

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

HEATHER DAVIES, Individually as trustee
of the Stone Family Trusts, and on behalf of all
others similarly situated,

Plaintiffs,

vs.

STATE STREET BANK AND TRUST
COMPANY,

Defendant.

CIVIL ACTION NO. _____

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

I. INTRODUCTION

1. Plaintiff Heather Davies, individually as trustee of the Stone Family Trusts (the “Trusts” or “SFT”) brings this class action complaint against Defendant State Street Bank and Trust Company (“State Street” or “Defendant”) on behalf of herself and other similarly situated individuals who had custodial accounts at State Street with investment accounts managed by TAG Virgin Islands, Inc., formerly Taurus Advisory Group LLC, (“TAG”), and alleges the following based upon her personal knowledge, through the investigation of her attorneys, and based upon information and belief as to all other matters.

2. In 2002, the Trusts hired State Street’s predecessor-in-interest, Investors Bank & Trust Company (“IBT”) to serve as custodian for the Trusts’ accounts for the purpose of holding and safeguarding any property belonging to the Trusts. Other class members similarly hired IBT or State Street as the custodian for their assets that were managed by TAG. Rather than safeguarding the Trusts’ and class members’ property however, State Street, in derogation of its most basic duties as a custodian, listed false information on client account statements, made

unauthorized cash disbursements from the custody accounts, and failed to manage sub-custodians or monitor where the clients' assets were located. In so doing, State Street gave the imprimatur of legitimacy to the actions of the Trusts' and class members' unscrupulous and scandal-plagued investment manager, James Tagliaferri and TAG.

3. The Custody Account Agreements ("Custody Agreement") that State Street had with the Trusts and other class members created a fiduciary relationship between State Street and its clients. State Street had a duty to act for the benefit of the Trusts and other class members with the duties of loyalty and to exercise reasonable care and skill as a custodian. Further, Defendant had specific and explicit instructions under the Custody Agreements to avoid acting with gross negligence or willful misconduct. Nevertheless, Defendant disregarded its responsibilities to apply even a scant standard of care to safeguard the property of the Trusts' and class members' in two primary ways.

4. First, Defendant listed fake CUSIPs in the Trusts' and class members' monthly account statements. A CUSIP (standing for Committee on Uniform Security Identification Procedures) is a unique, 9-character alphanumeric code that identifies a North American security, including stocks of all registered U.S. and Canadian companies, and U.S. government and municipal bonds. The CUSIP system is operated by Standard & Poor's and owned by the American Bankers Association. A CUSIP is the hallmark of a bona fide security, and the Trusts and class members relied on Defendant to issue monthly account statements that reflected legitimate CUSIPs. However, Defendant failed to exercise the most basic level of care and violated its Custody Agreement with the Trusts and class members by listing an alarming amount of fake CUSIPs. The Trusts and class members relied upon these misrepresentations and believed the securities held by Defendant were legitimate, marketable, and registered securities

when in fact they were not. But for Defendant's gross negligence and/or willful misconduct, the Trusts and class members would have divested their investments in these illegitimate securities.

5. Second, Defendant failed to perform the most basic standard of care for custody of the Trusts' and class members' assets, by, *inter alia*, making improper and unauthorized cash transfers of the Trusts' and class members' assets without the consent of the Trusts or class members, failing to properly execute or settle transactions or account activity, failing to provide accurate valuations of investments, misleading clients as to its oversight of sub-custodians, and misrepresenting the location of the Trusts' and class members' assets when it did not know who actually held physical custody of notes it purported to hold.

6. For example, the Custody Agreements allowed Defendant to sell, deliver or exchange any securities in the accounts held for the Trusts only pursuant to the instructions of the Trusts. Despite these clear and unequivocal conditions, Defendant made improper and unlawful transfers without the permission of the Trusts. In fact, State Street authorized transfers to individuals who managed the accounts for the Trusts, unknown banks or entities, and in some instances, to "no one."

7. Defendant also listed transactions on the Trusts' account statements that were never settled or executed, including receipt of shares and disbursement of shares that never occurred, as well as receipt of notes that never occurred. Similarly, transactions in some instances purportedly occurred in one month, for example, the sale of a note, but the following month the same note was still listed on the account statement.

8. Similarly, Defendant failed to inform the Trusts and other class members on their statements when it was holding in custody sub-notes (rather than actual notes), when those sub-notes had been signed by the Trusts' investment manager, James Tagliaferri, and not the note's

maker, and when the sub-notes it was custodialy were held in the possession of State Street, another entity, or a sub-custodian. Nor did State Street inform its clients when the sub-notes were held by individuals or entities that did not meet the definition of sub-custodian as defined by the Custody Agreement.

9. By the time the Trusts discovered that State Street did not hold notes, but sub-notes, and that the sub-custodian for the underlying note was actually James Tagliaferri and/or TAG, not an authorized custodian under the Custody Agreement, it was too late to recover the money, or divest of the sub-notes.

10. As a result, the Trusts suffered substantial losses of principal in the amount of approximately \$1,000,000, as well as an opportunity to invest the money in legitimate investments. Further, as the Trusts' funds were diverted from legitimate investments into fake ones, the value of the Trusts' portfolio declined precipitously to the point where the funds remaining were no longer able to generate the necessary income for the Trusts' beneficiary. The income was intended to be sufficient to pay for the health care and housing needs of Margaret S. Stone, the Trusts' beneficiary. Because insufficient income was being generated, the trustees have been forced to withdraw principal from the Trusts, further diminishing its value, and draw on other sources of money to support the Trusts' beneficiary. On information and belief, other class members similarly had their savings decimated by the same grossly negligent and willful misconduct of State Street, resulting in tens of millions of dollars of collective losses.

11. Based on the foregoing, Plaintiff, individually and on behalf of all others similarly situated, brings this class action against Defendant for breach of contract, gross negligence, negligent misrepresentation, unjust enrichment, breach of fiduciary duty, and aiding and abetting breach of fiduciary duty.

II. PARTIES

12. Plaintiff Heather Davies is an individual residing in Annandale, Virginia, and a trustee of the Stone Family Trusts.

13. The Stone Family Trusts are comprised of the Margaret S. Stone Living Trust (“Living Trust”), a trust created under the laws of the State of Washington, and the Margaret S. Stone GST Exempt Marital Trust (“Marital Trust”), a trust created under the laws of the State of California. Plaintiff Heather Davies serves as a trustee for both of the Trusts, which have interlocking boards of trustees.

14. Defendant State Street Bank and Trust Company is a trust company organized and existing under the laws of the Commonwealth of Massachusetts. State Street maintains its principal place of business in Boston, Massachusetts. State Street is the predecessor-in-interest to Investors Bank & Trust Company, a company that was based in Boston, Massachusetts.

III. JURISDICTION AND VENUE

15. This Court has original jurisdiction over this action between the Trusts and State Street pursuant to 28 U.S.C. § 1332(a) because there is complete diversity between Plaintiff and Defendant, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

16. This Court also has original jurisdiction over this class action pursuant to 28 U.S.C. § 1332(d). Plaintiff as well as other members of the class are citizens of a different state than Defendant. 28 U.S.C. § 1332(d)(2)(A). In addition, the claims of the members of the Class exceed the jurisdictional minimum amount in controversy of \$5,000,000 in the aggregate, exclusive of costs and interests. 28 U.S.C. § 1332(d)(2) and (6).

17. The Court has jurisdiction over Defendant because State Street maintains its principal headquarters in Boston. Defendant conducts business in Massachusetts, and otherwise intentionally avails itself of jurisdiction in Massachusetts by conducting business in this

Commonwealth, rendering the exercise of jurisdiction by this Court as appropriate. Venue is proper in the District of Massachusetts pursuant to 28 U.S.C. § 1391 because Defendant is domiciled in this District and/or because it conducts substantive business in this District, or otherwise has sufficient contacts with this District to justify being fairly brought into a court in this District.

