EXHIBIT "A"

H

United States Court of Appeals,
Sixth Circuit.
AMERICAN BANK & TRUST COMPANY,
Plaintiff-Appellant,
v.
Jan L. WALLACE, Wallace Motor Company, Jan Michael Wallace, Wallace Leasing Company, Inc., E.L. Wallace, Anna L. Wallace, Neda Wallace and First Security National Bank and Trust Company of Lexington, Defendants-Appellees.
No. 82-5044.

Argued Jan. 11, 1983.
Decided March 10, 1983.

Plaintiff appealed from a judgment of the United States District Court for the Eastern District of Kentucky, 529 F.Supp. 258, Scott Reed, J., which dismissed its action for fraud and deceit in connection with the giving of a promissory note. The Court of Appeals, Cornelia G. Kennedy, Circuit Judge, held that short-term 30-day promissory note given in connection with a commercial loan transaction, which evidenced a loan and not an investment, was not a "security" within meaning of federal securities laws; thus, district court lacked subject-matter jurisdiction where action was based solely on federal securities laws.

Affirmed.

West Headnotes

Securities Regulation 349B 5.13

349B Securities Regulation
349BI Federal Regulation
349BI(A) In General
349Bk5 Securities, What Are
349Bk5.13 k. Bills and Notes; Commercial Paper, Mortgages and Bonds. Most Cited Cases
(Formerly 349Bk42, 349Bk14)

Short-term 30-day promissory note given in connection with a commercial loan transaction, which evidenced a loan and not an investment, was not a "security" within meaning of federal securities laws; thus, district court lacked subject-matter jurisdiction where action for fraud and deceit in connection with giving a promissory note, which was based solely on federal securities laws. Securities Act of 1933, § 22, 15 U.S.C.A. § 77v; Securities Exchange Act of 1934, § 27, 15 U.S.C.A. § 78aa.

***93** J. Montjoy Trimble, Trimble & Henry and Anderson & Anderson, Lexington, Ky., for plaintiff-appellant.

David Weinberg, William C. Shouse, Shouse & Burrus, William M. Lear, Jr., R. David Lester, Stoll, Keenon & Park, Terry Sellars, Clem & Sellars, Lexington, Ky., for defendants-appellees.

Before KENNEDY and WELLFORD, Circuit Judges, and BROWN, Senior Circuit Judge.

CORNELIA G. KENNEDY, Circuit Judge.

American Bank and Trust Company appeals from a judgment of the United States District Court for the Eastern District of Kentucky dismissing its action for fraud and deceit in connection with the giving of a promissory note. Appellant contends the note was procured in violation of the anti-fraud provisions of federal and state securities laws. Jurisdiction was based solely on federal security laws, Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. § 78aa) Section 22 of the Securities Act of 1933 (15 U.S.C. § 77v). As we agree with the District Court, 529 F.Supp. 258, that the short-term (30-day) note given by the appellees to the appellant in this commercial loan transaction was not a "security" and that the federal court was without jurisdiction, we affirm.

Appellees sought to borrow $300,000.00 from appellant. Appellant alleges that in the course of the negotiations, Jan L. Wallace (Wallace) made fraudulent misrepresentations and failed to state material facts necessary in order to make the statements, in light of the circumstances under which they were made, not misleading. In reliance upon Wallace's misrepresentations, appellant approved the loan and suffered money damages when appellees were unable to honor their obligation. Appellees' motions to dismiss the complaint pursuant to Fed.R.Civ.P. 12(b)(1) was sustained as to appellant's federal claims, and the pendent state claims were consequently dismissed***94** under the doctrine of *United Mine Workers of America v. Gibbs,* 383 U.S. 715, 726, 86 S.Ct. 1130, 1139, 16 L.Ed.2d 218 (1966). The sole issue raised on appeal is whether the note purchased by American Bank from appellees is a "security" subject to the anti-fraud provisions of federal securities laws.

