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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.

DEREK F. C. ELLIOTT, JAMES B.
CATLEDGE, DAVID BRIMLEY,
STEVE CABEZUD, BARBARA
NAGEL, JOHN THOMSON, TREVOR
WALKER, SUN VILLAGE JUAN
DOLIO ASSOCIATES, LLC, IMPACT,
INC., IMPACT NET WORTH, LLC,
NET WORTH SOLUTIONS, JOHN DOE
COMPANIES 1 through 25, and JOHN
DOE INDIVIDUALS A through H,

Defendants.

CV 0C 0903323

Case No. _____

VERIFIED COMPLAINT

Fee category: Exempt

COMES NOW the State of Idaho, Department of Finance, Gavin M. Gee, Director, by and through its counsel, Alan Conilogue, Deputy Attorney General, and upon information and belief, complains and alleges as follows:

1. This action is brought pursuant to Idaho's Uniform Securities Act (2004), Idaho Code § 30-14-101 *et seq.*, and in particular Idaho Code § 30-14-603, and pursuant to Idaho's Residential Mortgage Practices Act, Idaho Code § 26-3102 *et seq.*, wherein the Department is authorized to bring actions seeking injunctive and other relief against persons who have either violated or are about to violate provisions of the Acts or any rule promulgated thereunder.

VENUE

2. The acts and practices herein comprising violations of law by the above-named defendants occurred in Ada County and elsewhere in the state of Idaho. Defendants reside in Bonneville County, Idaho, and in Nevada, California, Canada, and the Dominican Republic. One or more of the Juan Dolio Companies is incorporated under the laws of the State of Delaware. The Impact companies are primarily incorporated in Nevada.

JURISDICTION

3. All the individual Defendants have personally participated in unlawful securities transactions in Idaho. Defendants offered unregistered securities for sale, made fraudulent misrepresentations and omitted material information from their securities offerings, and otherwise materially aided in violations of Idaho's Uniform Securities Act (2004). Defendants also prepared materials to be used in Idaho and purposefully directed, participated in, and benefited from activities conducted in Idaho.

4. Defendant David Brimley solicited and accepted mortgage loan applications in Idaho.

5. Defendants James B. Catledge, Impact Net Worth, LLC and Impact, Inc. dba as itself and as Impact Corporate, Impact Lending, Impact Net Worth, ImpactNetWorth.com, Impact America and Impact-America.com, signed a Consent Order to Cease and Desist issued by the Department on July 19, 2007, thereby submitting to the jurisdiction of the Department and the State of Idaho.

6. Defendants Derek F. C. Elliott and Sun Village Juan Dolio Associates, along with related entities Sun Village Juan Dolio, Inc. and EMI Sun Village Inc., signed a Consent Order to Cease and Desist issued by the Department on July 16, 2007, thereby submitting to the jurisdiction of the Department and the State of Idaho.

7. On or about December 14, 2007, Defendant Derek F. C. Elliott, caused to be filed with the Idaho Real Estate Commission a Request for Issuance of Order of Registration. Included with that Request was a supporting Affidavit signed by Derek F. C. Elliott as President of Sun Village JD Holding, Inc., thereby submitting to the jurisdiction of the State of Idaho.

CASE SUMMARY

8. Defendants participated in a real estate scheme that defrauded investors. Defendants issued, offered and sold securities related to two resort properties in the Dominican Republic: EMI Sun Village located at Cofresi Beach on the north shore of the island, and Sun Village Juan Dolio located on the south shore of the island.

9. Defendants issued, offered and sold securities related to the two properties in order to raise money to develop and run the properties. The securities took various forms, but all were essentially in the nature of a time share interest in a hotel/condominium. The investors were not told that they were purchasing a time share interest, but instead were told they were

purchasing a five year investment with either a fixed rate of return, or with a variable return coupled with the opportunity to sell in five years and enjoy substantial appreciation.

10. Defendants belong to one of two related groups, which worked together to advance the scheme to defraud. The Elliott Group, as referred to in this complaint, consists of Derek F. C. Elliott and of numerous companies related to him, most located offshore. The Elliott Group functioned as the real estate developer and hotel manager, and received the bulk of investor money. The Impact Group is a multi-level network marketing organization consisting of several individuals and various companies and entities doing business under assumed names, and served as the marketing arm for the Elliott Group. The Impact Group was paid a 12% to 20% commission by the Elliott Group for sales of the time-share securities. Impact also sold insurance and did mortgage loan originating, and presented itself as a full-service financial firm.

11. Defendants have ceased paying the returns to their investors, refuse to return the investor money, and have not completed development of the Juan Dolio Resort, despite having told investors that it would open in late 2006.

DEFENDANTS

12. Defendant **Derek F. C. Elliott** (Elliott) is a Canadian citizen who maintains residences in both Orangeville, Ontario, Canada and in the Dominican Republic. He has represented himself at various times as the President and/or CEO of various of the many Elliott related entities described in this Verified Complaint. Elliott's father, Fred Elliott, built an ongoing business enterprise over the years, beginning with real estate and eventually moving into resort development and management. At some point, Elliott took the reins from his father. Elliott was not qualified or capable of running the business successfully, and began to run it into

the ground. Recently, Elliott has withdrawn from company leadership and his father has again taken over in an attempt to salvage the business.

13. Defendant **James B. Catledge** (Catledge) is currently a California resident, although he has recently maintained a residence in Nevada. Catledge has formed and has been an officer or member of, or has otherwise been associated with, companies and business entities that bear some version of the name Impact or Net Worth, as well as others, as more fully described in paragraph 37.

14. **Steve Cabezud** is a resident of California and an agent of several Impact companies, of Net Worth Solutions, and of Leaders in Financial Education, Inc. (LIFE). Defendant Cabezud is a Senior Marketing Advisor and is a member of the Board of Directors for some Impact entities.

