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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION: GENERAL EQUITY
MONMOUTH COUNTY
DOCKET NO. MON-C- 160-14

JOHN J. HOFFMAN,
Acting Attorney General of New Jersey,
on behalf of LAURA H. POSNER,
Chief of the New Jersey Bureau of
Securities,

Plaintiff,

v.

VINCENT PETER FALCI, individually
and d/b/a Saber Fixed Income
Series, LLC, and d/b/a Saber
Equity Income Series, LLC, as a
Managing Member of Saber Funds
LLC, and Saber Asset
Management, LLC;

SABER FUNDS, LLC,
a New Jersey limited liability
company;

SABER ASSET MANAGEMENT, LLC,
a New Jersey limited liability
company;

SABER FUNDS DISTRIBUTORS, LLC,
a Delaware series limited liability
company;

FIXED TERM GOVERNMENT FUND,
LLC,

a New Jersey limited liability

Civil Action

COMPLAINT

company;
MSI FUND I, LLC,
a Delaware limited liability
company;
MSI EQUITY FUND II, LLC,
a New Jersey limited liability
company;
BWV FUND, LLC,
a New Jersey limited liability
company; and
PREFERRED INCOME PORTFOLIO I,
LLC,
a New Jersey limited liability
company,

Defendants,
and

PHOENIX EQUITIES, LLC,
a New Jersey limited liability
company;
HALLUS REALTY GROUP, LLC,
a New Jersey limited liability
company; and
DONNA FALCI, individually; and
VINCENT N. FALCI, individually,

Nominal Defendants.

John J. Hoffman, Acting Attorney General of New Jersey, on behalf of Plaintiff Laura H. Posner, Chief of the New Jersey Bureau of Securities ("Bureau Chief" or "Plaintiff"), having offices at 153 Halsey Street, Newark, New Jersey, by way of Complaint against the above-named Defendants and Nominal Defendants, says:

SUMMARY

1. This case arises from the fraudulent sale of \$5.4 million in unregistered securities by defendant Vincent P. Falci ("Falci"), an unregistered agent, and the business entities he controlled, including broker-dealer defendants Saber Funds, LLC ("Saber Funds"), Saber

Asset Management, LLC ("SAM"), Saber Funds Distributors, LLC ("SFD") (broker-dealer entities collectively referred to as "Saber Broker-Dealers"), and issuer defendants Saber Fixed Income Series, LLC ("Saber Fixed Income"), Saber Equity Income Series, LLC ("Saber Equity"), BWX Fund, LLC ("BWX"), Fixed Term Government Fund, LLC ("FTGF"), MSI Fund I, LLC ("MSI Fund I"), MSI Equity Fund II, LLC ("MSI Equity Fund II"), and Preferred Income Portfolio I, LLC ("PIP") (issuer entities collectively referred to as the "Saber Investment Funds").

2. From January 2006 through at least December 2009 ("Relevant Time Period"), defendant Falci, a former Middletown, New Jersey, fire chief, through the Saber Broker-Dealers and Saber Investment Funds, fraudulently raised over \$5.4 million from the sale of unregistered securities in the form of interests in limited liability companies and investment contracts from approximately 182 investors. The investors included, among others, public servant organizations such as fire companies and police benevolent associations throughout Monmouth County.
3. Defendants Falci, the Saber Broker-Dealers and the securities issued by the Saber Investment Funds were not registered with the New Jersey Bureau of Securities ("Bureau").
4. In order to orchestrate the scheme, defendants Falci, the Saber Broker-Dealers, and the Saber Investment Funds, through Falci, misrepresented to investors that investor money would be invested primarily in tax lien certificates, and that such investments historically yielded certain positive investment results for year 2005.
5. In addition, defendants Falci, the Saber Broker-Dealer and the Saber Investment Funds, through Falci, failed to disclose to investors that, rather than use investor funds for tax lien

certificates, investor funds were used to, among other things, purchase several residences for defendant Falci and his wife, nominal defendant Donna Falci, conduct day-trading by defendant Falci and his son, nominal defendant Vincent N. Falci; and make loans totaling \$185,000.00 to a company owned by defendant Falci's best friend.

6. By this conduct, defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds violated the New Jersey Uniform Securities Law (1997) N.J.S.A. 49:3-47 et seq. ("Securities Law"). The nominal defendants, Hallus Realty Group, LLC ("Hallus Realty"), Phoenix Equities, LLC ("Phoenix Equities") and Falci's wife and son, benefitted from the use of investor funds without having a legitimate claim to such funds, and equity demands that such funds be disgorged from those who were or may have been unjustly enriched.

