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UNITED STATES OF AMERICA
Before the
SECURITES AND EXHANGE COMMISSION

In the Matter of JOHN THOMAS CAPITAL MANAGEMENT GROUP LLC, d/b/a PATRIOT28 LLC, GEORGE R. JARKESY JR. JOHN THOMAS FINANCIAL, INC., and ANASTASIOS "TOMMY" BELESIS, Respondents.	Administrative Proceeding File No. 3-15255 ALJ Carol Fox Foelak

ANSWER AND AFFIRMATIVE DEFENSES OF RESPONDENTS JOHN THOMAS FINANCIAL, INC. AND ANASTASIOS "TOMMY" BELESIS

(April 30, 2013)

Counsel for Respondents JOHN THOMAS FINANCIAL, INC and ANASTASIOS "TOMMY" BELESIS:
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Respondents John Thomas Financial, Inc. ("JTF") and Anastasios "Tommy" Belesis ("Belesis"), by and through its undersigned counsel, submit this Answer and Affirmative Defenses in response to the Order Instituting Administrative and Cease-And-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Sections 15(b)(4), 15(b)(6) and 21C of the Securities Exchange Act of 1934 ("Exchange Act"), Sections 203(e), 203(f) and 203(k) of the Investment Advisers Act of 1940 ("Advisors Act"), and Section 9(b) of the Investment Company Act of 1940 ("Investment Company Act"), dated March 22, 2013 (the "OIP"). Respondents admit, deny and respond as follows:

SUMMARY

1. This case concerns fraudulent conduct by Jarkesy, the manager of two hedge funds formerly known as the John Thomas Bridge and Opportunity Fund LP I ("Fund I") and John Thomas Bridge and Opportunity Fund LP II ("Fund II," collectively the "Funds"), and the Funds' adviser, formerly known as JTCM. As alleged herein, Jarkesy also elevated the interests of Respondents JTF and Belesis over those of the Funds by steering millions of dollars in bloated fees to the broker-dealer.

ANSWER: JTF and Belesis are not required to respond to the allegations against George Jarkesy ("Jarkesy"), Fund I, Fund II, or John Thomas Capital Management ("JTCM"). JTF and Belesis deny that Jarkesy elevated the interests of JTF and Belesis over the Funds, and further deny that millions of dollars in "bloated fees" were "steered" by Jarkesy to JTF.

2. Jarkesy and JTCM launched Fund I in 2007 and Fund II in 2009. Since September 2011, the Funds have been known as Patriot Bridge and Opportunity Fund LP I and LP II and the adviser has been known as Patriot28 LLC.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

3. The Funds invest in three asset classes: bridge loans to start-up companies; equity investments principally in microcap companies; and life settlement policies. The Funds' assets under management peaked at approximately $30 million at the end of 2011.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

4. Among other things, Jarkesy and JTCM:

a. recorded arbitrary valuations without any reasonable basis for certain of the Funds' largest holdings, thus causing the Funds' performance figures to be false and misleading and their own compensation to be falsely inflated;

b. marketed the Funds on the basis of false representations about, among other things, the identities of their auditor and prime broker; and

c. breached their fiduciary duty of full and fair disclosure to the Funds by failing to disclose their repeated favoring of the pecuniary interests of Belesis, the chief executive officer of JTF, and JTF, which served as the Funds' placement agent.

ANSWER: Because there is no allegation against JTF or Belesis in subparts (a) and (b), no response is required. With respect to the allegation in paragraph 4(c), JTF and Belesis deny that Jarkesy or JTCM favored the pecuniary interests of Belesis and JTF ahead of the interests of the Funds, and further answer that all fees which JTF collected for services rendered to the Funds or companies in which the Funds invested were fully disclosed and agreed to in arms' length transactions.

5. While they shared the same brand name, JTCM (the adviser) purported to be wholly independent of JTF (the placement agent).

ANSWER: JTF and Belesis deny that JTCM "purported to be wholly independent of JTF." JTF and Belesis further answer that JTCM disclosed that JTF was the placement agent for the Funds and that JTF provided it brokerage services, but that the Funds were not otherwise affiliated with JTF.

6. Notwithstanding representations that he was "responsible for all of the investment decisions" of the Funds, Jarkesy capitulated to Belesis' aggressive demands regarding certain investment decisions. JTCM's purported independence from JTF was a sham designed to enrich Belesis at the expense of the Funds, and to insulate him from future accusations of wrongdoing.

ANSWER: JTF and Belesis deny that Jarkesy "capitulated" to Belesis' demands regarding investment decisions, deny that Belesis made "demands" regarding investment decisions, and further deny that JTCM's independence from JTF "was a sham designed to enrich Belesis at the expense of the Funds, and to insulate him from future accusations of wrongdoing." Belesis and

JTF further answer that Jarkesy retained the absolute authority to reject any investment recommendations made by Belesis, that Belesis never made "demands" but recommendations to Jarkesy, and that any monies paid from the Funds or independent third parties to JTF were fully disclosed and agreed to by each party, who was often if not always represented by independent counsel.

7. In addition to capitulating to Belesis' demands regarding certain Fund activities, Jarkesy and JTCM abandoned their fiduciary duty to the Funds by negotiating arrangements whereby borrowing companies would divert large fees to JTF and Belesis using proceeds received from the Funds. For example, in connection with certain bridge loans made by Fund I, Belesis (acting through JTF) received hundreds of thousands of dollars in "fees" for providing little or no services.

