

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

RECEIVED

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

DANIEL SPITZER,
DRASEENA FUNDS GROUP, CORP.,
KENZIE FINANCIAL MANAGEMENT, INC.,
KENZIE SERVICES LLC,
ANESARD MANAGEMENT LLC,
NERIUM MANAGEMENT CO.,
DN MANAGEMENT CO. LLC,
ARROW FUND, LLC,
ARROW FUND II, LLC,
CONSERVIUM FUND, LLC,
NERIUM CURRENCY FUND, LP,
SENIOR STRENGTH Q FUND, LLC,
SSECURITY FUND, LLC,
THREE OAKS ADVANCED FUND, LLC,
THREE OAKS CURRENCY FUND, LP,
THREE OAKS FUND, LP,
THREE OAKS FUND 25, LLC,
THREE OAKS SENIOR STRENGTH FUND,
LLC,
USFIRST FUND, LLC,

Defendants.

JUN 17 2010

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT
JUDGE LEINENWEBER

MAGISTRATE JUDGE DENLOW

CIVIL ACTION
FILE NO.

10C 3758

FILED UNDER SEAL

COMPLAINT

Plaintiff United States Securities and Exchange Commission ("Commission")

alleges as follows:

NATURE OF THE ACTION

1. The Commission brings this emergency law enforcement action to halt a \$105 million fraudulent Ponzi scheme being perpetrated by Daniel Spitzer ("Spitzer") and the Defendant entities that he controls and to freeze any remaining assets of the Defendants to prevent any further dissipation of those assets, amongst other relief.

2. From at least 2004 to the present, Spitzer, personally and through the Defendant entities, which he controls, has been running a fraudulent scheme in which he has raised \$105,875,029 and has approximately 400 investors. Spitzer, individually and through the Defendant entities and various sales agents, represented to these investors that their money would be invested in investment funds that, in turn, would be invested primarily in foreign currency trading. They all further represented to investors that Spitzer's investment funds had not lost money and had profitable historical returns, including one year with an annual return of 184.15%.

3. In reality, Spitzer used \$71,886,926 of the investor proceeds to make Ponzi payments to other investors to keep his scheme afloat. As part of his scheme, Spitzer regularly collectively transferred and commingled investor funds in an elaborate web of domestic and offshore entity accounts. Since 2004, Spitzer did use approximately \$13.5 million of the investor proceeds to invest through an offshore entity via a bank account in the Netherlands Antilles, however, these investments lost money and were subsequently liquidated. He used another \$16 million to invest in money market funds that earned several thousand dollars, but Spitzer liquidated these investments as well. After all of these investments were liquidated, the vast majority of the money was

returned to Spitzer and he used these funds as part of the \$71,886,926 that he paid back to investors.

4. Spitzer also used offshore bank accounts to pay the purported business expenses of the Defendant entities. Using bank accounts at the National Bank of Anguilla and the First Bank of Puerto Rico, Spitzer used investor proceeds to pay \$15,208,038 in purported operating expenses, including making payments to himself and various sales agents. Lastly, Spitzer used \$4,819,024 to pay third party business expenses.

5. To cover up his scheme and in furtherance of it, Spitzer issued to his investors false periodic statements and false Schedule K-1s, which provided investors with inflated returns leading them to believe that their investments with Spitzer were profitable. However, in light of the Ponzi payments, investment losses, and payments for purported expenses, these statements were all false and misleading because Spitzer's touted returns were unattainable.

6. Spitzer's perpetuation of this scheme gave him access to tens of millions of dollars in investor proceeds and allowed him to hold himself out for years as a wealthy fund manager. As evidence of his extravagant lifestyle, between March 2006 and October 2009, Spitzer spent over \$900,000 in cash at the Wynn Las Vegas Casino.

7. Spitzer's scheme is on the verge of collapse. Since at least August 2009 and continuing through to the present, Spitzer has attempted to delay and avoided paying requested investor redemptions.

8. Spitzer is desperate for money and has continued to prey on victims. Specifically, in March 2010, Spitzer obtained \$100,000 from an investor for a purported

investment in one of Spitzer's more conservative investment funds. Rather than invest in said fund, in April 2010, Spitzer used this investor's money to make \$9,492 in Ponzi payments to four other investors, transferred \$27,102 to the First Bank of Puerto Rico, and paid \$26,257 for third party expenses.

