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FILED

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SUPERIOR COURT OF NEW JERSEY
COUNTY OF HUDSON
CHANCERY DIVISION # 1

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
HUDSON COUNTY
DOCKET NO. C- 125-12

JEFFREY S. CHIESA, Attorney General of the State
of New Jersey on behalf of his office and ABBE R.
TIGER, Chief of the New Jersey Bureau of Securities,

Plaintiffs,

v.

PETER ZUCK, individually and as an officer, general
partner, and member of certain entity defendants,
MICHAEL J. SPAK, individually and as an officer and
member of certain entity defendants, JOSEPH C.
SPAK, individually and as an officer and member of
certain entity defendants, JOHN R. NAJARIAN,
individually and as an officer and member of certain
entity defendants, BRIAN J. SPAK, individually and as
a member of certain entity defendants, OSIRIS FUND
LIMITED PARTNERSHIP, a New Jersey limited
partnership, OSIRIS PARTNERS, LLC, a New Jersey
limited liability company, VICTORIA BRIALMONT,
individually, JOHN SCHEIRER, individually,
LAURIE MAZZA, individually, JAY JOHN
SOOJIAN, individually, and WAYNE G. PLAYER,
individually,

Defendants,

and

PETER L. ZUCK, BRYAN J. ZUCK, NICOLE
ZUCK, JESSICA NAJARIAN, LORETTA SPAK,
ANS ENTERPRISES LLC, a limited liability
company, IGF CONSULTING LLC, a limited liability
company, DEXTER GROUP LLC, a limited liability
company, and WAYNE PLAYER PRODUCTIONS,
LLC, a limited liability company,

Relief Defendants.

Civil Action

VERIFIED COMPLAINT

Plaintiffs, Jeffrey S. Chiesa, Attorney General of New Jersey, on behalf of his office and Abbe R. Tiger, Chief of the New Jersey Bureau of Securities, (collectively, "Plaintiffs"), by way of Verified Complaint against the above-named defendants allege that:

SUMMARY

1. From 2009 to 2011, Defendants Peter Zuck, Michael J. Spak, Joseph C. Spak, John R. Najarian, and others fraudulently sold approximately \$12 million of securities issued by the Osiris Fund Limited Partnership ("Osiris Fund" or "Fund"), which they described as a "hedge fund" for the "little guys" and "moms and pops." In offering and selling the securities, Defendants¹ failed to disclose Zuck's numerous prior criminal convictions involving theft and fraud, including a securities fraud conviction for, in a Judge's words, "bilk[ing] unsuspecting people out of a substantial amount of money [with] no remorse." Defendants also failed to disclose their misuse of investors' funds for the benefit of certain individual defendants and their family members.

2. As part of their fraudulent scheme, from at least May 2010 until the end of 2011, Defendants sent investors falsified financial statements, which drastically overstated the Osiris Fund's net asset value ("NAV") by including, among other things, a fictitious asset of \$5 million to \$6.5 million in the NAV calculation. As an example, after the second quarter of 2011, Defendants falsely stated to investors that the Osiris Fund's NAV was about \$10.4 million when, in truth, the Osiris Fund's NAV was less than \$1.4 million.

3. Throughout 2010 and 2011, Defendants inflated management fees by basing them on the Osiris Fund's overstated NAV with the fictitious asset. The inflated management fees then were distributed to certain individual defendants and their family members.

¹ Throughout this Verified Complaint, "Defendants" means the Osiris Fund, Osiris Partners LLC, Peter Zuck, Michael J. Spak, Joseph C. Spak, and John R. Najarian.

4. By late 2011, a combination of the inflated management fees, Defendants' misuse of funds, trading losses, and payments to investors reduced the Osiris Fund's NAV to near zero.

5. As of the filing of this Verified Complaint, certain individual defendants and their family members have been unjustly and unlawfully enriched by at least \$4 million of ill-gotten gains, while investors have lost more than \$7.2 million.

6. Through this action, Plaintiffs seek to, among other things: freeze the assets of Defendants and others that received ill-gotten gains and transfer the assets to a receiver for, among other things, distribution to the victims in this case; preliminarily and permanently enjoin the defendants from engaging in the misconduct alleged herein; and obtain a judgment that orders the defendants to disgorge ill-gotten gains, pay restitution to victims, and pay civil monetary penalties.

JURISDICTION AND VENUE

7. The New Jersey Bureau of Securities (the "Bureau") is a state regulatory agency charged with the administration and enforcement of the New Jersey Uniform Securities Law (1997) N.J.S.A. 49:3-47 et seq. ("Securities Law").

8. Jurisdiction is proper over all defendants because each alleged violation of the Securities Law occurred in connection with: (i) the offer or sale of a security that originated from New Jersey; or (ii) an offer to sell, a sale, or the acceptance of an offer to sell a security that occurred in New Jersey, as contemplated under N.J.S.A. 49:3-51.

9. Venue is proper pursuant to R. 4:3-2(a) because it lies where the cause of action arose.

PARTIES

A. Plaintiffs

10. Plaintiff, Abbe R. Tiger, Chief of the New Jersey Bureau of Securities, (the "Bureau Chief") has offices at 153 Halsey Street, 6th Floor, Newark, New Jersey 07102. The Bureau Chief brings this civil action under the Securities Law for violations of: N.J.S.A. 49:3-52(a) (employing a device, scheme, or artifice to defraud); N.J.S.A. 49:3-52(b) (making false statements or omitting material facts); N.J.S.A. 49:3-52(c) (engaging in an act, practice, or course of business that operates as a fraud or deceit); N.J.S.A. 49:3-60 (selling unregistered securities); N.J.S.A. 49:3-56(a) (acting as an agent without registration); and N.J.S.A. 49:3-56(h) (employing unregistered agents).

