, filed tax returns, had separate bank accounts, and provided investors with tax documents. Although their

accounting records were separate, they frequently commingled funds in the bank accounts and failed to maintain any business contracts, if they existed. CRP GP, LLC did not maintain accurate records as they failed to remove Trenary from any document after he allegedly left the business.

74. Finney did not recognize corporate formalities for CRP, GP and its business dealings were not kept distinct from Finney's own personal dealings. Finney failed to register the business, did not have a separate business bank account, failed to maintain accounting records supporting how funds were obtained and used, failed to file tax returns, and failed to provide investors with tax records.

75. CRP, LP's investor funds were primarily deposited into CRP GP, LLC's bank account. Finney and Trenary were signers on both the CRP GP, LLC and CRP, LP bank accounts. Investors funds were then subsequently provided to Finney, Trenary, Skyles, or one of their business ventures. Funds were frequently moved between their various bank accounts which had no apparent business purpose.

76. All CRP, GP investor funds were deposited into Finney's personal trading bank account. No investor funds were used for any apparent business purpose. Investor funds were transferred into the personal bank accounts of Finney, Trenary, Skyles, other unrelated business bank accounts, transferred to Finney's personal brokerage account, used by Finney for personal purchases, used to pay Finney's other clients, and used for business use connected to other business ventures.

77. During testimony, Finney admitted the funds were used for his own personal use/business use.

78. No contracts between the lender and borrower were provided, if they existed, and CRP, LP made no attempt to collateralize any property or asset to secure the investor's funds.

Clearwater Real Properties GP, LLC

79. CRP GP, LLC was the sole general partner of CRP, LP and was responsible for general management and running the investment strategy and operations of CRP, LP. CRP GP, LLC was managed by Finney and Trenary. Filings with FINRA and bank records were filled out showing that Finney and Trenary were both owners.

Clearwater Real Properties, LP

80. CRP, LP was managed by Finney and Trenary through CRP GP, LLC. In 2013, CRP, LP represented to the Department they loaned money to the other people or entities to purchase the property and finance any repairs or rehabilitation of the property. In return, CRP, LP would receive a note secured by a deed of trust or other security instrument and a contract to share in a portion of any net profit from the re-sale of the property. CRP, LP claimed they intended to lend investment funds on terms of 90 to 120-days.

81. CRP, LP was primarily promoted through verbal conversations between Finney and/or Skyles with their prior investment advisor clients who trusted them.

82. CRP, LP advertised themselves through their website, a PowerPoint presentation, and various stand-alone documents, which included many misrepresentations on the safety, liquidity, securitization of the investment, and the Defendant(s)' expertise.

83. Neither Finney nor Skyles could definitively answer who authored any of the advertising document(s), who created their websites, or who provided the content for any of the advertising materials.

84. Select inaccurate disclosures and business representations from their advertising materials are below:

- a. CRP, LP's website described the investment as liquid, by focusing on short term projects, every dollar was 100% asset backed, and safe so you could not lose all of the investment.
- b. Skyward's website claimed that profits are returned to CRP, LP and the money goes and stays where the investor wants it.
- c. CRP, LP's PowerPoint presentation claimed they were experts in their fields with the experience to make the property projects a success and claimed their other property projects were successful. It claimed they offered a fiduciary protection between investors and revitalizers, provided clear legal protection for investors, and indicated it had a better and safer return on the investment. No evidence was presented supporting Finney or Skyles had any prior history running a private real estate investments fund or had any true success in profiting from property renovations.
- d. CRP, LP's stand-alone documents claimed those running the fund only make money when the investors make money, investment funds would not go towards Skyward's operating costs, investment funds would be directly used for the properties that Skyward finds and CRP GP, LLC approves, Skyward and CRP GP, LLC only make money when there is a profit to share, they don't carry long-term debt, they provide solid returns, investments were asset backed, they don't make money unless investors make money, and that the investment was safe.

85. Investors in CRP, LP were provided offering documents, which included a Limited Partnership Agreement ("LP Agreement"), a Private Offering Memorandum dated September 4, 2013 ("PPM"), and a Subscription Application and Agreement ("Sub Agree"). These documents were similar to the offering documents provided to CTC, LP investors.

86. Finney claimed he read the offering documents but did not understand the contents and acknowledged that the documents included inaccurate information. Skyles claimed he did not read the investment offering documents and Trenary claimed he had never seen the documents before.

87. Select inaccurate disclosures and business representations from their offering document are below:

- a. CRP, LP's PPM described the investment objective as:

The Partnership's investment objective is to provide longterm total returns and preservation of capital. The basic strategy is to lend money against assets that are being sold while also participating in the sales proceeds. Thus, earnings will include interest income from loans made by the Partnership against the collateralized assets, as well as a percentage of sales proceeds of the collateralized assets. The Partnership will primarily focus on real property but other assets of material value, including but not limited to heavy equipment, planes, boats, or other hard assets may be encumbered as well. [Emphasis added]

CRP, LP misrepresented their investment objective as maximizing long-term total returns and investments would be collateralized by assets. Investments with collateral and investments used for the preservation of capital typically have little to no risk and provide smaller returns. Finney acknowledged that he did not know how CRP, LP collateralized its assets and ultimately no investor funds were secured to any asset.

- b. CRP, LP's PPM described investors allowed to participate in the offering as:

*...Subscriptions for Partnership Interests will be accepted only from persons who satisfy the requirements of an "accredited investor" as defined in Rule 501(a) under Regulation D of the Securities Act **and** of a "Qualified Investor" as defined under Section 205(a) and Rule 205-3 of the Investment Advisors Act. [Emphasis added]*

Investors self-certified if they were accredited or qualified investors through the Sub Agree investment document provided by CRP, LP. CRP, LP investor documents only supported one CRP, LP investor claiming they were both an accredited and a qualified investor.

- c. CRP, LP's PPM described the custody of partnership assets as:

*The General Partner intends to **entrust the assets of the Partnership to the custody of two separate companies** based on the nature of the investment funds. Investment funds from registered retirement accounts will be entrusted to Mountain West IRA. Individually owned or corporately owned funds will be entrusted to Kamiah*

Community Real Properties Credit Union. *The General Partner may change the Partnership's custodial firms or allocate assets of the Partnership to other custodial firms in its sole discretion. [Emphasis added]*

Partnership assets would include investor funds and investments. CRP, LP misrepresented that it would not have custody of these assets. However, Finney and Trenary, as the general partners through CRP GP, LLC, had custody of all investor assets which went into the business bank accounts. Mountain West IRA is a self-directed IRA company, they do not have control over any asset and act more like a bookkeeper.

d. CRP, LP's PPM described the risk factors as:

An investment in Partnership Interests is subject to various risks, including risks relating to the Partnership's investment strategy and management fee structure, the General Partner, and the illiquid nature of the Partnership Interests. Investors should carefully consider the risks relating to this investment, including those discussed below under "Certain Risk Factors."

Although general risks were disclosed, the disclosed risks did not state the true risks of the investment such as not collateralizing assets, providing loans to persons who did not have the ability to repay the loans, providing loans for their own personal real estate they had been unable to sell, and providing loans on their own personal investments.

Clearwater Real Properties, GP

88. CRP, GP's Investment Agreement described the business as "a company that invests in and funds third party's acquisition of, repair and updating, and the ultimate sales of residential real property."

89. Investors in CRP, GP were provided the same advertising documents as the CRP, LP investors and offering documents which included an Investment Agreement that provided minimal and inaccurate information and failed to disclose payments to owners and failed to disclose essentially any risks of the investment.

90. Select inaccurate disclosures and business representations from their Investment

Agreement are below:

- a. *...CRP, GP, an Idaho general partnership...*

CRP, GP was never registered in Idaho, or any other state, as a general partnership.