ANSWER: JTF and Belesis deny that Jarkesy and JTCM "capitulate[ed]" to Belesis' demands regarding Fund activities, and further deny that Belesis made any such "demands." JTF and Belesis further deny that borrowing companies "divert[ed]" "large" fees to JTF and Belesis, and affirmatively respond that all such fees were reasonable and fully disclosed to the borrowing company, which agreed to pay the fees in return for financing. JTF and Belesis are unable to respond to the allegation that, "in connection with certain bridge loans made by Fund I," JTF received "hundreds of thousands of dollars in 'fees' for providing little or no services" because the OIP fails to specify which bridge loans it is referring to.

8. Jarkesy and JTCM placed the interests of Belesis and JTF above the interests of the Funds, thereby violating the fiduciary duty that they owed to the Funds. For example, after being berated by Belesis for not delivering enough fees, Jarkesy promised him in an email in late 2009, *"We will never retreat we will never surrender and we will always try to get you as much [fees] as possible, Everytime [sic] without exception!"*

ANSWER: JTF and Belesis deny that Jarkesy and JTCM placed the interests of Belesis and JTF above the interests of the Funds, and further respond that even if that allegation were true, Jarkesy and JTCM so acted without the knowledge, consent, approval, or ratification of JTF and Belesis.

RESPONDENTS

9. Respondent JTCM is an unregistered investment adviser that serves as the general partner of two hedge funds, John Thomas Bridge and Opportunity Fund LP I and John Thomas Bridge and Opportunity Fund LP II. It is based in Houston, Texas.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

10. Respondent Jarkesy, age 38, of Tomball, Texas, is the manager of JTCM. In that capacity, Jarkesy purportedly controls all operations and activities of JTCM and the Funds. Jarkesy is a frequent media commentator, a radio talk show host, and the founder of the National Eagles and Angels Association, an organization designed to introduce investors to start-up companies in need of financing.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

11. Respondent Belesis, age 38, of New York, New York, is the founder and chief executive officer of JTF, which is based in New York. Until late 2011, JTF was the primary placement agent for the Funds, and was one of several broker-dealers that executed equity trade orders for the Funds. Belesis and Jarkesy became acquainted in 2003.

ANSWER: JTF and Belesis admit the allegations in paragraph eleven (11).

12. Respondent JTF is a broker-dealer registered with the Commission and a member of the Financial Industry Regulatory Authority ("FINRA"). Approximately 125 registered representatives are associated with the firm. JTF is wholly owned by ATB Holding Company LLC, which is controlled by Belesis. JTF offers brokerage and investment services, investment banking services and private wealth management.

ANSWER: JTF and Belesis admit the allegations in paragraph twelve (12).

FRAUD ON THE FUNDS

Background

13. Jarkesy created JTCM as an unregistered investment adviser in 2007 to serve as the adviser to Fund I. The venture grew from Jarkesy's prior successes with bridge loan financings.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

14. In 2009, Jarkesy and JTCM formed a twin fund: Fund II. With the termination of Fund I scheduled for 2012, Fund II was formed in order to hold certain longer-term investments, including life settlement policies that had not matured. Initially, Fund II was structured to solicit foreign investors but when none bought shares, JTCM opened Fund II to domestic investors.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

15. Jarkesy and JTCM purport to invest the Funds in three asset classes: (i) equity investments, including shares of stock, options and warrants, mostly in speculative microcap companies that are either not traded publicly or thinly-traded over the counter; (ii) bridge loans to public and non-public growth-stage companies; and (iii) life settlement policies. Although only Fund I is invested in life settlement policies, Fund II is invested in Fund I.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

16. The Funds' limited partnership agreements ("LPAs") with shareholders provide that publicly traded securities will be valued at market price, dealer-supplied prices or by pricing models, but that Jarkesy may exercise his discretion in adjusting the values of both public and non-public holdings. The LPAs also provide that Jarkesy, as manager, has the discretion to value the Funds' non-publicly traded holdings as he "may reasonably determine." The Annual Financial Statements JTCM provided to investors, which included the independent auditors' report, stated that JTCM "records its investments at fair value" and had adopted Financial Accounting Standard 157 for purposes of valuation of the Funds' holdings, although JTCM has no records of its pricing analysis to support its valuation.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

17. Jarkesy, as the manager of JTCM, was solely responsible for ensuring that the values assigned to the Funds' investments were consistent with representations in the LPAs.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

18. The Funds' former administrator calculated the Funds' monthly net asset value based on valuation data provided by JTCM and Jarkesy. The administrator explicitly defined itself as a "scorekeeper" that did not independently analyze or verify the valuation data it was provided.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

19. The Funds' former independent auditor expressly limited the scope of its valuation work to verifying that the Funds had correctly recorded the price of publicly traded securities; the auditor did not verify the valuation Jarkesy and JTCM assigned to non-publicly traded holdings. In practice, Jarkesy often invoked his discretion in order to misprice certain of the Funds' holdings.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

20. Each Fund has a lock-up period. Fund I's lock-up period was five years and was scheduled to expire in September 2012, when the Fund was to terminate. At that time, Jarkesy and JTCM were expected to distribute its assets in cash and/or in kind, although distribution was incomplete by the end of December 2012. Fund II's lock-up period is four years and Fund II is scheduled to terminate no later than 2019. With Jarkesy's consent and at his discretion, and provided they pay a penalty fee, investors can redeem their shares before the respective lock-up

periods expire.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

21. JTF had several roles relating to the Funds, although JTF and JTCM purported to be wholly independent. JTF served as the primary placement agent for solicitation of investments in the Funds; it served as the investment bank for some of the companies that received bridge loans from the Funds; and it acted as the broker for many of the Funds' equity trades. To date, JTF has received millions of dollars in fees related to the Funds.