11. Plaintiff, Jeffrey S. Chiesa, Attorney General of New Jersey, commenced this action on behalf of the Bureau Chief under N.J.S.A. 49:3-69(a)(2), and under his office's common law powers.

B. Osiris Entities

12. Defendant Osiris Fund is a limited partnership formed under the laws of New Jersey with a principal place of business at 55 Spruce Street, Jersey City, New Jersey 07306 (the "Jersey City Office").

13. Defendant Osiris Partners LLC ("Osiris Partners" or "Partners") is a limited liability company formed under the laws of New Jersey with a principal place of business at the Jersey City Office. Osiris Partners was a general partner of the Osiris Fund.

14. The Osiris Fund and Osiris Partners (together the "Osiris Entities") engaged in business under the name "Osiris Investments."

15. Osiris Fund issued securities in the form of limited partnership interests (“Osiris Securities”), which were not registered with the Bureau, federally covered, or exempt from registration.

16. Osiris Partners is a general partner and the investment manager of Osiris Fund. Osiris Partners’ primary source of income was a monthly management fee (“Management Fee”) paid by the Osiris Fund and, generally, calculated as 3% of the Fund’s NAV.

17. In general, each member of Osiris Partners benefitted from each sale of an Osiris Security because each sale increased the Osiris Fund’s “managed portfolio” and, consequently, increased each member’s monthly income from the Management Fee.

C. Insider Defendants²

18. Defendant Michael J. Spak (“Defendant Michael Spak” or “Michael Spak”) resides in Chesterfield, New Jersey. Michael Spak is the Chief Executive Officer, a member, a managing member, and a senior partner of Osiris Partners.

19. Defendant Peter Zuck (“Defendant Zuck” or “Zuck”), who resides in Middletown, New Jersey, founded the Osiris Entities. The Osiris Entities’ records from various time periods identify Defendant Zuck as managing member, Chairman, “CIO,” and senior partner of Osiris Partners, and managing member and general partner of Osiris Fund.

20. Upon information and belief, Defendant Zuck misused the identity of Peter L. Zuck, who is one of Defendant Zuck’s sons and a Relief-Defendant, by, among other things: filing a business registration application with the State of New Jersey that falsely stated that Peter L. Zuck was a member of Osiris Partners; and opening a bank account in Peter L. Zuck’s name, and then diverting money of investors and the Osiris Fund into the account.

² Throughout this Verified Complaint, “Insider Defendants” means Defendants Zuck, Michael Spak, Joseph Spak, and Najarian.

21. Defendant Joseph C. Spak (“Defendant Joseph Spak”) resides in Milltown, New Jersey. Joseph Spak, who is a Certified Public Accountant (“CPA”) and a member of Osiris Partners, was the controller of the Osiris Fund.

22. Defendant John R. Najarian (“Defendant Najarian” or “Najarian”) resides in Hillsdale, New Jersey. Najarian is the Chief Operating Officer, a senior partner, and a member of Osiris Partners.

D. Additional Defendants

23. Brian J. Spak (“Defendant B-Spak”) resides in Hamilton Square, New Jersey. B-Spak was a “trader” for the Osiris Fund and is a member of Osiris Partners. At various times from 2009 to 2011, B-Spak had authority over the checking and savings accounts of Osiris Partners and Osiris Fund.

24. Victoria Brialmont (“Defendant Brialmont”) resides in Palm Beach Gardens, Florida. Brialmont, who was the Senior Southeast Regional Vice President of the Osiris Entities, offered and sold Osiris Securities.

25. Jay John Soojian (“Defendant Soojian”) resides in Wayne, New Jersey. Soojian is a CPA. Soojian was registered with the Bureau as an agent of New England Securities from in or around December 2000 to August 2011. Soojian has been registered with the Bureau as an agent of Park Avenue Securities LLC since September 2011, and as an investment adviser representative of Park Avenue Securities LLC since May 2012. Soojian offered and sold Osiris Securities.

26. Wayne G. Player (“Defendant Player”) resides in Tequesta, Florida. Player offered and sold Osiris Securities.

27. John Scheirer (“Defendant Scheirer”) resides in Hamilton Square, New Jersey. Scheirer was the Director of Research/Technical Analysis and a “trader” for Osiris Partners.

28. Laurie Ann Mazza (“Laurie Mazza” or “Defendant Mazza”) is married to Zuck, and resides in Middletown, New Jersey. Laurie Mazza deposited checks made payable to “L.A. Mazza” and “LA Mazza.”

E. Relief Defendants

29. Peter L. Zuck (“Zuck, Jr.”) resides in Middletown, New Jersey, and is Defendant Zuck’s son. Zuck, Jr.’s name and social security number appears on certain lists and records that delineate the members of Osiris Partners. Based on tax returns and internal records of the Osiris Entities, the membership interest attributed to Zuck, Jr. (the “Zuck Interest”) included a 47% ownership interest in Osiris Partners, and an approximately 42% share of the monthly Management Fee.

30. Based on interviews of investors, the depositions of Defendants Michael Spak and Joseph Spak, and the Osiris Entities’ e-mails that have been reviewed as of this date, there is no evidence that Zuck, Jr. had any actual involvement with the Osiris Entities as a member of Osiris Partners or in any other capacity.

31. Bryan J. Zuck resides in Jersey City, New Jersey. Bryan J. Zuck is a member of Osiris Partners, and is Defendant Zuck’s son.

32. Jessica Najarian is married to Defendant Najarian and resides in Hillsdale, New Jersey.

33. Loretta Spak is married to Defendant Michael Spak and resides in Chesterfield, New Jersey. In 2010 and 2011, Loretta Spak maintained records of the receipts and disbursements in the Osiris Entities’ checking and savings accounts. At various times from 2009

to 2011, Loretta Spak had authority over the checking and savings accounts of Osiris Partners and Osiris Fund.