- b. *CRP, GP needs capital to conduct its business, fund the acquisition, updating, and sale of real property.*

100% of CRP, GP investor funds were deposited into Finney's personal trading bank account. Most of the funds were transferred to Finney, to another entity called Vale Enterprises, LLC, which was created by Finney and Trenary, or to Skyles' bank accounts for personal use, to conduct trading, to pay other investors, and \$58,212.91 was transferred, but not accounted for, to Skyward for the Mountain View property.

- c. *Sell Back Option. Finally, Equity Partner is hereby entitled to exercise an option for Equity Partner to sell back it's ownership interest to Clearwater after two (2) years at an amount which generates a 10% annual simple return on the Equity Partner's investment, plus its principal original investment. The term of sell back shall be negotiated in good faith between Equity Partner and Clearwater, but the term of payout shall not exceed two (2) years.*

One investor requested his investment back on January 12, 2017, two years after his initial investment. Finney would not return his investment, claiming he could not receive his investment back until the Mountain View property sold. This investor spent over three years requesting his investment back and was never successful.

- d. *Financial Information. During the course of the discussions with Clearwater, Equity Partner has been furnished such financial and other information about Clearwater Real Properties, GP and Clearwater Real Properties, LP, and their respective businesses as Equity Partner has considered desirable to enable Equity Partner to decide upon my investment.*

Investors were not provided with any financial documents for any of the Clearwater Real Properties entities.

- e. *Authorization. Each individual executing this Agreement on behalf of either party represents and warrants that the corporation is in good standing under the laws of the state or country of incorporation and that said persons are*

authorized to execute and deliver this Agreement on behalf of said corporation, limited partnership, limited liability company or any other entity, and that such entity will be bound by thereby.

CRP, GP was never registered in Idaho, nor any other state, and thus were not in good standing with the state of Idaho.

Clearwater Real Property Fees

91. CRP, LP's "General Partner Fee" (or "Organizational Fee") and "Management Fee" were paid to CRP GP, LLC. No documents support how the fees were to be split, however there were several withdrawals to Finney, Trenary, Skyles, or other unrelated business bank accounts. Any additional withdrawals outside of the disclosed fees were not approved by or disclosed to investors.

92. CRP GP, LLC was allowed to withdraw, at most, a total of \$19,402.76 for General Partner Fees (\$18,415) and Management Fees (\$987.76). However, \$28,709.69 was withdrawn after accounting for valid operating expenses. CRP GP, LLC exceeded the amount disclosed they were allowed to withdraw by \$9,306.93.

Clearwater Real Properties Investors

93. From October 2013 thru October 2017, \$1,206,640.80 was invested between the two entities (\$920,750 in CRP, LP and \$285,890.80 in CRP, GP). Sixteen investors (thirteen in CTC, LP and three in CTC, GP) were found during the violation period. No funds have been returned to any investor.

94. The following three investor(s) are examples reflecting many of the CRP, LP and CRP, GP investors experiences including examples of material misrepresentations and omissions made by the Defendant(s):

Investor(s) E

95. Investor(s) E is a retired resident of Idaho. He was promised a strong and carefully managed fiduciary firewall between the CRP, GP funds and any builder being use for a real estate investment project.

96. He invested \$50,000 in February 2015 and his funds were deposited into Finney's trading bank account and had not been used for business use, but were:

- a. Transferred to Finney's personal brokerage account and used for his own personal use (\$18,000); and
- b. Transferred to Vale Enterprises, LLC, owned by Finney and Trenary, and then used for their own personal trading (\$30,000).

97. Finney claimed that Investor(s) E was aware that his investment funds would be used for general business use, used for Finney's own personal use to keep Finney working full time on CRP, GP, used for Finney or Skyles own personal use, and that Finney was running CTC, LP at the same time he was running CRP, GP. Investor(s) E claimed he was not told his funds would be used in these manners, and if he had been told, he would not have invested.

98. Investor(s) E requested his investment back on January 12, 2017, as allowed per the CRP, GP Investment Agreement. Over the approximately next three years, Finney and Skyles provided various excuses as to why he could not be repaid. The excuses centered around the need to sell the Mountain View property to repay investors.

Investor(s) D

99. On September 27, 2013, Skyles solicited CRP, LP to Investor(s) D, describing the investment as a real estate fund flipping houses that he was starting and claiming it was going to be the "perfect investment vehicle." Skyles claimed the investment was going to be liquid, investors could come and go as they pleased, it was going to produce higher than market

returns (ranging from 17%-20%) and would have virtually no downside risk because of the nature of the investments.

100. Skyles claimed he was trying to raise \$1-5 million and Finney, the general partner, was the fund manager but Skyward and himself would be doing all the work and the actual investing in property projects. Skyles claimed he was allegedly only offering this investment to institutional investors and his former clients. Skyles provided them with all investment materials and informed them that their investment should be looked at as at least a three to five-year investment.

101. They were provided the Skyward Properties advertising document and were of the understanding this was a low-risk investment, and the principals of the company would not make money unless the investors made money. Due to the promise of significant returns, they decided to invest in CRP, LP.

102. They invested \$100,000 in CRP, LP in October 2013. \$98,000 of the investment funds were transferred, in part or in whole, to Skyward and allocated to various properties and fees.

103. On May 8, 2014, Finney emailed them that CRP, LP had sold their first property for a nice profit. However, they never received a distribution of these profits.

104. In spring of 2015, Skyles brought them to the Mountain View property after the original house was torn down and the new house was partially built so they could see what their funds were being used for.

105. From fall 2015 through June 16, 2020, they contacted Skyles and Finney to find out why they could not get their investment funds back, which they requested in 2016. When they

inquired about the status of the investment to Finney, Finney was unable to provide answers and always had to defer to Skyles to get information on the property.

106. Skyles and Finney often did not respond to their inquiries but when they did, they provided excuses claiming the investment funds were tied up in the Mountain View property, which they were having problems selling and they had renters in the property. They claimed that as soon as the Mountain View property sold, they would be liquid.

107. On December 8, 2015, Skyles solicited them to invest in another property. They told Skyles they were not interested in this investment; however, they unknowingly did invest in the property through another investment.

Investor F

108. Investor(s) F is a resident of Arizona who is an attorney. Investor F learned about the investment from her previous financial adviser, Skyles.

109. Skyles contacted Investor F and invited her to be part of a select private group having an investment opportunity in short-term real estate projects. Skyles described the investment as an opportunity to continue to invest with him by participating in an exclusive offer he was only providing to close friends to become a limited partner in CRP, LP. Skyles had claimed that CRP, LP funds would be pooled to flip houses and was described as almost fail safe.

110. When Skyles solicited CRP, LP to Investor F, he claimed the investment would yield 6-7% minimum return on her investment and Investor F was of the understanding this was a low-risk investment. Due to her trust in and admiration of Skyles, the belief that Skyles was her

friend and adviser who had her best interest in mind, and the flattery employed to be invited into the investment, Investor F decided to invest in CRP, LP.

111. Investor F invested in CRP, LP twice; \$50,000 in October 2013 and \$44,250 in December 2014. \$49,000 of the 2013 investment funds were transferred, in part or in whole, to Skyward and allocated to the properties allegedly being used for house flipping.

112. After her investment was made, she was introduced to Finney via a phone call, however most of her correspondence on the investment was done with Skyles. She recalled Skyles specifically telling her that both he and Finney had a fiduciary duty to her.

113. Although she allegedly requested her investment back from Finney, in May 2017, a month after the property her investment funds were to be used on was sold, she was told she was second in line to be paid. Finney and Skyles spent the following three years giving excuses as to why they were unable to give back her investment funds and that they were still waiting for the property to sell.

