

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION
	:	FILE NO. 2:05CV1142
	:	
LANCE K. POULSEN, REBECCA S. PARRETT, DONALD H. AYERS, and RANDOLPH H. SPEER,	:	
	:	
Defendants.	:	
	:	

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION’S COMPLAINT
FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

Plaintiff, the United States Securities and Exchange Commission

(“Commission”), alleges the following:

Summary

1. Beginning in or before 1999 and continuing through 2002 (“the relevant period”), Defendants Lance K. Poulsen (“Poulsen”), Rebecca S. Parrett (“Parrett”), Donald H. Ayers (“Ayers”) and Randolph H. Speer (“Speer”) directed or aided and abetted the now-bankrupt National Century Financial Enterprises, Inc. (“National Century”) and its special purpose subsidiaries NPF VI, Inc. (“NPF VI”) and NPF XII, Inc. (“NPF XII”) in an extraordinary scheme to defraud investors who eventually lost approximately \$2.6 billion.

2. National Century funded its special purpose subsidiaries through private placement note offerings. In the offering documents used to market these note offerings,

Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors in the notes that National Century would use the funds raised through the note offerings exclusively for the purchase of the third-party reimbursable portions of receivables arising from the provision of health care services payable by a government entity or large commercial insurer (“eligible receivables”). Although National Century used some investor funds to purchase eligible receivables, the Defendants, directly and through others, used a substantial portion of investor funds to make unsecured loans and loans secured by collateral other than eligible receivables, contrary to the representations to investors and contrary to the requirements of the trust indentures (“indentures”) that governed National Century's note offerings.

3. The programs NPF VI and NPF XII purchased eligible receivables from health-care providers and issued notes that securitized those receivables. From 1999 through 2002, the programs NPF VI and NPF XII offered and sold at least \$3.25 billion in notes through at least fifteen private placements.

4. Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, further represented to investors that NPF VI and NPF XII would maintain certain reserve account balances and certain levels of eligible receivables meeting specific requirements as collateral to secure the notes. Despite these obligations, Defendants, directly and through others, depleted NPF VI's and NPF XII's reserve accounts and collateral base by “advancing” as much as \$1.2 billion in offering proceeds to health-care providers without receiving eligible receivables in return. These improper and undisclosed advances were essentially unsecured loans to distressed or defunct health-care providers — several of which were wholly or partly owned by National

Century or its principals, including Defendants Poulsen, Parrett, and Ayers. In the fall of 2002, at a time when approximately \$3 billion in notes were outstanding, investors discovered that National Century was using investor funds to make such non-permitted loans and engaging in other misconduct. At the direction of the investors, indenture trustees (“trustees”) for NPF VI and NPF XII declared an event of default by National Century and a principal amortization event, resulting in the immediate wind-down of NPF VI and NPF XII.

5. The Defendants’ unsecured advances and acceptance of ineligible collateral caused cash and collateral shortfalls which Defendants and other senior National Century officials concealed by a variety of methods, including: repeatedly transferring funds between the NPF VI and NPF XII reserve accounts to mask reserve shortfalls of up to \$350 million; recording and reporting \$1 billion or more in non-existent or ineligible receivables on the programs’ books; creating and distributing misleading offering materials, monthly investor reports, and accounting records; and otherwise misrepresenting the status of NPF VI’s and NPF XII’s cash and collateral bases.

6. In the fall of 2002, when investors discovered the massive reserve account transfers and collateral shortfalls, National Century and its programs stopped funding health-care providers and filed for chapter 11 bankruptcy protection. As a result, approximately 275 health-care providers were also forced to file for bankruptcy protection. Investors have lost approximately \$2.6 billion as a result of the fraudulent scheme alleged in this Complaint.

7. Defendant Poulsen, as a National Century principal, chairman of the board, and chief executive officer, personally directed National Century’s scheme to defraud

investors. He supervised the issuance of misleading offering documents, signed the accompanying agreements, and authorized the resulting note issuances. He hid reserve account shortfalls from investors by authorizing fraudulent reserve account transfers; he misappropriated funds from at least one new securitization; he made a seven-day loan to National Century, undisclosed to investors and rating agencies, to help conceal a reserve account shortfall; and he signed false investor reports. Further, Defendant Poulsen allowed National Century to disguise collateral shortfalls by recording ineligible or fictitious collateral into its databases, and he personally authorized as much as \$168 million in uncollateralized advances, including to health-care providers in which he held a financial stake. Finally, he signed false management representation letters in connection with the audits of National Century's consolidated financial statements for 1999 and 2000 when he knew that the financial statements were materially misleading and would be disseminated to trustees, rating agencies, and investors.

8. Defendant Parrett, as a National Century principal and member of its board of directors, directly authorized the issuance of notes despite receiving numerous internal memoranda documenting National Century's fraudulent reserve account transfers, fabricated audit documents, false investor reports, and widespread collateral shortfalls. From at least the beginning of 1999 through June 2001, and later in the fall of 2002, she directed subordinates to record ineligible and non-existent collateral into receivables-tracking databases and to backdate the age of older, stale receivables, despite knowing that the false collateral information would be used to create false offering memoranda and false investor reports. Defendant Parrett also authorized as much as \$145 million in uncollateralized advances to health-care providers, including advances to providers in

which she held a financial stake. Further, she directly supervised the creation and distribution of false investor reports and the creation of false audit detail to support the false investor reports.

9. Defendant Ayers, as a National Century principal, vice-chairman of the board, and chief operating officer, directly authorized the issuance of notes despite receiving numerous internal memoranda that discussed uncollateralized advances, reserve account shortfalls, distortions of National Century's receivables databases, and false investor reports. Ayers also allowed National Century to mask reserve account shortfalls by transferring funds between reserve accounts and by misappropriating funds from a new note issuance. Further, Defendant Ayers made a seven-day personal loan to National Century, undisclosed to investors and rating agencies, to help conceal a reserve account shortfall. Finally, he personally approved as much as \$69 million in uncollateralized advances to health-care providers, including advances to providers in which he held a financial stake.

10. Defendant Speer, National Century's chief financial officer, received numerous internal memoranda documenting National Century's uncollateralized advances, cash-flow difficulties, and reserve account shortfalls. He provided, or directed subordinates to provide, misleading information to independent auditors during their audits of National Century's 1999 and 2000 consolidated financial statements; he also signed false management representation letters in connection with the 1999 and 2000 audits when he knew that they were materially misleading and would be disseminated to trustees, rating agencies, and investors.

11. Defendant Speer authorized or allowed the transfer of funds between reserve accounts to mask reserve account shortfalls; approved the use of offering proceeds from at least one securitization to cover reserve shortfalls; and personally authorized as much as \$700 million in uncollateralized advances to health-care providers.

12. The Commission brings this action pursuant to Section 20(b) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77t(b)] and Sections 21(d) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §78u(d)] for a judgment permanently restraining and enjoining Defendants, ordering disgorgement of unlawful profits, imposing civil penalties, prohibiting Defendants from acting as officers or directors of any reporting company, and for other relief.

13. Defendants directly and indirectly have engaged and, unless enjoined, will continue to engage in transactions, acts, practices, and courses of business which constitute violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], and Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] promulgated thereunder.

Jurisdiction and Venue

14. The Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. §77v(a)] and Sections 21(e) and 27 of the Exchange Act [15 U.S.C. §§78u(e) and 78aa].