9. The Commission brings this action to end Spitzer's scheme. The Defendants have engaged in and, unless enjoined, will continue to engage in transactions, acts, practices and courses of business which violate Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77(q)(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder. Defendants Spitzer, Kenzie Financial Management, Inc. and Kenzie Services LLC have engaged in and, unless enjoined, will continue to engage in transactions, acts, practices and courses of business which also violate Sections 206(1), 206(2), and 206(4) of the Investment Advisers Act of 1940 (the "Advisers Act") [15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4)] and Rule 206-4(8) [17 C.F.R. § 275.206-4(8)] thereunder.

JURISDICTION AND VENUE

10. The Commission brings this action pursuant to Section 20(b) of the Securities Act [15 U.S.C. §77t(b)], Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)], and Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)].

11. This Court has jurisdiction over this action pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14], and 28 U.S.C. § 1331.

12. Venue is proper in this Court pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

13. Acts, practices and courses of business constituting violations alleged herein have occurred within the jurisdiction of the United States District Court for the Northern District of Illinois and elsewhere. Spitzer, individually and through certain Defendant entities, solicited investors in the Northern District of Illinois and two of the Defendant entities are Illinois corporations.

14. The Defendants, directly and indirectly, made use of the means and instrumentalities of interstate commerce and of the mails in connection with the acts, practices, and courses of business alleged herein.

15. The Defendants will, unless enjoined, continue to engage in the acts, practices and courses of business set forth in this complaint, and acts, practices and courses of business of similar purport and object.

FACTS

Defendants

16. **Daniel Spitzer** is 51 years old and he is a United States citizen who resides in a U.S. territory, the U.S. Virgin Islands. Spitzer controls all of the Defendant entities. Spitzer compensated himself for purportedly providing investment advice to his investors. On March 28, 2001, the Commission instituted settled cease-and-desist proceedings against Spitzer for violations of Section 5 of the Securities Act.

17. **Kenzie Financial Management, Inc. ("Kenzie Financial")**, is a U.S. Virgin Islands corporation, with offices in St. Thomas, U.S. Virgin Islands. Spitzer is the sole shareholder and principal of Kenzie Financial. Kenzie Financial purports to be an

asset management company specializing in foreign currencies. It purportedly acted as the trading manager for eleven of the twelve investment funds that Spitzer also controls. Kenzie Financial was purportedly paid for providing investment advice, based on the value of the assets under management and realized profits.

18. **Kenzie Services LLC (“Kenzie Services”)**, is a West Indies limited liability company with a business address in Charlestown, Nevis, West Indies. Spitzer is the sole manager and member of Kenzie Services. Kenzie Services purports to be an asset management company specializing in foreign currencies. Kenzie Services is purportedly the investment manager for Spitzer’s SSecurity Fund, LLC, an investment fund that Spitzer also controls. Kenzie Services was purportedly paid for providing investment advice, based on the value of the assets under management and realized profits.

19. **Draseena Funds Group, Corp. (“Draseena”)** is an Illinois corporation with offices in Clearwater, Florida and an additional address in Stateline, Nevada. Spitzer is the principal and controlling owner of Draseena. Draseena claims to act as the administrative manager or general partner of six of Spitzer’s investment funds. Draseena purportedly manages the operations for these six funds and selects their trading manager. Draseena also purportedly selected foreign exchange dealers and various other administrative entities to provide services for these six funds. Spitzer, through Draseena, provided investors with false periodic statements and false Schedule K-1s.

20. **DN Management Co. LLC (“DN”)** is a Nevada limited liability company. Spitzer is the principal and controlling owner of DN, and DN is the manager of Aneesard Management LLC.

21. **Aneesard Management LLC (“Aneesard”) (f/k/a Nerium Management Co. LLC)** is a Nevada limited liability company. Aneesard claims to act as an administrative manager for five of Spitzer’s investment funds. Aneesard purportedly manages the operations for these five funds and selects their investment manager. Aneesard also purportedly selected foreign exchange dealers and various other administrative entities to provide services for these five funds. Spitzer, through Aneesard, provided investors with false periodic statements and with false Schedule K-1s.

22. **Nerium Management Co. (“Nerium Management”)** is an Illinois corporation with an address in Stateline, Nevada. Spitzer is the principal and controlling owner of Nerium Management. Nerium Management is general partner for Spitzer’s Nerium Currency Fund, LP. Nerium Management purportedly administers the operations of this fund and selects its trading manager. Nerium Management also purportedly selected foreign exchange dealers and various other administrative entities to provide services for this fund. Spitzer, through Nerium Management, also provided investors with false periodic statements and with false Schedule K-1s.

