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UNITED STATES DISTRICT COURT

DISTRICT OF IDAHO

JAMES R. ZAZZALI, as Trustee for the
DBSI Private Actions Trust,

Plaintiff,

v.

ALEXANDER PARTNERS, LLC, et al.

Defendants.

Civil Action No: 1:14-cv-00419

**DECLARATION OF BRETT G.
EVANS IN SUPPORT OF
REPLY BRIEF OF
REPRESENTATIVE DEFENDANTS'
MOTION TO DISMISS AMENDED
COMPLAINT FOR LACK OF
STANDING AND SUBJECT MATTER
JURISDICTION PURSUANT TO
RULE 12(B)(1) OF THE FEDERAL
RULES OF CIVIL PROCEDURE**

ORAL ARGUMENT REQUESTED

I, Brett G. Evans, declare:

1. I am an attorney-at-law and a partner in the law of Evans & Kob, PC, which represents Defendants [REDACTED] [REDACTED] (collectively, "Representative Defendants").
2. I am duly admitted to practice in the courts of California.
3. This declaration is submitted in support of the Representative Defendants' Motion to Dismiss Amended Complaint for Lack of Standing and Subject Matter Jurisdiction Pursuant to Rule 12(B)(1) of the Federal Rules of Civil Procedure.
4. On information and belief, attached hereto as Exhibit A is a true and correct copy of the class action styled Myles W. and Jannelle S. Spann Trust v. DBSI Inc., et al., Case No CV OC 0820435, Fourth Judicial District Court, Ada County, Idaho.

I certify under penalty of perjury under the laws of California that this affidavit was executed in Tustin, California on June 10, 2016 and that the foregoing statements are true and correct.

By:  _____

Brett G. Evans

Exhibit A

CLASS ACTION COMPLAINT

NO. _____
FILED _____
A.M. _____ P.M. _____

OCT 27 2008

J. DAVID NAVARRO, Clerk
By A. LYKE
DEPUTY

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Attorneys for Plaintiffs

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

MYLES W. AND JANNELLE S. SPANN)
TRUST, dated December 7, 2000, on behalf of)
itself and others similarly situated,)
Plaintiffs,)

CV OC 0820435

Case No. _____

v.)

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

DBSI INC., an Idaho corporation (formerly)
known as DBSI HOUSING INC., an Idaho)
corporation), FOR 1031 LLC, an Idaho limited)
liability company, FOR 1031 SHAWNEE)
MISSION LLC, an Idaho limited liability)
company, FOR 1031 SHAWNEE MISSION)
OFFICES LLC, an Idaho limited liability)
company, DBSI DISCOVERY REAL)
ESTATE SERVICES LLC, an Idaho limited)
liability company, dba DBSI, DBSI)
HOUSING INVESTMENTS LLC, an Idaho)
limited liability company, DBSI SECURITIES)
CORPORATION, an Idaho Corporation,)
CORPORATE ENTITIES DOES 1- 1000,)
DOULGAS L. SWENSON, an individual,)
JOHN MAYERON, an individual, CHARLES)
E. HASSARD, an individual, WALT MOTT,)
an individual, THOMAS V. REEVE, an)

individual, JOHN D. FOSTER, an individual,)
FARRELL J. BENNETT, an individual,)
MARK ELLISON, an individual, MERRIAH)
HARKINS, an individual, GARY)
BRINGHURST, an individual, and JOHN)
DOES 1-100,)
)
Defendants.)
_____)

CLASS ACTION COMPLAINT FOR
FRAUD IN THE SALE OF SECURITIES

1. This is a securities fraud class action on behalf of all persons, other than the Defendants and affiliated persons as described below, (the "Class"), who invested in Tenant-in-Common (TIC) schemes with DBSI Inc. and/or its corporate affiliates, predecessors, successors, parents and subsidiaries, and all individual Defendants (collectively "DBSI" or the "Company") between October 23rd, 2003 to the present, (the "Class Period").
2. Plaintiffs bring this claim to vindicate their rights and the rights of other members of the Class who were all defrauded by DBSI in connection with the sale of securities and by racketeering activity by the corporate and individual defendants.
3. In October 2003 and thereafter, DBSI aggressively marketed its TIC investment scheme through national print and electronic media, and directly and indirectly solicited investors to participate in the scheme.
4. The scheme involved the sale of fractional ownership interests in real property coupled with a "Master Lease" and restrictions on the ability of investors to exercise the rights of ownership, all of which constituted the sale of securities under the Idaho Securities Act.