15. Defendants, directly and indirectly, have made use of the means and instruments of transportation and communication in interstate commerce, of the means and instrumentalities of interstate commerce, and of the mails in the offer and sale, and in connection with the purchase and sale, of securities, in connection with the transactions,

acts, practices, and courses of business alleged herein, within the jurisdiction of the Southern District of Ohio and elsewhere.

16. The anti-fraud provisions of the federal securities laws as set forth herein apply to any offer, purchase, or sale of a security, regardless of whether that security is registered with the Commission.

Relevant Entities

17. During the relevant period, National Century was a privately held Ohio corporation headquartered in Dublin, Ohio.

18. During the relevant period, National Century organized and owned several subsidiaries, including NPF VI and NPF XII, both of which were Ohio corporations.

19. During the relevant period, the Defendants and other senior National Century officials controlled National Century and its subsidiaries, including NPF VI and NPF XII.

The Defendants

20. During the relevant period, Defendant Lance K. Poulsen resided in Ohio and Florida. Poulsen was a co-founder of National Century and served as its Chairman of the Board of Directors and as its Chief Executive Officer. Poulsen also served as a Director and the President of the subsidiaries of National Century, including NPF VI and NPF XII. Along with Defendants Ayers and Parrett, Poulsen controlled National Century and its subsidiaries through his positions of authority in National Century and his direct and/or indirect ownership of National Century shares.

21. During the relevant period, Poulsen received total compensation from National Century and its subsidiaries of at least \$8,254,729, consisting of: \$4,556,663 in base salary; \$3,382,134 in bonuses; and \$315,932 in other compensation. Defendant

Poulsen also held a financial stake in health-care providers to which the Defendants directed fraudulent, uncollateralized advances of investor funds.

22. During the relevant period, Defendant Rebecca S. Parrett resided in Ohio and Arizona. Parrett was a co-founder and director of National Century and served as Director of its Accounts Receivable Servicer Department. Along with Poulsen and Ayers, Parrett controlled National Century and its subsidiaries through her positions of authority in National Century and her direct and/or indirect ownership of National Century shares.

23. During the relevant period, Parrett received total compensation from National Century and its subsidiaries of at least \$11,814,701, consisting of: \$4,270,915 in base salary; \$2,398,645 in bonuses; and \$5,145,141 in other compensation. Defendant Parrett also held a financial stake in health-care providers to which the Defendants directed fraudulent, uncollateralized advances of investor funds.

24. During the relevant period, Defendant Donald H. Ayers resided in Ohio and Florida. Ayers was a co-founder and director of National Century and served as its Chief Operating Officer. Along with Poulsen and Parrett, Ayers controlled National Century and its subsidiaries through his positions of authority in National Century and his direct and/or indirect ownership of National Century shares.

25. During the relevant period, Ayers received total compensation from National Century and its subsidiaries of at least \$9,407,695, consisting of: \$3,431,931 in base salary; \$3,031,814 in bonuses; and \$2,943,950 in other compensation. Defendant Ayers also held a financial stake in health-care providers to which the Defendants directed fraudulent, uncollateralized advances of investor funds.

26. During the relevant period, Defendant Randall H. Speer resided in Ohio. Speer served as National Century's Chief Financial Officer and Executive Vice-President of Finance from 1999 to 2002. Speer served as Executive Vice President of NPF VI and NPF XII from June 2001 to November 2002. Along with Defendants Poulsen, Parrett, and Ayers, Defendant Speer controlled National Century and its subsidiaries through his positions of authority in National Century.

27. During the relevant period, Speer received total compensation from National Century and its subsidiaries of at least \$1,758,039.00, consisting of: \$838,206.00 in base salary; \$593,995 in bonuses; and \$325,838.00 in other compensation.

National Century's Securitization Programs

28. Through its wholly owned subsidiaries NPF VI and NPF XII, National Century purchased eligible receivables from health-care providers and then securitized those receivables by selling highly rated notes to institutional investors, municipalities, and others (the "programs"). The notes were rated "AAA" by at least one rating agency. The "AAA" rating represented the category of debt with the lowest risk of default of any debt rated by the rating agency.

29. The notes were securities under the federal securities laws and were to be secured by the eligible receivables purchased by the subsidiaries.

30. The subsidiaries were structured as bankruptcy remote entities and were required to act independently of each other and National Century.

31. Another separate, wholly owned National Century subsidiary serviced the receivables for the programs.

32. The programs were governed by a series of agreements (the “program agreements”) among National Century, NPF VI, NPF XII, health-care providers, and investors. The program agreements included documents such as a master indenture outlining the respective duties of the program and its investors; a supplemental indenture outlining any modifications to the master indenture; and sales and subservicing agreements outlining the respective duties of the programs and participating health-care providers.

33. In most instances, the program agreements defined an “eligible receivable” as the “third-party reimbursable portion of a Receivable arising from the provision of health care services” that was payable by a government entity or large commercial insurer.

34. The program agreements required that the subsidiaries purchase only the eligible receivables of a hospital, physicians’ group, or other health-care provider on a weekly basis for a percentage of the receivables’ collectible value.

35. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, as required by the program agreements, that before purchasing a receivable, the programs would obtain detailed billing information from the health-care provider, including the insurance or government payor, diagnosis code, billing date, patient account number, and patient discharge date.

36. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, as required by the program agreements, the programs would determine the eligible receivables’ collectible value, retain approximately 17% of that value for various reserve accounts,

subtract program costs and debits for previously rejected or defaulted receivables, and send the seller a funding wire for the balance.

37. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, as required by the program agreements, the programs' reserve accounts would be fully funded at all times and could only be used for certain specified, limited purposes.

38. The program agreements also required the use of independent trustees and lockbox accounts. Each program retained a major bank as its program trustee, and the trustees held security interests in purchased receivables on behalf of investors.

39. Health-care providers directed payments for all receivables they generated into lockbox accounts, which were swept daily into the programs' general purchase accounts, which were held by the trustees.

40. National Century and the programs had no direct access to the program accounts; instead, National Century sent wire requests to the trustees, who reviewed the wire requests before releasing funds from the trust accounts.

41. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, as required by the program agreements, the programs would diversify their receivables holdings and meet strict concentration requirements that limited the percentage of receivables the programs could purchase of any particular type (e.g. home-health-care services) or from any particular payor (e.g. Medicaid).

42. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, as required

by the program agreements, health-care providers would immediately replace receivables older than 180 days (“defaulted receivables”), with other eligible receivables; and that if they did not, the programs would deduct the value of the defaulted receivables from the providers’ ongoing funding.

43. Although National Century was a private company making only private placements to sophisticated investors, the indentures required National Century to engage independent auditors to audit the Company’s consolidated financial statements on an annual basis. These annual audits did not include audits of each National Century program, but rather an audit of National Century’s consolidated financial statements, which included NPF VI and NPF XII as well as National Century business that occurred outside of NPF VI and NPF XII. The indentures required National Century to submit the audited financial statements to the trustees, who were to forward them to the rating agencies that rated National Century's debt.

44. In addition, the indentures required performance of certain “agreed upon procedures” by independent auditors on the individual programs. The agreed upon procedures consisted of a random test of a small number of receivables each quarter and of one monthly investor report each year. The indentures required that National Century provide the independent auditor’s report on the agreed upon procedures to the trustees and the rating agencies which rated the programs.

45. National Century provided its audit reports, audited financial statements, and agreed-upon procedures reports to trustees, investors, and rating agencies to support the programs’ issuances of notes.