Clearwater Real Properties, LP Investments

114. In actuality, the “investments” CRP, LP claimed they had, were loans to other parties. Skyles oftentimes referred to the transactions between CRP, LP and Skyward as “deals.” Finney, through CRP GP, LLC as CRP, LP’s general manager, did not conduct any due diligence to verify the credit worthiness and risks of the people they provided loans to, did not have any contracts evidencing the loans and loan terms, did not secure a collateralized interest in any asset (such as a deed of trust), and made no effort to collect on the loans at any time. The loans CRP, LP made were provided almost exclusively to related parties.

115. Fourteen investments were made by CRP, LP using investor funds. Bank transactions were allocated to each investment by CRP, LP. One investment was repaid to CRP, LP and thirteen investments remain outstanding. Additionally, Finney provided himself a loan which was not accounted for.

116. Most of the Clearwater Real Property investors believed their funds were being used for the Mountain View investment. Some investors were not aware of any specific property connected to their investment, they only knew CRP, LP was involved in real estate projects. None of the investors were aware of Clearwater Real Properties being involved in any real estate projects other than the Mountain View investment.

117. Skyles acknowledged that, except for \$5,000, he nor Skyward ever repaid any of the invested funds.

118. For many of the properties or investment(s), no deed of trust was recorded nor were any legally binding agreements entered into which would have secured an interest in the property for the investor(s).

119. Accounting records were not adequately kept.

120. Documentation was lacking that explained how profits were to be split.

121. If a property was sold or funds became available on an investment, the Defendant(s) exceeded the amount of profit fees allowed, applied funds to personal use, and/or applied funds to unknown places. Investors also did not receive any of the proceeds.

122. Also, on at least one occasion a property sold, and the Defendant(s) for years failed to disclose the sale and told investor(s) they were not getting any returns because the property had not yet sold.

123. Also, Defendant(s) in some instances failed to disclose other investors' interests in a property or investment to unknowing investors.

Clearwater Real Properties Continued

124. The interests in the general partnership, as it was acting as a limited partnership, not a general partnership, issued by CRP, GP are defined as a securities per Idaho Code § 30-14-102(28). From October 15, 2014, through February 5, 2015, CRP, GP, through Finney and Skyles, offered and sold the issuers securities. CRP, GP securities were not registered, and no valid exemption from registration was claimed.

125. The interests in the limited partnership, issued by CRP, LP are defined as a securities per Idaho Code § 30-14-102(28). From October 15, 2013, through October 16, 2017, CRP, LP offered and sold the issuers securities. The securities were not registered, but CRP, LP filed for an exemption from registration, as required by § 30-14-301, under Regulation D, Rule 506, however it did not distinguish if they were taking the 506(b) exemption or the 506(c) exemption.

126. CRP, LP exemption from registration, under Regulation D, Rule 506, was filed with the SEC, on September 5, 2013, and the Department, on October 7, 2013. The exemption from registration was filed within 15 days after the first sale of the securities in the offering as required by Rule 53.02 of the Rules Pursuant to the Act. However, CRP, LP exemption from registration, under Regulation D, Rule 506, is not valid as:

- CRP, LP lost any exemption allowed under 506(b) once they generally solicited investors through their website. General solicitations are explicitly disallowed to qualify under the 506(b) exemption and applied retroactively.
- CRP, LP failed to qualify for the exemption allowed under 506(c) as they had at least four non-accredited investors and did not take steps to verify the

investor's accreditation status. Only accredited investors are allowed to qualify under the 506(c) exemption and the issuer is required to make reasonable steps to verify the investor's accreditation status.

127. CRP, LP and CRP, GP were not registered as securities, and no valid exemption from registration was claimed, as required by § 30-14-301.

128. Finney and Skyles are defined as "agents" per §30-14-102 (2); "an individual ...who represents an issuer in effecting... sales of the issuer's securities". From 2013-2017, Finney and Skyles represented Clearwater Real Properties by offering and selling the issuers securities. Neither Finney nor Skyles were registered to sell securities and no exemption from registration was claimed, as required by § 30-14-402(a).

129. CRP, LP associated with and compensated at least two agents, Finney and Skyles, who were not registered to sell securities as required by § 30-14-402(d).

Material Misrepresentations

130. Finney and/or Skyles and/or Clearwater Real Properties and/or Clearwater Real Properties, LP made several material misrepresentations to investors to promote investing in the Clearwater Real Properties enterprise, including the reasons stated below, and they are false for reasons as may be stated in this Verified Complaint:

- a. They were experts in their fields.
- b. The investment was safe and secured by an asset.
- c. The investment had a fiduciary protection between investors and revitalizers and the investment had clear legal protection for investors.
- d. The investment objective was to maximize long-term total returns while emphasizing preservation of capital.
- e. General partners would not have custody of CRP, LP's assets.
- f. Investment funds would be directly used for the properties and fund managers only made money after the investors made money.
- g. Investor funds would not be used for Skyward's operating costs.
- h. Return on investment ranged from 6% - 20%.
- i. The investment had either a low or moderate risk.

- j. CRP, GP had a fiduciary firewall between the CRP, GP funds and any builder being use for a real estate investment project.
- k. Investment funds were being used for house flipping or real estate projects.

Material Omissions

131. Finney and/or Skyles did not tell their investors certain information that would be necessary to make other statements not misleading and that a reasonable investor would likely consider as material to a decision to invest in the Clearwater Real Properties entities, including:

- a. Prior real estate failures involving investor funds.
- b. Investor funds would be used for purposes other than those stated in the PPM.
- c. Investor funds would be used for their own personal benefit.
- d. Finney did not do any meaningful due diligence on Skyward.
- e. Finney did not have any knowledge as to how to properly secure investor funds to an asset.
- f. The true risks of the investment.
- g. Information about the financial condition and financial operating history of Clearwater Real Properties.
- h. The security being offered was not registered as required under the IUSA.
- i. That Finney and Skyles were not registered as agents to sell the securities being offered as required by the IUSA.

132. In connection with the offer and sale of the securities, both CRP, LP and CRP, GP were operating as frauds. CRP, GP investors understood they were investing in real estate, however, 100% of all CRP, GP investor funds were deposited into Finney's personal trading bank account and used for his own personal use.

133. Although CRP, LP and Skyward were initially attempting to run a structured real estate investment business renovating properties, it quickly devolved and was run haphazardly.

134. In the partnership's infancy, Skyward retained substantially more profit splits on the 15th Street investment than what was agreed upon with CRP, LP and Finney and was

retaining substantially more of the management fees than he was allowed. From there on out, CRP, LP and Skyward failed to conduct business in the manner they were representing and made no attempt to safeguard investor funds.

135. No party conducted any due diligence on those they were providing investor funds to; no documents were entered into evidence regarding the funds CRP, LP provided to any party nor were the terms of the investment disclosed; no efforts were made to secure an interest in any assets; investments were made to parties they knew were having financial difficulties; investments were made to themselves for their own personal assets; and no meaningful efforts were made to ever collect or take legal action to recoup investor funds.

136. The investment might not have occurred had Finney, another person, or Skyles disclosed to investors that the businesses were chimeras and investment funds would primarily be used to fund Finney and another person's own lifestyles and keep their failing business afloat.

137. In connection with the offer and sale of the securities, at least \$563,836.30 (\$153,012.06 for CRP, LP) (\$273,205.19 for CRP, GP) (\$137,916.05 for funds that were provided to Skyward) of investor funds were used by Finney, Trenary, Skyles or one of their businesses for their own personal use which was not disclosed to investors.

Peak Market Trends, LLC - Issuance of Securities

138. Peak did not follow corporate formalities as they failed to maintain accounting records supporting how funds were obtained and used, failed to maintain any contracts, failed to file tax returns, and failed to provide investors with tax records.

139. From April 2016 thru March 2018, Peak issued securities in the form of an interest in a limited liability company which were solicited and sold by Finney.

