

Case No.: 09-062943 (19)  
Amended Complaint

757. In furtherance of the Ponzi scheme, Berenfeld made material false statements and representations including, but not limited to, providing false auditing documents relating to Banyon and RRA.

758. When making the false statements and representations, Berenfeld either knew or reasonably should have known that they were false.

759. Berenfeld owed Razorback a duty of care because it knew or had reason to know that, as an independent auditor, Razorback were placing trust and confidence in it and relying on it to inform them.

760. Berenfeld breached its duty to Razorback by making false representations with the intention that Razorback rely on them.

761. Razorback justifiably relied upon Berenfeld's representations to its detriment.

762. As a direct and proximate result of Berenfeld's false statements, Razorback has sustained damages.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against BERENFELD SPRITZER SHECHTER SHEER, LLP, for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 87 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Frank Spinosa)**

763. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

764. This is a claim for aiding and abetting breach of fiduciary duty.

765. Spinosa was aware that as trustee of the attorney trust account where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty,

and care to Razorback. Spinosa was also aware that as trustee of the attorney trust account containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

766. Spinosa was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

767. Spinosa actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

768. Spinosa's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against FRANK A. SPINOSA for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XXXVIII - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Jennifer Kerstetter)**

769. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

770. This is a claim for aiding and abetting breach of fiduciary duty.

771. Kerstetter was aware that as trustee of the attorney trust account where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Kerstetter was also aware that as trustee of the attorney trust account containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

772. Kerstetter was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

773. Kerstetter actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

774. Kerstetter's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against JENNIFER KERSTETTER for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XXXVIII - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**

(against Roseanne Caretsky)

775. Plaintiff incorporates the allegations contained in paragraphs 1 through 407121 as if restated herein.

776. This is a claim for aiding and abetting breach of fiduciary duty.

777. Caretsky was aware that as trustee of the attorney trust account where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Caretsky was also aware that as trustee of the attorney trust account containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

778. Caretsky was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

779. Caretsky actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

780. Caretsky's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against ROSEANNE CARETSKY for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XXXVII90 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against TD Bank, N.A.)**

781. Plaintiff incorporates the allegations contained in paragraphs 1 through 407-121 as if restated herein.

782. This is a claim for aiding and abetting breach of fiduciary duty.

783. At all times material hereto, Spinoza was acting in the scope of his employment as Regional Vice President of T.D. Bank.

784. At all times material hereto, Kerstetter was acting in the scope of her employment as an assistant manager of TD Bank.

785. At all times material hereto, Caretsky was acting in the scope of her employment as an assistant vice president and branch manager of TD Bank.

786. TD Bank was aware that as trustee of the attorney trust account where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. TD Bank was also aware that as trustee of the attorney trust account containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

787. TD Bank was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

788. TD Bank, through its employees acting within the scope of their employment, actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

789. TD Bank's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against TD BANK, N.A., for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XXXVIII91 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Debra Villegas)**

790. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

791. This is a claim for aiding and abetting breach of fiduciary duty.

792. Villegas was aware that as trustee of the attorney trust account where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Villegas was also aware that as trustee of the attorney trust account containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

793. Villegas was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

794. Villegas actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

795. Villegas's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against DEBRA VILLEGENS for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XXXIX92 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Frank Preve/Irene Stay)**

796. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

797. This is a claim for aiding and abetting breach of fiduciary duty.

798. Stay was aware that as trustee of the attorney trust account where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Stay was also aware that as trustee of the attorney trust account containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

799. Stay was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

800. Stay actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

801. Stay's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against IRENE STAY for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 93 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against George G. Levin)**

802. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

803. This is a claim for aiding and abetting breach of fiduciary duty.

804. Levin was aware that as trustee of the attorney trust accounts where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Levin was also aware that as trustee of the attorney trust accounts containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

805. Levin was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

806. Levin actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

807. Levin's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against GEORGE G. LEVIN for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 94 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Frank Preve)**

808. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

809. This is a claim for aiding and abetting breach of fiduciary duty.

810. Preve was aware that as trustee of the attorney trust account where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Preve was also aware that as trustee of the attorney trust account

containing the funds to which Razorback had an exclusive right to collect in the near future.  
Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

811. Preve was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

812. Preve actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

813. Preve's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against FRANK PREVE for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XI-95 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Banyon Income Fund, LP, and Banyon USVI, LLC)**

814. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

815. This is a claim for aiding and abetting breach of fiduciary duty.

816. At all times material hereto, Levin was acting in the scope of his employment as the chief executive officer of Banyon USVI and BIF.

817. At all times material hereto, Preve was acting in the scope of his employment as the chief operating officer or agent of Banyon USVI and BIF.

818. USVI and BIF were aware that as trustee of the attorney trust accounts where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Banyon USVI and BIF were also aware that as trustee of the attorney trust accounts containing the funds to which Razorback had an exclusive right to

collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

819. Banyon USVI and BIF were aware that Rothstein was financially exploiting the investors to their detriment, and were aware that Rothstein was breaching his fiduciary obligations to Razorback.

820. Banyon USVI and BIF, through its employees acting within the scope of their employment, actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

821. Banyon USVI's and BIF's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC. requests judgment against BANYON INCOME FUND, LP, and BANYON USVI, LLC., for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 96 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Michael Szfranski)**

822. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

823. This is a claim for aiding and abetting breach of fiduciary duty.

824. Szfranski was aware that as trustee of the attorney trust accounts where the Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Szfranski was also aware that as trustee of the attorney

trust accounts containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

825. Szfranski was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

826. Szfranski actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

827. Szfranski's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against MICHAEL SZFRANSKI for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 97 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Onyx Capital Management)**

828. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

829. This is a claim for aiding and abetting breach of fiduciary duty.

830. At all times material hereto, Szfranski was acting in the scope of his employment as president of Onyx.

831. Onyx was aware that as trustee of the attorney trust accounts where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Onyx was also aware that as trustee of the attorney trust accounts containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

832. Onyx was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

833. Onyx, through its employees acting within the scope of their employment, actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

834. Onyx's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against ONYX CAPITAL MANAGEMENT for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 98 - AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**  
**(against Berenfeld Spritzer Shechter Sheer, LLP)**

835. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

836. This is a claim for aiding and abetting breach of fiduciary duty.

837. Berenfeld was aware that as trustee of the attorney trust accounts where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of

honesty, loyalty, and care to Razorback. Berenfeld was also aware that as trustee of the attorney trust accounts containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

838. Berenfeld was aware that Rothstein was financially exploiting the investors to their detriment, and was aware that Rothstein was breaching his fiduciary obligations to Razorback.

839. Berenfeld actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback and his breaches of fiduciary duty.

840. Berenfeld's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against BERENFELD SPRITZER SHECHTER SHEER, LLP, for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 99 – BREACH OF FIDUCIARY DUTY**  
**(against Scott Rothstein)**

841. Plaintiff incorporates the allegations contained in paragraphs 1 through 407121 as if restated herein.

842. This is a claim for breach of fiduciary duty.

843. As trustee of the attorney trust account where Razorback's purported settlement funds were deposited, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback. Additionally, as trustee of the attorney trust account containing the funds to which Razorback had an exclusive right to collect in the near future, Rothstein had fiduciary duties of honesty, loyalty, and care to Razorback.

844. Rothstein breached his fiduciary duties by raiding the RRA trust accounts for his personal use.

845. Rothstein's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against SCOTT ROTHSTEIN for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XLI-100 - BREACH OF FIDUCIARY DUTY**  
**(against TD Bank, N.A.)**

846. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

847. This is a claim for breach of fiduciary duty.

848. At all times material hereto, Spinoza was acting in the scope of his employment as Regional Vice President of T.D. Bank.