JURISDICTION AND VENUE

7. The Bureau is a state regulatory agency charged with the administration and enforcement of the Securities Law.
8. Plaintiff brings this action against defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds pursuant to the Securities Law for violations of:
 - a. N.J.S.A. 49:3-52(b) (making materially false and misleading statements or omitting facts necessary to make the statements made not misleading);
 - b. N.J.S.A. 49:3-52(c) (engaging in any act or practice, or course of business which would operate as a fraud or deceit upon any person in connection with the offer, sale or purchase of securities);
 - c. N.J.S.A. 49:3-56(a) (acting as an unregistered agent);
 - d. N.J.S.A. 49:3-56(a) (acting as an unregistered broker-dealer);
 - e. N.J.S.A. 49:3-56(h) (employing an unregistered agent); and

- f. N.J.S.A. 49:3-60 (selling unregistered securities).
9. Plaintiff also brings this action against defendants Falci, the Saber Broker-Dealers, the Saber Investment Funds and nominal defendants Hallus Realty, Phoenix Equities, Donna Falci and Vincent N. Falci seeking:
- a. a finding that defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds engaged in the acts and practices alleged in the Complaint;
 - b. a ruling that such acts and practices constitute violations of the Securities Law;
 - c. a permanent injunction against defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds from violating the Securities Law, among other injunctive relief;
 - d. an assessment of civil monetary penalties against defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds for each violation of the Securities Law;
 - e. restitution and/or disgorgement from defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds and nominal defendants Hallus Realty, Phoenix Equities, Donna Falci and Vincent N. Falci of all profits and/or funds gained through violations of the Securities Law; and
 - f. the option of rescission for each purchaser of securities issued by the Saber Investment Funds.
10. Jurisdiction is proper over defendants and nominal defendants pursuant to N.J.S.A. 49:3-51 for violations of the Securities Law that are subject of this Complaint because each violation originated from this State.
11. Venue is proper pursuant to R. 4:3-2(a) because it lies where the cause of action arose.

PARTIES

12. The Bureau Chief is the principal executive of the Bureau.
13. Defendant Falci is a resident of Middletown, New Jersey. He is the husband of nominal defendant Donna Falci and father of nominal defendant Vincent N. Falci. Defendant Falci created, operated and exclusively controlled and continues to control defendants Saber Broker-Dealers, Saber Investment Funds and nominal defendants Hallus Realty and Phoenix Equities. Defendant Falci's role and responsibilities at defendant Saber Broker-Dealers, Saber Investment Funds and nominal defendant Hallus Realty included, among other things: (a) handling the day-to-day management of all the entities; (b) handling all investment decisions of all the Saber Investment Funds; and (c) controlling the finances of all the entities. Defendant Falci was registered with the Bureau to sell securities from 1992 through 2002. However, during the Relevant Time Period, Falci was neither registered with the Bureau in any capacity nor exempt from registration.
14. Defendant SAM is a New Jersey limited liability company, formed on or about June 3, 2002. During the Relevant Time Period, defendant SAM was located in Middletown, New Jersey. Defendant SAM's members are defendant Falci, who holds a 51% ownership interest, and his wife, nominal Donna Falci, who holds a 49% ownership interest. Defendant SAM is the managing member and investment manager for defendants MSI Fund I, FTGF and BWX. Defendant SAM has never been registered with the Bureau in any capacity.
15. Defendant Saber Funds is a New Jersey limited liability company, formed on or about December 30, 2005. During the Relevant Time Period, defendant Saber Funds was located in Middletown, New Jersey. Defendant Saber Fund's members are defendant Falci, who

holds a 51% ownership interest, and his wife, nominal Donna Falci, who holds a 49% ownership interest. Defendant Saber Funds is the managing member and investment manager for defendants MSI Equity Fund II, Saber Equity and Saber Fixed Income. Defendant Saber Funds has never been registered with the Bureau in any capacity.

16. Defendant SFD is a Delaware series limited liability company, formed on or about March 13, 2009. During the Relevant Time Period, defendant SFD was located in Middletown, New Jersey. The Certificate of Formation for defendant SFD is the sole certificate on record for this series limited liability company. Defendant SFD's managing director is defendant Falci. Defendant SFD has never been registered with the Bureau in any capacity.
17. Defendant MSI Fund I is a Delaware limited liability company, formed on January 4, 2006. During the Relevant Time Period, defendant MSI Fund I was located in Middletown, New Jersey. From approximately January 15, 2006 through approximately March 16, 2006, defendants Falci and MSI Fund I, through Falci, issued, offered and sold securities in the form of limited liability interests ("MSI Fund I Securities") using a "confidential private placement memorandum" ("MSI Fund I PPM") to at least fifteen (15) investors, fourteen (14) of whom resided in New Jersey. The MSI Fund I Securities were not registered with the Bureau.
18. Defendant FTGF is a New Jersey limited liability company, formed on March 30, 2006. During the Relevant Time Period, defendant FTGF was located in Middletown, New Jersey. From approximately April 6, 2006 through at least February 19, 2009, defendants Falci and FTGF, through Falci, issued, offered and sold securities in the form of limited liability interests ("FTGF Securities") using a "confidential private placement

memorandum” (“FTGF PPM”) to at least seventy-six (76) investors, sixty-five (65) of whom resided in New Jersey. The FTGF Securities were not registered with the Bureau.