15. **Barbara Nagel** is a resident of California and an agent of several Impact companies, of Net Worth Solutions, and of Leaders in Financial Education, Inc. (LIFE). She is a Senior Marketing Advisor and permanent board member of some Impact entities.

16. **John Thomson** is a resident of Orem, Utah and an agent of several Impact companies, of Net Worth Solutions, and of Leaders in Financial Education, Inc. (LIFE). Defendant Thomson is a National Marketing Advisor for Impact. Additionally, Defendant Thomson is a co-founder of some Impact entities.

17. **Trevor Walker** is a resident of Idaho and an agent of several Impact companies. He is the President/Owner of Walker Financial Group, LLC, an Idaho limited liability company.

18. **David Brimley** is a resident of Nevada, is an agent of several Impact companies, and conducts residential loan origination activity as Impact Lending and as Meridias Capital.

19. **Impact, Inc. and Impact Net Worth, LLC** are Nevada companies doing business in Idaho and elsewhere.

20. **Net Worth Solutions** is a Nevada company doing business in Idaho and elsewhere.

21. **Sun Village Juan Dolio Associates, LLC**, is a domestic Delaware limited liability company located at 615 South Dupont Highway, Dover, Delaware 19901.

22. John Doe Companies 1 through 25 are entities whose exact structure, status and true name are currently unknown. These corporations are all mere alter egos for Derek F. C. Elliott and/or James Catledge, were used to effectuate the fraudulent and unlawful offer or sale of securities as described in this Verified Complaint, and were formed for the purpose of shielding Elliott/Catledge from accountability and perpetrating fraud on the investors. The corporations have such a unity of interest with Elliott/Catledge that the separate personalities of the corporations and Elliott/Catledge no longer exist. Further, if Elliott/Catledge is/are allowed to hide behind these corporate facades it will sanction the fraud and promote injustice. Their corporate existence should be ignored. This Verified Complaint will be amended pursuant to Idaho Rule of Civil Procedure 10(b)(4) when the true name(s) is(are) discovered.

23. John Doe Individuals A through H are persons whose true names are currently unknown. Plaintiff alleges that these persons unlawfully and fraudulently offered or sold securities in the same or in a similar fashion as Defendants named in this Verified Complaint, and made the same misrepresentations and failures to disclose as Defendants. This Verified Complaint will be amended pursuant to Idaho Rule of Civil Procedure 10(b)(4) when the true name(s) is(are) discovered.

FACTS

The Elliott Group and the Dominican Republic Resorts

24. During the mid to late 1990s, Fred Elliott developed a resort property at Cofresi Beach near Puerto Plata on the north shore of the Dominican Republic. This property is known as, and is referred to herein as, Sun Village Cofresi (Cofresi). Various companies were created by Fred Elliott and others to purchase, own, develop and manage the properties, as well as conduct other business transactions. These companies are herein referred to as the **Elliott Group**.

25. By 2005, the Elliott Group was still operating Sun Village, but had begun to attempt to develop a property it bought at Juan Dolio Beach on the south shore of the Dominican Republic. This property is known as, and is referred to herein as, Sun Village Juan Dolio (SVJD).

26. Plaintiff does not currently know how Elliott funded the initial Cofresi development, but by 2005 the Elliott Group was selling various interests in the two properties as a means of raising funds to run Cofresi and to develop SVJD. These interests constituted securities under Idaho's Uniform Securities Act (2004).

27. The Elliott Group offered, originally on its own and later through the Impact Group and Defendants, a "product" called "the Residence" at both Cofresi and SVJD. The Residence was described and marketed in Idaho as an investment that provided resort ownership, liquidity, a quarterly income stream, and a return of principal after five years. Purchasers would buy a vacation interval and had the choice of either using a suite in the resort for a specified week, or could give up the week and allow the resort management to rent the suite. If the purchaser chose the latter, the Elliott Group would pay a fixed amount as a non-use fee. Most, if

not all, purchasers bought an interest as an investment, and did not intend to use the resort for their reserved week.

28. Although the Residence was marketed and sold as an investment, in reality it was simply a time share condominium purchase. Purchasers did not get any resort ownership; they got a license to use and occupy the suite one week per year through 2050, at which time their interest expired with no residual value. The liquidity promise was a chimera. The purchasers were allowed to sell only through the Elliott Group's onsite sales program (meaning it was only sold to people at the resort, not freely on the market), and they were required to pay a 20% fee to the Elliott Group. Now that the real estate market has collapsed the units are essentially unsalable. Further the quarterly income stream was not a guaranteed fixed return on investment because it is payable at the discretion of the Elliott Group.

29. The other product offered by the Elliott Group was an investment in the development of SVJD that allegedly gave a deeded fee simple fractional ownership interest, coupled with an ability to receive a periodic return on investment based on a "rack rate." Like the Residence product, this investment contemplated that the investor would not use the vacation interval. The Elliott Group would rent out the space and would share net profits with the investor. The investor also allegedly could sell the investment after five years and participate in the appreciation of the value of the property. Although the Defendants gave multiple names to this investment, it is most often known as, and is referred to herein as, "Passport."

30. As with the Residence, Passport was essentially a time share condominium. To participate in this investment, investors signed a document titled "Expression of Interest" (EOI) when they made the initial payment. The EOI was signed by the investor and by agents of the Impact Group on behalf of the Elliott Group. The EOI stated at paragraph 6.a. that "The

Purchaser will receive a fee simple deeded title to the Fractional Interest(s) purchased.” However, the Private Placement Memorandum (PPM) for the Passport offering, which was supposed to be delivered to the investors but seldom was, stated that “A Founder Interest is not an ownership or any other interest in us, our sole member, Sun Village, or the Resort.” Although marketing materials for the Passport offering stated that “Passport has been developed for the real estate investor who wants both income and equity appreciation while maintaining liquidity,” the PPM placed restrictions on the ability to sell the interest, and also stated “There will be no market for the Founder Interests.” This was not a liquid investment, contrary to representations.

