

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TIMOTHY BURNS, ESG CAPITAL	:	
PARTNERS GP, LLC, and ESG	:	
CAPITAL PARTNERS GP, INC.	:	No. 14-CV-02134-ER
Plaintiffs	:	
v.	:	
	:	
TROY STRATOS a/k/a Ken Dennis,	:	
VENABLE, LLP,	:	
DAVID MEYER,	:	JURY TRIAL DEMANDED
Defendants	:	

AMENDED COMPLAINT

INTRODUCTION

1. This case involves an effort to acquire pre-IPO Facebook shares by plaintiff Timothy Burns (“Burns”), both in his personal capacity as an investor and as the sole manager of the general partners of two funds Burns created to allow himself and his clients to invest in Facebook (“the Facebook transaction”). The Facebook transaction started on January 6, 2011, with an email from an existing client who was approached by Goldman Sachs to participate in an offering to buy private market shares of Facebook. Goldman formed a vehicle, a limited partnership, by which it pooled clients to purchase these shares from an arranged set of sellers with the Goldman clients receiving pre- IPO shares in Facebook. Burns’ clients opted to participate in this transaction and asked Burns to coordinate the investment and document handling on the clients’ behalf. Prior to Burns returning the documents, Burns was advised that Goldman had decided to withdraw from the transaction. At the clients’ request, Burns began to look for other sources of pre-IPO Facebook shares and was ultimately introduced to Troy Stratos, operating under the alias, “Ken Dennis.”

2. Troy Stratos, operating under the alias “Ken Dennis,” and aided by Venable, LLP, (“Venable”) one of America’s largest and preeminent law firms, misappropriated more than \$11.25 million from Burns and his clients, who sought to purchase 40 million shares of Facebook stock in the private market prior to its initial public offering (the “Facebook Scheme”). As an inducement to acquire the shares through “Dennis,” Burns was promised the shares at \$27 per share, from which he could earn commissions and fees from his clients through the general partners of two funds he created and managed. ***True and correct copies of two Limited Partnership Interest Subscription Agreements are attached hereto as Exhibits 1 and 2.*** Instead of providing Facebook shares, Stratos has publicly admitted that he spent Burns’ clients’ funds on luxury cars, development of a Las Vegas restaurant/bar, production of an unrelated Nike commercial, and repayment of millions of dollars in personal debt from various personal loans and other lawsuits. Stratos is currently incarcerated both for his role in the Facebook Scheme and for an unrelated \$7 million defrauding of Nicole Murphy (the ex-wife of entertainer Eddie Murphy), for which he had been detained since December 20, 2011. Previously, Stratos was criminally charged in France with fraud and operating under a false identity. In short, Stratos is a fraud expert, who had twice been denied bail in the Nicole Murphy criminal matter because of the court’s findings that he poses an “economic danger” to the community:

All right. I—at this point I—I’m not satisfied that terms and conditions can be put in place that would protect the community, in particular those whose funds the defendant has already come into possession [*i.e.*, Plaintiff’s clients’ funds] of as well as other that he may be about to come into possession of.

See Exhibit 3 at 189.

A true and correct copy of the January 23, 2012 Detention Hearing Transcript is attached hereto as Exhibit 3.

Stratos has a history of using false identities in order to commit fraud involving the stealing of other individuals’ funds for his personal use.

3. As detailed, *infra*, Venable and its then-partner Defendant David Meyer, Esq., aided and abetted Stratos in the Facebook Scheme. Stratos represented himself to Tim Burns as “Ken Dennis,” purported associate of a Mexican billionaire, Carlos Slim, with direct access to pre-IPO Facebook shares. Venable, for its part, served as “Ken Dennis’s” attorneys. Throughout the Facebook Scheme, Venable: (i) confirmed to Burns that “Ken Dennis” was who he purported to be, and never disclosed that “Dennis” was an imposter; (ii) promised, but failed to deliver, the securities transaction for the Facebook agreement; (iii) promised, but failed to deliver, documents for the securities transaction; (iv) assisted “Ken Dennis” in opening bank accounts; (v) advised Burns and held \$2.8 million of Burns’ and his client’s funds in its law firm’s client trust fund accounts; (vi) directed Burns (on at least three occasions) to deposit funds to be wired to “Dennis’s” accounts that were set up by Venable; and (vii) paid Stratos’ expenses from money deposited in Venable’s trust account which was earmarked for the Facebook acquisition of pre-IPO shares of stock.

4. Defendant Meyer was a partner in the Venable law firm and a key architect of the scheme to hide his client Troy Stratos’ identity and reputation behind the alias, “Ken Dennis,” in connection with the Facebook Scheme. Burns was defrauded in this transaction by, among other things, being told by Meyer that Stratos was an international businessman, “Ken Dennis,” who had access to millions of pre-IPO Facebook shares. Meyer imbued the “Ken Dennis” character with legitimacy, formed a shell company called Soumaya Securities, LLC, for “Dennis” to operate, and told Burns that Venable was representing “Dennis” in connection with the purchase of a large block of Facebook stock in which Burns and the funds’ general partners would share and earn commissions and fees from the purchase and sale of the Facebook shares. Burns agreed to participate in this “transaction” because Meyer was a partner of a reputable law firm that was

negotiating this transaction. Relying on misrepresentations from Meyer and “Dennis,” Burns---at Venable’s direction---unknowingly transferred \$11,250,000 to Soumaya Securities and Venable for a fabricated transaction. Instead of purchasing shares and earning commissions and fees, as part of the transaction, Stratos---with Venable’s active assistance---used Burns’ and his clients’ funds as Stratos’ personal income, spending the funds on luxury purchases, paying Venable’s legal bills and using the funds to pay off earlier victims Stratos had defrauded. Venable’s own client trust account statements, billing records, and communications show that Meyer and other members of the Venable law firm guided Stratos through the fraud perpetrated upon Burns. Venable even confirmed to Burns, in writing, that the funds were refundable, even though Venable knew that Stratos had already spent the funds on personal items because much of the money was disbursed through Venable’s own trust account.

5. Venable’s complicity in the fraud goes beyond its own misrepresentations to Burns. Due to Stratos’ negative reputation, he was unable to open a bank account. Venable agreed to act as Stratos’ private bank, authorizing over 70 transactions from the firm’s client trust account for, among other things, Stratos’ purchase of a \$92,000 Land Rover, a \$300,000 deposit on a leased luxury apartment, a \$50,000 recording studio rental, and a \$333,000 pay-off to a professional gambler. When Stratos exhausted the funds, Venable frantically worked to set up new bank accounts for him under the “Soumaya Securities” name so that additional funds could be received from Burns. Troy Stratos confirmed at his detention hearing that Venable set up the Soumaya Securities account for Stratos’ own personal use:

“So as an LLC, Mr. Chapman [an accountant retained by Venable] and my law firm was able to open an account, which allowed me to be the beneficiary of, you know, a regular life.”

***Id.* at 124.**

6. Venable knew that “Ken Dennis” was really Troy Stratos. At all times material, Venable was simultaneously defending Stratos in a lawsuit brought by Nicole Murphy. Accordingly, Venable perpetrated the fraud, when it actively participated in the Facebook transaction on behalf of its client, knowingly vouching for his fraudulent identity. Venable failed to inform Burns about the true identity of Stratos and the disposition of the funds it held in anticipation of the Facebook securities transaction.

7. For its role, Venable was rewarded with hundreds of thousands of dollars in fees—paid directly from Burns’ and his clients’ stolen funds. Neither Burns nor his investors received the Facebook shares. The investors’ funds were never returned. Burns and the general partners did not receive their expected commissions and fees.

8. To date, and as result of the Facebook Scheme, the investors have lost their invested funds. Burns has lost approximately \$60 million in fees and commissions related to the Facebook shares.

9. In this present action, Plaintiffs bring a cause of action for fraud and related claims against Venable, Meyer and Stratos related to the loss of fees and commissions promised to Burns by his clients as *quid pro quo* for the shares of stock.

THE PARTIES

10. Plaintiff Timothy Burns is an individual who currently resides in Montgomery County, Pennsylvania 19460.

11. Plaintiff ESG Capital Partners GP, LLC (“GP One”) is a Delaware limited liability company with a principal place of business in Pennsylvania. GP One is the general partner of ESG Capital Partners, LP and entitled to receive, among other things, management fees based on the number of Facebook shares acquired. Burns is the sole member and manager of GP One.