IV. FACTUAL ALLEGATIONS

A. The Stone Family Trusts

18. The Stone Family Trust was created in 1974 and amended in 1995 to create The Margaret S. Stone Living Trust, for the support of Margaret S. Stone during her life. In 2003, the Living Trust held approximately \$1.5 million in assets under management. As of mid 2011, the Living Trust had approximately \$690,000 in assets under management.

19. Margaret S. Stone GST Exempt Marital Trust was established in 1982 pursuant to the Stone Family Trust Agreement for the health and support of Margaret S. Stone. In 2003, the Marital Trust held approximately \$363,000 in assets under management. As of mid 2011, the Marital Trust had approximately \$263,000 in assets under management.

B. James Tagliaferri and the Taurus Advisory Group

20. In 2002, SFT hired the Taurus Advisory Group, (“TAG”) to be the investment manager for the Trusts. TAG was based in Stamford, Connecticut, and provided investment counseling and advisory services. TAG was founded in 1985 by James Tagliaferri.

21. The terms of the engagement were set forth in an Investment Management Agreement (“IMA”) signed between TAG and the Trusts. The IMA stated that TAG would provide services in accordance with the “investment objectives of the Client during the term of this Agreement.” The preamble of the IMA states that the Trusts’ goals are “income and safety.”

In fact, the main objectives of the Trusts were to provide income and long-term care for Margaret S. Stone, and to grow principal by investing in blue-chip stocks and high-quality tax exempt bonds. The trustees understood that the Trusts could expect a return of approximately 6-7% annually, which would be sufficient to generate at least \$48,000 annually to meet Ms. Stone's income needs. Other class members also entered into IMAs with TAG.

22. Initially, it appeared that the Trusts' portfolios performed pursuant to the stated investment guidelines of being safe and providing income to the Trusts and that the portfolios of other class members performed pursuant to their stated goals.

23. However, by at least 2007, and unbeknownst to the Trusts or other class members, TAG unscrupulously began liquidating the Trusts' and class members' more conservative investments and replaced them with investments in suspect, high-risk, and illiquid securities, as well as real estate and personal loan instruments (including sub-notes of the personal loan instruments), primarily for the purpose of benefitting TAG.

24. For example, TAG diverted the Trusts' conservative and low-risk investments into thinly traded stocks and securities, including but not limited to investments such as those in Fund.com, a thinly traded enterprise with widely fluctuating valuations that purported to be a "provider of fund management products and risk management solutions" that originated, marketed and sold actively managed Exchange-Traded Funds. While Fund.com was valued at \$10/share approximately one year ago, it has since been delisted and is worth less than .08/share. TAG also placed the Trusts in investments in International Equine Acquisitions Holdings Inc. ("IEAH"), a horse-racing stable that was purportedly going to be established as an equine hedge fund to finance the purchase of thoroughbreds, for whom James Tagliaferri was a board member,

and for whom TAG allegedly received secret kickbacks and whose CEO had previously been actively engaged in securities fraud.

25. While the IMAs provided investment management services for the Trusts and other class members, the IMAs stated that “[a]ll transactions in the Portfolio shall be carried out through such custodian(s) as the Client shall designate[.]”

C. The Retention of Defendant and the Relevant Provisions of the Custody Agreements

26. Consistent with the IMAs entered into between the Trusts and other class members with TAG, the Trusts and other class members retained IBT, State Street’s predecessor-in-interest, at the suggestion of James Tagliaferri and TAG, to serve as custodian for their accounts.¹

27. A custodian bank such as State Street is retained by clients specifically for the purpose of safeguarding an individual’s financial assets, and it has a specific and limited role that does not involve actual selection of investments or management of account assets. To the contrary, the role of the custody bank is to safeguard and record movement of the assets, including holding assets and securities in safekeeping with appropriate valuations, arranging settlement of all purchases and sales and deliveries in and out of the account, administering corporate actions for securities, and maintaining and managing all cash transactions, including foreign currency transactions. Finally, the custody bank provides regular reports to clients on all of the activities it undertakes as to a client’s accounts.

28. State Street’s Global Services division manages its “Custody” services department. In relevant part, State Street markets its custody services to potential clients by touting its custodial division’s superior services:

¹ State Street acquired IBT in 2007.

Safekeeping. We provide world-class custody and recordkeeping of assets through our relationships with local depositories, sub-custodians and agent banks.

Network Management and Information Services. Our network of providers and market infrastructures is managed with an emphasis on quality, risk management, transparency, market intelligence and leadership.

....

Reporting Services. Our reporting capabilities provide you with real-time views into the details of your custody transactions, including trade status, asset positions, cash forecasting, intraday cash reporting and daily and monthly priced holdings. . . . We work closely with you to create a customized solution, delivering operational efficiencies and greater transparency to your business.²

29. The purpose of the Trusts' agreement (also referred to herein as the "Custody Agreement") with IBT was to "establish a Custody Account ... for the purpose of holding or disposing of any property ... received by IBT for [the Trusts]." Similarly, other class members established custody accounts with Defendant to hold or dispose of their assets.

30. Pursuant to paragraph 13 of the Custody Agreement titled "Instructions of the Undersigned," Defendant had a duty to "accept and rely upon all instructions, which you [IBT] believe in good faith are given by or on behalf of the undersigned under the terms of this Agreement." In addition, with respect to liability, paragraph 13 provides:

You [IBT] shall incur no liability to the undersigned or otherwise as a result of any act or omission by you in accordance with instructions on which you are authorized to rely pursuant to the provisions of this section unless your reliance is the result of your gross negligence or willful misconduct.

31. Paragraph 20 of the Custody Agreement titled "Custodian Responsibility" similarly states:

(B) Liability and Indemnification

² State Street Global Services, Custody Overview, <http://www.statestreetglobalservices.com/wps/portal/internet/ssgs/home/capabilities/custody/overview/!ut> (last visited on Jan. 19, 2012).

You [IBT] shall not be liable to any of the undersigned for any loss suffered by the undersigned (including reasonable attorney's fees) in connection with, arising out of, or in any way related to the transactions contemplated under this Agreement, unless such loss is caused by your gross negligence or willful misconduct.

32. Paragraphs 14, 15, 19, and 20 also set forth the scope of Defendant's authority, and duties to the Trusts.

33. Paragraph 14, titled "Authority of Advisor Broker/Agent" provides in relevant part:

Authority of Advisor Broker/Agent

You [IBT] are hereby authorized without further approval from the undersigned [the Trusts] to act upon the following instructions, this authorization to continue in full force and effect until you receive written notice from the undersigned of the revocation thereof:

(A) Instructions of the Undersigned's Advisor: Taurus Advisory Group

To sell, deliver or exchange any securities or other property against receipt by you of such payment set forth in such instructions and to purchase or receive securities and make payment therefore as set forth in such instructions.

34. Paragraph 15, in a sub-section titled "Principal" provides:

The proceeds of sales and redemptions and other receipts monies, other than income, collected in accordance with the instructions of the undersigned are to be credited to the principal division of the Account.

35. Paragraph 19, titled "Statement of Account" provides:

A statement of all transactions in the Account, with a list of the securities held in the Account, including current market value, if available to you [IBT], shall be rendered monthly.

36. Paragraph 20, titled "Custodian Responsibility" provides:

All collection and receipt of funds or investments and all payment and delivery of funds or investments under this Agreement shall be made by you [IBT] as the agent of the undersigned, for the account of, and at the risk of, the undersigned.

