

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 09-81085-CIV-HURLEY/HOPKINS

JONATHAN E. PERLMAN, Esq., as court
Appointed Receiver of Creative Capital
Consortium, LLC, et al.,

Plaintiff,

v.

PAULETTE THEODULE, an individual,

Defendant.

**DEFENDANT'S ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S COMPLAINT**

Defendant PAULETTE THEODULE ("Defendant") by her undersigned counsel, hereby Answers and asserts her Affirmative Defenses to Plaintiff JONATHAN E. PERLMAN's ("Plaintiff") Complaint and states as follows:

ANSWER

THE PARTIES, JURISDICTION AND VENUE

1. The Receiver was appointed by the United States District Court for the Southern District of Florida pursuant to this Court's Order dated December 29, 2008 (the "Receivership Order") in the action styled: *Securities and Exchange Commission ("SEC") v. Creative Capital Consortium, LLC, A Creative Capital Concept\$, LLC and George L. Theodule* (collectively, "the Receivership Defendants"), Case No. 08-81565-CIV-HURLEY/HOPKINS, pending in the United States District Court, Southern District of Florida (the "SEC Receivership Action").

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint.

2. By Order dated December 31, 2008, the receivership was expanded to include United Investment Club, LLC and Reverse Auto Loan, LLC, a Florida limited liability company.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint.

3. Under the terms of the Receivership Order, the Receiver is authorized to investigate the affairs of the Receivership Entities, to marshal and safeguard these entities' assets, and to institute legal proceedings for the benefit and on behalf of the Receivership Entities' investors and other creditors.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint.

4. Pursuant to the Receivership Order, the Receiver is authorized and has standing to assert claims against third parties including but not limited to: (i) all legal and equitable claims available to the Receivership Entities prior to the institution of the SEC Receivership Action; and (ii) claims to avoid and recover fraudulent and preferential transfers receiver for the Receivership Entities and by virtue of his status as a joint lien creditor of the Receivership Entities pursuant to Florida Statutes, 671.201(13) and 679.1021(1)(zz).

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint.

5. Further, as a result of investments made by and among the three Receivership Entities (other than Creative Capital) into Creative Capital, and the claims of those three Receivership Entities created in connection therewith, those three Receivership Entities, and the Receiver standing in their shoes, have legal claims as "creditors" of Creative Capital, as defined by the Florida Uniform Fraudulent Transfer Act at Florida Statutes § 726.101 et seq. ("FUFTA.").

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint.

6. As a result of the claims the three Receivership Entities (other than Creative Capital) have against Creative Capital, and at all times subsequent thereto, Creative Capital is a "debtor" as that term is defined by FUFTA.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint.

7. The transfers made to the Defendant rendered Creative Capital unable to pay the claims of the Receiver and the other three Receivership entities, in their respective capacities as creditors of Creative Capital under FUFTA.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint.

8. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§754 and 1692.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint.

9. This complaint is brought to accomplish the objectives of the Receivership Order and is thus ancillary to the Court's exclusive jurisdiction over the receivership estate. Pursuant to the principles of ancillary jurisdiction or supplemental jurisdiction under 28 U.S.C. §1367, the Court in the SEC Receivership Action has supplemental jurisdiction over the claims set forth herein. Hence, venue is also proper in this Court.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint.

10. The Court has personal jurisdiction over Defendant pursuant to 28 U.S.C. §§754 and 1692.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint.

11. At all times material hereto, George Theodule ("Theodule") was an officer, director, managing agent and/or control person of each of the Creative Capital Entities. Theodule is a named defendant in the SEC Receivership Action. From and after the formation of each Creative Capital Entity, Theodule operated a massive Ponzi scheme receiving over \$60 million of investor funds.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint.

12. The Defendant, PAULETTE THEODULE, is an individual residing in Palm Beach County, Florida, who is the mother of Theodule and, at all times hereto, was an insider of the Creative Capital Entities.