23. Kenzie Financial, Kenzie Services, Draseena, DN, Aneesard, and Nerium Management are collectively referred to as the “Kenzie Companies.”

24. **Arrow Fund, LLC (“Arrow”)** is a Nevada limited liability company. Arrow’s private placement memorandum (“PPM”) represents to investors that their investment proceeds were to be used to invest in foreign currency forward contracts, private or publicly traded securities issued by financially distressed or insolvent domestic or foreign entities, cash currencies, stocks, bonds, options, and real estate.

25. **Arrow Fund II, LLC (“Arrow II”)** is a Nevada limited liability company. Arrow II’s PPM represents to investors that their investment proceeds were to be used to invest in stock or equity interests in energy and natural resources ventures, and real estate.

26. **Conservium Fund, LLC (“Conservium”)** is a Nevada limited liability company. Conservium’s PPM represents to investors that their investment proceeds were to be used to invest in foreign currency forward contracts, stocks, funds of funds, and U.S. Treasuries.

27. **Nerium Currency Fund, LP (“Nerium Currency”)** is a Nevada limited partnership. Nerium Currency’s PPM represents to investors that their investment proceeds were to be used to invest in foreign currency forward contracts, cross rates, swaps, bonds, funds of funds, stocks, options, and real estate.

28. **Senior Strength Q Fund, LLC (“Senior Strength”)** is a Nevada limited liability company. Senior Strength’s PPM represents to investors that their investment proceeds were to be used to invest in U.S. and foreign treasury securities, foreign currency forward contracts, funds of funds, options, real estate, stocks, and bonds.

29. **SSecurity Fund, LLC (“SSecurity”)** is a Nevada limited liability company. SSecurity’s PPM represents to investors that their investment proceeds were to be used to invest in foreign and domestic government guaranteed money market investments and time deposits.

30. **Three Oaks Advanced Fund, LLC (“Three Oaks Advanced”)** is a Nevada limited liability company. Three Oaks Advanced’s PPM represents to investors that their investment proceeds were to be used to invest in foreign currency forward

contracts, cross rates, swaps, bonds, funds of funds, stocks, options, and real estate. On March 28, 2001, the Commission instituted settled cease-and-desist proceedings against Three Oaks Advanced for violations of Section 5 of the Securities Act.

31. **Three Oaks Currency Fund, LP (“Three Oaks Currency”)** is a Nevada limited partnership. Three Oaks Currency’s PPM represents to investors that their investment proceeds were to be used to invest in foreign currency forward contracts, bonds, funds of funds, stocks, and warrants.

32. **Three Oaks Fund, LP (“Three Oaks”)** is a Nevada limited partnership. Three Oaks’ PPM represents to investors that their investment proceeds were to be used to invest in foreign currency forward contracts, bonds, funds of funds, stocks, options, and real estate. On March 28, 2001, the Commission instituted settled cease-and-desist proceedings against Three Oaks for violations of Section 5 of the Securities Act.

33. **Three Oaks Fund 25, LLC (“Three Oaks 25”)** is a Nevada limited liability company. Three Oaks 25’s PPM represents to investors that their investment proceeds were to be used to invest in U.S. Treasuries, foreign currency forward contracts, funds of funds, options, real estate, stocks, and bonds.

34. **Three Oaks Senior Strength Fund, LLC (“Three Oaks Senior Strength”)** is a Nevada limited liability company. Three Oaks Senior Strength’s PPM represents to investors that their investment proceeds were to be used to invest in U.S. Treasuries, foreign currency forward contracts, funds of funds, options, real estate, stocks, and bonds.

35. **USFirst Fund, LLC (“USFirst”)** is a Nevada limited liability company. USFirst’s PPM represents to investors that their investment proceeds were to be used to

invest in U.S. Treasuries, foreign currency forward contracts traded through U.S. banks, funds of funds, options, cash currencies, stocks, and bonds. USFirst further represented that its investments were limited to securities of U.S. issuers.

36. Arrow, Arrow II, Conservium, Nerium Currency, Senior Strength, SSecurity, Three Oaks Advanced, Three Oaks Currency, Three Oaks, Three Oaks 25, Three Oaks Senior Strength, and USFirst are collectively referred to as the “Kenzie Funds.”