"The search for the definition of a 'security' must necessarily commence with the language of the statute." *Union Planters National Bank of Memphis v. Commercial Credit Business Loans, Inc.,* 651 F.2d 1174, 1179 (6th Cir.), *cert. denied,* 454 U.S. 1124, 102 S.Ct. 972, 71 L.Ed.2d 111 (1981), citing *Rubin v. United States,* 449 U.S. 424, 101 S.Ct. 698, 66 L.Ed.2d 633 (1981). Section 3(a)(10) of the Securities Exchange Act of 1934 [15 U.S.C. § 78c(a)(10)] provides in pertinent part:

The term "security" means any note, ...; but shall not include currency or any note, ... which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

If construed literally, the 1934 Act would cover no note, whether commercial or investment in nature, with a maturity not exceeding nine months, and would cover all notes with a maturity in excess of nine months. Courts, however, have declined to apply the letter of the law under circumstances which would violate the spirit of the law.[FN1] "The [1934] Act is for the protection of investors, and its provisions must be read accordingly." [FN2] Thus, regardless of maturity-length, notes have been subjected to the anti-fraud provisions of the 1934 Act [FN3] where they were investment, and not commercial, in nature.[FN4]

FN1. See *United Housing Foundation, Inc. v. Forman,* 421 U.S. 837, 849, 95 S.Ct. 2051, 2059, 44 L.Ed.2d 621 (1975); *Church of the Holy Trinity v. United States,* 143 U.S. 457, 459, 12 S.Ct. 511, 512, 36 L.Ed. 226 (1892); *Union Planters, supra,* at 1180.

FN2. *Zeller v. Bogue Electric Manufacturing Corporation,* 476 F.2d 795, 800 (2d Cir.), *cert. denied,* 414 U.S. 908, 94 S.Ct. 217, 38 L.Ed.2d 146 (1973); *Sanders v. John Nuveen & Co., Inc.,* 463 F.2d 1075, 1079-1080 (7th Cir.), *cert. denied,* 409 U.S. 1009, 93 S.Ct. 443, 34 L.Ed.2d 302 (1972).

FN3. 15 U.S.C. § 78j provides:

> It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange-
>
> (a) To effect a short sale, or to use or employ any stop-loss order in connection with the purchase or sale, of any security registered on a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in

the public interest or for the protection of investors.

(b) To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

Rule 10b-5 provides:

Employment of Manipulative and Deceptive Devices.

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of a national securities exchange,

(1) to employ any device, scheme or artifice to defraud,

(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(3) to engage in any act, practice or course of business, which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

FN4. *See Bellah v. First National Bank,* 495 F.2d 1109, 1112 (5th Cir.1974) and cases cited therein.

This reasoning gives due recognition to the Supreme Court's admonition in *S.E.C. v. Capital Gains Research Bureau, Inc.,* 375 U.S. 180, 195, 84 S.Ct. 275, 284, 11 L.Ed.2d 237 (1963) that anti-fraud securities legislation is to be read "not technically and restrictively, but flexibly to effectuate its remedial purposes," and is compatible with that expressed in *S.E.C. v. C.M. Joiner Leasing Corporation,* 320 U.S. 344, 350-351, 64 S.Ct. 120, 123, 88 L.Ed. 88 (1943):

"However well these rules [of statutory construction] may serve at times to aid in deciphering legislative intent, they long have been subordinated to the doctrine that courts will construe the details of an act in conformity with its dominating general purpose, will read text in light of context and will interpret the texts so far as the meaning of the words fairly permits so as to carry out in particular cases the generally expressed legislative policy." (footnote omitted).