19. Although defendant Falci sought an exemption from registration of the securities offered by MSI Fund I and FTGF by filing with the SEC a Notice of Sale of Securities Pursuant to Regulation D Section 4(6), and/or Uniform Limited Offering Exemption form for each fund, the requirements for exemption were not met.
20. Defendant MSI Equity Fund II is a New Jersey limited liability company, formed on or about September 17, 2008. During the Relevant Time Period, defendant MSI Equity Fund II was located in Middletown, New Jersey. Since on or around September 17, 2008, defendants Falci and MSI Equity Fund II, through Falci, issued, offered and sold securities in the form of limited liability interests (“MSI Equity Fund II Securities”) to at least twenty-six (26) investors, twenty-one (21) of whom resided in New Jersey. The MSI Equity Fund II Securities were not registered with the Bureau.
21. Defendant Saber Fixed Income is an unformed business association operated by defendant Falci. During the Relevant Time Period, Saber Fixed Income was located in Middletown, New Jersey. Beginning in or around June 2009, defendant Falci doing business as Saber Fixed Income issued, offered and sold securities in the purported form of limited liability interests (“Saber Fixed Income Securities”) using a private placement memorandum (“Saber Fixed Income PPM”) to at least four (4) investors, three (3) of whom resided in New Jersey. The Saber Fixed Income Securities were not registered with the Bureau.
22. Defendant Saber Equity is an unformed business association operated by defendant Falci. During the Relevant Time Period, Saber Equity was located in Middletown, New Jersey. Beginning in or around March 2009, defendant Falci doing business as Saber Equity

issued, offered and sold securities in the purported form of limited liability interests ("Saber Equity Securities") using a private placement memorandum ("Saber Equity PPM") to at least thirteen (13) investors, twelve (12) of whom resided in New Jersey. The Saber Equity Securities were not registered with the Bureau.

23. Defendant BWX is a New Jersey limited liability company, formed on or about March 30, 2006. During the Relevant Time Period, defendant BWX was located in Middletown, New Jersey. Defendants Falci and BWX, through Falci, issued, offered and sold securities purportedly in the form of limited liability interests ("BWX Securities") to at least twenty-two (22) investors, fifteen (15) of whom resided in New Jersey. The BWX Securities were not registered with the Bureau.

24. Defendant PIP is a New Jersey limited liability company formed, on or about June 3, 2002. During the Relevant Time Period, defendant PIP was located in Middletown, New Jersey. Defendants Falci and PIP, through Falci, issued, offered and sold securities in the form of limited liability units ("PIP Securities") using a "confidential private offering memorandum" ("PIP PPM") dated December 31, 2004 to at least twenty-six (26) investors, sixteen (16) of whom resided in New Jersey. The PIP Securities were not registered with the Bureau.

25. Nominal defendant Hallus Realty is a New Jersey limited liability company, formed on or about December 30, 2005. During the Relevant Time Period, nominal defendant Hallus Realty was located in Middletown, New Jersey. Nominal defendant Hallus Realty's members are defendants Saber Funds, which holds a seventy-five percent (75%) ownership interest and nominal defendant Vincent N. Falci, who holds a twenty-five percent (25%) ownership interest. Hallus Realty's purported business is real estate investment.

26. Nominal defendant Phoenix Equities is a New Jersey limited liability company, formed on or about February 20, 2007. During the Relevant Time Period, nominal defendant Phoenix Equities was located in Middletown, New Jersey. Nominal defendant Phoenix Equities' members are Falci, who holds a 50% ownership interest, and his son, nominal defendant Vincent N. Falci, who holds a 50% ownership interest. Nominal defendant Phoenix Equities was formed by Falci and his son, nominal defendant Vincent N. Falci, to use for day-trading.
27. Nominal defendant Donna Falci is an individual who, at all relevant times, resided in Middletown, New Jersey. Nominal defendant Donna Falci is married to defendant Falci. During the Relevant Time Period, nominal defendant Donna Falci held membership interests in: (a) SAM; and (b) Saber Funds. She has never been registered with the Bureau in any capacity.
28. Nominal defendant Vincent N. Falci is an individual who, at all relevant times, resided in New Jersey. Nominal defendant Vincent N. Falci is defendant Falci's son. During the Relevant Time Period, nominal defendant Vincent N. Falci held membership interests in: (a) Hallus Realty and (b) Phoenix Equities.
29. At all relevant times defendants Saber Broker-Dealers, Saber Investment Funds, and nominal defendants Hallus Realty and Phoenix Equities were controlled by defendant Falci.

FACTUAL BACKGROUND

30. During the Relevant Time Period, defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds, through Falci, raised approximately \$5.4 million from the fraudulent offer and sale of MSI Fund I Securities, FTGF Securities, MSI Equity Fund II

Securities, Saber Fixed Income Securities, Saber Equity Securities, BWX Securities and PIP Securities (collectively the “Saber Investment Funds Securities”).

31. The Saber Investment Funds Securities were sold to approximately 182 investors, 156 of whom were located in New Jersey.

32. The Saber Investment Funds Securities were not registered with the Bureau, not federally covered nor exempt from registration.

A. Representations to Saber Investment Funds Investors in Written Promotional Material

33. During the Relevant Time Period, defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds, through Falci, misrepresented to prospective and actual investors in written promotional materials, that: (i) their money would be invested primarily in tax lien certificates; and (ii) such investments historically yielded certain positive investment results in 2005.

34. All of the written promotional material provided to the Saber Investment Funds investors falsely represented that their money would be invested primarily in tax lien certificates. In reality, Saber Investment Funds’ financial documents demonstrated that Saber Investment Funds’ investments in tax lien certificates never exceeded 3% of the total assets under management.

35. All of the written promotional materials provided to Saber Investment Funds investors falsely represented the 2005 rate of return as 7.24%. In fact, defendant Falci admitted that the 2005 rate of return was derived from a purely hypothetical model of his strategy.