849. At all times material hereto, Kerstetter was acting in the scope of her employment as an assistant manager of TD Bank.

850. At all times material hereto, Caretsky was acting in the scope of her employment as an assistant vice president and branch manager of TD Bank.

851. In Florida, a bank assumes a fiduciary duty with its customer under special circumstances where the bank knows or has reason to know that the customer is placing trust and confidence in the bank and is relying on the bank to so counsel and inform him. Under the circumstances outlined above, whereby TD Bank knew that Razorback was relying on Spinoza's assurances to Razorback of the precautions in place to prevent improper withdrawals from its account, TD Bank was a fiduciary of Razorback and owed Razorback the fiduciary duties of

honesty, loyalty, and care. Additionally, where TD Bank knew that Razorback investors were relying on Spinosa's, Kerstetter's and Caretsky's representations that the RRA trust accounts contained substantial funds, TD Bank was a fiduciary of Razorback and owed Razorback the fiduciary duties of honesty, loyalty, and care.

852. TD Bank breached its fiduciary duties through the actions of its employees by either ignoring or actively assisting and providing substantial assistance to Rothstein in its financial exploitation of Razorback.

853. TD Bank's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against TD BANK, N.A., for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XLII101 - BREACH OF FIDUCIARY DUTY**  
**(against Frank PreveGeorge G. Levin)**

854. Plaintiff incorporates the allegations contained in paragraphs 1 through 407121 as if restated herein.

855. This is a claim for breach of fiduciary duty.

856. By holding himself out as a co-investor, Levin became a fiduciary of Razorback and owed Razorback the fiduciary duties of honesty, loyalty, and care.

857. Levin breached his fiduciary duties by either ignoring or actively assisting and providing substantial assistance to Rothstein in his financial exploitation of Razorback.

858. Levin's actions have directly caused injury and damage Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against GEORGE G. LEVIN for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 102 - BREACH OF FIDUCIARY DUTY**  
**(against Frank Preve)**

859. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

860. This is a claim for breach of fiduciary duty.

861. By holding himself out as a co-investor, Preve became a fiduciary of Razorback and owed Razorback the fiduciary duties of honesty, loyalty, and care.

862. Preve breached his fiduciary duties by either ignoring or actively assisting and providing substantial assistance to Rothstein in his financial exploitation of Razorback.

863. Preve's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against FRANK PREVE for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XLIII - AIDING AND ABETTING FRAUD**

**COUNT 103 - BREACH OF FIDUCIARY DUTY**  
**(against Frank Spinoza, Banyon Income Fund, LP, and Banyon USVI, LLC)**

864. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

865. This is a claim for breach of fiduciary duty.

866. At all times material hereto, Levin was acting in the scope of his employment as the chief executive officer of Banyon USVI and BIF.

867. At all times material hereto, Preve was acting in the scope of his employment as the chief operating officer or agent of Banyon USVI and BIF.

868. Banyon USVI and BIF were fiduciaries of Razorback and owed it the fiduciary duties of honesty, loyalty, and care.

869. Banyon USVI and BIF breached their fiduciary duties through the actions of its employees by either ignoring or actively assisting and providing substantial assistance to Rothstein in its financial exploitation of Razorback.

870. Banyon USVI's and BIF's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against BANYON INCOME FUND, LP, and BANYON USVI, LLC., for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 104 - BREACH OF FIDUCIARY DUTY**  
**(against Michael Szfranski)**

871. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

872. This is a claim for breach of fiduciary duty.

873. Szfranski, as an independent verifier, was a fiduciary of Razorback and owed it the fiduciary duties of honesty, loyalty, and care.

874. Szfranski breached his fiduciary duties by either ignoring or actively assisting and providing substantial assistance to Rothstein in his financial exploitation of Razorback.

