

STATE OF NEW JERSEY
BUREAU OF SECURITIES
P.O. Box 47029
Newark, New Jersey 07101
(973) 504-3600

IN THE MATTER OF:

NATIONAL REALTY INVESTMENT ADVISORS, LLC;
NRIA PARTNERS PORTFOLIO FUND I, LLC;
NRIA CAPITAL PARTNERS, INC.;
NRIA STRUCTURED CREDIT STRATEGIES, LCC;
REY GRABATO; D. COLEY O'BRIEN;
THOMAS NICHOLAS SALZANO; and
ARTHUR SCUTARO,

Respondents.

**SUMMARY CEASE AND
DESIST ORDER**

Pursuant to the authority granted to Amy G. Kopleton, Acting Chief of the New Jersey Bureau of Securities ("Bureau Chief"), under the Uniform Securities Law (1997), N.J.S.A. 49:3-47 to -89 ("Securities Law") and certain regulations thereunder, and based upon documents and information obtained during an investigation by the New Jersey Bureau of Securities ("Bureau"), the Bureau Chief hereby finds that there is good cause and that it is in the public interest to enter this Summary Cease and Desist and Revocation Order ("Order") against National Realty Investment Advisors, LLC ("NRIA"), NRIA Partners Portfolio Fund I, LLC ("the NRIA Fund"), NRIA Capital Partners, Inc. ("NRIA Capital"), NRIA Structured Credit Strategies, LLC ("NRIA Strategies"), Rey Grabato ("Grabato"), D. Coley O'Brien ("O'Brien"), Thomas Nicholas Salzano ("Salzano") and Arthur Scutaro

("Scutaro") (collectively, "Respondents"). Accordingly, the Bureau Chief makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Respondents were involved in a massive, nationwide securities fraud, emanating from New Jersey, in which from 2018 until at least January 2022, Respondents offered and sold at least \$630 million in securities in the form of membership units ("Units") in the NRIA Fund to at least 1,800 investors, including at least 380 New Jersey investors ("NRIA Fund Securities").

2. Respondents executed their scheme by employing a nationwide advertising campaign including radio advertisements and billboards strategically located at the entrance to the Lincoln and Holland Tunnels that enticed investors with guaranteed returns of 12% and the possibility of obtaining up to 21% returns.

3. Respondents told investors that the NRIA Fund is a billion-dollar-plus real estate development firm focused on "ground-up" property development of townhomes, condominium complexes, luxury residences, and mixed-use rental developments. The NRIA Fund's model purported to rely on the opportunistic purchase of land or property at below-market value prices and strategically developing it to sell it for a large profit.

4. The NRIA Fund purported to provide investors a guaranteed, annualized return of at least 12%. The NRIA Fund also promised a seemingly robust annual distribution of 6% during the initial years

without disclosing to investors that these returns were not from profit, but were instead a return of the investors' own money in the form of their capital contribution to the NRIA Fund.

5. The Respondents used a series of private placement memoranda (the "PPMs") in the offer and sale of the Units which were riddled with material misstatements and omissions.

6. The PPMs and sticker supplements¹ named Grabato as the President of the NRIA Fund. They also stated that the NRIA Fund would be managed by NRIA, which was owned by Grabato and O'Brien, the NRIA Fund's Managing Director, through O'Brien's wholly owned company, NRIA Capital. In reality, the NRIA Fund was actually controlled by Salzano. Salzano had been the subject of a complaint by the Federal Trade Commission in 2006, resulting in a permanent injunction barring Salzano from similar fraudulent conduct in the future, and imposing a \$50 million consent judgment against him for his role in a fraudulent scheme involving a company known as NorVergence Inc. ("NorVergence").

7. Scutarro, aka Arthur Scuttaro, the NRIA Fund's Vice President and Advisor, had previous ties with Salzano and was also implicated in the fraudulent conduct at NorVergence.

¹ NRIA's sticker supplements were partial amendments to PPMs that were meant to be read in conjunction with the then applicable PPM. The sticker supplements may have informed investors of increases in the maximum size of the offering, changes in ownership or management, and additional select disclosures that were not present in the PPM.

8. Respondents misused investors' money, in part for their own personal benefit, including: (a) retaining companies to sanitize Salzano's and Scutaro's sordid past by creating imposter entities and websites to minimize negative internet search results that would actually reveal Salzano's and Scutaro's true history with NorVergence; (b) making lavish payments to members of Salzano's family, including to Salzano's wife for a no-show job, and to companies that Respondents controlled and of which they acted as officers; and (c) spending investors' money on personal expenses, and by extending undisclosed loans to family-run entities. Respondents omitted to disclose to investors that their funds would be used in this manner, and misrepresented that their funds would instead be used for the development of real estate, and real estate-related investments, that were the purpose of the NRIA Fund.

9. Respondents also charged the NRIA Fund an annual development fee that was at times as high as 4.5% of the overall value of any given project. Respondents failed to disclose that collecting and recognizing the development fee at the outset of the project property flew in the face of standard business practices and was in violation of Generally Accepted Accounting Principles ("GAAP"). This practice grossly inflated NRIA's income, which O'Brien recognized and caused him to warn Salzano and others within the NRIA Fund that the development fees were being improperly booked and that the development fees were not sustainable over the long

term.

10. In addition, Respondents failed to disclose that they were using fictitious "straw" purchasers to buy certain residential units, giving the appearance that there was greater demand for the NRIA Fund's projects than was in fact the case.

11. Beginning in or around the late summer or fall of 2020, Respondents also began to invest up to a quarter of all investor funds in commercial mortgage-backed securities ("CMBS") the majority of which were below investment grade (otherwise known as junk bonds), in an effort to generate the returns Respondents promised but could not deliver through the NRIA Fund's real estate projects. They also leveraged the CMBS investments through repurchase ("repo") agreements with financial institutions. This use of repo transactions to create leverage significantly increased the risk of the junk CMBS portfolio to the NRIA Fund investors, which was not disclosed to investors.

12. In March 2021, Salzano was arrested following a criminal complaint charging him with having used a forged term sheet in January 2019 to induce an investor to increase her investment in one of the NRIA Fund's real estate investments. Although Grabato, Scutaro, O'Brien and other members of NRIA management were aware in early 2019 that Salzano had attempted to defraud the investor through a forgery, they allowed Salzano to continue wielding control over the NRIA Fund without firing him or disclosing his criminal

conduct to investors.

13. Approximately six months after Salzano's fraudulent conduct involving the forged term sheet, he presented TD Bank with forged documentation to induce TD Bank to pay \$20 million in connection with a real estate project. The attempted fraud was caught by TD Bank, which informed Salzano and Grabato that Salzano had presented fraudulent documents to the bank. Salzano attempted to avoid responsibility by claiming the bogus documents had been presented by "hackers" or other "nefarious persons," which was a brazen lie. Once again, Respondents took no action against Salzano and kept the investors in the dark about his attempt to defraud TD Bank out of \$20 million.

14. It was not until after Salzano's March 2021 arrest that Respondents belatedly disclosed to investors, on March 22, 2021, that he had engaged in the conduct leading up to his arrest more than two years earlier. Even then, Respondents represented that the NRIA Fund had severed ties with Salzano and attempted to minimize Salzano's past role by describing him as an "independent contractor consultant[] involved in construction operations." More recently, however, the NRIA Fund's June 2021 amended and restated PPM revealed that the NRIA Fund had not truly severed ties with Salzano but had continued to consult with him for what it claimed to be "historical" purposes. Upon information and belief, Salzano was not finally terminated until October 2021.

15. As regulatory investigations into the NRIA Funds mounted, Grabato and O'Brien appeared for investigative depositions before the Bureau. Grabato asserted his Fifth Amendment privilege against self-incrimination more than 450 times, refusing to answer any of the Bureau's questions other than his name and address. O'Brien asserted his Fifth Amendment privilege against self-incrimination more than 250 times, refusing to answer any of the Bureau's questions pertaining to his involvement with NRIA.

16. Thus, NRIA had been run and controlled by Salzano, who has been arrested, and by Grabato and O'Brien, who were unwilling to answer any questions regarding the NRIA Funds on Fifth Amendment grounds.

17. On October 20, 2021, NRIA and the NRIA Fund appointed an entity known as the Casey Group, Ltd. (the "Casey Group") through one of its principals, Brian Casey, to act along with NRIA as an additional manager of the NRIA Funds for a period of twelve months. According to Exhibit A of the Casey Group's retention agreement, the "primary power" of the Casey Group will be "to ensure that the proceeds from the [NRIA Fund's] offerings of its preferred interests and convertible promissory notes (collectively the '**Offering Proceeds**') will be used by the Company and/or its Initial Manager in accordance with the 'Use of Proceeds' section in the Company's Confidential Private Placement Memorandum" For these services, the Casey Group was to be paid \$35,000 a month over the

period of its twelve-month appointment. Accordingly, the NRIA Fund's investors will be paying a consultant \$420,000 simply to ensure that the NRIA Fund's management will not further misuse investors' money.

