

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**In re REFCO, INC. SECURITIES** : MASTER FILE NO.  
**LITIGATION** : 05 Civ. 8626 (GEL)  
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**ANSWER OF DEFENDANT WILLIAM M. SEXTON**

Defendant William M. Sexton (“Sexton”), by and through his attorneys, Friedman & Wittenstein, A Professional Corporation, states as follows for his answer to the Second Amended Consolidated Class Action Complaint (the “complaint”) in the above-captioned action:

**I. NATURE OF THE ACTION**

1. Denies each and every allegation contained in paragraph 1 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 1 of the complaint, except admits that Refco Inc. issued a press release stating that certain of the Company’s financial statements “should no longer be relied upon” and that Refco filed for bankruptcy.<sup>1</sup>

2. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 2 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint, except admits, upon information and belief, that Refco was one of the world’s largest providers of brokerage and clearing services in the international derivatives, currency and futures markets.

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<sup>1</sup> For purposes of this answer only, any key term not defined herein should be given the definition provided by plaintiffs in the complaint. No admission as to the veracity of any such definition is hereby intended or made.

Sexton further admits that, as is common in the industry, “margin” trading was a part of Refco’s futures business.

3. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 3 of the complaint; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3 of the complaint.

4. Denies each and every allegation contained in paragraph 4 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 4 of the complaint.

5. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 5 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the complaint.

6. Denies each and every allegation contained in paragraph 6 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 6 of the complaint, except admits that, as part of the leveraged buyout, Thomas H. Lee Partners, L.P. purchased a percentage equity stake in the Company. Sexton further admits that, as a Refco officer, he was granted certain stock options, subject to certain conditions.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the complaint, except admits that Refco conducted an initial public offering (“IPO”) in August 2005 and that an additional amount was paid to Refco’s shareholders of record before the IPO.

8. Denies each and every allegation contained in paragraph 8 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 8 of the complaint.

9. Denies each and every allegation contained in paragraph 9 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 9 of the complaint, except admits that on or about October 10, 2005, Refco announced in a press release that it had discovered through an internal review a receivable owed to the Company in the amount of approximately \$430 million. Sexton further admits that the press release stated the Company's determination that its financial statements for the periods ended February 28, 2002, February 28, 2003, February 28, 2004, February 28, 2005 and May 31, 2005, taken as a whole, for each of Refco Inc., Refco Group Ltd., LLC and Refco Finance, Inc. should no longer be relied upon.

10. Denies each and every allegation contained in paragraph 10 as to him; denies knowledge of information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 10 of the complaint, except admits, upon information and belief, that Phillip Bennett was arrested and charged with securities fraud, that NYSE suspended trading in Refco shares and that Refco filed for bankruptcy in the Southern District of New York. Sexton further admits that an October 13, 2005 press release stated that “[i]n light of recent events, the liquidity within the Company’s non regulated subsidiary Refco Capital Markets, Ltd. . . . is no longer sufficient to continue operations.”

11. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 11 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the complaint, except admits, upon information and belief, that on or around July 11, 2007, Joshua R. Hochberg, the bankruptcy court appointed examiner in the bankruptcy cases of Refco Inc. and its affiliated debtors did issue a report entitled the “Final Report of the Examiner,” and refers to the Report for the contents thereof.

12. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 12 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the complaint, except admits that the complaint purports to assert “two different sets of claims.”

## **II. JURISDICTION AND VENUE**

13. Denies each and every allegation contained in paragraph 13 of the complaint, except admits that plaintiffs purport to bring their claims under Sections 11, 12(a)(2) and 15 of the Securities Act, Sections 10(b), 20(a) and 20A of the Exchange Act, and the rules and regulations promulgated thereunder, including SEC Rule 10b-5.

14. Denies each and every allegation contained in paragraph 14 of the complaint, except admits that plaintiffs aver that the Court has jurisdiction over the subject matter of this action pursuant to Section 27 of the Exchange Act, Section 22 of the Securities Act and 28 U.S.C. § 1331.

15. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 15 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the complaint, except admits that plaintiffs aver that venue is proper in this district pursuant to

Section 27 of the Exchange Act and Section 22 of the Securities Act.

16. Denies each and every allegation contained in paragraph 16 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 16 of the complaint.

### **III. PARTIES AND RELEVANT NON-PARTIES**

#### **A. Plaintiffs**

17. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 17 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the complaint, except admits that on or about February 3, 2006, the Honorable Gerard E. Lynch appointed RH Capital Associates LLC as co-lead plaintiff for this consolidated litigation.

18. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 18 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the complaint, except admits that on or about February 3, 2006, the Honorable Gerard E. Lynch appointed Pacific Investment Management Company LLC as co-lead plaintiff for this consolidated litigation.

19. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 19 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the complaint.

20. No response is required for paragraph 20 of the complaint.

**B. The Company**

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the complaint, except admits that Refco Inc. filed for bankruptcy on or about October 17, 2005. Sexton further admits, upon information and belief, that prior to its bankruptcy filing, Refco Inc. was a publicly traded holding company that was formed in connection with the IPO, and was the issuer of stock sold pursuant to the IPO. Sexton further admits, upon information and belief, that Refco Inc. was a Delaware corporation with its principal offices located at One World Financial Center, 200 Liberty Street, Tower A, New York, New York.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the complaint, except admits, upon information and belief, that Refco Group Ltd., LLC (“Refco Group”) filed for bankruptcy on or about October 17, 2005. Sexton further admits, upon information and belief, that prior to the formation of Refco Inc., the Company’s business was conducted through Refco Group as the parent company and that Refco Group was a Delaware limited liability company with its principal offices at One World Financial Center, 200 Liberty Street, Tower A, New York, New York. Sexton further admits, upon information and belief, that Refco Group was the co-issuer of the Company’s bonds issued on or about April 13, 2005 pursuant to the Form S-4 Registration Statement filed with the SEC on October 12, 2004 (the “Registered Bonds”), together with subsequent amendments (the “Bond Registration Statement”) and was a signatory to the Bond Registration Statement.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the complaint, except admits, upon information and

belief, that New Refco Group Ltd., LLC (“New Refco”) filed for bankruptcy on or about October 17, 2005. Sexton further admits, upon information and belief, that upon completion of the IPO, Refco became the public company parent of New Refco.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the complaint, except admits, upon information and belief, that Refco Finance Holdings LLC (“Refco Finance Holdings”) filed for bankruptcy on or about October 17, 2005.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the complaint, except admits, upon information and belief, that Refco Finance Inc. (“Refco Finance”) filed for bankruptcy on or about October 17, 2005. Sexton further admits, upon information and belief, that Refco Finance was a co-issuer of the Company’s Registered Bonds and a signatory to the Company’s Bond Registration Statement.

26. Denies each and every allegation contained in paragraph 26 as to him; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the complaint, except admits, upon information and belief, that Refco Capital Markets Ltd. (“Refco Capital”) filed for bankruptcy on or about October 17, 2005. Sexton further admits, upon information and belief, that Refco Capital was an offshore entity involved with securities and foreign exchange transactions, and was one of Refco’s principal operating subsidiaries.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the complaint, except admits, upon information and

belief, that Refco Managed Futures LLC (“Refco Futures”) was a Delaware limited liability company and a subsidiary of Refco Group with its principal offices located at the Company’s headquarters in New York. Sexton further admits that, upon information and belief, Refco Futures filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code on or around June 5, 2006.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the complaint, except admits, upon information and belief, that Westminster-Refco Management LLC filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code on or about June 5, 2006.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the complaint, except admits, upon information and belief, that Lind-Waldock Securities LLC filed for bankruptcy protection under Chapter 11 of the Bankruptcy Code on or about June 5, 2006.

**C. The Defendants**

30. No response is required for paragraph 30 of the complaint.

**1. The Bennett Shell-Entity Defendants**

31. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 31 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the complaint.



## **2. The Officer Defendants**

33. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 33 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the complaint, except admits, upon information and belief, that defendant Phillip Bennett (“Bennett”) is the former President, Chief Executive Officer (“CEO”) and Chairman of Refco Group and that in October 2005, Bennett was asked by the Board of Directors to take a leave of absence. Sexton also admits, upon information and belief, that Bennett was indicted by a grand jury in the Southern District of New York on or about November 10, 2005.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the complaint, except admits, upon information and belief, that defendant Gerald M. Sherer (“Sherer”) joined Refco Group as Executive Vice President and Chief Financial Officer (“CFO”) in January 2005.

35. Denies each and every allegation contained in paragraph 35 of the complaint, except admits that he served as Executive Vice President and Chief Operating Officer (“COO”) of Refco Group beginning in August 2004. Sexton further admits that he joined Refco Group in April 1999 and served as Executive Vice President and COO of Refco, LLC, a Refco Group subsidiary, from July 2001 until August 2004. Sexton further admits that he served as CEO of Refco following Bennett’s resignation in October 2005, until November 2005. Sexton further admits that he was employed in various capacities by Chase Manhattan Bank for approximately six years.

36. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the complaint, except admits, upon information and belief, that Santo Maggio (“Maggio”) was Executive Vice President of Refco Group, President and CEO of Refco Securities, LLC, and President of the Refco Capital subsidiary. Sexton further admits, upon information and belief, that Maggio was asked by Refco’s Board of Directors to take a leave of absence in October 2005.

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the complaint, except admits, upon information and belief, that Joseph Murphy (“Murphy”) was an Executive Vice President of Refco Group and President of certain Refco subsidiaries.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the complaint, except admits, upon information and belief, that Phillip Silverman (“Silverman”) served as Secretary of the Company.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of the complaint, except admits, upon information and belief, that Dennis Klejna (“Klejna”) served as Executive Vice President and General Counsel of the Company. Sexton further admits, upon information and belief, that Klejna had been employed by the Commodity Futures Trading Commission.