12. Plaintiff ESG Capital Partners GP, Inc. (“GP Two”) (GP One and GP Two are collectively referred to herein as the “GPs,” and the GPs and Burns are collectively referred to herein as “Plaintiffs”) is a Delaware corporation with a principal place of business in Pennsylvania. GP Two is the general partner of ESG Capital Partners II, LP (collectively with ESG Capital Partners, LP, the “Funds”) and entitled to receive, among other things, management fees based on the number and price of Facebook shares acquired. Burns is the manager of GP Two.

13. The GPs are the general partners of the Funds, which Burns created and managed to acquire pre-IPO Facebook shares on behalf of his clients, for which purpose Burns also invested approximately \$90,000 of his own funds.

14. Defendant Troy Stratos (a/k/a “Ken Dennis”) is an individual currently held in federal custody in Northern California. Upon information and belief, Stratos is being detained and is located at the Lompoc Federal Correctional Institution,, 3600 Guard Road, Lompoc, California 93436.

15. Defendant Venable, LLP (“Venable”) is a national law firm formed under the laws of the State of Maryland with offices in California. Any reference to an attorney or other employee of Venable, *infra*, relates to conduct of that individual undertaken in the course and scope of his or her employment for Venable.

16. Defendant, David Meyer (“Meyer”), is an attorney licensed to practice law in the State of California and who, upon information and belief, resides in Los Angeles, California. During all relevant times herein, Meyer was a partner at Venable’s office in Los Angeles, California, acting in the course and scope of his employment at Venable. In June, 2012, Meyer left Venable and became a partner at the law firm Arent Fox LLP, a position he holds as of the

date of this Amended Complaint. The address of his workplace is 555 West Fifth Street, Los Angeles, California.

JURISDICTION AND VENUE

17. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the parties are citizens of different states and the amount in controversy exceeds \$75,000.

18. Venue is proper in pursuant to 28 U.S.C. § 1441.

FACTUAL HISTORY

Burns Background in Facebook Share Purchase

19. An established market existed for pre-IPO shares of successful high tech companies.

20. For a purchaser, the pre-IPO share presented an opportunity to buy the stock at a price which could be less than the expected IPO price.

21. In January, 2011, Burns was approached by a family office client who was previously approached by Goldman Sachs, to participate in an offering to acquire private market shares of Facebook, and the client asked Burns to coordinate the investment and the document exchange, as Burns had done in the past for this client.

22. As of January, 2011, Goldman Sachs was offering to buy pre-IPO Facebook shares at approximately \$22.00 per share before expenses, management and other fees.

23. After Burns received the documents from Goldman Sachs, Goldman Sachs decided to forbear from going forward with the shares offer to all of its American clients.

24. Because the Goldman Sachs offering was withdrawn, Burns inquired of his clients whether they wanted him to attempt to purchase Facebook shares for them, an offer which many of his clients pursued.

25. Burns then contacted SharesPost, a firm that matches buyers and sellers of pre-IPO companies.

26. On January 26, 2011, Burns requested that SharesPost assist his investors in acquiring between \$25 million and \$100 million in pre-IPO Facebook shares.

27. SharesPost then introduced Burns to Daniel Williams, a possible seller of pre-IPO Facebook shares.

28. The transaction anticipated the sale of 600,000 Facebook shares at \$27 per share.

A true and correct copy of Facebook Transfer Agreement is attached hereto as Exhibit 4.

29. Burns entered into agreements with his clients whereby his clients would become limited partners of the Funds, and Burns, through his interest in the GPs, would receive fees and commissions premised upon his acquisition of the shares.

30. Despite Burns and Mr. Williams entering into an agreement to close on the sale in March 2011, Williams ultimately declined to sell the shares to Burns and his clients.

31. However, after the Williams' transaction ended, SharePost informed Burns that it had yet another seller for 2 million Facebook shares at \$27.00 per share.

Burns Meets “Ken Dennis”

32. On March 16, 2011, through SharesPost, Burns was introduced to Joseph Schnaier (“Schnaier”) (a broker) and Schnaier introduced Burns to “Ken Dennis.”

33. “Ken Dennis” (a/k/a/ Troy Stratos) held himself out to Burns as a representative of Mexican billionaire, Carlos Slim. “Ken Dennis” told Burns that he was an executive of Soumaya Securities, LLC, an entity that handled financial transactions for Mr. Slim. “Soumaya” is the name of Mr. Slim’s late wife. “Dennis” claimed to have direct connections to Facebook senior

executives willing to sell pre-IPO shares, and told Burns that he could deliver a large block of those shares.

34. Negotiations between Burns and “Dennis” started out at 2 million shares and when “Dennis” suggested he could sell far more, Burns and “Dennis” ultimately agreed upon a transaction by which Burns agreed to acquire 40 million Facebook shares for \$27.00 per share, concerning which Burns would earn fees and commissions from his clients, through the GPs, pursuant to the aforementioned agreements.

Troy Stratos (a/k/a Ken Dennis)

35. At all times material, Stratos bore the reputation of a “con-artist,” who over many years, perpetrated deceptions around the world using false identities. One of his schemes led to his arrest in France in 2009 and two criminal indictments.

36. During a detention hearing, Stratos explained that the reason he did not tell Burns that his name was Troy Stratos in spring 2011, when Burns and “Ken Dennis” began negotiating the terms of the purported Facebook transactions, was: “[b]ecause of what is online. Have you read it?” *Id.* at 163.

Venable’s Relationship with Troy Stratos

37. At all times material, including throughout the Facebook Scheme, Stratos was a Venable client and Meyer was Stratos’ principal contact at the Venable firm.

38. Venable served as Stratos’ counsel in connection with the civil action filed by Nicole Murphy against Stratos in September 2010, entitled Nicole Murphy v. Troy Stratos, et al., 2:10-cv-06956-VBF-E CDCA (the “Nicole Murphy Lawsuit”). The Nicole Murphy Lawsuit alleged that Stratos stole at least \$7 million that Mrs. Murphy received as part of her divorce settlement with entertainer Eddie Murphy, and that Stratos induced her to invest funds in Dubai

and the United Arab Emirates. Instead, it is alleged, Stratos used her money to support his extravagant lifestyle. At his detention hearing, Troy Stratos stated:

Nicole Murphy knows that as well and we interviewed earlier in 2011 in April---- or around April. She and I sat down for four hours inside Venable at 2049 Century Park east on the 21st floor in a conference room and we hashed this out before the lawsuit was filed.”

***Id.* at 61.**

39. The fact that Venable represented Stratos through the Nicole Murphy case was concealed from Burns.

40. Throughout much of 2011, at the same time it was representing “Ken Dennis” with respect to Burns and the Facebook transaction, Venable vigorously defended Stratos in the Murphy case against allegations that Stratos had defrauded Murphy of more than \$7 million.

The Facebook Scheme

41. In early February 2011, Venable, Meyer and Stratos created a scheme to hide Stratos’ true identity and reputation from his creditors, the public and Burns.

42. After reading the Murphy complaint, and material in the print media, Meyer collaborated with other Venable attorneys beginning in February of 2011, to create a fictitious entity that Stratos could use to conduct “business” without detection. At his detention hearing, Stratos testified as follow:

“It, you know, let me just say, Soumaya Securities, LLC came at the advice of my attorney of record, David Meyer, who’s at Venable and, you know, we—he wanted a corporate or an LLC name that could be used and we used that one.”

***Id.* at 94.**

43. In February 2011, in the midst of the Nicole Murphy Lawsuit, Meyer and Venable assisted Stratos, now acting under the name “Ken Dennis,” and formed a Delaware limited liability corporation called “Soumaya Securities” with a principal place of business located at 2029 Century Park E, Suite 1105, Los Angeles, California. According to Stratos, Venable also retained for

Soumaya Securities an accountant named Mark Chapman “under lawyer/client privilege to host not just Soumaya Securities but all of [Stratos’] accounting activities under any umbrella or project or business that [Stratos sought] to pay taxes on.” *Id.* at 99-100.

44. Soumaya Securities had no legitimate business or income, but was merely a shell used to collect the funds from Burns in the Facebook Scheme.

45. Stratos has confirmed the shell Soumaya was a Venable concoction: “It was a group effort, a group of associates and I came up with it...people that I know and people that are associated with the law firm.” *Id.* at 95.

46. Stratos and Meyer named the company after billionaire Carlos Slim’s late wife—Soumaya—to convince the public that Mr. Slim was the company’s owner and/or principal investor.

47. Carlos Slim, however, had no affiliation with Venable, Stratos or “Soumaya Securities,” and this fact was concealed from Burns.

48. Recognizing that the name “Troy Stratos” was toxic, Stratos and Meyer agreed that Stratos would use an alias—“Ken Dennis—in connection with all “Soumaya Securities” matters.