37. Defendant's fee arrangements with the Trusts are dependent upon a proper calculation of assets under management and are set forth in Paragraph 16, titled, "Special Instructions" and state that Defendant's fee is "equal to five basis points annually (.0005), payable quarterly, in arrears: . . . Minimum annual fee is \$800, for \$400 for related accounts."

38. Finally, the Custody Agreement specifies what entities are authorized to be sub-custodians of assets. Paragraph 7, titled "Investments and Funds Held Abroad" provides:

The undersigned authorizes you [IBT] to hold cash and investments for the Custody Account in accounts, which have been established by you with one of your branches, or with one or more sub-custodians. "Subcustodian" means a branch of another U.S. bank, a foreign bank acting as custodian or a foreign securities depository in which you participate.

39. On information and belief, the custody agreements that IBT and Defendant entered with other putative class members were substantially similar with regard to the scope of Defendant's duties and responsibilities, and the liability of Defendant for gross negligence and willful misconduct.

D. State Street's Grossly Negligent and Willful Misconduct

40. As the trustees closely scrutinized TAG's investment management of the Trusts' portfolios, they uncovered a tangled web of suspect deals and investments that TAG had no authority to acquire under the IMAs between TAG and the Trusts.

41. Plaintiff's due diligence also revealed the following illustrative misrepresentations, gross negligence, and willful misconduct by State Street in their preparation of monthly account statements and custody of the assets for the Trusts that served to conceal the illegitimate investments and transactions being initiated by James Tagliaferri and TAG personnel from the trustees. Upon information and belief, all other class members were subjected to the same misrepresentations, gross negligence, and willful misconduct by Defendant in the handling of their accounts.

(i) **State Street Puts Fake CUSIPs On Monthly Account Statements**

42. State Street prepared monthly account statements for the Trusts and other class members. The account statements contained certain standard information on each customer's account statement, including a category for the "CUSIP" for each asset in the accounts.

43. The following image is a copy of a portion of one page from State Street's monthly account statements form, which shows the information State Street provided as to each investment in Plaintiff and class members' accounts.

STATE STREET. MARGARET S. STONE LIVING TRUST
Account Number [REDACTED]

Account Holdings
As of November 30, 2007
Page 3 of 4

| Shares/ Units | Description | CUSIP | Tax Cost | Current Price | Market Value | Percent of Total | Estimated Annual Income | Current Yield |
|------------------|-------------|-------|-------------|------------------|-----------------|---------------------|-------------------------------|------------------|
|------------------|-------------|-------|-------------|------------------|-----------------|---------------------|-------------------------------|------------------|

44. On each monthly statement, State Street provided CUSIPs for all the investments the Trusts and class members held for which State Street was providing custody.

45. However, a substantial amount of the CUSIPs listed by State Street were not the legitimate, marketable, and registered securities that Defendant purported them to be when it listed the CUSIPs on the statements. Instead, many of the CUSIPs were fake, as borne out by the suspect, high-risk, and illiquid securities that they were later revealed to be.

46. Plaintiff's investigation has revealed the following examples of CUSIPs on the Trusts' monthly account statements that were all false:

| | |
|-----------|---|
| 912VEMII8 | 1920 Bel Air LLC |
| 0451669B3 | Asia Special Acquisition Corporation Sub-note |
| 0451669C1 | Asia Special Acquisition Corporation Sub-note |
| 04599E9K6 | Asia Special Situation Acquisition |
| 04599E9N0 | Asia Special Situation Acquisition |
| 99999AUD2 | Australian Dollars |
| 0827519B6 | Blood Cell Storage Inc. |
| 929KBZII7 | Blood Cell Storage Inc. |
| 989SRFII4 | Blood Cell Storage Inc. |

| | |
|-----------|------------------------------------|
| 993263995 | Commonwealth Bank of Australia |
| 929PSCII9 | Drexel Holdings Ltd Note |
| 2617879H0 | Drexel Holdings Note |
| 913ESC992 | Escrow United Utilities PLC ADR |
| 360769103 | Fund.com Inc |
| 99B0G81P0 | GECC (LU) |
| 3686019A0 | Gemini Consulting GP PN |
| 997585773 | General Electric Capital Corp |
| 37299G9Q1 | Geomax Int'l Ltd Note |
| 37399C9D8 | Geomax Ltd Note |
| 4594629F6 | IEAH Conv Sub-Note |
| 4594629T6 | IEAH Inc. |
| 99B07RZN6 | Int'l Bank Recon & Dev |
| 99B0S6122 | Landwirt Rentenbk (CH) |
| 99B0LLCY4 | LBK Baden-Wurt |
| 939WHAII8 | Nat'l Digital Med Arch Inc. |
| 993421767 | Nestle Fin Fr Sa |
| 99999Nzd9 | New Zealand Dollars |
| 707884102 | Penn Virginia Resource Partners LP |
| 4594629E9 | PN-Int'l Equine ACQ |
| 1507979A8 | PN-Marvin Ceder |
| B05J90904 | Real Brand Holdings LTD |
| 85599C9D5 | Stanwich ABS Ret Ltd Nt |
| 616761904 | White Energy Co Ltd |

47. On information and belief, the CUSIPs that Defendant put on other class members' monthly account statements were also fake.

48. Significantly, Plaintiff only learned that these CUSIPs were fake (after Plaintiff's accounts had been depleted through mismanagement of the assets) when Plaintiff attempted to transfer the remaining assets held by State Street and managed by TAG, to separate accounts at Wells Fargo.

49. Plaintiff approached Wells Fargo in March 2010 to request transfer of all assets in the Trusts to Wells Fargo accounts. Plaintiff sent copies of the Trusts' account statements to Wells Fargo and within a few days the Wells Fargo representative informed Plaintiff that he had heightened concerns regarding the investments of the Trusts that Plaintiff should consider with some urgency. Specifically, he had checked the CUSIPs of the investments listed on the

statement and determined that many of them were not marketable securities. The Wells Fargo representative stated that it appeared that the numbers were not actually CUSIPs—surmising that the codes listed in the CUSIP column were perhaps instead some identification number assigned by State Street. Because the majority of the investments held in the Trusts’ accounts did not actually have CUSIPs, the Wells Fargo representative stated that he could not value those investments, and therefore, Wells Fargo would not accept their transfer into a Wells Fargo account.

50. After learning that the CUSIPs listed on her monthly account statements were not in fact valid CUSIPs, Plaintiff asked State Street about the numbers that were listed in the Trusts’ account statement as CUSIPs. A State Street employee then informed Plaintiff for the first time that the codes listed under the heading “CUSIP” on the monthly account statements were not CUSIPs but instead identification numbers assigned by State Street.

51. To the extent State Street itself did not assign the numbers it identified as CUSIPs to the investments, there are numerous ways that State Street could have sought to verify the CUSIPs that it placed on the monthly account statements, and in so doing, it would have been alerted that they were fake and/or not CUSIPs.

52. Defendant’s use of fake CUSIPs was significant because the Trusts and other class members relied upon the CUSIPs and representations in the statements that the assets they owned were real securities to their detriment, as the Trusts would not have approved the investments made on their behalf had State Street exercised the most basic level of care to confirm whether the CUSIPs were in fact real and/or had not fabricated them.

53. Further, over time, TAG increased the Trusts’ holdings in unmarketable, unregistered, and illegitimate securities by divesting the Trusts’ legitimate securities. For

example, the Living Trust was invested in Fording Canadian Coal Trust (“Fording Coal”), a company based in Calgary, Alberta, that produced coal for steel production. Unbeknownst to Plaintiff, TAG sold the Trust’s interest in Fording Coal and used the proceeds to acquire an interest in an entity known as White Energy Co. Ltd. (“White Energy”), which turned out to be an investment of questionable legitimacy, but was nevertheless *falsely* listed by *State Street* as a security with a real CUSIP.

