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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF ARIZONA**

15 **SECURITIES AND EXCHANGE**
16 **COMMISSION,**

17 Plaintiff,

18 vs.

19 **JASON MOGLER, JAMES**
20 **HINKELDEY, CASIMER**
21 **POLANCHEK, BRIAN BUCKLEY,**
22 **and JAMES STEVENS,**

23 Defendants.

COMPLAINT

24 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

25 **JURISDICTION AND VENUE**

26 1. The Court has jurisdiction over this action pursuant to Sections 20(b),
27 20(d)(1) and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§
28 77t(b), 77t(d)(1) & 77v(a) and Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27(a) of the
Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1),
78u(d)(3)(A), 78u(e) & 78aa(a).

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

5 **SUMMARY**

6 3. This case involves a securities offering fraud orchestrated by Jason
7 Mogler, James Hinkeldey, Casimer Polanchek, Brian Buckley and James Stevens
8 (“Defendants”). Defendants offered and sold about \$18 million in promissory notes
9 to approximately 225 investors from October 2006 through May 2013. Defendants
10 told investors that these promissory notes were issued by entities – all controlled by
11 Defendants – which supposedly acquired and developed beachfront property in
12 Mexico, operated recycling facilities, and bought foreclosed residential properties for
13 resale. Those representations were false. In fact, Defendants misappropriated
14 roughly 97% of the \$18 million they raised from investors. They used that money to
15 pay their living expenses, make car payments, buy clothing, and fund their travel and
16 entertainment at casinos, luxury resorts, and strip clubs. Defendants also misused
17 investor money to finance their ongoing efforts to attract new investors for their
18 fraudulent offerings. Mogler called investor funds “our treasure chest” and his
19 “personal (expletive) candy store.”

20 4. To conceal their fraudulent scheme, Defendants repeatedly lied about the
21 purported progress of the investments to calm worried investors and to convince them
22 to extend out the time at which their promissory notes were supposed to have been
23 repaid. Further, Defendants sought to avoid the revelation of their fraud by using
24 investor funds to make Ponzi-like payments to other investors – which Mogler called,
25 “robbing Peter to pay Paul.”

26 5. As a result of the conduct alleged herein, Defendants have violated the
27 antifraud provisions of the Securities Act and the Exchange Act, and the securities
28 registration provisions of Section 5 of the Securities Act, and Defendants Polanchek

1 and Buckley have violated the broker-dealer registration provisions of Section 15 of
2 the Exchange Act.

3 6. With this Complaint, the SEC seeks permanent injunctive relief against
4 Defendants from violations of the antifraud and registration provisions of the federal
5 securities laws, disgorgement of ill-gotten gains with prejudgment interest thereon,
6 and civil penalties.

7 **DEFENDANTS**

8 7. Jason Mogler, 47, is a resident of Scottsdale, Arizona. Mogler controls
9 numerous entities that he used to raise money from investors, including Pangaea
10 Investment Group LLC, Tri-Core Companies LLC, Tri-Core Business Development
11 LLC, ERC Contractors LLC, ERC of Chicago LLC and Phoenix Premium Properties
12 LLC. He was described in the Tri-Core Mexico Land Development LLC offering
13 materials as a “general partner” and member. Mogler is not and has never been
14 registered with the SEC.

15 8. Casimer Polanchek, 32, is a resident of Chandler, Arizona. Polanchek
16 manages and serves as the control person for Pangaea Investment Group LLC.
17 Polanchek is not and has never been registered with the SEC.

18 9. James Hinkeldey, 62, is a resident of Scottsdale, Arizona. Hinkeldey
19 created Tri-Core Companies LLC with Mogler in 2007. In addition, Hinkeldey
20 served as vice president of Tri-Core Companies, ERC Compactors LLC and Phoenix
21 Premium Properties LLC and as an independent consultant to Tri-Core Business
22 Development LLC. Hinkeldey is not and has never been registered with the SEC.

23 10. Brian Buckley, 56, is a resident of Gilbert, Arizona. Buckley held the
24 title of “Investor Relations” at Arizona Investment Center. Buckley was also the vice
25 president of operations for the ERC-related entities. Buckley is not and has never
26 been registered with the SEC.