46. However, despite the foregoing representations to investors, National Century and the Defendants in fact did not comply with the foregoing terms as required by the program agreements.

The Scheme to Defraud Investors

47. The objective of National Century's scheme to defraud was to enrich the Defendants by: (1) paying Defendants substantial salaries and bonuses based on National Century's false financial performance; (2) making uncollateralized advances to health-care providers in which Defendants Poulsen, Parrett, and Ayers held financial interests; (3) increasing National Century's value by charging fees to health-care providers; and (4) taking the company public or selling the company in a private transaction.

48. To achieve these objectives, National Century and Defendants engaged in a complex scheme to defraud investors which they accomplished by several means.

Misleading Offering Materials and Representations

49. During the relevant period, National Century provided written offering materials to investors in at least fifteen private placements by NPF VI and NPF XII totaling at least \$3.25 billion in notes.

50. The offering materials for each private placement were substantially similar in organization and substance: among other things, each included a program description and contained detailed statistics concerning the program's receivables pool.

51. The offering materials made many material misstatements of fact and omitted to disclose facts without which statements contained in the offering materials were rendered misleading.

52. The offering materials represented that the programs would use offering proceeds exclusively to either repay outstanding principal balances on other notes within the issuing program or to purchase eligible receivables (after deducting appropriate reserve amounts).

53. Despite these representations, Defendants, directly and through others, used offering proceeds for a variety of undisclosed, improper purposes, including replenishing depleted program reserve accounts; making uncollateralized advances; paying fees to National Century or its subsidiaries; and making unsecured loans to National Century, its subsidiaries, or its other securitization programs.

54. For example, the offering materials for an NPF XII note issuance of \$200 million on November 24, 1999, stated that the offering proceeds would be deposited “into the Purchase account in order to provide additional funds with which [NPF XII] expects to purchase Eligible Receivables from approximately 669 healthcare providers” pursuant to the program agreements.

55. The proposed note issuance was discussed in a November 15, 1999, memorandum from a National Century employee to the Defendants:

Currently, across all NPF funding programs, the reserve and equity balances are deficient by over \$100 million. The funds required to meet all the test equals [sic] \$286 million while the sum of funds available as of November 15, 1999, is \$185 million.

The proposed solution for shortfall is the \$200 million Series 1999-3 securitization scheduled to close in NPF XII, Inc. during November 1999.

56. The employee then noted that \$101 million from the offering proceeds was “scheduled” to cover shortages in program reserve accounts for NPF VI, NPF XII and another program.

57. NPF XII issued the notes on or about November 24, 1999 and then, with Defendants Poulsen and Speer's approval, National Century used \$101 million or more in offering proceeds to cover shortfalls in the reserve accounts of NPF VI, NPF XII, and another program.

58. The largest investor in that offering purchased \$100 million in notes based on National Century's assurances that the offering proceeds would be used to purchase eligible receivables.

59. Another example occurred in June 2001, when NPF VI issued a variable-funding note to a large institutional investor which invested \$300 million based on National Century's assurances that the offering proceeds would be used to purchase eligible receivables.

60. Within one day of NPF VI receiving the \$300 million, National Century transferred over \$172 million of the note proceeds to NPF XII. NPF XII then immediately used the funds to replenish its reserve accounts for investor report testing purposes and to pay fees to a National Century subsidiary. NPF VI received no eligible receivables or other collateral in return.

61. Similar transfers of offering proceeds from one program to another within two days of receipt occurred in at least 1999, 2000, 2001, and 2002.

62. The offering materials contained historical data showing that in prior years, the programs that, on average, the programs' receivables base turned over between three and five times per year.

63. But in fact, during the relevant period, the programs' receivables base turned over less than once per year.

64. In offering materials, Poulsen, aided and abetted by Defendants Parrett, Ayers, and Speer, disseminated to investors other misleading information regarding the programs' receivables pool, including false total eligible receivables, false age distribution data, and false concentration data.

65. National Century's Director of Compliance wrote to Defendant Poulsen in August 2001 that National Century needed to falsify pool statistics in its offering materials to match the statistics already published in false monthly investor reports:

As you may expect, we are having problems generating the pool statistics for the new [note issuance] in NPF XII. . . .

Due to the continual shortage of cash in the reserves, the [NPF XII] investor reports [have] OVERSTATED the receivables compared to the actual balances in the AS400 and/or funding systems . . .

. . . While the actual balances in NPF XI1 are closer to \$1.489 billion, the receivables balance in the current investor report for NPF XII is \$2,000,382,873. This means we have to add receivables . . . [to the pool statistics] in order to match the current investor report in NPF XII.

66. The Director then falsified the pool statistics used in offering materials for the referenced note issuance and Defendant Poulsen then authorized that note issuance.

67. During the relevant period, at least half of the receivables reported in the many of the private placement memoranda authorized by Defendant Poulsen and circulated to investors at his direction were either non-existent or ineligible receivables.

68. The offering materials also contained false descriptions of the use of the programs' reserve accounts, including representations that the reserve accounts would be maintained at approximately 17% of the value of all purchased receivables and would only be used for specified, limited purposes.

69. During the relevant period, the misrepresentations and omissions in the offering materials were frequently repeated and affirmed by Defendant Poulsen and other National Century representatives in dozens of presentations, seminars, road shows, due diligence visits, and discussions with investors and potential investors.

Uncollateralized Advances

70. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, as required by the program agreements, the programs would use offering proceeds only to repay outstanding principal balances on other notes within the issuing program or to purchase eligible receivables (after deducting appropriate reserve amounts).

71. Despite these representations, however, Defendants, directly and through others, depleted National Century's reserve accounts and collateral base by advancing program funds to health-care providers without receiving eligible receivables in return.

72. As early as 1994, National Century employees began documenting these unsecured advances in written advance request forms. The forms documented the amount of the advance, the health-care provider receiving the advance, and the National Century official authorizing the advance.

73. The forms were only generated when a program made an unsecured advance.

74. According to more than eleven hundred of these forms, from 1999 to 2002, Defendants and others collectively authorized uncollateralized advances of as much as \$1.2 billion from the programs. For the period from 1997 to 2002, defendants and others collectively authorized as much as \$2 billion in uncollateralized advances.

75. Some of these advances were made to companies in which National Century or Defendants Poulsen, Parrett, and Ayers held an interest.

76. In fact, the reserve accounts were at levels significantly short of the required levels. The Defendants, directly and through others, routinely maintained the reserve accounts at levels significantly below the required levels. In addition, Defendants, directly and through others, used funds from the reserve accounts for improper purposes, including purchasing receivables, making unsecured advances to clients, and masking shortfalls in other programs' reserve accounts.

77. In particular, the Defendants, directly and indirectly through others, converted millions of dollars of investor funds by making fraudulent, uncollateralized advances to entities in which they held financial interests. For example, in just the final six months of 1999, Poulsen and Ayers advanced at least \$61.8 million to Doctors Community Healthcare Corporation, a business in which National Century itself held an 11% equity interest.