54. Shortly after TAG’s disposition of the Living Trust’s interests in Fording Coal, Teck Cominco Ltd., a Vancouver, British Columbia-based zinc producer, purchased 100% of Fording Coal’s assets. The purchase agreement provided dividends to shareholders of Fording Coal as well as a per share consideration for disposition of units of \$85 per share. Because the Trust was no longer invested in Fording Coal when the purchase agreement was closed, the Trust could not avail themselves of the proceeds of the sale, which would have amounted to approximately \$190,000 based on the number of shares the Trust held prior to its sale. White Energy, in contrast, netted approximately \$1400 for the Trust. Therefore, the Trust’s investment in a high income asset was converted into an asset that effectively yielded no return.

55. Based on information and belief, the Trusts and other class members owned a number of other investments managed by TAG that TAG disposed of to acquire illegitimate investments that were then represented by State Street as legitimate securities as reflected by the CUSIPs contained in the monthly account statements.

(ii) **State Street Makes Improper Transfers of Assets Out of Clients’ Custody Accounts**

56. In addition to including fake CUSIPs on the Trusts’ and class members’ monthly account statements, Defendant made improper transfers of assets from their accounts in violation of the Custody Agreements.

57. For example, as previously stated, paragraphs 13, 14 and 20 of the Custody Agreement set forth the conditions upon which Defendant could deliver funds or investments out of the Trusts' accounts and to whom those assets could be transferred to.

58. In violation of the Custody Agreement, Defendant made unauthorized transfers out of the Trusts' accounts and other class members' accounts not as disbursements to the beneficiaries of the Trusts, nor as a payment for any security returned to the trust. Rather, these transfers were made to Mr. Tagliaferri, to unknown banks or entities, or in some circumstances, to "no one" as stated on the monthly account statements. The monthly account statements also reveal that Defendant made transfers to legitimate banks not authorized to receive money for the beneficiaries of the Trusts.

59. For example, in October of 2008, Defendant authorized a cash disbursement "transfer to another account paid for no one" "wire for deferred comp note" in the amount of \$48,500 from the Living Trust. No security was received in October by the Living Trust for this cash disbursement, nor was the account that the transfer was made to identified beyond the statement "paid to #PROCO2." Therefore, this was an unauthorized transfer of cash out of the account.

60. In September of 2009, Defendant authorized a cash disbursement paid to "Bank of America, Wire at Request of Client For the Purchase of an UMS Partners Note" in the amount of \$80,000 from the Living Trust. While Bank of America is a legitimate bank, disbursements to the Trusts' beneficiary through Bank of America had not been authorized since 2005, nor did the Trusts ever receive a "UMS Partners Note" as stated on the account statement. Therefore, this was an unauthorized transfer of cash out of the account.

61. Similarly in September of 2009, Defendant authorized a cash disbursement paid to “Paid to Bank of America, Wire at Request of Client For the Purchase of an UMS Partners Note” in the amount of \$80,000 from the Marital Trust. As stated above, disbursements to the beneficiaries at Bank of America had not been authorized since 2005, nor did the Trusts ever receive a “UMS Partners Note.” This transaction was an unauthorized transfer of cash out of the account.

62. Because the Trusts’ and other class members’ accounts with Defendant created a fiduciary duty on the part of State Street, and the trustees of SFT had not expressly authorized Defendant to make such transfers, these improper cash transfers out of custodial accounts managed by Defendant constituted a breach of the Custody Agreement, and a derogation from Defendant’s duty of care and loyalty as custodian.

63. Further, as a custodial bank, Defendant had a duty to prepare suspicious activity reports to submit to the Department of Treasury and other law enforcement agencies in accordance with the Bank Secrecy Act (*See* 31 U.S.C. §§ 5311-5330; 12 C.F.R. Ch. III). When an investment manager with numerous custody clients, such as James Tagliaferri and TAG engages in the aforementioned improper transfers of custody clients’ assets, State Street had a duty to report the suspicious behavior regardless of the amounts involved in the transactions. The rapid portfolio turnover, unauthorized cash transfers, as well as assets in foreign currency and foreign securities that Tagliaferri and TAG requested that State Street execute on behalf of its custody clients created a duty upon State Street to report the suspicious activity. Given that TAG was able to pilfer the Trusts’ and class members’ accounts for some period of time before State Street took any action, Plaintiff believes that State Street may have breached its duty to report and investigate as required by the Bank Secrecy Act.

64. Upon information and belief, Defendant executed numerous unauthorized transfers of cash from other class members' custody accounts to James Tagliaferri, TAG, or his associates, without returning securities to its clients' accounts, in derogation of the custody agreements and its legal duties and obligations as a custodian.

(iii) **State Street Fails to Properly Execute and Settle Account Transactions**

65. As custodian for the Trusts' and class members' assets, Defendant had a duty to properly record and settle Trusts' and class members' accounts in order to ensure that all assets were properly custodied.

66. On a number of occasions however, assets were never received into custody or settled, transactions were purportedly executed—such as the sale of an asset—but the same asset would still be on the Trusts' account statement at month's end. Finally, transactions in various securities occurred with no money or shares actually entering or leaving the accounts.

67. As stated above, there were at least two cash disbursements that were executed on behalf of the Trusts where the Trusts were to receive a "UMS Partners Note" but no such note was ever received into custody for the Trusts.

68. In another instance of failure to properly record and settle account transactions, on April 15, 2010, the Marital Trust received \$25,000 in proceeds from repayment of a "Gemini" Note. However, in the account statement for April 30, 2010, the Gemini note is still listed as an investment of the Marital Trust with a value of \$25,000.

69. Similarly, in August of 2009, State Street purportedly "distributed" \$25,000 dollars for a Stanwich Note that had matured July 28, 2009, and the same day "received" \$25,000 dollars for a new Stanwich Note to mature January 31, 2010. In fact, no principal entered or left the account which would have been required to properly settle and execute the

transaction if the money had been received for the maturation of one note, and disbursed to obtain a new note. However, no such transactions apparently took place.

70. Upon information and belief, Defendant failed to execute and settle numerous transactions in Plaintiff and class members' accounts in derogation of the custody agreements and its legal duties and obligations as a custodian.

(iv) **State Street Fails to Properly Custody Assets and Promissory Notes**

71. As custodian for the Trusts' and class members' assets, Defendant had a duty to safeguard the Trusts' and class members' financial assets, including the proper custody of assets and oversight of sub-custodians where appropriate.

72. Sub-custodian banks are utilized by custodian banks to hold assets on a client's behalf. Often times, sub-custodian banks provide custodial services with respect to securities, notes and/or other investments traded in a particular market or jurisdiction on behalf of a custodian who may not have an operation in a particular jurisdiction.

73. When a custodian retains a sub-custodian bank, the custodian bank is generally responsible for providing asset safety and should engage in adequate risk assessment to ensure that the assets transferred and held by sub-custodians are not subject to risk. Significantly, regulation of sub-custodian banks and entities prior to 2008 was at best minimal and at worst non-existent.

74. Further, the custody agreement required in Paragraph 7 that a sub-custodian be "a branch of another U.S. bank, a foreign bank acting as custodian or a foreign securities depository in which you [IBT or State Street] participate."

75. On information and belief, Defendant has retained and currently retains sub-custodians to hold the Trusts' and class members' assets, some of whom do not meet the contractual definition of a sub-custodian.

76. In addition, despite having a fiduciary duty to safeguard the assets of the custodial accounts of the class, Defendant has failed to properly monitor the assets. This occurred both when the assets were transferred to a sub-custodian, and when they were purportedly in State Street's possession.