34. ANS Enterprises LLC (“ANS”) is a New Jersey limited liability company with a place of business at 133 South Main Street, Milltown, New Jersey 08850. ANS is a member of Osiris Partners. Loretta Spak is the sole member of ANS.

35. IGF Consulting LLC (“IGF”) is a New Jersey limited liability company with a place of business at 156 Chestnut Street, Northvale, New Jersey 07647. IGF is a member of Osiris Partners. Jessica Najarian is the owner of IGF.

36. Dexter Group LLC (“Dexter Group”) is a limited liability company with a principal place of business at 111 Tall Grass Drive, Wayne, New Jersey 07470. Dexter Group, the sole member of which is Soojian’s wife, was the entity to which the Osiris Entities transferred the compensation they paid for Soojian’s sales of Osiris Securities.

37. Wayne Player Productions, LLC is a limited liability company with a place of business at 144 Gulf Stream Drive, Tequesta, Florida 33469. Wayne Player Productions, LLC was the entity to which the Osiris Entities transferred the compensation they paid Player for selling Osiris Securities.

38. Nicole Zuck resides in Middletown, New Jersey, and is Defendant Zuck’s daughter. Nicole Zuck owns the Jersey City Office.

39. Bryan J. Zuck, Zuck, Jr., Jessica Najarian, Loretta Spak, ANS, IGF, Dexter Group, Wayne Player Productions, LLC, and Nicole Zuck (collectively, the “Relief-Defendants”) all, among other things, have been unjustly enriched by their receipt of funds or other things of value traceable to the misconduct alleged herein.

FACTUAL BACKGROUND

A. Peter Zuck's Past Criminal and Fraudulent Conduct

40. By June 1989, about twenty years before Zuck and Defendant Joseph Spak formed the Osiris Entities, Zuck began engaging in criminal misconduct, including securities fraud.

41. Zuck has served time in prison and was required to surrender his securities licenses. Zuck has also been a defendant in civil and regulatory proceedings for securities-related violations including, but not limited to, regulatory actions by the National Futures Association.

42. For example, on September 26, 1994, Zuck pled guilty to securities fraud and misconduct by a corporate officer in the Monmouth County Superior Court, Law Division – Criminal. Zuck was sentenced to five years in prison and required to surrender his securities license.

43. On January 27, 1995, when sentencing Zuck, the Honorable John A. Ricciardi stated the following:

[Zuck] bilked unsuspecting people out of a substantial amount of money and appears to have no remorse. . . . He deserves no consideration. It is questionable whether he will ever pay restitution since all of his assets, house, et cetera, are in his wife's name.

44. About two years later, on March 31, 1997, in a separate criminal matter in the Monmouth County Superior Court, Law Division – Criminal, Zuck pled guilty to theft by failing to make a required disposition of funds. Zuck was sentenced to eighteen months of probation.

45. About five years later, in another criminal matter in the Monmouth County Superior Court, Law Division – Criminal, on October 28, 2002, Zuck pled guilty to theft by illegal retention of funds. Zuck was sentenced to probation for a five year period.

B. The Osiris Entities and Osiris Securities

46. From about June 2009 to November 2011, the Osiris Entities, the Insider Defendants, Defendant B-Spak, and others raised approximately \$12 million from selling Osiris Securities to at least seventy-six investors (the “investors” or “Osiris Investors”).

47. The Osiris Securities are securities in the form of limited partnership interests that entitle investors to, among other things, an ownership interest in the Osiris Fund.

48. The Insider Defendants controlled or substantially participated in all aspects of the Osiris Entities’ operations, including efforts to sell securities, bookkeeping and accounting, and communications with and disclosures to investors.

49. Defendant B-Spak substantially participated in the offer and sale of Osiris Securities by, among other things, introducing investors to the Osiris Fund, participating in the creation of financial statements, and assisting with bookkeeping by monitoring the trading accounts’ balances.

50. At least five other individuals and entities, including Defendants Brialmont, Soojian, and Player, offered and sold Osiris Securities under written agreements with the Osiris Entities (“Osiris Brokers”). Under the agreements, the Osiris Entities compensated the Osiris Brokers based, in part, on the amount of Osiris Securities they sold to investors.

51. Neither the Insider Defendants, Osiris Brokers, Defendant B-Spak, Defendant Scheirer, nor Defendant Mazza were registered with the Bureau as an agent of the Osiris Fund.

1. The Offering Materials

52. In connection with the offer and sale of Osiris Securities, the Osiris Entities, Insider Defendants, Osiris Brokers, and others provided investors with some or all of the following documents (collectively referred to herein as the “Offering Materials”):

- a. “Osiris Partners LLC Offering Memorandum” (“Offering Memorandum”);
- b. the “Limited Partners Agreement of Osiris Fund Limited Partnership” (“Partnership Agreement”);
- c. “Subscription Agreement”;
- d. presentations (“Presentation Materials”);
- e. written communications, including letters and e-mails;
- f. financial statements and investor updates; and
- g. performance results analyses published by Bloomberg based on information provided by the Insider Defendants.

53. Defendants Zuck and Laurie Mazza drafted the Offering Memorandum.

54. Defendants Michael Spak, Zuck, and Najarian each participated in the drafting and had ultimate authority over the content of most Offering Materials.

55. Defendants Zuck signed Subscription Agreements on behalf of the Osiris Entities.

56. Defendant Scheirer participated in the drafting of certain Offering Materials, including the Presentation Materials, and provided the Offering Materials to Osiris Brokers.

(a) Osiris Entities’ Financial Statements and Investor Updates

57. At various times throughout the period relevant to this Verified Complaint, the Osiris Entities, through certain Insider Defendants, Osiris Brokers, and others, sent investors monthly financial statements (“Monthly Statements”), quarterly financial statements (“Quarterly Statements”), and letters and newsletters (“Investor Updates”).