RESPONSE: Defendant admits she resides in Palm Beach County and is George Theodule's mother but denies the remaining allegations.

FACTS COMMON TO ALL COUNTS

13. On December 29, 2008, the Securities and Exchange Commission ("SEC") filed its Complaint for Injunctive and Other Relief (the "Complaint") against the Initial Receivership Entities.

The SEC alleged that Theodule, through the Receivership Entities, sold unregistered securities and violated various sections of the Securities Exchange Act of 1934 (the "Exchange Act").

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint.

14. More specifically, the SEC alleged that all of the Receivership Defendants violated section 10(b) of the Exchange Act.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint.

15. The SEC sought a permanent injunction against the Receivership Defendants to restrain them from any further securities law violations.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint.

16. Additionally, the SEC sought (1) an order requiring the Receivership Defendants to provide a sworn accounting of all proceeds they received, directly or indirectly, as a result of the securities law violations; (2) an order requiring the Receivership Defendants to disgorge, with prejudgment interest, any ill-gotten gains they received; (3) the imposition of civil penalties pursuant to section 21(d) of the Exchange Act; (4) an order freezing the Receivership Defendants' assets pending resolution of the matter; (5) the appointment of a receiver over the Receivership Entities; (6) an order requiring the Receivership Defendants to take steps necessary to repatriate to the territory of the United States all funds and assets of investors; and (7) an order requiring the Receivership Defendants to preserve records in their custody, possession or subject to their control.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint.

17. On December 29, 2008, upon the request of the SEC, the Receivership Court entered the Receivership Order appointing the Receiver as receiver over the Receivership Entities, their subsidiaries, successors and assigns (collectively, also the "Receivership Entities").

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint.

18. By Order dated December 31, 2008, the receivership was expanded to include United Investment Club, LLC, Reverse Auto Loan, LLC and Sancal Investment and Financial Services, Inc.¹

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint.

19. After a contested hearing, the Court entered a Preliminary Injunction on January 6, 2009 preventing Theodule from continuing to violate the securities laws as well as the other relief requested by the SEC, including disgorgement of ill-gotten gains. The Receivership Entities consented to the entry of a preliminary injunction by virtue of consents executed and filed by the Receiver on behalf of such entities.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint.

20. The offices of Creative Capital were found vacant when the Receiver obtained access to the premises. While certain documents and records have been recovered, others remain missing or destroyed.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint.

21. Prior to the receivership, the Receivership Entities, which promised to double investments within 90 days risk free, raised in excess of \$60 million from thousands of investors by and through the use of over 100 investment clubs located in Florida, New Jersey, Georgia and other states.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint.

22. Subsequent to his appointment, the Receiver determined that the Receivership Entities had no legitimate business operations. Consequently, the Receiver determined that so-called "profit payments" made to investors by the Receivership Defendants, along with other payments that appear to have no legitimate business purpose, could have only come from money raised from other investors, and, as such, the Receivership Entities were operated as a classic Ponzi scheme.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint.

¹ Sancal Investment and Financial Services, Inc. was initially included as part of the December 31, 2008, expanded receivership order, but was later dropped by agreed order as a receivership entity. [DE # 42].

23. Since his appointment, the Receiver and his professionals have attempted to locate and secure money illegally raised from investors by the Receivership Defendants and the proceeds thereof. To that extent, the Receiver is initiating lawsuits against persons who illegally diverted assets from the Receivership Entities' possession, and who are otherwise liable to the Receiver for damages.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint.

THE FRAUDULENT INVESTMENT SCHEME
OF THE CREATIVE CAPITAL ENTITIES

24. The Creative Capital Entities have engaged in a fraudulent Ponzi scheme predominantly targeting the United States Haitian community since at least November 2007.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Complaint.

25. Holding himself out as a pastor, Theodule ingratiated himself with investors by claiming he was offering his investment expertise to help build wealth in the Haitian community. He also informed investors he used part of his trading profits to fund start-up businesses in the Haitian community, as well as business projects in Haiti and Sierra Leone.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint.