27 11. James Stevens, 75, is a resident of Fort Mohave, Arizona. He has been a
28 manager and member of Tri-Core Mexico LLC since its inception in May 2007 and

1 also serves as its principal and planning director. Stevens further held the position of
2 head of construction for Wert-Berater LLC d.b.a. Mar De Cortez Construction
3 Company. Stevens is not and has never been registered with the SEC.

4 **RELATED ENTITIES**

5 12. Pangaea Investment Group LLC (“Pangaea”) is a limited liability
6 company organized in Arizona in August 2009 and controlled by Mogler and
7 Polanchek. Pangaea’s principal place of business is in Scottsdale, Arizona. Since
8 December 2009, Pangaea has been registered with the Arizona Secretary of State as
9 the owner of the trade name “Arizona Investment Center” (“AIC”) and has been
10 doing business under that name. AIC’s website includes links to several “partners”
11 including “Tri-Core Companies,” “ERC” and “Phoenix Premium Properties.”
12 Pangaea and AIC are not registered with the SEC in any capacity.

13 13. Tri-Core Business Development LLC (“Tri-Core BD”) was organized in
14 Arizona in January 2006 as a limited liability company and has a principal place of
15 business in Scottsdale, Arizona. In November 2007, Tri-Core BD was converted to a
16 manager-managed company with Mogler as the managing member. Mogler served as
17 Tri-Core BD’s president and Hinkeldey served as its independent consultant.

18 14. Tri-Core Mexico LLC (“Tri-Core Mexico”) is a limited liability
19 company organized in Arizona in May 2007. Stevens managed Tri-Core Mexico and
20 Mogler served as its principal.

21 15. Tri-Core Companies LLC (“Tri-Core Companies”) was a limited
22 liability company organized in Arizona in August 2007. Tri-Core Companies was
23 controlled by Mogler as president and Hinkeldey as co-vice president, each of whom
24 own 30% of the entity. Tri-Core Companies’ principal place of business was in
25 Scottsdale, Arizona. The State of Arizona dissolved Tri-Core Companies in June
26 2014. Tri-Core Companies and its securities were not registered with the SEC in any
27 capacity.

1 16. Wert-Berater LLC d.b.a. Mar De Cortez Construction Company (“Mar
2 de Cortez”) is a sole proprietorship located in Las Vegas, Nevada that was created in
3 August 2012. Stevens was a managing member of Wert-Berater, which was in the
4 business of performing real estate appraisals. Wert-Berater ceased operations around
5 July 2007. Stevens reinstated Wert-Berater in 2012 as an entity (Mar de Cortez)
6 offering promissory notes in Mexican land without the knowledge or involvement of
7 the other managing member. Mar de Cortez and its securities are not registered with
8 the SEC in any capacity.

9 17. C&D Construction Services, Inc. (“C&D Construction”) is a Nevada
10 corporation organized in April 2000. C&D Construction’s principal place of business
11 is Las Vegas, Nevada. C&D Construction and its securities are not registered with
12 the SEC in any capacity.

13 18. ERC of Nevada, LLC (“ERC of Nevada”) is a limited liability company
14 incorporated in Nevada with its principal place of business in Las Vegas, Nevada.
15 ERC of Nevada and its securities are not registered with the SEC in any capacity.

16 19. ERC Compactors LLC (“ERCC”) is a limited liability company
17 incorporated in Arizona in August 2011. ERCC’s principal place of business is in
18 Scottsdale, Arizona. Mogler is ERCC’s registered agent and Hinkeldey is its vice
19 president. ERCC and its securities are not registered with the SEC in any capacity.

20 20. ERC of Chicago LLC (“ERC of Chicago”) is a limited liability company
21 incorporated in Illinois in February 2012 with its principal place of business in
22 Yorkville, Illinois. ERC of Chicago and its securities are not registered with the SEC
23 in any capacity.

24 21. Phoenix Premium Properties LLC (“Phoenix Premium Properties”) is a
25 limited liability company organized in Arizona in August 2009. Phoenix Premium
26 Properties’ principal place of business is in Scottsdale, Arizona. Mogler serves as the
27 president and principal of Phoenix Premium Properties. Hinkeldey serves as vice
28 president and principal. Mogler and Buckley are signatories to the Phoenix Premium

1 Properties bank account into which investor funds were deposited. Phoenix Premium
2 Properties and its securities are not registered with the SEC in any capacity.