58. The Insider Defendants and B-Spak each participated, directly or indirectly, in the creation of Monthly and Quarterly Statements, or the information and calculations in the Monthly and Quarterly Statements, which was derived from Internal Statements.

59. Defendants Zuck, Michael Spak, and Najarian participated in the creation of Investor Updates, which included additional information about the Osiris Fund's performance, and often solicited additional funds from the Osiris Investors.

THE FRAUDULENT CONDUCT

60. In or about June 2009, the Osiris Entities, Insider Defendants, B-Spak, and Osiris Brokers began offering and selling the Osiris Securities using the Offering Materials and oral representations, which were replete with material misrepresentations and omissions. For instance, the Offering Materials failed to disclose Zuck's criminal history and the Insider Defendants' misuse of the Osiris Fund's assets, and they falsely stated that:

- a. the Osiris Fund would "concentrate its trading activities in highly liquid, large capitalization stocks [and] . . . limit individual positions in the [Fund's] portfolio to thirty percent (30%) . . .";
- b. Osiris Partners' Management Fee would be "equal to 3% of the managed portfolio Net Worth paid on a monthly basis"; and
- c. Osiris Entities would "keep true and complete records and books of account."

61. In or about January 2010, Insider Defendants began overstating the Osiris Fund's NAV on the Monthly Statements.

62. Then, in April and May 2010, the Osiris Fund incurred substantial trading losses of at least \$4.52 million, or about 50% of the Osiris Fund's NAV.

63. From May 2010 to late 2011, Insider Defendants and B-Spak falsified the Monthly and Quarterly Statements by including a fictitious asset with a value of at least \$5 million when calculating the Osiris Fund's NAV, and then used those falsified statements to sell

Osiris Securities. During the same period, Osiris Partners took a larger Management Fee than it was entitled to by calculating the fee as a percentage of the Osiris Fund's false NAV with the fictitious asset.

A. Insider Defendants' Unlawful Diversions

64. Starting in or about January 2010, Insider Defendants began diverting assets of the Osiris Fund to Osiris Partners by causing various improper transactions ("Insider Diversions"), including, but not limited to:

- a. "loans" to Osiris Partners by Osiris Fund ("Inter-Company Loans");
- b. transfers of funds from Osiris Fund to Osiris Partners without any terms or conditions ("Inter-Company Transfers"); and
- c. Osiris Fund's overpayment of Management Fees.

65. All Insider Diversions were for the benefit of Osiris Partners' members, Insider Defendants, and certain Insider Defendants' relatives. The Insider Diversions were undisclosed to investors and undisclosed in the Offering Materials.

66. In total, in 2010 and 2011, Insider Defendants caused approximately \$4 million of Insider Diversions.

1. Inter-Company Loans

67. In early 2010, the Insider Defendants began lending the Osiris Fund's money to Osiris Partners for various purposes. The loans were undisclosed to investors and undisclosed in the Offering Materials.

68. As an example, in January 2010 and in February 2010, the Insider Defendants loaned \$300,000 of the Osiris Fund's money to Osiris Partners, which used the money to purchase and provide funding for a fishing boat called the "Fintastic."

69. By September 2011, the Osiris Partners owed the Osiris Fund more than \$595,000 in outstanding principal and unpaid loan payments under the Inter-Company Loans.

2. Inter-Company Transfers

70. From May 2010 to September 2011, the Insider Defendants improperly transferred money from the Osiris Fund to the Osiris Partners.

71. For instance, in May 2010, the Osiris Fund transferred \$100,000 to Osiris Partners.

72. Defendant Michael Spak has stated: “[Osiris Partners wasn’t] allowed to just take money from the Fund other than for fees. So, if you see that it says transfer, that means [money] physically left the fund, went to Partners. Now, again, obviously [the transfer of money] would have been something that should have and would need to be paid back because it’s not in the fee column.”

73. In total, from May 2010 to September 2011, the Insider Defendants caused at least \$515,000 of Inter-Company Transfers, which were not paid back to the Osiris Fund.

B. The Osiris Fund’s May 2010 Trading Losses

74. During the period from about March 29, 2010 to May 28, 2010, the Osiris Fund’s primary trading account, which was with Interactive Brokers LLC, (“IB-Trading Account”), sustained trading losses of at least \$4.52 million or about 50% of the Osiris Fund’s NAV (“May 2010 Losses”).

75. Between early March 2010 and the end of May 2010, the IB-Trading Account’s balance declined from approximately \$8.7 million to approximately \$3.8 million.

76. By about June 2010, the Insider Defendants, Defendant Scheirer, Defendant B-Spak, and others at the Osiris Entities’ office were aware of the May 2010 Losses.

1. Insider Defendants, Defendant B-Spak, and Defendant Scheirer Hid the May 2010 Losses

77. On or about June 10, 2010, Defendant B-Spak sent Defendant Michael Spak an e-mail that delineated the IB-Trading Account's declining balances and losses during May 2010.

78. Defendant Michael Spak has admitted that the investors should have been informed that the Osiris Fund was "down fifty percent."

79. Nonetheless, Insider Defendants, Scheirer, and B-Spak failed to disclose the May 2010 Losses to investors.

80. Defendant Michael Spak claims that Defendant Zuck stated that the May 2010 Losses should not be disclosed to investors because "the clients are going to see . . . ten million goes to five million [and] it's not going to be good for business."

81. In furtherance of their scheme to defraud, Insider Defendants and B-Spak not only failed to disclose the May 2010 Losses, but they also falsified the Monthly and Quarterly Statements, as set forth below.

C. Osiris Entities' Falsified Financial Statements

82. Monthly, from July 2009 to at least September 2011, Defendants Michael Spak and Joseph Spak, with the assistance of Najarian, maintained and created an internal balance sheet and operating statement ("Internal Statement"), which calculated, among other things, the Osiris Fund's NAV.