26. The Creative Capital Entities primarily attracted investors through word-of-mouth, and Theodule made his representations during face-to-face meetings in which he touted his ability to double investor funds in just 90 days. Theodule typically depicted his investment plan and boasts of incredible profits trading stocks and options on dry erase boards or flip charts.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint.

27. Theodule also routinely boasted to investors about Creative Capital's high rates of return, and stressed the need to begin investing as soon as possible. He told one investor he had made millionaires out of a significant number of people in the time it had taken her to decide to invest, and pressured her to liquidate the equity in her home to invest with him.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint.

28. The Creative Capital Entities' presentations emphasized the safety and security of investing with them. They guaranteed investors 100% returns with no risk, and claimed to invest in the stocks and options of well-known companies such as Google, John Deere, Monsanto, Best Buy, Gamestop, and others.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint.

29. Since the commencement of the investment scheme, the Creative Capital Entities have raised more than \$60 million from thousands of investors nationwide.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint.

30. While the scheme was being perpetrated, Theodule, using Creative Capital funds and other property owned by Creative Capital, acquired certain real and personal property as nominee for Creative Capital, the actual owner of such property. Indeed, in his sworn accounting of assets filed with the Court, Theodule expressly acknowledged several such assets being acquired in such a manner, and that such assets were property of Creative Capital and not of himself individually.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint.

31. To add to investors' sense of security, Theodule directed prospective investors to form "investment clubs," which a purported self-regulatory agency, Smart Investment Management Services, LLC ("SIMS") helped the investors form. This entity also supposedly protected investors through independent verification of their deposits.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Complaint.

32. In reality, SIMS was a private company run by a former Creative Capital employee and not a regulatory entity.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Complaint.

33. The investment clubs pooled investor funds and sent them to Creative Capital for a 90-day period, during which Theodule purportedly traded stocks and options on behalf of the investment club members.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the Complaint.

34. Unlike a real investment club, the members did not participate in making investment decisions, rarely had club meetings, and deposited funds exclusively with the Creative Capital Entities.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the Complaint.

35. Thus, the investment clubs served principally as vehicles to funnel funds to Theodule and Creative Capital.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of the Complaint.

36. The investment clubs typically required a minimum \$1,000 investment per investor, which the investor could not withdraw during the 90-day investment period.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of the Complaint.

37. The investment clubs deposited the investors' funds into their own bank accounts, pooled the funds, and remitted the money to Creative Capital, minus a 10% club commission.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the Complaint.

38. At the end of the 90-day investment period, when the Creative Capital Entities had purportedly doubled the investment money, they supposedly returned the principal and profits back to the investment clubs, minus a 40% commission on the profits. Prior to distributing the proceeds back to the individual club members, the investment clubs typically charged a second 10% commission on the principal.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint.

39. In connection with Creative Capital's fraudulent Ponzi scheme, numerous material misrepresentations and omissions were made regarding Creative Capital's business, Theodule's stock trading, and the use of investor funds.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of the Complaint.

40. For example, Theodule's claimed success in trading stocks and options was demonstrably false. Indeed, soon after his appointment, the Receiver came to learn that of the more than \$18.3 million that had been deposited in brokerage accounts Theodule controlled, he had lost approximately 97% of those funds trading stocks and options. In fact, Theodule consistently lost money trading in those accounts since November 2007, and never generated any net trading profits.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 40 of the Complaint.

41. Soon after his appointment, however, the Receiver came to learn that Creative Capital hid its losses from current and prospective investors, paying principal and purported profits to existing investment clubs and individual investors of approximately \$16.8 million from new investor funds.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the Complaint.

42. Additionally, Theodule claimed he used trading profits to fund new business ventures, some of which benefitted the Haitian community in the United States and Haiti, and others in Sierra Leone.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of the Complaint.