3 **FACTUAL ALLEGATIONS**

4 **A. Background on Defendants and the Fraudulent Offerings**

5 22. Defendants engaged in fraudulent securities offerings by companies
6 purportedly involved in (1) the acquisition and development of beach front property
7 in Mexico; (2) operating recycling facilities; and (3) acquiring lender-owned and
8 foreclosed residential properties for resale.

9 23. Tri-Core Companies, Tri-Core Mexico and Mar De Cortez offered and
10 sold securities relating to the purported Mexican land investments.

11 24. ERC of Nevada, ERCC, ERC of Chicago and C&D Construction offered
12 and sold securities relating to the purported recycling investments.

13 25. Phoenix Premium Properties offered and sold securities relating to the
14 purported lender- owned residential property investments.

15 26. Tri-Core BD served as the AIC holding account. Mogler made sizeable
16 transfers of investor funds raised from each of the offerings into the Tri-Core BD
17 bank account to use as his personal “treasure chest.” Investors in the ERC of Nevada
18 and C&D Construction offerings were instructed to make out their checks directly to
19 Tri-Core BD. Tri-Core BD also received large transfers of investor funds via
20 purported consulting agreements with Tri-Core Mexico, ERC of Chicago and C&D
21 Construction.

22 **1. Mexican land offerings**

23 27. From at least October 2006 until October 2012, Defendants offered and
24 sold promissory notes issued by Tri-Core Mexico, Tri-Core Companies and Mar De
25 Cortez, raising approximately \$10 million from investors.

26 28. Defendants provided investors and potential investors with offering
27 materials stating that investor funds would be used to purchase and develop
28 waterfront investment property in San Luis Rio Colorado, Sonora, Mexico, and

1 promising annual returns between 25 and 80 percent.

2 **2. Recycling facility offerings**

3 29. From at least November 2010 through May 2013, Mogler, Polanchek,
4 Buckley and Hinkeldey offered and sold promissory notes issued by C&D
5 Construction, ERCC, ERC of Nevada and ERC of Chicago, raising about \$6.2
6 million from investors.

7 30. Mogler, Polanchek, Buckley and Hinkeldey provided investors and
8 potential investors with PPMs stating that investor funds would be used to purchase
9 land, equipment, services and commodities for “flagship recovery facilit[ies]” that
10 would provide “closed loop” recycling systems in Las Vegas and Chicago, and
11 promising a 12-36% annual return with a maturity date of two years.

12 **3. Lender-owned and foreclosed residential property investment**
13 **offerings**

14 31. From at least November 2010 until May 2013, Mogler, Hinkeldey,
15 Polanchek and Buckley offered and sold promissory notes issued by Phoenix
16 Premium Properties through two offerings, raising about \$1.1 million from investors.

17 32. Mogler, Hinkeldey, Polanchek and Buckley provided investors and
18 potential investors with PPMs stating that investor funds would be used to “purchase
19 residential properties for resale” in the Maricopa County, Arizona market, and
20 promising a 20% annual return with a maturity date of one year.

21 **B. Defendants’ Fraudulent Acts and Statements**

22 **1. Defendants’ solicitation of investors**

23 33. Defendants actively engaged in a scheme to solicit and lure prospective
24 investors to invest in these fraudulent offerings through radio, magazine and internet
25 advertisements, marketing materials, cold calls, and investor presentations.

26 34. Specifically, Defendants prepared and/or reviewed solicitation letters,
27 business plans, PPMs, investor presentations, and advertisements for each offering –
28 all containing the material misrepresentations described below – and disseminated

1 them to potential investors.

2 35. Defendants also solicited potential investors using AIC's website,
3 www.arizonainvestmentcenter.com, where they touted the fraudulent investment
4 opportunities in Mexican land, recycling facilities, and lender owned and foreclosed
5 real estate opportunities described herein.

6 36. Defendants further participated in an Arizona radio program called "The
7 Investment Roadshow." The radio broadcasts referenced investments available in
8 Mexican land, recycling and lender owned or foreclosed residential properties, made
9 representations regarding the safety and security of these investments, instructed
10 listeners how to use a self-directed IRAs to invest in the companies, and invited
11 listeners to call AIC or go to the AIC website to schedule an appointment or to sign
12 up for a seminar or webinar to learn about these investment opportunities.

13 37. In addition, Defendants, and in particular Polanchek, solicited potential
14 investors at venues such as bars, cruises, and self-help seminars.