18. On June 7, 2022, Brian Casey, acting as the sole and independent manager of NRIA, filed petitions with the United States Bankruptcy Court for the District of New Jersey, seeking relief under Chapter 11 for NRIA, the NRIA Fund, and affiliated entities.²

19. The petition also revealed that Respondent Grabato resigned as the Manager, President, and CEO of NRIA.

A. Respondents

20. NRIA is a Delaware limited liability company, formed on November 27, 2006, located at 1 Harmon Plaza, Floor 9, Secaucus, New Jersey. It was previously located at 1325 Paterson Plank Road, 2nd Floor, Secaucus, New Jersey. The Fourth Amended and Restated PPM of NRIA Partners Portfolio Fund I, LLC, dated March 22, 2021 states that NRIA was owned 80% by Grabato and 20% by NRIA Capital, which in turn is owned by O'Brien.

21. The NRIA Fund is a Delaware limited liability corporation, formed on February 5, 2018, located at 1 Harmon Plaza, Floor 9, Secaucus, New Jersey. It was previously located at 1325 Paterson

² In re National Realty Investment Advisors, LLC, No. 22-14539-JKS (Bankr. D.N.J. June 7, 2022); In re NRIA Partners Portfolio Fund I, LLC, No. 22-14540-JKS (Bankr. D.N.J. June 7, 2022).

Plank Road, 2nd Floor, Secaucus, New Jersey. The sole manager of the NRIA Fund is NRIA.

22. NRIA Capital is a New York domestic business corporation, formed on May 1, 2018, with its principal place of business at 792 Carman Avenue, Westbury, New York.

23. NRIA Strategies is a New Jersey limited liability company, formed on May 19, 2020, with a registered office at 1325 Paterson Plank Road, 2nd Floor, Secaucus, New Jersey. NRIA Strategies is managed by NRIA who owns 90% of NRIA Strategies with the remaining 10% being owned by the NRIA Fund.

24. Grabato, residing in Hoboken, New Jersey, is the President of the NRIA Fund and 80% owner of NRIA. Grabato asserted his Fifth Amendment privilege against self-incrimination and refused to testify in connection with the Bureau's investigation thereby limiting the Bureau's ability to obtain additional particulars and details concerning his conduct and NRIA.

25. O'Brien, residing in Southampton, New York, is the Co-CIO of the NRIA Fund and 100% owner of NRIA Capital. O'Brien asserted his Fifth Amendment privilege against self-incrimination and refused to testify in connection with the Bureau's investigation thereby limiting the Bureau's ability to obtain additional particulars and details concerning his conduct and NRIA.

26. Salzano, residing in Secaucus, New Jersey, was a Senior Independent Executive Advisor and Portfolio Manager of NRIA.

Salzano was at all relevant times deeply involved in the control, management and direction of NRIA and the NRIA Fund.

27. Scutaro, residing in Bloomfield, New Jersey, is the Executive Vice President of Project Management, and an Advisor to the NRIA Fund.

28. Olena Budinska ("Budinska") is Salzano's current wife and was paid more than \$2.1 million between 2018 and 2021 for a no-show position in which she was not employed by the NRIA Fund and provided no services of value to the NRIA Fund. Budinska was also appointed Treasurer of NorVergence Foundation Inc., one of the imposter entities created to obscure the true NorVergence's Ponzi-type history and conceal the fact that her husband ran that business into the ground.

B. NRIA's Business And Structure

29. Beginning in 2006, and prior to the establishment of the NRIA Fund in 2018, Salzano and Grabato formed NRIA. NRIA initially used a series of limited liability companies ("LLCs") to offer investors the opportunity to invest in the building and renovation of specified real estate properties. Respondents marketed, offered and sold the Units in those individual real estate LLCs to investors as securities that were exempt from registration under Rule 506 of United States Securities and Exchange Commission ("SEC") Regulation D.

30. NRIA created NRIA EB-5, LLC as a subsidiary of NRIA, in

order to solicit international investors mainly in India. As NRIA explained on its website, the EB-5 Visa - also known as the "Golden Visa" would help foreign nationals obtain permanent residency green card status in exchange for an investment of \$900,000 - \$1,800,000 (plus processing, attorney and UCSIS fees) in a targeted employment area, known as a "Regional Center." In the case of NRIA - the Regional Center was the NYC Transportation Regional Center, which is focused on the New York City Metropolitan Area. NRIA pledged safe and secure returns to investors in marketing material consisting of advertisements on Indian television networks and in the newspaper the Times of India. NRIA opened three separate offices in India and raised millions of dollars from investors through the EB-5 visa program.

31. In or about February 2018, Salzano, Grabato, and Scutaro established the NRIA Fund which dramatically increased the scale of NRIA's prior individual real estate LLC investment projects. The formation of the NRIA Fund also dramatically increased Defendants' remuneration by charging management and fraudulent development fees to the NRIA Fund investors as detailed below. The NRIA Fund began merging some of the existing individual investment properties, and rolling prior investments, into the NRIA Fund.

32. Investors who rolled their individual investment into the NRIA Fund received a "bonus" in the form of what amounted to free additional Units in the NRIA Fund. The bonus was not disclosed to

other NRIA Fund investors who did not receive such a bonus. Nor did NRIA disclose that bonuses would dilute the investments of other NRIA Fund investors or the extent of the dilution.

33. Salzano was the leader of the fraudulent scheme and had a history replete with fraud, as more fully described below. Although Salzano was described in the PPMs as a "Senior Independent Executive Advisor and Portfolio Manager," he was actually the mastermind of the NRIA offerings. Salzano also controlled the day-to-day activities at the NRIA Fund from its inception in February 2018 until his arrest cast such a cloud over the NRIA Fund that NRIA had little choice but to terminate him in October 2021. When Grabato and O'Brien were asked about Salzano's control over NRIA and the NRIA Fund, both refused to answer the Bureau's questions citing their Fifth Amendment privilege against self-incrimination.

34. Although the PPMs described Salzano as having "a diversified 20-year background in realty development, construction, finance, and property management control systems," along with "14 years' experience of mortgage realty finance," the PPMs did not disclose Salzano's sordid history related to NorVergence, including his \$50 million consent judgment with the Federal Trade Commission ("FTC").

35. Scutaro has been the Executive Vice President of Project Management at NRIA since joining the company in 2007. Scutaro's role at NRIA included performing "investment property rental and

equity analysis" for NRIA, as well as being "instrumental in the recruitment and relationship building of over 1,400 high net worth accredited investors currently with the firm." Respondents engaged in significant efforts to cover up Scutaro's prior history at NorVergence, allowing him to play a key role in acquiring investors in the NRIA Fund. Despite his position as an Executive Vice President, Scutaro took no action when Salzano used a forged document in an effort to swindle an investor.

C. Salzano And Scutaro Previously Engaged In A Fraudulent Scheme Involving NorVergence

36. In September 2001, NorVergence was incorporated by Peter Salzano, Salzano's brother, with Peter acting as the ostensible Chief Executive Officer and major shareholder.

37. Although Salzano was labeled as a consultant and was never officially employed by NorVergence, he actually managed NorVergence and functioned as the Chief Operating Officer.

38. Scutaro was the Senior Vice President of Application Screening at NorVergence. Scutaro received financial benefits in return for his participation in the NorVergence scheme.

39. Upon information and belief, the NRIA Fund's Vice President of Project Management, Ivel Turner, was the Vice President of Training at NorVergence. Turner would later be one of the "straw" purchasers who assisted Respondents in recording fictitious sales of certain of their residences.

40. As part of the fraudulent NorVergence scheme, Salzano and others leased a proprietary device called the "Matrix Box" at exorbitant rates to unsophisticated small businesses and non-profits. The "Matrix Box" allegedly reduced per-minute local and long-distance bills by converting all oral communications into data.

41. Contrary to NorVergence's representations, the devices did not reduce per-minute charges and the purpose of the scheme was to lock customers into expensive five-year leases for the "Matrix Box" and NorVergence's services.

42. After securing the leases, NorVergence would immediately transfer the lease to a leasing company for an upfront cash payment. Salzano and others utilized most of the upfront cash received from the leasing companies for marketing to generate additional clients to keep the scam afloat while diverting much of the remaining cash to themselves. They left little money remaining in the NorVergence account to pay for the actual services to be provided by the carriers to NorVergence's defrauded customers.

43. The scheme relied on the constant acquisition of new customers to continue generating funds to pay NorVergence's expenses and to cover the personal transactions of Salzano and others. The "Matrix Scheme" was a combination of a Ponzi scheme, which involved paying existing investors with the money of new investors, and a "bust-out" scheme, where a business places orders with vendors on credit before reselling the products to customers at a reduced

price, shuts down the business, and takes the profits without paying the vendors.

44. Within two years, NorVergence was unable to add enough new customers to continue paying the carriers and suppliers, resulting in the filing of an involuntary chapter 11 bankruptcy proceeding, which was subsequently converted to a Chapter 7 liquidation proceeding.