43. In reality, there were not trading profits because the funds of the Creative Capital Entities: (i) had been used to pay earlier investors their purported profits; and (ii) had been misappropriated for the personal use and benefit of Theodule, his friends and his family.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 43 of the Complaint.

44. Theodule's representations about the safety and security of investors' funds were also patently false. SIMS was not a regulatory agency, but rather a private corporation headed by a former Creative Capital employee.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the Complaint.

45. Further, there was no evidence that SIMS has access to or otherwise verified the deposits to ensure the safety of investor funds. To the contrary, the Receiver came to learn that Theodule had commingled investor funds extensively with his own personal accounts and had misappropriated at least \$5.7 million. This amount includes net transfers of at least \$5.0 million to his personal bank accounts. Consisting of cash withdrawals of more than \$1.0 million and more than \$700,000 for apparent personal

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expenses such as multiple luxury vehicles, credit card bills, a wedding payment for Theodule's marriage, and a down-payment for the purchase of a house.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Complaint.

46. Thus, Theodule misrepresented the safety and security of the Creative Capital investments when he led investors to believe: (i) they could withdraw their funds any time after the initial 90-day investment period; (ii) there was no risk; and (iii) SIMS verified the security of their funds.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Complaint.

47. At all times material hereto, the Creative Capital Entities were undercapitalized and insolvent.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint.

48. At all times material hereto, the Defendant, Paulette Theodule, had knowledge of, actively participated in and/or otherwise conspired with Theodule in the Ponzi scheme by receiving transfers from Creative Capital for little or no consideration.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 48 of the Complaint.

49. Between May and September of 2008, the Defendant, in bad faith, received at least \$493,000.00 of fraudulent transfers from Creative Capital for little or no consideration.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 49 of the Complaint.

50. All conditions precedent to the filing of this action have been performed, waived or have occurred.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 50 of the Complaint.

COUNT 1
Action to Avoid and Recover
Fraudulent Transfers Pursuant
to Chapter 726 of The Florida Statutes

51. The Receiver realleges paragraphs 1 through 50 above as if fully set forth herein.

RESPONSE: Defendant repeats and reasserts its answers to the allegations contained in paragraphs 1 through 50 of the Complaint.

52. This claim is brought by the Receiver based on his standing to bring UFTA actions pursuant to the Receivership Order.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 52 of the Complaint.

53. During 2008, Creative Capital (or Theodule, by and through funds received from Creative Capital) paid Defendant PAULETTE THEODULE the total sum of \$493,000.00 for little or no reasonably equivalent value, as reflected in and evidenced by Exhibit "1," which is attached and incorporated herein by reference. All said payments, along with any other payments paid to Defendant which the Receiver may subsequently discover through the course of his ongoing investigation, shall collectively be referred to herein as the "Paulette Theodule Transfer."

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 53 of the Complaint.

54. Pursuant to Chapter 726 of the Florida Statutes, a Receiver may avoid any transfer of a interest of the debtor in property, or any obligation incurred by the debtor, that was made within four (4) years before the date of the filing of the petition, if the debtor voluntarily or involuntarily -

(A) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the debtor was or became, on or after the date that such transfer was made or such obligation was incurred, indebted; or (B)(i) received less than a reasonably equivalent value in exchange for such transfer or obligation; and (ii)(I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation; (II) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the debtor was an unreasonably small capital; or (III) intended to incur, or believed that the debtor would incur, debts that would be beyond the debtor's ability to pay as such debts matured.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of the Complaint.

55. Pursuant to Chapter 726 of the Florida Statutes, the Receiver may recover, for the benefit of the estate, the property transferred, or, if the court so orders, the value of such property, from - (1) the initial transferee of such transfer or the entity for whose benefit such transfer was made; or (2) any immediate or mediate transferee of such initial transferee.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 55 of the Complaint.

56. The Paulette Theodule Transfer constituted a transfer of an interest in property of Creative Capital to PAULETTE THEODULE within four years under Chapter 726 of the Florida Statutes.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 56 of the Complaint.