5. In violation of the Idaho Securities Act, each of the Defendants engaged in deceptive and misleading devices, schemes and artifices with the intent to entice and defraud Plaintiffs and the Class, including:

A. DBSI intentionally concealed that the investors were paying a significantly higher price for the commercial real estate than DBSI had paid to the original seller merely weeks, days or even hours before the investors closed on the sale.

B. DBSI intentionally concealed the fair market value of the property by failing to disclose information it had received prior to DBSI's purchase of the property, including appraisals, capitalization rates and prior performance information.

C. DBSI induced the investors to forego any due diligence by imposing the "Master Lease" (also known as the NNN PlusTM Lease), that promised a guaranteed payout for twenty years beginning with a 7% return on investment and increasing to over a 12% return on investment over the course of the Master Lease term.

D. DBSI never intended to make good on its promise to make the guaranteed payments for the term of the Master Lease.

E. DBSI and its principals, primarily Douglas Swenson, raided the profits from marked-up sales of the properties to investors and intentionally failed to maintain any cash reserves to make guaranteed payments.

F. DBSI used the proceeds of marked-up sales from new properties to make the guaranteed payments on existing properties rather than making sound

investments in performing commercial properties that could be self-sustaining, which created in effect a "Ponzi" scheme.

G. DBSI committed banking fraud by explicitly promising lenders that it would NOT sell fractional ownership interests (TICs) to third-party investors when DBSI fully intended from the outset to re-sell the properties to investors in a TIC scheme.

H. DBSI defrauded investors by intentionally concealing the fact that by re-selling the TIC interests to investors, the mortgages/lending agreements were immediately put into default and created a breach of contract between DBSI and the lending institutions.

I. DBSI engaged in tax fraud and induced investors to violate Federal Tax Code by requiring the investors to treat the investment scheme as a TIC rather than a partnership, despite the Internal Revenue Service's explicit prior opinions to the contrary.

J. DBSI was fully aware that it was engaging in securities, banking and tax fraud because DBSI had two separate investment departments: FOR 1031, LLC (and its successors and affiliates), which treated the TIC investment schemes as real estate transactions with minimal disclosure under the real estate "buyer beware" paradigm, and DBSI Securities LLC (and its successors and affiliates), which treated the very same TIC investment scheme as Securities transactions under the "full disclosure" paradigm.

K. DBSI and its principals perpetrated the fraud by funneling commercial properties it purchased with high capitalization rates (i.e., at or above

approximately 10%) to the real estate department (FOR 1031, et al.), which could then be re-sold to investors at a lower capitalization rate (i.e. 7%), creating the artificially increased value. DBSI and its principals took this instant profit, often in the range of \$2 million to \$5 million per property, out of the DBSI affiliated companies with no notice or disclosure to investors. DBSI funneled commercial properties with lower capitalization rates (i.e., 7% to 8%) which were resold to investors at approximately the same capitalization rates.

L. In the TIC investment schemes treated as Securities, DBSI made full (or at least fuller) disclosures to investors, including the price DBSI paid for the property. DBSI treated the higher capitalization rate properties as real estate transactions specifically to avoid disclosures and to allow DBSI and its principals to conceal the instant profit. The DBSI Securities team helped perpetrate and continue the securities fraud by knowingly participating and assisting DBSI and its affiliates engage in this two-tiered system.

M. DBSI aggressively marketed the TIC investment scheme in national print and electronic media, including the Wall St. Journal.