77. For example, historically the Trusts' and other class members monthly account statements showed that the Trusts were invested in notes held by a sub-custodian by marking those investments with the letter "R" on the statements.

78. The Trusts hold \$125,000 in four notes purportedly issued by Blood Cell Storage, Inc. Further, State Street initially indicated by putting an "R" next to each note on the statement that "some or all of this holding is not held in custody at State Street Bank & Trust Company," thereby indicating to the Trusts that State Street had engaged a sub-custodian.

79. This same designation regarding the custody of the Blood Cell Storage notes (and other notes on Plaintiff's statements and the statements of other class members) with an "R" continued until February of 2010, when State Street's account statements abruptly changed to reflect that "R" no longer meant what State Street had previously indicated it meant.

80. As of February 2010, the newly-revised State Street account statements included two pages of boilerplate disclaimers about the information contained on the Defendant's monthly account statements, including the following statement regarding the actual location of the custodied assets that State Street had previously indicated were held in custody, or by a sub-custodian:

Assets on this statement described as “held at source”: Assets that SSC has agreed to reflect on your accounting statement at your request, but are not held in custody by SSC. Information provided on this account statement in connection with such held at source assets was not provided or verified for accuracy by State Street. These assets are displayed for informational purposes only. “R” indicates Held at Source.

The account statement further said: “Information provided on this account statement in connection with such held at source assets was not provided or verified for accuracy by State Street. These assets are displayed for informational purposes only.”

81. Notwithstanding these representations on the account statements, Plaintiff learned in January of 2011 that State Street *did* in fact have custody of the Blood Cell Storage sub-notes held by the Trusts and that the actual note between the Maker (Blood Cell Storage) and the Payee (the Trusts) was held by TAG.

(v) **State Street Fails to Inform Clients That They Hold Sub-Notes Signed by TAG**

82. Under the category of “Other Assets” on their monthly account statements, State Street purportedly custodied numerous notes for the Trusts. What the account statement description failed to inform the Plaintiff, and other class members of, was the fact that these notes were often not notes, but sub-notes that had been made and signed by James Tagliaferri and TAG.

83. First, in the case of sub-notes, the designation of a security as a sub-note was only rarely reflected on Plaintiff and class members’ monthly account statements with the cryptic designation “SUB” somewhere in the description of the security. More frequently, the asset description on the account statement would simply say, for example, “Blood Cell Storage Inc. 12% 1 /22/12.”

84. These “sub-notes” are in reality highly risky, illiquid securities, and often times were also listed by Defendant with fake CUSIPs on class members’ account statements. In fact,

Plaintiff's investigation has revealed these "sub-notes" were purportedly issued between Plaintiff and the entity that issued the note, but had never been signed by any representative from that entity.

85. For example, while Plaintiff initially understood that the Trusts held four notes issued by Blood Cell Storage in the amount of \$125,000, these Blood Cell Storage notes were actually sub-notes which Plaintiff confirmed after she was able to finally obtain copies of the sub-notes from State Street. Upon obtaining copies of the sub-notes, Plaintiff was shocked to learn that the sub-notes had been signed *only* by James Tagliaferri, as President of TAG Virgin Islands, a fact that State Street had access to throughout the duration of its custody of the assets, but never revealed to its clients.

86. Geoff Holmes, CEO of Blood Cell Storage who had signed the underlying \$250,000 note between Blood Cell Storage, Inc., and TAG Virgin Islands, was also on the board of, or involved in some way with the following entities: White Energy, Asia Special Acquisition, Fund.com, and IEAH. The Trusts and other class members were placed in investments in all of these entities, all of which had fake CUSIPs.

(vi) **State Street Provides Improper Valuations for Custody Account Clients**

87. Beginning in 2010, the Trusts repeatedly requested that the Blood Cell Storage sub-notes, and other improper investments be divested from their accounts. As of the filing of this complaint, no divestment has taken place, and in April of 2011, State Street admitted for the first time on the monthly statements that its valuation of the Blood Cell Storage sub-notes on the Trusts' monthly account statements had not been verified for a period of six months (since November of 2010). After misrepresenting to the Trusts in their account statements for almost one and a half years (*i.e.* from August 2009 to March 31, 2011) that the market value of these

notes was \$125,000, State Street abruptly changed course in April 2011, dropping the market value of the notes from \$125,000 to zero. Adding insult to injury, State Street had charged the Trusts and other class members quarterly for fees based upon an inflated assets under management figure to custody the Blood Cell Storage sub-notes, as well as other valueless investments.

88. But for Defendant's failure to adequately monitor and report on the custody arrangements for its clients' assets held with sub-custodians, including not informing clients when their sub-notes were written by their investment manager, and failing to obtain proper asset valuations for assets it was holding in custody, the Trusts and other class members would have divested their investments in these illegitimate securities.

V. CLASS ACTION ALLEGATIONS

89. Plaintiff and the putative class reallege the proceeding paragraphs as if fully set forth herein.

90. This class action is brought under Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(2) and/or (b)(3). Plaintiff brings this action on behalf of the following nationwide class:

All persons, trusts, and/or entities located within the United States who, at any time from January 22, 2006 to present, were clients of James Tagliaferri or TAG, who entered into a custodial relationship with State Street Bank and Trust Company ("State Street"), including all predecessors-in-interest, subsidiaries, or affiliate entities, and suffered damage as a result of State Street's gross negligence and/or willful misconduct. Excluded from the class are Defendant, Defendant's predecessors-in-interest, subsidiaries, affiliate entities, agents, parents, employees, officers, directors, and immediate family members, as well as any person, firm, trust, corporation, or other entity related to or affiliated with TAG. Also excluded from the class are any judges or judicial officers (including their staff) presiding over this matter and their immediate families.

91. Plaintiff reserves the right to modify the class definition before moving for class certification, including a reservation of right to seek to certify subclasses of State Street's TAG custodial clients, or other custodial clients of State Street, if information gained during this

litigation, through discovery or otherwise, reveals that modifying the class definition or seeking subclasses would be appropriate.

92. Plaintiff does not know the exact number of class members, because such information is within the exclusive control of State Street. However, Defendant has served as custodian to numerous custodial accounts managed by TAG. In addition, the members of the class are so numerous and geographically dispersed that joinder of all members is impracticable.

93. Defendant has acted in a manner generally applicable to each class member, and there are common questions of law and fact to the class that affect all class members, including but not limited to the following:

A. Whether Defendant provided fake CUSIPs to each member of the class, and represented to each class member that it owned and held legitimate, marketable and registered securities on their behalf, and whether such misrepresentations rise to the level of gross negligence or willful misconduct under the terms of the Custody Agreements entered into between Defendant and each member of the class;

B. Whether Defendant sold, delivered, or exchanged securities belonging to each member of the class without proper authorization, and whether such improper transfers rise to the level of gross negligence or willful misconduct under the terms of the Custody Agreements entered into between Defendant and each member of the class;

C. Whether Defendant failed to properly execute and settle account transactions despite its duty to properly record and account for all transactions of the Trusts as custodian, and whether such conduct rises to the level of gross negligence or willful misconduct under the terms of the Custody Agreements entered into between Defendant and each member of the class;

D. Whether Defendant failed to monitor sub-custodians and failed to account for the risk involved with retaining sub-custodians to hold sub-notes, and whether such conduct and failure to safeguard the Trusts' assets despite its duty to do so rises to the level of gross negligence or willful misconduct under the terms of the Custody Agreements entered into between Defendant and each member of the class;

E. Whether Defendant failed to inform Plaintiff and each member of the class that they held sub-notes that had been created and signed by James Tagliaferri and TAG rather than the notes' maker;