40. No response is required for paragraph 40 of the complaint.

**3. Defendant Trosten**

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the complaint, except admits, upon information and

belief, that Robert Trosten (“Trosten”) served as Executive Vice President and CFO of Refco Group and that he was indicted by a grand jury in the Southern District of New York on or about October 24, 2006.

**4. Defendant Grant**

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of the complaint, except admits, upon information and belief, that Tone N. Grant (“Grant”) was indicted by a grand jury in the Southern District of New York on or about January 26, 2007.

**5. The Audit Committee Defendants**

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of the complaint.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the complaint.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the complaint.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the complaint.

**6. The Defendants Affiliated with Thomas H. Lee Partners**

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the complaint, except admits, upon information and belief, that, as part of the leveraged buyout, Thomas H. Lee Partners, L.P. and/or entities affiliated therewith purchased a percentage equity stake in the Company.

48. No response is required for paragraph 48 of the complaint.

49. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 49 of the complaint.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the complaint.

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 51 of the complaint.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the complaint.

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 53 of the complaint.

54. No response is required for paragraph 54 of the complaint.

**7. Defendant Grant Thornton**

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the complaint, except admits, upon information and belief, that Grant Thornton LLP (“Grant Thornton”) served the Company as an auditor.

56. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the complaint, except admits, upon information and belief, that Grant Thornton provided auditing and/or accounting services to the Company.

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the complaint.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the complaint.

**8. The Underwriter Defendants**

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of the complaint, except admits, upon information and belief, that Credit Suisse First Boston LLC was involved in the Company's bond offering and/or IPO of common stock.

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the complaint.

61. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of the complaint.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of the complaint.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of the complaint.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 of the complaint.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 65 of the complaint.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66 of the complaint.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of the complaint.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68 of the complaint.

69. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the complaint.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 70 of the complaint.

71. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 71 of the complaint.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72 of the complaint.

73. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 73 of the complaint.

74. No response is required for paragraph 74 of the complaint.

75. No response is required for paragraph 75 of the complaint.

**9. The Mayer Brown Defendants**

76. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the complaint, except admits that Mayer Brown LLP (“Mayer Brown”) provided legal services to the Company.

77. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the complaint, except admits, upon information and

belief, that Joseph P. Collins (“Collins”) is a partner of Mayer Brown and performed legal services for the Company.

78. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of the complaint, and refers to the Examiner’s Report for the contents thereof.

79. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 79 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79 of the complaint.

80. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 80 of the complaint.

#### **IV. CLASS ALLEGATIONS**

81. Denies each and every allegation contained in paragraph 81 of the complaint, except admits that plaintiffs purport to bring this action as a class action as specified therein.

82. Denies each and every allegation contained in paragraph 82 of the complaint, except admits, upon information and belief, that the Company issued \$600 million of debt securities and conducted an IPO.

83. Denies each and every allegation contained in paragraph 83 of the complaint.

84. Denies each and every allegation contained in paragraph 84 of the complaint.

85. Denies each and every allegation contained in paragraph 85 of the complaint.

86. Denies each and every allegation contained in paragraph 86 of the complaint.

87. Denies each and every allegation contained in paragraph 87 of the complaint.

88. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88 of the complaint.

**V. FACTUAL ALLEGATIONS PERTINENT TO CLAIMS FOR RELIEF UNDER THE SECURITIES ACT**

**A. Historical Background Regarding the Company**

89. Denies each and every allegation contained in paragraph 89 of the complaint, except admits, upon information and belief, that Refco was one of the largest providers of brokerage and clearing services in the international derivatives, currency and futures markets. Sexton further admits, upon information and belief, that Refco executed trades on behalf of customers and then recorded and “cleared” those trades, and that Refco offered these services to a wide variety of customers on a broad spectrum of derivatives, cash and securities.

90. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 90 of the complaint, except admits, upon information and belief, that Refco’s revenues included (i) transaction fees earned from executing and clearing customer orders and (ii) interest income earned on cash balances in its customers’ trading accounts and from providing financing through repurchase transactions.

91. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 of the complaint.

92. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 92 of the complaint.

93. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 93 of the complaint.



94. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 94 of the complaint.

95. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 95 of the complaint.

96. Denies each and every allegation contained in paragraph 96 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 96 of the complaint.

97. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 97 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 97 of the complaint, and refers to the complaint filed in VR Global Partners, L.P. et al. v. Bennett, et al., 07-CIV-8686 (S.D.N.Y.) for the contents thereof.

**B. Early Efforts to Sell the Company**

98. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 98 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 98 of the complaint.

99. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 99 of the complaint, and refers to the Examiner's Report for the contents thereof.

**C. The THL Partner Defendants' Investment and the 2004 Recapitalization**

100. Denies each and every allegation contained in paragraph 100 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 100 of the complaint.

101. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 101 of the complaint, except admits, upon information and belief, that Thomas H. Lee Partners, L.P. and/or entities affiliated therewith, as part of the leveraged buyout, purchased an equity stake in the Company, and refers to the Examiner's Report for the contents thereof.

102. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 102 of the complaint, except admits, upon information and belief, that the Company issued \$600 million of 9% Senior Subordinated Notes due in 2012 (the "144A Bonds").

103. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 103 of the complaint.

104. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 104 of the complaint.

105. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 105 of the complaint.

106. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 106 of the complaint, and refers to the Bond Registration Statement and the IPO Registration Statement for the contents thereof.

**D. The Bond Offering**

107. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 107 of the complaint.

108. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 108 of the complaint.

109. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 109 of the complaint.

110. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 110 of the complaint.

111. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 111 of the complaint.

112. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 112 of the complaint.

**1. The Offering Memorandum**

113. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 113 of the complaint.

114. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 114 of the complaint.

115. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 115 of the complaint.

116. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 116 of the complaint, and refers to the Offering Memorandum and the Examiner's Report for the contents thereof.

117. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 117 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 117 of the complaint, and refers to the Examiner's Report for the contents thereof.

118. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 118 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 118 of the complaint.

(a) **The Financial Statements in the Offering Memorandum Contained Untrue Statements of Material Fact**

119. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 119 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 119 of the complaint, and refers to the Offering Memorandum for the contents thereof.

120. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 120 of the complaint, and refers to the Offering Memorandum for the contents thereof.

121. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 121 of the complaint, and refers to the Offering Memorandum for the contents thereof.

122. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 122 of the complaint, and refers to the Offering Memorandum for the contents thereof.

123. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 123 of the complaint, and refers to the Offering Memorandum for the contents thereof.

124. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 124 of the complaint, and refers to the Offering Memorandum for the contents thereof.

125. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 125 of the complaint, and refers to the Offering Memorandum for the contents thereof.

126. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 126 of the complaint, and refers to the Offering Memorandum for the contents thereof.

127. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 127 of the complaint, and refers to the Offering Memorandum for the contents thereof.

128. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 128 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 128 of the complaint.

129. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 129 of the complaint, and refers to the Offering Memorandum and the complaint filed in Thomas H. Lee Equity Fund V., L.P., et al. v. Phillip R. Bennett, et al., No. 05 Civ. 9608 (S.D.N.Y.) for the contents thereof, except admits that on October 10, 2005, Refco Inc. announced in a press release that, inter alia, certain of its financial statements should no longer be relied upon.

130. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 130 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 130 of the complaint, and refers to the Offering Memorandum for the contents thereof.

131. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 131 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 131 of the complaint, and refers to the Offering Memorandum for the contents thereof.

**(b) The Description of Customer Receivables and Related-Party Transactions in the Offering Memorandum Contained Untrue Statements and Omissions of Material Fact**

132. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 132 of the complaint, and refers to the Offering Memorandum for the contents thereof.

133. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 133 of the complaint, and refers to the Offering Memorandum for the contents thereof.

134. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 134 of the complaint, and refers to the Offering Memorandum for the contents thereof.

135. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 135 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 135 of the complaint.

136. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 136 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 136 of the complaint, and refers to the Offering Memorandum for the contents thereof.

137. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 137 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 137 of the complaint, and refers to the Offering Memorandum for the contents thereof.

(c) **The Offering Memorandum Misrepresented the Reasons for the Company's Purported Success**

138. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 138 of the complaint, and refers to the Offering Memorandum for the contents thereof.

139. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 139 of the complaint, and refers to the Offering Memorandum for the contents thereof.

140. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 140 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 140 of the complaint.

**(d) The Offering Memorandum Misrepresented  
the Company's Ability to Access the Cash It  
Needed to Service Its Debt**

141. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 141 of the complaint, and refers to the Offering Memorandum for the contents thereof.

142. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 142 of the complaint, and refers to the Offering Memorandum for the contents thereof, except admits, upon information and belief, that the Company had an interest in maintaining a high credit rating.

143. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 143 of the complaint.

144. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 144 of the complaint.

145. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 145 of the complaint, and refers to the Offering Memorandum for the contents thereof.

146. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 146 of the complaint; otherwise denies knowledge or information



sufficient to form a belief as to the truth of the allegations contained in paragraph 146 of the complaint.

(e) **The Offering Memorandum Misrepresented That the Company Had Taken Adequate Steps to Protect Itself From the Risk of Customer Defaults**

147. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 147 of the complaint, and refers to the Offering Memorandum for the contents thereof.

148. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 148 of the complaint, and refers to the Offering Memorandum for the contents thereof.

149. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 149 of the complaint, and refers to the Offering Memorandum for the contents thereof.

150. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 150 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 150 of the complaint.

(f) **The Offering Memorandum Misrepresented That the Company Maintained Excess Regulatory Capital**

151. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 151 of the complaint, and refers to the Offering Memorandum for the contents thereof, except admits that the Company operated in a heavily regulated environment.

152. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 152 of the complaint, and refers to the Offering Memorandum for the contents thereof.

153. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 153 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 153 of the complaint.