ANSWER: JTF denies that JTF and JTCM "purported to be *wholly* independent" because JTCM disclosed that JTF served as its primary placement agent and broker-dealer. Further, JTF admits that it once served as the primary placement agent for solicitation of investments into the Funds, admits that it served as the investment bank for some of the companies that received bridge loans from the Funds, and further admits that it acted as the broker for at least some of the Funds' equity trades. JTF lacks sufficient information to admit or deny whether it received "millions of dollars in fees related to the Funds," but further answers that all fees it received were fully disclosed and agreed to in writing in arms' length transactions.

22. At the end of 2011, Jarkesy valued Fund I at approximately $18 million to $20 million and Fund II at approximately $10 million. The Funds' auditor reported Fund I's "total return since inception" was twenty-four percent. Together the Funds have approximately 120 investors.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

23. Under the applicable LPAs, Jarkesy earns an incentive fee only after investors earn a nine percent return. After that, he earns a twenty percent incentive fee on any profits above the first nine percent. In addition, he earns a two percent management fee to cover operational costs of the Funds, including his own expenses, such as travel. To date, JTCM has received at least $1.3 million in management fees, and Jarkesy has received at least $260,000 as an incentive fee with more than $500,000 additionally accrued for his incentive but not yet paid.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

Jarkesv's Baseless Valuation of Fund Holdings

24. Investors in the Funds received monthly statements indicating the value of their shares and gains or losses compared with previous time periods. Investors' monthly statements did not identify the Funds' holdings or the values of each of the Funds' positions, however the value of each investor's shares was derived from a portion of the Funds' overall values.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

25. Jarkesy and JTCM misrepresented the value of shareholders' investments in the Funds, which were based on an arbitrary and *ad hoc* methodology that differed from disclosures in the LPAs. As alleged more fully herein, Jarkesy's and JTCM's misrepresentations included incorrect valuations of the Funds' equity positions in certain companies, incorrect valuations of the Funds' short-term notes provided to other companies, and misvaluing of at least two of the Funds' life settlement policies.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

26. JTCM's internal monthly holdings reports identified the Funds' holdings and the values of each position. The holdings reports served as the basis for valuing investors' Fund shares, which JTCM reported to investors on monthly statements. In addition, JTCM used the internal holdings reports to establish the Funds' performance, which was shared with existing and prospective shareholders. Finally, the net asset values of the Funds were the basis for calculating Jarkesy's management and incentive fees, which were deducted from the Funds.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

27. For certain of the Funds' holdings, Jarkesy arbitrarily inflated valuations, causing his management and incentive fees, and the valuation of investors' shares, to be materially overstated. Specific examples are provided below.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

Company A: An Invented and Inconsistent Valuation

28. Company A was formed in April 2010 when Company C, a company in which the Funds had invested, merged with a third company.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

29. JTF and Belesis had a long-standing relationship with Company C. JTF had raised substantial amounts of capital for the company through numerous private placements.

ANSWER: JTF and Belesis are unable to respond to this allegation because the OIP does not identify "Company C."

30. Jarkesy and JTCM first invested the Funds in Company C in 2009, when Fund I extended a bridge loan to the company. That loan was repaid, and another one was made at the end of the year. From that point on, neither of the Funds' loans to Company C was repaid; instead, the Funds received allotments of penalty shares of Company C and then Company A after the merger. In 2010, the Funds' positions in Company A had grown disproportionately to their other holdings

so that nearly a third of each Fund's assets were invested in Company A.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

31. By late 2010, the Company A position grew to a paper value of more than $8 million in Fund I, and more than $2 million in Fund II, or nearly a third of each Fund's values.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

32. In various versions of JTCM's internal monthly holdings statements for the same time period, Jarkesy's valuations of Company A's equity position were inconsistent, such as with two versions of the January 2009 holdings statement that valued the Company A position at seventy-five cents and $750,000.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

33. On JTCM's internal monthly holdings statements, Jarkesy recorded large swings in Company A's share value — ranging from more than three dollars per share in August 2010 to ten cents in December 2010 — that did not pertain to any underlying change in Company A's prospects or financial condition, and that he could not otherwise explain.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

34. In addition, Jarkesy's valuation of Company A's shares was inconsistent across versions of the monthly holdings statements for the same period. On some versions of the same month's statement, Jarkesy listed Company A as either ten cents or one dollar per share. For at least one month, Jarkesy listed Company A's per-share value for Fund I differently than he listed it for Fund II.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

35. The conflicting and inconsistent valuation of Company A was exacerbated in May 2011 by a typographical error made by JTCM's controller, who accidentally entered the value at two cents per share when it should have been sixty cents. After the error, Jarkesy retained an outside consultant to confirm his valuation.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

36. The outside consultant, however, disregarded actual data and based its valuation on the assumption that Company A — a deeply troubled company that had never earned a single dollar — would generate $61 million in revenue in 2011.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

37. In June 2011, shortly after receiving the consultant's report, Jarkesy wrote off the Funds' investment in Company A.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

38. Jarkesy's valuations of Company A shares were arbitrary and inconsistent with Jarkesy's obligation to use his discretion to make reasonable valuation determinations as disclosed in the LPAs, and resulted in the recording of unreasonable and unsupported valuations on JTCM's monthly holdings reports. The phony valuations on the monthly holdings lists served as the basis for valuing shareholders' individual positions in the Funds, which were reported to them on monthly statements. Performance results for the Funds, and management and incentive fees for the adviser and manager, also were derived from the baseless and unreasonable values Jarkesy recorded on the monthly holdings lists.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

Company B: Jarkesy Hired Promoters to Boost the Share Price

39. In 1996, Jarkesy personally invested in a publicly traded shell company (the "shell") that, after a later merger, would become Company B. Jarkesy was chairman of the board of directors of the shell; in 2007, when he formed JTCM and the Funds, he stepped down as chairman but remained a director.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