875. Szfranski's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against MICHAEL SZFRANSKI for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 105 - BREACH OF FIDUCIARY DUTY**  
**(against Onyx Capital Management)**

876. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

877. This is a claim for breach of fiduciary duty.

878. At all times material hereto, Szfranski was acting in the scope of his employment as president of Onyx.

879. Onyx, as an independent verifier, was a fiduciary of Razorback and owed it the fiduciary duties of honesty, loyalty, and care.

880. Onyx breached its fiduciary duties through the actions of its employees by either ignoring or actively assisting and providing substantial assistance to Rothstein in its financial exploitation of Razorback.

881. Onyx's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against ONYX CAPITAL MANAGEMENT for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 106 - BREACH OF FIDUCIARY DUTY**  
**(against Berenfeld Spritzer Shechter Sheer, LLP)**

882. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

883. This is a claim for breach of fiduciary duty.

884. Berenfeld, as an independent auditor, was a fiduciary of Razorback and owed them the fiduciary duties of honesty, loyalty, and care.

885. Berenfeld breached its fiduciary duties by either ignoring or actively assisting and providing substantial assistance to Rothstein in his financial exploitation of Razorback.

886. Berenfeld's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against BERENFELD SPRITZER SHECHTER SHEER, LLP, for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 107 - AIDING AND ABETTING FRAUD**  
**(against Frank Spinosa)**

887. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

888. This is a claim for aiding and abetting fraud.

889. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank

890. Spinosa knew of Rothstein's fraudulent scheme.

891. Spinosa actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. Spinosa's assistance included, but was not limited to, supplying Razorback with false bank account statements and misleading and untrue written assurances concerning the settlement accounts.

892. Spinosa's actions have directly caused injury and damage to Razorback.  
WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against FRANK A.  
SPINOSA for compensatory damages, together with court costs and such further relief as the  
Court deems proper.

**COUNT XLIV-108 - AIDING AND ABETTING FRAUD**  
**(against Jennifer Kerstetter)**

893. Plaintiff incorporates the allegations contained in paragraphs 1 through 407-121 as  
if restated herein.

894. This is a claim for aiding and abetting fraud.

895. As described more fully above, the deals in which Razorback invested were bogus  
and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

896. Kerstetter knew of Rothstein's fraudulent scheme.

897. Kerstetter actively assisted, and provided substantial assistance, to Rothstein in  
his financial exploitation of Razorback through fraud. Kerstetter's assistance included, but was  
not limited to, providing false documentation to Razorback that the RRA trust accounts  
contained substantial funds when they did not.

898. Kerstetter's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against JENNIFER  
KERSTETTER for compensatory damages, together with court costs and such further relief as  
the Court deems proper.

**COUNT XLV-109 - AIDING AND ABETTING FRAUD**  
**(against Roseanne Caretsky)**

899. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

900. This is a claim for aiding and abetting fraud.

901. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

902. Caretsky knew of Rothstein's fraudulent scheme.

903. Caretsky actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. Caretsky's assistance included, but was not limited to, providing false documentation to Razorback that the RRA trust accounts contained substantial funds when they did not.

904. Caretsky's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against ROSEANNE CARETSKY for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XLVII110 - AIDING AND ABETTING FRAUD**  
(against TD Bank, N.A.)

905. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

906. This is a claim for aiding and abetting fraud.

907. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

908. At all times material hereto Spinosa was acting in the scope of his employment for TD Bank.

909. At all times material hereto, Kerstetter was acting in the scope of her employment as an assistant manager of TD Bank.

910. At all times material hereto, Caretsky was acting in the scope of her employment as an assistant vice president and branch manager of TD Bank.

911. TD Bank knew of Rothstein's fraudulent scheme.

912. TD Bank, through Spinosa, Kerstetter, and Caretsky, actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. TD Bank's assistance included, but was not limited to, providing false documentation to Razorback that the RRA trust accounts contained substantial funds when they did not and supplying investors with misleading and untrue written assurances concerning the settlement accounts.

913. TD Bank's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against TD BANK, N.A., for compensatory damages, together with court costs and such further relief as the Court deems proper.