F. Whether Defendant provided improper valuations to Plaintiff and each member of the class in their monthly statements and whether such conduct and failure to fulfill basic custodial duties rises to the level of gross negligence or willful misconduct under the terms of the Custody Agreements entered into between Defendant and each member of the class;

G. Whether Defendant's violations of the terms of the Custody Agreements entered into with each member of the class constitutes a breach of contract;

H. Whether Defendant breached its duty of providing even scant care to its custodial clients, thereby constituting gross negligence;

I. Whether Defendant's conduct of providing fake CUSIPs in each class member's monthly account statement constitutes negligent misrepresentation;

J. Whether Defendant's conduct of representing that it was monitoring sub-custodians and holding notes on a client's behalf, when it was holding sub-notes constitutes negligent misrepresentation;

K. Whether Defendant's conduct of representing that it had executed and settled transactions and obtained account valuations when it had not constitutes negligent misrepresentation;

L. Whether Defendant has been unjustly enriched by its conduct, in which class members paid annual custody fees to Defendant in connection with their custodial accounts based on inflated account valuations for non-marketable securities with fake CUSIPs;

M. Whether Defendant breached its fiduciary duty of loyalty by failing to act in the best interests of the account holders when it put fake CUSIPs on the class members' statements, and made unauthorized transfers from its custody accounts;

N. Whether Defendant breached its fiduciary duty of exercising reasonable skill and care when it put fake CUSIPs on the class members' statements, made unauthorized transfers from its custody accounts, failed to properly monitor sub-custodians as evidenced by the illegitimate sub-notes held by the sub-custodian network it retained, and permitted sub-custodians not approved by the Custody Agreement to hold client assets;

O. Whether Defendant aided and abetted a breach of fiduciary duty by James Tagliaferri and/or TAG by failing to conduct due diligence when it knew or should have known of the investment manager's breach of fiduciary duty to each class member;

P. Whether Plaintiff and the members of the Class have been damaged by Defendant's conduct described herein, and if so, whether Plaintiff and the Class are entitled to injunctive relief; and

Q. Whether Plaintiff and the members of the Class have been damaged by Defendant's conduct described herein, and if so, the measure of those damages and the nature and extent of other relief that should be afforded.

94. Plaintiff's claims are typical of the claims of the other members of the class in that all members of the class have been harmed in substantially the same way by Defendant's conduct.

95. Plaintiff is an adequate representative of the class. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in complex litigation of this nature. Plaintiff seeks no relief that is antagonistic, adverse, or otherwise contradictory to other members of the class.

96. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. The prosecution of separate actions by individual members of the class would create the risk of inconsistent or varying adjudications with respect to individual members of the class. In addition, litigation on an individual basis could be dispositive of the interests of absent class members, and substantially impair or impede their ability to protect their interests.

97. Plaintiff does not anticipate any difficulty in managing this action as a class action. The identities of the class members are either known by Defendant or will be revealed through discovery, and the measure of monetary damages can be calculated from Defendant's records. This action poses no unusual difficulties that would impede its management by the Court as a class action.

VI. CAUSES OF ACTION³

COUNT 1 – BREACH OF CONTRACT

98. Plaintiff incorporates and realleges paragraphs 1 through 97 as if fully set forth herein.

99. Defendant entered into custody agreements with Plaintiff, as well as other members of the class, for the specific purpose of holding and safeguarding client assets.

100. The custody agreements are valid and enforceable contracts.

101. All custody agreements were supported by valid consideration because Plaintiff and the other members of the class paid Defendant fees to serve as custodian for their accounts.

102. Defendant breached the custody agreements when it acted with gross negligence and/or willful misconduct by listing fake CUSIPs on the monthly account statements.

103. CUSIPs are the hallmark of a *bona fide* security, and as custodian for the Trusts' accounts, Defendant had a basic duty, as required by the Custody Agreement, to not act with gross negligence and/or willful misconduct. By representing to the Trusts that the securities Defendant held on the Trusts' behalf were legitimate, marketable, and registered securities, Defendant breached its Custody Agreement.

104. The State Street account statements of all class members contained a column header for "CUSIP." Based upon information and belief, State Street knew that the numbers were fake because it had either assigned the numbers to the illegitimate securities itself, or it had failed to verify the numbers when it placed them on its clients' monthly account statements.

³ On January 20, 2012, Plaintiff served a pre-suit demand notice on State Street Bank and Trust Company, alleging that Defendant has also violated Massachusetts General Law, Ch. 93A, § 9 ("Chapter 93A"). Plaintiff hereby reserves all rights to amend this class action complaint to add a count alleging Chapter 93A violations should State Street not respond within thirty days.

105. Defendant breached the custody agreements when it acted with gross negligence and/or willful misconduct by improperly transferring cash from the accounts of Plaintiff and other class members to James Tagliaferri, his associates, or other unknown entities, that did not result in any disbursement to beneficiaries of the custody accounts.

106. Defendant breached the custody agreements when it acted with gross negligence and/or willful misconduct when it failed to properly execute and settle account transactions despite its duty to properly record and account for all transactions as custodian.

107. Defendant breached the custody agreements when it acted with gross negligence and/or willful misconduct when it was unable to track or confirm the actual custody of assets that were within class members' custody accounts, but had been custodied with sub-custodians, such as TAG.

108. Defendant breached the custody agreements when it acted with gross negligence and/or willful misconduct by retaining or allowing James Tagliaferri and/or TAG to act as a sub-custodian for notes or sub-notes that it was holding in custody for Plaintiff and its other custodial clients, in derogation of the definition of a sub-custodian under the agreement because Tagliaferri and TAG were not "a branch of another U.S. bank, a foreign bank acting as custodian or a foreign securities depository in which [IBT or State Street] participate[d]."

109. Defendant breached the custody agreements when it acted with gross negligence and/or willful misconduct by relying upon the instructions of James Tagliaferri and/or TAG when it did not have a good faith basis for such reliance in light of the fake CUSIPs and non-standard custody account activity that it was asked to execute, including improper transfers of cash from its clients' accounts, and missing or misplaced notes and sub-notes of clients.

110. Defendant breached the custody agreements when it acted with gross negligence and/or willful misconduct by misrepresenting to the Trusts and class members inflated valuations of assets and when it relied upon stale security valuations from TAG that it knew had not been verified for at least six months, and it knew or should have known were illegitimate investments.

111. Defendant breached the custody agreements when it acted with gross negligence and/or willful misconduct by taking excessive fees from the Trusts and other class members through the use of inflated valuations of assets to calculate its custody fees for illegitimate securities that had fake CUSIPs and when it relied upon stale security valuations from TAG that it knew had not been verified for at least six months.

112. Upon information and belief, Defendant breached the custodial agreements when it engaged in gross negligence and willful misconduct by failing to file suspicious activity reports concerning the apparent fraud and money laundering by TAG to federal regulators pursuant to the Bank Secrecy Act.

113. Plaintiff and other members of the class fully performed their obligations under the custodial agreements.

114. As a direct, foreseeable and proximate result of Defendant's breach of contract, Plaintiff and other class members sustained damages, in an amount to be determined at trial.

115. Plaintiff seeks, on behalf of the Trusts she represents as well as all other class members, an award of actual damages, and attorneys' fees and costs as provided by law.

COUNT 2 – GROSS NEGLIGENCE

116. Plaintiff incorporates and realleges paragraphs 1 through 115 as if fully set forth herein.

117. As custodian to the Trusts and other class members, Defendant had a duty to exercise reasonable care and diligence when handling transactions for the accounts and preparing monthly statements. Providing the Trusts with legitimate CUSIPs, accurately reflecting both the securities held in the account as well as any transactions undertaken with those securities, and maintaining custody of all notes are the most basic duties of a custodian.