40. Jarkesy and JTCM invested approximately $200,000 of the Funds' money in the shell in late 2009, and the Funds became the shell company's controlling shareholders. The shell merged with a small, private oil and gas company in the summer of 2010 to form Company B, a microcap oil and gas exploration company. The Funds owned approximately twenty-five percent of Company B's unrestricted stock after the merger, which Jarkesy valued by reference to its publicly quoted share price. At the time, public trading of Company B's shares in the over the counter market had only recently commenced and was extremely thin.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

41. Between November and December 2010, Company B's share price jumped from $1 to $4. Accordingly, Jarkesy revalued the position on JTCM's monthly holdings reports, causing a material improvement in the Funds' performance. The beneficial spike in Company B's stock price did not, however, correlate to any disclosed corporate event.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

42. About a year later, in late 2011, Jarkesy testified under oath that the sudden increase in Company B's stock price may have been due to a bank extending a loan to the company, thereby indicating to the marketplace that Company B had upside as a company. No such bank loan was extended to Company B between November and December 2010, when its share price jumped.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

43. Jarkesy was in fact directly responsible for orchestrating the increase in Company B's share price at the end of 2010 through a promotion campaign he financed using money in Fund I's bank account. In December 2010, he authorized at least three wire transfers totaling $35,000 from Fund I's bank account to a promotional firm he selected to tout Company B and its stock.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

44. Jarkesy's transfers from Fund I to the promoter coincided with the jump in Company B's share price. As a result, Jarkesy was able to record unreasonable and unsustainable valuations for the Funds' Company B shares at the same time he was writing down the value of the Company A holding, thus stabilizing the Funds' year-end performance.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

45. Jarkesy also manipulated the value of Company B's shares in JTCM's records in other ways. For example, at a time when the market — and Jarkesy — valued Company B shares at $1 each, he sold 300,000 shares from Fund I to Fund II at twenty-two cents per share. Then, after the shares had been transferred to Fund II, he re-valued them in Fund II at $1 per share.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

46. Jarkesy also recorded values for Company B's warrants held by the Funds that were inconsistent with the valuation methods disclosed in the LPAs. Between August and December 2010, his values for the warrants ranged from twelve cents to $6.92. While a warrant's value often correlates with the value of the stock, which for Company B increased from $1 to $4 during that time period, it rarely rises higher than the value of the stock, particularly in the case of a speculative penny stock. Jarkesy's work papers for his valuation of Company B warrants reflect that he calculated the value based on an inaccurate share price, which therefore generated warrant values inconsistent with the methods disclosed in the LPAs.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

47. Furthermore, Jarkesy's accounting for the Funds' holdings of shares of Company B are at odds with Company B's filings with the Commission. Company B reported a reverse stock split effective in September 2010, but the Funds' holdings reports for August 2010 prematurely reflected the reverse split and thereby enabled Jarkesy to record a premature benefit from the reverse split.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

<u>Company D: Jarkesy Also Hired Promoters to Boost Share Price</u>

48. Company D is a publicly traded microcap company in which Jarkesy invested both personally and on behalf of the Funds. Until February 2012, Jarkesy was a director of Company D.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

49. Jarkesy, as a director of Company D, voted to hire three different promotional firms in early 2011 to promote the company. Jarkesy paid the promoters directly from Fund I's bank account and with cash that Fund II loaned to Company D that was earmarked for paying promoters. In addition, the promoters were compensated with Company D shares.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

50. As with his use of Fund money to finance the Company B promotional campaign, Jarkesy's direct and indirect financing of Company D's promotion with Fund assets was designed to boost the value of the Funds' large equity positions in Company D and maintain the Funds' overall performance.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

51. The promotional campaigns that Jarkesy financed with Fund money had the effect of enhancing Jarkesy's own remuneration. If the promotional campaigns were successful in raising the share prices for publicly traded holdings of the Funds, such as Company D and Company B, then the Funds' valuation would increase — along with Jarkesy's compensation, which was based on the Funds' value and performance.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

52. Jarkesy also used cash from the Funds to make several short-term bridge loans to Company D. Throughout 2010, Jarkesy valued $1.3 million of these loans at par in Fund I's portfolio. In reality, Company D — as disclosed in its 2010 Form 10-K filed with the Commission — had defaulted on those loans as of December 31, 2009. As a result, Fund I's valuation falsely reflected a par value for the loans when at best, the position would have been worth the value of whatever penalty shares the Fund expected to receive in exchange for repayment of the loans.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

Life Settlement Policies: Inconsistent Values in Fund Documents

53. Jarkesy and JTCM purchased twelve life settlement policies in Fund I. When the first policy paid off on the death benefit in the spring of 2011, the proceeds were distributed to investors. The Funds acquired the life settlement policies, and assumed responsibility for payment of their premiums, to obtain the payouts that would occur upon the death of the individuals covered by the policies.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

54. Jarkesy claimed — and told at least one Fund investor — that JTCM retained one of his former business associates to value the life settlement policies using a Milliman model, an industry standard valuation tool used to calculate the net present value of policies. The associate purportedly inputted life expectancies provided by third-party agencies, which he then used to generate the value of the policies. However, the Funds' former auditors' work papers indicate that it

was Jarkesy, not his associate, who valued the life settlement policies using the Milliman model. Thus, investors received different information about who was responsible for the valuation of the assets meant to hedge the Funds' risky, speculative investments, undermining the reliability of what was represented to be the conservative side of the Funds.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