83. The Internal Statements were not provided to investors.

84. The NAV from the Internal Statements was:

- a. used to calculate the monthly Management Fee that the Osiris Fund paid Osiris Partners; and
- b. disclosed to investors on the Monthly and Quarterly Statements.

85. From January 2010 to April 2010, Insider Defendants included the outstanding balance of all Insider Diversions as assets when they calculated the Osiris Fund's NAV on the Internal Statements.

86. As a result, the Osiris Fund's Monthly and Quarterly Statements, which incorporated the NAV from the Internal Statements, were false and materially misleading.

1. The Fictitious Asset

87. Defendant Michael Spak claims that, soon after the May 2010 Losses, Defendant Zuck instructed him to add a \$5 million "accounting entry" to the Osiris Fund's NAV to represent a purported infusion of \$5 million to the fund to recoup the losses suffered in May 2010. Zuck purportedly stated that, before transferring the \$5 million to the Osiris Fund, he was going to trade the funds in a segregated account he had with Interactive Brokers. Defendant Michael Spak did not verify the existence of Zuck's Interactive Brokers trading account with \$5 million and "didn't even know if it was real."

88. Based on documents obtained from Interactive Brokers, Defendant Zuck did not have a personal trading account with Interactive Brokers that held \$5 million.

89. Nonetheless, starting in May 2010, Insider Defendants began including a \$5 million entry on the Internal Statements, which they called, among other names, "Loan PTNRS#3," "Loan Receivable," or "Loan Receivable-DEF PTRS," (the "Fictitious Asset").

90. The Fictitious Asset was included as an asset when calculating the Osiris Fund's NAV on the Internal Statements.

91. As a consequence, all of the post-April 2010 Monthly and Quarterly Statements, which incorporated the NAV from the Internal Statements, grossly overstated the Osiris Fund's NAV.

92. For instance, on the Internal Statement for May 2010, Defendant Michael Spak calculated the Osiris Fund's NAV by including the Fictitious Asset with a purported value of \$5 million. As a consequence, the May 2010 Monthly Statement that was sent to investors falsely stated that the Osiris Fund's NAV was approximately \$9,693,594 when, in truth, it was less than \$4.3 million.

93. Starting in or about October 2010 through the third quarter of 2011, Defendants stopped sending Monthly Statements and started sending Quarterly Statements, which were also false and materially misleading because they included the Osiris Fund's overstated NAV from the Internal Statements.

94. For example, the Quarterly Statement for the period of July 1, 2010 to September 30, 2010 ("Q3 2010 Statement") falsely stated that the Osiris Fund's NAV was \$9,428,467, which Insider Defendants inflated by including the Fictitious Asset, valued at \$5 million, and at least \$1,616,000 of Insider Diversions as assets of the Osiris Fund.

95. In truth, at the end of the third quarter of 2010, the Osiris Fund's NAV was less than \$3 million.

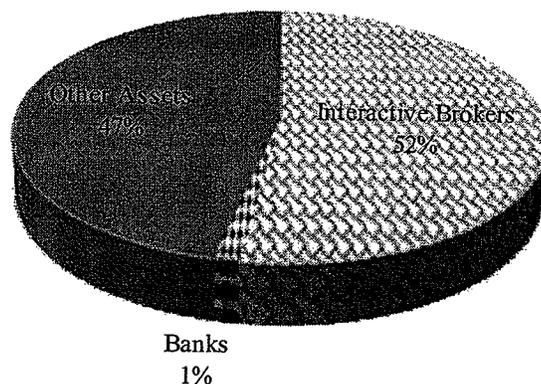
96. For the Quarterly Statement for the fourth quarter of 2010 ("Q4 2010 Statement"), Defendants Michael Spak and Zuck raised the Fictitious Asset's purported value to \$6.5 million.

97. The Q4 2010 Statement falsely stated that the Osiris Fund's NAV was approximately \$10,014,702, after payment of Management Fees, when, in truth, the Osiris Fund's actual NAV was approximately \$2.1 million at the end of 2010.

2. The False "Investment Allocation" on Quarterly Statements

98. Defendants also misrepresented the Osiris Fund's "Investment Allocation" on Quarterly Statements.

99. For example, the Q3 2011 Statement included the following “Investment Allocation” pie chart that purportedly delineated the asset composition of the Osiris Fund:



100. All Quarterly Statements failed to disclose that the “Other Assets” category included the Fictitious Asset and the outstanding balance of the Insider Diversions, neither of which was a managed asset of the Osiris Fund.

D. Defendants Sold Osiris Securities Using Materially False and/or Misleading Investor Updates

101. From January 2010 to November 2011, Defendants sold Osiris Securities through, among other things, false and materially misleading Investor Updates.

102. For example, soon after the May 2010 Losses, Defendants sent an Investor Update that falsely stated, among other things, that during 2010, the Osiris Fund’s “performance [was] roughly fourteen times better [than] the markets!” and that the Osiris Fund had only lost “.54%” of its NAV. The Q4 2010 Statement was sent with an Investor Update, which falsely stated that the Osiris Fund’s “total return for 2010 was positive 16.01% net of all fees and expenses.”

103. In truth, the Osiris Fund incurred substantial losses during 2010, including the May 2010 Losses.

E. Defendants Grossly Inflated the Management Fee

104. The Offering Materials stated that Osiris Partners could charge the Osiris Fund a monthly Management Fee "equal to 3% of the managed portfolio Net Worth."

105. Insider Defendants inflated the Management Fee by basing it on:

- a. the Osiris Fund's false NAV, which included the Fictitious Asset and the outstanding balance of the Insider Diversions as assets of the Fund; and
- b. a higher percentage than disclosed to investors.

106. For instance, in May 2010, Insider Defendants calculated the Management Fee as 3% of the Osiris Fund's false NAV of approximately \$9,993,396 resulting in an inflated Management Fee of about \$299,000.