Business Operations

140. Peak's business operation was not clear as most investors did not understand what the company was besides being a subscription company which would eventually be sold.

Offering documents provided to investors and testimony with Finney, Trenary, and Skyles provided some insight, however the information provided was not always consistent.

141. Peak's Business Plan claimed the following:

- a. "The purpose of Peak Market Trends is to help traders and investors alike to create and preserve wealth through successful implementation of investing in the trend. This will generate profits over time and protect these profits with proven hedging strategies that make sense."
- b. "Peak Market Trends is a culmination of its founders' careers. Justin Finney, Sales and Marketing Manager, brings to the table 15 years of asset management and Rod Skyles, Content Manager, 27 years in the investment business. Serial entrepreneurs, they possess enough business acumen and experience necessary to make Peak Market Trends a success. Driven to make online investing comprehensive to average consumers, Justin, Rod and Bryan (silent partner) found Peak Market Trends to deliver trend trading insights on a daily basis and allow the platform's users to make and keep their money."

142. Skyles's understanding of how Peak worked was that Finney and Trenary worked together to find trading strategies developed by other traders. Peak would purchase these trading strategies, mark-up the price, and market and sell the strategies to Peak's subscribers.

143. Trenary's understanding of how Peak worked was that Peak was essentially a marketing platform for an online business named Collective2. Collective2 was a software platform that connected subscriber's personal brokerage accounts with a trader's trading

strategy. Subscribers could set up their account to automatically execute the same trade a trade strategist executed, allegedly, within the strategist's own account.

144. Finney and Trenary would research other traders trading strategies on Collective2's platform and then "white-label" these trading strategies as their own. David Juday's trading strategy, who is not otherwise connected to Peak, was the trading strategy Trenary specifically referenced. Peak would pay a monthly fee to David Juday, or other strategist, for each subscription sold using the specific trader's trading strategy.

145. Trenary claimed Peak subscribers were aware Peak was "white-labeling" someone else's trading strategy and the subscriber could read information on the author of the trade strategy and thought Peak may have allowed the subscribers to talk to the author of the trade strategy.

146. Although Peak subscribers allegedly had access to the author of the trade strategies, Trenary claimed the subscribers would typically talk to Finney or Trenary.

147. Peak subscribers would pay a marked-up monthly fee to have access to each "white-labeled" trading strategy. Peak also limited the amount subscribers could invest within each trading strategy, however the amount is unknown. If a subscriber wanted to invest more than this threshold, they would have to purchase an additional subscription from Peak for the trading strategy. Subscribers would pay Collective2 directly for licensing and other Collective2 account fees.

148. Trenary claimed he and Finney had access to their subscriber's Collective2 accounts to set things up, verify accounts were connected and linked correctly, and to make sure the software was running smoothly.

149. Finney claimed Peak was initially a subscription service for their blog, which just provided daily reports on events that were taking place at the time. The goal was to increase the subscriber base and add advertisers to the platform. Finney claimed Peak had approximately 500 people receiving the blog at one point. Finney also claimed it was a free blog with a subscription to a single trading strategy, developed by David Juday, and Peak would piggy-back off this strategy.

150. Shortly after opening Peak, they changed their business model to a “white label” subscription through Collective2. Peak subscribers would pay a subscription fee to Peak which would allow them access to Collective2’s platform. Peak’s subscribers would access Collective2’s website to find a broker-dealer from their list, set up an account, and deposit funds into their brokerage account. From Collective2’s platform, the subscriber could research and pick trading strategies, which they could pay additional funds to subscribe to and follow.

Ownership & Responsibilities

151. Peak’s Operating Agreement stated Peak issued two types of ownership interests: Class A ownership to voting members and Class B ownership to non-voting members. Finney had 80% Class A ownership and both Trenary and Skyles each had 10% Class A ownership. No documents were provided that identified who the Class B owners were, if any.

152. Finney claimed investors were purchasing his personal ownership in Peak and received 1% ownership per \$1,000 invested.

153. Finney, Trenary, and Skyles’ responsibilities were outlined in Peak’s Business Plan.

154. Finney did not understand what some of the responsibilities listed were referring to. Finney was the sole signer on Peak’s business bank accounts and admitted to being the

primary decision maker on how investors funds were used. He also acknowledged he was the sole person who solicited and communicated with Peak investors.

155. Skyles was listed as the Content Manager. His key responsibilities were also listed.

156. Skyles claimed his listed responsibilities for Peak were exaggerated. He didn't recall doing anything for Peak besides writing a blog for Peak, which he described as a marketing piece, and claimed he continued to write blogs for Peak after Peak quit paying him. Skyles did not sign any contracts with Peak and did not maintain any receipts. The laptop Peak purchased for Skyles was never returned to Peak, and Skyles acknowledged he likely used the computer for Skyward's business.

157. Trenary was listed as the Technology Advisor. His key responsibilities were also listed.

158. Trenary claimed he was only responsible for the technology aspect of Peak. However, Trenary and Finney, and/or Skyles, would talk regularly about the platform and strategies.

Marketing

159. Peak marketed their product though their website, www.peakmarkettrends.com, and social media platforms.

160. Peak's Facebook account advertised Skyles as their President. Skyles claimed he did not recall being the President of Peak and the reference was likely a marketing ploy. He further stated if he were President, it was in name only as he did not perform any duties that would be the responsibility of a President.

161. Finney claimed he did not know where the information on Peak's website came from or who wrote most of it and Skyles claimed he did not write the information on the website.

162. Trenary claimed he was trying to get the website developed but it was a marketing company that developed it. Trenary claimed he, Finney, and Skyles worked collaboratively with the marketing company to set up the website, Skyles did most of the writing, and they used a lot of Collective2's information on Peak's website.

163. Peak's website advertised to subscribers, not investors, and similar to how Peak advertised to their investors, their website contained a substantial amount of misleading information. Peak's website indicated Peak was made up of a successful team which had the knowledge to build algorithms and develop trading strategies. Peak's website claimed:

- a. They had proprietary software;
- b. They designed AutoTrade and autosync technology which monitored the subscriber's brokerage account; and
- c. Suggested subscribers adopt one of Peak's trading systems.

164. However, Trenary acknowledged Peak:

- a. Did not have any proprietary software, they were using Collective2's software;
- b. Did not design AutoTrade or any software performing the trades;
- c. Trading strategies listed on Peak's website were not developed by Peak, they were "white labeling" other trader's strategies and marketing them as their own; and
- d. Did not have their own trading system, they simply narrowed down the choices already available.

Offering Documents

165. Investors in Peak were provided an offering document in the form of a spiral bound booklet, which included Peak's Business Plan dated May 31, 2016, Operating Agreement

dated March 31, 2016, and a three-page investment agreement. Finney acknowledged he authored the offering documents, but then indicated he took the information from other sources; he later claimed they hired a company to do the business planning and business plan write-up. The offering documents provided to investors were not complete, were not read or understood by the principals, and provided inaccurate and hypothetical information. Trenary claimed he had never seen the offering documents.

166. During testimony, Finney claimed he thought he had read the investment offering documents but was not positive. Finney did not understand what was written in the offering documents and acknowledged investors were likely investing in Peak due to their relationship with himself and not what was written in the offering documents.

Investment Agreement

167. Peak's investment agreement was referred to as a "letter" which provided minimal information and was largely incomplete. The investment agreement showed the amount investors were expected to invest, but it was not clear on what amount of ownership investors would receive or how returns on the investment would be distributed.

168. Peak's investment agreement claimed investor funds would be used as described in the Operating Agreement. The Operating Agreement only disclosed "guaranteed payments," which could be made to members for salary, wages, fees, payments on loans, and rents. Finney did not understand what this statement meant.