Related Entity

37. **Serrano Unifico (Investments) Ltd. (“Serrano”)** is an offshore entity registered in Nevis, West Indies. CAPM Inc. is an offshore British Virgin Islands entity that purports to be the investment manager for Serrano. Serrano is a purported fund of funds. Amongst other transactions involving Serrano, Spitzer sent investor proceeds from the Kenzie Funds to Serrano’s bank account at MeesPierson Curaçao Bank (f/k/a Fortis Bank (Curaçao) N.V.) in the Netherlands Antilles.

Investor Solicitations and Representations

38. From at least 2004 through the present, Spitzer, individually and through the Defendant entities and various sales agents, raised \$105,875,029 and had approximately 400 investors. To solicit investors, Spitzer and the Defendant entities made misrepresentations and failed to advise the investors of material facts. Spitzer and the Defendant entities knew, or were reckless in not knowing, about these misrepresentations and omissions. Further, Spitzer, Kenzie Financial, and Kenzie Services, acting as investment advisers, violated their fiduciary duties to the investors.

39. Spitzer, individually and through the Defendant entities and various sales agents, solicited many of the investors through several live presentations each year. During these presentations, Spitzer explained that he specialized in world currencies, which he stated was the largest asset class in the world. He also stated that one of his investment objectives was capital preservation. Spitzer explained that he had exceptional risk management in place and that he conservatively invested the Kenzie Funds in various world currencies in contrast to riskier currency traders. Spitzer also told investors that the Kenzie Funds had never lost money.

40. Spitzer, through the Kenzie Companies and various sales agents, provided investors with the PPM for the particular Kenzie Fund for which the investor had been solicited. The Kenzie Funds' PPMs, in addition to describing the investment objectives and uses of investor proceeds, described the investment risks, which varied from conservative, such as capital preservation, to aggressive for particular investment funds' objectives. Spitzer orally and via certain marketing materials that he distributed through one of the Kenzie Companies, affirmed that certain Kenzie Funds carried varying levels of risk.

41. Before and after providing the investors with PPMs, Spitzer through the Defendant entities and sales agents provided investors with other marketing materials. In certain of these materials, Spitzer claimed to oversee the Kenzie Funds' "operation of international currency investments."

42. Spitzer's marketing materials touted an investment strategy called the "Kenzie Methodologies" or "Triversification." Under this strategy, Spitzer recommended that an investor diversify his or her holdings in three areas: (1) stocks; (2)

bonds; and (3) world currencies. Spitzer's marketing materials also claimed that global currency should be the "crucial third leg" of an investor's "investment triangle" that provides stability "independent of the volatility of stocks and bonds."

43. Spitzer represented to investors both orally and in writing that the Kenzie Methodologies were effective and that in applying these methodologies the Kenzie Funds had never lost money.

44. In fact, Spitzer provided investors with a Draseena document that listed the annual rates of return for the Kenzie Methodologies from 1981 through June 30, 2009. This marketing document reflected that in applying the Kenzie Methodologies the Kenzie Funds had never suffered a losing year and had three years with annual returns in excess of 100%, with a peak return of 184.15%.

45. Spitzer, in furtherance of his efforts to cover up his fraud and to create a false impression of legitimacy, also sent his investors currency trading industry information, such as the "Currency Composition of Official Foreign Exchange Reserves" and the International Monetary Fund's special drawing rights (a/k/a SDRs) for different currencies.

46. After the investors made their investments, Spitzer, via the Kenzie Companies, provided the investors with monthly and quarterly statements and with Schedule K-1s, annually. To cover up his fraud, Spitzer represented in these communications to his investors that their money was profitably invested in foreign currencies. Spitzer's misrepresentations in these documents lulled investors into believing that their investments were profitable. This allowed Spitzer to, amongst other things, avoid or delay investor redemption requests.

47. Spitzer, in violation of his fiduciary duty as an investment adviser, also inflated the assets under management for the Kenzie Funds and communicated this false information to his investors. The Kenzie Funds balance sheets for June 2009 stated that the Kenzie Funds collectively had total assets under management of approximately \$249 million. Spitzer also told at least one investor, that the Kenzie Funds collectively had \$250 million in assets under management. In reality, as of June 2009, the Kenzie Funds only collectively had \$4,101,807 in their bank accounts.