45. On November 4, 2004, the FTC filed a complaint against NorVergence for the same conduct described above.

46. On July 14, 2005, the Trustee commenced an Adversary Proceeding against forty-two defendants, including Salzano. The Adversary Complaint charged Salzano with fraudulent transfers under 11 U.S.C. §§ 544(b), 548, 550, as well as N.J.S.A. 25:2-1 to -36 and N.J.S.A. 25:2-27(b), conversion, misappropriation, unjust enrichment, breach of fiduciary duty, and fraud.

47. Salzano's sole response to the Trustee's adversary proceeding was to file a one-page document invoking his Fifth Amendment privilege against incrimination in response to the Adversary Complaint.

48. On June 26, 2006, the FTC filed a Complaint for Injunctive and Other Equitable Relief against Salzano and his brother Peter, individually and as officers of NorVergence.

49. The FTC simultaneously filed a Stipulated Permanent Injunction and Order as to Salzano, which included a \$50 million

judgment against Salzano which was suspended due to his inability to pay, along with prohibitions on future misrepresentations and requirements for affirmative disclosures in transactions related to telecommunication services or related financing.

D. Respondents Failed To Disclose To Potential Investors and Investors Salzano's Duties As A Control Person At NRIA and NRIA Fund

50. Respondents attempted to minimize the appearance of Salzano's role at NRIA by stating in the PPMs that Salzano was a "Senior Independent Executive Advisor and Portfolio Manager." In fact, Salzano managed and controlled NRIA and the NRIA Fund despite not holding an officer or director title at NRIA or having an ownership interest.

51. Salzano, referred to as "Chief" in internal company emails by certain NRIA employees, exerted control over nearly every aspect of the NRIA Fund, including steering work and jobs (including a no-show job) to family members and influencing what information would be made to existing or potential investors. Salzano managed and controlled the NRIA Fund. For example:

- a. Salzano caused significant amounts of business to be steered to U.S. Construction, Inc. ("U.S. Construction"), where his son Dustin was a partial owner and CFO. He also caused concessions to be made in favor of his son's construction company by, for example, deciding that the NRIA Fund would reimburse

- U.S. Construction for U.S. Construction's \$500,000 investment in a project known as 12 Palm Trail, telling Dustin "please invoice as stated we will take the hit";
- b. Salzano managed responses to complaints and investor inquiries. An example of this is his ghost writing an email for Grabato to send in response to a disgruntled client;
 - c. Salzano instructed O'Brien to raise the guarantee on returns of certain investments from 10% to 12% to increase Unit sales;
 - d. Salzano sent a "training" email to the "team" that explained how to respond to questions from potential investors about the tax-free return of capital and instructions on how to dispute that the NRIA Fund was a Ponzi scheme;
 - e. Salzano prevailed in a disagreement with O'Brien regarding the addition of language in a PPM. Salzano told O'Brien he would not agree to the addition of language that accurately stated that 25% of investor funds would be committed to the CMBS portfolio because it would "scare people," "stop fundraising" and was at NRIA's "discretion only";
 - f. Salzano accepted a request to adjust a budget on a project at 344 N. Ocean despite O'Brien's objections,

at which point O'Brien stated "[w]hat you say goes even after I explain how the financing works" and complained that Salzano continued to "TARNISH WHAT WE'VE CREATED OVER PAST COUPLE YEARS";

- g. Salzano reprimanded O'Brien for changing the terms on a potential agreement with a lender, telling him "AS A 10% OWNER U DON'T HAVE THAT RIGHT," and further instructing O'Brien to "GET ME A CORRECTED AGREEMENT IF YOU KNOW WHATS GOOD FOR YOU," and that Salzano was "NOT SIGNING [O'Brien's] ASSHOLE POWER PLAY. . . .";
- h. Salzano emailed Grabato and instructed him to confirm that NRIA received seven copiers from a company owned by his brother Peter Salzano, called Network Digital, and that leases calling for payments to Network Digital may begin, and Grabato followed Salzano's instructions;
- i. O'Brien emailed Salzano requesting a raise, an increase in ownership percentage of NRIA and asking if he would allow them "to be **true co-CIOs**" with both carrying "this title for outward people to see";
- j. O'Brien and Salzano exchanged emails regarding the NRIA Fund philosophy, during which O'Brien states that he is not "privy" to management decisions after mid-2018 and that changes are made without his input, despite being a 15% owner of NRIA; and

k. Salzano emailed O'Brien that O'Brien is "NOT AUTHORIZED to be telling [CityVest] we are closing the fund" and gave O'Brien an "ORDER" to "get them on OUR STRATEGIC PAGE."

E. Respondents Failed To Disclose Salzano's Use of a Forged Term Sheet

52. In or about January 2019, Salzano attempted to induce an NRIA investor ("NRIA Investor") to increase her investment by telling the investor that a lender named Genesis Capital, LLC ("Genesis") had agreed to provide financing for a project in which Salzano was attempting to solicit her investment.

53. When NRIA Investor asked to see documentation of the financing, Salzano requested that she sign a non-disclosure agreement. Once she signed the non-disclosure agreement, Salzano emailed her a term sheet dated January 3, 2019, purportedly signed by the Genesis CEO to show that Genesis had agreed to provide financing in the amount of \$25,257,000 to the project in which Salzano was attempting to solicit her investment.

54. However, the Genesis CEO had not actually signed the term sheet.

55. Genesis learned of the forged term sheet and on February 15, 2019 sent NRIA a cease and desist letter addressed to Grabato and O'Brien that stated, in part, that the letter of intent was a fraud and that the CEO's signature was forged. The letter also

stated, “[i]t appears this sham letter of intent was created using the letterhead, format and certain text from a real letter of intent sent by Genesis Capital to NRIA in 2017 regarding a different potential loan for a different, significantly smaller amount, involving a different property.”

56. Furthermore, the letter went on to say: “We understand that NRIA has used this fraudulent letter of intent to entice one or more persons to invest with NRIA.” In an undated letter signed by Nicholas Salzano as “Independent Vice President” of NRIA, Salzano responded to the Genesis cease and desist letter, stating “I am wholly responsible for this ridiculous and unprofessional single error. . . .”

57. After the forgery came to light, Salzano attempted to characterize it as a mistake and a misunderstanding.

58. On February 19, 2019, Salzano sent an email, carbon copy to Scutaro, to NRIA Investor, stating: “IGNORE THIS PRIOR EMAIL IT WAS SENT IN ERROR WITH ERRANT DOCUMENTS ATTACHED NOT STAMPED AS ‘EXAMPLES ONLY’ OF WHAT AN LOI LOOKS LIKE AND DICTATE NOT READ[.] THIS POTENTIAL DEAL IS CANCELLED[.]”

59. Notwithstanding having been on notice of Salzano’s criminal conduct, Respondents allowed him to continue to exert control over the NRIA Fund without firing him, without reporting him to law enforcement authorities, and without disclosing his act of forgery to existing or potential investors.

60. Two years later, on or about March 4, 2021, Salzano was arrested by federal law enforcement authorities and charged by criminal complaint with wire fraud and aggravated identity theft related to his use of the fraudulent Genesis loan term sheet.

61. In a March 13, 2021 email to an investor explaining his subsequent arrest, Salzano stated "I just told the investor early and wrongly it was coming from the letter of intent bank I wrongly used /signed to just try to get the sale done." Grabato's signature was on the fraudulent term sheet on behalf of NRIA.

62. Even after Salzano's March 2021 arrest, Respondents failed to remove Salzano from his position of control over the NRIA Fund.

63. In the March 16, 2021 Sticker Supplement for the NRIA Fund, Respondents first attempted to disclose this incident. But in so doing they attempted to minimize it as a "single, isolated incident" involving "its independent contractor consultant[]":

NRIA is also aware of recent USDOJ charges against one of its independent contractor consultants (Nicholas Salzano) involved in construction operations. The single, isolated incident was appropriately addressed by NRIA in early 2019, with no loss to the single investor involved and additional compliance protocols established in 2019. However, due to the charges made against the contractor, NRIA has placed them on suspension pending the results of his criminal litigation and he has been removed from any activities involving the company.

[Emphasis added].

64. Notwithstanding the representation in the March 16, 2021

Sticker Supplement that Salzano had been placed "on suspension" and "removed from any activities involving the company," Salzano continued to play an active management role in the NRIA Fund and he and his relatives continued to receive monetary benefits from the NRIA Fund.

65. In the June 2021 PPM, Respondents finally disclosed that, notwithstanding Salzano's suspension, he would continue to "serve as an advisor to the President and CEO of the Manager on historical, construction, and operational matters on an as-needed basis." In other words, Grabato and other Respondents permitted Salzano, who was charged by the United States Department of Justice with criminal conduct, to "advise" the President and CEO after all of the allegations contained in the criminal complaint were known to them and had been known to them for over two years.

66. Upon information and belief, it was not until October 2021 that NRIA terminated Salzano, over two-and-a-half years after NRIA management was aware of his attempted forgery and eight months after his arrest.

F. Fraud In The Offer And Sale Of The NRIA Fund Securities

67. Since 2018, Respondents have sold at least \$630 million of the Units issued by the NRIA Fund to at least 1,800 investors, including at least 380 New Jersey residents.