55. Between February and March 2010, JTCM's internal documents showed that the values of two of the life settlement policies more than doubled, one rising from $900,000 to nearly $2.6 million and the other increasing from $526,000 to $1.4 million. In calculation tables JTCM purportedly used to value the policies, however, no such increase was indicated. The internal documents, which are inconsistent with the calculation tables, were the basis of monthly statements that were sent to investors.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

56. Jarkesy has explained that the two life settlement policies were revalued based on a suggestion from the Funds' former auditor. However, the auditor's suggestions would have changed the values by approximately three percent, while Jarkesy's baseless changes resulted in increasing the two policies by 167 percent and 184 percent, respectively, thereby increasing the Funds' overall asset value by nearly twelve percent. Management fees payable to JTCM and Jarkesy, and Jarkesy's incentive fees, were correspondingly increased as a percentage of the overall asset value of the Funds.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

<u>JTCM's Sales Materials Contain Misrepresentations</u>

57. Jarkesy controlled all aspects of the creation of JTCM's marketing materials. JTCM's and Jarkesy's marketing materials for the Funds contained material misrepresentations about the Funds' performance, allocation of assets, and service providers — including prime broker and auditor — that Jarkesy included to create an appearance of legitimacy.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

58. Jarkesy materially exaggerated aspects of JTCM's operations in sales and marketing materials, including that:

a. JTCM engaged in "detailed legal and technical due diligence" before investing Fund assets when, in fact, such diligence consisted merely of cursory analysis conducted by Jarkesy, for example, his seeking free advice from academic or industry experts and investors in the Funds;

b. JTCM employed many expert consultants when, in fact, Jarkesy had yet to hire his only in-house analyst at the time the literature was prepared;

c. as manager, Jarkesy had more than 10 years of experience, "both years as a professional as well as years in the firm;"

d. estimated annual returns of Fund I would be thirty percent; and

e. no investment would exceed five percent of either Fund's value when, in fact, at least one investment (Company A and its predecessor company, Company C) exceeded a third of the value of each Fund in 2010.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

The Funds' Auditor was not KPMG

59. Investor updates and other marketing materials created by Jarkesy and JTCM between 2008 and 2010 identified KPMG LLP, among others, as the auditor of Fund I. Other marketing materials also identified KPMG as auditor for both Fund I and Fund II. Belesis and JTF marketed Fund I and Fund II to potential investors with the understanding that KPMG was the auditor of both Funds.

ANSWER: JTF and Belesis lack sufficient information at this time to admit or deny whether JTF and/or Belesis marketed Fund I and Fund II to potential investors with the understanding that KPMG was the auditor of both funds. JTF and Belesis further answer, however, that if such representations were made, it was because Jarkesy and JTCM represented to JTF and Belesis that KPMG was the auditor for both Fund I and Fund II.

60. KPMG never audited Fund I.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

61. KPMG also never audited Fund II. In 2009, Fund II was created as a vehicle for foreign investors and JTCM and Jarkesy retained KPMG's Cayman Island office for audit work. When no foreigners invested in Fund II, the Fund was opened to American investors and KPMG resigned without having done any substantive audit work.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

62. One set of JTCM marketing materials for Fund I dated June 1, 2007, identified Malone & Bailey, P.C., now known as MaloneBailey LLP, as the auditor. MaloneBailey never audited either of JTCM's Funds.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

63. Contrary to much of Jarkesy's and JTCM's marketing materials, neither KPMG nor MaloneBailey ever audited the Funds. The actual auditor of the Funds was a small Houston-based firm that resigned from the engagement in 2011.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

The Funds' Prime Broker was not Deutsche Bank

64. Jarkesy's and JTCM's marketing materials for the Funds identified Deutsche Bank, among others, as the Funds' prime broker. Deutsche Bank, however, never had a prime brokerage agreement with JTCM, and requested that the designation "prime broker" be removed from the private placement memorandum ("PPM") for Fund II, which had an inactive retail account at Deutsche Bank for six months in 2009.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

65. After Deutsche Bank requested that the false designation of "prime broker" be removed from Fund II's PPM, JTCM and Jarkesy continued to falsely identify it as the Funds' prime broker in other marketing materials.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

The Undisclosed Role of Belesis and JTF in Fund Operations

66. JTCM — acting through Jarkesy, its manager — represented that it was solely responsible for managing the Funds. The only disclosed connection between JTF and JTCM was JTF's role as placement agent and potential broker-dealer for the Funds' securities transactions. There was no disclosure — or even suggestion — that JTF or Belesis would become involved in JTCM's and the Funds' investment activities.

ANSWER: JTF and Belesis admit that Jarkesy and JTCM represented that solely Jarkesy was responsible for managing the Funds, and that the only disclosed connection between JTF and JTCM was JTF's role as placement agent and potential broker-dealer for the Funds' securities transactions. JTF and Belesis currently lack sufficient information to admit or deny whether there was any disclosure that JTF or Belesis would become involved in JTCM's and the Funds' investment activities. JTF and Belesis deny that they ever controlled or exercised undue influence over JTCM's and the Funds' investment activities.

67. To underscore the independence of JTCM and JTF, JTCM's website included a disclaimer indicating that other than using JTF as a placement agent, JTCM had no business relationship with JTF.

ANSWER: Admit that JTCM's website included a disclaimer indicating that other than using JTF as a placement agent, JTCM had no business relationship with JTF, but deny that this was done to underscore the independence of JTCM and JTF.

68. Belesis was aware of the disclaimer distancing JTCM from JTF because he used it as a model in an unrelated business venture.

ANSWER: Denied.

69. In reality, Belesis frequently sought to intervene in the Funds' business decisions. As leverage, Belesis conveyed to Jarkesy — often in a profane and belligerent manner — that the millions of dollars invested into the Funds by JTF customers required Jarkesy to follow Belesis' instructions.