**(g) The Offering Memorandum Failed to Disclose  
BAWAG's Full Ownership Interest in Refco Group**

154. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 154 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 154 of the complaint.

155. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 155 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 155 of the complaint.

**2. Presentations to Rating Agencies**

156. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 156 of the complaint.

157. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 157 of the complaint.

**3. The Bond Road Show**

158. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 158 of the complaint, except admits, upon information and belief, that there was a “bond road show” in or about July 2004.

159. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 159 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 159 of the complaint.

160. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 160 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 160 of the complaint.

161. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 161 of the complaint.

162. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 162 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 162 of the complaint.

163. Denies each and every allegation contained in paragraph 163 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 163 of the complaint.

164. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 164 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 164 of the complaint.

**4. The Bond Registration Statement**

165. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 165 of the complaint, except admits the Company filed a Form S-4 Registration Statement with the SEC on or about October 12, 2004, which was subsequently amended (the “Bond Registration Statement”).

166. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 166 of the complaint, except admits, upon information and belief, that the Bond Registration Statement became effective, and Registered Bonds were issued pursuant thereto, on or about April 13, 2005.

167. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 167 of the complaint, except admits, upon information and belief, that the co-issuers of the Registered Bonds were Refco Group and its wholly-owned subsidiary, Refco Finance.

168. Denies each and every allegation contained in paragraph 168 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 168 of the complaint, except admits that Bennett purported to sign the Bond Registration Statement on Sexton’s behalf by power of attorney.

169. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 169 of the complaint.

170. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 170 of the complaint.

171. Denies each and every allegation contained in paragraph 171 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 171 of the complaint.

172. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 172 of the complaint.

173. Denies each and every allegation contained in paragraph 173 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 173 of the complaint.

174. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 174 of the complaint.

175. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 175 of the complaint.

176. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 176 of the complaint.

177. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 177 of the complaint.

178. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 178 of the complaint.

179. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 179 of the complaint.

180. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 180 of the complaint.

181. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 181 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 181 of the complaint, except admits, upon information and belief, that the final Bond Registration Statement was filed on or about April 6, 2005, and refers to the Bond Registration Statement for the contents thereof.

182. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 182 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 182 of the complaint, except admits that the Bond Registration Statement contained the Company's audited financial statements for fiscal years 2003 and 2004, and refers to the Bond Registration Statement for the contents thereof.

183. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 183 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

184. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 184 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 184 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

185. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 185 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 185 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

186. Denies each and every allegation contained in paragraph 186 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 186 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

187. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 187 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 187 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

188. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 188 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

189. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 189 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 189 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

190. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 190 of the complaint, except admits that the Bond Registration Statement also contained some unaudited financial information, and refers to the Bond Registration Statement for the contents thereof.

191. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 191 of the complaint, except admits that the Bond Registration Statement also contained Unaudited Pro Forma Consolidated Statements of Income, and refers to the Bond Registration Statement for the contents thereof.

192. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 192 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 192 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

193. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 193 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 193 of the complaint, and refers to the Bond Registration Statement for the contents thereof.

194. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 194 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 194 of the complaint.



**E. The August 2005 Initial Public Offering**

195. Denies each and every allegation contained in paragraph 195 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 195 of the complaint.

196. Denies each and every allegation contained in paragraph 196 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 196 of the complaint.

197. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 197 of the complaint, and refers to Refco's prospectus filed in connection with the August 2005 IPO ("IPO Prospectus") for the contents thereof.

**1. The IPO Registration Statement**

198. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 198 of the complaint, and refers to the Form S-1 registration statement dated April 8, 2005, a Form S-1/A registration statement dated May 27, 2005, a Form S-1/A registration statement dated July 1, 2005, a Form S-1/A registration statement dated July 20, 2005, a Form S-1/A registration statement dated July 25, 2005, a Form S-1/A registration statement dated August 8, 2005, a Form S-1/A registration statement dated August 10, 2005 and the IPO Prospectus (collectively, the "IPO Registration Statement") for the contents thereof, except admits that in the August 2005 IPO, Refco offered stock to the investing public as part of the initial IPO.

199. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 199 of the complaint, and refers to the IPO Registration

Statement for the contents thereof.

200. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 200 of the complaint.

201. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 201 of the complaint, and refers to the IPO Registration Statement and the Examiner's Report for the contents thereof.

202. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 202 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

203. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 203 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 203 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

(a) **The Financial Statements in the IPO Registration Statement Contained Untrue Statements of Material Facts**

204. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 204 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 204 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

205. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 205 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

206. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations contained in paragraph 206 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

207. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 207 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

208. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 208 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

209. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 209 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

210. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 210 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

211. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 211 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

212. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 212 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

213. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 213 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

214. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 214 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

215. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 215 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 215 of the complaint, and refers to the IPO Registration Statement for the contents thereof, except admits that on October 10, 2005, Refco Inc. announced in a press release that, inter alia, certain of its financial statements should no longer be relied upon.

216. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 216 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 216 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

217. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 217 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 217 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

**(b) The Description of Customer Receivables and  
Related-Party Transactions in the IPO  
Registration Statement Contained Untrue  
Statements and Omissions of Material Fact**

218. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 218 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 218 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

219. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 219 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

220. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 220 of the complaint, and refers to the IPO Prospectus for the contents thereof.

221. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 221 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 221 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

222. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 222 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 222 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

223. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 223 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 223 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

(c) **The IPO Registration Statement Misrepresented That the Company Had Taken Adequate Steps to Protect Itself From the Risk of Customer Defaults**

224. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 224 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

225. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 225 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 225 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

226. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 226 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 226 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

(d) **The IPO Registration Statement Misrepresented That The Company Maintained Excess Regulatory Capital**

227. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 227 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

228. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 228 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 228 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

229. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 229 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

230. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 230 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 230 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

(e) **The IPO Registration Statement Failed to Disclose BAWAG's Full Ownership Interest in Refco Group**

231. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 231 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 231 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

**F. The Truth Begins to Emerge and the Company Collapses**

232. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 232 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 232 of the complaint.

233. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 233 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 233 of the

complaint, except admits that paragraph 233 of the complaint accurately quotes a portion of the October 10, 2005 press release issued by Refco Inc.

234. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 234 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 234 of the complaint, except admits that paragraph 234 of the complaint accurately quotes a portion of the October 10, 2005 press release issued by Refco Inc.

235. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 235 of the complaint, except admits that paragraph 235 of the complaint accurately quotes a portion of the October, 10, 2005 press release issued by Refco Inc.

236. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 236 of the complaint, except admits that the price of Refco Inc.'s stock dropped following the October 10, 2005 press release issued by Refco Inc.

237. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 237 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 237 of the complaint, except admits that paragraph 237 of the complaint accurately quotes selected portions of the October 10, 2005 press release issued by Refco Inc.

238. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 238 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 238 of the



complaint, except admits that paragraph 238 of the complaint accurately quotes a portion of the October 10, 2005 press release issued by Refco Inc.

239. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 239 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 239 of the complaint, except admits that paragraph 239 of the complaint accurately quotes portions of the October 11, 2005 press release issued by Refco Inc.

240. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 240 of the complaint.

241. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 241 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 241 of the complaint, except admits, upon information and belief, that paragraph 241 of the complaint accurately quotes a portion of the October 13, 2005 press release issued by Refco Inc.

242. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 242 of the complaint.

243. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 243 of the complaint, except admits, upon information and belief, that the New York Stock Exchange halted trading of Refco shares on October 13, 2005, and that trading resumed after several days.

244. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 244 of the complaint, except admits that on October 17, 2005, Refco publicly announced that it was filing for bankruptcy court protection.

245. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 245 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 245 of the complaint.

246. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 246 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 246 of the complaint.

247. Denies each and every allegation contained in paragraph 247 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 247 of the complaint.

## **VI. THE COMPANY'S VIOLATIONS OF GAAP**

248. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 248 of the complaint.

249. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 249 of the complaint.

250. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 250 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 250 of the complaint.

251. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 251 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 251 of the complaint.

252. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 252 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 252 of the complaint.

253. Denies each and every allegation contained in paragraph 253 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 253 of the complaint.

254. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 254 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 254 of the complaint.

255. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 255 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 255 of the complaint.

256. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 256 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 256 of the complaint.

257. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 257 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 257 of the complaint.

258. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 258 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 258 of the complaint.

259. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 259 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 259 of the complaint.

260. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 260 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 260 of the complaint.

261. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 261 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 261 of the complaint.

**VII. GRANT THORNTON'S VIOLATIONS OF AUDITING STANDARDS**

262. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 262 of the complaint, except admits, upon information and belief, that public companies rely on independent registered audit firms for various services and refers to the Sarbanes-Oxley Act for the requirements thereof.

263. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 263 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 263 of the complaint.

**A. Violations of General Standards**

264. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 264 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 264 of the complaint, and refers to the Examiner's Report for the contents thereof.

265. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 265 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 265 of the complaint, and refers to the Examiner's Report for the contents thereof.

**B. Violations of Standards of Fieldwork**

**1. Standard of Fieldwork No. 1 - Audit Planning**

266. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 266 of the complaint.

267. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 267 of the complaint.

268. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 268 of the complaint.

269. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 269 of the complaint.

270. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 270 of the complaint.

271. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 271 of the complaint.

272. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 272 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 272 of the complaint.

273. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 273 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 273 of the complaint.

274. Denies each and every allegation contained in paragraph 274 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 274 of the complaint.

275. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 275 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 275 of the complaint, and refers to the Examiner's Report for the contents thereof.

**2. Standard of Fieldwork No. 2 - Evaluation of Internal Controls**

276. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 276 of the complaint.

277. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 277 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 277 of the complaint.

278. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 278 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 278 of the complaint.

279. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 279 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 279 of the complaint.