169. Although all investor funds were deposited into Peak's bank accounts, most investor funds used had no apparent business purpose. Investor funds were transferred into

the personal bank accounts of Finney, Trenary, Skyles, other unrelated business bank accounts, and used to pay Finney's personal loans with other parties.

Operating Agreement

170. Peak's Operating Agreement mirrored Skyward's Operating Agreement and Finney acknowledged he had used another company's operating agreement to use as Peak's Operating Agreement. The Operating Agreement outlined Peak's internal operation of the business, however, Finney, Trenary, and Skyles failed to adhere to their own rules, regulation, and provisions.

1. *Article 6.3 Restrictions on Transfer* – Finney breached this article of Peak Operating Agreement when he sold his personal shares of Peak. Finney was required to provide a written offer to sell his shares to Peak and Peak was required to provide written notice of their acceptance or denial to purchase the shares. Finney or Peak were then required to provide written offer to sell his shares of Peak to the other members of Peak. Peak's members were then required to provide written notice of their acceptance or denial to purchase the shares. Finney's personal shares of Peak were sold to 14 investors, but no records of an offer of sale to either Peak or any other member were provided.
2. *Article 7.1 Books and Records*– Finney breached this article of Peak Operating Agreement when he failed to maintain complete and accurate accounts in proper books of all transactions on behalf of Peak. Finney did not maintain any accounting records and claimed, six years after the first investor provided funds, he is "behind" although the business was dissolved four years prior.
3. *Article 7.3 Accounting* – Finney breached this article of Peak Operating Agreement when he failed to provide Peak investors with annual financial records or tax forms. Finney never provided any investor with any financial or tax information at any time.

4. *Article 7.4 Filings* – Finney breached this article of Peak Operating Agreement when he failed to timely file income tax returns on behalf of Peak. No tax returns have been filed for Peak. Finney claimed, six years after the first investor provided funds, he is “behind” although the business was dissolved four years prior.
5. *Article 8.1 Dissolution* – Finney breached this article of Peak Operating Agreement when he dissolved Peak without an entry of a decree of judicial dissolution or a unanimous approval of the voting members. No documents were provided supporting any member beside Finney having any decision in the dissolution of Peak. Additionally, Finney continued to lead some investor to believe the business was still viable up to two years after it was dissolved.

Business Plan

171. Peak’s Business Plan contained many references to the founders being successful and possessing knowledge to build algorithms and develop trading strategies:

- a. “To become a successful trader, it is crucial to get familiar with the tools of trading, the theory behind it and the daily reports that drive market shifts. Peak Market Trends LLC offers just that.”
- b. **“Proprietary algorithms are at the heart of Peak Market Trends reports. Proven and tested, they provide actionable insights that enable PMT experts to read market trends and take advantage of them while they are still at play.** Compared to other advisory services currently available in the marketplace, Peak Market Trends delivers optimum value and allows its users to capitalize on market trends at their peak.” [Emphasis added]
- c. **“Behind Peak Market Trends advice is a proprietary algorithm that was developed and tested by the company’s founders.** It helps to spot a trend and take advantage of it while it is still present. While many advisory firms don’t bother to tailor their services and tend to identify trends at their fading stage, Peak Market Trends delivers directional trends of stock indexes, commodity trades and hedging strategies to local and global audiences on a daily basis.” [Emphasis added]
- d. **“Peak Market Trends creates an overall trend trading strategy through successful trend trades of many different markets, while providing risk management and hedging techniques** to its users for pennies on the dollar.

All at the convenience of its audience – available online, at user’s fingertips.”
[Emphasis added]

172. At the time Peak was founded, their founders had not had success in their business ventures. CTC, LP was also tied to following trends, however, their trading history supported they did not have the acumen for following trends. Prior to Peak, CTC, LP, CRP, LP, and CRP, GP had sustained complete losses of over three-million dollars in investor funds.

173. Peak was never using their own strategy, nor did they provide risk management or hedging. At all relevant times, Peak was piggy backing off trading strategies which were the efforts of others. As persons who purchased the subscriptions conducted the trading within their own account, it was not possible to provide risk management or hedging techniques in any way other than education.

174. Peak’s Business Plan claimed to get the business off the ground it required the following:

“To implement their ideas and get the business off the ground, the management team at Peak Market Trends is looking to raise \$400,000 from outside investors. The investment will be allocated towards personnel hiring, sales and marketing efforts, and operations. Based on the management’s projections, the business will post profits in the first year of operation and is expected to remain debt-free due to price elasticity (a membership cost ranges from \$19.99 to \$168) of its offerings, as well as low ongoing operating expenses. Sales projections are conservative and based on the company’s aggressive marketing strategy. Peak Market Trends is an opportunity for investors to get involved in the rapidly growing online trading/investing industry.”

175. “Assumptions:

- \$150,000 owners’ investment was channeled towards algorithms development, product testing, software purchase, licenses, etc.

- The owners' capital requirement is \$400,000 from an outside investor is required to help scale the business, aid customer acquisition efforts, and streamline company's operations."

176. Although Peak raised \$377,995 from investors, the business did not succeed. Most investor funds were transferred into the personal bank accounts of Finney, Trenary, Skyles, other unrelated business bank accounts, and used to pay Finney's personal loans with other parties.

177. Possible legitimate business-related expenses totaled \$33,112.21, bank fees totaled \$975.62, purchases which could have either a business or personal nature totaled \$60,044.13, and unknown withdrawals, which were personal in nature totaled \$31,770.35.

178. Peak did not post profits in its first year, or ever. Deposits that came from subscription sales totaled \$30,561.97 and deposits from unknown sources totaled \$36,296.

179. Finney acknowledged the owners did not put any funds into Peak. He claimed he thought this statement was referring to the \$150,000 he put into Clearwater Trading and lost in developing algorithms. Finney did not put any of his own funds into CT GP, LLC or CTC, LP.

Subscription Sales & Business Status

180. Although Peak did have some subscription sales, none of the proceeds were provided to investors and it is unknown if the subscribers had any success in Peak.

181. Peak's bank funds were depleted by June 7, 2018, the business was dissolved on July 23, 2018, and their website has been shut down. However, through at least 2021, Finney corresponded with at least four investors providing updates to some and allowing others to believe the company was still viable, would succeed, and/or proceeds from their investment would be received soon. Additionally, during Finney's 2022 testimony, he claimed he was

working on getting the company back up and running on a daily basis by working on trading strategies which can be ran through automation. Finney claimed virtually no funds are needed to get Peak going again.

Peak Investors

182. Fourteen (14) investors, located in four states, were found during the violation period. From April 2016 thru March 2018, \$377,995 was invested. No funds have been returned to any investor.

183. Investors were aware their investment funds would be pooled with other investor's funds and, although one investor claimed they had limited experience, other investors claimed they did not have any experience in this type of investment.

184. The following four (4) investor(s) are examples reflecting many of the Peak investors' experiences including examples of the material misrepresentations and omissions made by the Defendant(s):

Investor(s) B

185. Investor(s) B learned about the investment from Finney.

186. Investor(s) B invested \$10,000 in April 2016 which were transferred to Skyward's bank account and used for either Skyles own personal use or Skyward business expenses.

Investor(s) G

187. Investor(s) G are married residents of Idaho who are self-employed. They learned about the investment from their prior investment adviser, Finney.

188. Finney told them their investment funds would be used to start a business and Investor(s) G were of the understanding this was a risky/speculative investment. Due to their trust in Finney, Investor(s) G decided to invest in Peak.

189. Investor(s) G invested \$20,000 in April 2016 of which \$10,000 was transferred to Finney's personal bank account and \$10,000 was transferred to Skyward's business bank account and used for their own personal use.

Investor(s) H

190. Investor(s) H is a single male resident of Idaho who is self-employed. He learned about the investment from Finney.

191. When Finney solicited Peak to him, Finney claimed investors would get monthly checks when the subscriptions started to sell. Finney told him that his investment funds would be used to start a business and Investor(s) H was of the understanding this was a risky/speculative investment. Due to his trust in Finney, he decided to invest in Peak.