118. Defendant breached its most basic duties to act with ordinary and reasonable care by providing Plaintiff and the class members with fake CUSIPs in their monthly account statements in a manner that was grossly negligent. Had Defendant acted with even scant care, it could have informed Plaintiff and the class members that the CUSIPs it listed on their monthly statements were fake and had not been verified but were, instead, numbers randomly assigned by State Street or TAG.

119. Had Defendant exercised even slight diligence, it would have sought to validate the CUSIPs listed on the monthly account statements of its clients, or alternatively, left the CUSIP column on the monthly statements blank. Defendant's lack of slight diligence can be compared to the actions of a similarly-situated custody representative at Wells Fargo who, when asked to accept the same securities held by Defendant, promptly and immediately checked the CUSIPs and then informed Plaintiff and the Trusts that the securities they were seeking to transfer lacked valid CUSIPs and were not, in fact, marketable securities.

120. Instead, Defendant was grossly negligent when it listed fake and unverified CUSIPs on the monthly account statements of its custody clients for years.

121. In addition, Defendant breached its duty to act with ordinary and reasonable care by improperly transferring monies out of the Trusts' and other class members' accounts without the consent of its clients, and by improperly relying upon the instructions of James Tagliaferri

and TAG when it did not have a good faith basis for such reliance in light of the fake CUSIPs it was obtaining, and other non-standard requests it was asked to execute, such that Defendant acted with gross negligence and/or willful misconduct.

122. Had Defendant acted with even scant care, it would not have executed cash transfers out of Plaintiff's custody account in amounts totaling over \$208,000 to accounts that Plaintiff had not authorized disbursements to, and for which no "deferred comp note" or "UMS partners note" was ever received by Defendant for custody. In so doing, Defendant acted with gross negligence in the exercise of its duties as a custodian. Upon information and belief, Defendant executed these unauthorized and non-standard cash transfers out of the custody accounts of numerous class members.

123. Defendant also acted with gross negligence when it (1) failed to properly execute and settle account transactions despite its duty as custodian to properly record and account for all transactions of Plaintiff and each class member; (2) failed to monitor sub-custodians and failed to account for the risk involved with retaining sub-custodians to hold sub-notes; and (3) provided improper and stale valuations to Plaintiff and each class member in their monthly account statements.

124. But for Defendant's grossly negligence and willful misconduct, the Trusts and other class members would have divested their investments in these fake securities (as borne out by the highly risky, illiquid, and ultimately illegitimate securities that they actually were) into legitimate securities that would have been consistent with the Trusts' and other clients' investment goals.

125. As a direct, foreseeable and proximate result of Defendant's failure to exercise even scant levels of care, Plaintiff and other class members sustained damages, in an amount to be determined at trial.

126. Plaintiff seeks, on behalf of the Trusts she represents as well as all other class members, an award of actual damages, and attorneys' fees and costs as provided by law.

COUNT 3 – NEGLIGENT MISREPRESENTATION

127. Plaintiff incorporates and realleges paragraphs 1 through 126 as if fully set forth herein.

128. As custodian for the Trusts and other class members, Defendant had a duty to exercise the same level of care and competence that a reasonable custodial bank would exercise under similar circumstances.

129. By providing demonstrably false information for the guidance of the Trusts and other class members in their business transactions, Defendant failed to exercise the most basic level of reasonable care and competence in obtaining and communicating information that the Trusts and class members specifically hired Defendant to obtain and communicate.

130. The Trusts and other class members reasonably relied upon Defendant's representations that their monthly account statements accurately reflected all information in their accounts, including the legitimacy of the CUSIPs listed in their statements and the accuracy of the valuations of their investments because Defendant was hired for the specific purpose of safe-keeping the assets of the Trusts and other class members.

131. In addition, Defendant failed to obtain and communicate proper information to the Trusts and other class members by improperly transferring monies out of the class members' accounts without the consent of the clients, and by improperly relying upon the instructions of

the class members' investment manager when it did not have a good faith basis for such reliance in light of the fake CUSIPs it was obtaining.

132. Defendant also negligently misrepresented to Plaintiff and each class member that Defendant was properly monitoring sub-custodians and the sub-notes they held despite the fact that such sub-notes were created and signed by James Tagliaferri and TAG, and had never been signed by the notes' maker.

133. Defendant negligently misrepresented to Plaintiff and all class members on their statements that Defendant was holding notes on client's behalf, when in fact, it was holding sub-notes, because it failed to list in the description of the assets that they were sub-notes.

134. Defendant negligently misrepresented the valuation of the assets held in the accounts of Plaintiff and all class members even though State Street knew that it had been unable to obtain and properly value the assets it was holding as custodian, and knew that the transactions that were being undertaken by TAG were highly irregular.

135. Defendant negligently misrepresented to Plaintiff and all class members that it had executed and settled transactions when it had not actually received the securities into its custody that were part of the transaction.

136. But for Defendant's negligent misrepresentations, the Trusts and other class members would have divested their investments in these illegitimate securities (as borne out by the highly risky, and illiquid nature of the securities) into legitimate securities that would have been consistent with the Trusts' and other class members' investment goals of producing income.

137. As a direct, foreseeable and proximate result of Defendant's negligent failure to exercise basic and ordinary levels of care in obtaining and communicating to the Trusts that they

in fact owned illegitimate, unmarketable, and unregistered securities, Plaintiff and other class members sustained damages, in an amount to be determined at trial.

138. Plaintiff seeks, on behalf of the Trusts she represents as well as all other class members, an award of actual damages, plus any other pecuniary losses suffered as a consequence of Plaintiff's and other class members' reliance on Defendant's misrepresentations, and attorneys' fees and costs as provided by law.

COUNT 4 – UNJUST ENRICHMENT

139. Plaintiff incorporates and realleges paragraphs 1 through 138 as if fully set forth herein.

140. The Trusts and other class members provided Defendant with a benefit by paying regular custodial fees based on asset values to Defendant in return for the custodial services it purported to provide, which included safeguarding its clients' accounts.

141. Defendant accepted these regular fees with the knowledge that it would provide basic custodial services.

142. One of these services included providing and reporting the CUSIPs and location of securities held for its custody clients.

143. Another one of these services included providing proper valuation of securities for its custody clients.

144. Numerous securities held by Defendant or its custody clients had fake CUSIPs and were later revealed to be illegitimate, valueless securities. On a monthly basis, Defendant provided a valuation for securities that had fake CUSIPs. Additionally, for a period of at least six months, and possibly longer, Defendant was unable to obtain any valuation of the securities held

in class members' accounts that were managed by TAG. During this time, Defendant continued to use stale valuations previously supplied by TAG.

145. Later, in 2011, Defendant marked numerous securities managed by TAG to a value of zero.

146. During the class period Defendant collected custodian fees from the Trusts and other class members that were calculated based upon inflated asset values that had not been properly valued.

147. By collecting these fees from Plaintiff and other class members based upon inflated asset and security valuations, Defendant's retention of the fees was inequitable.

148. Through this conduct, Defendant has been unjustly enriched at the expense of and to the detriment of Plaintiff and class members.

149. Plaintiff seeks, on behalf of the Trusts she represents, as well as all other class members, disgorgement of all monies received by Defendant as a result of the conduct described herein.

COUNT 5 – BREACH OF FIDUCIARY DUTY

150. Plaintiff incorporates and realleges paragraphs 1 through 149 as if fully set forth herein.

151. Defendant's role as custodian to Plaintiff and other class members imposes the fiduciary duty of loyalty and the fiduciary duty to exercise reasonable skill and care when dealing with Plaintiff and the class members' accounts.

152. The Trusts and other class members placed their assets under Defendant's supervision and safe-keeping for custody, and Defendant therefore owed a fiduciary duty to the class members because it occupied a position of trust and confidence.

