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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

REAL ESTATE PARTNERS, INC.; REAL ESTATE PARTNERS INCOME FUND I, LLC; REAL ESTATE PARTNERS INCOME FUND II, BT; REAL ESTATE PARTNERS INCOME FUND III, BT; REAL ESTATE PARTNERS UNIT INVESTMENT BUSINESS TRUST I; REAL ESTATE PARTNERS UNIT INVESTMENT BUSINESS TRUST II; REAL ESTATE PARTNERS EQUITY FUND, BT; REAL ESTATE PARTNERS GROWTH FUND, BT; DAWSON DAVENPORT; MICHAEL P. OWENS; DONALD G. RYAN; RICHARD McGILL; WILLIAM L. SANDERS; MICHAEL TUCHMAN; and DANNY RAYBURN,

Defendants.

Case No.: **SACV07-1022 AG (RNBx)**

COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS

Plaintiff Securities and Exchange Commission ("Commission") alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)(1) and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77t(b), 77t(d)(1) & 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) & 78aa. Defendants have, directly or indirectly, made use of the means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, in connection with the transactions, acts, practices, and courses of business alleged in this Complaint.

2. Venue is proper in this district pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27 of the Exchange Act, 15 U.S.C. § 78aa, because certain of the transactions, acts, practices, and courses of conduct constituting violations of the federal securities laws occurred within this district, each of the entity defendants is located in this district, and each of the individual defendants resides in this district.

SUMMARY

3. Between January 2003 and August 2006, the defendants raised approximately $50 million, defrauding approximately 1600 investors nationwide during the course of several securities offerings. The defendants offered investors interests in a series of seven offerings (the "Offerings"), the proceeds of which were purportedly to be invested in various properties purchased and maintained by defendant Real Estate Partners, Inc. ("REP"). The interests in the Offerings were securities. The Offerings were not registered with the Commission, however, as required by Section 5 of the Securities Act, 15 U.S.C. § 77e.

4. Operating out of two Orange County, California based boiler rooms run by defendants Michael P. Owens and Donald G. Ryan, REP's sales force used

lead lists and scripts containing false representations to cold-call hundreds of potential investors each day, enticing investors with promises of lucrative returns based on the revenue generated from properties REP was purportedly purchasing and managing.

5. The entity defendants and defendants Davenport, Owens and Ryan caused the following misrepresentations and omissions of material fact to be made to investors in connection with the Offerings:

a. The prominent real estate company Coldwell Banker was falsely represented to investors to be involved in the Offerings, when in fact Coldwell Banker had nothing to do with the Offerings.

b. The use of proceeds from the Offerings was misrepresented. Investors were not told that over 52% of the $50 million in funds they invested were used to pay sales commissions, including payments of $10.9 million to two companies controlled by defendant Michael P. Owens and over $3 million to a company controlled by defendant Donald G. Ryan, and payments of commissions ranging from over $300,000 to just over $1 million to defendant sales agents Richard McGill, William L. Sanders, Michael Tuchman and Danny Rayburn.

c. Sales materials reviewed and approved by defendants Dawson Davenport and Michael P. Owens that were disseminated to investors falsely projected yearly returns averaging approximately 54% and five-year cumulative returns averaging approximately 270%, when there was no basis for making such optimistic projections. Further, in order to lull investors into believing that their investments were in fact profitable and to encourage additional investments, investors were paid "dividends" of approximately 4% or 8% per year, depending on the Offering. In fact, the source of funds for these "dividends" was not profits, but new investor monies, and the dividend payments were being made to perpetuate the defendants' Ponzi-like scheme. Indeed, rather than being profitable, the Offerings incurred a combined net loss of $2.78 million.

6. The defendants variously violated the antifraud, securities registration, and broker-dealer registration provisions of the federal securities laws. By this action, the Commission seeks appointment of a receiver over the entity defendants, permanent injunctions, disgorgement of the defendants' ill-gotten gains, and civil penalties.

THE DEFENDANTS

A. THE ENTITY DEFENDANTS

7. **Real Estate Partners, Inc. ("REP")** is a California corporation formed in November 2000 and based in Irvine, California. REP purports to be a full service real estate company that purchases, manages, renovates, and eventually sells distressed commercial and multifamily residential properties. Between January 2003 and August 2006, the defendants conducted a series of seven offerings, raising nearly $50 million from approximately 1600 investors nationwide. REP acted as either the trustee or the managing member of each of the entity defendants whose securities were the subject of an offering. No registration statement has been filed or is in effect with respect to any of the Offerings.