The effect of judicial interpretation on the 1934 Act was explained in *McClure v. First National Bank of Lubbock, Texas,* 497 F.2d 490, 495 (5th Cir.1974), *reh'g denied,* 502 F.2d 1167 (5th Cir.), *cert. denied,* 420 U.S. 930, 95 S.Ct. 1132, 43 L.Ed.2d 402 (1975):

We realize that our holding today that the Act does not apply to commercial notes of a longer duration than nine months, taken with the decisions voiding the short-term exemption as to investment paper, virtually writes that exemption out of the law. On one hand, the Act covers all *investment* notes, no matter how short their maturity, because they are not encompassed by the "any note"

> language of the exemption. On the other hand, the Act does not cover any *commercial* notes, no matter how long their maturity, because they fall outside the "any note" definition of a security. Thus, the investment or commercial nature of a note entirely controls the applicability of the Act, depriving of all utility the exemption based on maturity-length. The original scrivener of the definitional section may well wonder what happened to his carefully drawn exemption on the way to the courthouse, but if the judicial decisions do not properly reflect the intent of Congress as to the coverage of the Act, only that body can properly rectify the situation at this point, if stare decisis is to apply and the Supreme Court does not make some definitive decision contrary to the presently decided cases.

***95** The Securities Act of 1933 differs somewhat in its handling of short-term commercial paper. As explained in *Zeller,* 476 F.2d at 799:

Under the 1933 Act, while § 2(1) [15 U.S.C. 77b(1)] provides that any note is a "security," § 3(a)(3) [15 U.S.C. § 77c(a)(3)] exempts from the registration and prospectus requirements "[a]ny note, ..., which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited." However, § 17 [15 U.S.C. 77q] the general anti-fraud provision, provides in subsection c that the exemptions of § 3 shall be inapplicable.

If this language is interpreted literally, the anti-fraud provisions of the 1933 Act would apply to any note, regardless of its nature (commercial or investment) or duration (exceeding or not exceeding nine months). Courts have declined to so interpret the Act.
To expand the reach of those [federal securities] acts to ordinary commercial loan transactions would distort congressional purpose as we interpret it.

Great Western Bank & Trust v. Kotz, 532 F.2d 1252, 1260 (9th Cir.1976). Accordingly, the 30-day duration of the Wallaces' promissory note does not per se remove it from the purview of either the 1934 or the 1933 Act.

Each of the Acts includes "any note" within its definition of a "security," and at the same time limits that broad definition with the qualification that notes are securities "unless the context otherwise requires." Thus,

[t]he task has fallen to the Securities and Exchange Commission (SEC), the body charged with administering the Securities Acts, and ultimately to the federal courts to decide which of the myriad financial transactions in our society come within the coverage of these statutes.

United Housing Foundation, Inc. v. Forman, 421 U.S. 837, 848, 95 S.Ct. 2051, 2058, 44 L.Ed.2d 621 (1975).

The circuits are split with respect to the analysis to be applied in defining a "security," although the results reached under the various suggested tests are virtually identical. Generally, the circuits have rejected a literal application of the definitional sections of the securities acts FN5 and have focused***96** upon the "economic realities" underlying the transaction. *See Forman,* 421 U.S. at 848, 95 S.Ct. at 2058; *Tcherepnin v. Knight,* 389 U.S. 332, 336, 88 S.Ct. 548, 553, 19 L.Ed.2d 564 (1967).

> FN5. *But see, Exchange National Bank of Chicago v. Touche Ross & Co.,* 544 F.2d 1126 (2d Cir.1976), where Judge Friendly, writing for the Second Circuit deviated from the "commercial investment dichotomy" employed in *Movielab, Inc. v. Ber-*

key Photo, Inc., 452 F.2d 662 (2d Cir.1971) and *Zeller, supra,* and stated that "the best alternative now available may lie in greater recourse to the statutory language." Id., at 1137. Accordingly, he focused upon the "any note" and "unless the context otherwise requires" language of the acts to conclude that

> "One can readily think of many cases where ['the context otherwise requires']-the note delivered in consumer financing, the note secured by a mortgage on a home, the short-term note secured by a lien on a small business or some of its assets, the note evidencing a "character" loan to a bank customer, short-term notes secured by an assignment of accounts receivable, or a note which simply formalizes an open-account debt incurred in the ordinary course of business (particularly if, as in the case of the customer of a broker, it is collateralized). When a note does not bear a strong family resemblance to these examples and has a maturity exceeding nine months, § 10(b) of the 1934 Act should generally be held to apply." (footnote omitted)
>
> *Id.* at 1138.