B. Representations to Saber Funds Defendants Investors on the Web site

36. During the Relevant Time Period, defendants Falci and Saber Funds, through Falci, falsely represented to prospective and actual investors on their web site that:

- a. the model portfolio allocations would be eighty percent (80%) municipal tax certificates, fifteen percent (15%) hedged ETFs (exchange traded funds) and five percent (5%) cash or cash equivalents;
- b. “[t]he focus in our Tax Certificate strategy allowed this portfolio to maintain a solid foundation and desirable returns while its smaller Cash or Cash Equivalent portion further minimized risk to the portfolio;” and
- c. MSI Fund I had a rate of return of 7.24% for 2005.

37. These representations were false. Defendant MSI Fund I was neither created nor operational until January 2006, well after the time period when the defendants claimed they were receiving a 7.24% rate of return. Nor could the rate of return be attributed to FTGF, MSI Equity Fund II, Saber Equity, Saber Fixed Income or BWX because they were neither created nor operational in 2005.

38. Similarly, Saber Investment Funds’ financial documents demonstrate that investments in tax lien certificates never exceeded 3% of the total assets under management.

C. Representations to Saber Investment Funds Investors in the PPMs

39. In connection with the offer and sale of securities, defendant Falci provided investors with a MSI Fund I PPM, FTGF PPM, Saber Fixed Income PPM, Saber Equity PPM and/or PIP PPM (collectively, the “PPMs”).

40. Defendant Falci provided investors of BWX Securities and MSI Equity II Securities with a MSI Fund I PPM.

41. Defendant Falci drafted the PIP PPM, the FTGF PPM, the Saber Fixed Income PPM and the Saber Equity PPM.

42. Defendant Falci was heavily involved in the drafting of the MSI Fund I PPM by providing information relating to the purpose and strategy of the fund and some of its components to his attorney, who drafted the MSI Fund I PPM. Falci ultimately approved the language and representations in the MSI Fund I PPM.
43. Defendants MSI Fund I, Saber Fixed Income and Saber Equity Income represented to investors in the MSI Fund I PPM, Saber Fixed Income PPM and Saber Equity PPM, respectively, that: (a) the investment objective was to seek interest income by investing “primarily” in tax lien certificates and other fixed income instruments; (b) the funds contemplated investing most of their capital in tax lien certificates; (c) the fund could invest in other securities and interests in real property; and (d) the fund would buy and sell securities deemed by defendant Falci to be equity equivalents and that the fund could engage in trading which included, but was not limited to: selling securities short; purchasing and selling stock options and other derivatives; and buying securities on margin, among others.
44. Defendant FTGF represented to investors in the FTGF PPM that: (a) the investment objective was to “seek interest by investing in tax lien certificates and other fixed income instruments;” (b) the fund contemplated investing most of its capital in tax lien certificates; (c) the fund could invest in other securities and interests in real property; and (d) the fund would buy and sell securities deemed by defendant Falci to be equity equivalents and that the fund may engage in trading including, but not limited to, selling securities short, purchasing and selling stock options and other derivatives, and buying securities on margin, among others.
45. The representations to investors that defendants MSI Fund I, Saber Fixed Income, Saber Equity and FTGF would invest primarily in tax lien certificates were false because Saber

Investment Funds' financial documents demonstrate that investments in tax lien certificates never exceeded 3% of the total assets under management.