49. Simultaneously, Meyer and his client, Stratos (“Dennis”), conducted more than 100 telephone conversations and 25 personal meetings in California between February and November, 2011.

50. Meyer intentionally blurred the distinction between Stratos and the Facebook Scheme persona “Ken Dennis” in public records. For example, in a February 17, 2011 public filing with the Delaware Secretary of State for Soumaya Securities, Venable listed Troy Stratos as Soumaya’s manager and sole member, while “Kenneth C. Dennis” was its Chief Executive Officer. Days later, however, Venable filed another document with the Delaware Secretary of

State identifying “Kenneth C. Dennis” as the “sole member.” In a subsequent IRS filing for a federal employer identification number, Venable made no mention of Troy Stratos at all. As Stratos testified at his detention hearing:

Q. Now, you [Troy Stratos] discussed awhile ago that you’re the owner of Soumaya Securities, correct?

A. I am.

***Id.* at 91.**

51. Meyer and Venable knew Soumaya Securities was an empty shell that conducted no business, had no bank accounts, had no employees, had no place of business (indeed, it listed Venable’s California address on its checks), had no income and filed no tax returns. In short, Soumaya Securities existed entirely on paper. Stratos described the true purpose of Soumaya at his detention hearing:

Q: Now what is Soumaya Securities?

A: It’s just, you know, don’t misunderstand the word securities. Sometimes securities mean, you know, securities, but it’s not that. It’s just a name, Soumaya Securities, it’s just a name of an LLC entity that would hold my interests and hopefully allow me to expand into other business.

***Id.* at 93.**

The Facebook “Transaction” with Burns, Meyer, Venable and “Dennis”

52. Burns and “Dennis” began to negotiate the possible purchase of Facebook stock between March 22, 2011 and March 24, 2011 by telephone conversations between Burns’ office in Conshohocken and Stratos in Los Angeles, California.

53. During these March conversations, per the plan of Stratos and Meyer, “Dennis” told Burns that he was an executive of Soumaya Securities, a firm that made securities investments on behalf of Mexican billionaire, Carlos Slim.

54. “Dennis” also claimed during these conversations that he (“Dennis”/Stratos) possessed direct connections to Facebook senior executives who were prepared to sell pre-IPO shares, and that he would deliver a large block of these shares to Burns for \$27 per share.

55. “Dennis” (Stratos) told Burns during the March, 2011, telephone conversations that he (“Dennis”) was ready, willing and able to facilitate a transaction through Soumaya Securities, in which Burns could purchase 2 million pre-IPO Facebook shares for \$27 per share for his clients.

56. Ultimately, “Dennis” (Stratos) agreed to sell Burns 40 million shares of pre-IPO Facebook stock.

57. By this time, Burns had collected approximately \$13 million from his clients to purchase Facebook shares, including \$90,000 Burns invested on his own behalf.

58. As the number of shares rose to 40 million, Burns made additional efforts to obtain more investors for the Funds, a circumstance which also increased Burns’ expected fees and commissions.

59. Specifically, Burns had obtained contracts with his clients for the Funds to purchase in excess of 40 million shares for which the GPs would have earned no less than \$56.8 million, which does not include additional incentive fees and other annual management fees.

60. Burns would have been able to purchase these 40 million shares in the marketplace for these orders had he not been lulled into believing that the shares were going to be delivered by Stratos.

61. During the March, 2011, telephone conversations with Burns, “Dennis” directed Burns to David Meyer of Venable, whom “Dennis” told Burns represented “Dennis” and Soumaya Securities in connection with the purchase and sale of Facebook shares.

62. On March 31, 2011, Meyer conducted multiple telephone conversations with Stratos about the alleged Facebook transaction from his office in California.

63. On April 8, 11, and 13, 2011, “Dennis” and Burns continued their negotiations of the Facebook transaction by telephone conversations placed by “Dennis” from California.

64. During these April telephone conversations, “Dennis” told Burns that Burns would have to pay the purchase funds directly to Venable, which would hold the money in escrow until Burns received his Facebook shares.

65. “Dennis” described the mechanics of the Facebook Transaction to Burns as follows: “Dennis” claimed he already had secured commitments from Facebook insiders to sell their Facebook shares to Carlos Slim; “Dennis” told Burns that Soumaya had access to an excess number of shares that it would make available to Burns for \$27 per share; in exchange, Burns was required to wire monies to Venable to be held in escrow until the shares could be exchanged for the cash.

66. During each of these April, 2011, telephone conversations, “Dennis” told Burns that David Meyer of Venable was representing both “Dennis” and Soumaya Securities, and that Meyer would provide the documentation for the transaction.

67. On April 14, 2011, Janice Trayes, a legal assistant at Venable, emailed “Dennis” at WPacquisitions@gmail.com, and provided “Dennis” with wiring instructions for the Venable Attorney Client Trust Account held with First Republic Bank in Los Angeles, California. ***A true and correct copy of this email is attached hereto as Exhibit 5.***

68. “Dennis,” from his email address, WPacquisitions@gmail.com, then emailed Joseph Schnaier (the securities broker) the wiring instructions for the Venable Attorney Client Trust Account. ***See Exhibit 5.***

69. On April 17, 2011, Joseph Schnaier provided Burns with Venable's wire information and stated, "I will let you know when you attorney should call David [Meyer]. I want to make sure everything runs smoothly." The email also states that "[s]hould you have any questions, please contact Mr. Meyer directly." *A true and correct copy of this email is attached hereto as Exhibit 6.*

Meyer Clinches the Deal

Meyer False Statements April 2011

70. As a result, Burns engaged in several communications with Meyer at Venable about the *bona fides* of "Ken Dennis," Soumaya Securities, and the proposed Facebook transaction. These communications all occurred with Meyer, who was present at the Venable office in Los Angeles.

71. On April 18, 2011, Burns called Meyer at Venable and left a voice message asking to receive a return phone call.

72. Nine minutes later, at 2:53 p.m. on April 18, 2011, Meyer returned Burns' call from Meyer's Venable office in Los Angeles.

73. During the call with Burns, which lasted seven minutes, Meyer told Burns that he represented "Ken Dennis" and Soumaya Securities in connection with pre-IPO Facebook transactions.

74. Meyer confirmed to Burns that "Ken Dennis" and Soumaya Securities were affiliated with Carlos Slim, and Meyer stated that Venable would provide transaction documentation for Burns' purchase of pre-IPO Facebook shares through Soumaya Securities. In the meantime, Meyer told Burns that Burns' clients' funds would be held at Venable as a refundable deposit.

75. During that telephone conversation, Meyer confirmed that: (i) “Dennis” had made contact with Facebook executives; (ii) “Dennis” had immediate access to millions of Facebook shares; and (iii) that Dennis had the ability to facilitate the Facebook securities transaction that “Dennis” described to Burns during the above-referenced March and April 2011 telephone conversations.

76. During Meyer’s telephone conversations with Burns, and in direct response to Burns’ question regarding whether “Ken Dennis” represented Carlos Slim and could be trusted, Meyer stated “yes,” and that “Dennis is who he says he is.”

77. At no time during this call did Meyer tell Burns that “Dennis” was really Troy Stratos. Nor did Meyer tell Burns that Meyer had invented Soumaya Securities himself weeks earlier, and that he had designated Troy Stratos (not Carlos Slim) as the company’s sole member, 100% owner and manager.

78. Burns relied on these representations and omissions by Meyer to reach agreement with “Dennis” (Stratos).

79. After Burns’ April 18, 2011, telephone conversation with Meyer, Burns telephoned Joseph Schnaier and recounted the conversation he had with Meyer about “Dennis”.

Falsity of Meyer’s April 2011 Statements and Scienter

80. Each of Meyer’s statements to Burns on April 18, 2011 was knowingly false when made because: (a) Meyer knew that “Ken Dennis” was actually Troy Stratos; (b) Meyer knew that he did not represent a real person named “Ken Dennis;” (c) Meyer knew that Soumaya Securities and “Dennis” had no connection to Carlos Slim because Meyer invented Soumaya Securities, prepared its operating documents (which made no reference to Carlos Slim and listed Stratos as the 100% owner) and received no documentation or communications suggesting that “Dennis”

(Stratos) had any affiliation with Carlos Slim; (d) Meyer possessed no communications, documents, correspondence or any other information that suggested “Dennis” had connections with Facebook executives in April 2011 or that “Dennis” (Stratos) could procure pre-IPO Facebook shares (which shares were never procured as a matter of fact); and (e) based on Venable’s filings in the Nicole Murphy Lawsuit, Meyer believed that Stratos was an “artist” and “film-maker” living in Southern California, not a Carlos Slim representative.