In focusing on the economic realities to distinguish securities transactions from commercial dealings, the Court has used a test which, in "shorthand form":

... embodies the essential attributes that run through all of the Court's decisions defining a security. The touchstone is (1) the presence of an investment (2) in a common venture (3) premised on a reasonable expectation of profits (4) to be derived from the entrepreneurial or managerial efforts of others.

Forman, supra, at 852 [95 S.Ct. at 2060].[9]

> FN9. The genesis of this test is *SEC v. W.J. Howey Co.,* 328 U.S. 293, 301 [66 S.Ct. 1100, 1104,90 L.Ed. 1244] (1946)...

Union Planters, 651 F.2d at 1180-1181.

In *Union Planters, supra,* at 1181-1182, this Circuit employed the "risk capital" test set forth in *Kotz, supra,* at 1257, to determine whether a loan participation agreement between two financial institutions constituted a "security" within the meaning of the Securities Exchange Act of 1934.

The "risk capital" test focuses on six criteria: 1) time; 2) collateral; 3) form of the obligation; 4) circumstances of issuance; 5) relationship between amount borrowed and size of borrower's business; and 6) intended use of funds.

See also United California Bank v. THC Financial Corp., 557 F.2d 1351, 1358 (9th Cir.1977). Additionally, this Circuit cited with approval Judge Wright's concurring opinion in *Kotz,* which suggested the approach that no note given to evidence a bank loan be considered a "security." *Union Planters, supra,* at 1182. Application of the risk capital test substantiates the District Court's conclusion that the Wallaces' promissory note evidenced a loan and not an investment, a commercial note and not a security. It was a short-term note-30 days. It was partially collateralized and, therefore, repayment was not totally dependent upon the Wallaces' managerial and entrepreneurial efforts. The form of the obligation was that of a typical short-term promissory note. The impetus for the transaction came from Wallace, as borrower, rather than from the bank, as investor. And, the bank was to derive only interest on its loan, not profits. The only element of this transaction which was "investment" in nature was the fact that a relatively large amount of money was being borrowed on a relatively small business. That factor is of negligible importance, however, because although the funds were to be used to start a new automobile leasing business, the loan was to be repaid from the proceeds to be derived from the sales of two other established businesses.

Applying the "commercial-investment dichotomy" of the Third, Fifth, Seventh and Tenth Circuits, the conclusion is likewise inescapable that the promissory note given to appellant was not a security. *See United American Bank of Nashville v. Gunter,* 620 F.2d 1108 (5th Cir.1980); *National Bank of Commerce of Dallas v. All American Assurance Company,* 583 F.2d 1295 (5th Cir.1978); *Woodward v. Metro Bank of Dallas,* 522 F.2d 84 (5th Cir.1975); *McClure, supra, Zabriskie v. Lewis,* 507 F.2d 546 (10th Cir.1974); *Bellah v. First National Bank of Hereford,* 495 F.2d 1109 (5th Cir.1974), and *Lino v. City Investing Co.,* 487 F.2d 689 (3rd Cir.1973). As expressed in *C.N.S. Enterprises, Inc. v. G & G Enterprises, Inc.,* 508 F.2d 1354, 1359 (7th Cir.1975):

***97** In one sense every lender of money is an investor since he places his money at risk in anticipation of a profit in the form of interest. Also in a broad sense every investor lends his money to a borrower who uses it for a price and is expected to return it one day.

On the other hand, the polarized extremes are conceptually identifiable: buying shares of the common stock of a publicly-held corporation, where the impetus for the transaction comes from the person with the money, is an investment; borrowing money from a bank to finance the purchase of an automobile, where the impetus for the transaction comes from the person who needs the money, is a loan. In between is a gray area which, in the absence of further congressional indication of intent or Supreme Court construction has been and must be in the future subjected to case-by-case treatment.