N. The scope of the fraud committed by DBSI is breathtaking. In less than five years, DBSI acquired approximately 250 commercial properties across the country worth over \$2 billion, induced over 12,000 investors around the world, and generated an estimated illegal profit in excess of \$500 million. Based on information and belief, DBSI's principal, Douglas L. Swenson, personally siphoned at least \$160 million from the scheme.

JURISDICTION AND VENUE

- 6. Jurisdiction. Jurisdiction lies in the District Court of the Fourth Judicial District of the State of Idaho pursuant to Idaho Code §30-14-610 as the dispute between the Class and Defendants arose in Idaho, the Defendants either reside here or maintain their principal place of business here, offers for the sale of securities originated in Idaho, and the amount in controversy exceeds \$10,000.
- 7. Venue. Venue lies in Ada County, Idaho, as the acts giving rise to this Complaint occurred in Ada County, Idaho and the Defendants either reside or maintain their principal place of business in Ada County, Idaho.

PARTIES

- 8. The Plaintiff is the Myles W. and Jannelle S. Spann Trust, dated December 7, 2000, a trust formed under the laws of the State of California.
- 9. The Defendants are:
 - a. DBSI Inc., formerly known as DBSI Housing Inc., is an Idaho corporation duly qualified to do business in the State of Idaho and may be served with process by serving its registered agent Douglas Swenson, 1550 S. Tech Lane Meridian, ID 83642. During the Class Period, DBSI Inc. was engaged in the business of soliciting, marketing and selling TIC investment schemes, also known as fractional interests in commercial real estate, and participated in the unlawful conduct alleged in this Complaint.
 - b. For 1031 LLC is an Idaho limited liability company qualified to do business in the State of Idaho and may be served with process by serving its registered agent Douglas

Swenson, 1550 S. Tech Lane, Meridian, ID 83642. During the Class Period, For 1031 LLC was engaged in the business of promoting and providing TIC investment schemes to individual investors and participated in the unlawful conduct alleged in this Complaint.

- c. For 1031 Shawnee Mission LLC is an Idaho limited liability company qualified to do business in the State of Idaho and may be served with process by serving its registered agent Gary Bringhurst, 12426 W. Explorer Dr. Ste. 220 Boise, ID 83713. During the Class Period, For 1031 Shawnee Mission LLC was engaged in the business of promoting and providing TIC investment schemes to individual investors and participated in the unlawful conduct alleged in this Complaint.
- d. For 1031 Shawnee Mission Offices LLC is an Idaho limited liability company qualified to do business in the State of Idaho and may be served with process by serving its registered agent Gary Bringhurst, 12426 W. Explorer Dr. Ste. 220 Boise, ID 83713. During the Class Period, For 1031 Shawnee Mission Offices LLC was engaged in the business of promoting and providing TIC investment schemes to individual investors and participated in the unlawful conduct alleged in this Complaint.
- e. DBSI Discovery Real Estate Services LLC, doing business as DBSI, is an Idaho limited liability company qualified to do business in the State of Idaho and may be served with process by serving its registered agent Douglas Swenson, 1550 S. Tech Lane, Meridian, ID 83642. During the Class Period, DBSI Discovery Real Estate Services, LLC was engaged in the business of promoting and providing TIC

investment schemes to individual investors and participated in the unlawful conduct alleged in this Complaint.

- f. DBSI Housing Investments LLC, is an Idaho limited liability company, qualified to do business in the State of Idaho and may be served with process by serving its registered agent Douglas Swenson, 1550 S. Tech Lane, Meridian, ID 83642. During the Class Period, DBSI Housing Investments LLC was engaged in the business of promoting and providing TIC investment schemes to individual investors and participated in the unlawful conduct alleged in this Complaint.
- g. DBSI Securities Corporation is an Idaho Corporation qualified to do business in the State of Idaho and may be served with process by serving its registered agent Douglas Swenson, 1550 S. Tech Lane, Meridian, ID 83642. During the Class Period, DBSI Housing Investments LLC was engaged in the business of promoting and providing TIC investment schemes to individual investors and participated in the unlawful conduct alleged in this Complaint.
- h. In addition to the above corporate defendants, there are additional corporate entities, whose true names are unknown at this time, which played a part in the scheme alleged in this Complaint. The identities and specific evidence of the culpability of these entities await discovery and may be added by amendment when ascertained. It is believed that the number of these entities does not exceed one thousand entities.
- i. Douglas L. Swenson is an individual residing in Ada County, Idaho. According to DBSI's website at www.dbsi.com, Swenson is Founder and President of DBSI Inc. and other DBSI entities. In addition to being a primary violator, Swenson acts as a

controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.