COUNT XLVII 111 - AIDING AND ABETTING FRAUD  
(against Debra Villegas)

914. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

915. This is a claim for aiding and abetting fraud.

916. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

917. Villegas knew of Rothstein's fraudulent scheme.

918. Villegas actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of all of the investor victims of Rothstein's Ponzi scheme, including Razorback, through fraud by furnishing false bank account statements and wire transfers to investors in order to induce them to invest despite having actual or constructive knowledge that the investments were a Ponzi scheme.

919. Villegas's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against DEBRA VILLEGRAS for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XLVIII 112 - AIDING AND ABETTING FRAUD**  
(against Frank Preve/Irene Stay)

920. Plaintiff incorporates the allegations contained in paragraphs 1 through 407121 as if restated herein.

921. This is a claim for aiding and abetting fraud.

922. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

923. Stay knew of Rothstein's fraudulent scheme.

924. Stay actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of all of the investor victims of Rothstein's Ponzi scheme, including Razorback, through fraud by furnishing false bank account statements and wire transfers to

investors in order to induce them to invest despite having actual or constructive knowledge that the investments were a Ponzi scheme.

925. Stay's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against IRENE STAY for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 113 - AIDING AND ABETTING FRAUD  
(against George G. Levin)**

926. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

927. This is a claim for aiding and abetting fraud.

928. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

929. Levin knew of Rothstein's fraudulent scheme.

930. Levin actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. Levin's assistance included, but was not limited to, representing that the settlement agreements purchased by investors were real, that they had been fully funded, and that they would be paid out to investors over a predetermined schedule.

931. Levin's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against GEORGE G. LEVIN for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 114 - AIDING AND ABETTING FRAUD**  
**(against Frank Preve)**

932. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

933. This is a claim for aiding and abetting fraud.

934. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

935. Preve knew of Rothstein's fraudulent scheme.

936. Preve actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. Preve's assistance included, but was not limited to, confirming wire transfers into Rothstein's trust accounts that he knew were fabricated.

937. Preve's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against FRANK PREVE for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT XLIX 115 - AIDING AND ABETTING FRAUD**  
**(against Banyon Income Fund, LP, and Banyon USVI, LLC)**

938. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

939. This is a claim for aiding and abetting fraud.

940. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

941. At all times material hereto, Levin was acting in the scope of his employment as the chief executive officer of Banyon USVI and BIF.

942. At all times material hereto, Preve was acting in the scope of his employment as the chief operating officer or agent of Banyon USVI and BIF.

943. Banyon USVI and BIF knew of Rothstein's fraudulent scheme.

944. Banyon USVI and BIF, through Levin and Preve, actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. Banyon USVI's and BIF's assistance included, but was not limited to, representing that the settlement agreements purchased by investors were real, that they had been fully funded, and that they would be paid out to investors over a predetermined schedule.

945. Banyon USVI's and BIF's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against BANYON INCOME FUND, LP, and BANYON USVI, LLC., for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 116 - AIDING AND ABETTING FRAUD**  
(against Michael Szfranski)

946. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

947. This is a claim for aiding and abetting fraud.

948. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

949. Szfranski knew of Rothstein's fraudulent scheme.

950. Szfranski actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. Szfranski's assistance included, but was not limited to, verifying false bank statements and deal documents.

951. Szfranski's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against MICHAEL SZFRANSKI for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 117 - AIDING AND ABETTING FRAUD  
(against Onyx Capital Management)**

952. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

953. This is a claim for aiding and abetting fraud.

954. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

955. At all times material hereto, Szfranski was acting in the scope of his employment as president of Onyx.

956. Onyx knew of Rothstein's fraudulent scheme.

957. Onyx, through Szfranski, actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. Onyx's assistance included, but was not limited to, verifying false bank statements and deal documents.