57. Creative Capital did not receive reasonably equivalent value for the Paulette Theodule Transfer, and the Creative Capital family of companies: (i) were insolvent at the time of the Paulette Theodule Transfer or became insolvent as a result thereof; (ii) were engaged or were about to engage in a business or transaction for which the remaining assets of Creative Capital were unreasonably small in relation to the business or transaction; or (iii) intended to incur, or believed or reasonably should have believed that they would incur, debts beyond their ability to pay as they came due.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 57 of the Complaint.

58. In addition, Creative Capital made the Paulette Theodule Transfer with the actual intent to hinder, delay or defraud creditors of Creative Capital and such transfer was not received in good faith by Paulette Theodule. Among other badges of fraud, at or near the time of the Paulette Theodule Transfer, Creative Capital: (i) was insolvent; (ii) was not paying its debts as they became due; (ii) [sic] did not pay reasonably equivalent value for the Paulette Theodule Transfer; (iv) had, through its principals, defrauded creditors of millions of dollars; and (v) absconded.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 58 of the Complaint.

59. As a result of the above, the Receiver can avoid the Paulette Theodule Transfer to PAULETTE THEODULE pursuant to Chapter 726 of the Florida Statutes and recover the value thereof for the benefit of the estate.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of the Complaint.

COUNT 2
Unjust Enrichment

60. The Receiver realleges paragraphs 1 through 50 above as if fully set forth herein.

RESPONSE: Defendant repeats and reasserts its answers to the allegations

contained in paragraphs 1 through 50 of the Complaint.

61. This is a claim for unjust enrichment.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of the Complaint.

62. The Receivership Entities conferred a benefit on PAULETTE THEODULE by making the Paulette Theodule Transfer to PAULETTE THEODULE.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of the Complaint

63. PAULETTE THEODULE knowingly and voluntarily accepted and retained the benefit conferred by the Receivership Entities.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 63 of the Complaint.

64. The circumstances are such that it would be inequitable and unjust for PAULETTE THEODULE to retain the benefit conferred by the Receivership Entities without paying the Receiver the value thereof.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 64 of the Complaint.

65. PAULETTE THEODULE has been unjustly enriched at the expense of the Receivership Entities (and, ultimately, their investors).

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 65 of the Complaint.

66. The Receiver is entitled to the return of those amounts in which PAULETTE THEODULE was unjustly enriched through disgorgement or any other appropriate remedy.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 66 of the Complaint.

COUNT 3
Imposition of Constructive Trust or
Equitable Lien

67. The Receiver realleges paragraphs 1 through 50 above as if fully set forth herein.

RESPONSE: Defendant repeats and reasserts its answers to the allegations contained in paragraphs 1 through 50 of the Complaint.

68. This is a claim to impose a constructive trust or equitable lien.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68 of the Complaint.

69. The Receivership Entities conferred a benefit on PAULETTE THEODULE in the form of the Paulette Theodule Transfer to PAULETTE THEODULE.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 69 of the Complaint.

70. PAULETTE THEODULE knowingly and voluntarily accepted and retained the benefit conferred by the Receivership Entities.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 70 of the Complaint.

71. The circumstances are such that it would be inequitable and unjust for PAULETTE THEODULE to retain the benefit conferred by the Receivership Entities without paying the Receiver the value thereof.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 71 of the Complaint.

72. PAULETTE THEODULE has been unjustly enriched at the expense of the Receivership Entities (and, ultimately, their investors).

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 72 of the Complaint.

73. The Receiver is entitled to the return of those amount in which PAULETTE THEODULE was unjustly enriched through disgorgement or any other appropriate remedy to the extent the proceeds thereof are readily identifiable).

RESPONSE: Defendant denies the truth of the allegations contained in paragraph 73 of the Complaint.