31. The Elliott Group operates under many corporate names, set forth in paragraphs 32 a through e, inclusive of sub-paragraphs, below. These corporations, to the extent they actually exist, are all mere alter egos for Derek F. C. Elliott and were formed for the purpose of shielding Elliott from accountability and perpetrating fraud on the investors. The corporations have such a unity of interest with Derek F. C. Elliott that the separate personalities of the corporations and Derek F. C. Elliott no longer exist. Further, if Derek F. C. Elliott is allowed to hide behind these corporate facades it will sanction the fraud and promote injustice. Their corporate existence should be ignored.

32. In addition to operating as multiple nested corporations, the Elliott Group used the corporate names inconsistently. In some documents, certain corporations were stated to own one corporation or another, or to be owned by one corporation or another, or to have various officers. A review of the information available to the Department shows the following corporate entities. It is notable that several corporations are incorporated offshore, and that the information is inconsistent. The statements that follow were taken from documents prepared by the Elliott Group, or from filings with various Secretaries of State. These corporations, or some of them,

will constitute the John Doe Corporations captioned above. This complaint will be amended when it is discovered which of the corporations should be named Defendants.

a. The Elliott Group as described herein has two sub-groups, the Cofresi Group, and the SVJD Group. The Cofresi Group is associated with the Cofresi property, is often referred to by Defendants as the EMI Group, and has overlapping and interlocking ownership of some of the SVJD Group of companies. Derek F. C. Elliott was, at all times relevant to this action, the President and Chief Executive Officer of the Cofresi/EMI Group.

b. The Cofresi Group includes the following:

i. **EMI Resorts (S.V.G.) Inc.** is a corporation organized under the laws of St. Vincent and the Grenadines. EMI stands for Elliott Management, Inc.

ii. **EMI Resorts (T&C) Inc.** is a corporation organized under the laws of the Turks and Caicos Islands, British West Indies.

iii. **EMI Resorts Management, S.A.** is a corporation organized and existing under the laws of the Dominican Republic. It purportedly receives management fees associated with the operation of the resorts.

iv. **EMI Sun Village, Inc.** is a Turks and Caicos Islands, British West Indies company.

v. **HSV Operadora De Hoteles S.A.** is a Dominican Republic company and is represented on Cofresi purchase receipts as the “Manager” of resorts operated by EMI Sun Village, Inc.

c. The SVJD Group includes the following:

i. **Promotora Xara, S.A.** (Promotora) is a corporation organized under the laws of the Dominican Republic and is located at Suite B-1-3 Centro Comercial de Playa

Dorada, Puerto Plata, Dominican Republic. It is represented as the “Manager” of Sun Village Juan Dolio, Inc. in Vacation Interval Ownership Agreements. Promotora owns the Sun Village resort property and as such, holds title to that property. Its president is Derek F. C. Elliott.

ii. **Sun Village Juan Dolio, Inc.** is a corporation organized and existing under the laws of the Turks and Caicos Islands, British West Indies and is purportedly wholly-owned by Cellwave Networks Limited. Sun Village Juan Dolio, Inc. owns the Sun Village Resort & Spa Juan Dolio and is the parent company of Sun Village JD Holding, Inc.

iii. **Sun Village Juan Dolio Associates, LLC**, is a domestic Delaware limited liability company. It is located at 615 South Dupont Highway, Dover, Delaware 19901

iv. **Sun Village JD Holding, Inc.** is a domestic Delaware corporation, and is the sole member of Sun Village Juan Dolio Associates, LLC. Sun Village JD Holding, Inc. is also the wholly-owned subsidiary of Sun Village Juan Dolio, Inc. It is located at 615 South Dupont Highway, Dover, Delaware 19901.

v. **Sun Village Juan Dolio Resort, Inc.** is a Turks and Caicos Islands, British West Indies corporation and is a subsidiary of Cellwave Networks Limited. It is responsible for managing the Passport Condo Owner’s Association, Juan Dolio, Inc.

vi. **Sun Village Resort and Spa, Juan Dolio Trust (Trust)** is apparently used by Sun Village Juan Dolio, Inc. and Sun Village JD Holding, Inc. for the transfer of class “A,” “B,” and “C” shares of Promotora. Sun Village JD Holding, Inc. sells and the purchaser acquires one or more residential beneficial interests in the Trust, coupled with a right to reserve the use of a particular class of residential units in the project. The residential beneficial interests are identified by a trust certificate. It is a Turks and Caicos Islands, British West Indies trust. The Trust is designed to run indefinitely, however, it is a revocable trust and may be revoked by

the board of directors of the Passport Condo Owner's Association, Juan Dolio, Inc. and if approved by the affirmative vote of at least ninety percent (90%) of votes cast by Class "A" and "B" owners.

vii. **Sun Village Juan Dolio Condominium Association** is an association created by operation of law in accordance with the laws of the Dominican Republic. It is managed by Derek F. C. Elliott and EMI Resorts Management, S.A. Promotora Xara appears to be its sole member.

viii. **Passport Condo Owner's Association, Juan Dolio, Inc.** is a Delaware, non-stock, non-profit corporation. It was organized for the purpose of administering the units comprising SVJD. Its principal place of business is 1053 Whitney Ranch Drive, Lower Level, Henderson, Nevada 89014. It consists of three (3) classes of ownership: Class "A," "B," and "C" owners, each of which are entitled to different voting benefits.

d. The Elliott Group also does business as **Cellwave Networks Limited** (Cellwave) and is a limited liability company organized under the laws of Gibraltar. It may be the parent company of Sun Village Juan Dolio, Inc. and Sun Village JD Holding, Inc.

e. **CCW Ltd.** is an entity used by the Elliott Group to accept payments from investors to purchase fractional interests in resorts owned or managed by the Elliott entities. CCW Ltd. then transfers the payments to the Elliott Group. CCW Ltd.'s actual status or existence is currently unknown.