**3. Standard of Fieldwork No. 3 - Obtaining Evidential Matter**

280. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 280 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 280 of the complaint.

281. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 281 of the complaint.

282. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 282 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 282 of the complaint, and refers to the Examiner's Report for the contents thereof.

283. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 283 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 283 of the complaint, and refers to the Examiner's Report for the contents thereof.

284. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 284 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 284 of the complaint, and refers to the Examiner's Report for the contents thereof.

285. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 285 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 285 of the



complaint, and refers to the Examiner's Report for the contents thereof.

286. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 286 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 286 of the complaint.

287. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 287 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 287 of the complaint.

288. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 288 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 288 of the complaint.

289. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 289 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 289 of the complaint, and refers to the Examiner's Report for the contents thereof.

**C. Violations of Reporting Standards**

290. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 290 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 290 of the complaint.

291. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 291 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 291 of the complaint.

292. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 292 of the complaint.

293. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 293 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 293 of the complaint.

294. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 294 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 294 of the complaint.

295. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 295 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 295 of the complaint.

**D. Violations of CFTC Rules and Regulations**

296. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 296 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 296 of the complaint.

## **VIII. DEFENDANTS' NEGLIGENCE**

### **A. The Offering Memorandum and the Bond Registration Statement**

297. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 297 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 297 of the complaint.

298. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 298 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 298 of the complaint.

299. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 299 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 299 of the complaint.

300. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 300 of the complaint.

301. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 301 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 301 of the complaint.

302. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 302 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 302 of the complaint.

303. Denies each and every allegation contained in paragraph 303 as to him, and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 303 of the complaint.

304. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 304 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 304 of the complaint.

**B. The IPO Registration Statement**

305. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 305 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 305 of the complaint.

306. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 306 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 306 of the complaint.

307. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 307 of the complaint.

308. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 308 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 308 of the complaint.

309. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 309 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 309 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

310. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 310 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 310 of the complaint.

311. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 311 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 311 of the complaint.

**IX. ALLEGATIONS PERTAINING TO CONTROL PERSON LIABILITY**

312. Repeats and realleges his answers to plaintiffs' allegations as set forth above. Denies each and every allegation contained in paragraph 312 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 312 of the complaint.

**A. The Officer Defendants**

313. Denies each and every allegation contained in paragraph 313 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 313 of the complaint, except admits that he was Executive Vice President and COO of Refco from August 2004 through at least October 10, 2005, whereupon he assumed the position of CEO. Further admits, upon information and belief, that: Bennett was Refco's President and CEO and one of the Company's largest shareholders; Maggio was Executive Vice President of Refco, President and CEO of Refco Securities, LLC and President of Refco Capital; Murphy was Executive Vice President of Refco and President and CEO of Refco Global Futures, LLC; Klejna was Executive Vice President and General Counsel of Refco; Sherer was the Executive Vice President and CFO of Refco beginning in January 2005; and Silverman was the Secretary of the Company. Refers to the Offering Memorandum, the Bond Registration Statement, the IPO Registration Statement and his executive employment and non-competition agreement for the contents thereof.

**B. RGHI and the Bennett Trust**

314. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 314 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 314 of the complaint, and refers to the Offering Memorandum and IPO Registration Statement for the contents thereof.

**C. Robert C. Trosten**

315. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations contained in paragraph 315 of the complaint, and refers to the Offering Memorandum and the Bond Registration Statement for the contents thereof, except admits that Trosten served as CFO of Refco.

**D. The THL Partner Defendants**

316. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 316 of the complaint, and refers to the Offering Memorandum, the August 5, 2004 Securityholders Agreement and the August 5, 2004 Management Agreement for the contents thereof, except admits that individuals associated with the THL Partner Defendants served on Refco Inc.'s Board of Directors.

**E. The THL Individual Defendants**

317. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 317 of the complaint, and refers to the August 5, 2004 Management Agreement for the contents thereof.

318. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 318 of the complaint, and refers to the August 5, 2004 Management Agreement for the contents thereof.

319. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 319 of the complaint, and refers to the August 5, 2004 Management Agreement for the contents thereof.

320. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 320 of the complaint, and refers to the August 5, 2004 Management Agreement for the contents thereof.

**F. The Audit Committee Defendants**

321. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 321 of the complaint, and refers to the IPO Registration Statement for the contents thereof, except admits, upon information and belief, that each of the Audit Committee Defendants was a member of the Audit Committee of Refco Inc.'s Board of Directors.

**X. CLAIMS FOR RELIEF UNDER THE SECURITIES ACT**

**COUNT ONE**

**For Violations of Section 12(a)(2) of the Securities Act,  
on Behalf of Those Who Purchased or Otherwise  
Acquired 144A Bonds in the Bond Offering,  
Against Bennett, Trosten, Jaeckel, the THL Partner Defendants  
and the Bond Underwriter Defendants**

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322-335. Sexton is not required to answer the allegations of paragraphs 322 through 335 of the complaint, which are part of plaintiffs' first claim for relief, because plaintiffs have not asserted such claim against Sexton. Sexton is also not required to answer the allegations of paragraphs 322 through 335 of the complaint, which are part of plaintiffs' first claim for relief, because the Court, in its April 30, 2007 decision, dismissed that claim from the complaint on the ground that it did not state a valid claim for relief.



## COUNT TWO

**Control Person Liability Pursuant to Section 15 of the Securities Act,  
On Behalf of Purchasers of 144A Bonds in the Bond Offering,  
Against the THL Partner Defendants, Lee, Bennett,  
RGHI, Grant, Murphy, Trosten, Sexton, Silverman, and Maggio  
(Based on Violations of Section 12(a)(2) of the Securities Act  
by Refco Group, Refco Finance Holdings, and Refco Finance)**

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336-347. Sexton is not required to answer the allegations of paragraphs 336 through 347 of the complaint, which are part of plaintiffs' second claim for relief, because the Court, in its April 30, 2007 decision, dismissed that claim from the complaint on the ground that it did not state a valid claim for relief.

## COUNT THREE

**For Violations of Section 11 of the Securities Act,  
On Behalf of the Purchasers of the Registered Bonds,  
Against the Section 11 Bond Defendants**

348. Repeats and realleges his answers to plaintiffs' allegations as set forth above. Denies each and every allegation contained in paragraph 348 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 348 of the complaint.

349. Denies each and every allegation contained in paragraph 349 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 349 of the complaint.

350. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 350 of the complaint.

351. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 351 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 351 of the complaint.

352. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 352 of the complaint, except admits, upon information and belief, that Refco Group and Refco Finance were the co-issuers of bonds pursuant to the Bond Registration Statement.

353. Denies each and every allegation contained in paragraph 353 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 353 of the complaint.

354. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 354 of the complaint.

355. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 355 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 355 of the complaint, except admits, upon information and belief, that Grant Thornton was the auditor for Refco Group and its subsidiaries, and was named in the Bond Registration Statement as a party who certified the audited financial statements contained therein.

356. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 356 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 356 of the complaint.

357. Denies each and every allegation contained in paragraph 357 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 357 of the complaint.

358. Denies each and every allegation contained in paragraph 358 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 358 of the complaint.

359. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 359 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 359 of the complaint.

360. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 360 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 360 of the complaint, except admits, upon information and belief, that the claim is brought within three years after the Exchange Offer.

361. Denies each and every allegation contained in paragraph 361 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 361 of the complaint.

**COUNT FOUR**

**Control Person Liability Pursuant to Section 15 of the Securities Act,  
On Behalf of the Section 11 Bond Plaintiffs,  
Against the THL Defendants, Bennett, RGHI,  
the Bennett Trust, Murphy, Sherer, Sexton, Silverman  
Maggio, Klejna, O'Kelley, Gantcher, and Breitman  
(Based on Violation of Section 11 of the Securities Act by Refco Group)**

362. Repeats and realleges his answers to plaintiffs' allegations as set forth above. Denies each and every allegation contained in paragraph 362 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 362 of the complaint.

363. Denies each and every allegation contained in paragraph 363 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 363 of the complaint.

364. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 364 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 364 of the complaint.

365. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 365 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 365 of the complaint.

366. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 366 of the complaint.

367. Denies knowledge or information sufficient to form a belief as to the truth of the

allegations contained in paragraph 367 of the complaint.

368. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 368 of the complaint.

369. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 369 of the complaint.

370. Denies each and every allegation contained in paragraph 370 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 370 of the complaint.

371. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 371 of the complaint.

372. Denies each and every allegation contained in paragraph 372 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 372 of the complaint.

373. Denies each and every allegation contained in paragraph 373 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 373 of the complaint.

374. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 374 of the complaint, except admits, upon information and belief, that the claim is brought within three years after the Exchange Offer.

375. Denies each and every allegation contained in paragraph 375 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 375 of the complaint.

**COUNT FIVE**

**For Violations of Section 11 of the Securities Act,  
On Behalf of Purchasers of Refco Common Stock,  
Against the Section 11 Stock Defendants**

376-388. Sexton is not required to answer the allegations of paragraphs 376 through 388 of the complaint, which are part of plaintiffs' fifth claim for relief, because plaintiffs have not asserted such claim against Sexton. Sexton denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraphs 376 through 388 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 376 through 388 of the complaint.

**COUNT SIX**

**Control Person Liability Pursuant to Section 15 of the Securities Act,  
On Behalf of Purchasers of Refco Common Stock  
Against the Section 15 Stock Defendants  
(Based on Violations of Section 11 of the Securities Act by Refco)**

389. Repeats and realleges his answers to plaintiffs' allegations as set forth above. Denies each and every allegation contained in paragraph 389 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 389 of the complaint.

390. Denies each and every allegation contained in paragraph 390 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 390 of the complaint.

391. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 391 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 391 of the

complaint.

392. Denies each and every allegation contained in paragraph 392 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 392 of the complaint.

393. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 393 of the complaint.

394. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 394 of the complaint.

395. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 395 of the complaint.

396. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 396 of the complaint.

397. Denies each and every allegation contained in paragraph 397 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 397 of the complaint.

398. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 398 of the complaint.

399. Denies each and every allegation contained in paragraph 399 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 399 of the complaint.

400. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 400 of the complaint.

401. Denies each and every allegation contained in paragraph 401 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 401 of the complaint.

402. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 402 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 402 of the complaint.

403. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 403 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 403 of the complaint.

404. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 404 of the complaint, except admits, upon information and belief, that the claim is brought within three years after the IPO.

405. Denies each and every allegation contained in paragraph 405 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 405 of the complaint.

#### **COUNT SEVEN**

**For Violations of Section 12(a)(2) of the Securities Act,  
On Behalf of Those Who Purchased or Otherwise Acquired  
Refco Common Stock in the August 2005 IPO,  
Against the Stock Underwriter Defendants**

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406-413. Sexton is not required to answer the allegations of paragraphs 406 through 413 of the complaint, which are part of plaintiffs' seventh claim for relief, because plaintiffs



have not asserted such claim against Sexton. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraphs 406 through 413 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 406 through 413 of the complaint.

**COUNT EIGHT**

**Control Person Liability Pursuant to Section 15 of the Securities Act,  
On Behalf of Purchasers of Refco Common Stock  
Against the Section 15 Stock Defendants  
(Based on Violations of Section 12(a)(2) of the Securities Act  
by Refco)**

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414. Repeats and realleges his answers to plaintiffs' allegations as set forth above. Denies each and every allegation contained in paragraph 414 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 414 of the complaint.

415. Denies each and every allegation contained in paragraph 415 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 415 of the complaint.

416. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 416 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 416 of the complaint.

417. Denies each and every allegation contained in paragraph 417 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 417 of the complaint.

418. Denies each and every allegation contained in paragraph 418 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 418 of the complaint.

419. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 419 of the complaint.

420. Denies each and every allegation contained in paragraph 420 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 420 of the complaint.

421. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 421 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 421 of the complaint.

422. Denies each and every allegation contained in paragraph 422 of the complaint.

423. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 423 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 423 of the complaint, except admits, upon information and belief, that the claim is brought within three years after the IPO.

424. Denies each and every allegation contained in paragraph 424 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 424 of the complaint.

**XI. DEFENDANTS' FRAUDULENT SCHEME**

425. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 425 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 425 of the complaint.

426. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 426 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 426 of the complaint.

427. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 427 of the complaint.

**A. Refco and Its Customers Suffer Hundreds of Millions of Dollars in Trading Losses**

428. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 428 of the complaint.

429. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 429 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 429 of the complaint.

430. Denies knowledge or information sufficient to form a belief as to the truth of allegations contained in paragraph 430 of the complaint.

431. Denies any involvement or culpability relating to the allegations of wrongdoing

contained in paragraph 431 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 431 of the complaint.

432. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 432 of the complaint.

433. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 433 of the complaint.

434. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 434 of the complaint.

435. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 435 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 435 of the complaint.

**B. Bennett Becomes CEO and, With the Aid of Collins, Mayer Brown and Maggio, Transfers Uncollectible Receivables Off Refco's Books**

436. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 436 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 436 of the complaint.

437. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 437 of the complaint, and refers to the complaint in Thomas H. Dittmer v. Edwin L. Cox, Jr., No. 5185 (N.D. Ill.) for the contents thereof.

438. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 438 of the complaint.

439. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 439 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 439 of the complaint.

440. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 440 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 440 of the complaint.

441. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 441 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 441 of the complaint.

442. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 442 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 442 of the complaint.

443. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 443 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 443 of the complaint, and refers to the Examiner's Report for the contents thereof.

444. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 444 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 444 of the complaint.

445. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 445 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 445 of the complaint, and refers to the Examiner's Report for the contents thereof.

446. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 446 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 446 of the complaint, and refers to the Examiner's Report for the contents thereof.

447. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 447 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 447 of the complaint.

448. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 448 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 448 of the complaint, and refers to the Examiner's Report for the contents thereof.

449. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 449 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 449 of the complaint.

**C. Refco Conceals the Uncollectible Receivable Through a Series of Fraudulent “Round Trip” Loan Transactions**

450. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 450 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 450 of the complaint.

451. Denies each and every allegation contained in paragraph 451 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 451 of the complaint.

452. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 452 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 452 of the complaint.

453. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 453 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 453 of the complaint.

**1. The Fraudulent Transactions With Customer X**

454. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 454 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 454 of the

complaint.

455. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 455 of the complaint.

456. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 456 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 456 of the complaint.

457. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 457 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 457 of the complaint.

458. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 458 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 458 of the complaint.

459. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 459 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 459 of the complaint.

**i. The February 2002 Transaction**

460. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 460 of the complaint; otherwise denies knowledge or information



sufficient to form a belief as to the truth of the allegations contained in paragraph 460 of the complaint.

461. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 461 of the complaint.

462. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 462 of the complaint.

463. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 463 of the complaint.

464. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 464 of the complaint.

465. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 465 of the complaint.

466. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 466 of the complaint.

467. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 467 of the complaint.

468. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 468 of the complaint.

469. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 469 of the complaint.

470. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 470 of the complaint.

**ii. The February 2003 Transaction**

471. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 471 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 471 of the complaint.

472. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 472 of the complaint.

473. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 473 of the complaint.

474. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 474 of the complaint.

475. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 475 of the complaint.

**iii. The February 2004 Transaction**

476. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 476 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 476 of the complaint.

477. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 477 of the complaint.

478. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 478 of the complaint.

479. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 479 of the complaint.

480. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 480 of the complaint.

481. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 481 of the complaint.

**iv. The May 2004 Transaction**

482. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 482 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 482 of the complaint.

483. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 483 of the complaint.

484. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 484 of the complaint.

485. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 485 of the complaint.

486. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 486 of the complaint.

487. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 487 of the complaint.

**v. The August 2004 Transaction**

488. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 488 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 488 of the complaint.

489. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 489 of the complaint.

490. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 490 of the complaint.

491. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 491 of the complaint.

492. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 492 of the complaint.

493. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 493 of the complaint.

**vi. The November 2004 Transaction**

494. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 494 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 494 of the complaint.

495. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 495 of the complaint.

496. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 496 of the complaint.

497. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 497 of the complaint.

498. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 498 of the complaint.

499. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 499 of the complaint.

**vii. The December 2004 Transaction**

500. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 500 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 500 of the complaint.

501. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 501 of the complaint.

502. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 502 of the complaint.

503. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 503 of the complaint.

504. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 504 of the complaint.

505. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 505 of the complaint.

**viii. The February 2005 Transaction**

506. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 506 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 506 of the complaint.

507. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 507 of the complaint.

508. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 508 of the complaint.

509. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 509 of the complaint.

510. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 510 of the complaint.

511. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 511 of the complaint.

**ix. The May 2005 Transaction**

512. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 512 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 512 of the complaint.

513. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 513 of the complaint.

**x. The August 2005 Transaction**

514. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 514 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 514 of the complaint.

515. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 515 of the complaint.

516. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 516 of the complaint.

517. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 517 of the complaint.

518. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 518 of the complaint.

519. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 519 of the complaint.

**2. The Fraudulent Transactions with BAWAG**

520. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 520 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 520 of the complaint.

521. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 521 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 521 of the complaint.

522. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 522 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 522 of the complaint.

**xi.[sic] The February 2000 Transaction**

523. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 523 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 523 of the complaint.

524. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 524 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 524 of the complaint.

525. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 525 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 525 of the complaint.

526. Denies any involvement or culpability relating to the allegations of wrongdoing



contained in paragraph 526 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 526 of the complaint.

527. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 527 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 527 of the complaint.

**xii.[sic] The February 2001 Transaction**

528. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 528 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 528 of the complaint.

529. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 529 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 529 of the complaint.

530. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 530 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 530 of the complaint.

531. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 531 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 531 of the complaint.

**xiii.[sic] The February 2002 Transaction**

532. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 532 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 532 of the complaint.

533. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 533 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 533 of the complaint.

534. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 534 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 534 of the complaint.

535. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 535 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 535 of the complaint.

536. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 536 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 536 of the complaint.

**iv. The February 2003 Transaction**

537. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 537 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 537 of the complaint.

538. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 538 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 538 of the complaint.

539. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 539 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 539 of the complaint.

540. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 540 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 540 of the complaint.

v. **The February 2004 Transaction**

541. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 541 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 541 of the complaint.

542. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 542 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 542 of the complaint.

543. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 543 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 543 of the complaint.

544. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 544 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 544 of the complaint.

545. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 545 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 545 of the complaint.

**vi. The February 2005 Transaction**

546. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 546 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 546 of the complaint.

547. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 547 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 547 of the complaint.

548. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 548 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 548 of the complaint.

**3. The Fraudulent Transactions With CIM Ventures**

549. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 549 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 549 of the complaint, and refers to the Examiner's Report for the contents thereof.

**i. The February 2000 Transaction**

550. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 550 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 550 of the complaint.

551. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 551 of the complaint.

552. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 552 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 552 of the complaint.

553. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 553 of the complaint.

554. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 554 of the complaint.

**ii. The February 2001 Transaction**

555. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 555 of the complaint.

556. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 556 of the complaint.

557. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 557 of the complaint.

558. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 558 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 558 of the complaint.

**iii. The Aborted February 2002 Transaction**

559. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 559 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 559 of the complaint.

560. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 560 of the complaint.

561. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 561 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 561 of the complaint.

562. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 562 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 562 of the complaint.

**4. The Fraudulent Transactions With EMF and Delta Flyer**

563. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 563 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 563 of the complaint.

**i. The February 2000 Transaction**

564. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 564 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 564 of the complaint.