958. Onyx's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against ONYX CAPITAL MANAGEMENT for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 118 - AIDING AND ABETTING FRAUD**  
**(against Berenfeld Spritzer Shechter Sheer, LLP)**

959. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

960. This is a claim for aiding and abetting fraud.

961. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank.

962. Berenfeld knew of Rothstein's fraudulent scheme.

963. Berenfeld actively assisted, and provided substantial assistance, to Rothstein in his financial exploitation of Razorback through fraud. Berenfeld's assistance included, but was not limited to, providing false auditing documents relating to Banyon and RRA. .

964. Berenfeld's actions have directly caused injury and damage to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against BERENFELD SPRITZER SHECHTER SHEER, LLP, for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 119 - CONVERSION**  
**(against Scott Rothstein)**

965. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

966. This is a claim for conversion.

967. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with Razorback's \$32,000,000.00 in funds.

968. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

969. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

970. Rothstein's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against SCOTT ROTHSTEIN for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 4120 - AIDING AND ABETTING CONVERSION**  
**(against Frank Spinosa)**

971. Plaintiff incorporates the allegations contained in paragraphs 1 through 407.121 as if restated herein.

972. This is a claim for aiding and abetting conversion.

973. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with Razorback's \$32,000,000.00 in funds.

974. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

975. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

976. Spinosa actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by deceiving Razorback into turning its property over to Rothstein under false pretenses.

977. Spinosa's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against FRANK A. SPINOSA for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 44121 - AIDING AND ABETTING CONVERSION**  
**(against Jennifer Kerstetter)**

978. Plaintiff incorporates the allegations contained in paragraphs 1 through 407121 as if restated herein.

979. This is a claim for aiding and abetting conversion.

980. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with Razorback's \$32,000,000.00 in funds.

981. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

982. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

983. Kerstetter actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by deceiving Razorback into turning its property over to Rothstein under false pretenses.

984. Kerstetter's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against JENNIFER KERSTETTER for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT LH122 - AIDING AND ABETTING CONVERSION**  
**(against Roseanne Caretsky)**

985. Plaintiff incorporates the allegations contained in paragraphs 1 through LH121 as if restated herein.

986. This is a claim for aiding and abetting conversion.

987. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with Razorback's \$32,000,000.00 in funds.

988. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

989. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

990. Caretsky actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by deceiving Razorback into turning its property over to Rothstein under false pretenses.

991. Caretsky's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against ROSEANNE CARETSKY for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 144123 - AIDING AND ABETTING CONVERSION**  
**(against TD Bank, N.A.)**

992. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

993. This is a claim for aiding and abetting conversion.

994. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with Razorback's \$32,000,000.00 in funds.

995. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

996. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

997. At all times material hereto Spinoza was acting in the scope of his employment for TD Bank.

998. At all times material hereto, Kerstetter was acting in the scope of her employment as an assistant manager of TD Bank.

999. At all times material hereto, Caretsky was acting in the scope of her employment as an assistant vice president and branch manager of TD Bank.

1000. TD Bank, through its employees while acting within the scope of their employment, actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by allowing Rothstein to make unauthorized withdrawals of its funds and by deceiving Razorback into turning its property over to Rothstein under false pretenses.

1001. TD Bank's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against TD BANK N.A., for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT LIV124 - AIDING AND ABETTING CONVERSION**  
**(against Debra Villegas)**

1002. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

1003. This is a claim for aiding and abetting conversion.

1004. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with Razorback's \$32,000,000.00 in funds.

1005. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

1006. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

1007. Villegas actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by deceiving Razorback into turning its property over to Rothstein under false pretenses.

1008. Villegas's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against DEBRA VILLEGRAS for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT I-V125 - AIDING AND ABETTING CONVERSION**  
**(against Frank Previlrene Stay)**

1009. Plaintiff incorporates the allegations contained in paragraphs 1 through 107121 as if restated herein.

1010. This is a claim for aiding and abetting conversion.

1011. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with Razorback's \$32,000,000.00 in funds.