81. For the reasons listed above, Meyer’s April 2011 statements to Burns were knowingly false.

Reliance on Venable/Meyer’s April 2011 False Statements and Concealments

82. Each of Meyer’s knowingly false representations to Burns on April 18, 2011, were material, in that each was important to Burns’ investment decision, causing Burns to continue transacting business with and paying his and his clients’ funds to “Soumaya Securities.”

83. Before his conversation with Meyer on April 18, 2011, Burns was involved in another Facebook transaction with another seller’s attorney, Peter Healy. Burns therefore viewed seller’s counsel’s verification as integral to the validity of the transaction and therefore relied heavily on Meyer’s representations.

84. Burns became convinced of the transactions’ legitimacy as a result of Meyer’s representations that: (a) “Dennis” and Soumaya securities were legitimate representatives of Carlos Slim; (b) the transaction was real and Meyer was representing “Dennis”/Soumaya in the transaction; and (c) Venable would be providing legal documentation.

85. Meyer’s representations were especially important because of his status as a senior partner at a national, highly reputable law firm. Without Meyer’s representations, Burns would not have proceeded with what he believed to be a *bona fide* securities transaction.

86. Meyer made these representations to Burns knowing that they were false, in that he knew when he made these representations that neither “Dennis” nor Stratos had any relationship with Mr. Slim and could not deliver pre-IPO Facebook shares.

87. On April 19, 2011, in reliance upon (i) the false statements and concealments of “Dennis”, (ii) the false statements and concealments of Meyer, and (iii) the promises of “Dennis” and Meyer, including, but not limited to, that Burns’ deposits would be used by Soumaya Securities to facilitate the Facebook stock purchase (and were refundable if the transaction did not close), Burns wired \$2.8 million of his and his clients’ funds at 1:15 p.m. EST into the Venable Client Trust Account, pursuant to the instructions forwarded to Burns by a Venable legal assistant, for the alleged purpose of facilitating the Facebook transaction.

Meyer Gets Burns to “Release” the Funds to Soumaya

88. On the same day, April 19, 2011, at 3:02 p.m., Meyer placed a telephone call from California to Burns. Meyer told Burns that the “deal is on” and “Soumaya is getting Burns’ shares at the agreed upon \$27 per share price,” Meyer also confirmed receipt of Burns’ \$2.8 million in Venable’s trust account, but that “Soumaya” needed Burns to provide Venable with a letter authorizing Venable to release the funds in the Venable trust account to Soumaya Securities because, according to Meyer’s false statements to Burns, Soumaya had already paid deposits to secure Facebook shares for Burns and needed replacement for the deposit.

89. On the same day, pursuant to Meyer’s instructions, Burns sent Meyer a letter authorizing Venable to release the \$2.8 million to Soumaya Securities. *A true and correct copy of the April 19, 2011 letter is attached hereto as Exhibit 7.*

90. Despite Meyer telling Burns that the funds would be released to “Soumaya Securities,” Meyer immediately instructed Venable’s accounting department to transfer the entire

\$2.8 million payment to Troy Stratos' personal client trust fund account; and on Meyer's instruction, the funds were transferred to Stratos, not Soumaya Securities. *See Venable's April 19, 2011 Client Trust Account Memorandum and email, a true and correct copy attached hereto as Exhibit 8.*

91. In April, 2011, Meyer misrepresented and/or concealed every material aspect of the true status of Stratos, "Dennis," Soumaya and the Facebook transaction, as demonstrated by the following: (a) Meyer knew that the Facebook Transaction was not real, because he and Stratos had concocted it; (b) Meyer knew that "Ken Dennis" was really Stratos and had no connection whatsoever to Carlos Slim; (c) Meyer knew that Soumaya Securities had not expended any money on Facebook shares, let alone \$2.8 million, because Meyer knew that Soumaya had no funding and no bank account as of April 19, 2011; and (d) Meyer knew when he asked Burns for authority to release the \$2.8 million, that the money was to be transferred to Stratos for his personal use and would be used to pay Venable fees and expenses, not to Soumaya Securities as reimbursement for shares.

92. Had Burns known that Meyer misrepresented Soumaya Securities' purported expenditures regarding the Facebook transaction, and/or that Meyer intended to release the \$2.8 million to a person named Troy Stratos, with whom Burns was unfamiliar, Burns would not have wired Venable any of his or his clients' funds, and would not have authorized Meyer to release any of the \$2.8 million.

Venable's Actionable Omissions

93. Law firms, such as Venable, owe fiduciary duties to third parties (such as Plaintiffs) when holding funds in escrow or trust accounts. Accordingly, Venable owed Plaintiffs a fiduciary

duty of full and accurate disclosure when Plaintiffs transferred \$2,800,000 to Venable on April 19, 2011.

94. Venable's fiduciary duties to Plaintiffs encompassed, at a minimum, an obligation to deal honestly with Burns and divulge all material information concerning its handling of the \$2.8 million.

95. In short, Venable (as the holder of the funds in escrow) was obliged to disclose that (a) there was no Facebook transaction, (b) Burns' clients' funds were to be held by Troy Stratos personally, not by "Soumaya Securities," (c) "Soumaya Securities" was never Venable's client (contrary to what Meyer told Burns) and (d) the \$2.8 million was to be immediately disbursed instead of being held for the purported Facebook shares.

96. Venable's silence regarding these material facts constituted a misrepresentation by omission given the duty to disclose. Had Venable disclosed these materials facts to Burns at the time, Burns would not have wired the \$2.8 million or would have taken steps to recoup the \$2.8 million.

97. As a further material concealment, when Burns communicated with "Ken Dennis" via email address WPacquisitions@gmail.com, Meyer was copied and therefore knew that Burns was emailing with someone whom he believed was "Ken Dennis."

98. Internal Venable emails, including Meyer's private emails with Stratos, show that Meyer knew that the WPacquisitions@gmail.com belonged to Stratos.¹

99. Meyer knew that his client, Troy Stratos, duped Burns into believing that communications with WPacquisitions@gmail.com were with "Ken Dennis," and did nothing to

¹ See paragraphs 178 and 179 infra.

correct his client's active misrepresentations when he was under a duty to disclose that material fact.

100. Meyer's unlawful omissions and failures to disclose substantially assisted Stratos' deception of Burns and make Meyer and Venable liable to Burns for his lost fees and commissions.

Venable Acts as Stratos' Private Bank and Provides Substantial Non-Legal Services

101. Between February and November 2011 (and excluding the Nicole Murphy Lawsuit), Venable and Meyer billed Stratos for over 700 hours of time, and collected over \$350,000 in fees which were ultimately paid with the funds which were wired by Burns. Indeed, Venable wrote the checks for its fees to itself. *True and correct copies of the Venable checks are attached hereto as Exhibit 9.*

102. On April 19, 2011, when Burns wired \$2.8 million to Venable for the Facebook shares, Meyer's billing records reflect that Meyer and Stratos held a day-long conference at Venable's offices in Los Angeles, California. Upon information and belief, that conference related to prioritizing payments of Stratos' personal obligations, including his Venable bills.

103. As described, *infra*, Stratos could not open up bank accounts in his own name because of his myriad legal issues and con-artist reputation. Venable, therefore, agreed to take the funds from Burns and act as Stratos' private bank, approving over 70 transactions on Stratos' behalf to third parties, none of which had anything to do with Burns, his clients or the Facebook shares.

104. Indeed, beginning April, 2011 (the day after the Burns wire was received) and continuing through July, 2011, Meyer and other Venable partners authorized over \$2 million in payments, on Venable checks and wire transfers, from Stratos' client trust account, including a \$333,000 payment to a professional gambler, \$92,000 to a Redondo Beach, California car dealer

to buy Stratos a Land Rover, and \$50,000 for a deposit on a condo in Las Vegas. Stratos had no ability to transfer funds out of Venable himself. Rather, Venable sent either a letter or a wire authorization form, on Venable letterhead executed by two Venable partners, to First Republic Bank in Los Angeles, California (where Venable's trust account was located) in order to withdraw funds. *Examples of the Venable letters and wire request forms to First Republic are attached hereto as Exhibits 10 and 11.*

105. As an example, on April 19, 2011, David Meyer and another partner at Venable, Douglas C. Emhoff, wrote a letter to the First Republic Bank, where Meyer had set up the Venable Client Trust Account for Troy Stratos (the same account which was holding the funds that Burns had wired for the Facebook transaction), and Meyer requested that \$100,000 be wired to Troy Stratos' personal account at Wells Fargo. *See Exhibit 12.*

106. As another example, on May 19, 2011, David Meyer and another partner at Venable, Robert J. Bolger, wrote a letter to the First Republic Bank, where Meyer had set up the Venable Client Trust Account for Troy Stratos (the account which was holding the funds that Burns had wired for the Facebook transaction), and Meyer requested that the bank make a cashier's check payable to Land Rover. *See Exhibit 11.*

107. Venable's records also show that the firm generated thousands in fees (paid with Burns' clients' money) for mundane, non-legal errands performed on Stratos' behalf. For example, Venable attorney Jeremy Horine made at least four separate trips to an Apple store to buy office supplies for Stratos, and Horine also exchanged dozens of emails with an insurance broker in an effort to insure Stratos' recently purchased Land Rover.