D. Representations to Saber Investment Funds Investors in the Written Annual Update

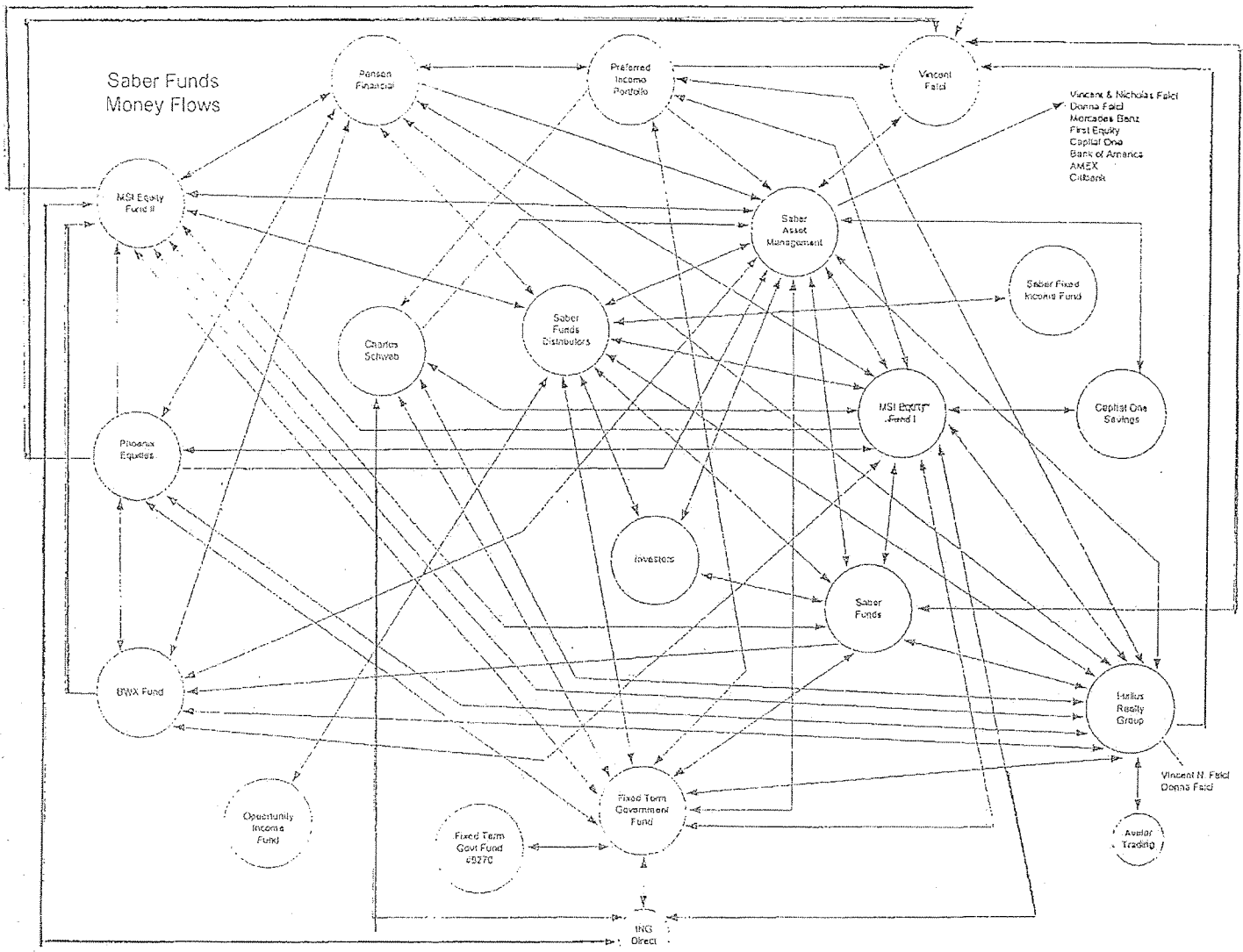
46. In or around December 2008, defendant SFD, through Falci, provided a written update to investors which falsely represented the percentage of fund allocations in tax lien certificates (as ninety percent (90%) for the fixed income funds and eighty-five percent (85%) in the equities funds). In reality, less than 3% of total assets under management were actually invested in tax lien certificates as demonstrated by Saber Investment Funds' financial documents.

E. Misuse of Investor Funds

47. Investor funds were used for purposes other than those disclosed to investors. At least \$4,000,000.00 of investor funds was misused by defendants Falci, the Saber Investment Funds and the Saber Broker-Dealers by, among other things: (i) an improper and undisclosed transfer of approximately \$3,000,000.00 to nominal defendant Hallus Realty; (ii) an improper and undisclosed transfer of \$554,000.00 to nominal defendant Phoenix Equities for defendant Falci and nominal defendant Vincent N. Falci's day-trading; (iii) an improper and undisclosed loan, in the aggregate, of \$185,000 to a company owned by defendant Falci's best friend; and (iv) improper and undisclosed payments of approximately \$347,000 to nominal defendants Donna Falci and Vincent N. Falci. Defendant Falci controlled the finances for defendants the Saber Broker-Dealers, the Saber Investment Funds, and nominal defendants Hallus Realty and Phoenix Equities.

48. Payments totaling approximately \$700,000.00 were made to defendant Falci from defendants the Saber Broker-Dealers, the Saber Investment Funds and nominal defendants Hallus Realty and Phoenix Equities.
49. Payments totaling approximately \$73,000.00 were made to nominal defendant Donna Falci from defendants the Saber Broker-Dealers, the Saber Investment Funds and nominal defendants Hallus Realty and Phoenix Equities.
50. Payments totaling approximately \$340,000.00 were made to nominal defendant Vincent N. Falci from defendants the Saber Broker-Dealers, the Saber Investment Funds and nominal defendants Hallus Realty and Phoenix Equities. Of the payments made to nominal defendant Vincent N. Falci, \$274,000.00 was from defendant SAM, of which he was not a member.
51. During the Relevant Time Period, defendant Falci made numerous and unexplained transfers of funds between defendants the Saber Broker-Dealers, the Saber Investment Funds and nominal defendants Hallus Realty and Phoenix Equities.
52. During the Relevant Time Period, defendant Falci transferred approximately \$554,000 of MSI Fund I and FTGF investor money to nominal defendant Phoenix Equities, which was used for personal day-trading by Falci and his son, nominal defendant Vincent N. Falci.
53. During the Relevant Time Period, defendant Falci transferred approximately \$3 million to nominal defendant Hallus Realty from defendants MSI Fund I, FTGF, BWX, PIP and SFD.
54. The funds transferred to nominal defendant Hallus Realty were used by defendant Falci to purchase at least five (5) New Jersey residential properties which at the outset were deeded to defendant Falci and/or nominal defendant Donna Falci. Nominal defendant Hallus Realty, through Falci, manages the five (5) residential properties.