107. Based on the Osiris Fund's actual NAV of approximately \$4,221,751, the Management Fee for May 2010 would have been approximately \$126,652, or approximately \$172,000 less than the Fee calculated by Insider Defendants.

108. In January 2011, Insider Defendants falsely represented to the Osiris Investors in an Investor Update that Osiris Partners reduced the Management Fee to 1% of the Osiris Fund's NAV per month. In truth, Insider Defendants calculated Osiris Partners' Management Fee as 2% of the Osiris Fund's false NAV, which included the Fictitious Asset and the outstanding balance of the Insider Diversions as assets. As a result, for January 2011, the Osiris Partners took at least \$219,849 more in Management Fees than it was entitled to.

109. On or about July 8, 2011, Defendants sent an Investor Update that falsely stated that Osiris Partners had "discounted the fee to only 1% for [Q2 2011] rather than 1% per month," which, based on the Q2 2011 Statement, resulted in a Management Fee of about \$108,000. In

truth, during Q2 2011, Insider Defendants caused Osiris Fund to pay Osiris Partners about \$620,000 in Management Fees, or about \$512,000 more than disclosed to Osiris Investors.

110. In total, during the period of January 2010 to the end of October 2011, Insider Defendants' inflation of the Management Fee resulted in the Osiris Partners receiving at least \$3.9 million more than it was entitled to.

F. Receipt of Ill-Gotten Gains by Insider Defendants, Their Families, and Others

111. Defendants' scheme to defraud unjustly and improperly enriched Insider Defendants, Relief-Defendants, and others.

112. The Osiris Fund's overpayment of Management Fees enriched the members of Osiris Partners, which included the Insider Defendants and their family members. The members of Osiris Partners shared its income, which included a percentage of the inflated Management Fee.

113. The Osiris Partners' members' ownership interests and share of the Management Fee was approximately:

Person/Entity	Ownership Interest (2010)	Share of Management Fee
Zuck Interest	47%	42%
Michael Spak	14%	10%
ANS Enterprises	5%	5%
John Najarian	14%	10%
IGF Consulting	5%	5%
Joseph Spak	5%	3%
Brian Zuck	5%	3%
Brian Spak	5%	3%

114. Most of the Osiris Partners' members did not provide money in exchange for their interest in Osiris Partners.

115. Certain Relief-Defendants also were unjustly enriched through their receipt of rental payments, Osiris Brokers' commissions, and other transfers.

116. The Osiris Fund and investors were the sources of the money used to pay the Management Fees, rental payments, commissions, and other transfers.

1. Defendants Zuck, Laurie Mazza, and their Family Members

117. In March 2009, a checking account was opened in Zuck, Jr.'s name and using his Social Security number (the "Zuck Interest Checking Account"). Although the Zuck Interest Checking Account was not in the name of Defendant Zuck, Defendant Zuck withdrew funds from the Account for his own benefit.

118. The Zuck Interest consisted of a majority ownership interest in Osiris Partners of approximately 47% and a receipt of a substantial portion of the Management Fee.

119. During 2010 and 2011, at least \$1.3 million was transferred from the Osiris Fund to the Zuck Interest Checking account for use by Defendant Zuck.

120. Zuck, Jr. also benefitted from the funds transferred from the Osiris Fund to the Zuck Interest Checking Account.

121. Relief-Defendant Bryan Zuck, Defendant Zuck's other son, was also a member of Osiris Partners with a 5% ownership interest.

122. During 2010 and 2011, Relief-Defendant Bryan Zuck received approximately \$158,234 of funds of the Osiris Fund.

123. From July 2011 until November 2011, Laurie Mazza received compensation as an Osiris Broker.

(a) Diversion of Funds through Rental Payments and Renovations related to the Jersey City Office

124. In 2009, Zuck caused his wife, Laurie Mazza, to receive up to \$1,500 per month in rent for the Jersey City Office, the main place of business for the Osiris Entities, even though she did not own the building. Generally, to pay the rent, checks were issued to Laurie Mazza or

L.A. Mazza from the Osiris Partners' checking account, which received all or a substantial portion of its money from the Osiris Fund. All rent checks were then deposited in banking accounts that were under the custody of Laurie Mazza.

125. Then, Defendant Zuck used between \$300,000 and \$700,000 of funds of the Osiris Fund to pay for renovations to the Jersey City Office, which Nicole Zuck owns.

126. After the renovations were completed, Zuck increased the amount of rent paid to Laurie Mazza to \$7,500 per month, even though she did not own the building.

127. Upon information and belief, the amount paid to Laurie Mazza in rent for the Jersey City Office exceeded the fair market rental value.

128. In total, between January 2010 and August 2011, Defendant Laurie Mazza received between \$140,000 and \$180,000 in rental payments for the Jersey City Office.

2. The Spaks

129. During 2010 and 2011, Defendant Michael Spak received at least \$500,000 of the Management Fees taken from the Osiris Fund.

130. ANS, which is owned by Loretta Spak, received a portion of Osiris Partners' Management Fee each month. During 2010 and 2011, Loretta Spak, through ANS' interest in Osiris Partners, received at least \$188,000 of the Management Fees taken from the Osiris Fund.

131. During 2010 and 2011, Defendant B-Spak received at least \$164,257 of the Management Fees taken from the Osiris Fund.

132. During 2010 and 2011, Defendant Joseph Spak received at least \$157,584 of the Management Fees taken from the Osiris Fund.

3. Defendant Najarian and Jessica Najarian

133. During 2010 and 2011, Defendant Najarian received at least \$421,750 of the Management Fees taken from the Osiris Fund.

134. IGF was owned by Jessica Najarian, who provided no money in exchange for her ownership interest in Osiris Partners or the income derived from that interest.