15 38. Defendants offered and sold their promissory notes to investors across
16 the United States, and in Canada, Germany and Denmark.

17 **2. Defendants Made Material Misrepresentations to Investors**

18 39. In connection with the offerings discussed above, Defendants
19 misrepresented, among other things: (1) the use of funds raised through the offerings;
20 (2) the safety and security of the offerings; (3) the rates of return and time of
21 payment; and (4) the brokerage qualifications of the individuals selling the
22 promissory notes.

23 40. These misrepresentations were material to investors because a
24 reasonable investor in the offerings would have considered it important in making
25 their investment to know, among other things, that their funds would be commingled
26 and misappropriated for Defendants' personal use, that their purported investments
27 were not as safe and secure as represented, that the claimed rates of return and
28 maturity dates of their investments were false, and that those selling the securities in

1 which they invested were not registered brokers or dealers.

2 **a. Defendants misrepresented their use of investor funds**

3 41. Defendants represented that funds raised from investors would be used
4 to operate legitimate businesses involved in the acquisition and development of
5 beachfront property in Mexico, recycling facilities, and the purchase and sale of
6 foreclosed, bank-owned residential properties.

7 42. Instead, Defendants misappropriated almost all of the investor funds
8 raised. Of the more than \$18 million raised by Defendants, only approximately
9 \$500,000 was spent on legitimate business expenses.

10 43. Mogler stole almost \$10 million in investor funds, Polanchek stole
11 approximately \$2 million, Hinkeldey stole about \$900,000, Buckley stole roughly
12 \$500,000, and Stevens stole approximately \$200,000.

13 44. Defendants additionally misused investor funds by making about \$4
14 million in Ponzi-like payments to investors who had either threatened them with
15 lawsuits, or were close friends or family members of Defendants. These infrequent
16 returns paid by Defendants to only certain investors were almost exclusively derived
17 from funds from new investors.

18 45. With respect to the Mexican land offerings, Defendants claimed that
19 proceeds from the Mexican land offering promissory notes would be used to buy and
20 develop water front property in Sonora, Mexico.

21 46. Defendants, however, failed to disclose that multiple offerings claimed
22 to be purchasing (and encumbering) the identical parcel of land. Indeed, the AIC
23 entities were not even eligible to hold title in Mexican land because Mexican law
24 requires that coastal land along the Sonora coast be owned by a Mexican national or
25 corporation, a fact that Defendants concealed from investors at the time of the
26 offering.

27 47. With respect to the recycling facilities offerings, Mogler, Polanchek,
28 Buckley and Hinkeldey represented that funds raised from the C&D Construction,

1 ERCC, ERC of Nevada and ERC of Chicago offerings would be used to invest in
2 recycling facilities. Those entities, however, only spent approximately \$300,000 of
3 the \$6,200,000 raised from investors on recycling equipment and related machinery.

4 48. With respect to the lender-owned residential property offering, the
5 Phoenix Premium Properties PPMs and investor materials claimed that investor funds
6 would be used to purchase and renovate real estate. That representation was false, as
7 Defendants misappropriated investor funds for personal use. Among other things,
8 funds raised through the Phoenix Premium Properties offerings were used to purchase
9 a property for Mogler and properties from two of Mogler's friends and business
10 associates.

11 49. To lure investors, Phoenix Premium Properties' original November 2010
12 business plan falsely represented that "In the last year, we successfully managed over
13 \$15 million worth of these types of transactions." By contrast, Phoenix Premium
14 Properties did not purchase its first lender owned or foreclosed residential property
15 until 2011.

16 **b. Defendants misrepresented investment safety and security**

17 50. Defendants misrepresented the safety of the investments by claiming that
18 they were secured by collateral such as real estate or property and equipment.

19 51. For instance, Defendants stated that the Mexican land offerings would be
20 secured by land in Mexico. However, the investments were not secured because
21 Defendants did not hold the deeds to the land.

22 52. Defendants also misrepresented that the recycling-related offerings were
23 secured by property and equipment when in fact they were not secured by any
24 collateral. Indeed, Defendants only spent \$300,000 on recycling equipment.

25 53. Finally, Defendants misrepresented the safety of the Phoenix Premium
26 Properties offerings. Although the Phoenix Premium Properties offering materials
27 stated that the lender owned and foreclosed residential real estate investments would
28 be "secured by the properties purchased by the pool," the investments were not

1 secured because no properties were ever purchased.