Date of Advance	Authorizer	Amount
7/2/1999	Poulsen	\$1,000,000
8/9/1999	Poulsen	\$2,000,000
8/20/1999	Poulsen	\$2,000,000
9/3/1999	Poulsen	\$1,700,000
9/17/1999	Poulsen	\$2,300,000
9/23/1999	Poulsen	\$1,500,000
9/29/1999	Poulsen	\$2,500,000
9/30/1999	Poulsen	\$1,300,000
10/1/1999	Poulsen	\$6,285,987
10/1/1999	Poulsen	\$2,500,000
10/8/1999	Poulsen	\$1,300,000
10/25/1999	Poulsen	\$5,000,000
11/5/1999	Poulsen	\$3,000,000
11/10/1999	Poulsen	\$1,500,000
11/12/1999	Poulsen	\$11,011,763
11/22/1999	Poulsen	\$3,500,000

12/29/1999	Poulsen	\$3,500,000
6/28/1999	Ayers	\$500,000
7/5/1999	Ayers	\$2,000,000
9/23/1999	Ayers	\$1,500,000
10/13/1999	Ayers	\$1,500,000
10/15/1999	Ayers	\$2,000,000
10/21/1999	Ayers	\$1,000,000
12/23/1999	Ayers	\$1,500,000
Total		\$61,897,750

78. The fact that Defendants and National Century held interests in some health-care providers was disclosed in offering materials. The offering materials, however, did not disclose either the existence or the amounts of the Defendants' fraudulent, uncollateralized advances to those health-care providers.

79. Soon after she issued the Month End Status Report for June 2000, National Century's Director of Compliance directed a memorandum to the Defendants regarding the failing state of NPF VI and NPF XII for July 2000 and the fact that advances to entities owned by NCFE, Poulsen, Parrett and/or Ayers continued to consume these programs' funds.

As discussed during our most recent Strategic Management meeting, the NPF funding programs are experiencing serious cash flow problems. It was my understanding that advances and/or initial fundings [sic] were to be limited, particularly during the month of July 2000.

ADVANCES MONTH TO DATE JULY 2000
 \$1,000,000 to Meridian on July 13, 2000
 \$1,000,000 to Meridian on July 20, 2000

This does not include advances hidden in the funding wires for Doctors Community Healthcare Corporation or Tender Loving Care. These advances are apparently VERBAL requests to the Funding Department and are not documented....

Your assistance is required to limit, if not eliminate, the advances to our NPF Sellers. I have attached the most recent portfolio status report which indicates that we are \$152.2 million short in restricted cash.

80. National Century owned 11% of the shares of Doctors Community Healthcare Corporation. National Century also owned 4% of the shares of Tender Loving Care and National Century principals Poulsen, Parrett, and Ayers indirectly owned an additional 33% of Tender Loving Care (“TLC”) through their ownership in healthcare provider Med Diversified, Inc. (“MDI”), which owned TLC.

81. Defendant Poulsen and his wife each were the beneficial owners of 8.11% of MDI. Defendant Parrett similarly held 6.54% of MDI. In addition, Defendants Parrett and Ayers held respectively 6.69% and 7.03% of the common stock of MDI through trusts. Finally, Defendant Poulsen, his wife, and Defendant Parrett each owned a 25% interest in a limited liability corporation that was the beneficial owner of 6.73% of MDI.

82. Thus, Defendants Poulsen, Parrett and Ayers owned approximately 33% of MDI’s common stock. From June through October 2002, Defendants Poulsen and Speer and another National Century employee advanced as much as \$109 million in investor funds to MDI.

83. Each Defendant was aware that advances were not allowed by the program agreements.

84. In personal notes dated August 8, 2000, Defendant Parrett succinctly summarized the damage that these unsecured advances caused to National Century and its programs:

Once a client has received advances with no [supporting receivables], it becomes almost impossible to cut them off when they ask for future advances -- hence, we have several clients who are ruining our company because we advance them funds they shouldn't receive.

85. Parrett's summary proved to be an accurate prediction: National Century's unsecured advances caused massive cash and collateral shortfalls in the programs.

86. From at least February 1999 to October 2002, employees notified Defendants concerning the state of the programs' receivables base by sending them periodic "exposure spreadsheets" or "exceptions summary reports."

87. These spreadsheets or reports identified and discussed National Century potential losses due to inadequate or improper collateral. The amounts were alarming and grew quickly.

88. In October 2000, National Century employees identified more than \$644 million in "questionable" accounts receivable; by the summer of 2002, the exposure spreadsheet showed a potential collateral shortfall of almost \$970 million.

89. The shortfalls were further documented in an August 2002 memorandum from National Century's funding department to Defendant Speer to which were attached "funding summary reports for our larger clients." The attachments showed the following outstanding balances of uncollateralized advances owed to the programs as of July 2002 by entities wholly or partly owned by National Century or Defendants Poulsen, Parrett, and Ayers :

- \$614 million from Homecare Concepts of America;
- \$486 million from Doctor's Community Health Care Corp.;
- \$136 million from Millennium Health Group, Inc.; and
- \$135 million from Med Diversified, Inc.

90. The memorandum also included attached summaries of uncollateralized outstanding balances for other large National Century clients. In total, the memorandum documented uncollateralized outstanding balances of nearly \$2 billion.

91. Finally, in August 2002, Defendant Parrett wrote to Defendants Poulsen and Ayers to discuss what she appeared to view as a \$1.427 billion shortfall in the collateral of the combined programs.

Fraudulent Reserve Account Transfers

92. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, as required by the program agreements, the programs would maintain three reserve accounts: (1) a 6.5% Seller Credit Reserve to cover defaulted or rejected receivables; (2) a 2% Offset Reserve to cover shortfalls caused by Medicare or Medicaid offsets; and (3) an 8.5% general Equity account to provide further credit enhancement. National Century referred to these accounts collectively as the “reserve accounts.”

93. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, as required by the program agreements, National Century would document the status of the reserve accounts once each month on a specified “determination date.” Under the programs’ master indentures, a shortfall in the Equity account was considered an event of default, which, if uncured, would lead to the forced liquidation of the programs.

94. In offering materials, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, represented to investors that, under the program agreements, NPF VI and NPF XII could use reserve account funds only for certain specified, limited purposes. For example, under certain circumstances, the program agreements allowed for the funds in the Seller Credit Reserve account to be used

to replace defaulted or rejected receivables, but those funds were to be immediately replenished from the health-care providers' ongoing funding.

95. During the relevant period, Defendants, directly and through others, maintained the program reserve accounts at levels that were materially short of their required levels, as demonstrated by many internal National Century documents and account statements.

96. In February 1999, National Century's Director of Compliance wrote to Defendant Parrett that the status of the reserve accounts was "dismal" due to the continued "pillage of reserves for funding."

97. In January 2000, an employee wrote to Defendants that the reserve accounts across the National Century programs, including NPF VI and NPF XII, were short by over \$40 million.

98. By May 2000, National Century's Compliance Department expected the combined program reserve accounts to be more than \$113 million short at the close of business June 1, prompting a memorandum from a subordinate employee to National Century's Director of Compliance that "WE ARE OUT OF MONEY."

99. As of July 6, 2000, National Century's Director of compliance informed Defendants Poulsen, Parrett, and Ayers that the NPF VI reserve accounts were more than \$94 million short of their required levels, and across all National Century note programs, the total shortage had increased to approximately \$160 million.

100. By February 2001, the NPF XII reserve accounts alone were short by over \$160 million, and by March of 2001, the NPF VI reserve accounts were short by over \$112 million.

101. In June 2001, National Century's controller wrote to Defendant Poulsen that "there isn't anything I know of that I can show [a rating agency] to show even attempted compliance [with the NPF XII program reserve requirements for June 2001] because the cash balances [in the reserve accounts] were never high enough to meet the requirement."