153. The scope of Defendant's fiduciary duties include making truthful communications to the Trusts and class members, including a duty not to mislead with respect to the assets and securities Defendant held on the Trusts' and class members' behalf.

154. Defendant's fiduciary duties also included acting: (1) in the best interests of the Trusts and class members as a prudent fiduciary would act under the same or similar circumstances, (2) for the exclusive benefit of the Trusts and class members, and (3) with the utmost loyalty to the Trusts and class members.

155. Defendant breached these fiduciary duties by representing to the Trusts that the securities Defendant held on the Trusts' and class members' behalf were legitimate, marketable, and registered securities, when the most basic level of diligence would have revealed that they were not.

156. Defendant also breached its fiduciary duty by improperly transferring monies out of the Trusts' and class members' accounts without the consent of its clients to unknown and unverified accounts, and by improperly relying upon the instructions of James Tagliaferri and TAG when it did not have a good faith basis for such reliance in light of the fake CUSIPs, and other non-standard requests it was obtaining.

157. In addition, Defendant breached its fiduciary duties as custodian by: (1) improperly executing and settling account transactions; (2) failing to monitor sub-custodians and failing to account for the risk involved with retaining sub-custodians to hold sub-notes; (3) failing to inform Plaintiff and the class that they held sub-notes that had been created and signed by James Tagliaferri and TAG; and (4) providing improper valuations to Plaintiff and each member of the class.

158. As a direct, foreseeable and proximate result of Defendant's breaches of fiduciary duty alleged herein, Plaintiff and other class members sustained damages, in an amount to be determined at trial.

159. Plaintiff seeks, on behalf of the Trusts she represents as well as all other class members, an award of actual damages, and attorneys' fees and costs as provided by law.

COUNT 6 – AIDING AND ABETTING A BREACH OF FIDUCIARY DUTY

160. Plaintiff incorporates and realleges paragraphs 1 through 159 as if fully set forth herein.

161. In addition to failing to act with the duties of loyalty, exclusivity and prudence as described above, Defendant knowingly participated and/or enabled the fiduciary breaches of the Trusts' investment managers by putting an imprimatur of legitimacy on James Tagliaferri and TAG's actions.

162. Investment managers are generally retained to manage the investment of all cash, securities, and other assets comprising the investment portfolio placed under the supervision of the investment manager by the investor. James Tagliaferri and TAG owed the Trusts and class members a fiduciary duty to act in their best interests and with the duty of loyalty, prudence, and exclusive purpose for the Trusts and other class members.

163. James Tagliaferri and TAG breached their fiduciary duties to Plaintiff and the class by divesting investments in legitimate securities into highly risky, illiquid, and ultimately illegitimate securities.

164. Defendant was aware of the underlying fiduciary relationship between the Trusts' and the other class members' that formed the basis of TAG's investment management relationship with the Trusts and other class members.

165. Defendant knew or should have known that James Tagliaferri and TAG breached their fiduciary duties to the Trusts and class members, as Defendant relied upon the instructions of the Trusts' investment manager when it did not have a good faith basis for such reliance in light of the fake CUSIPs it was obtaining. As such, Defendant played a significant and substantial role in the underlying unlawful enterprise.

166. Defendant had an affirmative duty to issue accurate monthly account statements in its capacity as custodian to the accounts. However, Defendant failed to fulfill this duty. The most basic exercise of diligence would have revealed that the Trusts' assets were in fact illegitimate securities, but Defendant enabled the Trusts' investment manager to continue breaching their fiduciary duties to the Trusts and the class by participating in this mismanagement, enabling the mismanagement, and/or failing to remedy the mismanagement when it knew or should have known that the Trusts' were invested in illegitimate securities.

167. Defendant aided and abetted breaches of fiduciary duty by the Trust's investment manager when it executed non-standard transfers of cash from its clients' custody accounts to James Tagliaferri, his associates, and other unknown entities.

168. Defendant aided and abetted breaches of fiduciary duty by the Trust's investment manager when it failed to monitor the location of notes and sub-notes that were purportedly in its custody, and failed to maintain control over notes held by sub-custodians, particularly since many of the sub-notes which Defendant held on behalf of the Plaintiff and each class member were created and signed by James Tagliaferri and TAG.

169. Defendant aided and abetted breaches of fiduciary duty by not informing clients that James Tagliaferri and/or TAG was the payee of notes, and signed the sub-notes that Plaintiff and numerous class members were invested in, and for whom they were receiving sub-notes.

170. Defendant knew by at least February 2010 that the custody and sub-custodian arrangements for its clients' notes and sub-notes was problematic because it changed the format of its monthly account statements to the Plaintiff and each class member, demonstrating that it had actual knowledge of the underlying breach of fiduciary duty by James Tagliaferri and TAG by at least February 2010 if not much earlier.

171. Based on the foregoing, Defendant actively participated or substantially assisted in or encouraged the underlying breaches of fiduciary duty and cannot reasonably be held to have acted in good faith.

172. As a direct, foreseeable and proximate result of aiding and abetting breaches of fiduciary duties alleged herein, Defendant is responsible for the damages Plaintiff and other class members sustained, in an amount to be determined at trial.

173. Plaintiff seeks, on behalf of the Trusts she represents as well as all other class members, an award of actual damages, and attorneys' fees and costs as provided by law.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests on behalf of herself and the Stone Family Trusts and all members of the class that the Court:

1. Allow this action to be brought as a class action pursuant to Fed. R. Civ. P. 23 and find that Plaintiff is a class representative;
2. Adjudge and decree that Defendant has engaged in the conduct alleged herein;
3. Declare that Defendant has breached its contract with Plaintiff and the class;
4. Declare that Defendant has acted with gross negligence by failing to exercise even scant levels of care or diligence as a custodian;
5. Declare that Defendant has engaged in negligent misrepresentation;

6. Declare that Defendant has been unjustly enriched;
7. Declare that Defendant has breached its fiduciary duties to Plaintiff;
8. Declare that Defendant has aided and abetted breaches of fiduciary duties;
9. Award Plaintiff and the class compensatory damages for damages sustained as a result of Defendant's wrongdoing;
10. Award Plaintiff and the class pre- and post-judgment interest at the highest allowable rate;
11. Award Plaintiff and the class extraordinary, equitable and/or injunctive relief as permitted by law (including but not limited to disgorgement);
12. Award Plaintiff and the class their costs and expenses;
13. Award attorneys' fees and costs as set forth by statute or otherwise allowed by law; and
14. Grant such other and further relief as the Court deems just, proper and equitable.

VIII. JURY TRIAL DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

DATED this 23rd day of January, 2012.

**HUTCHINGS, BARSAMIAN,
MANDELCORN & ZEYTOONIAN, LLP**

By: s/ Theodore M. Hess-Mahan

Theodore M. Hess-Mahan, Esq. BBO #557109
110 Cedar Street, Suite 250
Wellesley Hills, MA 02481
Telephone: 781-431-2231
Facsimile: 781-431-8726
thess-mahan@hutchingsbarsamian.com

KELLER ROHRBACK, LLP

Lynn Lincoln Sarko (*pro hac vice pending*)
Derek W. Loeser (*pro hac vice pending*)
Tana Lin (*pro hac vice pending*)
Laura R. Gerber (*pro hac vice pending*)
David J. Ko (*pro hac vice pending*)
1201 3rd Avenue, Suite 3200
Seattle, WA 98101
Telephone: 206-623-1900
Facsimile: 206-623-8986
lsarko@kellerrohrback.com
dloeser@kellerrohrback.com
tlin@kellerrohrback.com
lgerber@kellerrohrback.com
dko@kellerrohrback.com

Counsel for Plaintiff