68. The Units in the NRIA Partners Portfolio Fund I, LLC, are "securities" as defined in N.J.S.A. 49:3-49(m).

69. Respondents marketed the Units using billboards placed at prominent locations - such as the entrance to the Holland Tunnel - which advertised "Returns Up to 21%". Respondents made similar representations on nationwide radio and television advertisements, and on the internet. The offers and sales of the Units were made pursuant to PPMs and sticker supplements, all of which guaranteed a minimum annualized return of 12%.

70. There are at least seven versions of the PPMs, including the following:

- a. NRIA Partners Portfolio Fund I, LLC PPM dated February 5, 2018 ("NRIA Fund PPM");
- b. First Amended and Restated PPM of NRIA Partners Portfolio Fund I, LLC, dated September 1, 2018 ("First Amended NRIA Fund PPM");
- c. Second Amended and Restated PPM of NRIA Partners Portfolio Fund I, LLC, dated May 1, 2019 ("Second Amended NRIA Fund PPM");
- d. Third Amended and Restated PPM of NRIA Partners Portfolio Fund I, LLC, dated July 10, 2020 ("Third Amended NRIA Fund PPM");
- e. Fourth Amended and Restated PPM of NRIA Partners Portfolio Fund I, LLC, dated March 22, 2021 ("Fourth Amended NRIA Fund PPM");
- f. NRIA Partners Portfolio Fund I, LLC, PPM dated June 14,

2021 (June 2021 NRIA Fund PPM”); and
g. NRIA Partners Portfolio Fund I, LLC, PPM dated
September 1, 2021 (“September 2021 NRIA Fund PPM”).

71. Respondents misrepresented and/or failed to disclose the following material facts to investors:

- a. The initial 6% annualized distributions to investors during the first four years were a return of investor’s capital and not profits from their investment;
- b. Respondents failed to disclose conflicts of interest and transactions with related parties;
- c. Respondents used investor funds for personal use, to pay Salzano’s wife for a no-show job, and family members for other jobs, and to make loans to relatives or the entity that they controlled;
- d. Salzano and Scutaro had previously been involved in a fraudulent scheme at NorVergence, and Respondents were using investor funds to conceal Salzano’s and Scutaro’s involvement in the NorVergence fraud by funneling money through marketing companies controlled by Grabato’s relatives to pay other entities to create phony web pages and content to modify adverse search engine results;
- e. Salzano controlled the NRIA Fund, ran the entity and orchestrated many of the fraudulent schemes set forth

in this Order, notwithstanding his tarnished background;

- f. Contrary to GAAP, Respondents improperly booked and collected up-front development fees, ranging from 3% to 4.5% of total project development costs;
- g. Respondents were using straw purchasers to create the false impression that there was more demand for their properties than there actually was, a tactic which created an exaggerated picture of success that could trigger progress and other payments from lenders and potentially result in breach of the NRIA Fund's covenants with lenders;
- h. Salzano used a forged term sheet in January 2019 in an effort to defraud an investor who was considering whether to increase the amount of her investment, which Respondents did not disclose until after Salzano's arrest, more than two years after Grabato and Scutaro directly learned of Salzano's fraud on the investor;
- i. In July 2019, Salzano and another individual, with the knowledge of Grabato, attempted to defraud TD Bank into accepting a \$20 million standby letter of credit as a valid instrument to back construction loans. Salzano presented TD Bank with a forged document, purportedly issued by Deutsche Bank, guaranteeing the availability

of funds from the other individual;

j. Respondents misrepresented to investors that Respondents "may" use investor funds in the CMBS and residential mortgage backed securities ("RMBS") investment strategy, even when the funds had already been deployed in this strategy, without then disclosing to investors that funds were actually being deployed in this strategy; and

k. Respondents misstated the nature of ongoing regulatory investigations to obscure their true nature and make it appear to potential investors that Respondents were under a routine inquiry rather than being the subjects of an investigation.

G. Respondents Failed To Disclose That The 6% Annualized Distributions During The First Five Years Of Fund Ownership Were A Return Of Investors' Capital

72. In connection with the offer and sale of the Units from February 2018 until March 2021, Respondents failed to disclose to investors that the monthly 6% coupon payments were largely, if not solely, a return of the investor's own capital, rather than profits from the operations of the NRIA Fund.

73. Respondents represented to investors in the PPMs that they should expect a 6% annualized preferred coupon payment made on a monthly basis for at least the first four years of their investment.

74. According to the PPMs, the four years of 6% annualized

preferred coupon payments would then be followed by a lump sum payment or payments, which could include 12 months of deferred monthly coupon payments plus an additional amount to pay the investor the guaranteed return rate of 12%. For certain investors the lump-sum payment or payments would also be used to pay the preferred rate (the 16-21%), but the preferred rate was not guaranteed.

75. During this time period, the PPMs falsely stated that “[t]he Company intends to pay returns to investors out of the cash flow distributed to the Company by the Manager Investment Company(ies).” Instead of funding these distributions from cash flow actually generated by operations as they had represented that they would do, Respondents were simply paying investors back with the investors’ own money.

76. According to unaudited independent accountants compilation reports for the NRIA Fund for 2018, 2019 and through June 30, 2020, distributions were consistently made without the NRIA Fund generating any net income as illustrated below:

a. December 31, 2018 - The NRIA Fund paid member distributions of \$1,213,288 in 2018 despite having no net income;

b. December 31, 2019 - The NRIA Fund paid member distributions of \$5,969,318 in 2019 despite having no net income.

c. June 30, 2020 - The NRIA Fund paid member distributions of \$6,607,926 through the first half of 2020 despite having no net income.

77. It was not until the March 2021 Fourth Amended NRIA Fund PPM that the NRIA Fund finally disclosed that "[t]he Company intends to pay returns to investors out of the cash flow distributed to the Company by each respective Manager Investment Company after return of capital first," and that the monthly coupon payments would "begin with monthly return of capital payments." (Emphasis added). Investors who purchased at least \$450 million in Units prior to March 2021 and pursuant to earlier versions of the PPM had been kept in the dark as to the true source of these returns. By keeping investors in the dark as to the 6% distributions being simply a return of the investors' own money, Respondents exaggerated the success of their operations during the first four years of each project.

78. Grabato cited his Fifth Amendment privilege against self-incrimination and refused to answer the Bureau's questions when asked: 1) if the monthly coupon payments were simply a return of investor capital; 2) if NRIA Fund projects were generating sufficient cash flow to sustain monthly coupon payments; and 3) if NRIA disclosed that they were paying investors back with their own investment funds.

H. Respondents Failed to Disclose Related Parties and Conflicts

of Interest

79. Respondents failed to disclose that many of the personnel and contractors of NRIA and the NRIA Fund were (or were controlled by) family members of Salzano and Grabato.

80. Respondents' failures to disclose included, but were not limited to, that: (a) Salzano's son Dustin was the CFO and joint owner of U.S. Construction, one of NRIA Fund's general contractors; (b) Dustin Salzano was also the co-founder of one of the main residential marketing and leasing company used by NRIA, Premier Access Property Management; (c) the NRIA Fund paid over \$200,000 to Link N' Log, Design & Website Consultants owned by Salzano's son-in-law, Kyle Stafirny, who was also NRIA's Vice President of Information Technology, and who was married to Salzano's daughter, Bethany Salzano; (d) Web Marketing was run by Nathania Lutero, Grabato's cousin and a corporation for which Grabato paid the "Business Entity Formation" fee ; (e) Salzano's Brother Peter owned Network Digital, a company that NRIA purchased and leased equipment from; and (f) Salzano's relative, Thomas John Salzano, received commissions for the sale of NRIA properties as a real estate agent for a company named Compass.

I. Respondents Misused Investor Funds

81. Respondents misused and failed to disclose the misuse of investor funds by paying Salzano's and Grabato's family members (or their related companies) for jobs and services that they did not

perform and by extending undisclosed loans to family-run entities.

82. For example, Respondents failed to disclose that NRIA Fund paid Olena Budinska, Salzano's wife, \$222,000 in 2018, \$300,000 in 2019, \$291,000 in 2020, and at least \$1.3 million³ in 2021, even though Budinska was never employed by Respondents and did not perform any services for them. When Grabato and O'Brien were asked about Budinska, both refused to answer the Bureau's questions citing their Fifth Amendment privilege against self-incrimination.

83. Respondents' misuse of funds and failures to disclose included, but were not limited to, that: (a) the NRIA Fund loaned approximately \$780,000 to U.S. Construction; and (b) the NRIA Fund was paying Bethany Salzano at least \$1.8 million from 2018 through 2021, through her company Referral Marketing Associates, LLC, for her to work in a series of office jobs for which she had no experience or credentials. When Grabato and O'Brien were asked about payments and loans made to Salzano's, Grabato's and Scutaro's relatives, or the entities that those relatives controlled, both refused to answer the Bureau's questions citing their Fifth Amendment privilege against self-incrimination.