j. John Mayeron is an individual residing in Ada County, Idaho. According to DBSI's website at www.dbsi.com, Mayeron is Executive Vice-President Marketing and Product Development for DBSI. In addition to being a primary violator, Mayeron acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.

k. Charles E. Hassard is an individual residing in Ada County, Idaho. According to DBSI's website at www.dbsi.com, Hassard is Chief Financial Officer. In addition to being a primary violator, Hassard acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.

l. Walt Mott is an individual residing in Ada County, Idaho. Upon information and belief, Mott was principal owner of DBSI and has served as President and CEO of DBSI Development Services LLC and still serves a President of DBSI Diversified Realty REIT. In addition to being a primary violator, Mott acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.

m. Thomas V. Reeve is an individual residing in Ada County, Idaho. Upon information and belief, Reeve served as corporate officer and former President of For 1031 LLC, and President and CEO of three other DBSI companies, prior to joining For 1031. In addition to being a primary violator, Reeve acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.

- n. John D. Foster is an individual residing in Ada County, Idaho. Upon information and belief, Foster is a former principal and director of DBSI for over 16 years. In addition to being a primary violator, Foster acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.
- o. Farrell J. Bennett is an individual residing in Ada County, Idaho. Upon information and belief, Bennett is a former Vice President of DBSI Housing Inc. In addition to being a primary violator, Bennett acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.
- p. Mark Ellison is an individual residing in Ada County, Idaho. Upon information and belief, Ellison is a principal of DBSI Inc. In addition to being a primary violator, Ellison acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.
- q. Merriah Harkins is an individual residing in Ada County, Idaho. Upon information and belief, Harkins is a principal of DBSI Securities Corp. In addition to being a primary violator, Harkins acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.
- i. Gary Bringhurst is an individual residing in Ada County, Idaho. Upon information and belief, Bringhurst serves as corporate officer and President of For 1031 LLC, and is and was a corporate officer and director of other DBSI companies. In addition to being a primary violator, Bringhurst acts as a controlling person under Idaho Code § 30-14-509(g)(1) and (g)(2) in the scheme of securities fraud outlined in this Complaint.

s. In addition to the above corporate defendants, there are additional individuals, officers, directors, employees, accountants and/or lawyers (current and past) of the named Defendants whose true names are unknown at this time, which played a part in the scheme alleged in this Complaint. The identities and specific evidence of the culpability of these individuals await discovery and may be added by amendment when ascertained. It is believed that the number of these individuals does not exceed one hundred individuals.

CLASS ALLEGATIONS

10. Plaintiffs bring this class action on behalf of the Class.
11. The Class is defined as: All persons who purchased or otherwise acquired interest, as tenants-in-common, of real estate sponsored, marketed or facilitated by DBSI Inc. and its corporate affiliates and subsidiaries, (collectively "DBSI" or the "Company") between October 23rd, 2003 until the present, (the "Class Period").
12. The members of the class are so numerous that joinder of all members is impracticable. DBSI sold over 250 commercial projects to over 12,000 investors through the fraudulent scheme. Each building project involved numerous individual investors, each of which is an aggrieved party to this action. The exact number of Class members can be determined by appropriate discovery and is believed to exceed 12,000 members.
13. The questions of law and fact regarding liability for securities fraud and racketeering activity are common to all members of the class. The method of calculating actual damages, treble damages, punitive damages, costs and interest on suit are common to all class members.