ANSWER: JTF and Belesis deny that Belesis sought to intervene in the Funds' business decisions, and further answer that, from time to time, Belesis made investment *recommendations* to Jarkesy, and the decision of whether to follow such recommendations rested solely with Jarkesy. JTF and Belesis further deny that Belesis every conveyed to Jarkesy – in a profane and belligerent matter or otherwise – that Jarkesy was required to follow Belesis' instructions.

70. In light of his improper meddling in the Funds' business, Belesis separately indicated to registered representatives at JTF that the independence of JTCM and JTF on paper would be a helpful fact in the event anything improper happened with respect to the Funds.

ANSWER: Denied.

71. For example, Belesis — sometimes, but not always, in collaboration with Jarkesy — periodically guided how the Funds' money would be invested in Company A. Company A's chief executive officer requested that Belesis allocate Fund money to pay operating costs, including rent, payroll and payments to Company A's service providers. The Funds' bank records show debits to pay certain Company A expenses.

ANSWER: JTF and Belesis lack sufficient knowledge or information to respond to this allegation because the OIP fails to identify "Company A." JTF and Belesis deny that they ever guided how the Funds' money would be invested, and further answer that, from time to time, Belesis made investment *recommendations* to Jarkesy, and the decision of whether to follow such recommendations rested solely with Jarkesy.

72. In some cases, Belesis' decisions regarding Company A, one of the Funds' largest holdings, overrode the decisions of Company A's corporate officers, who implored him to handle

company affairs differently. As one example, Company A officers were displeased with Belesis' choice of chief financial officer for the company, who they thought required too high a salary.

ANSWER: JTF and Belesis lack sufficient knowledge or information to respond to this allegation because the OIP fails to identify "Company A." JTF and Belesis deny that they ever overrode a borrowing company's corporate officers' decisions or had the authority to do so, and also deny that they ever appointed any officers of a company, or had the authority to do so.

73. As another example, Company A's officer complained that Belesis prematurely completed a stock purchase agreement that they had wanted to revise. However, Company A's officers had no choice but to accept Belesis' decisions about their company because of Belesis' influence over when, how and if money would flow to Company A from the Funds, the company's main source of capital.

ANSWER: JTF and Belesis lack sufficient knowledge or information to respond to this allegation because the OIP fails to identify "Company A." JTF and Belesis deny that they ever had any authority over when, how and if money flowed from the Funds to any borrowing companies.

74. Belesis also supplanted Jarkesy as the decision maker for JTCM in connection with certain of the Funds' investments in Company B. Indeed, Belesis' role was clear when the Funds extended a bridge loan to Company B and the proceeds were delayed in arriving at the company. The company president and chief executive officer addressed Belesis — not Jarkesy, the supposed exclusive manager of the Funds — about the delay, and Belesis reassured him, *"You will have it, smoke a nice cigar."*

ANSWER: JTF and Belesis lack sufficient knowledge or information to respond to this allegation because the OIP fails to identify "Company B." JTF and Belesis deny that they ever "supplanted" Jarkesy as the decision maker for JTCM. JTF and Belesis also currently lack sufficient knowledge or information to respond to the characterization of the e-mail in paragraph seventy-four (74) because the full text of the e-mail is not cited in the OIP.

75. Numerous emails reflect Jarkesy's subservience to Belesis and efforts to please him by offering him benefits from the Funds' investment activities, including cash, fees and securities.

ANSWER: JTF and Belesis lack sufficient knowledge or information to respond to this allegation because the OIP fails to identify any of the purported e-mails it references. JTF and Belesis deny that Jarkesy was ever "subservient" to Belesis, or offered him benefits from the Funds' activities that were not part of an arms' length transaction.

The Undisclosed Business Relationship between JTCM and JTF

76. In addition to the undisclosed influence Belesis exerted over the Funds' operations, JTCM and Jarkesy, despite publicly professing their independence from JTF, were in fact actively seeking to generate revenue for JTF and Belesis. For example, in March 2009, a JTCM employee wrote to Belesis:

> George [Jarkesy] and I have worked hard over the past month creating a backlog of potential clients for JTF and JTCM....We now have two or three that could be JTF clients in a matter of weeks with tens of thousands of dollars in monthly fees not to mention [another business transaction] already in the bag....
> The failure of your staff to execute payment on our contract has put a stop to our progress. . . . I still have high hopes for the potential of this liaison between JTF, JTCM ... and myself. Based upon your email below I estimate that you feel same. George, I know is optimistic of the potential that this relationship holds....

ANSWER: JTF and Belesis deny that Belesis exerted any "undisclosed influence" over the Funds' operations, JTCM or Jarkesy. JTF and Belesis further deny that JTCM and Jarkesy were "activity seeking to generate revenue for JTF and Belesis," and further answer that even if that were true, it was without the consent, knowledge, approval, or ratification of JTF and Belesis. JTF and Belesis currently lack sufficient knowledge or information to respond to the referenced e-mail/letter from a JTCM employee to Belesis because the OIP fails to include the full text of the e-mail or letter, and fails to identify the JTCM employee who is its author.

77. In March 2009, the director of a company that JTCM and Jarkesy had steered to JTF asked to meet with Belesis before paying for JTF's services. In response, Belesis erupted at Jarkesy: *"GEORGE WHAT KIND OF BULL[...]T IS THIS".*

ANSWER: JTF and Belesis currently lack sufficient knowledge or information to respond to this allegation because the OIP fails to identify the "director" of the referenced company who purportedly asked to speak to Belesis, nor does the OIP identify the company itself. JTF and

Belesis also lack sufficient knowledge or information to respond to the characterization of the referenced e-mail/letter from Belesis to Jarkesy because the full text of the e-mail or letter is not included in the OIP.