84. A consolidated summary of how Respondents misused investor funds or engaged in undisclosed related party transactions is below:

³ Approximately \$1 million was paid to Budinska after Salzano's arrest in March 2021.

Individual / Entity	Received At Least
Olena Budinska	\$2,100,000
Bethany Salzano Stafirny, including Referral Marketing	\$1,800,000
Kyle Stafirny, including Link N' Log	\$200,000
Arthur Scutaro, including SAV Consulting	\$2,200,000
Vincent Scutaro, including T3X Consulting, LLC	\$370,000

J. Investor Funds Were Also Misused To Conceal Information Related To Salzano And Scutaro's Prior Roles At NorVergence

85. Respondents did not disclose to potential investors that at least \$440,000 of their funds would be used to pay for a scheme to conceal Salzano's and Scutaro's association with NorVergence and the litigation tied to its demise.

86. As part of a concealment scheme, Respondents retained entities known as Web Marketing, Aibly Soft Private Limited, FATbit Technologies and other companies in 2019 to cover up Salzano's past history with NorVergence, and to divert potential investors' searches away from NorVergence and its subsequent bankruptcy.

87. Respondents used Web Marketing as a conduit to pay the following amounts as part of this concealment effort:

a. Respondents paid Aibly Soft Private Limited at least \$119,085 from investor funds; and

b. Respondents paid FATbit Technologies at least \$321,320 from investor funds.

88. In order to divert internet search results away from Salzano and Scutaro's relationship to NorVergence, Respondents hired Grabato's cousins, Nathania and Nichole Lutero, to, among other things, create (a) similarly named entities - NorVergence, LLC, and NorVergence Foundation - along with websites for imposter NorVergence entities, and (b) blog websites for Peter Salzano, Thomas Salzano, and others with fictitious content to further suppress negative links.

89. FATbit created websites for NorVergence Foundation and NorVergence, LLC, including: www.norvergence.com/norvergence-class-action; www.norvergence.org/norvergence-phone-system; and www.norvergence.com/norvergence-judgment (the "Imposter NorVergence Websites").

90. The Imposter NorVergence Websites do not in any way relate to or describe NorVergence's prior activities. Rather, the Imposter NorVergence Websites purport to expand "scientific knowledge and research on the social impacts of climate change."

91. In FATbit's "REPORT on Additional Work" sent to Salzano, FATbit reported its success in improving the positive search result ranking, while also stating "[o]ur motive behind the creation of

these pages is to show the information related to our NGO and suppress the negative links." (Emphasis added).

92. These efforts also extended to the individuals involved in the NorVergence scheme, as FATbit worked towards developing at least twenty-five blog websites with fictitious content to further suppress negative links. The websites include: thomasnsalzano.com; thomasnsalzano.org; thomasnsalzano.net; thomasnsalzano.biz; tomsalzano.com; tomsalzano.net; thomassalzano.com; thomassalzano.net; and peterjsalzano.com. These websites included bogus websites depicting Salzano as a "World-class bodybuilder" and a hairdresser.

93. Scutaro, who was also involved with NorVergence, even changed the spelling of his last name from Scuttaro (with two "t"s) to Scutaro (with one "t") to disassociate himself from NorVergence's history.

94. Every step of the way, Grabato allowed investor funds to be used in these marketing efforts, as demonstrated by Salzano's request to have FATbit revise its \$11,400 invoice so that it was issued to Grabato at NRIA, rather than to Salzano.

95. When Grabato and O'Brien were asked questions about NorVergence, NorVergence, LLC, NorVergence Foundation Inc., and the Imposter NorVergence Websites, both refused to answer the Bureau's questions citing their Fifth Amendment privilege against self-incrimination.

K. Respondents Improperly Took Up-Front Development Fees

96. The NRIA Fund website routinely exclaimed a fundamental principle, "We're Paid Last - After You." This pronouncement would lead potential NRIA Fund investors to believe that NRIA will not be paid until investors have received their promised returns.

97. Beginning at the NRIA Fund's inception in 2018, the NRIA Fund PPM stated that NRIA would receive "a project management and development fee . . . of up to 3% of the capital stack attributable to the purchase of each property undertaken by the underlying Operating LLC." The capital stack consists of all the debt and equity put into a project combined, including financing obtained from banks and other lenders.

98. The NRIA Fund PPM defined the development fee as "a property level fee for directing and project managing all development activities, including taking the properties from acquisition and lender financing through renovation or new building construction, as required, and continuing to completion and positioning for rent and/or resale, as applicable." The NRIA Fund PPM also stated that the development fee "will be paid from a combination of the loan funding, and equity contributions used to acquire the property and build or develop such properties."

99. The First Amended NRIA Fund PPM issued in September 2018, raised the project management and development fee to 4.5% of the capital stack.

100. Neither the NRIA Fund PPM nor the First Amended NRIA Fund PPM disclosed when the development fee would be paid to NRIA, but GAAP dictates that such fees are not to be taken up front. Indeed, the definition of development fee requires the "positioning for rent and/or resale" of the property.

101. In May 2019, the Second Amended NRIA Fund PPM changed the fee structures to an "asset management fee . . . equal to 1% on an annual basis plus a project management and development fee . . . of up to 4% of the capital stack attributable to the purchase and development budget in the first year of each property undertaken by the underlying Operating LLCs." However, the definition of a development fee remained the same as in the prior PPMs.

102. When NRIA's accountant reviewed NRIA's consolidated financial statements for 2018 and 2019, they included a disclosure in their opinion that the development fees taken by NRIA were not properly recognized in compliance with GAAP and were improperly collected by NRIA. In particular, the accountant's opinion on NRIA's 2018 consolidated financial statements stated:

[NRIA] records development fees receivable at the time an agreement is signed with the respective subsidiary (property). Such fees are to be paid by the end purchaser of the land and/or building at project completion. The recognition of both the development fee receivable and applicable revenue does not meet the stricter recent criteria of the new revenue recognition rules per FASB ASC 606 . . . and therefore is not in accordance with U.S. GAAP. Such new rule criteria primarily requires that

revenue is recognized when several performance obligations are satisfied by the entity which is when control of the underlying good or service is transferred to the buyer

103. In its opinion on NRIA's 2019 consolidated financials, the accountant stated that income and revenue from development and/or property management fees "would only be recognized at the time a respective project is completed and sold."

104. Improperly booking the project and development fees as income at the outset of the project allowed NRIA to grossly inflate its revenue. In its opinion on NRIA's 2018 consolidated financial statements, its accountant stated that following GAAP would have decreased NRIA's revenue by \$11,130,000. This would have meant approximately a 75% decrease in NRIA's revenue and fees - from \$14,913,243 to \$3,783,243. Similarly, in NRIA's 2019 consolidated financial statements, its accountant opined that, if GAAP had been followed, revenue and fees would have been decreased by \$19 million. This would have meant a 76% decrease in revenue - from \$24,807,986 to \$5,807,986.

105. In a June 28, 2020 email, Salzano explains his understanding of a receivable and when to charge development fees to NRIA's accountant, writing "it seems to me we have a receivable when we sign an agreement for sale and have located a property, and we take revenue when we close Purchase on the property [w]hich is the time of 'pre development'" Salzano goes on to state,

"We collect the receivable when we purchase close the property for pre development/close on the land. We collect from all general cashflows that come in to the Company - even though the newly closed property has not yet generated revenue."

106. In response, NRIA's accountant informed Salzano, "[t]he actual collection of the receivable (I.e. [sic] payment) is when the sub actually sells the property to an independent third party. That party pays the entity for the sale of the property so the entity now has the cash and in turn pays the parent for the development fee."

107. During the email exchange, Salzano asked the accountant to confirm that NRIA should "never actually collect [the development fee] until the very end even under the way we are doing our accounting [non gaap method]," to which the accountant responded "YES."

108. In a January 8, 2021 email exchange, Salzano and his son Dustin discussed booking the development fees "up front as a finder's fee," with Salzano admitting:

[M]y main concern . . . is does it rewrite history in terms of a locating fee and monies earned upfront versus turning it into a development fee that will by its very nature caused[sic] to be earned over the duration and life of the construction build. It might be able to be earned without a gaap exception footnote but it would be earned overtime not upfront as it is now. We need it earned upfront. Currently we have positioned our development fee as really a property locating

fee only - so that it can be earned upfront one time when any new property is contracted.

109. Dustin Salzano replied the next day, suggesting "[i]f you want to pack it all upfront, then yes you are better off calling it a finders[sic] fee not a developers[sic] fee." The fact that the Salzano's son, as the CFO of a third-party general contractor, was participating in an internal accounting discussion on how NRIA could attempt to justify recognizing the development fee up front also illustrates the extent to which nepotism pervaded NRIA. None of this information was disclosed to investors.

110. Even O'Brien questioned Salzano's application of development fees on several occasions.

111. Around August 28, 2020, Salzano and O'Brien discussed potential future changes to the PPMs. O'Brien urged Salzano to implement an asset-under-management fee and phase out the excessive up-front development fee over two years, pointing out that "[r]ight now our total fee off net assets (excluding leverage) is above 10% - We must must[sic] phase the upfront fee immediately. This is NOT sustainable."