The Impact Group

33. The Impact companies and Defendants transacted business as a multi-level network marketing scheme selling insurance, mortgage application leads, and securities. The securities were interests in the resort properties managed and developed by the Elliott Group of

companies. Impact Defendants offered the Elliott securities to its agents and clients during sales or training presentations.

34. Impact Group “Associates” are recruited into the company by more senior Associates and other individuals with higher standing within the organization, known as Qualified Marketing Advisors (QMA). In public meetings and one-on-one, the Impact Group presents its financial philosophies as a proven gateway to debt management, financial planning and investing. These meetings are designed to encourage the recruitment of new associates, and to solicit consumers to consider various products and services offered by or through the Impact Group. Prospective Associates are encouraged to essentially begin a new career (or sometimes a second job) by becoming an Associate and then to “build a business” by moving up the Impact production hierarchy. In conjunction with this enterprise, Impact Group Associates act as a point of introduction for subsequent recommendations regarding debt reduction, mortgage loans, investments, insurance, real estate and securities. For any products or services sold, virtually all levels within the network marketing cell are compensated, including casual “Referral Associates.”

35. The Impact Defendants received either a 12% or 20% commission on every Elliott security purchased through Impact, which commission was shared upward from the selling agent, through the various levels of QMAs, and eventually to Catledge.

36. Impact Defendants are either individuals associated with the organization, or business or corporate entities formed, managed or controlled by the individual Defendants. The Impact Group of companies operates under many corporate names, set forth in paragraphs 37 a through o, inclusive, below. These corporations, to the extent they actually exist, were formed by or at the behest of Defendant James Catledge, and are all mere alter egos for Catledge formed

for the purpose of shielding Catledge from accountability and perpetrating fraud on the investors. The corporations have such a unity of interest with Catledge that the separate personalities of the corporations and Catledge no longer exist. Further, if Catledge is allowed to hide behind these corporate facades it will sanction the fraud and promote injustice. Their corporate existence should be ignored.

37. In addition to operating as multiple nested corporations, Catledge and the Impact Group used the corporate names inconsistently. In some documents, certain corporations were stated to own one corporation or another, or to be owned by one corporation or another, or to have various officers. A review of the information available to the Department shows the corporate or business entities set forth in paragraph 37 a through o, inclusive, below. These corporations, or some of them, will constitute the John Doe Corporations captioned above. This Verified Complaint will be amended when it is discovered which of the corporations should be named Defendants.

a. **Impact, Inc.** is a Nevada domestic corporation and conducts its business from 1481 West Warm Springs Road, Suite 135, Henderson, Nevada 89014. Its President and Director is James Catledge and its Secretary and Treasurer is Brent Goodrich.

b. **Impact Net Worth, LLC** is a Nevada limited liability company and conducts its business from 1053 Whitney Ranch Road, Suite 1, Henderson, Nevada 89014. Its managing member is Brent Goodrich.

c. **Impact America, Inc.** has allegedly changed its name to Impact Net Worth, LLC. Its actual or current status is currently unknown.

d. **Impact America** appears to be an alter ego of Impact, Inc. Its actual status or existence is currently unknown.

e. **Impact America Mortgage** appears to be an alter ego of Impact Net Worth for the purpose of giving the impression to potential clients that Impact Net Worth can provide comprehensive financial services to its clients. The actual status or existence of Impact America Mortgage is currently unknown.

f. **Impact Lending** appears to be an alter ego of Impact Net Worth for the purpose of giving the impression to potential clients that Impact Net Worth can provide comprehensive financial services to its clients. The actual status or existence of Impact America Lending is currently unknown.

g. **Impact Foundation, Inc.** is a Nevada domestic non-profit corporation organized on August 5, 2005. James Catledge is its President and Brent Goodrich is its Treasurer/Secretary/Director.

h. **Foundations Financial, LLC** is a Nevada domestic limited liability company organized on December 1, 2004. It appears from the Nevada Secretary of State's Office that Foundations Financial, LLC had its business license administratively revoked on January 1, 2007.

i. **Alexander's Inc.** is a domestic corporation organized under the laws of the State of Nevada on November 5, 1997. On September 1, 2004, Alexander's Inc. had its business license permanently revoked. James Catledge was the company's secretary.

j. **Advanced Estate Planning, Inc.** is a domestic corporation organized under the laws of the state of Nevada on October 26, 1995. Advanced Estate Planning, Inc., however, had its business license permanently revoked on July 1, 2006. Its sole officer was James Catledge.

k. **Executive Retirement Planning, Inc.** is a domestic corporation organized on October 9, 1995 under the laws of the State of Nevada. Its sole officer is James Catledge.

l. **Impact Holdings, Inc.** is a domestic corporation organized under the laws of the State of Nevada on September 15, 2008. Its President, Secretary, Treasurer, and Director is James Catledge.

m. **Impact Holdings, LLC** is a domestic limited liability company organized under the laws of the State of Nevada. Its business location is 1053 Whitney Ranch Road, Suite 1, Henderson, Nevada 89014 and its manager is Brent Goodrich.

n. **Net Worth Solutions** appears to be an alter ego of Impact Net Worth for the purpose of giving the impression to potential clients that Impact Net Worth can provide comprehensive financial services to its clients. It was formed for the purpose of continuing the Impact business model under a different name and as a means to avoid any liability that might attach to any of the Impact entities. Net Worth Solutions was formed by, or at the behest of, or in concert with, or under the direction of Defendant James Catledge, and is a mere alter ego for Catledge formed for the purpose of shielding him from accountability and perpetrating fraud on the investors. The company has such a unity of interest with Catledge that the separate personalities of the company and Catledge no longer exist. Further, if Catledge is allowed to hide behind this corporate facade it will sanction the fraud and promote injustice. The corporate existence should be ignored. The actual status or existence of Net Worth Solutions is currently unknown.

o. **Life Leaders in Financial Education, Inc., (LIFE)** is a domestic corporation formed under the laws of the State of Nevada by Defendant John Thomson on November 12, 2008. LIFE is a successor to some of the Impact companies and Net Worth Solutions and was formed for the purpose of continuing the Impact business model under a different name and as a means to avoid any liability that might attach to any of the Impact entities. LIFE was formed by,

or at the behest of, or in concert with, or under the direction of, Defendants James Catledge and John Thomson, and is a mere alter ego for Catledge and Thomson formed for the purpose of shielding them from accountability and perpetrating fraud on the investors. The corporation has such a unity of interest with Catledge and Thomson that the separate personalities of the corporation and Catledge and Thomson no longer exist. Further, if Catledge and Thomson are allowed to hide behind these corporate facades it will sanction the fraud and promote injustice. Its corporate existence should be ignored.