102. The reserve shortfalls continued and deepened until the collapse of National Century and its programs in the fall of 2002.

103. The reserve account shortfalls required Defendants, directly and through others, to take a succession of progressively more drastic measures to mask the shortfalls, including using funds from new securitizations to cover the reserve shortfalls, as outlined above.

104. In February 1999 National Century's Director of Compliance wrote to Defendants Poulsen, Parrett, and Ayers that "NPF VI is \$45,000,000 SHORT in reserves" because of particular advances and funding to providers from reserves and asked for direction in continuing the fraud. (Emphasis in original.)

We are unable to move monies between books to 'fix' this problem. NPF VI Series 1999-1 is not scheduled to close until month end March 1999. Another reason for the shortage is due to the lack of collections ... even though we continue proforma funding on a weekly basis.

Please advise – how can we have an investor report (the one we will have to distribute right before the next series) with \$45,000,000 shortage in reserves ? ...

We are creative with month end and the investor reports – but this is beyond our capability to create. This is a crisis – we need help!

105. When the reserve shortfalls worsened in late 1999, Defendants Poulsen and Speer directed National Century employees to routinely make fraudulent transfers of funds between the programs' reserve accounts at the beginning and end of the month.

106. Defendants Poulsen and Speer directed the transfers specifically to allow employees to double-count and misreport in investor reports the dwindling reserve balances by shuttling reserve funds between the programs at month's end.

107. National Century employees consistently implemented and documented this deception from at least January 2000. For example, one employee wrote to all Defendants:

As of January 26, 2000, the NPF Funding Programs are deficient of cash reserves by over \$40 million. In order to pass the collateral, reserve and equity tests in each Funding Program, the testing will be held on two separate days for Monthend January 2000. For NPF VI and NPF XI, the accounts will be tested on January 31, 2000. Then, on February 1, 2000, the accounts will be tested for NPF XII, NPF WL, and NPF LP. This will allow [National Century] to shift the necessary cash between Funding Programs. Therefore, is it [sic] important to stop advancing cash until February 2, 2000.

108. In February 2000, the same employee wrote to all Defendants:

[T]he programs are losing about \$11.0 million a week, [and] the programs will be short by \$85 to 90 million by the end of February [2000].

In recent months, [National Century] has cured the shortages by wiring funds [between programs] and testing the requirements on different days. Previously, the maximum amount needed to cure the shortages has not exceeded \$45 million; this month will require more than double that amount. It concerns me that the Trustees may question these large wires.

109. But even these reserve account transfers were insufficient to mask the programs' reserve shortfalls in at least one instance.

110. In September 2000, the program reserve shortfalls were so severe that National Century could not mask them solely by shuttling funds between programs. So on September 30, National Century obtained a one-week, \$15 million bank loan and then combined those loan proceeds with reserve account transfers to cover most of September's reserve account shortfalls.

111. National Century covered the remaining shortfalls with short-term personal loans made to National Century by Defendant Poulsen (\$1.5 million), Poulsen's wife (\$1.5 million) and Defendant Ayers (\$1 million).

112. One week later, National Century repaid the \$15 million bank loan, plus a \$1 million banking fee. National Century also repaid Defendant Poulsen, his wife, and Defendant Ayers, who earned, respectively, \$39,843.75, \$39,843.75, and \$26,562.50 in interest and fees from the short-term loans.

113. Approximately three weeks later, in mid-October 2000, NPF XII issued a new series of \$275 million in "AAA"-rated notes. In the offering materials for this issuance, Defendant Poulsen and National Century, aided and abetted by Defendants Parrett, Ayers, and Speer, falsely represented that NPF XIII reserve accounts were tested monthly. The offering materials did not disclose to investors or to the rating agencies that the Defendants used a seven-day loan to avoid a default on NPF VI and NPF XII's determination dates for September 2000.

114. By November 2000, the reserve shortfalls consistently reached and exceeded \$100 million per month, and the reserve transfers between the programs became routine. In fact, for the entire year 2001, National Century's inter-company transfers totaled more than \$3.5 billion.

115. After November 2000, the shortfalls were so common and so large that National Century employees created "Month End Transfers" memoranda that documented the shortfalls and detailed the account transfers that would be needed to mask them.

116. Employees attached fictitious accounts receivable information to the transfer requests to give the appearance that the programs were purchasing receivables from each other, but no actual transfers of receivables between the programs occurred.

117. During many months of the relevant period, Defendants, directly and through others, shifted \$100 million or more between NPF VI and NPF XII

118. The transfers made in 2001 by Defendants, directly and through others, are shown in the following table:

<u>2001 Inter-Entity Transfers</u>			
Date	Amount	Transferring Entity	Receiving Entity
1/2/01	\$96,298,300.64	NPF VI	NPF XII
1/30/01	\$59,886,747.71	NPF XII	NPF VI
1/31/01	\$49,108,510.94	NPF XII	NPF VI
2/1/01	\$123,170,109.08	NPF VI	NPF XII
2/2/01	\$38,106,534.31	NPF XII	NPF VI
2/27/01	\$50,104,523.65	NPF XII	NPF VI
2/28/01	\$67,197,232.08	NPF XII	NPF VI
3/1/01	\$133,817,653.24	NPF VI	NPF XII
3/1/01	\$3,300,000.00	NPF XII	NPF VI
3/2/01	\$47,556,209.64	NPF XII	NPF VI
4/2/01	\$138,304,516.81	NPF VI	NPF XII
4/3/01	\$65,109,834.54	NPF XII	NPF VI
4/30/01	\$96,872,623.41	NPF XII	NPF VI
5/1/01	\$138,369,405.63	NPF VI	NPF XII
5/2/01	\$107,109,642.10	NPF XII	NPF VI
5/31/01	\$46,109,522.34	NPF XII	NPF VI
6/1/01	\$139,657,350.70	NPF VI	NPF XII
6/4/01	\$109,804,551.30	NPF XII	NPF VI
6/29/01	\$172,516,844.40	NPF VI	NPF XII
7/2/01	\$185,821,601.80	NPF XII	NPF VI
7/31/01	\$61,204,588.37	NPF XII	NPF VI
8/1/01	\$142,110,961.11	NPF VI	NPF XII
8/2/01	\$118,605,882.30	NPF XII	NPF VI
8/31/01	\$30,528,829.64	NPF XII	NPF VI
9/4/01	\$136,002,114.72	NPF VI	NPF XII
9/5/01	\$7,500,000.00	NPF XII	NPF VI

9/6/01	\$103,502,377.80	NPF XII	NPF VI
10/1/01	\$111,617,012.00	NPF VI	NPF XII
10/2/01	\$110,600,000.00	NPF XII	NPF VI
11/1/01	\$152,052,003.00	NPF VI	NPF XII
11/2/01	\$139,876,544.02	NPF XII	NPF VI
11/30/01	\$17,812,004.50	NPF XII	NPF VI
12/3/01	\$121,499,220.02	NPF VI	NPF XII
12/4/01	\$103,687,215.52	NPF XII	NPF VI
12/31/01	\$115,075,036.00	NPF XII	NPF VI

119. Similar transfers continued until the NPF VI investors discovered them in the fall of 2002, at which time the programs' combined reserve shortfall exceeded \$350 million.

False Investor Reports

120. The program agreements required that a National Century subsidiary prepare an investor report for each program once each month. The investor reports detailed the financial status of the programs and indicated whether the programs were in compliance with certain critical requirements of the program agreements.