112. Salzano responded that he was "troubled" by O'Brien's suggestions, noting, among other things, that "[w]e cannot reduce our dev fees after year one - that's a no go; dev fees give us the flex we need to pay staff from property fees lawful enterprise/cover costs."

113. In a series of emails marked "internal only" that begin on November 23, 2020, Salzano explains how NRIA calculates its development fees, noting that, without recording the development fees on the HUD statements, they are nevertheless "booked based upon agreements for sale signed and deposited only because of [NRIA's] history of 100% closing of everything [NRIA] sign[s] up."

114. Salzano's explanation prompted O'Brien to ask, incredulously, "HOW CAN YOU CHARGE A DEVELOPMENT.FEE[sic] ON A CAPITAL STRUCTURE THAT DOESNT[sic] EXIST!!!???? HOW CAN YOU NOTE ON A HUD statement BUT IT IS NOT!!!!"

115. Salzano admonished O'Brien not to discuss the matter in writing, by stating that "all of these comments don't belong where you are stating them" and that he would respond to O'Brien again "face to face."

116. Following further explanation from Salzano that the development and asset management fees were taken at the time of the agreement for sale from the grand total on all properties for the entire portfolio, O'Brien replied:

That's near a 10% fee as these are ONE TIME fees CAPITALIZED COSTS NOT CONFIRMED NOR REAL. I still don't think you understand . . . and No that is not OK, not right, shouldn't be shown on an REO statement, it isn't noted correctly on the REO. . . the way I brought to you to assemble ongoing fees is the way to do this right and compounded. . . this is NOT right. .
.

117. The Respondents failed to disclose to potential investors

and investors that they were improperly collecting and booking development fees prior to the ultimate sale of the property.

118. NRIA's improper charging of upfront development fees, and failing to disclose to investors that this was not the industry practice, resulted in, among other things, inflated revenues and funds collected by NRIA they were not entitled to.

L. Respondents Failed To Disclose They Used Straw Purchasers To Create The Appearance That Multiple Properties Had Sold

119. Respondents engaged in multiple fraudulent straw-purchases, using different individuals and entities to complete straw-purchase transactions, all in an effort to create the false appearance that their business was more successful than it really was.

120. For example, Respondents failed to disclose that they caused the NRIA Fund to make what NRIA recorded as loans, using at least \$4 million of investor funds, to Web Marketing in order to purchase condominium units in NRIA development projects and create the appearance that the NRIA Fund was successfully selling condominium units.

121. Between July 23, 2019, and January 7, 2021, funds from the NRIA Fund TD bank account ending in 1872 were transferred through Web Marketing for the purchase of two units at the NRIA Wright-by-the-Sea development - one for the Olena Budinska Trust and one for Grabato's cousin, Nathania Lutero.

122. Further, on separate occasions the NRIA Fund used NRIA employees, Ivel Turner and Kulraj Annand, to purchase condominium units.

123. For example, in another straw purchase, Respondents used an entity called the "Summer Ave Trust" to purchase units at one of NRIA's Guttenberg properties, Green Roof Condominium, located on 62-68 69th Street (the "Green Roof"). The Summer Ave Trust was created on or about October 1, 2019, by Web Marketing acting through Grabato's cousin, Nathania Lutero, as the Grantor, and NRIA employee Ivel Turner as the Trustee.

124. The Declaration of Trust provides that the "Trust Property" is Web Marketing's interest in \$800,000 transferred to the Summer Ave Trust to be used to purchase Units #209 ("Unit 209") and #407 ("Unit 407") at the Green Roof, with remaining funds to be used by the Summer Ave Trust for unit expenses. All for the "use, benefit, and enjoyment of the [beneficiary] named herein," which is Realty Holding Trust 3314, 123 Towns Square Place, Unit 645, Jersey City, New Jersey.

125. Upon information and belief, the beneficiary, Realty Holding Trust 3314, is controlled by Rey Grabato.

126. The Declaration of Trust provides for the appointment of a Successor Trustee, Salzano's wife Olena Budinska, if needed.

127. On October 31, 2019, two transfers in the amount of \$371,013.24 and \$398,692.24 were made from NRIA TD Bank account 1872

to Web Marketing TD Bank account 5906, as a loan to Web Marketing. Web Marketing then wired money to the title company for the purchase of the two properties by the Summer Ave Trust.

128. On October 31, 2019, a deed was signed conveying title of Unit 209 from Guttenberg Capital 6269, LLC by Rey Grabato, Managing Member, 1325 Paterson Plank Road, 2d Floor, Secaucus, New Jersey as Grantor to Ivel Turner, Trustee of Summer Ave Trust as Grantee, for the sale price of \$361,900.

129. On the same day, October 31, 2019, a deed was signed conveying title of Unit 407 from Guttenberg Capital 6269, LLC by Rey Grabato, Managing Member, 1325 Paterson Plank Road, 2d Floor, Secaucus, New Jersey as Grantor to Ivel Turner, Trustee of Summer Ave Trust as Grantee, for the sale price of \$389,900.

130. The legal fiction of this transaction is that the seller of Unit 209 and Unit 407 was an entity controlled by Rey Grabato, and the beneficiary of the Summer Ave Trust that purchased the units was another entity controlled by Rey Grabato, Realty Holding Trust 3314.

131. These transactions created the appearance that the projects were selling out, as demonstrated in a June 13, 2020 email from Salzano to Ivel Turner, "re: Contract of Sale - Unit 209, Buyer: Hilton, attached two addendums to the contract of sale for Unit #209." Salzano writes, "We have sold out bldg.. and are reselling these now. Please execute and email back[.]"

132. When Grabato was asked about Respondents' use of straw purchasers to create the appearance that NRIA Fund properties had sold out, including about the involvement of Ivel Turner, Kulraj Annand, and the Olena Budinska Trust, he refused to answer the Bureau's questions citing his Fifth Amendment privilege against self-incrimination. Similarly, when O'Brien was asked about the use of straw purchasers, he refused to answer the Bureau's questions citing his Fifth Amendment privilege against self-incrimination.

M. Salzano Presented TD Bank With Forged Documentation In An Attempt To Induce TD Bank To Pay A \$20 million Standby Letter Of Credit

133. Salzano also engaged in a fraudulent standby letter of credit ("SBLC") scheme in which he and an individual named Parvez Numarry ("Numarry"), along with Numarry's affiliated company known as Metroberg, presented TD Bank with forged documentation to induce TD Bank to pay \$20 million to NRIA in connection with a real estate project known as Hoboken Heights under a nonexistent standby letter of credit in which the funds were allegedly guaranteed by Deutsche Bank.

134. In order for TD Bank to pay the \$20 million on the letter of credit they required a communication known as an MT760, also known as a SWIFT message, guaranteeing that the initiating bank - in this case Deutsche Bank - had reserved the \$20 million in question to fund the obligation.

135. On May 8, 2019, Numarry emailed Salzano purported bank

identifier information for the SBLC, which Salzano in turn forwarded to TD Bank.

136. A TD Bank representative advised Salzano that the bank identifier information he had sent was insufficient and that they needed the "actual SWIFT." In response, Salzano pressed TD Bank for payment:

There seem to be enough reference numbers and identifiers HIGHLIGHTED on this communication attached to Metroberg from DEUTSCH [sic] BANK London the sender that TD Bank NJ should be able to tie into one of the numbers and find this LC. Metroberg swears this attachment is all they ever get from Deutsch [sic] Bank and that it has all the information any bank ever needs to find the SWIFT MESSAGE transmission.

They are adamant and say it's in TDs court. The LC was sent Monday and they say its at TD Bank NJ as stated herein.

Frankly, I find this all beyond belief.

137. On May 10, 2019, the TD Bank representative informed Salzano and Grabato that she had "confirmation that DB [Deutsche Bank] London did not issue the standby L/C" and wanted to let them know so that they could "make other arrangements with your investor."

138. Notwithstanding having been informed by TD Bank that Deutsche Bank London disavowed having issued the standby letter of credit, Salzano forwarded them a forged SWIFT message he had received from Numarry and pressured TD Bank to make payment.

139. After sending multiple emails trying to get TD Bank to

pay the \$20 million, Salzano emailed another forged SWIFT dated June 6, 2019 from Deutsche Bank to TD Bank, which he had received from Numarry, to press for payment of the standby letter of credit.

140. On June 7, 2019, the TD representative informed Salzano and Grabato by email that TD had performed an investigation and noted that the attached SWIFT message was not sent by Deutsche Bank and the SWIFT message had "many characteristics of fraud." The representative further stated that "TD is not involved with the transaction" and requested "that our name not be associated with the transaction in any way."

141. The same day, Salzano responded to the email and attempted to cover his tracks by attributing the emails to an imaginary hacker: "[w]e are embarrassed to seemingly be having a hacker or someone nefarious trying to get to us. This is more than disturbing. Whatever these people are trying to do is[sic] Rey has now completely canceled and found unacceptable."