8. **Real Estate Partners Income Fund I, LLC ("IF I")** is a Nevada limited liability corporation formed in December 2002 and based in Irvine, California. REP is the managing member of IF I. IF I claims to invest in real estate and real estate secured assets. Between January 2003 and June 2005, the defendants raised $4.21 million from 182 investors in IF I nationwide. No registration statement has been filed or is in effect with respect to IF I.

9. **Real Estate Partners Income Fund II, BT ("IF II")** is a Nevada business trust formed in August 2003 and based in Irvine, California. REP is the trustee of IF II. IF II claims to invest in real estate and real estate secured assets. Between September 2003 and November 2004, the defendants raised $4.94 million from 212 investors in IF II nationwide. No registration statement has been filed or is in effect with respect to IF II.

10. **Real Estate Partners Income Fund III, BT ("IF III")** is a Nevada business trust formed in April 2004 and based in Irvine, California. REP is the trustee of IF III. IF III claims to invest in real estate and real estate secured assets. Between January 2004 and December 2004, the defendants raised $4.93 million from 192 investors in IF III nationwide. No registration statement has been filed or is in effect with respect to IF III.

11. **Real Estate Partners Unit Investment Business Trust I ("UIBT I")** is a Nevada business trust formed in June 2003 and based in Irvine, California. REP is the trustee of UIBT I. UIBT I claims to invest in real estate and real estate secured assets. Between January 2003 and June 2004, the defendants raised $4.955 million from 175 investors in UIBT I nationwide. No registration statement has been filed or is in effect with respect to UIBT I.

12. **Real Estate Partners Unit Investment Business Trust II ("UIBT II")** is a Nevada business trust formed in April 2004 and based in Irvine, California. REP is the trustee of UIBT II. UIBT II claims to invest in real estate and real estate secured assets. Between January 2004 and May 2005, the defendants raised $4.875 million from 168 investors in UIBT II nationwide. No registration statement has been filed or is in effect with respect to UIBT II.

13. **Real Estate Partners Equity Fund, BT ("Equity Fund")** is a Nevada business trust formed in December 2004 and based in Irvine, California. REP is the trustee of Equity Fund. Equity Fund claims to invest in real estate and real estate secured assets. Between January 2005 and July 2006, the defendants raised $13.12 million from 350 investors in Equity Fund nationwide. No registration statement has been filed or is in effect with respect to Equity Fund.

14. **Real Estate Partners Growth Fund, BT ("Growth Fund")** is a Nevada business trust formed in December 2004 and based in Irvine, California. REP is the trustee of Growth Fund. Growth Fund claims to invest in real estate and real estate secured assets. Between January 2005 and July 2006, the

defendants raised approximately $12.9 million from 352 investors in Growth Fund nationwide. No registration statement has been filed or is in effect with respect to Growth Fund.

B. THE INDIVIDUAL DEFENDANTS

15. **Dawson L. Davenport ("Davenport")** is a resident of Lake Forest, California. Davenport is the founder and CEO of REP.

16. **Michael P. Owens ("Owens")** is a resident of Newport Coast, California. Owens ran REP's sales operation. Owens was paid by REP through REP's payments to Pine Mountain Capital Corporation and Network Real Estate Corporation. Owens is the president of Network Real Estate Corporation. Pine Mountain Capital and Network Real Estate were consultants retained by REP to implement and oversee REP's fundraising efforts. Between January 2003 and August 2006, REP collectively paid Pine Mountain Capital and Network Real Estate $10.9 million -- 21% of all funds raised. Owens is not registered with the Commission as a broker or dealer.

17. **Donald G. Ryan ("Ryan")** is a resident of Irvine, California. Ryan is the sole principal of Principal Management Group, a Nevada corporation formed in 2001, which raised funds for REP. Between April 2003 and August 2006, REP paid Principal Management Group $3,081,607, and Ryan an additional $200. Ryan is not registered with the Commission as a broker or dealer.

18. **Richard McGill ("McGill")** is a resident of Laguna Niguel, California. McGill has worked with Ryan selling investments since the mid-1990s. Between April 2003 and August 2006, REP paid McGill $679,665 in sales commissions. McGill is not registered with the Commission as a broker or dealer.