2 **c. Defendants misrepresented promissory note terms and rates**

3 54. Defendants falsely promised high and guaranteed rates of return within
4 a short period of time.

5 55. The Mexican land offerings claimed that due to expected rapid land
6 appreciation in Sonora, Mexico from an anticipated new highway between the U.S.
7 and Mexico, investors would receive between a 40% and 80% rate of return.

8 56. Investors in the recycling offerings were guaranteed returns between
9 12% and 36%.

10 57. Phoenix Premium Properties investors were guaranteed 20% returns.

11 58. None of these investments, however, paid their promised rate of return.
12 Indeed, most investors did not receive any return. The only investors who received
13 any returns were those who either threatened lawsuits or were friends or family of the
14 Defendants.

15 59. In the case of the Mexican land offering, Defendants unilaterally and
16 repeatedly extended the term of investors' notes for another 12-24 months per
17 extension. The PPMs for these offerings, however, never informed investors that
18 their notes could be extended without their consent. Investors who affirmatively
19 agreed to extend promissory notes in connection with all of the offerings did so only
20 after receiving further misrepresentations from Defendants regarding the purported
21 progress of the investments.

22 **d. Defendants misrepresented that the investments would be sold**
23 **by registered broker- dealers**

24 60. Defendants falsely represented that the investments were sold by
25 "registered brokers or dealers who are members of the NASD" and "qualified
26 licensed personnel, pursuant to State and Federal security rules and regulations."
27 Polanchek, Buckley and the other individuals who sold the AIC-related investments
28 were not registered as or associated with brokers or dealers or licensed by any state to

1 sell securities.

2 **3. Defendants' Roles in the Fraud**

3 **a. Jason Mogler**

4 61. Mogler stole almost \$10 million of the investor funds raised by
5 Defendants in the fraudulent offerings for strip club outings, vacations to Hawaii and
6 Disneyland, car payments, food and entertainment, and other personal recreational
7 and living expenses such as child support and mortgage payments.

8 62. Mogler, who was described as the "Master Investor" on AIC's website,
9 orchestrated and perpetuated the fraudulent offerings. In furtherance of the
10 fraudulent scheme, Mogler:

- 11 (a) made Ponzi payments;
- 12 (b) solicited potential investors and misrepresented the use of funds,
13 expected rate of return and safety of the investments;
- 14 (c) drafted and/or reviewed PPMs and other offering materials;
- 15 (d) created Tri-Core Companies with Hinkeldey;
- 16 (e) held positions as president of Tri-Core Companies, ERCC, ERC
17 of Chicago, Phoenix Premium Properties, and as principal of Tri-
18 Core Mexico;
- 19 (f) served as a signatory to bank accounts into which investor money
20 was deposited;
- 21 (g) signed promissory notes and subscription agreements; and
- 22 (h) misrepresented his own educational and employment history by
23 falsely claiming that he graduated from Arizona State University
24 and the Thunderbird American Graduate School of International
25 Management and that he had held the position of Director of
26 Construction Lending for the Royal Bank of Canada.

27 63. At all relevant times, Mogler knowingly, recklessly or negligently
28 perpetrated this fraudulent scheme, and knew, or was reckless or negligent in not

1 knowing, that his misrepresentations and omissions were false and misleading when
2 made.

3 **b. James Hinkeldey**

4 64. From at least August 2007 through March 2013, Hinkeldey played a
5 significant role in the Tri-Core Companies, C&D Construction, ERCC, ERC of
6 Nevada, ERC of Chicago and Phoenix Premium Properties fraudulent offerings.
7 Hinkeldey misrepresented to investors that he and his affiliated entities would use
8 investor funds to purchase land in Mexico, recycling equipment, or lender owned or
9 foreclosed residential real estate properties. Hinkeldey misappropriated almost
10 \$900,000 of investor funds raised in the Tri-Core Companies, C&D, ERCC and
11 Phoenix Premium Properties offerings for his own personal use.