55. The five (5) residential properties are encumbered with mortgage loans and leased to residential tenants.
56. One residential property was leased to nominal defendant Vincent N. Falci.
57. Defendant Falci, without disclosure to the Saber Investment Funds investors, haphazardly transferred millions of dollars between defendants the Saber Broker-Dealers and the Saber Investment Funds rather than invest it in tax liens certificates as represented in the PPMs. According to defendant Falci, investor money raised by the Saber Investment Funds was deposited into one of the Saber Broker-Dealers bank accounts where it was pooled with other investor funds and, then transferred by defendant Falci to what he and the Saber Investment Funds were investing at that time, e.g., to buy tax liens certificates, securities or transferred to Hallus Realty, which bought properties in Falci or his wife's name. The chart below illustrates the transfer of money:



58. Defendant Falci caused MSI Fund I, FTGF and BWX to issue PIK Notes to nominal defendants Hallus Realty and Phoenix Equities for purported "lines of credit."

59. Defendant Falci established the terms of and entered into the PIK Notes on behalf of all the entities on both sides of the transaction.

60. Defendants Falci, the Saber Broker-Dealers and the Saber Investment Funds, through Falci omitted to disclose to investors that he caused MSI Fund I, FTGF, and BWX to issue PIK Notes to nominal defendants Hallus Realty and Phoenix Equities and that Falci, on behalf of all the entities, negotiated the terms of the PIK Notes.

61. Defendant Falci caused defendant Saber Funds to enter into three (3) promissory notes totaling \$185,000.00, loaning money to a company owned by an investor of SAM, whom Falci described as his best friend. Falci, the Saber Broker-Dealers and the Saber Investment Funds, through Falci, omitted to disclose to investors Falci's professional and personal relationship with the owner of said company.

62. Investors had no control over how their funds would be used.

63. Defendants Falci, the Saber Investment Funds, through Falci and/or the Saber Broker-Dealers, through Falci omitted material facts to investors, including, among other things, that:

- a. Defendant Falci was not registered with the Bureau to sell securities;
- b. MSI Fund I Securities were neither registered with the Bureau nor exempt from state or federal registration;
- c. FTGF Securities were neither registered with the Bureau nor exempt from state or federal registration;
- d. MSI Equity Fund II Securities were neither registered with the Bureau nor exempt from state or federal registration;
- e. PIP Securities were neither registered with the Bureau nor exempt from state or federal registration;
- f. BWX Securities were neither registered with the Bureau nor exempt from state or federal registration;
- g. Saber Fixed Income and Saber Equity Income were not formed as limited liability companies and therefore the investors did not purchase securities in the form of limited liability company interests;

- h. Defendant SAM was not registered with the Bureau in any capacity;
- i. Defendant Saber Funds was not registered with the Bureau in any capacity;
- j. Defendant SFD was not registered with the Bureau in any capacity;
- k. Investor funds were not invested in tax lien certificates to the extent represented;
- l. Defendant Falci controlled of all the entities to which investor funds were transferred;
- m. Certain investor funds would be transferred to nominal defendant Hallus Realty, a company controlled by defendant Falci, to purchase several residences, which were deeded at the outset to defendant Falci or his wife, nominal defendant Donna Falci;
- n. Certain investor funds were transferred to nominal defendant Phoenix Equities for day-trading by defendant Falci and his son, nominal defendant Vincent N. Falci;
- o. Defendant Falci caused defendants MSI Fund I, BWX and FTGF to enter into the PIK Notes with nominal defendants Hallus Realty and Phoenix Equities with defendant Falci individually and acting on behalf of all the parties to the PIK Notes, on behalf of all the entities, negotiated the terms of the PIK Notes;
- p. Defendant Falci caused defendant Saber Funds to enter into three (3) promissory notes in the aggregate amount of \$185,000.00 loaning money to a company owned by an investor of SAM, which Falci described as his best friend; and
- q. Defendant Falci failed to form certain limited liability companies in which he was selling limited liability interests.

COUNT I

MAKING UNTRUE STATEMENTS OF MATERIAL FACT AND OMITTING TO
STATE MATERIAL FACTS NECESSARY IN ORDER TO MAKE THE
STATEMENTS MADE, IN THE LIGHT OF THE CIRCUMSTANCES UNDER
WHICH THEY WERE MADE, NOT MISLEADING IN VIOLATION OF N.J.S.A.

49:3-52(b)

(As to Defendants Falci, Saber Fund, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP)

64. Plaintiff repeats the allegations in the preceding paragraphs as if fully set forth herein.
65. Defendants Falci, Saber Funds, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP, individually and/or through their officers, directors, employees, agents, attorneys, successors, subsidiaries directly and/or indirectly, made materially false and misleading statements and/or omitted material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, to investors in connection with the offer and sale of securities.
66. Among the materially false and misleading statements made by Defendants were that investor funds would be invested primarily in tax lien certificates and that such investments historically yielded certain positive investment results for year 2005.
67. Among the omitted facts not disclosed to investors were:
 - a. Defendant Falci was not registered with the Bureau to sell securities;
 - b. MSI Fund I Securities were neither registered with the Bureau nor exempt from state or federal registration;
 - c. FTGF Securities were neither registered with the Bureau nor exempt from state or federal registration;
 - d. MSI Equity Fund II Securities were neither registered with the Bureau nor exempt from state or federal registration;