38. Additional individuals were associated with Catledge, and some may properly be Defendants in this action. These individuals materially aided in the furtherance of the fraud. These individuals, or some of them, will constitute some of the John Doe Individuals captioned above. This Verified Complaint will be amended when it is discovered which of the individuals should properly be named as Defendants, if any.

a. **Robert Rasmussen** is a resident of Boise, Ada County, Idaho and appears to be employed as an Impact Group QMA. Mr. Rasmussen is Joyce Rasmussen's business partner at the Boise, Idaho location of Impact, Inc.

b. **Joyce Rasmussen** is a resident of Boise, Ada County, Idaho and employed as an Impact Group QMA. Ms. Rasmussen is licensed to sell life and disability insurance in the state of Washington and in the state of Idaho.

c. **Jerry Gerber** has been the Chief Financial Officer for the Impact Group since the its formation.

d. **Thomas Chester** is the Chief Marketing Officer for the Impact Group.

e. **Levi Rogers** is the Director of Field Operations, is a co-founder of the Impact Group, and is a permanent board member with the Impact Group.

39. Defendants, at all times material herein, were not registered with the State of Idaho or the Securities and Exchange Commission (SEC) as broker/dealers, or as broker/dealer agents.

40. The securities issued by Defendants were not registered with the State of Idaho or the SEC.

Securities Fraud

41. Defendants participated in a scheme to raise money to run and develop the Cofresi and SVJD resort properties. Although originally contemplated to be securities, and structured as such, the investments were marketed and sold in Idaho as real estate investments. The Elliott related Defendants put together the plan to raise money, and the Impact related Defendants sold it to investors, with the assistance of Derek F. C. Elliott. The three securities sold were the Cofresi Residence securities, the SVJD Residence securities, and the SVJD Passport securities. The Residence securities were structured as timeshares intended to give the purchaser the right to use the resort on an ongoing basis. The Passport securities were structured as a means to get money to the developer (Elliott) to use to develop and open the SVJD resort. After it opened, the Passport purchaser could use the resort on an ongoing basis. Both types of securities had an option to pay the investor for not using the resort, and this option is what investors believed provided a return on their investment, along with appreciation realized upon sale.

42. The various investments took different forms, and various documents were executed to accomplish the investments. These documents are evidences of indebtedness, are certificates of interest or participation in a profit-sharing agreement, are preorganization

subscriptions, and are investment contracts, all of which constitute a security under Idaho Code § 30-14-102(28).

a. The Cofresi Residence security and the SVJD Residence security both required investors to sign a “Vacation Interval Ownership Agreement” and a “Receipt for Purchase,” although the one-page documents varied in certain respects between the different investments. The parties to these documents were the purchaser and EMI Sun Village, Inc., and HSV Operadora De Hoteles, S.A. The Cofresi documents were signed by the purchaser and an Impact Associate on the day money changed hands, and later executed by EMI Sun Village, Inc., and HSV Operadora De Hoteles, S.A. The SVJD documents were likewise executed, except Promotora Xara, S.A. replaced HSV Operadora De Hoteles as a party.

b. The SVJD Passport security was marketed, offered and sold in four phases: Founders Phase, and Phases I, II, and III. The concept behind this security was that each succeeding phase would be more expensive than the prior, supposedly because the property advanced in development and eventually opened and began generating income, thus making the property more valuable. Investors were told that they would receive a fee simple deeded title to their interest, that they could sell in five years, and at the time of sale could realize a gain in the investment due to the appreciation. Purchasers of this security executed a three-page “Expression of Interest” between them and Sun Village Juan Dolio, Inc. This document was signed by an Impact Associate and later executed by Sun Village Juan Dolio, Inc. Early purchasers of this security were instructed to write checks to **CCW, Ltd**, while later purchasers wrote their checks to “S.V.J.D.”

c. The purchase documents signed by the purchasers referenced other documents that purported to be part of the transaction. These other documents were extensive contracts that

contained information and imposed terms contrary to statements made in the marketing materials, and were entitled “Confidential Private Placement Memorandum,” (a 50-page document relating to the SVJD Passport development project), and “Schedule to Residence Vacation Interval Ownership Agreement,” (a 19-page document relating to the “Residence” products). Only a few investors were provided with these documents, and no investor saw the documents before purchasing the investments.

i. A “Passport Superior Condo” was marketed, offered and sold for \$243,750 in the Founders Phase, for \$365,625 in Phase I, for \$548,438 in Phase II, and for \$658,126 in Phase III.

ii. In the Phase I “Confidential Private Placement Memorandum”, Defendants stated that they raised approximately \$21,500,000 in the Founders Phase. After completing both the Founders Phase and Phase I, Defendants raised approximately \$32,175,000.

iii. Because the SVJD resort was not open, investors purchased their time-share interest by paying half of the purchase price, and by giving a promissory note for the other half to the Elliott Defendants. Defendants received approximately \$25,000,000. Of this amount, Catledge and the Impact Defendants were paid at least 12% as a sales commission, or approximately \$6,000,000, and Derek F. C. Elliott received approximately \$19,000,000. Despite having raised over \$19,000,000 for the SVJD development, the building is far from completion and no part of it is open for business.

iv. Instead of devoting the money raised through the investment, Derek F. C. Elliott financed his lifestyle and personally enriched himself, to the detriment of the investors. Elliott recently sold the investor promissory notes to a third party purchaser to raise additional money.