142. In a follow-up email, Salzano informed TD Bank that NRIA wanted to "disassociate our self's from whoever or whatever these people really are. Mr. Grabato is handling now." Thus, Grabato was aware in July 2019 that Salzano had twice attempted to traffic in forged documents - the bogus Genesis term sheet and now the fictitious SWIFT message - but did nothing to rein Salzano in from continuing to run NRIA or disclosing his ongoing shady conduct to investors.

143. Nor did NRIA "disassociate" themselves from Numarry, as Salzano had promised. Instead, Salzano and NRIA maintained their relationship with Numarry who, upon information and belief, is involved in NRIA's marketing. NRIA even paid for the 2020 annual report fee of a company known as Face Time Picture LLC, which is owned by Numarry.

144. NRIA Fund investors were never informed of the SBLC scheme, even though the email exchanges make it clear that Salzano and Grabato were aware of the fraudulent scheme at all times.

145. When Grabato was asked questions about Numarry, the SBLC scheme, and what actions he took after he became aware of the fraudulent conduct, he refused to answer the Bureau's questions citing his Fifth Amendment privilege against self-incrimination.

N. NRIA Fund Failed to Disclose that up to 25% of the NRIA Funds Were Invested in Risky Commercial Mortgage Backed Securities

146. In or around September 2020, Respondents began transferring investor funds through an account controlled by NRIA Strategies to an account at Cantor Fitzgerald to purchase CMBS. Respondents managed their CMBS investments at Cantor Fitzgerald with a parent account under NRIA and a sub account under NRIA Strategies.

147. O'Brien was principally in charge of the CMBS strategy, which involved the use of repurchase agreements to purchase CMBS using largely borrowed money with only a fraction of the cost of the CMBS being funded by the NRIA Fund.

148. Respondents' use of borrowing, or leverage, to purchase CMBS magnified the potential rewards, and of course the risks, of the strategy. For example, at the time of the strategy, NRIA's CMBS portfolio, which had a weighted average rating of BB mid non-investment grade, was yielding approximately 9% per annum. This alone shows the increased risk as it was triple the yield on Government agency backed investment grade CMBS. By borrowing enough funds to purchase approximately three times the amount of CMBS than the NRIA Fund could otherwise afford without resorting to leverage, Respondents could roughly triple the yield on their equity. In summary, NRIA increased the risk to investors by purchasing high-risk CMBS tranches and then further increased that risk by leveraging these high-risk tranches.

149. Respondents failed to disclose that they were actually employing investor funds in the CMBS portfolio. The PPMs merely stated:

The Company may invest a portion of the proceeds in U.S. government enterprise backed residential mortgage backed securities ("RMBS") and commercial mortgage backed securities ("CMBS"), which may include mortgage pools guaranteed, in whole or in part, by Federal Home Loan Mortgage Corporation ("Freddie Mac") and the Federal National Mortgage Association ("Fannie Mae"). Such investments may be collectively referred to as the "Real Estate Related Investments."

150. Similarly, the Fourth Amended NRIA Fund PPM dated March 22, 2021, stated that the NRIA Fund: 1) "will be substantially

invested in" property development; 2) "may" invest a portion of investor funds in "Real Estate-Related Investments" such as CMBS and RMBS; and 3) "intends" to invest up to \$250 million "installment sales contracts relating to the purchase and sale of primary single family homes."

151. These statements were false and misleading when made because Respondents did not disclose that they were not merely contemplating, they were actually using, up to 25% of the NRIA Funds in this risky strategy.

152. The purpose of these transactions was to gain a consistent high level of returns to cover shortfalls in the NRIA Fund core real estate development projects in order to maintain monthly distributions promised to investors.

153. This significantly reduced the amount of money that was being deployed in the real estate projects that were designed to generate the returns which NRIA was promoting.

154. Moreover, had the NRIA Fund's investors wanted to invest in CMBS, they could have done so through a mutual fund that would not have involved the substantial management fees, risk and self-dealing by NRIA.

155. When Grabato was asked about the amount of investor funds being diverted to the CMBS strategy, the level of investment risk in the CMBS portfolio, and about disclosures to investors, he refused to answer the Bureau's questions citing his Fifth Amendment

privilege against self-incrimination. O'Brien, who was responsible for creating the CMBS portfolio and then managed it, refused to answer any of the Bureau's questions regarding the CMBS strategy and cited his Fifth Amendment privilege against self-incrimination.

O. NRIA Misstated the Nature of Ongoing Regulatory Investigations

156. Consistent with other omissions of material information, the Respondents obscured the scope and nature of securities regulatory investigations related to NRIA's mismanagement and misuse of investor funds, including their conduct stated in this Order. The Respondents were aware that negative publicity about investigations into their unsavory business practices would impair their ability to continue to sell the NRIA Fund Securities to the public. For that reason, Respondents misstated and/or omitted to state material facts that any reasonable investor would want to know before deciding to invest in the NRIA Fund.

157. Beginning in the March 16, 2021 Sticker Supplement, NRIA made the following regulatory disclosure under the section "Regulatory Matters and Compliance Practices:"

In August 2020, the Company's Manager, National Realty Investment Advisors, LLC, received an information inquiry demand from the State of New Jersey Department of Law & Public Safety, Division of Consumer Affairs, Bureau of Securities requesting that NRIA provide information for NRIA, the Company and other affiliated entities related to the business of NRIA, the Company and other affiliated entities, including without limitation, financial information regarding NRIA and the

Company and information regarding the Company's investors. NRIA provided all answers requested at that time. Since then a new request for additional information has been made, as well as a request for similar information by the Illinois Secretary of State Securities Department. NRIA is fully cooperating with these follow up inquiries and believes they are intended to confirm, among other things, the accuracy of the Fund documents provided. NRIA is confident that this inquiry will conclude with no material adverse impact on the Company, and confirmation of its compliance practices.

158. The purpose of the statement was to assuage existing investors' concerns and make it appear to potential investors that Respondents were under a routine inquiry rather than being part of an investigation.

159. The same disclosure was included in the Fourth Amended NRIA Fund PPM dated March 22, 2021.

160. The NRIA Fund added to the disclosure in its June 2021 NRIA Fund PPM, which stated:

Because the matters described herein are pending, their outcome may affect the Company's ability to continue its business, may materially adversely affect the performance of the Company and its Portfolio Investments, and has substantially increased the expenses associated with the operations of the Company. There can be no assurance as to the outcome of these investigations.

(Emphasis added.)

CONCLUSIONS OF LAW

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

161. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

162. Pursuant to N.J.S.A. 49:3-52:

It shall be unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly

. . . .

(a) To employ any device, scheme, or artifice to defraud[.]

163. Respondents 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. Misrepresenting and omitting material facts in connection with the offer and sale of NRIA Fund Securities;
- b. Funding the 6% annual distributions with investors' own capital in order to give the appearance of positive cash flow and success in the early years of the projects;
- c. Diverting investor funds to entities hired to alter and/or conceal the prior conduct of NorVergence, Salzano, and Scutarro;
- d. Diverting investor funds for the personal benefit of Grabato, Salzano, Scutarro, and their family members;
- e. Improperly taking and booking project development fees;

- f. Using straw purchasers creating the appearance that the NRIA Fund was successful in selling out property units;
- g. Using a forged term sheet in January 2019 in an effort to defraud an investor into increasing the amount of her investment;
- h. Allowing Salzano to continue to run the NRIA Fund at least until his arrest in March 2021, even though Grabato, O'Brien, and Scutaro had been aware of that conduct for more than two years after it occurred and before it was disclosed;
- i. Presenting forged documents to TD Bank in an attempt to defraud them into making payment on a \$20 million standby letter of credit after having been put on notice by TD Bank that Deutsche Bank had disavowed being a part of the transaction or reserving any monies to fund the bogus standby letter of credit; and
- j. Deploying investor funds in a risky CMBS strategy.

164. Each device, scheme or artifice to defraud is a violation of N.J.S.A 49:3-52(a).

165. Each violation of N.J.S.A. 49:3-52(a) by Respondents upon each investor is a separate violation, and is cause for the imposition of civil monetary penalties pursuant to N.J.S.A. 49:3-70.1. The Bureau reserves the right to impose penalties upon Respondents at a future time.

166. It is in the public interest to deny certain exemptions to Respondents.

167. N.J.S.A. 49:3-69(a) (1) empowers the Bureau Chief to issue a cease and desist order against persons engaged in prohibited activities, directing them to cease and desist from further illegal activity or doing acts in furtherance thereof

**RESPONDENTS MADE UNTRUE STATEMENTS OF MATERIAL FACT AND
OMITTED TO STATE MATERIAL FACTS NECESSARY IN ORDER TO
MAKE THE STATEMENTS MADE, IN LIGHT OF THE CIRCUMSTANCES
UNDER WHICH THEY WERE MADE, NOT MISLEADING, IN VIOLATION
OF N.J.S.A. 49:3-52(b)**

168. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

169. Pursuant to N.J.S.A. 49:3-52:

It shall be unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly

. . . .

(b) [t]o make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading[.]