14. Plaintiffs' claims are typical of the claims of the members of the Class. Plaintiff and all members of the class sustained damages as a result of the Defendants fraudulent scheme set forth in this Complaint.
15. Plaintiffs will fairly and adequately protect the interests of the members of the Class and have retained legal counsel competent to handle class action and securities litigation. Plaintiffs have no interests that are adverse or antagonistic to those of the Class.
16. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Class action treatment is preferred because it permits a large number of defrauded persons to prosecute their common claims in a single forum simultaneously, efficiently and without unnecessary duplication of evidence and effort. Class treatment also permits the adjudication of claims by Class members who could not otherwise afford to litigate individually securities fraud and racketeering claims against large corporate defendants and numerous individual defendants.
17. Plaintiffs envision no difficulty in the management of this litigation as a class action.

SCIENTER

18. As alleged in the Complaint, the Defendants acted intentionally or with deliberate recklessness in the conduct of their fraudulent business enterprise. The Defendants individually, and in concert, knew:
 - a. The investment scheme constituted a security subject to regulation under the Idaho Securities Act.
 - b. The Idaho Securities Act required Defendants to register and/or provide full disclosure of all material terms of the investment.

- c. The price DBSI paid for the property was a material term of the investment.
 - d. DBSI intentionally concealed its purchase price from investors, as well as the existence of the real estate appraisals and other data regarding the performance of the property with the intent to defraud investors.
19. The Defendants were motivated to engage in the fraudulent conduct because the Defendants directly benefited from the proceeds of their illegal securities offerings.

LOSS CAUSATION

20. Plaintiffs and members of the Class suffered cognizable loss as a result of the Defendants' fraudulent scheme in that they overpaid hundreds of millions of dollars to the Defendants for the commercial real estate. This overpayment was a direct result of the Defendants' fraud.

CAUSES OF ACTION

COUNT ONE SECURITIES FRAUD Idaho Code Section 30-14-501

21. Plaintiffs reallege the preceding paragraphs as if fully set forth herein.
22. During the Class Period, the Defendants, collectively and individually, carried out a device, scheme and artifice, in violation of Idaho Code §30-14-501, which was intended to and, throughout the Class Period, did: (i) deceive Plaintiffs and other Class members, as alleged herein; (ii) allowed the Defendants to significantly overstate the value of the commercial real estate above the true market value of the real estate; (iii) cause Plaintiffs and other members of the Class to purchase the real estate marketed by the Defendants at prices significantly above the true market value of the property; and (iv) cause the Plaintiff and other Class

Members to invest in Defendants' investment schemes when they would otherwise not have invested.

23. In furtherance of this unlawful scheme, artifice and device, the Defendants, and each of them, took actions to: (i) employ devices, schemes, and artifices to entice and defraud; (ii) make untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engage in acts, practices, and a course of business in an effort to entice and defraud members of the Class. All Defendants are sued as primary participants in the wrongful and illegal conduct charged in this Complaint. The individual Defendants are also sued as controlling persons, executive officers, directors, managing partners, and employees as alleged below.

24. The Defendants, individually and in concert, directly and indirectly engaged and participated in a continuous course of deception in violation of Idaho Code §30-14-501 by all of the conduct alleged above and: (1) concealing the existence of real estate appraisal(s) establishing the market value of the property at the time the properties were sold to the Class, (2) concealing the price paid by the Defendants for the real estate immediately re-sold to the Class, (3) concealing the HUD disclosures prepared for the closing of the real estate transactions between the Class and the Defendants, (4) otherwise concealing the fact that the real estate investments marketed to the Class were significantly overpriced, (5) failing to disclose the inherent conflict of interest between the Defendants interest and the Class interests with respect to the investment, (6) affirmatively misleading the Class by stating that the Class and the Defendants enjoyed a "strong alignment of interests," (7) failing to disclose any known risks related to the investment scheme, (8) failing to provide any information related to the financial stability of the Defendants and/or lessee under the Master Lease, (9)

failing to disclose the risks related to the NNN Plus™ Master Lease scheme, and (10) maintaining some percentage of interest in the investment properties so as to prevent the Plaintiffs and other members of the Class from taking any action requiring a unanimous vote, such as approving the sale of the property or refinancing the loan on the property.