121. During the relevant period, National Century employees produced two versions of each monthly investor report: one containing actual data (often labeled "actual") and one containing false data (often labeled "reported"). Employees would first produce a draft report based upon actual data in National Century's systems. Then they falsified that data to create a final, published report that complied with program requirements.

122. As Defendants knew, the false investor reports consistently and materially misrepresented the programs' reserve account balances and the existence, age, and composition of the programs' purchased receivables.

123. The final reports containing falsified data were sent by National Century employees to trustees, rating agencies, and investors through fax, mail, or electronic transfer.

124. Defendants knew that the investor reports were false and misleading. Defendants also knew that the investor reports were disseminated to trustees, rating agencies, and investors.

125. National Century's employees maintained file copies of both the actual and reported versions of the investor reports and advised Defendants that the investor reports were being falsified.

126. For example, a June 1999 "Summary of Adjustments to Investor Report" for NPF XII sent to Defendants Poulsen, Parrett, and Ayers noted that total receivables reported to investors were overstated by approximately \$50 million; that receivables more than 210 days in age were understated by approximately \$41 million; and that "26.5% of Total Actual Receivables are classified as Unidentified or Ineligible."

127. A September 1999 memorandum from a National Century employee to Defendant Parrett further noted how the July 1999 investor report had been altered:

I have attached two versions of the July NPF VI Investor Report, "Actual" and "Reported." All discrepancies within Section One through Section Four of the two reports have been highlighted.

The following is a brief synopsis of the changes that were made to the "Reported" NPF VI investor Report for the month of July.

Section One – Activity

Amounts were changed to comply with previously reported figures and to insure compliance in the current month.

Section Two - Receivables

To show even distribution and to offset the ineligible and defaulted receivables, financial class and bucket disbursements were reallocated.

Section Four - Concentration Limits

Payors and/or amounts were changed to insure compliance of the reporting trends and specified concentration limits.

128. On at least on occasion in 1999, Defendant Poulsen directed subordinates to stop producing such comparison reports in order to limit documentation of the fraud.

129. On at least one occasion in 1999, Defendant Parrett also directed subordinates to stop producing such comparison reports in order to limit documentation of the fraud.

False or Ineligible Receivables

130. Defendants, directly and through others, used various internal accounting methods to disguise shortfalls in the programs' collateral base from trustees, rating agencies, and investors.

131. Defendant Poulsen directed employees to establish a special "class 915" internal accounting classification in its receivables database to track unsecured advances.

132. Defendant Poulsen directed that such advances be "booked in the servicer collateral base for consistency" and that it be a "frozen class and not age. Each month it would need to be re-aged by the administrative group."

133. Pursuant to Defendant Poulsen's directive, the class 915 value was loaded into National Century's receivables database and reported to investors in investor reports and offering materials as if it represented actual, eligible receivables; but in fact it did not.

134. Instead, the figure was merely an accounting "plug" – the number needed to close the gap between the total receivables loaded in the receivables databases and the funding already provided to health-care providers.

135. Each month, employees merely calculated the class 915 plug figure needed for that month, unloaded the previous month's plug figure, and then replaced it with the new

month's figure. The new figure was then falsely reported in investor reports and offering documents as representing actual, eligible receivables.

136. By August 2002, the 915 figure loaded into National Century's receivables database for NPF VI and NPF XII stood at more than \$1.2 billion.

137. At Defendant Parrett's direction and with the knowledge of Defendants Poulsen, Ayers, and Speer, National Century created a second accounting classification referred to as "location 99" into which employees loaded large amounts of ineligible collateral such as receivables greater than 180 days in age, rejected receivables, legal judgments, real estate liens, unsecured notes, and even artwork.

138. In many cases the programs held a legitimate security interest in this ineligible collateral. But along with the class 915 plug figure, this location 99 collateral was then, at Defendant Poulsen's direction, falsely reported in investor reports and offering documents as eligible receivables.

139. To further distort National Century's databases, Defendants, directly and through others, consistently "re-aged" or "froze" the age of receivables in its databases and then reporting those receivables as eligible. By "re-aging," or reducing the reported age of receivables more than 180 days old, National Century inflated its reported pool of eligible receivables. By "freezing" receivables, or not allowing them to age beyond 180 days, National Century further inflated its reported pool of eligible receivables.

140. Throughout the relevant period, Defendants, directly and through others, used these practices to conceal from trustees, rating agencies, and investors the large shortfalls in the programs' collateral base.

Misleading Financial Statements

141. The program agreements required National Century to engage independent auditors to conduct consolidated audits of the financial statements of National Century and its programs.

142. These yearly audits supported the steady stream of private securitizations offered by the programs from 1991 to 2002.

143. National Century provided its audited financial statements and the agreed-upon procedures reports to trustees, investors, and rating agencies. During the relevant period, rating agencies utilized the audited consolidated financial statements of National Century in rating notes offered and sold by NPF VI and NPF XII.

144. Defendants Poulsen and Speer, directly and through others, provided misleading cash and receivables information to the independent auditors in connection with annual audits of National Century's consolidated financial statements.

145. Defendants Poulsen and Speer signed false and misleading management representation letters in connection with annual audits of National Century's consolidated financial statements.

Misleading Agreed-Upon Procedures Reports

146. The program agreements also required certain two-part “agreed-upon procedures,” which included a periodic review of a small number of receivables and of one monthly investor report each year. National Century engaged independent auditors to perform the agreed-upon procedures and provided the resulting reports to trustees, investors, and rating agencies.

147. National Century employees routinely doctored the audit detail supporting any investor report chosen by the independent auditors for random review.

148. National Century's Director of Compliance outlined how this was done in a memorandum to Parrett dated February 11, 1999:

I know that the random audit is a necessary requirement for the securitization(s); however, due to our business practices, it takes several weeks of preparation before the audit can be scheduled. The preparation time is not due to gathering copies of reports, obtaining file copies, etc., the delay is due to the necessity of CREATING the backup that matches the investor report.

It has been necessary to modify/edit/change the original receivables data from the AS400 for investor reporting. Due to advances with no collateral and high volumes of defaulted, the amount of eligible receivables aged 0-180 days varies significantly from the Outstanding Purchase amount (the amount actually funded to our clients). This means that we are UNDERcollateralized in all portfolios and the investor report numbers are adjusted in order to meet the default triggers.

Therefore, whenever the investor reports are audited we have to create special reports that reflect the numbers reported which again differ significantly from the receivables activity actually posted and housed within the AS400 system (emphasis in original).

149. The Director of Compliance then listed the reports that were created or "adjusted" to support the false investor reports, and closed by saying all concentration-limit numbers in the programs' investor reports were "arbitrary with the total receivables reported having no detail to support the information shown in the investor report." National Century employees falsified audit detail for all investor reports provided to auditors for review under the programs' agreed-upon procedures from 1999 to 2002.

Defendant Poulsen's Participation in the Scheme to Defraud

150. As Chairman and Chief Executive Officer of National Century, Defendant Poulsen exercised control over, and was actively involved in the day-to-day operations of, National Century and its subsidiaries.