192. He invested \$10,000 in April 2016, which was transferred to Skyward's bank account (\$100), Finney's trading bank account (\$9,400), Finney's personal bank account (\$500) and used for their own personal use.

Investor(s) I

193. Investor(s) I are married residents of Idaho who are retired from government service. They learned about the investment from their prior investment adviser, Finney.

194. When Finney solicited Peak to them, he told them he was developing an investment company and expected good returns in one year. Finney told them their

investment funds would be used to buy shares in Finney's investment company and Investor(s) I were of the understanding this was a low-risk investment.

195. Investor(s) I invested \$50,000 in December 2016. \$4,769.90 may have been used for business use. \$5,032.35 was used to pay for purchases that could have either a business or personal purpose. Their remaining funds were:

- a. Transferred to Finney's trading bank account or checks made out to himself or family, and used for their own personal use (\$36,183);
- b. Transferred to Skyles personal bank account and used for his own personal use (\$1,200);
- c. Payment to CRP, GP investor for "programming work" (\$2,500); and
- d. Paid for non-Peak business use (\$194).

PEAK Continued

196. The interests in the limited liability company issued by Peak are defined as a securities per Idaho Code § 30-14-102(28). From April 5, 2016 – March 30, 2018, Peak, through Finney, offered and sold the issuers securities. The securities were not registered, but an exemption from registration was claimed, through Finney, under § 30-14-202 (14), as required by § 30-14-301.

197. Peak failed to qualify for this exemption in connection to subsections (a) and (c):

- As of March 30, 2018, there were eleven Idaho investors which was in excess of the ten maximum investors allowed in § 30-14-202(a).
- Of the \$377,995 received from investors, remunerations totaling \$307,385.33, and disallowed in § 30-14-202(c), was paid to the following owners of Peak or to persons connected with them.

198. Peak was not registered as a security, and no valid exemption from registration was claimed, as required by § 30-14-301.

199. Finney is defined as an "agent" per §30-14-102 (2); an individual ...who represents an issuer in effecting... sales of the issuer's securities. From 2016-2018, Finney represented

Peak by offering and selling the issuers securities. Finney was not registered to sell securities and no exemption from registration was claimed, as required by § 30-14-402(a).

200. Peak associated with and compensated at least one agent, Finney, who was not registered to sell securities as required by § 30-14-402(d).

Material Misrepresentations

201. Finney and/or Peak made several material misrepresentations to investors to promote investing in Peak, including the reasons stated below, and they are false, including for the reasons as may be stated in this Verified Complaint:

- a. Finney and Skyles possessed enough business acumen and experience necessary to make Peak a success.
- b. Maintaining accurate accounting records and filing timely tax returns.
- c. Investors would be provided annual financial records and tax forms.
- d. They created trend trading strategies and had a proprietary algorithm which were developed by the company's founders.
- e. Peak represented they provided risk management hedging techniques.
- f. Investor funds would be used to start the business, specifically for personnel hiring, sales and marketing efforts, and operations.
- g. Owners invested \$150,000 into the business.
- h. The investment had either a low or moderate risk.

Material Omissions

202. Finney did not tell their investors certain information that would be necessary to make other statements not misleading and that a reasonable investor would likely consider as material to a decision to invest in Peak, including:

- a. Finney, Trenary, and Skyles' prior failures in their business entities involving investor funds.
- b. Investor funds would be used for purposes other than business purposes.
- c. The true risks of the investment.
- d. Information about the financial condition and financial operating history of Peak.
- e. The securities issued by Peak were not registered as required under the IUSA.

- f. That Finney was not registered as an agent to sell the securities being offered as required by the IUSA.

203. In connection with the offer and sale of the securities, the business was operating as a fraud. Finney sold the promise of Peak being a subscription company which would later be sold. The investors trust in Finney was the primary motivation to invest in Peak as the investors did not have a full understanding of what the company was doing. Very little of the investor funds were used for any business use and was primarily used to pay the principals. The investment might not have occurred had Finney not previously had a fiduciary relationship to the investors and had the investors been made aware that their investment funds would primarily be used to fund Finney, Trenary, and Skyles' lifestyles.

204. In connection with the offer and sale of the securities, at least \$294,160.66 of investor funds were used by Finney, Trenary, Skyles or one of their businesses for their own personal use which was not disclosed to investors.

V. CAUSES OF ACTION

205. The allegations of paragraphs 1 through 204 above are realleged and incorporated into each and every Count/Cause of Action below as if set forth verbatim therein.

206. As to each and every Count/Cause of Action, per statute and Idaho case law, intent is not an element of the alleged violation(s).

COUNT ONE Clearwater Trading (Failure to Register: Finney and Trenary)

207. **§ 30-14-402: Agent Registration Requirement and Exemptions** – *(a) Registration requirement. It is unlawful for an individual to transact business in this state as an agent unless*

the individual is registered under this chapter as an agent or is exempt from registration as an agent under subsection (b) of this section.

208. Finney and Trenary are defined as an “agent” per §30-14-102 (2); “an individual ...who represents an issuer in effecting... sales of the issuer's securities.” From 2013-2016, Finney and Trenary represented CTC, LP by offering and selling the issuers securities. Finney and Trenary were not registered to sell securities, and no exemption from registration was claimed, as required by and in violation of § 30-14-402(a).

209. These acts constitute violation(s) of § 30-14-402(a).

COUNT TWO
Clearwater Trading
(Unlawful association and compensation: Clearwater Trading Company, LP, Finney, and Trenary)

210. **§ 30-14-402: Agent Registration Requirement and Exemptions – (d) Limit on employment or association.** *It is unlawful for a broker-dealer, or an issuer engaged in offering, selling or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered.*

211. CTC, LP associated with and compensated at least two agents, Finney and Trenary, who were not registered to sell securities in violation of § 30-14-402(d).

212. These acts constitute violation(s) of § 30-14-402(d).

COUNT THREE
Clearwater Trading
(Unlawful transaction of business as investment adviser representative: Clearwater Trading Company, LP, and Trenary)

213. **§ 30-14-404: Investment Adviser Representative Registration Requirement and Exemptions – (a) Registration requirement.** *It is unlawful for an individual to transact business*

in this state as an investment adviser representative unless the individual is registered under this chapter as an investment adviser representative or is exempt from registration as an investment adviser representative under subsection (b) of this section.

214. Trenary is defined as an “investment adviser representatives” per §30-14-102(16);

an individual employed by or associated with an investment adviser ... who makes any recommendations or otherwise gives investment advice regarding securities, manages accounts or portfolios of clients, determines which recommendation or advice regarding securities should be given, provides investment advice or holds herself or himself out as providing investment advice, receives compensation to solicit, offer, or negotiate for the sale of or for selling investment advice, or supervises employees who perform any of the foregoing.

215. From 2013-2016, Trenary provided investment advice through the trading of securities within CTC, LP’s brokerage accounts. Trenary was not registered to provide investment advice, and no exemption from registration was claimed, as required by and in violation of § 30-14-404(a).

216. These acts constitute violation(s) of § 30-14-404(a).

COUNT FOUR
Clearwater Trading
(Fraud – False and Misleading Statements: Clearwater Trading Company, LP, Finney, and Trenary)

217. **§ 30-14-501: General Fraud** – *It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (2) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading...*

218. Material misrepresentations and omissions are false or omitted statements in which a reasonable investor would want to know the information to make an informed decision. In connection with the offer and sale of the securities, misrepresentations were

made, and omissions of material facts did occur as described in paragraphs 1 through 204, including paragraphs 64 and 65.