COUNT 4
Aiding and Abetting and/or
Conspiracy to Breach of Fiduciary Duty

74. The Receiver realleges paragraphs 1 through 50 above as if fully set forth herein.

RESPONSE: Defendant repeats and reasserts its answers to the allegations contained in paragraphs 1 through 50 of the Complaint.

75. At all material times, Theodule was an officer and director of Creative Capital Entities and as such owed them a fiduciary duty to discharge his duties in good faith, with the care of an ordinarily prudent officer or director in a like position would exercise and in a manner reasonably believed to be in Creative Capital's best interests.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 of the Complaint.

76. Creative Capital's insolvency and undercapitalization sine inception immediately transferred all of Theodule's fiduciary obligations to creditors.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the Complaint.

77. Theodule exhibits a conscious, grossly negligent, reckless and/or fraudulent disregard for the best interests of Creative Capital and its creditors in relation to the facts and circumstances as set forth above by engaging in a fraudulent Ponzi scheme and other questionable transactions with no legitimate or justifiable business purposes to advance the interests of himself and the Defendants.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the Complaint.

78. Theodule's breaches adversely impacted and conferred no benefit on Creative Capital, while conferring a benefit upon himself and numerous third parties, including but not limited to, the Defendants.

RESPONSE: Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of the Complaint.

79. The Defendant, PAULETTE THEODULE, had knowledge of Theodule's breaches alleged above, and rendered substantial assistance in regard to such breaches. In addition, PAULETTE THEODULE actively conspired in regard to such breaches.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph

79 of the Complaint.

80. Based upon the foregoing, PAULETTE THEODULE is liable for all damages proximately caused by the acts and omissions of Theodule and himself.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph

80 of the Complaint.

81. The foregoing breaches of Theodule, as aided and abetted by PAULETTE THEODULE as part of the ongoing conspiracy in regard to effectuating such breaches, have proximately caused damage to Creative Capital in excess of \$60 million.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph

81 of the Complaint.

COUNT 5
Conversion

82. The Receiver re-alleges paragraphs 1 through 50 above as if fully set forth herein.

RESPONSE: Defendant repeats and reasserts its answers to the allegations contained in paragraphs 1 through 50 of the Complaint.

83. At all material times, PAULETTE THEODULE knew that the \$493,000.00 of funds transferred to PAULETTE THEODULE as set forth in Exhibit "1" were the property of the Creative Capital Entities.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph

83 of the Complaint.

84. By virtue of her acts and omissions, PAULETTE THEODULE engaged in unauthorized acts that caused the wrongful dissipation and transfer of such funds which deprived the Creative Capital Entities of their property permanently, which deprivation was and remains inconsistent with ownership of Creative Capital's interests in such property.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph

85 of the Complaint.

85. PAULETTE THEODULE had knowledge of the above alleged facts at the time the conversion occurred.

RESPONSE: Defendant denies the truth of the allegations contained in paragraph

85 of the Complaint.

86. Based upon the foregoing, PAULETTE THEODULE is liable for all damages proximately caused by her acts and omissions, including but not limited to the loss of the \$493,000.00 of funds transferred to PAULETTE THEODULE as set forth in Exhibit "1."

RESPONSE: Defendant denies the truth of the allegations contained in paragraph

86 of the Complaint.

AFFIRMATIVE DEFENSES

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to set forth sufficient material facts to support a cause of action against Defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

George Theodule never gave Defendant the purported \$393,000.00.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Waiver and estoppel. The \$100,000.00 provided by George Theodule to Defendant was delivered back to him or his agents at his direct request.

WHEREFORE, Defendant PAULETTE THEODULE, having answered the Complaint, seeks a dismissal of all claims and an award of costs and attorneys' fees, if applicable, together with such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

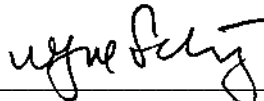
I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in

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some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Dated: September 14, 2009
Boca Raton, Florida

Respectfully submitted,



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PAULETTE THEODULE