43. Purchasers of the securities invested their money with Defendants, expecting to earn a profit. They were in a common enterprise with Defendants wherein the investors' fortunes were intertwined with other investors and with Defendants. Investors expected to simply write a check and nothing more, and relied on the expertise of Defendants to successfully develop and run the investment properties.

44. The securities were fraudulent because they were not registered with the Idaho Department of Finance as required, because the issuer, brokers and agents were not registered with the Idaho Department of Finance as required, because Defendants made material misrepresentations about the securities, and because Defendants made material omissions by failing to tell potential investors information that they would consider important in making their investment decision.

Misrepresentations

45. In order to induce investors to invest, Defendants made, among others, the following misrepresentations about the investment and about themselves. The false statement is set out first, followed by an explanation of why it is false.

a. That the investment was safe. This was false because investors currently are not receiving any type of return payment and Defendants are refusing to return investor money. At this point, investors have essentially lost their money, and therefore the investment was not safe.

b. That no fees or maintenance expenses would be required. This was false because the Schedule to Residence imposes assessments for damages, and the Private Placement Memorandum (PPM) states "Residential Interests owners will be subject to periodic assessments."

c. That investors would receive a fee simple deeded title. This was false because the investors were buying, in effect, a time-share interest. The PPM, relating to the SVJD Passport security, clarifies that the investor is not getting any ownership interest in the property:

Our sole member, Sun Village JD Holding, Inc., is a wholly-owned subsidiary of Sun Village, which is also the owner and developer of the Resort through its wholly-owned subsidiary, Promotora. All of the equity interest in Sun Village is owned by Cellwave Networks Limited, a limited company organized under the laws of Gibraltar (“Cellwave”). Your purchase of a Founder (Phase I) Interest **does not entitle you to an ownership interest, or any other interest**, in us, our sole member, Sun Village, Promotora or Cellwave. (Emphasis added)

d. That purchasers were making an investment with a fixed or variable return. This was false because the investors were buying a time-share interest. Under certain circumstances, and completely at the option of Elliott, Elliott could elect to make payments to the purchasers, but was not obligated to do so.

e. That the investment was for five years, after which the investor could choose to renew the investment or cash it out. This was false because investors did not have this right or ability. The Schedule to Residence states “SVJD hereby grants to the Vacationer ... a license (or licenses) to use and occupy the Vacation unit ... expiring on December 31, 2050.” The Passport PPM required the purchaser to affirm that “I am not entitled to cancel, terminate, or revoke my subscription or Commitment ...”

f. That construction on the property was complete. False. The Juan Dolio property is still not complete and open for business.

g. That investors would receive resort ownership in a liquid investment. False. the Juan Dolio PPM states: “The Founder (Phase I) interests are an illiquid investment and transferability of the Founder (Phase I) Interests is subject to significant restrictions. ... No

market exists for the Founder (Phase I) Interests, and none is expected to develop in the reasonable future.”

h. That the resort was secured by \$100 million in equity, or \$80 million, or \$60 million, depending on which offering material is referenced. False. First, the variable nature of the claim shows that it was false. Second, the Passport PPM states “Prospective investors should assume that the Company has no assets other than those derived from the Sale of Founder (Phase I) Interests pursuant to this offering.”

i. That the Elliott Group had a 39 year proven track record, or a 30 year record, depending on which offering material is referenced. Again, since two different versions of the statement were made, both cannot be true. Also, the Passport PPM states: “We have no operating history upon which to base an investment decision.”

Material Omissions

46. Defendants did not tell potential investors certain information that would be necessary to make other statements not misleading, and that an investor would likely consider as material to a decision to invest with Defendants. Defendants failed to disclose the following material information:

- a. Information about Defendants’ financial condition or operating history;
- b. The financial condition of the property developer and the issuer;
- c. Risks associated with an investment in a development property;
- d. That the property was subject to \$13,000,000 in encumbrances;
- e. The companies involved in the transactions and the officers and director of the companies;
- f. That Impact would be paid a 12% commission on all sales;

- g. That investors were buying a time-share interest;
- h. That Defendants were not registered as agents to sell the securities, as required by Idaho's Uniform Securities Act (2004); and
- i. That the securities issued by Defendants were not registered as required by Idaho's Uniform Securities Act (2004).

Mortgage Loan Origination

47. Defendant **David Brimley** is associated both with Impact and Meridias Capital, taking mortgage leads from Impact Group clients and providing them to Meridias Capital to initiate mortgage loans. Brimley was advertised in Impact Group materials and solicitations, and was alleged to be the Impact Group's Vice President of Lending.

48. Brimley traveled to Idaho and spoke to Impact Group Associates and clients during Impact training and sales presentations. The Elliott securities were touted and offered during the presentation. Brimley's presence fostered the belief that Impact was a going concern and a full service financial business. This belief was designed and intended to induce investors to give money to Impact and to purchase the Elliott securities. By his presence and participation, Brimley materially aided in violations of Idaho's Uniform Securities Act (2004), and helped perpetuate the fraud.

49. Beginning in or about October 2004, David Brimley, in association with Meridias Capital, began purchasing mortgage leads from Impact Defendants. Impact Group Associates would complete a "Mortgage Lead Submission Form" with a client. Essentially, this mortgage lead submission form is an application for a mortgage loan. The mortgage lead submission form states "I/we have applied for a mortgage loan from Impact America Mortgage." It further states "Any reproduction of this form may be accepted as the original signed application." After

gathering a client's information and signature, the Impact Group Associate would send the mortgage lead submission form to Brimley at Meridias Capital's Whitney Ranch Drive branch location to begin the approval process.