151. On numerous occasions throughout the relevant period, National Century employees warned Defendant Poulsen, orally, by e-mail, and through memoranda: (1) that reserve account balances had fallen below required levels; (2) that the value of the eligible receivables held by National Century was below required levels; (3) that National Century was in violation of concentration and aging requirements of the program agreements; (4) that the investor reports disseminated to trustees, rating agencies, and investors contained false information; (5) that National Century employees were loading false information into National Century's receivable-tracking database; and (6) that his subordinates were providing false and misleading information to auditors.

152. Throughout the relevant period, Defendant Poulsen signed all the investor reports issued by NPF VI and NPF XII. Defendant Poulsen knew that those reports were false and misleading because he had personally directed subordinates to falsify them. He also knew that the false and misleading investor reports were disseminated to trustees, rating agencies, and investors.

153. During the relevant period, Defendant Poulsen personally authorized hundreds of fraudulent, uncollateralized advances totaling as much as \$168 million. Defendant Poulsen made advances to health-care providers in which he and other Defendants held financial interests.

154. During the relevant period, Defendant Poulsen supervised the drafting of false and misleading offering materials for all the note issuances of NPF VI and NPF XII. Defendant Poulsen also signed those documents and accompanying certificates in which he represented that the issuing subsidiary was in compliance with the applicable program agreements. Defendant Poulsen took these actions despite his knowledge that the offering materials and certificates were false and misleading. As Defendant Poulsen also knew, the offering documents and certificates were disseminated to trustees, rating agencies, and investors.

155. During the relevant period, Defendant Poulsen made repeated misrepresentations and misleading omissions concerning NPF VI and NPF XII's finances, use of offering proceeds, and compliance with program agreements in dozens of road shows, due diligence meetings, and other meetings with representatives of rating agencies, investors, and potential investors.

156. During the relevant period, Defendant Poulsen directed National Century employees to transfer funds between the reserve accounts of NPF VI and NPF XII for the purpose of masking reserve account shortfalls.

157. On several occasions during the relevant period, Defendant Poulsen authorized National Century employees to divert offering proceeds from one issuing subsidiary to another subsidiary.

158. During the relevant period, Defendant Poulsen allowed National Century employees to disguise collateral shortfalls by recording ineligible or fictitious collateral into its databases.

159. During the relevant period, Defendant Poulsen knowingly signed false and misleading management representation letters in connection with audits of National Century's consolidated financial statements. Defendant Poulsen knew the false management representation letters were disseminated to trustees, rating agencies, and to some investors.

160. During the relevant period, Defendant Poulsen directed subordinates to provide false and misleading information to auditors.

161. During the relevant period, Defendant Poulsen made a personal loan, undisclosed to trustees, rating agencies, and investors, for the purpose of concealing reserve account shortfalls.

Defendant Parrett's Participation in the Scheme to Defraud

162. As Director of the Accounts Receivable Servicer Department of National Century from 1991 through December 2000 and member of the board of directors from 1991 through November 2002, Defendant Parrett participated in the operations of National Century and its subsidiaries.

163. On numerous occasions throughout the relevant period, National Century employees warned Defendant Parrett, orally, by e-mail, and through memoranda, that: (1) reserve account balances had fallen below required levels; (2) the value of the eligible receivables held by National Century was below required levels; (3) the receivables held by National Century violated the concentration and aging requirements of the program agreements; and (4) the investor reports disseminated to trustees, rating agencies, and investors contained false information. Defendant Parrett was also fully aware that her subordinates at National Century: (1) were loading false information into National

Century's receivable-tracking databases; (2) used reserve account funds to purchase new receivables and to advance funds to providers in violation of the program agreements; (3) reported reserve account balances on different days of the month and transferred the same funds to different accounts on different days in order to deceive the trustees, ratings agencies and investors; and (4) improperly diverted funds generated from new note offerings in NPF VI and NPF XII to other reserve accounts to hide the reserve account shortfalls.

164. Throughout the relevant period, as Director of the Accounts Receivable Servicer Department of National Century, Defendant Parrett supervised the valuation and collection of National Century's program receivables. In this capacity, Defendant Parrett directed and allowed subordinates to load ineligible and fictitious collateral into National Century's receivables databases and to backdate the age of older, stale receivables. Defendant Parrett knew that the resulting false data would be disseminated to trustees, ratings agencies and investors.

165. During 1999, Defendant Parrett supervised the creation and distribution of false investor reports issued by NPF VI and NPF XII. Defendant Parrett knew those reports were false and misleading because she had personally directed subordinates to falsify them and supervised the creation of the false audit detail to support the false investor reports. Defendant Parrett similarly understood the false and misleading investor reports were disseminated to trustees, rating agencies, and investors.

166. During the relevant period, Defendant Parrett personally authorized fraudulent, uncollateralized advances totaling as much as \$145 million. Defendant

Parrett made to healthcare providers in which she and other Defendants held financial interests.

167. During the relevant period, Defendant Parrett signed and authorized the issuance of notes in spite of her knowledge that the offering materials were false and misleading.

Defendant Ayers' Participation in the Scheme to Defraud

168. As Vice-Chairman and Chief Operating Officer of National Century, Defendant Ayers exercised control over, and was actively involved in, the day-to-day operations of National Century and its subsidiaries.

169. On numerous occasions throughout the relevant period, National Century employees warned Defendant Ayers, orally, by e-mail, and through memoranda, that: (1) reserve account balances had fallen below required levels; (2) the value of the eligible receivables held by National Century was below required levels; (3) the receivables held by National Century violated the concentration and aging requirements of the program agreements; and (4) the investor reports disseminated to trustees, rating agencies, and investors contained false information. Defendant Ayers was also fully aware that National Century employees: (1) were loading false information into National Century's receivable-tracking databases; (2) used reserve account funds to purchase new receivables and to advance funds to providers in violation of the program agreements; and (3) improperly diverted funds generated from new note offerings in NPF VI and NPF XII to other reserve accounts to hide the reserve account shortfalls.

170. During the relevant period, Defendant Ayers personally authorized fraudulent, uncollateralized advances totaling as much as \$69 million. Defendant Ayers made

advances to health-care providers in which he and other Defendants held financial interests.

171. During the relevant period, Defendant Ayers made a personal loan, undisclosed to trustees, rating agencies, and investors, for the purpose of concealing reserve account shortfalls.

172. During the relevant period, Defendant Ayers signed and authorized the issuance of notes in spite of his knowledge that the offering materials were false and misleading.

173. During the relevant period, Defendant Ayers allowed National Century to mask reserve account shortfalls by transferring funds between reserve accounts and by misappropriating funds from a new note issuance.

Defendant Speer's Participation in the Scheme to Defraud

174. As the Chief Financial Officer of National Century, Defendant Speer actively participated in National Century's operations and was central to National Century's scheme to defraud investors.

175. On numerous occasions throughout the relevant period, National Century employees warned Defendant Speer, orally, by e-mail, and through memoranda: (1) reserve account balances had fallen below required levels; (2) the value of the eligible receivables held by National Century was below required levels; (3) the receivables held by National Century violated the concentration and aging requirements of the program agreements; and (4) the investor reports disseminated to trustees, rating agencies, and investors contained false information. Defendant Speer was also fully aware that National Century employees: (1) were loading false information into National Century's

receivable-tracking databases; (2) used reserve accounts funds to purchase new receivables and to advance funds to providers in violation of the program agreements; (3) reported reserve account balances on different days of the month and transferred the same funds to different accounts on different days in order to deceive the trustees, ratings agencies and investors; and (4) improperly diverted funds generated from new note offerings in NPF VI and NPF XII to other reserve accounts to hide the reserve account shortfalls.