219. These acts constitute violation(s) of § 30-14-501(2).

COUNT FIVE
Clearwater Trading
(Unlawful Conversion: CTC, LP, CT GP, LLC, Finney and Trenary)

220. **§ 30-14-501: General Fraud** – *It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (4) To divert investor money to the personal use of the issuer, offeror or seller, or to pay prior investors without specifically disclosing that use before receiving the investor's money.*

221. In connection with the offer and sale of the securities, \$21,476.28 of investor funds were used by Finney, Trenary, or one of their businesses for their own personal use which was not disclosed to investors.

222. These acts constitute a violation(s) of § 30-14-501(4).

COUNT SIX
Clearwater Real Properties
(Unregistered Securities: Clearwater Real Properties GP and Clearwater Real Properties LP)

223. **§ 30-14-301: Securities Registration Requirement** – *It is unlawful for a person to offer or sell a security in this state unless:*

- a. The security is a federal covered security;*
- b. The security, transaction or offer is exempted from registration under sections 30-14-201 through 30-14-203, Idaho Code; or*
- c. The security is registered under this chapter.*

224. The interests in the general partnership, as it was acting as a limited partnership, not a general partnership, issued by CRP, GP are defined as securities per Idaho

Code § 30-14-102(28). From October 15, 2014, through February 5, 2015, CRP, GP, through Finney, offered and sold the issuers securities.

225. The interests in the limited partnership, issued by CRP, LP are defined as a securities per Idaho Code § 30-14-102(28). From October 15, 2013, through October 16, 2017, CRP, LP offered and sold the issuers securities.

226. The exemption for registration was not valid based on the information as described in paragraphs 1 through 204, including 125 through 127.

227. CRP, LP and CRP, GP were not registered as securities, and no valid exemption from registration was claimed, as required by § 30-14-301.

228. These acts constitute a violation(s) of § 30-14-301.

COUNT SEVEN
Clearwater Real Properties
(Failure to Register: Finney and Skyles)

229. **§ 30-14-402: Agent Registration Requirement and Exemptions – (a)**
Registration requirement. It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this chapter as an agent or is exempt from registration as an agent under subsection (b) of this section.

230. Finney and Skyles are defined as “agents” per §30-14-102 (2); “an individual ...who represents an issuer in effecting... sales of the issuer's securities”. From 2013-2017, Finney and Skyles represented Clearwater Real Properties by offering and selling the issuers securities. Neither Finney nor Skyles were registered to sell securities and no exemption from registration was claimed, as required by § 30-14-402(a).

231. These acts constitute a violation(s) of § 30-14-402(a).

COUNT EIGHT

Clearwater Real Properties

(Unlawful association and compensation: Clearwater Real Properties, LP, Finney, and Skyles)

232. **§ 30-14-402: Agent Registration Requirement and Exemptions** – *(d) Limit on employment or association. It is unlawful for a broker-dealer, or an issuer engaged in offering, selling or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered.*

233. CRP, LP associated with and compensated at least two agents, Finney and Skyles, who were not registered to sell securities as required by § 30-14-402(d).

234. These acts constitute a violation(s) of § 30-14-402(d).

COUNT NINE

Clearwater Real Properties

(Fraud – False and Misleading Statements: Clearwater Real Properties, CRP, LP, CRP, GP, Finney, and Skyles)

235. **§ 30-14-501: General Fraud** – *It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (2) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;*

236. Material misrepresentations and omissions, are false or omitted statements, which a reasonable investor would want to know the information to make an informed decision. In connection with the offer and sale of the securities, misrepresentations were made, and omissions of material facts did occur as alleged in paragraphs 1 through 204, including those in paragraphs 130 and 131.

237. These acts constitute a violation(s) of § 30-14-501(2). Per the statute and Idaho case law, intent is not an element of this count and these violations.

COUNT TEN
Clearwater Real Properties
(Fraudulent Course of Business: Clearwater Real Properties, CRP, LP, CRP, GP, Finney, and Skyles)

238. **§ 30-14-501: General Fraud** – *It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (3) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.*

239. In connection with the offer and sale of the securities, both CRP, LP and CRP, GP were operating as frauds and Finney and Skyles did operate them as frauds. CRP, GP investors understood they were investing in real estate, however, 100% of all CRP, GP investor funds were deposited into Finney’s personal trading bank account and used for his own personal use.

240. Although CRP, LP and Skyward initially attempted to run a structured real estate investment business renovating properties, it quickly devolved and was run haphazardly.

241. CRP, LP and Skyward failed to conduct business in the manner they were holding themselves out and made no attempt to safeguard investor funds.

242. No party conducted any due diligence on those they were providing investor funds to; no documents were entered into evidence regarding the funds CRP, LP provided to any party nor were the terms of the investment disclosed; no efforts were made to secure an interest in any assets; investments were made to parties they knew were having financial difficulties; investments were made to themselves for their own personal assets; and no meaningful efforts were made to ever collect or take legal action to recoup investor funds.

243. The investment might not have occurred had Finney, another person, or Skyles disclosed to investors that the businesses were chimeras and investment funds would primarily be used to fund Finney and Skyles own lifestyles and keep their failing businesses afloat.

244. These acts constitute a violation(s) §30-14-501(3).

COUNT ELEVEN
Clearwater Real Properties
(Unlawful Conversion: CRP, LP, CRP, GP, Finney, Trenary, and Skyles)

245. **§ 30-14-501: General Fraud** – *It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (4) To divert investor money to the personal use of the issuer, offeror or seller, or to pay prior investors without specifically disclosing that use before receiving the investor's money.*

246. In connection with the offer and sale of the securities, at least \$563,836.30 (\$153,012.06 for CRP, LP) (\$273,205.19 for CRP, GP) (\$137,916.05 for funds that were provided to Skyward) of investor funds were used by Finney, Trenary, Skyles or one of their businesses for their own personal use which was not disclosed to investors.

247. These acts constitute a violation(s) of §30-14-501(4).

COUNT TWELVE
Peak
(Failure to Register by Peak and Finney)

248. **§ 30-14-301: Securities Registration Requirement** – *It is unlawful for a person to offer or sell a security in this state unless:*

a. The security is a federal covered security;

- b. The security, transaction or offer is exempted from registration under sections 30-14-201 through 30-14-203, Idaho Code; or*
- c. The security is registered under this chapter.*

249. The interests in the limited liability company issued by Peak are defined as a securities per Idaho Code § 30-14-102(28). From April 5, 2016 – March 30, 2018, Peak through Finney, offered and sold the issuers securities. The securities issued by Peak were not registered, but an exemption from registration was claimed, through Finney, under § 30-14-202 (14), as required by § 30-14-301.

250. *30-14-202. EXEMPT TRANSACTIONS. The following transactions are exempt from the requirements of sections 30-14-301 through 30-14-306, Idaho Code, and section 30-14-504, Idaho Code:*

(14) A sale or an offer to sell securities of an issuer, if the transaction is part of a single issue in which:

a) Not more than ten (10) purchasers are present in this state during any twelve (12) consecutive months, other than those designated in subsection (13) of this section

...

*c) A commission or other remuneration is not paid or given, directly or indirectly, to a person other than a broker-dealer registered under this chapter or an agent registered under this chapter for soliciting a prospective purchaser in this state; **and***

251. Peak failed to qualify for this exemption in connection to subsections (a) and (c) because:

- As of March 30, 2018, there were eleven Idaho investors which was more than the ten maximum investors allowed in § 30-14-202(a).

- Of the \$377,995 received from investors, remunerations totaling \$307,385.33, and disallowed in § 30-14-202(c), were paid to the owners of Peak.

252. Peak was not registered as a security, and no valid exemption from registration was claimed, as required by § 30-14-301.