108. Neither Venable nor Stratos informed Burns that the funds for the Facebook shares were being used for Stratos' personal matters, debts and purchases.

109. Burns relied upon representations by Meyer and Venable that the money Burns wired was being used to consummate the Facebook Transaction with “Dennis,” and Burns would not have wired the funds if he knew it was being used to buy purchase supplies and vehicles for Stratos, or to pay Stratos’ legal bills.

Stratos Lulling of Burns

110. After Burns wired the \$2.8 million to Venable, Burns and “Dennis” were in daily contact by telephone, text message or email.

111. In his communications to Burns, “Dennis” discussed logistics of the Facebook Transaction, including, but not limited to, when Meyer would provide final legal documents, the exact number of Facebook shares that Burns would be allocated and “Dennis’s” communications with the purported Facebook executives selling their shares.

112. In telephone calls to Burns, “Dennis” told Burns that the transaction was proceeding as planned and that, logistically, “putting all the pieces together” was taking time and that Meyer would be in touch with further documentation and instructions.

Venable’s Efforts to Open Bank Accounts for Soumaya

113. As referenced, *infra*, Stratos could not open bank accounts under his own name. Stratos was “black listed” from banks due to his notoriety, poor credit, and the outstanding judgments against him. Stratos confirmed his own problems at his detention hearing: “I attempted to open accounts elsewhere; Wells Fargo, various banks and they turned me down.” ***Exhibit 3 at 31.***

114. As a result, Venable, on or about May, 2011, found a bank amenable to opening accounts for a company affiliated with Stratos: Bank of America (hereafter “BOA”).

115. On or about May 9, 2011, a Venable attorney, Jeremy Horine, went to a BOA branch office in Los Angeles, California in the building in which Venable is located, and met with bank employees for the purpose of opening a “Soumaya Securities” bank account. Horine was able to persuade the bank to open a new BOA account for Soumaya that day.

116. Because Soumaya had no business activities, and was only a shell company, the only reason for Venable to open a new “Soumaya Securities” bank account was to accept the wire transfers from Burns in order to aid and abet the theft of money belonging to Burns’ clients.

117. Stratos confirmed Venable’s efforts in sworn testimony at his detention hearing:

I went into Bank of America in Century City, which is at the base of a law firm that represented me, Venable was the firm. [] My lawyers came down and explained the situation. They presented the fact that I was the victim of internet slander and I was being maligned and they sat down with the banking representatives and Bank of America had decided at that time to open the account. I attempted to open accounts elsewhere; Wells Fargo, various banks, and they turned me down.

Exhibit C at 31.

118. Venable was instrumental in Stratos’ fraud because, without its help, Stratos, Meyer and Venable could not have provided wiring instructions as to where Burns should deposit his and his clients’ funds.

The July 2011 Theft of \$7.2 Million

Venable’s July 2011 False Statements

119. In telephone calls between July 7, 2011 and July 11, 2011, “Ken Dennis” told Burns that the Facebook deal was “imminent” and “Dennis” was “getting excited” about a specific block of stock that was coming.

120. During these calls, “Dennis” told Burns that Burns needed to wire an additional \$7.2 million (to bring the total to \$10 million) to Soumaya Securities to ensure that Burns would

receive the Facebook shares. “Dennis” also informed Burns that Venable would be following up with him on the purchase documentation.

121. Acting in concert with “Dennis,” Meyer emailed Burns on July 11, 2011 to induce the next payment.

122. Specifically, on July 11, 2011, at 12:01 p.m., Meyer wrote to Burns, purportedly acting on behalf of Soumaya Securities:

Mr. Burns:

Set forth below are the wire instructions for the Soumaya Securities Account:

Soumaya Securities, LLC

Bank: Bank of America

Name of Account: Soumaya Securities, LLC

Account #: REDACTED

ABA#: REDACTED

Swift Code: REDACTED

Bank Address: 2049 Century Park East, Los Angeles CA 90067

It Soumaya’s understanding that you will wire \$11,200,000 in two installments the first of which in the amount of \$7,200,000 will transfer on Monday and the balance of \$4,000,000 will follow at the time you receive the purchase documentation you have requested from the issuer and the seller in the pending securities transaction. (emphasis added).

A true and correct copy of Meyer’s July 11 email is attached hereto as Exhibit 12.

123. Of course, as Meyer knew when he made this statement, there was no “pending securities transaction” at all.

124. On July 11, 2011, at 1:00 p.m., Burns emailed Meyer at Venable and requested a phone call with Meyer regarding the wire transfer. ***A true and correct copy of Burns’ July 11, 1:00 p.m. email is attached hereto as Exhibit 13.***

125. On July 11, 2011, at 1:55 p.m., Meyer sent an email back to Burns as follows:

Tim [Burns], I am in meetings most of the day, but Soumaya has requested that I send you the below email in letter form (which I will do) and requests your confirmation that the moneys described below are non-refundable except in the event the pending transaction does not close as a result of the fault of the seller or the issuer. (emphasis added).

A true and correct copy of this email is attached hereto as Exhibit 14.

126. On July 11, 2011, Janice Trayes, a legal assistant at Venable, emailed Burns, attaching a letter on Venable letterhead from Meyer reiterating the same wiring instructions in paragraph 122 of this Amended Complaint, and again stated this is occurring due to the “pending securities transaction” and that Burns would be receiving “purchase documentation” upon the transfer of the balance of the money. ***A true and correct copy of this email and letter are attached hereto as Exhibit 15.***

127. On July 11, 2011, at 4:05 p.m., Burns transmitted a response to Janice Trayes at Venable (with a copy to Meyer) by email and requested a telephone conference with Meyer prior to Burns’ transmission of his clients’ funds because Meyer’s letter did not reflect the most important agreement term - - that the money from Burns (including the \$2.8 million wired in April, 2011) was fully refundable should the Facebook Transaction not close. ***A true and correct copy of this email is attached hereto as Exhibit 16.***

128. Specifically, Burns’ email to Venable states:

“David, I just spoke to Ken [“Dennis”] and ask that you update the letter to reflect the statement that if the deal does not close for fault other than my own that the funds will be returned.”

See Exhibit 16.

129. On July 11, 2011, at 7:08 p.m., Janice Trayes from Venable, LLP emailed a copy of a revised letter from Meyer at Venable to Burns reflecting the revision that Burns wanted in order to establish that these funds were refundable if the transaction did not occur. Specifically, the letter states: “It is Soumaya’s further understanding that the aforementioned amounts are non-refundable except in the event the transaction does not close through fault of the Seller or issuer.” ***A true and correct copy of this email with letter from Meyer is attached hereto as Exhibit 17.***

130. This revised letter from Meyer at Venable once again confirmed the “pending transaction” and memorialized the key contractual terms that the funds would be returned if “the transaction did not close through fault of the seller or issuer.” Burns thus relied upon the false representations of “Dennis” and Meyer that the Facebook transaction would occur and Burns would receive his and his clients’ Facebook shares and the GPs’ fees and commissions from his clients on the transaction. Importantly, at this date, most, if not all, of the \$2.8 million had already been spent by Venable on Stratos’ dwelling, vehicles, gambling debts and Venable counsel fees.

131. On July 11, 2011, after Burns received the revised letter from Meyer, Burns emailed Meyer at 8:42 p.m. to confirm the parties’ understanding that “the transaction in question is the purchase of Facebook shares at a price not to exceed \$27.00 to the seller.” *A true and correct copy of this email is attached hereto as Exhibit 18.*

132. Meyer received Burns’ email and forwarded it to Stratos at 8:47 p.m., stating “fyi.” *A true and correct copy of this email is attached hereto as Exhibit 19.*

133. According to his billing records, Meyer spent 1.5 hours that day discussing “the transaction” with his client (Troy Stratos) and drafting the communications to Burns described above.