50. For each completed mortgage lead submission form submitted to Meridias Capital, Brimley and/or Meridias would pay the Impact Defendants \$1,000, which would be shared among the QMAs and Associates involved in the transaction.

51. After Meridias Capital processed the mortgage lead submission form, proposal information was given by Brimley to an Impact Group Associate who would subsequently present the loan proposal to a client. These loan proposals included the type of loan proposed, the payment and interest rate terms, and payment amount.

52. Between June 2005 and December 2006, at least 95 mortgage lead submission forms taken on Idaho residents were submitted to Meridias Capital's 1053 Whitney Ranch Drive branch location by Impact Group QMAs. At least 19 of such mortgage lead submission forms were submitted to Meridias Capital between the time the state of Idaho implemented residential mortgage loan origination licensing requirements in January 2006 and prior to it becoming a licensed branch location on April 11, 2006.

53. On April 11, 2006, the State of Idaho, Department of Finance, Consumer Finance Bureau (Consumer Finance Bureau) received an application from David Brimley for an Idaho Mortgage Loan Originator License. In that application, Brimley indicated that his employer's (Meridias Capital) office location was 1018 Atherton Drive, Salt Lake City, Utah. Also in that application, Brimley indicated his current residential address was in Henderson, Nevada.

54. In a letter dated July 5, 2006, the Consumer Finance Bureau informed Brimley that the application was deficient in several respects, and requested an explanation of how clients

would contact Brimley; an address for clients to use to mail, fax, or return documents; and the physical address where Brimley intends to conduct origination business. The letter also requested that Brimley explain in detail how he could process loans in Henderson, Nevada when he stated in his application that his address of employment was in Salt Lake City, Utah.

55. Brimley failed to respond to the Consumer Finance Bureau's request for information and his license application was deemed withdrawn on August 29, 2007.

56. Consumer Finance Bureau records indicate that Mr. Brimley has never been issued an Idaho Mortgage Loan Originator License. Such records also indicate that various Impact Group QMAs completing mortgage lead submission forms did so when not licensed as an Idaho Mortgage Loan Originator.

57. Impact Group QMAs and Brimley engaged in unlicensed loan origination activity by completing mortgage loan applications in Idaho.

INVESTORS

58. Beginning in 2005 and continuing at least through 2007, Defendants issued, offered and sold at least 50 unregistered securities to at least 35 investors. The aggregate face amounts of the securities issued is over three million four hundred thousand dollars (\$3,400,000).

COUNT ONE

(Fraud - False and Misleading Statements)

59. The allegations of paragraphs 1 through 58 above are realleged and incorporated herein as if set forth verbatim.

60. Idaho Code § 30-14-501(2) provides that it is unlawful for any person, directly or indirectly, in connection with the offer, sale or purchase of a security, to make an untrue statement of material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

61. Defendants' misrepresentations to prospective investors as set forth above were made in connection with the offer, sale or purchase of securities. Defendants' misrepresentations were false and misleading, constituting violations of Idaho Code § 30-14-501(2) as to each misrepresentation to each investor.

62. Defendants' omissions of material facts and failures to disclose material information to prospective investors as set forth above were made in connection with the offer, sale or purchase of securities. Defendants' omissions of material facts and failures to disclose, constitute violations of Idaho Code § 30-14-501(2) as to each omission and failure to disclose to each investor.

COUNT TWO
(Fraudulent Conduct)

63. The allegations of paragraphs 1 through 58 above are realleged and incorporated herein as if set forth verbatim.

64. Idaho Code § 30-14-501(3) provides that it is unlawful for any person, directly or indirectly, in connection with the offer, sale or purchase of a security, to engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

65. Defendants' acts as set forth above were made in connection with the offer, sale or purchase of securities. Their conduct constitutes engaging in transactions, acts, practices, or courses of business which operate or would operate as a fraud or deceit upon investors or prospective investors, in violation of Idaho Code § 30-14-501(3) as to each investor.

COUNT THREE
(Unregistered Securities)

66. The allegations of paragraphs 1 through 58 above are realleged and incorporated herein as if set forth verbatim.

67. Defendants issued, sold or offered for sale in Idaho securities in the form of promissory notes and investment contracts. Such securities were not registered with the Department as required by Idaho Code § 30-14-301.

68. The Defendants' failure to register such securities with the Department constitutes a violation of Idaho Code § 30-14-301.

COUNT FOUR
(Failure to Register)

69. The allegations of paragraphs 1 through 58 above are realleged and incorporated herein as if set forth verbatim.

70. Defendants James Catledge and the Impact companies transacted business in Idaho as broker-dealers. No Defendant was registered as a broker-dealer with the Department as required by Idaho Code § 30-14-401(a).

71. Defendants' failure to register as broker-dealers with the Department constitutes a violation of Idaho Code § 30-14-401(a).

72. Defendants transacted business in Idaho as agents of broker-dealers or of issuers. No Defendant was registered as an agent with the Department as required by Idaho Code § 30-14-402(a).

73. Defendants' failure to register as agents with the Department constitutes a violation of Idaho Code § 30-14-402(a).

COUNT FIVE
(Violation of Cease and Desist Order)

74. The allegations of paragraphs 1 through 58 above are realleged and incorporated herein as if set forth verbatim.

75. Idaho Code § 30-14-603(a) provides that it is unlawful for any person to violate an order issued under Idaho's Uniform Securities Act.

76. Defendants Derek F. C. Elliott, James B. Catledge, Sun Village Juan Dolio Associates, LLC, Impact, Inc., Impact Net Worth, LLC, and Net Worth Solutions have violated the Consent Orders to Cease and Desist issued by the Department on July 16 and 19, 2007 by failing to comply with their terms. Specifically, both individuals were required to make rescission offers to the defrauded investors and to refund the investments as requested. Both Defendants have refused to refund the money owed to investors.