19. **William L. Sanders ("Sanders")** is a resident of Norco, California. Sanders has worked with Ryan selling investments since the late 1990s. Between April 2003 and August 2006, REP paid Sanders $1,048,343 in sales commissions. Sanders is not registered with the Commission as a broker or dealer.

20. **Michael Tuchman ("Tuchman")** is a resident of Irvine, California. Tuchman has worked with Ryan selling investments since approximately 2000. Between April 2003 and August 2006, REP paid Tuchman $449,057 in sales commissions. Tuchman is not registered with the Commission as a broker or dealer.

21. **Danny Rayburn ("Rayburn")** is a resident of Westminster, California. Rayburn has worked with Ryan selling investments since the late 1990s. Between April 2003 and August 2006, REP paid Rayburn $336,466 in sales commissions. Rayburn is not registered with the Commission as a broker or dealer.

THE FRAUDULENT SCHEME

A. THE UNREGISTERED SECURITIES OFFERINGS

22. Between January 2003 and August 2006, the defendants raised nearly $50 million from approximately 1600 investors nationwide through a series of seven Offerings of stock and interests in unit investment trusts. Each of the first five Offerings, which were of interests in IF I, IF II, IF III, UIBT I and UIBT II, sought to raise $5 million. The final two Offerings, of interests in Equity Fund and Growth Fund, each originally sought to raise $7.5 million, but were eventually doubled to $15 million apiece.

23. The first entity defendant for which an offering was made, IF I, was organized as an LLC, for which REP served as the managing member. The entity defendants for which subsequent Offerings were made were unit investment business trusts in which REP served as the trustee. In each of the Offerings, investors purchased units in the entities which cost $10,000 apiece, and entitled the investor to 10,000 shares of REP preferred stock that was convertible to common stock.

24. Each Offering paid a quarterly "dividend" to investors, which, according to the Offering documents, derived from "available revenue." Investors

in IF I were paid 8% annually for the first two years of their investment. Investors in the subsequent Offerings were each paid 4% annually, for either one or two years depending on the Offering.

25. None of these securities offerings was registered with the Commission, as required by Section 5 of the Securities Act.

B. THE FRAUDULENT SALES EFFORT

26. The defendants offered and sold the Offerings through a massive boiler room sales operation. In late 2002, Davenport contracted with Owens to coordinate raising funds for the Offerings. Both Davenport and Owens reviewed the IF I private placement memorandum ("PPM") before they caused it to be disseminated to investors.

1. THE DEFENDANTS CONDUCT THE OFFERING FROM TWO BOILER ROOMS

27. REP primarily relied upon Owens' salesroom located in Santa Ana, California (the "Santa Ana office") in order to offer and sell interests in IF I. Owens controlled the salesroom. Specifically, Owens hired, fired, and trained the sales force, and set the sales goals of the Santa Ana office. Owens approved payments to vendors. Owens and his staff were also responsible for investor relations. Although Davenport was REP's CEO, Owens routinely handled investor inquiries and complaints. Owens also instructed the Santa Ana office salespeople what to tell investors. Owens closely monitored the sales force, including using video surveillance equipment, which he had ordered installed.

28. Sometime in the spring of 2003, Owens hired defendant Ryan to help in the sales effort. Ryan headed a sales force in Irvine, California (the "Irvine office"). Ryan's top salespeople included defendants McGill, Sanders, Tuchman, and Rayburn. Beginning with Ryan's arrival, REP began conducting two concurrent Offerings, one sold primarily by the Santa Ana office, and one sold by the Irvine office. Owen's Santa Ana Office was primarily responsible for offering

and selling interests in the IF I, IF II, IF III, and Growth Fund offerings; Ryan's Irvine office was primarily responsible for offering and selling interests in the UIBT I, UIBT II, and Equity Fund offerings.

29. The Santa Ana and Irvine offices operated in a similar manner. Both employed "fronters" and "closers." The fronters cold-called potential investors and mailed them sales materials. The closers followed up with prospective investors and made the sales pitch. The fronters were paid an hourly wage plus approximately a 5% commission, and the closers were paid between 15% and 20% commissions, less what they paid their fronters.