134. That is, Venable did not simply forward wiring instructions to Burns (in a passive fashion), but opened the bank account at a BOA California branch into which the funds would be deposited, negotiated with Burns the terms of the purported Facebook Transaction and drafted the language about the “purchase documentation,” “pending securities transaction,” and “refundable” deposit.

The Falsity of Venable/Meyer July 2011 Statements

135. At the time of Meyer's July 11, 2011, negotiations with Burns, Meyer knew there was no "pending securities transaction." Meyer knew this because he knew that "Ken Dennis" was not the person he claimed to be, that Soumaya Securities was a shell company with no capacity to obtain Facebook shares, that there were no agreements in place with Facebook executives to procure Facebook shares, and most importantly, that Stratos, with Venable's help, had already spent the first \$2.8 million of Burns' and his clients' money on gambling debts, luxury cars and other personal expenses, including payments to Venable.

136. Meyer and Venable knew that the account into which Burns deposited \$7.2 million in July, 2011, was controlled by Troy Stratos, not "Ken Dennis."

137. Had Meyer informed Burns that the \$7.2 million was actually going directly to a person named Troy Stratos -- and not Soumaya Securities -- and that the funds would not be used to procure Facebook shares, Burns would never have consummated this transaction by wiring his and his clients' funds into the account.

138. Meyer, acting for Venable, defrauded Burns and the GPs when he drafted and signed a letter representing that the funds would be returned to Burns if "the transaction did not close through fault of the Seller or the issuer." The money could not be refunded because Venable has already spent the first deposit on Stratos' behalf. As soon as the money was released from escrow and spent by Venable on Stratos' behalf, a matter concealed from Burns, there could be no refund.

Burns' Detrimental Reliance on Meyer's False Statements

139. After Burns received the confirming letter from Meyer at Venable, Burns and "Dennis" began to discuss the logistics of the "Facebook Transaction."

140. On July 11, 2011, Burns emailed Meyer at Venable at 10:04 p.m., asking to speak with Meyer before Burns wired the money, to advise Meyer that Burns had a “good call with **Ken**” and to thank Meyer for his involvement. *A true and correct copy of this email is attached hereto as Exhibit 20.*

141. Burns’ relied to his detriment on Meyer and Venable in that (i) Burns did not know that “Ken Dennis” was Troy Stratos, (ii) Burns accepted Meyer’s representation that here was a “pending securities transaction” and (iii) Burns believed that his clients’ funds would be refundable if the transaction did not occur.

142. On July 12, 2011, pursuant to Meyer’s instructions, and relying upon Meyer’s material representations and omission regarding the “purchase of Facebook shares,” Burns wired the second deposit of \$7.2 million into the Soumaya Securities account at BOA set up by Venable.

143. Later that day at 4:53 p.m., Meyer emailed Burns to confirm that the \$7.2 million payment had been received, stating, “Thank you, Tim. **My client** has confirmed receipt of the wire.” *A true and correct copy of this email is attached hereto as Exhibit 21.*

144. Meyer’s references to “Soumaya Securities” as “my client” in this email created the impression in Burns that Meyer’s client was “Soumaya Securities” in the Facebook Transaction. *See Exhibit 21.*

145. Having relied completely upon Meyer’s misrepresentations and concealments, Burns emailed Meyer on July 12, 2011, at 4:58 p.m., stating “[t]hanks David, Let’s close a deal now!” *A true and correct copy of this email is attached hereto as Exhibit 22.*

146. Meyer chose to conceal the truth from Burns: no “deal” existed; the funds were disbursed to Troy Stratos for his own personal use.

147. Despite Meyer's written representations that Burns would receive "purchase documentation," none was provided.

Venable Assists Stratos in Moving the Money

148. Like with the \$2.8 million first wire, Venable assisted Stratos in spending the newly acquired \$7.2 million on things wholly unrelated to Facebook.

149. Only days after Burns wired the \$7.2 million to Soumaya's BOA account, BOA froze Soumaya's account.

150. Venable immediately sprang into action, drafting a letter which authorized it to speak on Soumaya Securities' behalf. Venable then drafted a demand letter to BOA requesting release of the funds, and, upon agreement with BOA, closed the account and transferred the funds out of BOA on July 26, 2011, without Burns' knowledge.

151. The BOA transaction was confirmed by Stratos at his detention hearing:

The Soumaya Securities LLC account at B of A had been closed and I had---the monies that were in it were refunded to me. Or to Soumaya. I then took these monies to my law firm. I said what do I do now and they said we can open a broker account for you and we can---to where you can cash this money and utilize it as you need it and we can also put it in client trust account and we can help you in your transition while we search for a bank.

Q: And which firm was this?

A: Venable.

Exhibit 3 at 33.

152. With no other banking relationship, Stratos again turned to Venable, which immediately helped Stratos transfer more than \$5 million of the Burns' clients' funds to a client trust account at the Los Angeles, California based Miller Barondess LLP law firm, and between July 25, 2011 and July 29, 2011, Meyer and Venable lawyer Horine negotiated with Miller Barondess attorneys to arrange the funds transfer, a transfer which enabled Stratos to continue spending the Burns' clients' funds without detection or interruption.

153. Notably, Venable never informed Burns that the account at BOA has been shut down and that most of the money had been transferred to an undisclosed third party.

154. With more millions in hand, Stratos continued spending to pay gambling debts totaling nearly \$2 million, and withdrew large sums of cash, approaching \$40,000 on almost a daily basis.

155. No money was ever spent on procuring the Facebook shares for Burns and his clients as had been promised by “Dennis,” Meyer and Venable.

156. The critical contribution of Venable to the Stratos’ misrepresentations and concealments was confirmed in Stratos’ sworn testimony:

I went to Bank of America in Century City, which is at the base of a law firm that represented me, Venable was the firm. I’m sorry if I’m speaking too quickly, and I presented my documents. My lawyers came down and the explained the situation. They presented the fact that I was a victim of internet slander and I was being maligned and they sat down with the banking representatives and the Bank of America had decided at that time to open the account. I attempted to open accounts elsewhere; Wells Fargo accepted my check --- accepted money, but ---from the --- that came from my law firm to open the account but then it --- they had refunded it back and didn’t, in fact, allow me to do business at Wells Fargo. We tried various other banks to try to set up a personal checking and savings account, but they were unsuccessful.

Exhibit 3 at 31.

Venable was a *sine qua non* of the fraud because, without Venable’s help, Stratos’ scheme could not have gotten off the ground. As Stratos himself put it, his own reputation would have prevented him from even opening a bank account.

Venable’s August 2011 Misrepresentations and Burns’ Reliance

157. Beginning in August, 2011, “Dennis” called Burns and told him that the Facebook Transaction was on the verge of closing, but that Soumaya Securities needed another \$1.25 million to secure the full allotment of shares. “Dennis” also told Burns to expect to be contacted by Venable to arrange the transfer of funds and Burns’ receipt of the purchase documentation.

158. Again, Stratos, Venable and Meyer faced a dilemma as to where they should have Burns wire the funds, having now been shut down or blocked from BOA, CitiBank and Wells Fargo.

159. Neither Meyer nor Stratos wanted to disclose to Burns that the Miller Barondess firm was holding over \$5 million of the funds that had been previously wired by Burns, and no such disclosure was made.

160. Finally, in August, 2011, Meyer contacted UBS to open an “investment” account for Stratos and Soumaya to facilitate the receipt of funds from Burns.

161. On August 12, 2011, at 9:38 a.m., Venable attorney Jeremy Horine, sent the wire instructions regarding Soumaya for its UBS account to Troy Stratos’ email, WPacquisitions@gmail.com. *A true and correct copy of this email is attached hereto as Exhibit 23.*

162. On August 12, 2011, at 1:19 p.m., “Ken Dennis” sent the Venable email wire instructions for the third wire of funds to Soumaya to Burns. *A true and correct copy of this email is attached hereto as Exhibit 24.*

163. Venable again concealed from Burns that Stratos – not “Ken Dennis” – was listed as the Soumaya Securities’ “Beneficial Owner” on the UBS account.

164. In reliance on Venable’s request for payment (indicating that the Facebook Transaction was about to close), and in conjunction with the entirety of Meyer’s dealings with Burns concerning the Facebook Transaction going back to April, 2011, Burns wired an additional \$1.25 million into the UBS account for Soumaya Securities, bringing the total funds advanced by Burns to \$11.25 million.

The Scheme Exposed

165. Throughout the fall of 2011, Burns continued to be in contact with “Ken Dennis,” who provided assorted reasons why the Facebook Transaction closing was delayed.