12 65. In furtherance of the fraudulent scheme, Hinkeldey:

- 13 (a) created Tri-Core Companies with Mogler in 2007;
- 14 (b) provided status updates to investors regarding the supposed
15 progress of the projects funded by their investments;
- 16 (c) drafted and reviewed PPMs, investor materials and presentations;
- 17 (d) signed promissory notes and subscription agreements;
- 18 (e) served as a signatory to bank accounts into which investor funds
19 were deposited;
- 20 (f) structured the ERC-related LLCs to minimize risk and hide
21 common links; and
- 22 (g) extended promissory notes without allowing investors the
23 opportunity to object to such extensions.

24 66. At all relevant times, Hinkeldey knowingly, recklessly or negligently
25 perpetrated this fraudulent scheme, and knew, or was reckless or negligent in not
26 knowing, that his misrepresentations and omissions were false and misleading when
27 made.

1 **c. Casimer Polanchek**

2 67. From at least February 2008 through May 2013, Polanchek controlled
3 Pangaea and offered and sold promissory notes issued by Tri-Core Companies, C&D
4 Construction, ERCC, ERC of Nevada, ERC of Chicago and Phoenix Premium
5 Properties.

6 68. More than \$600,000 raised from investors through the fraudulent
7 offerings was transferred to entities and bank accounts controlled by Polanchek as
8 referral fees and commissions.

9 69. Polanchek misappropriated an additional \$1.2 million for personal use.
10 For example, he used investor funds to pay for strip club outings, purchase designer
11 clothing, gamble, vacation at luxury spas, and make car payments.

12 70. In furtherance of the fraudulent scheme, Polanchek:

- 13 (a) made at least \$100,000 in Ponzi-like payments to investors;
14 (b) engaged in general solicitation targeting unsophisticated investors
15 on cruises, at bars and through life coaching classes;
16 (c) participated in investor presentations and seminars;
17 (d) appeared on the “Investment Roadshow” hawking alternative
18 investments;
19 (e) represented to investors that he was a Tri-Core investor, but failed
20 to mention that he received commissions or referral fees in
21 connection with the relevant offerings; and
22 (f) made false statements to investors regarding the securitization of
23 the investments and the use of investor funds.

24 71. At all relevant times, Polanchek knowingly, recklessly or negligently
25 perpetrated this fraudulent scheme, and knew, or was reckless or negligent in not
26 knowing, that his misrepresentations and omissions were false and misleading when
27 made.

1 **d. Brian Buckley**

2 72. From at least February 2007 until May 2013, Buckley offered and sold
3 fraudulent promissory notes as Arizona Investment Center's head of "Investor
4 Relations." According to AIC's website, Buckley is a "dynamic international
5 presenter who has traveled all over the globe from Chicago to China informing
6 audiences of various investment opportunities through Arizona Investment Center."
7 Buckley received approximately \$500,000 in return for luring investors into the
8 fraudulent offerings, including commissions and referral fees.

9 73. In furtherance of the fraudulent scheme, Buckley:

- 10 (a) promoted the fraudulent offerings to potential investors through
11 seminars, presentations and webinars;
12 (b) provided potential investors with offering materials;
13 (c) made false statements when soliciting investors regarding the use
14 of funds, investment returns and securitization of the investments;
15 and
16 (d) served as an authorized signer on the Phoenix Premium
17 Properties' bank account into which investor funds were
18 deposited.

19 74. At all relevant times, Buckley knowingly, recklessly or negligently
20 perpetrated this fraudulent scheme, and knew, or was reckless or negligent in not
21 knowing, that his misrepresentations and omissions were false and misleading when
22 made.

23 **e. James Stevens**

24 75. From at least October 2006 until October 2012, Stevens offered and sold
25 promissory notes issued by Tri-Core Mexico, Tri-Core Companies and Mar De
26 Cortez. Stevens diverted approximately \$200,000 raised from investors in the Tri-
27 Core Mexico and Mar de Cortez offerings to accounts he controlled.

28 76. In furtherance of the fraudulent scheme, Stevens:

- 1 (a) solicited investors in the Mexican land offerings;
- 2 (b) continued to solicit new investors and deceive current investors
- 3 despite learning in 2007 that there was a significant issue with the
- 4 title to the land which formed the basis of the Tri-Core Mexico
- 5 offering;
- 6 (c) provided investors with false updates regarding purported
- 7 developments with the Mexican land;
- 8 (d) failed to inform investors that one of the parcels purportedly
- 9 included in the Tri-Core Mexico offering had been promised to
- 10 Tri-Core BD as compensation;
- 11 (e) deceived investors into signing contract extensions postponing the
- 12 maturity dates of their Tri-Core Mexico promissory notes;
- 13 (f) prepared inflated appraisals for Tri-Core Companies, ERC of
- 14 Nevada and Phoenix Premium Properties; and
- 15 (g) filed for the fictitious firm name of Mar de Cortez Construction
- 16 Company with the County Clerk's Office in Las Vegas, Nevada as
- 17 the purported manager of Wert-Berater Commercial, LLC.