On that spectrum the transaction was clearly commercial in nature. The impetus for this transaction came from the Wallaces who wished to borrow money from American Bank and Trust Company to finance a new business. Moreover repayment of the loan was not made contingent upon the success of that business. Thus, American Bank and Trust Company was not an "investor" purchasing a "security," as those terms are defined by the 1934 and 1933 Acts.

In enacting the securities laws, Congress did not intend to provide a broad federal remedy for all fraud. *Marine Bank v. Weaver,* 455 U.S. 551, 556, 102 S.Ct. 1220, 1223, 71 L.Ed.2d 409 (1982); *Kotz, supra,* at 1253; *Bellah, supra,* at 1114. This commercial transaction was not within the contemplation of the drafters and, therefore, appellant could not invoke the protection of those Acts. The District Court correctly determined that American Bank and Trust Company had improperly based jurisdiction on the federal securities laws.

Accordingly, the judgment of the District Court is affirmed.

C.A.Ky.,1983.
American Bank & Trust Co. v. Wallace
702 F.2d 93, Fed. Sec. L. Rep. P 99,118

END OF DOCUMENT

EXHIBIT "B"

6929E Cheney Drive
Paradise Valley, Az.

480-368-0218 HM.
480-368-2672 FAX.
janwallace@att.net

Jan Wallace

Objective President, SDI

Experience

2004-2002 Private Consulting/Investment Strategies Az.

President

- Orchestrated the reverse merger between M.W. Medical and Davi Skin, a new company of the Mondavi family, Carlos Mondavi C.E.O. .
- Trades on Nasdaq OTC BB approx. 5.00 dollars a share.
- Suggested possible merger partners and funding sources..

2001-1998 MW Medical Nevada

President C.E.O. Director

- A spin-off subsidiary of Dynamic Associates, Nasdaq, OTC BB. Symbol MWMD
- Raised 9 million USD.
- Achieved a market cap of 100 million dollars
- Sold a subsidiary, P&H Industries, California, at a 5,000,000 value
- Established a foreign office in Frankfurt, Germany; MW Medical GMBH, for European expansion
- Established our trading market in Europe and was listed on the Frankfurt Exchange
-

1997-1995 Dynamic Associates Inc Nevada

President C.E.O. Director

- Development of Medical Technologies utilizing microwave energy.
- Nasdaq, OTC BB, and the Frankfurt Exchange; Symbol DYAS
- Raised through a PPM and Convertible Debenture, a total of 30 million dollars.
- Achieved a market cap. Of 70 million
- Sold the entity in a reverse merger to Tele-Lawyer; Nasdaq company
- Subsiduaries:
- Chairman, Director :P&H Industries,Hi- Rel Co. Simi Valley, Cal.
- Chairman, Director : Microthermia Inc. San Jose, California founding technology for MW Medical in Benign Prostate Hyperplasia and cancerous tumors.
- Chairman, Director :Genesis Health Management. Operated 32 health care units in rural hospitals, in 7 states.
- Purchased 3 other private companies in health care for rapid growth

1995-1994 Claire Technologies Inc. Nevada

President, Director

- Development company specializing in software wafer cleaning systems
- Nasdaq, OTC BB; Symbol CLEA
- Raised through a PPM; a total of 3 million dollars
- Sold the company to a private company in Louisiana.

1993-1991 Active Systems Ottawa, Canada

Executive Vice-President. Prepared the company for IPO

1991-1990 The Heafey Group Toronto, Canada

Financial Consultant. Attained a series seven license for real-estate tax shelters

1989- 1987 Mailhouse Plus Ltd. Ottawa, Canada

Owner, President, Sold the company to Ascom Hasler of Bern Switzerland for 3 million dollars

1996-1993 Pitney Bowes Ottawa, Canada

First female sales executive in company, managed a team who achieved 180% of national quota; highest productive team in the country.