25. Each of the individual Defendants' primary liability, and controlling liability, arises from the following facts:

- a. each of the individual Defendants was, during the Class Period,
 - i. a person that directly or indirectly controlled the activities of individuals liable under Idaho Code §30-14-509 as outlined in this Complaint,
 - ii. was a managing partner, executive officer and/or director of the Company or
 - iii. was an employee or individual associated with individuals liable under Idaho Code §30-14-509 as outlined in this Complaint;
- b. each of the individual Defendants, by virtue of his responsibilities and position with the Company, was privy to and participated in the creation, development and implementation of the Company's fraudulent scheme outlined herein, and/or
- c. each of the individual Defendants was aware of, or recklessly disregarded, the fact that Company's continuous course of deception was materially false or misleading.

26. As a result of the deceptive and misleading conduct described above, the Class members were induced to enter into a financial transaction with the Defendants. In ignorance of the facts concealed by the Defendants, and in reliance directly or indirectly on the untrue statements or omission of material facts, Plaintiffs and Class members acquired interests in the securities/real estate sold by the Defendants paying artificially inflated prices for commercial real estate.

27. At the time of the misrepresentations and omissions, Plaintiffs and Class members were ignorant of their falsity, and believed them to be true. Had the Plaintiffs and Class members known of the truth of the misrepresentations and omissions, Plaintiffs and Class members would not have purchased or otherwise acquired the securities/real estate interests during the Class Period. Also, had the Plaintiffs and Class members known of the truth of the misrepresentations and omissions, Plaintiffs and Class members would not have purchased or otherwise acquired the securities/real estate interests at the significantly inflated prices paid.
28. By virtue of the foregoing, the Defendants have each violated Idaho Code §30-14-501.
29. As a direct and proximate result of the Defendants' wrongful conduct, the Plaintiffs and other Class members suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period in excess of Five Hundred Million Dollars (\$500,000,000.00).

COUNT TWO
RACKETEERING
Idaho Code Section 18-7801 et seq.

30. Plaintiffs reallege the preceding paragraphs as if fully set forth herein.
31. The individual Defendants conducted or participated, directly or indirectly, in the affairs of DBSI through a pattern of racketeering activity. Specifically, all the Defendants engaged in multiple instances of securities fraud as outlined above, in violation of the Idaho Securities Act. These acts of securities fraud are criminal activities and constitute predicate offenses under Idaho Code §18-7803.
32. Defendant, Douglas L. Swenson, is a "person" within the meaning of Idaho Code Section 18-7803(b).

33. Defendant, John Mayeron, is a "person" within the meaning of Idaho Code Section 18-7803(b).
34. Defendant, Charles E. Hassard, is a "person" within the meaning of Idaho Code Section 18-7803(b).
35. Defendant, Walt Mott, is a "person" within the meaning of Idaho Code Section 18-7803(b).
36. Defendant, Thomas V. Reeve, is a "person" within the meaning of Idaho Code Section 18-7803(b).
37. Defendant, John D. Foster, is a "person" within the meaning of Idaho Code Section 18-7803(b).
38. Defendant, Farrell J. Bennett, is a "person" within the meaning of Idaho Code Section 18-7803(b).
39. Defendant, Mark Ellison, is a "person" within the meaning of Idaho Code Section 18-7803(b).
40. Defendant, Merriah Harkins, is a "person" within the meaning of Idaho Code Section 18-7803(b).
41. Defendants, John Doe 1-100, are "persons" within the meaning of Idaho Code Section 18-7803(b).
42. DBSI Inc. is an "enterprise" within the meaning of Idaho Code Section 18-7803(c).
43. FOR 1031 LLC is an "enterprise" within the meaning of Idaho Code Section 18-7803(c).
44. FOR 1031 Shawnee Mission LLC is an "enterprise" within the meaning of Idaho Code Section 18-7803(c).
45. FOR 1031 Shawnee Mission Offices LLC is an "enterprise" within the meaning of Idaho Code Section 18-7803(c).