253. These acts constituted a violation of Idaho Code § 30-14-301.

COUNT THIRTEEN

Peak

(Failure to Register: Finney)

254. **§ 30-14-402: Agent Registration Requirement and Exemptions – (a)**

Registration requirement. It is unlawful for an individual to transact business in this state as an agent unless the individual is registered under this chapter as an agent or is exempt from registration as an agent under subsection (b) of this section.

255. Finney is defined as an “agent” per §30-14-102 (2); “an individual ...who represents an issuer in effecting... sales of the issuer's securities”. From 2016-2018, Finney represented Peak by offering and selling the issuers securities. Finney was not registered to sell securities and no exemption from registration was claimed, as required by § 30-14-402(a).

256. These acts constitute a violation of Idaho Code §30-14-402(a).

COUNT FOURTEEN

Peak

(Unlawful association and compensation: Peak and Finney)

257. **§ 30-14-402: Agent Registration Requirement and Exemptions – (d) Limit on**

employment or association. It is unlawful for a broker-dealer, or an issuer engaged in offering, selling or purchasing securities in this state, to employ or associate with an agent who transacts business in this state on behalf of broker-dealers or issuers unless the agent is registered.

258. Peak associated with and compensated at least one agent, Finney, who was not registered to sell securities as required by §30-14-402(d).

259. These acts constitute a violation(s) of §30-14-402(d).

COUNT FIFTEEN

Peak

(Fraud – False and Misleading Statements: Peak and Finney)

260. **§ 30-14-501: General Fraud** – *It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (2) To make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.*

261. Material misrepresentations and omissions, are false or omitted statements, which a reasonable investor would want to know the information to make an informed decision. In connection with the offer and sale of the securities, misrepresentations were made, and omissions of material facts did occur as alleged in paragraphs 1 through 204, including paragraphs 201 and 202.

262. These acts constitute a violation(s) of §30-14-501(2).

COUNT SIXTEEN

Peak

(Fraudulent Course of Business: Peak and Finney)

263. **§ 30-14-501: General Fraud** – *It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (3) To engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.*

264. In connection with the offer and sale of the securities, the business was operating as a fraud. Finney sold the promise of Peak being a subscription company which

would later be sold. The investors trust in Finney was the primary motivation to invest in Peak as the investors did not have a full understanding of what the company was doing. Very little of the investor funds were used for any business use and was primarily used to pay Finney, Trenary, and Skyles. The investment might not have occurred had Finney not previously had a fiduciary relationship to the investors and had the investors been made aware that their investment funds would primarily be used to fund Finney, Trenary, and Skyles' lifestyles.

265. These acts constitute a violation(s) of §30-14-501(3).

COUNT SEVENTEEN

Peak

(Unlawful Conversion: Peak, Finney, Trenary, Skyles or one of their businesses)

266. **§ 30-14-501: General Fraud** – *It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly (4) To divert investor money to the personal use of the issuer, offeror or seller, or to pay prior investors without specifically disclosing that use before receiving the investor's money.*

267. In connection with the offer and sale of the securities, at least \$294,160.66 of investor funds were used by Finney, Trenary, Skyles or one of their businesses for their own personal use which was not disclosed to investors.

268. These acts constitute a violation(s) of §30-14-501(4).

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court enter Judgment against Defendant(s) as follows:

1. That Defendants be adjudged to have violated Idaho's Uniform Securities Act (2004), Idaho Code § 30-14-101 et seq. ("IUSA"), rules promulgated thereunder, and other

applicable federal laws and regulations as proven at trial, as to their respective conduct in Counts One through Seventeen alleged above, as well as any additional counts proven at trial.

2. That Defendants be permanently enjoined from engaging in any act or practice that violates any provision of the IUSA, pursuant to Idaho Code § 30-14-603(b)(1), and that they be permanently enjoined from selling or offering for sale securities in any form in the state of Idaho and from engaging in the business of advising others as to the value of securities or the advisability of investing in, purchasing, or selling securities in the state of Idaho.

3. That Finney, Skyles, and Trenary be permanently enjoined from working in any financial services industry or business in the State of Idaho.

4. That Defendants be ordered to pay a civil penalty of up to \$10,000 for each violation of the IUSA as otherwise proven at trial and as the Court deems appropriate, pursuant to Idaho Code § 30-14-603(b)(2)(C), and that the Court award a money judgment in favor of Plaintiff in such amount; and that at a minimum:

- a. Regarding Clearwater Trading entities, that Finney and Trenary jointly and severally be liable for penalties of \$110,000 in connection to twenty-two investors;
- b. Regarding Clearwater Properties entities, that Finney and Skyles joint and severally be liable for penalties of \$80,000 in connection with sixteen investors, and Trenary be liable for a penalty of \$10,000;
- c. Regarding Peak, that Finney be liable for penalties of \$70,000 in connection to fourteen investors, and Trenary be liable for a penalty of \$10,000, and Skyles be liable for a penalty of \$10,000.

5. That Defendant(s) jointly and severally be ordered to make restitution/d disgorgement to investor(s) as proven at trial, pursuant to Idaho Code § 30-14-603(b)(2)(C) and applicable law; that Defendants pay this amount to the Department, to be held for the benefit of and to be delivered to investors; that the Court award a money judgment in favor of the Department in such amount; and that such restitution be deemed not an asset of the Department but assets to be returned to the investors, including restitution: to Clearwater Trading investors in the amount of \$1,822,700 or such other amount as proven at trial, joint and severally as proven at trial owed by CTC, LP, CT GP, LLC, Finney, and Trenary; to Clearwater Real Properties investors in the amount of \$1,206,640.80 or such other amount as proven at trial, joint and severally as proven at trial owed by CRP, GP, LLC, CRP, LP, CRP, GP, Finney, Skyles, and Skyward Properties LLC, and then Trenary for an amount proven at trial; and to Peak investors in the amount of \$377,995 or such other amount as proven at trial, joint and severally owed by Peak Market Trends LLC and Finney; and Trenary and Skyles for amounts proven at trial.

6. If the Court finds the facts demonstrate or it is necessary that the veils of the business entities be pierced or are the alter egos of the Defendant natural persons herein, the Plaintiff petitions the Court that the Defendant natural persons be found jointly and severally personally liable for any conduct pled against the business entities herein and their assets and property available to Plaintiff as part of its relief.

7. That Plaintiff be awarded attorney fees and costs incurred in the preparation and prosecution of this action, pursuant to Idaho Code §§ 12-117 and/or 12-121, and that the Court


award a money judgment in favor of Plaintiff in such amount. Should judgment be taken by default herein, Plaintiff asserts that \$5,000 is a reasonable sum for the same.

8. That for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, any debt for restitution, disgorgement, prejudgment interest, civil penalty or other amounts due by Defendants under any judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendants of the federal or state securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

9. For such further relief as this Court may deem just and equitable under the circumstances.

DATED this 27th day of July, 2023.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



ERICK M. SHANER
Deputy Attorney General

VERIFICATION

STATE OF IDAHO)
) ss.
County of Ada)

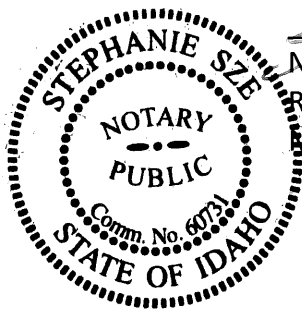
KRISTEN BUTLER, Financial Examiner/Investigator 3 for the Securities Bureau of the Department of Finance, State of Idaho, being first duly sworn, deposes and says:

I have read the foregoing Verified Complaint and believe the facts stated to be true.

DATED this 27th day of July, 2023.

Kristen Butler
KRISTEN BUTLER

SUBSCRIBED AND SWORN to before me this 27th day of July, 2023.



[Signature]
Notary Public for Idaho
Residing at: Meridian, ID
My Commission Expires: 11/30/2024