- e. PIP Securities were neither registered with the Bureau nor exempt from state or federal registration;
- f. BWX Securities were neither registered with the Bureau nor exempt from state or federal registration;
- g. Saber Fixed Income and Saber Equity Income were not formed as limited liability companies and therefore the investors did not purchase securities in the form of limited liability company interests;
- h. Defendant SAM was not registered with the Bureau in any capacity;
- i. Defendant Saber Funds was not registered with the Bureau in any capacity;
- j. Defendant SFD was not registered with the Bureau in any capacity;
- k. Investor funds were not invested in tax lien certificates to the extent represented;
- l. Defendant Falci controlled all of the entities to which investor funds were transferred;
- m. Certain investor funds would be transferred to nominal defendant Hallus Realty, a company controlled by defendant Falci, to purchase several residences, which were deeded at the outset to defendant Falci or his wife, nominal defendant Donna Falci;
- n. Certain investor funds were transferred to nominal defendant Phoenix Equities for day-trading by defendant Falci and his son, nominal defendant Vincent N. Falci;
- o. Defendant Falci caused defendants MSI Fund I, BWX and FTGF to enter into the PIK Notes with nominal defendants Hallus Realty and Phoenix Equities with defendant Falci individually and acting on behalf of all the parties to the PIK Notes, on behalf of all the entities;

- p. Defendant Falci caused defendant Saber Funds to enter into three (3) promissory notes in the aggregate amount of \$185,000.00, loaning money to a company owned by an investor of SAM, which Falci described as his best friend; and
 - q. Defendant Falci failed to form certain limited liability companies in which he was selling limited liability interests.
68. Each omission of a material fact and each materially false or misleading statement is a violation of N.J.S.A. 49:3-52(b).
69. Each violation of N.J.S.A. 49:3-52(b) by each defendant upon each investor is a separate violation of the Securities Law and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT II

**ENGAGING IN ANY ACT OR PRACTICE WHICH WOULD OPERATE AS A FRAUD
OR DECEIT UPON ANY PERSON IN VIOLATION OF N.J.S.A. 49:3-52(c)**
(As to Defendants Falci, Saber Fund, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II,
Saber Fixed Income, Saber Equity Income, BWX and PIP)

70. Plaintiff repeats the allegations in the preceding paragraphs as if fully set forth herein.
71. Defendants Falci, Saber Funds, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP, through Falci, engaged in an act, practice and course of business that operated as a fraud and/or deceit upon the investors and others, in violation of N.J.S.A. 49:3-52(c) by, among other things:
- a. The offer and sale of Saber Investment Funds Securities through the use of false and misleading statements and omissions; and
 - b. Use of investor funds to enrich or otherwise benefit defendant Falci and the nominal defendants.

72. Each violation of N.J.S.A. 49:3-52(c) by each defendant upon each investor is a separate violation of the Securities Law and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT III

ACTING AS AN AGENT WITHOUT REGISTRATION IN VIOLATION OF N.J.S.A.
49:3-56(a)
(As to Defendant Falci)

73. Plaintiff repeats the allegations in the preceding paragraphs as if fully set forth herein.

74. Defendant Falci represented defendants FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX, PIP, SAM, Saber Funds and SFD in effecting or attempting to effect transactions in securities from or in New Jersey and, thus, acted as an agent, as defined in section 49:3-49(b) of the Securities Law, without being registered with the Bureau to sell the securities.

75. Defendant Falci violated N.J.S.A. 49:3-56(a), which provides that, among other things, only persons registered with the Bureau may lawfully act as agents.

76. Each sale to investors constitutes a separate violation of N.J.S.A. 49:3-56(a) and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT IV

ACTING AS A BROKER-DEALER WITHOUT REGISTRATION IN VIOLATION
OF N.J.S.A. 49:3-56(a)
(As to Defendants SAM, Saber Funds and SFD)

77. Plaintiff repeats the allegations in the preceding paragraphs as if fully set forth herein.

78. Defendants SAM, Saber Funds, and SFD effected or attempted to effect transactions in securities from or in New Jersey and, thus, acted as a broker-dealer, as defined in section

49:3-49(c) of the Securities Law, without being registered with the Bureau to sell the securities.

79. Defendants SAM, Saber Funds, and SFD violated N.J.S.A. 49:3-56(a), which provides that, among other things, only persons registered with the Bureau may lawfully act as broker-dealers.

80. Each sale to investors constitutes a separate violation of N.J.S.A. 49:3-56(a) and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT V

EMPLOYING UNREGISTERED AGENTS IN VIOLATION OF N.J.S.A. 49:3-56(h)
(As to Defendants FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity Income, BWX, PIP, SAM, Saber Funds and SFD)

81. Plaintiff repeats the allegations in the preceding paragraphs as if fully set forth herein.

82. Defendants Saber Funds, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP employed defendant Falci to act as an agent in effecting or attempting to effect transactions in securities from or in New Jersey.

83. Defendant Falci acted as an agent for defendants Saber Funds, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP as defined in N.J.S.A. 49:3-49(b), without being registered as an agent with the Bureau.

84. Defendants Saber Funds, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP's conduct constituted employing an agent who was not registered with the Bureau to sell securities in violation of N.J.S.A. 49:3-56(h).

85. Each sale to investors is a separate violation of N.J.S.A. 49:3-56(h) and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT VI

SELLING UNREGISTERED SECURITIES IN VIOLATION OF N.J.S.A. 49:3-60 (As to Defendants Falci, Saber Funds, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP)

86. Plaintiff repeats the allegations in the preceding paragraphs as if more fully set forth herein.

87. Defendants Falci, Saber Funds, SAM, SFD, FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP offered and sold securities in the form of limited liability interests that were neither registered with the Bureau, nor “federally covered,” nor exempt from registration.