COUNT SIX
(Materially Aiding in Violations of Idaho's Uniform Securities Act)

77. The allegations of paragraphs 1 through 58 above are realleged and incorporated herein as if set forth verbatim.

78. Idaho Code § 30-14-603(a) provides that it is unlawful for any person to materially aid a violation of Idaho's Uniform Securities Act (2004).

79. Defendants materially aided each other in the violations of Idaho's Uniform Securities Act described in this Verified Complaint, in violation of Idaho Code § 30-14-603(a).

COUNT SEVEN
(Unlicensed Loan Origination Activity)

80. The allegations of paragraphs 1 through 58 above are realleged and incorporated herein as if set forth verbatim.

81. Idaho Code § 26-3108A(5) provides that a loan originator may transact business only for a mortgage broker or mortgage lender licensed in accordance with the provisions of the Idaho Residential Mortgage Practices Act.

82. Idaho Code § 26-3104(3) provides that no person shall engage in loan origination activities without the license required by the Idaho Residential Mortgage Practices Act.

83. Idaho Code § 26-3102(20) defines “loan origination activities” as for compensation or gain, either directly or indirectly, engaging in any of the following activities:

a. Soliciting, accepting, or offering to accept an application for a residential mortgage loan;

b. Assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application; or

c. Negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a borrower.

84. Defendant Brimley’s failure to obtain a mortgage loan originator license as required by the Idaho Residential Mortgage Practices Act prior to engaging in mortgage loan origination activities as described above violated the Idaho Residential Mortgage Practices Act.

85. Defendant Brimley’s acts of engaging in mortgage loan origination activities as described above at an unlicensed mortgage broker/lender location violated the Idaho Residential Mortgage Practices Act.

PRAYER FOR RELIEF

WHEREFORE, the Department prays for judgment in favor of the Department and against Defendants as follows:

Idaho's Uniform Securities Act Violations

1. That Defendants be adjudged to have violated Idaho's Uniform Securities Act (2004), Idaho Code § 30-14-101 *et seq.*, as to Counts One through Six alleged above, as well as any additional counts proven at trial.

2. That Defendants be permanently enjoined from engaging in any act or practice violating any provision of Idaho's Uniform Securities Act (2004) or any rule promulgated thereunder, pursuant to Idaho Code § 30-14-603(b)(1), and in particular, that they be permanently enjoined from:

a. Selling or offering for sale nonexempt securities in any form in the state of Idaho without first registering them with the Department in accordance with Title 30, Chapter 14, Idaho Code;

b. Selling or offering for sale nonexempt securities in any form in the state of Idaho without first becoming registered as a broker/dealer and/or broker/dealer agent with the Department in accordance with Title 30, Chapter 14, Idaho Code;

c. In connection with the offer, sale or purchase of any security, directly or indirectly:

i. Employing any device, scheme, or artifice to defraud;

ii. Making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; and

iii. Engaging in any act, practice or course of business that operates or would operate as a fraud or deceit upon another person.

3. That Defendants jointly and severally be ordered to pay a civil penalty of up to \$10,000 for each violation of Idaho's Uniform Securities Act (2004) as the Court deems appropriate, pursuant to Idaho Code § 30-14-603(b)(2)(C), for total penalties of at least \$500,000, and that the Court award a money judgment in favor of Plaintiff in such amount.

4. That Defendants jointly and severally be ordered to make restitution to investors, pursuant to Idaho Code § 30-14-603(b)(2)(C) in the amount of three million four hundred thousand dollars (\$3,400,000), or in such other amount as is proven at trial. That Defendants pay the restitution amount to the Plaintiff, to be delivered to the investors, and that the Court award a money judgment in favor of Plaintiff in such amount.

Residential Mortgage Practices Act Violations

5. That Defendant Brimley be adjudged to have violated Idaho's Residential Mortgage Practices Act, Idaho Code § 26-3102 *et seq.*, as to Count Seven alleged above, as well as any additional counts proven at trial.

6. That Defendant Brimley be permanently enjoined from engaging in any act or practice violating any provision of Idaho's Residential Mortgage Practices Act, pursuant to Idaho Code § 26-3106, and in particular, that he be permanently enjoined from, in Idaho or with an Idaho resident, soliciting, accepting, or offering to accept an application for a residential mortgage loan, from assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application, and from negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a borrower.

7. That Defendant Brimley be ordered to pay a civil penalty of up to \$5,000 for each violation of the Act as the Court deems appropriate, pursuant to Idaho Code § 26-3106(1)(b), for

total penalties of at least \$100,000, or in such higher amount as proven at trial, and that the Court award a money judgment in favor of Plaintiff in such amount.

General Relief

8. That Plaintiff be awarded attorney fees and costs incurred in the preparation and prosecution of this action, pursuant to Idaho Code §§ 26-3106 (1)(c) and 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.

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

DATED this 20th day of February, 2009.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL



ALAN CONILOGUE
Deputy Attorney General

VERIFICATION

STATE OF IDAHO)
)ss.
County of Ada)

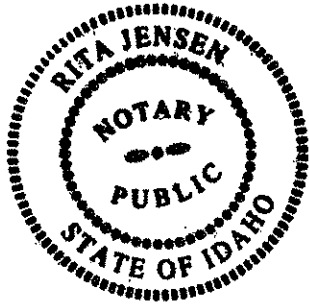
MARILYN T. CHASTAIN, Bureau Chief of the Securities Bureau of the Department of Finance, State of Idaho, being first duly sworn, deposes and says:

I have read the foregoing Verified Complaint, and know the contents thereof; and verify that the same are true to the best of my knowledge and belief.

DATED this 20th day of February, 2009.

Marilyn T. Chastain
MARILYN T. CHASTAIN

SUBSCRIBED AND SWORN to before me this 20th day of February, 2009.



Rita Jensen
Notary Public for Idaho
Residing at: Mendota, Idaho
My Commission Expires: 3/6/2013