Spitzer's Uses of Investor Proceeds

48. Despite the Defendants' representations, the Defendants used \$71,886,926 of investor funds to make Ponzi payments to investors as part of a massive fraudulent scheme. In addition, despite his representations that certain Kenzie Funds carried varying degrees of risk, from conservative to aggressive, Spitzer did not fully segregate and carry out separate investment strategies for the respective Kenzie Funds. Spitzer did maintain separate checking accounts for each Kenzie Fund at the Bank of America and at Harris Bank, and then at Wachovia Bank, and initially deposited investor proceeds into the corresponding checking account. However, after that point, Spitzer collectively sent from the Kenzie Funds' checking accounts millions of dollars in investor proceeds to an entity called First Century Fund LLC ("First Century Fund"), to Serrano's bank account in the Netherland Antilles and to Kenzie Financial's bank accounts at the National Bank of Anguilla and the First Bank of Puerto Rico, where the money was commingled.

49. All of the remaining Kenzie Fund investor assets with First Century Fund were subsequently transferred back to the Kenzie Funds checking accounts or to Serrano.

50. Prior to January 1, 2004, the Kenzie Funds had \$7,989,935 with First Century Fund, where this money was invested in a structured product created and offered by a French financial institution, Lyxor Asset Management (“Lyxor”), through SG Americas Securities LLC, an affiliate of Société Générale S.A. From January 2004 through October 2005, the Kenzie Funds investments with First Century Fund in the Lyxor structured product earned \$543,032. During that same timeframe, the First Century Fund did not make any additional investments for the Kenzie Funds in Lyxor. From January 2004 through July 2005, First Century Fund liquidated \$8,349,993 from the Lyxor investments and transferred those funds to its bank account. In addition to the money that it received back from the Lyxor investment, First Century Fund also received additional money from the Kenzie Funds. Specifically, from January 2004 to May 2005, Spitzer sent \$8,532,896 from the Kenzie Funds’ Bank of America checking accounts to First Century Fund’s bank account. During this same time period, First Century Fund returned \$200,000 to the Kenzie Funds’ Bank of America checking accounts. In October 2005, the remaining \$182,974 in First Century Fund’s Lyxor investments was transferred to Serrano’s Lyxor account. The remaining Kenzie Funds investor money that was with First Century Fund was also transferred to Serrano. As of August 2007, First Century Fund’s bank accounts had zero balances.

51. From May 2005 to September 2009, Spitzer sent \$64,327,001 from the Kenzie Funds’ checking accounts, collectively, to Serrano’s offshore bank account at MeesPierson Curaçao Bank (f/k/a Fortis Bank (Curaçao) N.V.) in the Netherlands Antilles.

52. From September 2005 through December 2008, a total of \$12,632,974 in Kenzie Funds investor proceeds was invested by Serrano in a Lyxor structured product. This included the \$182,974 transferred from First Century Fund's Lyxor investment to Serrano's account, \$500,000 invested by First Century Fund in Lyxor through Serrano's account, and \$11,950,000 that Serrano invested in Lyxor. Serrano's Lyxor investments resulted in \$3,800,164 in losses, net of dividends. Serrano also invested \$1,500,000 in commodities and other financial instruments through Peregrine Financial Group, Inc. ("Peregrine") from November 2008 to April 2009. The Peregrine investments resulted in a net loss of over \$270,000. Serrano subsequently liquidated both the Lyxor and Peregrine investments.

53. From March 2006 to September 2009, Serrano transferred a total of \$57,509,800, of the \$64,327,001, back to the Kenzie Funds. Spitzer used these funds to contribute towards the \$71,886,926 paid back to investors and towards the payment of purported business expenses. On information and belief, Serrano still retains at least \$6,817,201 of the Kenzie Funds investors' money.

54. From October 1, 2008 through September 30, 2009, Spitzer used \$16,050,500 from the Kenzie Funds checking accounts, collectively, to invest in Goldman Sachs money market funds through Wachovia Capital Markets, LLC. These investments earned only \$9,081 in dividends. Spitzer liquidated and transferred back to the Kenzie Funds \$16,048,934 from these investments. Spitzer used these funds to contribute towards the \$71,886,926 paid back to investors and towards the payment of purported business expenses.