170. Respondents made materially false and misleading statements and/or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading to investors, in connection with the sale of the NRIA Fund Securities.

171. Respondents made materially false and misleading statements including:

- a. That the NRIA funds would be "substantially invested in ground-up (new construction) Property Development and Property Investment activity" without disclosing that funds would be misused in a campaign to sanitize Salzano's and Scutaro's scandalous past with NorVergence, as well as otherwise diverted to Salzano's and Grabato's family and friends;
- b. That the proceeds "may" be used in "Real Estate-Related Investments," without disclosing that up to a quarter of investor funds were in fact actually being used in a risky and highly leveraged strategy to boost returns using CMBS; and
- c. Minimizing the nature and extent of ongoing regulatory investigations into NRIA.

172. Additionally, Respondents omitted to state material facts to investors including:

- a. That the 6 percent annual distributions during the first four years of the project were simply a return of investor capital and not positive cash flow from operations;
- b. Salzano's and Scutaro's regulatory past with NorVergence and the campaign to conceal the past activity using investor funds;

- c. The diversion of payments to family and friends of Salzano and Grabato;
- d. That they diverted investor funds to entities to conceal the prior conduct of NorVergence, Salzano, and Scutaro;
- e. That they diverted investor funds for the personal benefit of Grabato, Salzano, Scutaro, and their family members;
- f. Salzano's management and control over NRIA and further misrepresenting his role with the NRIA Fund following his March 2021 arrest;
- g. That Respondents were improperly taking and booking development fees in violation of GAAP to grossly inflate NRIA's income;
- h. Using straw purchasers to create the appearance that the NRIA Fund was successful in selling out property units;
- i. Salzano's January 2019 use of a forged term sheet in an effort to defraud an investor into increasing the amount of her investment until after Salzano's arrest in March 2021, even though Grabato, O'Brien, and Scutaro had been aware of that conduct for more than two years after it occurred and before it was disclosed;
- j. Salzano's attempt to defraud TD Bank into paying a forged \$20 million standby letter of credit after having been put on notice by TD Bank that Deutsche Bank had disavowed being a part of the transaction or reserving any monies

to fund the bogus standby letter of credit; and

k. That investor funds were actually being deployed in a risky CMBS strategy.

173. Each materially false or misleading statement and each omission of a material fact is a violation of N.J.S.A 49:3-52(b).

174. Each violation of N.J.S.A. 49:3-52(b) by each of Respondents upon each investor is a separate violation, and is cause for the imposition of civil monetary penalties pursuant to N.J.S.A. 49:3-70.1. The Bureau reserves the right to impose penalties upon Respondents at a future time.

175. It is in the public interest to deny certain exemptions to Respondents.

176. N.J.S.A. 49:3-69(a)(1) empowers the Bureau Chief to issue a cease and desist order against persons engaged in prohibited activities, directing them to cease and desist from further illegal activity or doing acts in furtherance thereof.

RESPONDENTS ENGAGED IN ACTS, PRACTICES, OR COURSES OF BUSINESS WHICH OPERATED OR WOULD OPERATE AS A FRAUD OR DECEIT UPON ANY PERSON, IN VIOLATION OF N.J.S.A. 49:3-52(c)

177. The preceding paragraphs are incorporated by reference as though set forth verbatim herein.

178. Pursuant to N.J.S.A. 49:3-52:

It shall be unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly

. . . .

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

179. Respondents engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon the investors, including by:

- a. Misrepresenting and omitting material facts in connection with the offer and sale of NRIA Fund Securities;
- b. Funding the 6% annual distributions with investors' own capital in order to give the appearance of positive cash flow and success in the early years of the projects;
- c. Diverting investor funds to entities hired to alter and/or conceal the prior conduct of NorVergence, Salzano, and Scutaro;
- d. Diverting investor funds for the personal benefit of Grabato, Salzano, Scutaro, and their family members;
- e. Improperly taking and booking project development fees in violation of GAAP to grossly inflate NRIA's income;
- f. Using straw purchasers to create the appearance that the NRIA Fund was successful in selling out property units;
- g. Using a forged term sheet in January 2019 in an effort to defraud an investor into increasing the amount of her investment and allowing Salzano to continue to run the NRIA Fund at least until his arrest in March 2021, even

though Grabato, O'Brien, and Scutaro had been aware of that conduct for more than two years after it occurred and before it was disclosed;

h. Presenting forged documents to TD Bank in an attempt to defraud them into making payment on a \$20 million standby letter of credit after having been put on notice by TD Bank that Deutsche Bank had disavowed being a part of the transaction or reserving any monies to fund the bogus standby letter of credit; and

i. Deploying investor funds in a risky CMBS strategy.

180. Each act, practice, or course of business that operated as a fraud or deceit upon investors is a violation of N.J.S.A. 49:3-52(c).

181. Each violation of N.J.S.A. 49:3-52(c) by each of the Respondents upon each investor is a separate violation, and is cause for the imposition of civil monetary penalties pursuant to N.J.S.A. 49:3-70.1. The Bureau reserves the right to impose penalties upon Respondents at a future time.

182. It is in the public interest to deny certain exemptions to Respondents.

183. N.J.S.A. 49:3-69(a)(1) empowers the Bureau Chief to issue a cease and desist order against persons engaged in prohibited activities, directing them to cease and desist from further illegal activity or doing acts in furtherance thereof.

CONCLUSION

THEREFORE, it is on this 21st day of June, 2022, **ORDERED**

that:

184. National Realty Investment Advisors, LLC, NRIA Partners Portfolio Fund I, LLC, NRIA Capital Partners, Inc., NRIA Structured Credit Strategies, LLC, Rey Grabato, D. Coley O'Brien, Thomas Nicholas Salzano, Arthur Scutaro aka Arthur Scuttaro and any person, employee, officer, director, entity, agent, finder, or independent contractor under their individual or collective director or control shall immediately **CEASE AND DESIST** from engaging in the conduct stated above, any further violations of the Securities Law or doing any acts in furtherance thereof.

185. All exemptions contained in N.J.S.A. 49:3-50 subsection (a) paragraphs 9, 10 and 11 and subsection (b) are hereby **DENIED** as to National Realty Investment Advisors, LLC, NRIA Partners Portfolio Fund I, LLC, NRIA Capital Partners, Inc., NRIA Structured Credit Strategies, LLC, Rey Grabato, D. Coley O'Brien, Thomas Nicholas Salzano, Arthur Scutaro aka Arthur Scuttaro.

186. All exemptions to the registration requirements provided by N.J.S.A. 49:3-56(b), N.J.S.A. 49:3-56(c), and N.J.S.A. 49:3-56(g) are hereby **DENIED** as to National Realty Investment Advisors, LLC, NRIA Partners Portfolio Fund I, LLC, NRIA Capital Partners, Inc., NRIA Structured Credit Strategies, LLC, Rey Grabato, D. Coley O'Brien, Thomas Nicholas Salzano, Arthur Scutaro aka Arthur

Scuttaro.



Amy G. Kopleton
Acting Chief
New Jersey Bureau of Securities

NOTICE OF RIGHT TO HEARING

Pursuant to N.J.S.A. 49:3-69(a)(1)(i), the Bureau Chief shall entertain on no less than three days' notice a written application to lift the Order to Cease and Desist on written application of the person subject thereto and in connection therewith may, but need not, hold a hearing and hear testimony, but shall provide to the person subject thereto a written statement of the reasons for the Order to Cease and Desist.

Pursuant to N.J.S.A. 49:3-69(a)(1)(ii), upon service of notice of the Order to Cease and Desist issued by the Bureau Chief, the person subject thereto shall have up to 15 days to respond to the Bureau in the form of a written answer and written request for a hearing. The Bureau Chief shall, within five days of receiving the answer and request for a hearing, either transmit the matter to the Office of Administrative Law for a hearing or schedule a hearing at the Bureau of Securities. Orders issued pursuant to N.J.S.A. 49:3-69 shall be subject to an application to vacate upon 10 days' notice, and a preliminary hearing on the Order shall be held in any event within 20 days after it is requested, and the filing of a motion to vacate the Order shall toll the time for filing an answer and written request for a hearing.

Pursuant to N.J.S.A. 49:3-69(a)(1)(iii), if any person subject to the Order fails to respond by filing a written answer

and written request for a hearing with the Bureau or moving to vacate the order within the 15-day prescribed period, that person shall have waived the opportunity to be heard. The Order will be a Final Order and shall remain in effect until modified or vacated.

NOTICE OF OTHER ENFORCEMENT REMEDIES

You are advised that the Uniform Securities Law provides several enforcement remedies, which are available to be exercised by the Bureau Chief, either alone or in combination. These remedies include, in addition to this action, the right to seek and obtain injunctive and ancillary relief in a civil enforcement action, N.J.S.A. 49:3-69, and the right to seek and obtain civil penalties in an administrative or civil action, N.J.S.A. 49:3-70.1.

You are further advised that the entry of the relief requested does not preclude the Bureau Chief from seeking and obtaining other enforcement remedies against you in connection with the claims made against you in this action.