88. The securities were required to be registered with the Bureau pursuant to N.J.S.A. 49:3-60.

89. Each offer and sale of unregistered securities by each of the defendants constitutes a separate violation of N.J.S.A. 49:3-60 and is cause for the imposition of a civil monetary penalty for each separate violation pursuant to N.J.S.A. 49:3-70.1.

COUNT VII

UNJUST ENRICHMENT (As to Nominal Defendants Hallus Realty, Phoenix Equities, Donna Falci and Vincent N. Falci)

90. Plaintiff repeats the allegations set forth in the preceding paragraphs as if fully set forth herein.

91. Defendants FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP through Falci, directly and indirectly, transferred investor funds to nominal

defendants Hallus Realty, Phoenix Equities, Donna Falci and Vincent N. Falci, who were or may have been unjustly enriched with the investor funds, to which they had no legal right.

92. As such, nominal defendants Hallus Realty, Phoenix Equities, Donna Falci and Vincent N. Falci were or may have been unjustly enriched at the expense of the investors.

93. Each unauthorized transfer of commingled investor funds from defendants FTGF, MSI Fund I, MSI Equity Fund II, Saber Fixed Income, Saber Equity, BWX and PIP is cause for judgment requiring disgorgement of the funds.

PRAYER FOR RELIEF

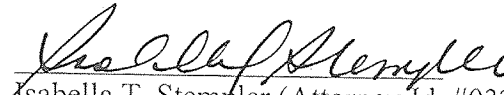
WHEREFORE, Plaintiff respectfully requests the entry of a judgment pursuant to N.J.S.A. 49:3-47 et seq.:

- A. Finding that Defendants engaged in the acts and practices alleged above;
- B. Ruling that such acts and practices constitute violations of the Securities Law;
- C. Enjoining Defendants from violating the Securities Law in any manner;
- D. Enjoining Defendants from engaging in the securities business in New Jersey in any capacity including, but not limited to, acting as a broker-dealer, investment adviser, investment adviser representative, agent or otherwise;
- E. Enjoining the issuance, sale, offer for sale, purchase, offer to purchase, promotion, negotiation, solicitation, advertisement or distribution from or within New Jersey of any securities to or from New Jersey, by or on behalf of defendants, their officers, directors, employees, agents, brokers, partners, stockholders, attorneys, successors, subsidiaries and affiliates;
- F. Affording each purchaser of securities issued by or on behalf of defendants, the option of rescinding such purchase and obtaining a refund of monies paid, plus interest and expenses incident to effecting the purchase and rescission;
- G. Affording each purchaser of securities issued by or on behalf of defendants, the option of receiving restitution of losses incurred on disposition of the securities, plus interest and expenses incident to effecting the purchase and restitution;
- H. Assessing civil monetary penalties against defendants, for each violation of the Securities Law in accordance with N.J.S.A. 49:3-70.1;
- I. Requiring defendants to pay restitution and disgorge all profits and/or funds gained through violations of the Securities Law;

- J. Requiring the nominal defendants to disgorge all funds obtained through the Defendants' violations of the Securities Law; and
- K. Affording Plaintiff and affected third parties any additional relief the court may deem just and equitable.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Counsel for Plaintiff

By:


Asabella T. Stempler (Attorney Id. #032642001)
Deputy Attorney General

Dated: 9/18/14

RULE 4:5-1 CERTIFICATION

Pursuant to Rule 4:5-1, the undersigned certifies that the matter in controversy may be the subject of the following action other than this one:

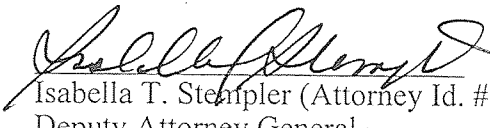
The New Jersey Bureau of Securities will issue a Summary Order against Vincent P. Falci, Saber Funds, LLC, Saber Asset Management, LLC, Saber Funds Distributors, LLC, Fixed Term Government Fund, LLC, MSI Fund I, LLC, MSI Equity Fund II, LLC, BWX Fund, LLC and Preferred Income Portfolio I, LLC pursuant to its administrative powers under the New Jersey Uniform Securities Law (1997) N.J.S.A. 49:3-47 et seq.

I further certify that the matter in controversy in this action is not the subject of any action pending in any court or in a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated.

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

I certify that the foregoing statements made by me are true. I am aware that if any of those statements are willfully false, I am subject to punishment.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Counsel for Plaintiff

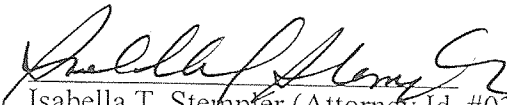
By: 
Isabella T. Stempler (Attorney Id. #032643001)
Deputy Attorney General

Dated: 9/18/14

DESIGNATION OF TRIAL COUNSEL

Deputy Attorney General Isabella T. Stempler is hereby designated as trial counsel for this matter.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Counsel for Plaintiff

By: 
Isabella T. Stempler (Attorney Id. #032642001)
Deputy Attorney General

Dated: 9/18/14