18 77. At all relevant times, Stevens knowingly, recklessly or negligently
19 perpetrated this fraudulent scheme, and knew, or was reckless or negligent in not
20 knowing, that his misrepresentations and omissions were false and misleading when
21 made.

22 **FIRST CLAIM FOR RELIEF**

23 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5(b)**

24 78. The SEC realleges and incorporates by reference paragraphs 1 through
25 77 above.

26 79. Defendants, by engaging in the conduct described above, directly or
27 indirectly, in connection with the purchase or sale of a security, by the use of means
28 or instrumentalities of interstate commerce, of the mails, or of the facilities of a

1 national securities exchange, with scienter:

- 2 (a) employed devices, schemes, or artifices to defraud
- 3 (b) made untrue statements of a material fact or omitted to state a
4 material fact necessary in order to make the statements made, in
5 the light of the circumstances under which they were made, not
6 misleading; or
- 7 (c) engaged in acts, practices, or courses of business which operated
8 or would operate as a fraud or deceit upon other persons.

9 80. By engaging in the conduct described above, Defendants violated, and
10 unless restrained and enjoined will continue to violate, Section 10(b) of the Exchange
11 Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

12 **SECOND CLAIM FOR RELIEF**

13 **Violations of Section 17(a) of the Securities Act**

14 81. The SEC realleges and incorporates by reference paragraphs 1 through
15 77 above.

16 82. Defendants, by engaging in the conduct described above, in the offer or
17 sale of securities by the use of means or instruments of transportation or
18 communication in interstate commerce or by use of the mails, directly or indirectly,
19 with scienter:

- 20 (a) employed devices, schemes, or artifices to defraud;
- 21 (b) obtained money or property by means of untrue statements of a
22 material fact or by omitting to state a material fact necessary in
23 order to make the statements made, in light of the circumstances
24 under which they were made, not misleading; or
- 25 (c) engaged in transactions, practices, or courses of business which
26 operated or would operate as a fraud or deceit upon the purchaser.

27 83. By engaging in the conduct described above, Defendants, violated, and
28 unless restrained and enjoined will continue to violate, Section s 17(a)(1), 17(a)(2)

1 and 17(a)(3) of the Securities Act, 15 U.S.C. § 77q(a)(2).

2 **THIRD CLAIM FOR RELIEF**

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

4 84. The SEC realleges and incorporates by reference paragraphs 1 through
5 77 above.

6 85. Defendants, by engaging in the conduct described above, directly or
7 indirectly, made use of means or instruments of transportation or communication in
8 interstate commerce or of the mails, to offer to sell or to sell securities, or to carry or
9 cause such securities to be carried through the mails or in interstate commerce for the
10 purpose of sale or for delivery after sale.

11 86. No registration statement was ever filed in connection with any of the
12 recycling or Phoenix Premium Properties offerings. However, with regard to Tri-
13 Core, on June 26, 2006, Mogler filed a Form D with the Commission in connection
14 with a \$6.12 million offering by Tri-Core BD. In addition, on March 12, 2008,
15 Mogler filed a Form D with the Commission in connection with a \$3.5 million
16 offering by Tri-Core Mexico.

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

20 **FOURTH CLAIM FOR RELIEF**

21 **Violations of Section 15(a)(1) of the Exchange Act**

22 **(As To Defendants Polanchek and Buckley)**

23 88. The SEC realleges and incorporates by reference paragraphs 1 through
24 77 above.

25 89. Defendants Polanchek and Buckley, by engaging in the conduct
26 described above, made use of the mails or any means or instrumentality of interstate
27 commerce to effect any transactions in, or to induce or attempt to induce the purchase
28 or sale of, any security.

1 90. During the relevant time period, Defendants Polanchek and Buckley
2 were not registered as a broker or dealer.