135. During 2010 and 2011, Relief-Defendant Jessica Najarian, through IGF's interest in Osiris Partners, received at least \$190,000 of the Management Fees taken from the Osiris Fund.

4. Defendant Scheirer

136. During 2010 and 2011, in addition to receiving approximately \$178,000 as an employee of the Osiris Entities, Scheirer also received a portion of the Management Fee each month.

137. In total, during 2010 and 2011, Scheirer received at least \$110,000 of the Management Fees taken from the Osiris Fund.

CAUSES OF ACTION

COUNT I

**EMPLOYING ANY DEVICE, SCHEME OR ARTIFICE TO DEFRAUD IN VIOLATION
OF N.J.S.A. 49:3-52(a)**

**(Against defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Osiris Fund, and
Osiris Partners)**

138. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

139. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Osiris Fund, and Osiris Partners directly and/or indirectly employed a device, scheme or artifice to defraud investors, in violation of N.J.S.A. 49:3-52(a) by, among other things:

- a. falsifying the Monthly and Quarterly Statements, which created a false appearance regarding the Osiris Fund's NAV and performance;
- b. inflating the Osiris Fund's NAV on the Internal Statements by including the Fictitious Asset and the outstanding balance of Inter-Company Diversions as assets of the Fund;
- c. diverting the Osiris Fund's assets for their benefit and the benefit of members of Osiris Partners; and
- d. making material misrepresentations and omitting material facts in the Offering Materials.

140. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Osiris Fund, and Osiris Partners each intended to defraud Osiris Investors through their misconduct, as demonstrated by, among other things, their:

- a. direct or indirect receipt of the Management Fee, which was improperly increased due to their inflation of the Osiris Fund's NAV;
- b. knowledge of the May 2010 Losses, and failure to disclose the losses to investors;
- c. participation in the falsification of Monthly and Quarterly Statements;
- d. participation in the calculation of the Osiris Fund's false NAV on the Internal Statements;
- e. receipt of a direct benefit from the Inter-Company Diversions; and/or
- f. control of the Osiris Entities.

141. In the alternative, Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Osiris Fund, and Osiris Partners each engaged in the misconduct alleged herein in a highly unreasonable and reckless matter, which constituted such an extreme departure from the

standards of ordinary care that the danger of their misconduct operating as a fraud was either known by each defendant or so obvious that each defendant should have known.

142. Each violation of N.J.S.A. 49:3-52(a) by defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Osiris Fund, and Osiris Partners upon each investor is a separate violation and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT II

MAKING MATERIALLY FALSE AND MISLEADING STATEMENTS AND/OR OMITTING MATERIAL FACTS IN VIOLATION OF N.J.S.A. 49:3-52(b)

(Against defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Scheirer,
Soojian, Player, Brialmont, Osiris Fund, and Osiris Partners)

143. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

144. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Scheirer, Player, Soojian, Brialmont, Osiris Fund, and Osiris Partners, individually and/or through their officers, directors, employees, agents, attorneys, successors, subsidiaries, directly and/or indirectly, made materially false and misleading statements and/or omitted material facts to investors in connection with the offer and sale of Osiris Securities, as specifically alleged herein.

145. Each omission or materially false or misleading statement was in violation of N.J.S.A. 49:3-52(b).

146. Each violation of N.J.S.A. 49:3-52(b) is a separate violation of the Securities Law and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT III

ENGAGING IN ANY ACT OR PRACTICE WHICH WOULD OPERATE AS A FRAUD OR DECEIT UPON ANY PERSON IN CONNECTION WITH THE OFFER, SALE OR PURCHASE OF SECURITIES IN VIOLATION OF N.J.S.A. 49:3-52(c)

(Against defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Scheirer, Soojian, Player, Brialmont, Osiris Fund, and Osiris Partners)

147. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

148. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Scheirer, Player, Soojian, Brialmont, Osiris Fund, and Osiris Partners engaged in an act, practice and course of business that operated as a fraud and/or deceit upon the investors and others:

149. Each violation of N.J.S.A. 49:3-52(c) by Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Scheirer, Player, Soojian, Brialmont, Osiris Fund, and Osiris Partners upon each investor is a separate violation and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT IV

ACTING AS AN AGENT WITHOUT REGISTRATION IN VIOLATION OF N.J.S.A. 49:3-56(a)

(Against defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Laurie Mazza, Brialmont, Player, Soojian, and Scheirer)

150. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

151. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Player, Soojian, Laurie Mazza, Scheirer, and Brialmont acted as agents, as defined under N.J.S.A. 49:3-49(b), in effecting or attempting to effect transactions in Osiris Securities from and in New Jersey.

152. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Player, Soojian, Laurie Mazza, Scheirer, and Brialmont were not registered with the Bureau as agents of Osiris Fund or Osiris Partners.

153. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Player, Soojian, Laurie Mazza, Scheirer, and Brialmont violated N.J.S.A. 49:3-56(a), which requires, among other things, that only persons registered with the Bureau may lawfully act as agents.

154. Each sale to investors constitutes a separate violation of N.J.S.A. 49:3-56(a) and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT V

EMPLOYING UNREGISTERED AGENTS IN VIOLATION OF N.J.S.A. 49:3-56(h)

(Against defendant Osiris Fund)

155. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

156. Osiris Fund employed Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Player, Soojian, Laurie Mazza, Scheirer, and Brialmont to act as agents, as defined under N.J.S.A. 49:3-49(b), to effect or to attempt to effect transactions in securities from or in New Jersey.

157. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Player, Soojian, Laurie Mazza, Scheirer, and Brialmont acted as agents, as defined under N.J.S.A. 49:3-49(b), in effecting or attempting to effect transactions in securities from and in New Jersey, without being registered as agents with the Bureau.

158. Defendants Osiris Fund's conduct constituted employing agents who were not registered with the Bureau in violation of N.J.S.A. 49:3-56(h).