55. As of January 1, 2004, Spitzer had \$699,548 of the Kenzie Funds invested with Rydex Investments ("Rydex"). These amounts were invested in two Rydex inverse index funds. From January 2004 to June 2009, Spitzer did not make any new investments with Rydex. During that same time, the investments held with Rydex only earned \$2,324 for a return of less than 1%. In April 2004, \$460,000 was liquidated and transferred to the Kenzie Funds checking accounts at Harris Bank. This money was commingled with other funds at Harris Bank and, from February 2004 to February 2009, \$770,324 was transferred out of the Harris Bank accounts to the Kenzie Funds other checking accounts. After February 2009, the Harris Bank accounts generally were inactive and as of September 30, 2009, the Kenzie Funds bank accounts at Harris Bank had a balance of \$10,537. In June 2009, the rest of the Rydex investments were liquidated and \$241,872 was transferred to the Kenzie Funds Wachovia Bank checking accounts.

56. The Kenzie Funds checking accounts at Wachovia Bank were tied to Wachovia money market accounts (the "Sweep Accounts") that earned returns ranging from 0.05% to 3.25%. The Kenzie Funds' investor cash that Spitzer did not transfer out of the Wachovia checking accounts was automatically transferred to the Sweep Accounts. From December 2006 to September 2009, \$53,612,500 was transferred from the Wachovia checking accounts to the Sweep Accounts and \$53,741,217 was transferred back from the Sweep Accounts to the checking accounts. During this time, the Sweep Accounts earned \$135,307 in interest. Over time, Spitzer used these funds to contribute towards the \$71,886,926 paid back to investors and towards the payment of purported

business expenses. As of June 2, 2010, the Kenzie Funds checking accounts and Sweep Accounts at Wachovia Bank had a remaining balance of just \$15,852.

57. Starting in November 2006, Spitzer transferred \$11,489,425 from the Kenzie Funds checking accounts, collectively, to an offshore account at the National Bank of Anguilla. This money typically only remained at the National Bank of Anguilla for a few days before being transferred to a Kenzie Financial account at the First Bank of Puerto Rico. Spitzer also transferred a net total of \$3,718,613 directly from the Kenzie Funds checking accounts to the Kenzie Financial account at the First Bank of Puerto Rico. Spitzer used this \$15,208,038 in investor proceeds to pay purported operating expenses, including making payments to himself and various sales agents. Lastly, Spitzer paid a net total of \$4,819,024 directly from the Kenzie Funds checking accounts for various third party business expenses.

58. From 2005 to 2009, Spitzer, through the Kenzie Companies, touted to investors that the Kenzie Funds were realizing returns that ranged between 3.38% to 13.54%. The Kenzie Funds could not have achieved those claimed returns. During that same timeframe, Spitzer invested less than one third of the approximate \$105 million raised from investors, collectively those investments suffered losses, and then Spitzer used these funds to contribute towards the over \$71 million in Ponzi payments. Spitzer also used investor proceeds to pay over \$20 million in purported expenses. Thus, Spitzer's touted investment returns are false.

**Spitzer is Avoiding Paying Investor Redemption Requests and
is Continuing his Ponzi Scheme**

59. Since at least August 2009 and continuing through to the present, Spitzer has failed to satisfy investor redemption requests made upon the Kenzie Funds.

60. Spitzer and at least one of his salespersons have provided different explanations to different investors for the failure to meet redemptions, including that: (1) a criminal investigation of one of the salespersons is delaying the liquidation of assets; (2) the Kenzie Funds are waiting on the valuation of assets by banks or brokerage firms; (3) new FINRA regulations that affected the liquidity of the investments; and (4) certain positions of the Kenzie funds positions are being held to maturity.

61. Rather than pay the redemption requests, Spitzer is attempting to dissolve the Kenzie Funds. In letters dated April 15, 2010, Spitzer informed investors in the Kenzie Funds that a large number of requests for redemptions had been received. The letters concluded by requesting votes to approve the voluntary dissolution of the Kenzie Funds.

62. As recently as March 2010, while failing to satisfy overdue pending redemption requests for certain investors, Spitzer approached a USFirst Fund, LLC investor about making a new investment in SSecurity Fund, LLC ("SSecurity").

63. Spitzer solicited this investor by telling him that SSecurity was different than Spitzer's other funds that invest in foreign currency. He explained to this investor that SSecurity was a more conservative investment as it invested in overseas "bank-secured" notes and that the investor's principal investment would be guaranteed by the banks.

64. On March 2, 2010, Spitzer sent a letter on Aneesard letterhead to the investor enclosing offering materials for SSecurity. A few weeks later, on March 29, 2010, this investor invested \$100,000 with Spitzer for SSecurity.