30. Ryan and the closers in his salesroom expected the fronters to cold-call as many as 300 people a day from investor lead lists provided by REP. REP spent thousands of dollars each week purchasing these leads. Some of the fronters used sales scripts written by the closers, including scripts authored by Tuchman. The sales scripts emphasized REP's purported affiliation with Coldwell Banker, claiming that in the last eight years REP was the third-largest Coldwell Banker franchise in the country. The scripts also touted REP's purported track record of successful real estate purchases and the possibility of investors making up to ten times return on their initial investment.

31. Prospective investors were sent packages containing a glossy, twelve page brochure that summarized the Offering, a glossy REP quarterly newsletter featuring a "message" from Davenport, and other promotional material, a copy of the Offering PPM, a subscription agreement, a purchaser questionnaire, and, in case the investor wanted to invest in the Offering using their retirement funds, as several did, an IRA application.

2. DAVENPORT AND OWENS CREATE AND DISSEMINATE FALSE AND MISLEADING SALES MATERIALS

32. The glossy sales brochures were created by Davenport, Owens, and an outside marketing consultant. The sales brochures contained information

regarding REP, its management, and descriptions of properties the company purportedly owned or managed. Up until early 2006, the brochures also highlighted REP's purported affiliation with Coldwell Banker. Specifically, the Coldwell Banker Commercial logo appeared either at the top of every page (IF II, IF III, UIBT I and UBIT II offerings), or on the first and last page of the sales brochures (Equity Fund and Growth Fund offerings), alongside REP's corporate logo, or on several pages of the brochure (IF I). The IF I, IF II, IF III, UIBT I and UIBT II brochures state that the Offerings offer investors "the safety and security of investing in real estate," and that "By leveraging the proven track record of Coldwell Banker Commercial, one of the oldest names in real estate, investors can rest comfortably knowing their investment is being managed with a focus on safety and growth."

33. The sales brochures also contained two charts summarizing five year projected rates of return for the Offerings. Since mid-2003, virtually identical charts appeared in all of the sales brochures. One chart depicts year-by-year returns, starting with a 22.6% return in year one and ending with a 78.6% return in year five, with an average yearly return of 54% (Growth Fund and Equity Fund brochures) or 54.82% (IF II, IF III, UIBT I and UIBT II brochures), and a cumulative return of 270% (Equity Fund and Growth Fund brochures) or 274 % (IF II, IF III, UIBT I and UIBT II brochures). Also included in each of these brochures is a bar graph that shows the value of an initial investment of $20,000 growing to $194,000 after five years. Davenport determined what "projections" would be inserted into the sales brochures.

34. Once potential investors received the sales package from REP, they were then contacted by a closer. Defendants McGill, Sanders, Tuchman, and Rayburn, as well as others, were closers. The closers varied in their presentations to potential investors, but emphasized REP's purported connection to Coldwell Banker, REP's purported track record of profitable real estate purchases, and the

possibility of making a significant return on their investment. The closers urgently warned investors that units were selling fast and that only a few units remained in the Offering. Closers also discussed the 4% annual dividend investors would receive, as well as REP's alleged "exit strategy," in which it would roll-up all of the Offerings into a publicly traded real estate investment trust, or REIT, that would be listed on a national stock exchange. The first page of each of the sales brochures, with the exception of IF I, states that "REITS command a multiple of approximately ten times revenue or greater," and some investors were told that when the REP REIT began trading, their REP stock would be worth between $6 and $12 per share.

35. When a new Offering began, Owens would make a presentation to the Santa Ana office, walking the closers through the sales brochure and private placement memorandum. Questions that the Santa Ana salespeople had regarding the Offerings were routed to Owens through the room supervisors.

36. When the Irvine office first began selling the REP Offering, Davenport visited the office and gave a presentation to the closers, describing what REP did, and answering any questions the salespeople had. From then on, any information concerning REP or a new Offering came from either Ryan or the PPMs and sales literature. Within the Irvine office, any questions about the Offering or REP that the closers could not answer were forwarded to Ryan. In fact, on numerous occasions, Ryan acted as the "closers' closer," assisting the salespeople in obtaining an investment from potential investors.

37. Owens' companies received 35% of monies raised by the Santa Ana office, less whatever sales costs REP fronted. Owens' companies also received 18% of the funds raised by the Irvine office. In total, Owens' companies received $10.9 million, or 21% of the monies raised from the Offerings. The Santa Ana office fronters were paid commissions of up to 5%, and the closers were paid at least 10%, but could make more based upon certain office volume incentives.