1012. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

1013. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

1014. Stay actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by deceiving Razorback into turning its property over to Rothstein under false pretenses.

1015. Stay's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against IRENE STAY for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 126 - AIDING AND ABETTING CONVERSION**  
**(against George G. Levin)**

1016. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

1017. This is a claim for aiding and abetting conversion.

1018. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with their \$32,000,000.00 in funds.

1019. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

1020. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

1021. Levin actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by representing that the settlement agreements purchased by investors were real, that they had been fully funded, that they would be paid out to investors over a predetermined schedule, and by deceiving Razorback into turning its property over to Rothstein under false pretenses.

1022. Levin's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against GEORGE G. LEVIN for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 127 - AIDING AND ABETTING CONVERSION**  
**(against Frank Preve)**

1023. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

1024. This is a claim for aiding and abetting conversion.

1025. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with Razorback's \$32,000,000.00 in funds.

1026. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

1027. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

1028. Preve actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by deceiving Razorback into funding settlements that he knew did not exist.

1029. Preve's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against FRANK A. SPINOSA for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT LVH128 - AIDING AND ABETTING CONVERSION  
(against Banyon Income Fund, LP, and Banyon USVI, LLC)**

1030. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

1031. This is a claim for aiding and abetting conversion.

1032. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In

furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback's when he absconded with its \$32,000,000.00 in funds.

1033. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

1034. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of its property would be futile.

1035. At all times material hereto, Levin was acting in the scope of his employment as the chief executive officer of Banyon USVI and BIF.

1036. At all times material hereto, Preve was acting in the scope of his employment as the chief operating officer or agent of Banyon USVI and BIF.

1037. Banyon USVI and BIF, through its employees while acting within the scope of their employment, actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by representing that the settlement agreements purchased by investors were real, that they had been fully funded, that they would be paid out to investors over a predetermined schedule, and by deceiving Razorback into turning its property over to Rothstein under false pretenses.

1038. Banyon USVI's and BIF's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against BANYON INCOME FUND, LP, and BANYON USVI, LLC., for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 129 - AIDING AND ABETTING CONVERSION**  
**(against Michael Szfranski)**

1039. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

1040. This is a claim for aiding and abetting conversion.

1041. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with its \$32,000,000.00 in funds.

1042. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

1043. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of their property would be futile.

1044. Szfranski actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by verifying false bank statements and deal documents and by deceiving Razorback into turning its property over to Rothstein under false pretenses.

1045. Szfranski's actions have directly caused injury and damages to Razorback.

WHEREFORE, RAZORBACK FUNDING, LLC, requests judgment against judgment against MICHAEL SZFRANSKI for compensatory damages, together with court costs and such further relief as the Court deems proper.

**COUNT 130 - AIDING AND ABETTING CONVERSION**

(against Onyx Capital Management)

1046. Plaintiff incorporates the allegations contained in paragraphs 1 through 121 as if restated herein.

1047. This is a claim for aiding and abetting conversion.

1048. As described more fully above, the deals in which Razorback invested were bogus and Rothstein was operating a Ponzi scheme through his firm, RRA, and through TD Bank. In furtherance of the Ponzi scheme, Rothstein exercised unauthorized dominion and control over the property of Razorback when he absconded with its \$32,000,000.00 in funds.

1049. Rothstein's conversion of Razorback's funds has permanently deprived Razorback of its property.

1050. Based upon Rothstein having initially fled the country after emptying out the trust accounts, any attempts by Razorback to make demand upon him for the return of their property would be futile.

1051. At all times material hereto, Szfranski was acting in the scope of his employment as president of Onyx.

1052. Onyx, through its employees while acting within the scope of their employment, actively assisted, and provided substantial assistance, to Rothstein in either temporarily or permanently depriving Razorback of its property by verifying false bank statements and deal documents and by deceiving Razorback into turning its property over to Rothstein under false pretenses.

1053. Onyx's actions have directly caused injury and damages to Razorback.