Education

Bachelor of Arts, Queens University, Kingston, Ontario, Canada

- Major: Political Science, Minor: Economics

Interests

Family, Arts and local Charities

EXHIBIT "C"

Charles S. Price (#006197)
Pamela J.P. Donison (#019741)
ALLEN, PRICE & PADDEN, P.C.
3131 East Camelback Road, Suite 110
Phoenix, Arizona 85016-4597
(602) 381-0500

Attorneys for Plaintiff

FILED
2000 MAY 25 PM 3:40

ARIZONA SUPERIOR COURT

MARICOPA COUNTY

CLEMENT L. BURWELL, III, Plaintiff, vs. MW MEDICAL, INC., a Nevada Corporation; JAN WALLACE, an unmarried woman; John and/or Jane Does, 1 - 10; Black Entities 1 -10, Defendants.	**CV 2000-007658** **COMPLAINT (AMENDED)**

Plaintiff Clement L. Burwell, III, ("Plaintiff"), by and through his undersigned attorneys, Allen & Price, P.L.C., alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff is a former employee of MW Medical, Inc. ("MWM"), employed from April 1999, to January 31, 2000, in the capacity of National Sales Manager.

2. On information and belief, MWM is a Nevada corporation, with its principal place of business in Scottsdale, Arizona. MWM is a supplier of microwave medical equipment.

3. On information and belief, MWM is a publicly-traded company (NASD symbol MWMD).

4. On information and belief, MWM markets a microwave medical device with a purported use of hair removal; FDA approval has not been granted for use of such device on the neck or face.

5. Plaintiff was induced to join MWM based on material representations, both oral and written, as to the efficacy of the device, sales projections, and projected sales commissions.

6. As of the date of Plaintiff's resignation, MWM had failed to accomplish sales projections or projected sales commissions promised. On information and belief, no devices have been sold as of the date of this complaint and devices installed in the field have been recalled.

COUNT ONE
Failure to Pay Wages Due

7. Plaintiff hereby incorporates the averments contained in paragraphs 1 through 6 as though said averments were fully set forth herein.

8. Upon his resignation, Plaintiff was owed January wages in the amount of $7,083.33.

9. Upon his resignation, Plaintiff was owed business expenses in the amount of $1,526.06.

10. Upon his resignation, Plaintiff was vested in 56,666 shares of MWM stock as part of his agreed-upon compensation for services performed for the corporation.

11. As of March 1, 2000, Plaintiff had not been paid any wages or expenses for January, 2000, and the sale of stock was blocked by the corporation. As of March 21, 2000, the value of the stock options had dropped from $92,365.58 (January 31, 2000, value) to $7,366.58, causing further economic harm to Plaintiff.

12. Despite demand, Defendant has failed and refused to pay wages, compensation, and expenses due.

13. MWM has failed to pay wages due within the statutory period and, therefore, Plaintiff is entitled to treble damages pursuant to A.R.S. § 23-355.

14. Plaintiff is entitled to recover attorney's fees in this matter to relieve the burden of litigating to recover his earned wages pursuant to A.R.S. § 12-341.01.

COUNT TWO
Libel

15. Plaintiff hereby incorporates the averments contained in paragraphs 1 through 14 as though said averments were fully set forth herein.

16. MWM filed its most recent Annual Report, SEC Form 10KSB, which contained an unmistakable and flagrant allegation of dishonesty and lack of professional integrity on the part of the "vice president of marketing and national sales manager," Mitch DeShon and Luke Burwell respectively. [Exhibit A, attached.]

17. MWM's libelous publication was posted on the Internet as of April 17, 2000, and it has been published successively and continuously since that date, resulting in multiple separate offenses of libel.

18. Plaintiff has made demand upon MWM to retract and correct the libelous publication pursuant to A.R.S. § 12-653.02. [Exhibit B, attached.]