38. Ryan received 40% of whatever the Irvine office raised, a rate Ryan negotiated with Owens. Ryan used the money to pay commissions to his salespeople and himself, as well as to pay all other fundraising expenses. Ryan's company, Principal Management Group, netted a total of $3,081,607, or approximately 10% of the $29 million raised by the Irvine office.

C. THE DEFENDANTS MAKE MATERIAL MISREPRESENTATIONS AND OMISSIONS

1. REPRESENTATIONS BY THE DEFENDANT ENTITIES, DAVENPORT, OWENS AND RYAN REGARDING COLDWELL BANKER'S PURPORTED INVOLVEMENT IN THE OFFERINGS WERE FALSE AND MISLEADING

39. A vital feature of the Offerings was REP's purported relationship with Coldwell Banker. Fronters often began their presentation to investors by announcing that they were calling from "Coldwell Banker Commercial Real Estate Partners." The sales scripts, written by Tuchman and read by the fronters, stated that in the last eight years REP operated "the third largest Coldwell Banker franchise" in the country. The Coldwell Banker name was also prominently featured in the Offering sales brochures, appearing at the top of each page of some of the brochures(IF II, IF III, UIBT I and UIBT II offerings), or on the first and last page of the sales brochures (Equity Fund and Growth Fund offerings), alongside REP's corporate logo, or on several pages of the brochure (IF I).

40. In reality, Coldwell Banker had nothing to do with the Offerings. Rather, Orange Coast Commercial, Inc. ("OCC"), a real estate brokerage firm controlled by Davenport and 20% owned by REP, owned a Coldwell Banker franchise. The OCC franchise used a number of dbas, including Real Estate Partners. Coldwell Banker never approved the use of its name or logo in any of the REP Offering materials, as was required by the franchise agreement that Davenport signed on behalf of OCC. Furthermore, rather than being the third largest Coldwell Banker franchise, as the salespeople told potential investors, the

OCC franchise was actually among the lowest ten percent in performance among the thousands of Coldwell Banker franchises nationwide.

41. Undisclosed to investors, on or about September 9, 2004, Coldwell Banker had sent Notices of Intent to Terminate its franchise agreement with Coldwell Banker Commercial REP. By letter dated November 23, 2004, Coldwell Banker informed REP's counsel that REP remained "in material breach" of the franchise agreement. The letter states:

> Your client may not utilize its Coldwell Banker Commercial franchise to generate business for and to expand Real Estate Partners, Inc. Nonetheless, that is exactly what is occurring. . . . Real Estate Partners, Inc. should be maintained completely separate from the franchise but it is not.

[Emphasis in original] The letter further states:

> A third example of your client's violation of the Franchise Agreement is evidences in another promotional piece it disseminated. . . . It is wholly misleading to the public and potential investors to suggest that Real Estate Partners has "access to a network of over 300 affiliate offices" or to suggest that Real Estate Partners should somehow benefit from Coldwell Banker's reputation and history in the real estate industry.

With regard to use of the Coldwell Banker Commercial logo, the letter warns:

> [N]or may your client or the owners use any of the marks or any part of the Coldwell Banker System. The mere act of allowing other businesses to use an email address for "cbcrep.com" is a violation of Coldwell Banker's identity standards.

Davenport responded to this letter by email to the president of Coldwell Banker Commercial on November 24, 2004.

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42. Coldwell Banker terminated OCC's franchise in late 2005. Nevertheless, and notwithstanding Coldwell Banker's instructions not to use any of its trademarks, REP continued to use the Coldwell Banker logo in offering sales materials into 2006. Specifically, versions of the Equity Fund and Growth Fund brochures, sent to investors as late as April 2006, featured the Coldwell Banker logo at the top of the first and last page of the brochures. The brochures were approved by Davenport. Furthermore, as late as January 2006, the dividends investors received were paid by checks that read "Real Estate Partners, Inc. DBA Coldwell Banker Commercial REP," thus perpetuating the misrepresentation that Coldwell Banker was associated with REP. These checks bore Davenport's signature.

43. Notwithstanding his knowledge of the November 23, 2004, correspondence from Coldwell Banker and the termination of the Coldwell Banker franchise in late 2005, it was not until November 8, 2006, that Davenport wrote a letter to investors indicating that REP's relationship with Coldwell Banker had ended. In so notifying investors, however, Davenport falsely represented that REP itself decided to "discontinue use of the Coldwell Banker Commercial franchise name and its trademarks" because of "changes in the direction" Coldwell Banker wanted to take. Davenport assured investors, however, that "The change has resulted in numerous [unspecified] positive benefits to REP and its investors."