78. Jarkesy's reply indicates his allegiance to Belesis: *"I just told him to send the stock and money, sign the document or get lost,"* he wrote. *"I think this will get done today. Nobody gets access to Tommy [Belesis] until they make us money!!!!!"*

ANSWER: JTF and Belesis currently lack sufficient knowledge or information to respond to this allegation because the OIP fails to identify the "director" of the referenced company who purportedly asked to speak to Belesis or the company itself. JTF and Belesis also lack sufficient knowledge or information to respond to the characterization of the referenced e-mail/letter from Jarkesy to Belesis because the full text of the e-mail or letter is not included in the OIP.

Jarkesy and JTCM Diverted the Funds' Money to Enrich Belesis and JTF

79. In breach of his fiduciary duty to the Funds, Jarkesy, through his role at JTCM, actively negotiated fees on behalf of JTF and Belesis in connection with the Funds' activities, to the detriment of the Funds.

ANSWER: JTF and Belesis admit that Jarkesy negotiated fees on behalf of JTF and Belesis with third-party companies, but deny that this amounted to a breach of Jarkesy's fiduciary duties and further deny that this was detrimental to the Funds.

80. Jarkesy used his role as manager of the Funds to enrich Belesis and JTF, and kept an appreciative Belesis apprised of his efforts. For example, Jarkesy giddily wrote to Belesis in March 2010: *"[W]e are all going to make so much f[...]ing money this year, the clients of John Thomas are going to have a banner year.... Write yourself a check and get ready to cash it $45 million."* Belesis replied, *"Sounds great buddy, look forward to it.... Lol [laughing out loud],"* to which Jarkesy responded, *"Your [sic] going to not stop laughing when you are liquidating everyones [sic] stock."*

ANSWER: JTF and Belesis deny that Jarkesy used his role as manager of the Funds to enrich Belesis and JTF and further answer that even if that were true, Jarkesy so acted without the without the consent, knowledge, approval or ratification of JTF and Belesis. JTF and Belesis lack sufficient knowledge or information to respond to the characterizations of the referenced e-mails/letters between Jarkesy and Belesis because the full text of the e-mails/letters is not included in the OIP.

81. On another occasion, after Belesis complained that Jarkesy was not securing sufficient fees for JTF in February 2009, Jarkesy responded that *"we will always try to get you as much as possible, Everytime [sic] without exception!"*

ANSWER: JTF and Belesis deny that they ever complained that Jarkesy was not securing sufficient fees for JTF. JTF and Belesis lack sufficient knowledge or information to respond to the characterization of the referenced e-mail/letter from Jarkesy to Belesis because the full text of the e-mail/letter is not included in the OIP.

82. Overall, Jarkesy's allegiance to Belesis and JTF cost the Funds significant sums of money, directly or indirectly, for placement fees, loans to small companies that then used the money to pay fees to JTF, and for unearned bridge loan fees JTF received for doing no work.

ANSWER: Denied in its entirety.

Fund Money Was Routed to JTF for Unearned Bridge Loan Fees

83. The Funds extended short-term bridge loans to small, usually private companies. In exchange for the loans, the Funds received interest on the amount of the loan and what Jarkesy called an "equity kicker" of stock, options or warrants in the company.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

84. JTF and Belesis occasionally introduced Jarkesy and JTCM to candidates for bridge loans. For its involvement, JTF earned a fee of approximately thirteen percent of each bridge loan the Funds made. Jarkesy and JTCM made no effort to negotiate a lower fee for JTF.

ANSWER: JTF and Belesis admit that they introduced Jarkesy and JTCM to candidates for bridge loans, and admit that they earned a fee for doing so, but deny that the fee was always "approximately thirteen percent." JTF and Belesis currently lack sufficient knowledge or information to respond to the allegation that Jarkesy and JTCM made no effort to negotiate a lower fee for JTF.

85. The Funds typically extended bridge loans to struggling, cash-poor ventures. Every dollar provided in the loan was essential to the borrowers' future prospects and, therefore, the Funds' investment in the borrowing companies and chances of ultimately being repaid. Jarkesy, however, often abandoned his fiduciary duties to the Funds and affirmatively negotiated arrangements whereby the borrowers would divert large fees to JTF using proceeds received from the Funds.

ANSWER: JTF and Belesis currently lack sufficient knowledge or information as to whether the Funds "typically" extended bridge loans to struggling, cash-poor ventures, or whether every dollar provided in the loan was essential to the borrowers' future prospects, and the Funds' chances of ultimately being repaid. JTF and Belesis deny the remaining allegations in paragraph eighty-five (85), and affirmatively answer that any fees which JTF earned from a borrowing company for referring the company to the Funds for financing came in the form of referral fees paid by the borrowing company to JTF, and agreed to by the borrowing company in writing after being represented by independent counsel.

86. Jarkesy abandoned his fiduciary duties to the Funds and negotiated arrangements whereby the borrowing companies — in which the Funds were invested and from which the Funds sought repayment — would divert large fees to JTF using proceeds received from the Funds. Thus, Jarkesy, in his capacity as manager of the Funds, when negotiating bridge loans between the Funds and the borrowing companies, placed the interests of Belesis and JTF above the interests of JTCM's clients, the Funds, and assumed responsibility for negotiating on behalf of Belesis and JTF. As examples:

a. In March 2009, Jarkesy offered Belesis increasingly favorable fees on a bridge loan the Funds were extending to Company A, and also offered him commissions and warrants without Belesis requesting such benefits.

b. In February 2010, Jarkesy drafted a $130,000 commission for JTF in a term sheet for a $1 million bridge loan to a company that expressly informed him that it did not want to commit to long-term financing with JTF.

c. In May 2009, Jarkesy structured a transaction between the Funds and Company D specifically so that JTF and Belesis could be "the hero," as Jarkesy wrote in an email, and earn commissions and fees.