166. On November 19, 2011, “Dennis” faxed a proposed confidentiality agreement to Burns under circumstances where Burns still believed there was a valid “Facebook Transaction” in process as of that date. ***True and correct copies of this fax and confidentiality agreement are attached hereto as Exhibit 25.***

167. On November 19, 2011, Burns emailed the executed confidentiality agreement to “Ken Dennis.” ***True and correct copies of this email with confidentiality agreement are attached hereto as Exhibit 26.***

168. After Burns executed the agreement, on December 1, 2011, Burns was introduced to Kevin Cohen of Wedbush Securities. Burns advised Cohen that “Dennis” and Burns would be purchasing a block of 10,000,000 shares of pre-IPO Facebook stock at \$27.00 per share.

169. As a result, on December 2, 2011, Burns drafted an offer to purchase 10,000,000 shares at \$27 per share from Cohen. ***A true and correct copy of this letter is attached hereto as Exhibit 27.***

170. Burns believed and relied upon the representations of “Dennis” that the transaction was progressing; “Dennis” informed Burns that he would be receiving transactional documents from Venable on December 20, 2011.

171. On December, 20, 2011, Burns did not hear from “Dennis” and called Meyer at his Los Angeles office leaving a message with Meyer that Burns had been unable to reach “Dennis.”

172. On December, 21, 2011, at 11:07 a.m., when Burns did not hear from “Dennis,” Burns contacted Meyer to let Meyer know Burns had not heard from “Dennis,” and to express his concern. *A true and correct copy of this email is attached hereto as Exhibit 28.*

173. On December 22, 2011, at 5:24 p.m., Burns’ threatened Meyer and “Dennis” with legal action if the Facebook shares were not procured or the funds not returned saying in an email: “This is your final notice to contact me before we file a lawsuit and contact the authorities.” *A true and correct copy of this email is attached hereto as Exhibit 29.*

174. In response, on December 22, 2011, at 9:14 p.m., Venable’s firm’s counsel, Stewart Webb, Esquire, responded to Burns’ email. Webb falsely denied that Venable had received the \$11.25 million: “In your email, you refer to a transfer of \$11,250,000...to Venable/Soumaya. **Venable received no such transfer and has no knowledge of the alleged transfer.**” (emphasis added). *A true and correct copy of this email is attached hereto as Exhibit 30.*

175. Webb’s email contradicted Meyer’s letter, emails, telephone logs, other employees similar records, all of which documented the firm’s intricate involvement in taking (and spending) the client funds sent by Burns.

176. On December 23, 2011, at 11:54 a.m., Burns sent email to Webb and documented each of the wire transfers that were made at Venable’s direction, Burns also included telephone numbers and an email address for “Ken Dennis” at WPacquisitions@gmail.com. *A true and correct copy of this email is attached hereto as Exhibit 31.*

177. On December 23, 2011, at 12:13 p.m., Burns sent a follow-up email to Webb regarding a correction to the \$7.2 million transfer referenced in his 11:54 a.m. email. *A true and correct copy of this email is attached hereto as Exhibit 32.*

178. On December 27, 2011, Webb replied to Burns that the contact information (the telephone number and the email address of WPAcquisitnions@gmail.com) Burns provided for “Ken Dennis” was filed at Venable “under the name of Troy Stratos, who is believed to be related to Mr. Dennis.” *A true and correct copy of this email is attached hereto as Exhibit 33.*

179. Webb’s email provided: “David Meyer’s information has that number under the name of Troy Stratos....Mr. Meyer also shows the email address provided by you (WPAcquisitions@gmail.com) as an address for Mr. Stratos.” *See Exhibit 33.*

180. For the first time ever, Venable suggested to Burns that “Ken Dennis” was actually Troy Stratos.

181. In light of this communication by Webb, Burns believed for the first time that the Meyer/Venable representations of the proceeding ten (10) months were knowingly false when made.

182. On December 28, 2011, at 9:45 a.m., Burns emailed Webb and specifically asked whether Venable represented Stratos and how the firm knew that Stratos and Dennis were related. Burns stated that he had “used those [telephone numbers and email address] for Dennis for over 9 months and [had] never heard of Troy’s name until your email below.” *A true and correct copy of this email is attached hereto as Exhibit 34.*

183. On December 28, 2011, at 11:14 a.m., Webb at Venable responded to Burns through email claiming that Venable “**did not represent any party involved in the transactions between ESG and Soumaya.**”

184. Webb’s statement was knowingly false when made, as part of a cover up of Stratos’ fraud. *A true and correct copy of the email from Webb to Burns on December 28, 2011 is attached hereto as Exhibit 35.*

David Meyer's Termination from Venable

185. Meyer was terminated by Venable in 2012.

186. By *respondeat superior*, because the referenced members of the Venable Los Angeles office acted in the course and scope of their employment, Venable is liable for the actions of all of its employees, including, but not limited to, Meyer, and Venable is responsible for the payment of Burns' fees and commissions.

Stratos is Indicted

187. Unknown to Burns, Stratos was arrested on December 20, 2011, and held on federal charges stemming from his misappropriation of Nicole Murphy's funds. Even after his incarceration, Stratos attempted to continue to portray himself as "Ken Dennis" from prison, having messages texted to Burns that he was "unavailable" and "out of cell coverage."

188. After the December 28, 2011 emails from Webb at Venable, Burns went to the FBI and disclosed what Venable, Meyer and Stratos had done in the Facebook scheme.

COUNT I

Fraud

Against All Defendants

189. Plaintiffs repeat, reiterate, and re-allege each and every allegation as contained in the above paragraphs with the same force and effect as if more fully set forth herein at length.

190. In order to induce Plaintiffs to enter into the Facebook Scheme, each Defendant made materially false statements or material omissions as described above.

191. In order to induce Plaintiffs to enter into the Facebook Scheme, Stratos, Meyer and Venable represented to Plaintiffs, through Burns, among other things, that Stratos was "Ken Dennis," "Ken Dennis" was a representative of Carlos Slim and an executive of Soumaya

Securities, LLC, Burns and his clients' funds were to be transferred as part of a *bona fide* "pending securities transaction," and Plaintiffs would receive the shares (which did not exist) and the transaction documentation (which Meyer had no intention of providing).

192. Defendants concealed the fact that "Ken Dennis" was really Troy Stratos in order to induce Plaintiffs to enter into the agreement and transfer the funds set forth above.

193. Defendants Meyer and Venable breached their fiduciary duties to alert Plaintiff and his clients that "Ken Dennis" was Stratos; that "Dennis" did not have access to pre-IPO Facebook shares; and that Plaintiff's clients' money would not be used for the acquisition of Facebook shares.

194. Defendants misrepresentations and omission were in fact false, and were made for the sole purpose of inducing Burns, individually and in his capacity as representative of the GPs, to enter into this fraudulent agreement and transfer Defendants funds to which they were not entitled.

195. Defendants knew these material misrepresentations and omission were false or misleading at the time they were made, and/or omitted, and were made or omitted with the intention to deceive and defraud Burns and induce him, individually and in his capacity as the representative of the GPs, to act in reliance on the representations or omissions.

196. At the time these material misrepresentations were made by Defendants, and at the time Burns took the actions herein alleged, Burns was ignorant of the falsity of the representations and the misleading nature of the omissions, and believe them to be truly and fully represented. In reliance on these material misrepresentations and omissions, Burns was induced to, and did, enter into an agreement with Defendants to purchase non-existent Facebook shares and to wire approximately \$11,250,000 of his and his clients' funds to Defendants. Had Plaintiff known the actual facts, he would not have taken such actions.

197. Burns' reliance on Defendants' material misrepresentations, both on his own behalf and on behalf of the GPs, was justified, particularly given Meyer's assurances that "Ken Dennis" was real, that Soumaya Securities LLC was a functioning entity and that "Ken Dennis" could procure Facebook shares for Plaintiffs.

198. The foregoing conduct constitutes fraud, including, but not limited to, under the laws of the state of California.

199. As a proximate result of Defendants' intentional material misrepresentations and omissions, as herein alleged, Plaintiffs have suffered damages in an amount to be determined trial but no less than \$56.8 million, including the loss of fees and commissions from their clients as well as Burns' direct investment of \$90,000.