159. Each violation of N.J.S.A. 49:3-56(h) is a separate violation and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT VI

SELLING UNREGISTERED SECURITIES IN VIOLATION OF N.J.S.A. 49:3-60

(Against defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Scheirer, Player, Soojian, Laurie Mazza, Brialmont, Osiris Fund, and Osiris Partners)

160. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

161. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Scheirer, Player, Soojian, Laurie Mazza, Brialmont, Osiris Fund, and Osiris Partners offered and sold securities that were not registered with the Bureau.

162. The Osiris Securities were required to be registered with the Bureau pursuant to N.J.S.A. 49:3-60.

163. Each offer and sale of unregistered securities constitutes a separate violation of N.J.S.A. 49:3-60 and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT VII

FREEZING OF ASSETS

(Against Osiris Partners, Osiris Fund, Insider Defendants, B-Spak, Scheirer, Mazza, and Relief-Defendants)

164. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

165. Pursuant to N.J.S.A. 49:3-69(a)(2), certain assets, real and personal of Insider Defendants, the Osiris Entities, Defendant B-Spak, Defendant Scheirer, Defendant Mazza, and the Relief-Defendants should be frozen in order to maintain the status quo, and enjoin the dissipation, disposition, and encumbrance of assets pending further order of this Court.

COUNT VIII

UNJUST ENRICHMENT

(Against Relief-Defendants, Mazza, and Scheirer)

166. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

167. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Osiris Fund, and Osiris Partners and Relief-Defendant Loretta Spak directly and indirectly transferred funds and other things of value to the Relief Defendants, Mazza, and Scheirer.

168. The Relief-Defendants, Mazza, and Scheirer had no legitimate claims to the funds or things of value, which are traceable to or were commingled with funds of the Osiris Fund and investors' funds.

169. The Relief-Defendants, Mazza, and Scheirer have been unjustly enriched.

170. Each transfer of funds to the Relief-Defendants, Mazza, and Scheirer is cause for a judgment in the amount of the transfers and an order requiring disgorgement of the funds.

COUNT IX

CONSTRUCTIVE TRUST

(Against Relief-Defendants, Mazza, and Scheirer)

171. Plaintiffs repeat the allegations in the preceding paragraphs as if more fully set forth herein.

172. Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Osiris Fund, and Osiris Partners and Relief-Defendant Loretta Spak directly and indirectly transferred funds and other things of value to the Relief Defendants, Mazza, and Scheirer.

173. The funds or things of value are traceable to or were commingled with funds of the Osiris Fund and investors' funds.

174. Relief-Defendants, Mazza, and Scheirer committed wrongful acts, which resulted in their receipt of funds or things of value, including, among other things:

- a. creating an entity for the purpose of receiving the ill-gotten gains from the misconduct alleged in this Verified Complaint;
- b. depositing and cashing checks payable from bank accounts of the Osiris Entities without having any legitimate claim to the funds;
- c. permitting renovations to the Jersey City Office that were paid for with funds of the Osiris Fund and investors; and/or
- d. assisting with the preparation of Offering Materials, which were false and materially misleading.

175. The wrongful acts resulted in a transfer of funds or items of value that unjustly enriched Relief-Defendants, Mazza, and Scheirer.

176. Each transfer of funds or items of value to the Relief Defendants, Mazza, and Scheirer is cause for the imposition of a constructive trust on the assets of the Relief Defendants, Mazza, and Scheirer.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests the entry of a judgment pursuant to N.J.S.A. 49:3-47 et seq.:

- a. Finding that defendants engaged in the acts and practices alleged above;
- b. Finding that such acts and practices constitute violations of the Securities Law;
- c. Enjoining defendants from violating the Securities Law in any manner;

- d. Enjoining defendants from engaging in the securities business in New Jersey in any capacity including, but not limited to, acting as a broker-dealer, investment adviser, investment adviser representative, agent or otherwise;
- e. Enjoining the issuance, sale, offer for sale, purchase, offer to purchase, promotion, negotiation, solicitation, advertisement or distribution from or within New Jersey of any securities to or from New Jersey, by or on behalf of Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Player, Soojian, Laurie Mazza, Scheirer, Brialmont, Osiris Fund, and Osiris Partners, and their officers, directors, employees, agents, brokers, partners, stockholders, attorneys, successors, subsidiaries and affiliates;
- g. Enjoining Defendants and Relief Defendants and each and every person who receives actual or constructive notice of this order, from destroying or concealing any books, records and documents relating in any way to the business, financial and personal affairs of the Defendants and Relief Defendants, their successors, subsidiaries or affiliates;
- h. Affording each purchaser of securities issued by or on behalf of the Osiris Fund the option of rescinding such purchase and obtaining a refund of monies paid, plus interest and expenses incident to effecting the purchase and rescission;
- i. Affording each purchaser of securities issued by or on behalf of the Osiris Fund the option of receiving restitution of losses incurred on disposition of the securities, plus interest and expenses incident to effecting the purchase and restitution;

- j. Assessing civil monetary penalties against Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Player, Soojian, Laurie Mazza, Scheirer, Brialmont, Osiris Fund, and Osiris Partners for each violation of the Securities Law in accordance with N.J.S.A. 49:3-70.1;
- k. Requiring Defendants Zuck, Michael Spak, Joseph Spak, Najarian, B-Spak, Player, Soojian, Laurie Mazza, Scheirer, Brialmont, Osiris Fund, and Osiris Partners to pay restitution and disgorge all profits and/or funds gained through violations of the Securities Law;
- l. Requiring Relief Defendants, Mazza, and Scheirer to disgorge ill-gotten funds or assets; and
- m. Affording Plaintiff and affected third parties any additional relief the court may deem just and equitable.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY

By:



Samuel Scott Cornish
Deputy Attorney General

Dated: 8/7/2012