176. During the relevant period, Defendant Speer knowingly signed false and misleading management representation letters in connection with audits of National Century's consolidated financial statements.

177. During the relevant period, Defendant Speer directed subordinates to provide false and misleading information to auditors.

178. During the relevant period, Defendant Speer directed National Century employees to transfer funds between the reserve accounts of NPF VI and NPF XII for the purpose of masking reserve account shortfalls.

179. Defendant Speer authorized changing the determination dates for NPF VI and NPF XII to enable National Century to fraudulently double-count and misreport the programs' reserve-account balances to trustees, investors and ratings agencies.

180. Defendant Speer further approved the use of investor funds to cover existing reserve shortfalls, in violation of the permitted uses of investor funds detailed in the programs' agreements.

181. During the relevant period, Defendant Speer personally authorized as much as \$700 million in fraudulent, uncollateralized advances, including to health-care providers

in which the other Defendants held an interest and to a National Century client where Speer had served as President and CEO prior to joining National Century.

182. On several occasions during the relevant period, Defendant Speer authorized National Century employees to divert offering proceeds from one issuing subsidiary to another subsidiary.

Investor Harm

183. Defendants' scheme to defraud resulted in \$2.6 billion in investor losses.

184. Defrauded investors included institutional asset managers; state and local government entities; charitable foundations; and the pension funds of teachers, police officers, fire fighters and other public employees.

185. The collapse of Defendants' scheme to defraud further resulted in the bankruptcy filings of approximately 275 health-care providers.

COUNT I

Violations of Section 17(a)(1) of the Securities Act [15 U.S.C. §77q(a)(1)] (As Against All Defendants)

186. The Commission repeats, incorporates by reference and realleges paragraphs 1 through 185 of its Complaint.

187. Since a date unknown but since at least 1999 through 2002, Defendants Poulsen, Parrett, Ayers and Speer, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by the use of the mails, in the offer or sale of securities, did knowingly or recklessly employ devices, schemes, or artifices to defraud.

188. Defendants Poulsen, Parrett, Ayers, and Speer acted with scienter when they engaged in the conduct alleged in paragraphs 186 through 187 above.

189. By reason of the foregoing, Defendants Poulsen, Parrett, Ayers and Speer, did directly and indirectly violated Section 17(a)(1) of the Securities Act [15 U.S.C. §77q(a)(1)].

COUNT II

Violations of Section 17(a)(2) of the Securities Act [15 U.S.C. §77q(a)(2)] (As Against Defendant Poulsen)

190. The Commission repeats, incorporates by reference and realleges paragraphs 1 through 185 of its Complaint.

191. Since a date unknown but since at least 1999 through 2002, Defendant Poulsen, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by the use of the mails, in the offer or sale of securities has obtained money or property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

192. By reason of the activities alleged in paragraphs 190 through 191 above, Defendant Poulsen violated Section 17(a)(2) of the Securities Act [15 U.S.C. §77q(a)(2)].

COUNT III

Violations of Section 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(3)] (As Against All Defendants)

193. The Commission repeats, incorporates by reference and realleges paragraphs 1 through 185 of its Complaint.

194. Since a date unknown but since at least 1999 through 2002, Defendants Poulsen, Parrett, Ayers and Speer, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by the use of the mails, in the offer or sale of securities, have engaged in transactions, practices or courses of business which would have and did operate as a fraud or deceit upon purchasers and prospective purchasers of such securities.

195. By reason of the activities alleged in paragraphs 193 through 194 above, Defendants Poulsen, Parrett, Ayers and Speer violated Section 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(3)].

COUNT IV

**Violations of Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)]
and Rule 10b-5 Thereunder [17 C.F.R. § 240.10b-5]
(As Against Defendant Poulsen)**

196. The Commission repeats, incorporates by reference and realleges paragraphs 1 through 185 of its Complaint.

197. Since a date unknown but since at least 1999 through 2002, Defendant Poulsen, directly and indirectly, by use of the means and instrumentality of interstate commerce, and by the use of the mails, in connection with the purchase or sale of the securities, has knowingly or recklessly: (a) employed devices, schemes, or artifices to defraud, (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and/or (c) engaged in acts, practices or courses of business which would and did operate as a fraud and deceit upon the purchasers and sellers of such securities.

198. Defendant Poulsen acted with scienter when he engaged in the conduct alleged in paragraphs 196 through 197 above.

199. By reason of the activities alleged in paragraphs 196 through 198 above, Defendant Poulsen violated Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. §240.10b-5].

COUNT V

Violations of Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 (a) and (c) Thereunder [17 C.F.R. § 240.10b-5(a) and (c)] (As Against Defendants Parrett, Ayers, and Speer)

200. The Commission repeats, incorporates by reference and realleges paragraphs 1 through 185 of its Complaint.

201. Since a date unknown but since at least 1999 through 2002, Defendants Parrett, Ayers and Speer, directly and indirectly, by use of the means and instrumentality of interstate commerce, and by the use of the mails, in connection with the purchase or sale of the securities, have knowingly or recklessly employed devices, schemes, or artifices to defraud, and engaged in acts, practices or courses of business which would and did operate as a fraud and deceit upon the purchasers and sellers of such securities.

202. Defendants Parrett, Ayers, and Speer acted with scienter when they engaged in the conduct alleged in paragraphs 200 through 201 above.

203. By reason of the activities alleged in paragraphs 200 through 202 above, Defendants Parrett, Ayers and Speer violated Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5(a) and (c) promulgated thereunder [17 C.F.R. §240.10b-5(a) and (c)].

COUNT VI

Aiding and Abetting Violations of Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 Thereunder [17 C.F.R. § 240.10b-5] (As Against All Defendants)

204. The Commission repeats, incorporates by reference and realleges paragraphs 1 through 203 of its Complaint.

205. As set forth more fully above in paragraphs 186 through 203, National Century and Defendants Poulsen, Parrett, Ayers, and Speer violated Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5].

206. By their conduct described in paragraphs 1 through 185, Defendants Poulsen, Parrett, Ayers, and Speer each knowingly and substantially assisted violations of Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §240.10b-5], and thereby aided and abetted violations by the other Defendants and National Century of those provisions of the federal securities laws.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

Issue findings of fact and conclusions of law that Defendants committed the violations charged and alleged herein.

Issue Permanent Injunctions restraining the Defendants, their officers, agents, servants, employees, attorneys, and all person in active concert or participation with them, and each of them, from violating and from aiding and abetting violations of: (a) Sections 17(a)(1), (2) and (3) of the Securities Act [15 U.S.C. §§77q(a)(1), (2) and (3)]; (b) Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)]; and (c) Rule 10b-5 promulgated thereunder [17 C.F.R. §240.10b-5].

Order Defendants to pay into the registry of this Court disgorgement of their ill-gotten gains from their illegal conduct, gained directly or indirectly from the conduct complained of herein, together with prejudgment interest thereon.

Order Defendants to pay to the Commission civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)].

Order that Defendants be barred from acting as officers or directors of any issuer whose securities are registered pursuant to Section 12 of the Exchange Act [15 U.S.C. §78l], pursuant to Section 20(e) of the Securities Act [15 U.S.C. §77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. §78u(d)(2)] as a result of their violations of Section 17(a) of the Securities Act [15 U.S.C. §77q(a)] and Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. §240.10b-5].

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

Grant an Order for such further relief as the Court may deem appropriate.

Respectfully Submitted,

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