65. Rather than use this investor's money to invest in "bank-secured" notes through SSecurity, Spitzer used this new investor money to make \$9,492 in Ponzi payments to four other investors, transferred \$27,102 to the First Bank of Puerto Rico, and paid \$26,257 for third party expenses.

66. On April 21, 2010, the investor wrote a letter to Spitzer directly and requested the redemption of his \$100,000 investment in SSecurity. On May 15, 2010, this investor emailed Spitzer, to follow-up on his April 21 letter, and demanded the return of this investment. To date, Spitzer has not returned this investor's \$100,000 investment in SSecurity.

**Spitzer Presents a Flight Risk and
The Threat of the Dissipation of Investor Assets is Great**

67. Spitzer presents a flight risk. While Spitzer is a U.S. citizen residing in a U.S. territory, his residence in the Caribbean provides him with close and easy access to foreign jurisdictions. Spitzer also has relationships with foreign entities and the individuals associated with those entities.

68. Spitzer has transferred tens of millions of dollars to offshore bank accounts in the Netherland Antilles and in Anguilla. Spitzer also has accounts at financial institutions in Europe. Spitzer also recently misused and, in short order, dissipated the proceeds of an investor. Spitzer also has a propensity to handle and spend large amounts of cash. For example, between March 2006 and October 2009, Spitzer made fourteen trips to the Wynn Las Vegas Casino where he spent over \$900,000 in cash. Thus, the threat of the dissipation of assets by Spitzer, the Kenzie Companies, and the Kenzie Funds is significant.

COUNT I

**Violations of Section 17(a)(1) of the Securities Act
(Against All Defendants)**

69. Paragraphs 1 through 68 are realleged and incorporated by reference as though fully set forth herein.

70. By engaging in the conduct described above the Defendants, in the offer and sale of securities, by the use of the means and instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, have employed devices, schemes and artifices to defraud.

71. The Defendants acted with scienter.

72. By reason of the foregoing, the Defendants violated Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT II

**Violations of Sections 17(a)(2) and (3) of the Securities Act
(Against All Defendants)**

73. Paragraphs 1 through 68 are realleged and incorporated by reference as though fully set forth herein.

74. By engaging in the conduct described above, the Defendants, in the offer and sale of securities, by the use of the means and instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, have:

- a. obtained money or property by means of untrue statements of material fact or by omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and

- b. engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon the purchasers of such securities.

75. By reason of the foregoing, the Defendants have violated Sections 17(a)(2) and (3) of the Securities Act [15 U.S.C. § 77q(a)(2)-(3)].

COUNT III

Violations of Section 10(b) of the Exchange Act, and Exchange Act Rule 10b-5 (Against All Defendants)

76. Paragraphs 1 through 68 are realleged and incorporated by reference.

77. As more fully described in paragraphs 1 through 68 above, the Defendants, in connection with the purchase and sale of securities, by the use of the means and instrumentalities of interstate commerce and by the use of the mails, directly and indirectly: used and employed devices, schemes and artifices to defraud; made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and engaged in acts, practices and courses of business which operated or would have operated as a fraud and deceit upon purchasers and sellers and prospective purchasers and sellers of securities.

78. The Defendants acted with scienter.

79. By reason of the foregoing, the Defendants 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].

COUNT IV

Violations of Advisers Act Section 206(1) (Against Spitzer, Kenzie Financial and Kenzie Services)

80. Paragraphs 1 through 68 are realleged and incorporated by reference.

81. At all times relevant to this Complaint, Spitzer, Kenzie Financial, and Kenzie Services acted as investment advisers to the Kenzie Funds. Spitzer, Kenzie Financial, and Kenzie Services managed the investments of the Kenzie Funds in exchange for compensation in the form of performance and management fees.

82. As more fully described in paragraphs 1 through 68 above, at all times alleged in this Complaint, Spitzer, Kenzie Financial, and Kenzie Services, while acting as investment advisers, by use of the mails, and the means and instrumentalities of interstate commerce, directly or indirectly: (i) employed devices, schemes or artifices to defraud its clients or prospective clients; and (ii) engaged in transactions, practices and courses of business which have operated as a fraud or deceit upon their clients or prospective clients.

83. Spitzer, Kenzie Financial, and Kenzie Services acted with scienter.

84. By reason of the foregoing, Spitzer, Kenzie Financial, and Kenzie Services have violated Section 206(1) of the Advisers Act. [15 U.S.C. § 80b-6(1)].