3 91. By engaging in the conduct described above, Defendants Polanchek and
4 Buckley violated, and unless restrained and enjoined will continue to violate, Section
5 15(a)(1) of the Exchange Act, 15 U.S.C. §§ 78o(a)(1).

6 **PRAYER FOR RELIEF**

7 WHEREFORE, the SEC respectfully requests that the Court:

8 **I.**

9 Issue findings of fact and conclusions of law that Defendants committed the
10 alleged violations.

11 **II.**

12 Issue judgments, in forms consistent with Fed. R. Civ. P. 65(d), permanently
13 enjoining Defendants, and their agents, servants, employees, and attorneys, and those
14 persons in active concert or participation with any of them, who receive actual notice
15 of the judgment by personal service or otherwise, and each of them, from violating
16 Sections 5(a), 5(c), and 17(a) of the Securities Act, 15 U.S.C. §§ 77e(a), 77e(c),
17 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a), and
18 Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

19 **III.**

20 Issue judgments, in forms consistent with Rule 65(d) of the Federal Rules of
21 Civil Procedure, permanently enjoining Defendants Polanchek and Buckley and their
22 agents, servants, employees, and attorneys, and those persons in active concert or
23 participation with any of them, who receive actual notice of the judgment by personal
24 service or otherwise, and each of them, from violating Section 15(a)(1) of the
25 Exchange Act, 15 U.S.C. §§ 78o(a)(1).

26 **IV.**

27 Order Defendants to disgorge all ill-gotten gains they received, together with
28 prejudgment interest thereon.

1 **V.**

2 Order Defendants to pay civil penalties under Section 20(d) of the Securities
3 Act, 15 U.S.C. § 77t(d) and Section 21(d)(3) of the Exchange Act, 15 U.S.C.
4 § 78u(d)(3).

5 **VI.**

6 Retain jurisdiction of this action in accordance with the principles of equity and
7 the Federal Rules of Civil Procedure in order to implement and carry out the terms of
8 all orders and decrees that may be entered, or to entertain any suitable application or
9 motion for additional relief within the jurisdiction of this Court.

10 **VII.**

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

13 Dated: September 11, 2015

14 /s/ Gary Y. Leung

15 Gary Y. Leung

16 Wendy E. Pearson

17 Attorneys for Plaintiff

18 Securities and Exchange Commission
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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff Securities and Exchange (s):	Defendant	Jason Mogler ; James Hinkeldey ; Casimer Polanchek ; Brian Buckley ; James Stevens
Commision	(s):	

County of Residence: Outside the
State of Arizona

County of Residence: Maricopa

County Where Claim For Relief
Arose: Maricopa

Plaintiff's Atty(s):

**Gary Y Leung
444 S. Flower

St. #900
Los Angeles CA
90071**

Defendant's Atty(s):

**Michael Kimerer (Defendant
Mogler) 1313 East Osborn Road
#100 Phoenix, Arizona 85014**

**Mark Heath (Defendant
Buckley) 1640 South Stapley
Drive #127 Mesa, Arizona
85204**

Wendy E Pearson
444 S. Flower St.
#900
Los Angeles CA
90071

**David Eisenberg (Defendant
Hinkeldey)**
2702 North Third Street #4003
Phoenix, Arizona 85004

**Pat Gitre (Defendant
Polanchek)** 801 North First
Avenue Phoenix, Arizona
85003

Tom Crowe (Defendant Stevens)
1100 East Washington Street #200
Phoenix, Arizona 85034

II. Basis of
Jurisdiction:

1. U.S. Government Plaintiff

III. Citizenship of
Principal Parties

(Diversity Cases Only)

Plaintiff:- N/A

Defendant:- N/A

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

850 Securities/Commodities/Exchange

VI. Cause of Action: **Violation of Federal Securities Laws, Sections 5 and 17(a) of the Securities Act of 1933, 15 U.S.C. Sections 77e and 77q(a), and Sections 10(b) and 15(a) of the Securities Exchange Act of 1934, 15 U.S.C. Sections 78(b) and 78o(a).**

VII. Requested in
Complaint

Class Action: **No**
Dollar Demand: N/A
Jury Demand: **No**

VIII. This case is related to U.S. v. Mogler et al. CR-15-1118-PHX-SPL (Ariz)

Signature: /s/ Gary Y. Leung

Date: 9/11/2015

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

Revised: 01/2014