**ii. The February 2001 Transaction**

565. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 565 of the complaint.

566. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 566 of the complaint.

567. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 567 of the complaint.

568. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 568 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 568 of the complaint, and refers to the Examiner's Report for the contents thereof.

**iii. The February 2002 Transaction**

569. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 569 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 569 of the complaint.



**iv. The February 2003 Transaction**

570. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 570 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 570 of the complaint.

**5. The Fraudulent Transaction With Beckenham**

571. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 571 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 571 of the complaint.

**6. The Fraudulent Transaction With CS Land**

572. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 572 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 572 of the complaint, and refers to the Examiner's Report for the contents thereof.

**D. Summary and Form of Transactions**

573. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 573 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 573 of the complaint.

574. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 574 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 574 of the complaint.

575. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 575 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 575 of the complaint.

576. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 576 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 576 of the complaint.

577. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 577 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 577 of the complaint.

**E. Material Impact on Financial Statements**

578. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 578 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 578 of the complaint.

579. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 579 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 579 of the complaint.

580. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 580 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 580 of the complaint.

581. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 581 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 581 of the complaint.

582. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 582 of the complaint.

583. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 583 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 583 of the complaint.

584. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 584 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 584 of the complaint.

585. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 585 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 585 of the complaint.

586. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 586 of the complaint.

587. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 587 of the complaint.

**XII. FALSE AND MISLEADING STATEMENTS**

588. Denies each and every allegation contained in paragraph 588 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 588 of the complaint.

589. Denies each and every allegation contained in paragraph 589 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 589 of the complaint.

**A. The May 2005 Press Release and May 2005 8-K**

590. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 590 of the complaint, and refers to the Form 8-K filed by the Company on May 27, 2005 (the “May 2005 8-K”) and to the press release dated May 27, 2005 (the “May 2005 Press Release”) for the contents thereof.

591. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 591 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 591 of the complaint, and refers to the May 2005 Press Release for the contents thereof.

592. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 592 of the complaint, and refers to the May 2005 Press Release for the contents thereof.

593. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 593 of the complaint, and refers to the May 2005 Press Release for the contents thereof.

594. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 594 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 594 of the complaint.

**B. The Year End 2005 Press Release and 2005 10-K**

595. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 595 of the complaint, and refers to the Annual Report for fiscal year 2005 on Form 10-K, filed on July 1, 2005 (as amended through a Form 10-K/A filing on July 20, 2005) (collectively, the “2005 10-K”) for the contents thereof.

596. Denies each and every allegation contained in paragraph 596 as to him; otherwise denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 596 of the complaint, and refers to the 2005 10-K for the contents thereof.

597. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 597 of the complaint, and refers to the 2005 10-K for the contents thereof.

598. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 598 of the complaint, and refers to the 2005 10-K for the contents thereof.

599. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 599 of the complaint, and refers to the 2005 10-K for the contents thereof.

600. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 600 of the complaint, and refers to the 2005 10-K for the contents thereof.

601. Denies each and every allegation contained in paragraph 601 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 601 of the complaint, and refers to the 2005 10-K for the contents thereof.

602. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 602 of the complaint, and refers to the 2005 10-K for the contents thereof.

603. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 603 of the complaint, and refers to the 2005 10-K for the contents thereof.

604. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 604 of the complaint, and refers to the 2005 10-K for the contents thereof.

605. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 605 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 605 of the complaint.

**C. The First Quarter 2006 Press Release, July 2005 8-K, and First Quarter 2006 10-Q**

606. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 606 of the complaint, and refers to the Form 8-K filed by the Company on July 15, 2005 for the quarter ended May 31, 2005 (the “July 2005 8-K”) and the press release dated July 15, 2005 containing the Company’s consolidated financial statements for the quarter ended May 31, 2005 (the “First Quarter 2006 Press Release”) for the contents thereof.

607. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 607 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 607 of the complaint, and refers to the First Quarter 2006 Press Release for the contents thereof.

608. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 608 of the complaint, and refers to the First Quarter 2006 Press Release for the contents thereof.

609. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 609 of the complaint, and refers to the July 15, 2005 quarterly report filed by the Company with the SEC on Form 10-Q (“First Quarter 2006 10-Q”) for the contents thereof.

610. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 610 of the complaint, and refers to the First Quarter 2006 10-Q for the contents thereof.

611. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 611 of the complaint, and refers to the First Quarter 2006 10-Q for the contents thereof.

612. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 612 of the complaint, and refers to the First Quarter 2006 10-Q for the contents thereof.

613. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 613 of the complaint, and refers to the First Quarter 2006 10-Q for the contents thereof.

614. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 614 of the complaint, and refers to the First Quarter 2006 10-Q for the contents thereof.

615. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 615 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 615 of the complaint.



### **XIII. ADDITIONAL ALLEGATIONS OF SCIENTER**

616. Denies each and every allegation contained in paragraph 616 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 616 of the complaint.

#### **A. Circumstantial Evidence of Scienter**

617. Denies each and every allegation contained in paragraph 617 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 617 of the complaint.

618. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 618 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 618 of the complaint.

619. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 619 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 619 of the complaint.

620. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 620 of the complaint.

621. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 621 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 621 of the complaint.

622. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 622 of the complaint.

623. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 623 of the complaint.

624. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 624 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 624 of the complaint.

625. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 625 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 625 of the complaint.

626. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 626 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 626 of the complaint, and refers to the Examiner's Report for the contents thereof.

627. Denies each and every allegation contained in paragraph 627 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 627 of the complaint.

628. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 628 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 628 of the

complaint.

629. Denies each and every allegation contained in paragraph 629 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 629 of the complaint.

630. Denies each and every allegation contained in paragraph 630 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 630 of the complaint.

631. Denies each and every allegation contained in paragraph 631 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 631 of the complaint.

632. Denies each and every allegation contained in paragraph 632 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 632 of the complaint.

633. Denies each and every allegation contained in paragraph 633 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 633 of the complaint.

634. Denies each and every allegation contained in paragraph 634 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 634 of the complaint.

635. Denies each and every allegation contained in paragraph 635 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations

contained in paragraph 635 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

636. Denies each and every allegation contained in paragraph 636 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 636 of the complaint, and refers to the IPO Registration Statement for the contents thereof, except admits to receiving certain payments arising from the “profit sharing agreement” of Refco Group, Ltd.

637. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 637 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 637 of the complaint.

638. Denies each and every allegation contained in paragraph 638 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 638 of the complaint.

639. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 639 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 639 of the complaint.

640. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 640 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 640 of the complaint.

641. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 641 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 641 of the complaint.

642. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 642 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 642 of the complaint.

643. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 643 of the complaint.

644. Denies each and every allegation contained in paragraph 644 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 644 of the complaint, and refers to the Offering Memorandum for the contents thereof.

645. Denies each and every allegation contained in paragraph 645 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 645 of the complaint.

646. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 646 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 646 of the complaint, except admits, upon information and belief, that Refco had received a “Wells Notice” from the SEC and that an investigation was ongoing.

647. Denies each and every allegation contained in paragraph 647 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 647 of the complaint.

648. Denies each and every allegation contained in paragraph 648 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 648 of the complaint, and refers to the October 13, 2005 article in Bloomberg Newswires for the contents thereof.

649. Denies each and every allegation contained in paragraph 649 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 649 of the complaint.

650. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 650 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 650 of the complaint.

651. Denies each and every allegation contained in paragraph 651 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 651 of the complaint.

652. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 652 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 652 of the complaint.

653. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 653 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 653 of the complaint.

654. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 654 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 654 of the complaint.

**B. Motive and Opportunity**

655. Denies each and every allegation contained in paragraph 655 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 655 of the complaint.

656. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 656 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 656 of the complaint, except admits, upon information and belief, that the THL Partner Defendants purchased a stake in Refco.

657. Denies each and every allegation contained in paragraph 657 as to him, except admits to receiving payments arising from the “profit sharing agreement” of Refco Group, Ltd. Denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 657 of the complaint.

658. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 658 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 658 of the complaint.

659. Denies each and every allegation contained in paragraph 659 as to him, except admits that he owned some shares of Refco at or about the time of the IPO; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 659 of the complaint.

660. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 660 of the complaint and refers to the Prospectus for the contents thereof.

661. Denies each and every allegation contained in paragraph 661 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 661 of the complaint.

662. Denies each and every allegation contained in paragraph 662 as to him, except admits to receiving a payment following completion of the IPO; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 662 of the complaint.

663. Denies each and every allegation contained in paragraph 663 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 663 of the complaint.



664. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 664 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 664 of the complaint.

665. Denies each and every allegation contained in paragraph 665 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 665 of the complaint.

666. Denies each and every allegation contained in paragraph 666 as to him, except admits that at some time prior to the IPO he was awarded restricted units of New Refco Group Ltd., LLC; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 666 of the complaint.

667. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 667 of the complaint.

668. Denies each and every allegation contained in paragraph 668 as to him, except admits that payment under the Senior Management Bonus Pool Plan was subject to certain criteria, including performance; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 668 of the complaint.

669. Denies each and every allegation contained in paragraph 669 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 669 of the complaint.

670. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 670 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 670 of the complaint.

671. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 671 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 671 of the complaint.

672. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 672 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 672 of the complaint.

673. Denies each and every allegations contained in paragraph 673 as to him; otherwise denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 673 of the complaint.

**C. Additional Allegations of Scierter As to the Audit Committee**

674. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 674 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 674 of the complaint.

675. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 675 of the complaint.

676. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 676 of the complaint and refers to the IPO Registration Statement for the contents thereof.

677. Denies any involvement or culpability relating to the allegations contained in paragraph 677 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 677 of the complaint.

678. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 678 of the complaint and refers to the IPO Registration Statement for the contents thereof.

679. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 679 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 679 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

680. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 680 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 680 of the complaint.

681. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 681 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 681 of the complaint.

682. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 682 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 682 of the complaint, and refers to the IPO Registration Statement for the contents thereof.

683. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 683 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 683 of the complaint.

684. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 684 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 684 of the complaint.

**D. Additional Allegations of Scienter Against the THL Defendants**

685. Denies each and every allegation contained in paragraph 685 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 685 of the complaint.

686. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 686 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 686 of the complaint.

687. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 687 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 687 of the complaint.

688. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 688 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 688 of the complaint.

689. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 689 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 689 of the complaint.

690. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 690 of the complaint.

691. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 691 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 691 of the complaint.

692. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 692 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 692 of the complaint, and refers to the VR Complaint for the contents thereof.

693. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 693 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 693 of the complaint.

694. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 694 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 694 of the complaint, and refers to the Examiner's Report for the contents thereof.

695. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 695 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 695 of the complaint, and refers to the Examiner's Report for the contents thereof.

696. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 696 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 696 of the complaint.

697. Denies each and every allegation contained in paragraph 697 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 697 of the complaint.

698. Denies each and every allegation contained in paragraph 698 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 698 of the complaint.

699. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 699 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 699 of the complaint.

700. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 700 of the complaint, except admits, upon information and belief, that representatives of the THL Defendants served on Refco's Board following the LBO.

701. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 701 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 701 of the complaint.

702. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 702 of the complaint.

703. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 703 of the complaint.

704. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 704 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 704 of the complaint.

705. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 705 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 705 of the complaint.

706. Denies any involvement or culpability relating to the allegations of wrongdoing

contained in paragraph 706 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 706 of the complaint.

707. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 707 of the complaint.

708. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 708 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 708 of the complaint.

709. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 709 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 709 of the complaint.

**E. Additional Allegations of Scierter Against Mayer Brown and Collins**

**1. Motive and opportunity**

710. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 710 of the complaint, except admits that Mayer Brown performed legal services for Refco and that Collins was the Mayer Brown partner in charge of the account.

711. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 711 of the complaint, except admits, upon information and belief, that Refco was regulated domestically by various entities including the SEC, the NASD



and the Commodity Futures Trading Commission and admits, upon information and belief, that Refco did complete corporate acquisitions between 1999 and 2005.

712. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 712 of the complaint.

713. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 713 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 713 of the complaint.

714. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 714 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 714 of the complaint.

**2. Knowledge and/or reckless disregard of the fraud**

715. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 715 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 715 of the complaint.

716. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 716 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 716 of the complaint.

717. Denies any involvement or culpability relating to the allegations of wrongdoing

contained in paragraph 717 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 717 of the complaint.

718. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 718 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 718 of the complaint.

719. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 719 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 719 of the complaint.

720. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 720 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 720 of the complaint.

721. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 721 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 721 of the complaint, and refers to the Examiner's Report for the contents thereof.

#### **XIV. LOSS CAUSATION**

722. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 722 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 722 of the complaint.

723. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 723 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 723 of the complaint.

724. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 724 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 724 of the complaint, except denies the allegation contained in paragraph 724 of the complaint that a \$420 million related-party loan to RGHI was disclosed on October 10, 2005.

725. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 725 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 725 of the complaint.

726. Denies each and every allegation contained in paragraph 726 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 726 of the complaint.

#### **XV. INAPPLICABILITY OF THE STATUTORY SAFE HARBOR**

727. Denies each and every allegation contained in paragraph 727 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 727 of the complaint.

728. Denies each and every allegation contained in paragraph 728 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 728 of the complaint.

**XVI. PRESUMPTION OF RELIANCE**

**A. Reliance Should be Presumed With Respect to Defendants' Omissions**

729. Denies each and every allegation contained in paragraph 729 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 729 of the complaint.

**B. Reliance Upon the Offering Memorandum and Road Show Should Be Presumed For All Purchasers of 144A Bonds in the Initial Offering**

730. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 730 of the complaint, except denies that investors' reliance on the Offering Memorandum should be presumed, and refers to the Offering Memorandum for the contents thereof.

731. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 731 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 731 of the complaint, except denies that reliance by all initial offering purchasers of the 144A Bonds on information in the Offering Memorandum and at the Road Show should be presumed.

**C. Reliance Should be Presumed Because Fraud Created the Market for the Company's Securities**

732. Denies each and every allegation contained in paragraph 732 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations

contained in paragraph 732 of the complaint.

733. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 733 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 733 of the complaint, and refers to the Offering Memorandum and the Bond Registration Statement for the contents thereof.

734. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 734 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 734 of the complaint.

735. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 735 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 735 of the complaint.

736. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 736 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 736 of the complaint, except denies that the reliance of plaintiffs and the Class members on Defendants' fraudulent scheme, including their alleged misstatements and omissions, should be presumed.

**D. Reliance Should be Presumed Under the Fraud-on-the-Market Doctrine**

737. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 737 of the complaint.

738. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 738 of the complaint.

739. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 739 of the complaint.

740. Denies each and every allegation contained in paragraph 740 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 740 of the complaint.

741. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 741 of the complaint.

742. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 742 of the complaint, except admits that following the IPO, Refco's stock was traded on the New York Stock Exchange.

743. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 743 of the complaint.

744. Denies each and every allegation contained in paragraph 744 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 744 of the complaint.

**XVII. CLAIMS FOR RELIEF UNDER THE EXCHANGE ACT**

**COUNT NINE**

**For Violations of Section 10(b) of the Exchange Act and  
Rule 10b-5(b) Promulgated Thereunder,  
On Behalf of Plaintiffs and All Members of the Class,  
Against the Officer Defendants, the Audit Committee Defendants, Trosten  
The THL Defendants, Mayer Brown, Collins, and Grant Thornton**

745. Repeats and realleges his answers to plaintiffs' allegations as set forth above.

746. Denies each and every allegation contained in paragraph 746 of the complaint, except admits that plaintiffs purport to bring this Claim pursuant to Section 10(b) of the Exchange Act and Rule 10b-5(b) promulgated thereunder on behalf of themselves and all other members of the Class.

747. Denies each and every allegation contained in paragraph 747 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 747 of the complaint.

748. Denies each and every allegation contained in paragraph 748 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 748 of the complaint.

749. Denies each and every allegation contained in paragraph 749 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 749 of the complaint.

750. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 750 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 750 of the

complaint.

751. Denies each and every allegation contained in paragraph 751 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 751 of the complaint.

752. Denies each and every allegation contained in paragraph 752 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 752 of the complaint.

753. Denies each and every allegation contained in paragraph 753 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 753 of the complaint.

754. Denies each and every allegation contained in paragraph 754 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 754 of the complaint.

755. Denies each and every allegation contained in paragraph 755 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 755 of the complaint.

#### **COUNT TEN**

#### **For Violations of Section 10(b) of the Exchange Act, and Rule 10b-5(a) and (c) Promulgated Thereunder, On Behalf of Lead Plaintiffs and All Members of the Class, Against RGHI**

756-763. Sexton is not required to answer the allegations of paragraphs 756 through 763 of the complaint, which are part of plaintiffs' tenth claim for relief, because plaintiffs have not asserted such claim against Sexton. Denies any involvement or culpability relating to the



allegations of wrongdoing contained in paragraphs 756 through 763 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 756 through 763 of the complaint.

#### **COUNT ELEVEN**

**Pursuant to Section 10(b) of the Exchange Act and  
Rule 10b-5(a) and (c) Promulgated Thereunder,  
on Behalf of Plaintiffs and All Class Members Against Mayer Brown and Collins**

764-773. Sexton is not required to answer the allegations of paragraphs 764 through 773 of the complaint, which are part of plaintiffs' tenth claim for relief, because plaintiffs have not asserted such claim against Sexton. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraphs 764 through 773 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 764 through 773 of the complaint.

#### **COUNT TWELVE**

**Control Person Liability Pursuant to Section 20(a) of the Exchange Act,  
On Behalf of Purchasers of 144A Bonds in the Bond Offering,  
Against Bennett, Grant, RGHI, the THL Defendants, Lee, Murphy,  
Trosten, Sexton, Silverman, and Maggio  
(Based on Violations of Section 10(b) and Rule 10b-5 by Refco Group,  
Refco Finance Holdings, and Refco Finance)**

774. Repeats and realleges his answers to plaintiffs' allegations as set forth above.

775. Denies each and every allegation contained in paragraph 775 of the complaint, except admits that plaintiffs PIMCO and the PIMCO High Yield Fund purport to bring this Claim pursuant to Section 20(a) of the Exchange Act on behalf of Class members who purchased 144A Bonds in the Bond Offering.

776. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 776 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 776 of the complaint.

777. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 777 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 777 of the complaint.

778. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 778 of the complaint.

779. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 779 of the complaint.

780. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 780 of the complaint.

781. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 781 of the complaint.

782. Denies each and every allegation contained in paragraph 782 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 782 of the complaint.

783. Denies each and every allegation contained in paragraph 783 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 783 of the complaint.

784. Denies each and every allegation contained in paragraph 784 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 784 of the complaint.

785. Denies each and every allegation contained in paragraph 785 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 785 of the complaint.

786. Denies each and every allegation contained in paragraph 786 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 786 of the complaint.

### **COUNT THIRTEEN**

**Control Person Liability Pursuant to Section 20(a) of the Exchange Act,  
On Behalf of Purchasers of Bonds After the Bond Offering and  
Before the Date of the IPO, Against the  
THL Defendants and Defendants Bennett, RGHI, the Bennett Trust,  
Murphy, Trosten, Sherer, Sexton, Silverman, Maggio, Klejna, O’Kelley,  
Gantcher, and Breitman  
(Based on Violations of Section 10(b) and Rule 10b-5 By Refco Group)**

787. Plaintiffs repeat and reallege each of the allegations set forth above as if fully set forth herein.

788. Denies each and every allegation contained in paragraph 788 of the complaint, except admits that plaintiffs PIMCO and the PIMCO High Yield Fund purport to bring this Claim pursuant to Section 20(a) of the Exchange Act on behalf of Class members who purchased Bonds after the Bond Offering but prior to the IPO.

789. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 789 of the complaint; otherwise denies knowledge or information

sufficient to form a belief as to the truth of the allegations contained in paragraph 789 of the complaint.

790. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 790 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 790 of the complaint.

791. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 791 of the complaint.

792. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 792 of the complaint.

793. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 793 of the complaint.

794. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 794 of the complaint.

795. Denies each and every allegation contained in paragraph 795 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 795 of the complaint.

796. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 796 of the complaint.

797. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 797 of the complaint.

798. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 798 of the complaint.

799. Denies each and every allegation contained in paragraph 799 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 799 of the complaint.

800. Denies each and every allegation contained in paragraph 800 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 800 of the complaint.

801. Denies each and every allegation contained in paragraph 801 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 801 of the complaint.

802. Denies each and every allegation contained in paragraph 802 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 802 of the complaint.

803. Denies each and every allegation contained in paragraph 803 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 803 of the complaint.

**COUNT FOURTEEN**

**Control Person Liability Pursuant to Section 20(a) of the Exchange Act,  
On Behalf of Purchasers of Bonds and/or Refco Common Stock  
On and After the Date of the IPO, Against the  
THL Defendants and Defendants Bennett, RGHI, the  
Bennett Trust, Murphy, Sherer, Sexton, Silverman, Maggio, Klejna,  
O'Kelley, Gantcher, and Breitman  
(Based on Violations of Section 10(b) and Rule 10b-5 by Refco)**

804. Repeats and realleges his answers to plaintiffs' allegations as set forth above.

805. Denies each and every allegation contained in paragraph 805 of the complaint, except admits that plaintiffs purport to bring this Claim pursuant to Section 20(a) of the Exchange Act on behalf of all members of the Class who purchased Bonds and/or Refco stock during the Class period.

806. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 806 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 806 of the complaint.

807. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 807 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 807 of the complaint.

808. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 808 of the complaint.

809. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 809 of the complaint, except admits, upon information and

belief, that Bennett held ownership interest in Refco and served as Refco Chairman of the Board, President and CEO.

810. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 810 of the complaint.

811. Denies each and every allegation contained in paragraph 811 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 811 of the complaint.

812. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 812 of the complaint.

813. Denies each and every allegation contained in paragraph 813 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 813 of the complaint.

814. Denies each and every allegation contained in paragraph 814 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 814 of the complaint.

815. Denies each and every allegation contained in paragraph 815 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 815 of the complaint.

816. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraph 816 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 816 of the complaint.

817. Denies each and every allegation contained in paragraph 817 as to him; denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 817 of the complaint.

**COUNT FIFTEEN**

**Control Person Liability Pursuant to Section 20(a) of the  
Exchange Act Against Mayer Brown on Behalf of Plaintiffs and all Class Members  
(Based on Violations of Section 10(b) and Rule 10b-5 by Collins,  
Koury, Monk, and Other Mayer Brown Partners and Employees)**

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818-827. Sexton is not required to answer the allegations of paragraphs 818 through 827 of the complaint, which are part of plaintiffs' fourteenth claim for relief, because plaintiffs have not asserted such claim against Sexton. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraphs 818 through 827 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 818 through 827 of the complaint.

**COUNT SIXTEEN**

**Pursuant to Section 20A of the Exchange Act,  
On Behalf of Purchasers of Refco Stock,  
Against Bennett, Thomas H. Lee Equity Fund V., L.P.,  
Thomas H. Lee Parallel Fund V, L.P.,  
Thomas H. Lee Equity (Cayman) Fund V, L.P.,  
and Thomas H. Lee Investors Limited Partnership**

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828-833. Sexton is not required to answer the allegations of paragraphs 828 through 833 of the complaint, which are part of plaintiffs' fifteenth claim for relief, because plaintiffs have not asserted such claim against Sexton. Denies any involvement or culpability relating to the allegations of wrongdoing contained in paragraphs 828 through 833 of the complaint; otherwise denies knowledge or information sufficient to form a belief as to the truth of the allegations



contained in paragraphs 828 through 833 of the complaint.

**JURY DEMAND**

834. No response is required for paragraph 834 of the complaint. Sexton also demands a trial by jury on all issues so triable.

**FIRST DEFENSE**<sup>2</sup>

835. Plaintiffs fail to state a claim against Sexton upon which relief can be granted.

**SECOND DEFENSE**

836. Upon information and belief, plaintiffs lack standing to maintain their claims against Sexton.

**THIRD DEFENSE**

837. Upon information and belief, plaintiffs' claims against Sexton are barred, in whole or in part, by plaintiffs' failure to take appropriate steps to mitigate their alleged damages.

**FOURTH DEFENSE**

838. Upon information and belief, plaintiffs' claims against Sexton are barred, in whole or in part, under such equitable defenses as the evidence demonstrates, including, but not limited to, the doctrines of unclean hands, estoppel, waiver and laches.

**FIFTH DEFENSE**

839. Upon information and belief, plaintiffs' claims against Sexton are barred because plaintiffs cannot properly maintain a class action.

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<sup>2</sup> Sexton does not allege or admit that he bears the burden of proof with respect to any of the defenses asserted herein.

### **SIXTH DEFENSE**

840. Upon information and belief, plaintiffs' claims against Sexton are barred because plaintiffs' damages cannot be attributed to the alleged misrepresentations and omissions.

### **SEVENTH DEFENSE**

841. Plaintiffs' Section 11 claim against Sexton is barred because, as regards any part of the Bond Registration Statement not purporting to be made on the authority of any expert, and not purporting to be a copy of or extract from a report or valuation of an expert, Sexton had, after reasonable investigation, reasonable ground to believe and did believe, at the time such part of the registration statement became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, and, as regards any part of the Bond Registration Statement purporting to be made on the authority of any expert, or purporting to be a copy of or extract from a report or valuation of an expert, Sexton had no reasonable ground to believe and did not believe, at the time such part of the registration statement became effective, that the statements therein were untrue or that there was an omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or that such part of the registration statement did not fairly represent the statement of the expert or was not a fair copy of or extract from the report or valuation of the expert.

### **EIGHTH DEFENSE**

842. Plaintiffs' Section 11 claim against Sexton is barred because a signature pursuant to power of attorney by a wrongdoer knowingly committing an illegal act is beyond the scope of the power granted, and is invalid ab initio.

**NINTH DEFENSE**

843. Plaintiffs' Section 15 claims against Sexton are barred because Sexton had no knowledge of or reasonable grounds to believe in the existence of the facts by reason of which the liability of the alleged controlled person(s) is alleged to exist.

**TENTH DEFENSE**

844. Plaintiffs' Section 20 claims against Sexton are barred because Sexton acted in good faith and did not directly or indirectly induce the act or acts constituting the alleged violations or causes of action.

**ELEVENTH DEFENSE**

845. Plaintiffs' claims against Sexton under Section 15 and Section 20 are barred because Sexton lacked the power to direct or cause the direction of the management or policies of the alleged primary violator(s).

**TWELFTH DEFENSE**

846. Plaintiffs' claims against Sexton under Section 15 and Section 20 are barred because Sexton lacked actual control over the transactions in question.

**THIRTEENTH DEFENSE**

847. Plaintiffs' claims against Sexton are barred, in whole or in part, under the bespeaks caution doctrine and/or the safe harbor for forward looking statements provided by the Private Securities Litigation Reform Act.

**FOURTEENTH DEFENSE**

848. Plaintiffs' Section 11 claim against Sexton is barred because a legally superfluous signature, not otherwise required under law, and obtained by a wrongdoer for knowingly

unlawful purposes, does not give rise to liability.

**FIFTEENTH DEFENSE**

849. Plaintiffs' claims against Sexton are barred, in whole or in part, because the conduct of parties other than Sexton proximately caused the alleged harm, if any, set forth in the complaint.

**SIXTEENTH DEFENSE**

850. Plaintiffs' claims against Sexton are barred, in whole or in part, by the applicable statute of limitations.

**SEVENTEENTH DEFENSE**

851. Plaintiffs' claims against Sexton are barred, in whole or in part, because the depreciation in the market price of Refco securities resulted from factors other than the alleged misstatements and/or omissions alleged in the complaint.

**EIGHTEENTH DEFENSE**

852. Plaintiffs' claims against Sexton are barred, in whole or in part, because plaintiffs' losses, if any, were caused by plaintiffs' assumption of the risks of investment, including, but not limited to, the material facts and/or risks that were publicly disclosed, or otherwise in the public domain.

**NINETEENTH DEFENSE**

853. Sexton is entitled to offset damages, if any, by benefits received by plaintiffs through the Refco bankruptcy proceedings.

**TWENTIETH DEFENSE**

854. Sexton hereby adopts and incorporates by reference any and all other affirmative

defenses to be asserted by any other defendant in this action, to the extent that he may share in such affirmative defense.

**RESERVATIONS**

855. Sexton expressly reserves the right to amend or supplement his answer, defenses and all other pleadings, as permitted by law; he further reserves the right to assert any and all additional defenses under any applicable law, in the event that discovery indicates such defenses would be appropriate, and to assert any cross-claims, counterclaims and/or third-party claims.

**PRAYER FOR RELIEF**

WHEREFORE, defendant Sexton demands judgment in his favor and against plaintiffs:

- a. Dismissing the complaint with prejudice;
- b. Awarding him costs and disbursements in this action, including reasonable attorneys' fees; and
- c. Awarding such other and further relief as the Court deems just and proper.

**FRIEDMAN & WITTENSTEIN  
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