COUNT V

Violations of Advisers Act Section 206(2) (Against Spitzer, Kenzie Financial and Kenzie Services)

85. Paragraphs 1 through 68 are realleged and incorporated by reference.

86. At all times relevant to this Complaint, Spitzer, Kenzie Financial, and Kenzie Services acted as investment advisers to the Kenzie Funds. Spitzer, Kenzie Financial, and Kenzie Services managed the investments of the Kenzie Funds in exchange for compensation in the form of performance and management fees.

87. As more fully described in paragraphs 1 through 68 above, at all times alleged in this Complaint, Spitzer, Kenzie Financial, and Kenzie Services, while acting as

investment advisers, by use of the mails, and the means and instrumentalities of interstate commerce, directly or indirectly: (i) employed devices, schemes or artifices to defraud its clients or prospective clients; and (ii) engaged in transactions, practices and courses of business which have operated as a fraud or deceit upon their clients or prospective clients.

88. By reason of the foregoing, Spitzer, Kenzie Financial, and Kenzie Services have violated Section 206(2) of the Advisers Act. [15 U.S.C. § 80b-6(2)].

COUNT VI

Violations of Advisers Act Section 206(4) and Rule 206(4)-8 Thereunder (Against Kenzie, Kenzie Financial and Kenzie Services)

89. Paragraphs 1 through 68 are realleged and incorporated by reference.

90. At all times relevant to this Complaint, Spitzer, Kenzie Financial, and Kenzie Services acted as investment advisers to the Kenzie Funds. Spitzer, Kenzie Financial, and Kenzie Services managed the investments of the Kenzie Funds in exchange for compensation in the form of performance and management fees.

91. As more fully described in paragraphs 1 through 68 above, at all times alleged in this Complaint, Spitzer, Kenzie Financial and Kenzie Services, while acting as investment advisers, by use of the mails, and the means and instrumentalities of interstate commerce, directly or indirectly: engaged in acts, practices or courses of business which are fraudulent, deceptive, or manipulative. Spitzer, Kenzie Financial and Kenzie Services made untrue statements of a material fact or omitted to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, to any investor or prospective in the pooled investment vehicle, and otherwise engaged in acts, practices or courses of business that was

fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

92. By reason of the foregoing, Spitzer, Kenzie Financial and Kenzie Services have violated Section 206(4) of the Advisers Act. [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 [17 C.F.R. 275.206(4)-8] thereunder.

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court:

I.

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

II.

Grant Temporary Restraining Orders and Orders of Preliminary and Permanent Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, restraining and enjoining the Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the Order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act [15 U.S.C. § 78j] and Rule 10b-5 [17 CFR § 240.10b-5] thereunder.

III.

Grant Temporary Restraining Orders and Orders of Preliminary and Permanent Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure,

restraining and enjoining Defendants Spitzer, Kenzie Financial and Kenzie Services, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the Order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, that violate Sections 206(1), 206(2) and 206(4) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)] and Rule 206(4)-8 [17 C.F.R. 275.206(4)-8] thereunder.

IV.

Issue an Order requiring the Defendants to disgorge the ill-gotten gains that they received as a result of the violations alleged in this Complaint, including prejudgment interest.

V.

With regard to Defendants Spitzer's, Draseena's, Kenzie Financial's, Nerium Management's, Aneesard's, and DN Management's violative acts, practices and courses of business set forth herein, issue an Order imposing upon Spitzer, Draseena, Kenzie Financial, Nerium Management, Aneesard, and DN Management appropriate 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)].

VI.

With regard to Defendants Spitzer's and Kenzie Financial's violative acts, practices and courses of business set forth herein, issue an Order imposing upon Spitzer

and Kenzie Financial appropriate civil penalties pursuant to Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)].

VII.

Retain jurisdiction of this action in accordance with the principles of equity and the Federal Rules of Civil Procedure in order to implement and 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 this Court.

VIII.

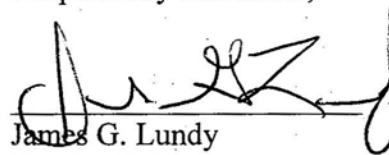
Grant appropriate emergency relief to prevent further secretion or dissipation of assets purchased with investor funds.

IX.

Grant an Order for any other relief this Court deems appropriate.

Dated: June 17, 2010

Respectfully submitted,



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