46. DBSI Discovery Real Estate Services LLC is an "enterprise" within the meaning of Idaho Code Section 18-7803(c).
47. DBSI Housing Investments LLC is an "enterprise" within the meaning of Idaho Code Section 18-7803(c).
48. DBSI Securities Corporation is an "enterprise" within the meaning of Idaho Code Section 18-7803(c).
49. Corporate Entities Does 1-1000 are "enterprises" within the meaning of Idaho Code Section 18-7803(c).
50. The individuals Defendants named in Paragraphs 32 through 41 were employed by or associated with the corporate Defendants named in Paragraphs 42 through 49 and did conduct or participate, directly or indirectly, in the conduct of the affairs of those corporate entities through a pattern of racketeering activity within the meaning of Idaho Code Section 18-7803(d). Specifically, the Defendant engaged in multiple instances of securities fraud in violation of Idaho Code Sections 30-14-501. The pattern of racketeering activity was committed as follows:

Predicate Offense No. 1

FRAUD IN CONNECTION WITH A SECURITIES OFFERING

51. In early 2004, the Defendants located and purchased a commercial property in Omaha, Nebraska known as the Metropolitan Business Center. The Defendants closed the transaction with the third party seller in April 2004. At the same time, the Defendants marketed and sold the same building in fractional interests to various individual members of the Class for \$13,345,000.00, closing that transaction on or about May 2, 2004. Based on

information and belief, this purchase price was approximately 30% higher than the price DBSI paid for the property less than one month prior. Defendants defrauded those Class members who purchased fractional interests in the building out of more than \$2,000,000.00. The Defendants fraudulently concealed, misstated or otherwise omitted material facts related to the transaction, including but not limited to: not disclosing the existence of an appraisal affixing the value of the property, not disclosing the existence of the previous transaction, and not disclosing the purchase price paid for the building just days before. In doing so, the Defendants committed the offense of fraud in connection with a securities offering, wrongfully obtaining more than \$2,000,000.00 in a single transaction to which the Defendants were not entitled.

Predicate Offense No. 2

FRAUD IN CONNECTION WITH A SECURITIES OFFERING

52. In early 2004, the Defendants located and purchased a commercial property in Shawnee, Kansas known as the Shawnee Mission Plaza. The Defendants closed the transaction with the third party seller in July 2004. At the same time, the Defendants marketed and sold the same building in fractional interests to various individual members of the Class for approximately \$8,575,000.00, closing that transaction on or about July 29, 2004, perhaps only one day after DBSI had closed its original purchase. In doing so, the Defendants defrauded those Class members who purchased fractional interests in the building out of more than \$1,000,000.00. The Defendants fraudulently concealed, misstated or otherwise omitted material facts related to the transaction, including but not limited to: not disclosing the existence of an appraisal obtained at the time affixing the value of the property, not

disclosing the existence of the previous transaction and not disclosing the purchase price paid for the building just the day before. In doing so, the Defendants committed the offense of fraud in connection with a securities offering, wrongfully obtaining more than \$1,000,000.00 in a single transaction to which the Defendants were not entitled.

Predicate Offense No. 3

FRAUD IN CONNECTION WITH A SECURITIES OFFERING

53. In late 2004, the Defendants located and purchased a commercial property in Addison, Texas known as the Quorum Building. The Defendants closed the transaction with the third party seller in December 2004. At the same time, the Defendants marketed and sold the same building in fractional interests to various individual members of the Class for approximately \$19,500,000.00, closing that transaction in December 2004. Based on information and belief, this purchase price was approximately 30% higher than the price DBSI paid for the property less than one month prior. Defendants defrauded those Class members who purchased fractional interests in the building out of more than \$5,000,000.00. The Defendants fraudulently concealed, misstated or otherwise omitted material facts related to the transaction, including but not limited to: not disclosing the existence of an appraisal affixing the value of the property, not disclosing the existence of the previous transaction, and not disclosing the purchase price paid for the building just days before. In doing so, the Defendants committed the offense of fraud in connection with a securities offering, wrongfully obtaining more than \$5,000,000.00 in a single transaction to which the Defendants were not entitled.