2. THE ENTITY DEFENDANTS AND OWENS, DAVENPORT AND RYAN MISUSED INVESTOR FUNDS

44. The PPMs for each Offering were reviewed by Owens and Davenport prior to being disseminated to investors. The PPMs described the purported planned use of investor funds. The IF I PPM states that it is estimated that 10% of monies raised would be used for real estate acquisitions, 30% would be used to purchase on behalf of investors preferred stock in REP, and that no more than 10% would be used towards commissions and 1% towards offering expenses. The PPM

further represents that the investment "may be" offered and sold by brokers registered with the Commission.

45. The subsequent six Offerings used virtually identical PPMs. These PPMs state that it is estimated that 30% of the monies raised would be used for real estate acquisitions, 22% would be used to purchase on behalf of investors preferred stock in REP, and no more than 15% of investor funds would be expended on "syndication fees and costs."

46. In fact, undisclosed to investors, over $26 million or over 52%, of the almost $50 million raised was paid to sales agents and others as commissions on the sales of the unregistered securities. These monies included $16.5 million paid to defendants Owens ($10.9 million), Ryan ($3,081,807), McGill ($679,665), Sanders ($1,048,343), Tuchman ($449,057) and Rayburn ($336,466). Additionally, contrary to the representations in the IF I PPM, none of the defendants were registered with the Commission as brokers or dealers.

47. Owens was responsible for fund accounting. Owens delegated this responsibility to a bookkeeper whom he hired and who worked for him in the Santa Ana office. However, Owens never explained to the bookkeeper how to allocate any of the investor funds or how to ensure investor funds were spent in a manner consistent with what was disclosed to investors. Davenport was aware that the bookkeeper was not ensuring that investor funds were spent in a manner consistent with the representations in the PPMs, because the bookkeeper told Davenport on several occasions that he, the bookkeeper, was "in over his head."

3. THE PROJECTED RETURNS THE DEFENDANTS PROMISED INVESTORS WERE BASELESS

48. As alleged above, with the exception of the IF I brochure, the Offering sales brochures state that the investments could return an average of 54% or 54.82% per year, or a five-year cumulative return of 270 or 274%. Additionally, these brochures each contained a chart showed a year-by-year return, growing

from 22.6% in year one to 78.6% in year five, and a bar graph showing a $20,000 investment growing to $194,000 in five years.

49. These charts, created by Owens, Davenport, and a marketing consultant, are misleading. First, the projections, provided by Davenport, are not based upon any actual performance of REP's investments. Second, the year-by-year projection chart is misleading because, as Davenport admits, investors do not receive yearly returns on their investments. Rather, investors were told that profits from the sale of the properties are re-invested into new properties. The defendants represented that the cycle of sale and reinvestment in properties is to continue for five years. However, the projection chart, broken out by year, in combination with the quarterly dividend payments, makes it seem as though there is a constant income stream to investors, when this is not the case. Finally, the charts do not account for the fact that only 26% of investor funds were actually invested in real estate. Thus, to attain the rates of return projected in the Offering sales brochures, REP would have had to have generated a 207% annual return, every year for five years, from the sales of the properties it purportedly purchased and sold.

50. As discussed above, the Offerings paid investors a 4% annual "dividend" (8% in the case of IF I) for up to two years after the initial date of investment. It was Owens' idea to make these dividend distributions to investors. The Offering documents state that the source of these dividend payments was "available revenue." The purported dividend payments conveyed the misleading impression that the investments were profitable. In actuality, the source of funds used to pay these "dividends" was a bank account funded almost entirely by investor monies, which were being paid to investors in a Ponzi-like scheme. In fact, the Offerings were not profitable. Thus, even though the Offerings incurred a combined net loss of $2.78 million, investors were paid $2.25 million in dividends. Davenport's signature is on the dividend checks, which were written on an account entitled "Real Estate Partners, Inc. DBA Coldwell Banker Commercial REP

Investment Account."

51. Investors were also told that REP was planning on rolling-up their fund offerings into a publicly-traded REIT. With the exception of the IF I brochure, each Offering's sales brochure represented that "REITS command a multiple of approximately ten times revenue or greater," while some investors were orally told that rolling up their funds into a REIT would result in a return of up to twelve times the investors' initial investment. These statements were false and misleading because REP in fact has never taken any of the steps necessary to become a publicly-traded REIT, such as filing securities offering registration documents with the Commission.