200. The aforementioned conduct of Defendants constituted intentional misrepresentations, deceits, and/or concealments of material facts known to Defendants, with the intention on the part of Defendants to deprive Plaintiffs of property and legal rights and to cause Plaintiffs injury. The outrageous conduct subjected Plaintiffs to cruel and unjust hardship and will justify an award of punitive damages.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

COUNT II

Negligent Misrepresentation

Against Meyer and Venable

201. Plaintiffs repeat, reiterate, and re-allege each and every allegation as contained in the above paragraphs with the same force and effect as if more fully set forth herein at length.

202. Defendants Meyer and Venable made false representations or omitted material facts, without a reasonable belief as to the accuracy of the matters represented, or the materiality

of the matters omitted, knowing and intending that Burns, individually and in his capacity as representative of the GPs, would rely on their representations or omissions.

203. The representations or omissions of Meyer and Venable were relied upon by Burns, individually and in his capacity as representative of the GPs, in making the decision to enter into the Agreement with Soumaya Securities *and* “Dennis” on behalf of his clients.

204. Defendants Meyer and Venable did so without a reasonable belief in the accuracy and truthfulness of these representations, or the materiality of the omissions.

205. Burns reasonably relied upon Defendants Meyer and Venable’s representations or omissions, both in his individual capacity and in his capacity as representative of the GPs. The foregoing conduct constitutes negligent misrepresentation, including, but not limited to, under the laws of the state of California.

206. As a result, Plaintiff has been damaged in an amount to be determined at trial but no less than \$56.8 million, including the loss of fees and commissions from their clients as well as Burns’ direct investment of \$90,000.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

COUNT III

Breach of Contract

Against Defendant Troy Stratos

207. Plaintiffs repeat, reiterate, and re-allege each and every allegation as contained in the above paragraphs with the same force and effect as if more fully set forth herein at length.

208. Burns, on behalf of the GPs, and Stratos entered into a purchase agreement whereby Stratos (posing as “Ken Dennis”) agreed to provide Plaintiffs with 40 million shares of pre-IPO Facebook stock in exchange for millions of dollars of Burns’ and his clients’ funds. Plaintiffs

performed all covenants, conditions and promises required under the purchase agreement with Stratos (the “Agreement”) except as waived, excused or prevented by Stratos’ breach.

209. As set forth above, Stratos breached the Agreement failing and refusing to use the funds wired by Burns, on behalf of himself and as representative of the GPs, to procure shares of Facebook stock and instead stealing such funds, failing and refusing to provide Plaintiffs with Facebook share certificates, with the consequence that Burns lost the fees and commissions he would have earned from his clients.

210. The foregoing conduct constitutes breach of contract, including, but not limited to, under the laws of the state of California.

211. As a direct and proximate result of Stratos’ breach of the Agreement, Plaintiffs have suffered damages in an amount to be determined at trial but no less than \$56.8 million.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

COUNT IV

Breach of Fiduciary Duty

Against Defendants Meyer and Venable

212. Plaintiffs repeat, reiterate, and re-allege each and every allegation as contained in the above paragraphs with the same force and effect as if more fully set forth herein at length.

213. By virtue of the facts alleged above, Meyer and Venable had fiduciary duties towards Plaintiffs, including, but not limited to: (a) the duty to inform Plaintiffs that the payments Burns made into Venable’s escrow account would not be used to purchase shares of Facebook stock, but rather would be stolen by Defendants; (b) the duty to inform Plaintiffs that “Ken Dennis” was, in fact, Troy Stratos; and (c) the duty to inform Plaintiffs that Soumaya Securities LLC was (i) not a legitimate business entity and (ii) was not affiliated with Carlos Slim.

214. In acting and failing to as alleged above, Meyer and Venable breached their fiduciary duties towards Plaintiffs, resulting in actual damages to Plaintiff in an amount to be proven at trial but no less than \$56.8 million.

215. The foregoing conduct constitutes breach of fiduciary duties, including, but not limited to, under the laws of the state of California.

216. As demonstrated by the course of conduct alleged above, Defendants acted outrageously with fraud, oppression and malice, warranting the imposition of punitive damages in an amount to be proven at trial but no less than \$56.8 million.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

COUNT V

Conspiracy

Against All Defendants

217. Plaintiffs repeat, reiterate, and re-allege each and every allegation as contained in the above paragraphs with the same force and effect as if more fully set forth herein at length.

218. Defendants knowingly and willfully entered into an agreement and conspiracy to defraud Burns, individually and in his capacity as representative of the GPs, and his clients by embezzling funds rightfully belonging to Burns and his clients, concealing the embezzlement, and by using the misappropriated funds for their own purposes, costing Burns the fees and commissions he would have earned from his clients through the GPs, as well as Burns' own investment of \$90,000.

219. Pursuant to the aforementioned agreement and conspiracy, the Defendants committed the illegal acts alleged above and distributed the misappropriated funds, or portions thereof, to themselves, without any intention whatever to provide the Burns or his clients with the

Facebook shares which would have resulted in Burns earning fees and commissions from his clients.

220. Meyer and Venable knew, that: Stratos had unlawfully misappropriated funds belonging to Burns and his clients and consented to receiving such unlawfully obtained funds for their own personal use; and that Burns was induced, individually and in his capacity as representative of the GPs, to enter into the agreement by the promise of fees and commissions from his clients.

221. As a proximate result of the Defendants' misconduct, Plaintiffs have been damaged in an amount to be proven at trial but no less than \$56.8 million.

222. The foregoing conduct constitutes an actionable conspiracy, including, but not limited to, under the laws of the state of California.

223. As demonstrated by the course of conduct alleged above, the Defendants' acts were outrageous, malicious, fraudulent and oppressive, and done in a conscious disregard of Plaintiffs' rights, thereby entitling Plaintiffs to punitive damages in an amount to be proven at trial but no less than \$56.8 million.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

COUNT VI

Unfair Competition

Against All Defendants

224. Plaintiffs repeat, reiterate, and re-allege each and every allegation as contained in the above paragraphs with the same force and effect as if more fully set forth herein at length.

225. Defendants engaged in unlawful, unfair, and/or fraudulent business practices, as set forth more fully above, including (i) fraudulently inducing Burns, individually and in his capacity

as representative of the GPs, to transfer millions of dollars to Defendants in connection with a knowingly fraudulent transaction, (ii) assisting Stratos to use such funds as his personal piggy bank, (iii) placing such funds into unauthorized client trust accounts, and (iv) issuing checks to themselves out of such funds without Plaintiffs' knowledge or permission.

226. Such practices offend established public policy, are immoral, unethical, oppressive, unscrupulous or are substantially injurious to consumers (including Plaintiffs), are likely to deceive the public, and violate the California Unfair Competition Law, Cal. B.P.C. Section 17200, *et seq.* (the "UCL").

227. As a result of Defendants' conduct as alleged herein, Plaintiffs have been damaged in an amount to be determined at trial, and are entitled to the remedies available under the UCL, including, but not limited to, restitution of any and all funds transferred to Defendants as a result of Defendants' misconduct.

WHEREFORE, Plaintiffs pray for relief as hereinafter set forth.

COUNT VII

Aiding and Abetting

Against Meyer and Venable

228. Plaintiffs repeat, reiterate, and re-allege each and every allegation as contained in the above paragraphs with the same force and effect as if more fully set forth herein at length.

229. Stratos intentionally defrauded Burns, individually and in his capacity as representative of the GPs, as set forth more fully above.

230. Meyer and Venable substantially assisted Stratos in perpetrating the fraud and other malfeasance against Plaintiffs.

231. Meyer and Venable had actual knowledge of Stratos' fraud.

232. As such, Meyer and Venable aided and abetted Stratos and are liable to Plaintiffs, including, but not limited to, under the laws of the state of California, to the same degree, including, but not limited to, for the payment of the anticipated fees and commissions from Plaintiffs' clients in an amount to be determined at trial but no less than \$56.8 million.

233. Plaintiffs have suffered damages as alleged herein as a direct result of Defendants' outrageous conduct justifying the award of punitive damages.

WHEREFORE, Plaintiffs pray for relief as set forth herein and requests that the Court:

- A. Enter judgment in favor of Plaintiffs and against Defendants on all Counts;
- B. Award Plaintiffs compensatory, incidental, consequential, expectation, and lost profit damages in an amount to be determined at trial but no less than \$56.8 million;
- C. Award Plaintiffs punitive damages in an amount to be determined at trial and appropriate to the severity of Defendants' conduct;
- D. Award Plaintiffs their costs and interest; and
- E. Grant such other and further relief as this Court may deem just and proper.

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Dated: April 9, 2021

Attorneys for Plaintiff, Timothy Burns

DEMAND FOR TRIAL BY JURY

Plaintiffs demand a trial by jury for all counts.

/s/ Alan L. Frank, Esquire

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