54. The Defendants engaged in similar conduct on hundreds of other transactions that occurred during the Class Period. In each transaction, the Defendants purchased commercial real estate, resold it at a significant increase to members of the Class, closed both transactions within weeks of each other and took affirmative steps to conceal the true value of the real estate from the investors.

55. According to the Defendants' website, www.dbsi.com, the Defendants have acquired, marketed and sold more than 250 properties representing 18.6 million square feet of real estate in 34 states. The majority of these transactions were illegal securities offerings conducted in the same pattern outlined above. Through the discovery process hundreds of additional predicate offenses will be uncovered. Each instance constitutes a separate count of fraud in connection with a securities offering.

56. Further, Predicate Offenses 1, 2 and 3 involved at least 10 investors each. The Defendants' conduct with respect to each member of the Class constitutes a single act in furtherance of a pattern of racketeering activity. Thus, in the three offenses detailed above, Defendant committed over 30 acts in furtherance of a pattern of racketeering activity.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury of no less than twelve as to all issues raised in this Complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for relief as follows:

As to Count One

1. That judgment be entered against the Defendants, jointly and severally, pursuant to Idaho Code §30-14-509(b)(1), (b)(2) and/or (b)(3), in excess of \$500,000,000.00, the exact amount to be proven at trial.
2. For leave to amend this Complaint to add a claim for punitive damages, the exact amount of which will be determined by a jury.
3. For Plaintiffs' reasonable attorney's fees and costs pursuant to Idaho Code Sections 12-120, 12-121, and 30-14-509(b)(1), (b)(2) or (b)(3).
4. For such other and further relief as the Court deems just.

As to Count Two

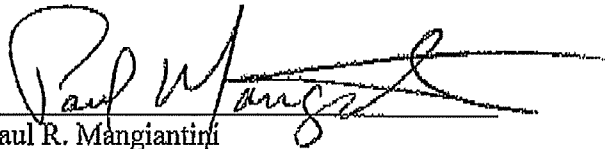
1. That judgment be entered against the Defendants, jointly and severally, in excess of \$500,000,000.00, the exact amount to be proven at trial.
2. That Plaintiffs be awarded treble damages of not less than \$1,500,000,000.00 in accordance with Idaho Code Section 18-7805.
3. For Plaintiffs' reasonable attorney's fees and costs pursuant to Idaho Code Sections 12-120, 12-121, and 18-7805(a).
4. For an order ordering all individual Defendants to divest himself or herself of any interest, direct or indirect, in any corporate Defendant.
5. For an order imposing reasonable restrictions on the future activities or investments of all Defendants.
6. For an order dissolving or reorganizing all corporate Defendants.

7. For an order suspending or revoking any license, permit or prior approval granted to any Defendant by any agency of the State of Idaho.

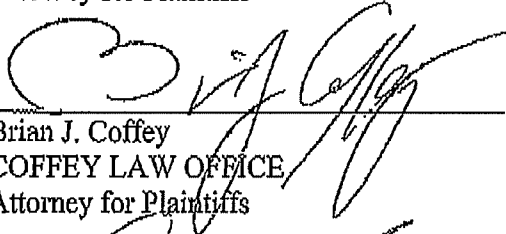
8. For an order, as to all corporate Defendants, forfeiting the charter of a corporation organized under the laws of the State of Idaho, or revoking any certificate authorizing a foreign corporation to conduct business within this state.

9. For such other and further relief as the Court deems just.

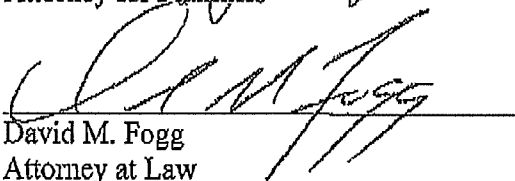
DATED this 27th day of October 2008.



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