FIRST CLAIM FOR RELIEF

UNREGISTERED OFFER AND SALE OF SECURITIES

Violations of Sections 5(a) and 5(c) of the Securities Act

(Against All Defendants)

52. The Commission realleges and incorporates by reference paragraphs 1 through 51 above.

53. The defendants, and each of them, by engaging in the conduct described above, directly or indirectly, made use of means or instruments of transportation or communication in interstate commerce or of the mails, to offer to sell or to sell securities, or to carry or cause such securities to be carried through the mails or in interstate commerce for the purpose of sale or for delivery after sale.

54. No registration statement has been filed with the Commission or has been in effect with respect to the offerings alleged herein.

55. By engaging in the conduct described above, each of the defendants violated, and unless restrained and enjoined will continue to violate, Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

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SECOND CLAIM FOR RELIEF

FRAUD IN THE OFFER OR SALE OF SECURITIES

Violations of Section 17(a) of the Securities Act

(Against the Entity Defendants and Defendants Davenport, Owens and Ryan)

56. The Commission realleges and incorporates by reference paragraphs 1 through 51 above.

57. The entity defendants, and defendants Davenport, Owens and Ryan, and each of them, by engaging in the conduct described above, directly or indirectly, in the offer or sale of securities by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails:

a. with scienter, employed devices, schemes, or artifices to defraud;

b. obtained money or property by means of untrue statements of a material fact or by omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

c. engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

58. By engaging in the conduct described above, each of the entity defendants, and defendants Davenport, Owens and Ryan violated, and unless restrained and enjoined will continue to violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a).

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THIRD CLAIM FOR RELIEF

FRAUD IN CONNECTION WITH THE PURCHASE OR SALE OF SECURITIES

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder (Against the Entity Defendants and Defendants Davenport, Owens and Ryan)

59. The Commission realleges and incorporates by reference paragraphs 1 through 51 above.

60. The entity defendants, and defendants Davenport, Owens and Ryan, and each of them, by engaging in the conduct described above, directly or indirectly, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter:

a. employed devices, schemes, or artifices to defraud;

b. made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

c. engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

61. By engaging in the conduct described above, each of the entity defendants, and defendants Davenport, Owens and Ryan violated, and unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

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FOURTH CLAIM FOR RELIEF

FAILURE TO REGISTER AS BROKER-DEALERS

Violation of Section 15(a) of the Exchange Act

(Against Defendants Owens, Ryan, McGill, Sanders, Tuchman, and Rayburn)

62. The Commission realleges and incorporates by reference paragraphs 1 through 51 above.

63. Defendants Owens, Ryan, McGill, Sanders, Tuchman, and Rayburn, and each of them, by engaging in the conduct described above, made use of the mails or means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of securities, without being registered as brokers or dealers in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b).

64. By engaging in the conduct described above, defendants Owens, Ryan, McGill, Sanders, Tuchman, and Rayburn each violated, and unless restrained and enjoined will continue to violate, Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a).

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

I.

Issue findings of fact and conclusions of law that the defendants committed the alleged violations.

II.

Issue an order, appointing a receiver over each of the entity defendants.

III.

Issue judgments, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining each of the defendants, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the judgment by personal service or

otherwise, and each of them, from violating Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

IV.

Issue judgments, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining the entity defendants, and defendants Davenport, Owens, and Ryan, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the judgment by personal service or otherwise, and each of them, from violating Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

V.

Issue judgments, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining defendants Owens, Ryan, McGill, Sanders, Tuchman, and Rayburn, and their agents, servants, employees, and attorneys, and those persons in active concert or participation with any of them, who receive actual notice of the judgment by personal service or otherwise, and each of them, from violating Section 15(a) of the Exchange Act, 15 U.S.C. § 78j(b).

VI.

Order each defendant to disgorge all ill-gotten gains from their illegal conduct, together with prejudgment interest thereon.

VII.

Order each defendant to pay civil penalties under Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

VIII.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and carry out the

terms of all orders and decrees that may be entered, or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

IX.

Grant such other and further relief as this Court may determine to be just and necessary.

DATED: September 6, 2007

MARC J. BLAU
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Securities and Exchange Commission