ANSWER: JTF and Belesis deny the allegations in the body of paragraph eighty-six (86) in their entirety. JTF and Belesis further answer that bridge loan referral fees were paid by the borrowing companies to JTF, and agreed to by the borrowing companies in writing, often if not always after being represented by independent counsel. JTF and Belesis further answer that the borrowing companies were always obligated to re-pay the full bridge loan to the Funds, regardless of the amount paid to JTF in referral fees, and thus Jarkesy did not place the interests of JTF and Belesis above those of the Funds. JTF and Belesis currently lack sufficient knowledge or information to respond to sub-parts (a), (b), and (c) of paragraph eighty-six (86) because the OIP fails to identify "Company A," fails to identify the company referred to in subpart (b), and fails to identify Company D, or include the full text of the e-mail referred to in subpart (c).

87. Belesis and JTF were willing recipients of the Funds' generosity provided by Jarkesy and JTCM, but it was Jarkesy who was responsible for negotiating their fees from the Funds' bridge loans.

ANSWER: JTF and Belesis deny that they were "willing recipients" of the Funds' "generosity" in receiving bridge loan referral fees, and further answer that such fees were earned for helping a borrowing company find financing and/or for serving as the Funds' placement agent. JTF and Belesis admit that Jarkesy was responsible for negotiating bridge loan referral fees.

88. So beholden was Jarkesy to Belesis and JTF that in some instances, Jarkesy negotiated and procured a fee for them even though they had not referred the borrower to the Funds for financing and had done, at most, minimal work relating to the loan. For example:

a. Jarkesy was a director of Company D and introduced the company to the Funds for a bridge loan and to JTF for long-term financing. When the Funds extended a bridge loan in October 2008, JTF received a full fee for having done merely negligible work relating to the loan.

b. Jarkesy was a director of Company B and brought the company to JTF for investment banking work in the summer of 2010. When the Funds extended a bridge loan to Company B, JTF received a fee on the loan despite having done only minor work on the loan or the referral.

ANSWER: JTF and Belesis deny the allegations in the body paragraph eighty-eight (88) in their entirety. JTF and Belesis currently lack sufficient knowledge or information to respond to the allegations in subparts (a) and (b) because the OIP does not identify Company D or Company B.

89. Between 2008 and 2010, JTF was paid a total of $488,750 in fees from four bridge loans, including at least two for which it did nearly inconsequential work. JTF's fees came from the borrowing company, which paid the fees upon receipt of the bridge loan money from the Funds, thereby immediately diminishing the loans the Funds made by the amount of the fees Jarkesy arranged for JTF.

ANSWER: JTF and Belesis currently lack sufficient knowledge or information to respond to the allegation that JTF was paid $488,750 in fees from four bridge loans, including two for which it did nearly inconsequential work, because the OIP does not identify which borrowing companies it is referring to. JTF admits that its bridge loan referral fees came from the borrowing companies, and further answers that the borrowing companies agreed to pay these fees in writing often if not always after being represented by independent counsel.

90. In addition to the bridge loan fees, Jarkesy and JTCM paid JTF more than $741,000 in brokerage commissions from the Funds' securities trades, and nearly $2.5 million in placement fees for selling shares of the Funds.

ANSWER: JTF and Belesis currently lack sufficient knowledge or information to respond this allegation.

VIOLATIONS

1. As a result of the conduct described above, JTCM and Jarkesy willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer or sale of securities and in connection with the purchase or sale of securities.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

2. As a result of the conduct described above, JTCM and Jarkesy willfully aided, abetted and caused the Funds' violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer or sale of securities and in connection with the purchase or sale of securities.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

3. As a result of the conduct described above, JTCM and Jarkesy willfully violated Sections 206(1), 206(2) and 206(4) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser, and Rule 206(4)-8 thereunder, which prohibits making any untrue statement of a material fact or omitting to state a material fact necessary to make the statements made, in light of the circumstances in which they were made, not misleading to any investor or prospective investor in a pooled investment vehicle or otherwise engaging in any act, practice, or course of business that is fraudulent, deceptive or manipulative with respect to any investor or prospective investor in a pooled investment vehicle.

ANSWER: Because there is no allegation against JTF or Belesis, no response is required.

4. As a result of the conduct described above, JTF and Belesis willfully aided, abetted and caused JTCM's and Jarkesy's violations of Sections 206(1), 206(2) and 206(4) of the Advisers Act, which prohibit fraudulent conduct by an investment adviser, and Rule 206(4)-8 thereunder, which prohibits making any untrue statement of a material fact or omitting to state a material fact necessary to make the statements made, in light of the circumstances in which they were made, not misleading to any investor or prospective investor in a pooled investment vehicle or otherwise engaging in any act, practice, or course of business that is fraudulent, deceptive or manipulative with respect to any investor or prospective investor in a pooled investment vehicle.

ANSWER: Denied in its entirety.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Commission's claims are barred by the statute of limitations and/or the doctrine of laches.

Second Affirmative Defense

JTF and Belesis relied in good faith on the advice of counsel.

RIGHT TO SUPPLEMENT

JTF and Belesis do not waive, but expressly reserve, the right to assert, by way of supplement to this pleading or by argument during the Hearing, such additional defenses or claims of mitigation as may be suggested by documentary or testimonial evidence, whether produced prior to or at the Hearing.

Dated: April 30, 2013
New York, New York

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By: ______________________

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