19. Rather than publishing a retraction, MWM in fact re-published the same libelous Annual Report, SEC Form 10KSB, on May 2, 2000. [Exhibit C, attached.]

20. MWM's libelous publications are per se defamatory, entitling Plaintiff to recover exemplary damages, general damages, and special damages.

21. MWM's failure to cease and desist, as demanded by letter on April 21, 2000 and pursuant to A.R.S. § 12-653.03, entitles Plaintiff to recover general, special, and exemplary damages.

COUNT THREE
Slander

22. Plaintiff hereby incorporates the averments contained in paragraphs 1 through 21 as though said averments were fully set forth herein.

23. On information and belief, MWM stated to DeYoung and Associates, the investor relations firm retained by MWM, and/or authorized or permitted DeYoung and Associates as MWM's agent to state the following:

a) That former employees had broken into the MW Medical office and files were stolen;

b) That the former salespeople had sold the equipment to non-physicians, requiring all of these sales to be returned (claiming that there were no problems with burns or blisters and the machines worked perfectly).

24. Such slanderous utterances are slander per se.

25. A.R.S. § 12-651 entitles plaintiff to recover all damages suffered as a result of slanderous utterances by MWM or through its agent, DeYoung and Associates.

COUNT FOUR
Harassment

26. Plaintiff hereby incorporates the averments contained in paragraphs 1 through 26 as though said averments were fully set forth herein.

27. On or about April 20, 2000, Jan Wallace of MWM filed a police report with the Scottsdale Police Department falsely claiming that Mitch DeShon and Luke Burwell had broken and entered the business offices of MWM on multiple occasions between the dates of February 7, 2000 and April 4, 2000. [Exhibit D, attached.]

28. In the report, MWM claimed that in addition to the breaking and entering, Plaintiff and his colleague had stolen contract and personnel files, correspondence relating to pending litigation against Plaintiff and DeShon, a notebook containing sales leads and client information, and an address book belonging to Jan Wallace.

29. MWM also claimed that Jan Wallace was unable to receive her electronic mail.

30. Plaintiff has suffered embarrassment, annoyance, and emotional distress due to being contacted by the Scottsdale Police Department investigating the false accusations.

31. Plaintiff's emotional distress and personal and professional defamation have been compounded by the fact of MWM's publishing or broadcasting the allegations and information regarding the police report to third parties, including but not limited to DeYoung and Associates.

32. The Scottsdale Police Department has stated that it does not intend to pursue this matter as an actual crime against the property of MWM.

33. Such harassment through filing of a false police report is a violation of A.R.S. § 13-2921 (5), a class one misdemeanor.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

A. Payment of January wages and other compensation, trebled, with interest thereon at the statutory rate from February 1, 2000, until paid;

B. Payment of business expenses with interest thereon at the statutory rate from February 15, 2000, until paid; s

C. A letter of retraction, personally signed by officers and directors of the corporation, acknowledging the innocence, integrity, and honesty of Plaintiff in his business dealings with MWM;

D. Damages in an amount to be determined at trial for damage to Plaintiff's professional and personal reputation as a result of MWM's libel;

E. Damages in an amount to be determined at trial for damage to Plaintiff's professional and personal reputation as a result of MWM's slander;

F. Damages in an amount to be determined at trial for embarrassment, annoyance, emotional distress and damage to Plaintiff's professional and personal reputation as a result of MWM's harassment in filing a false police report;

G. Payment of reasonable attorney's fees and costs, pursuant to A.R.S. § 12-341.01; and

H. Such other and further relief as this Court may deem just and proper.

May 25, 2000.

Respectfully Submitted,

ALLEN, PRICE & PADDEN, P.C.

By Pamela J. Donison
Charles S. Price
Pamela J.P. Donison
3131 E. Camelback Road, #110
Phoenix, AZ 85016-4597

Attorneys for Plaintiff

Copy hand delivered this 25th day
of May, 2000 to:

Kent Brockelman, Esq.
BROCKELMAN & BRODMAN, P.L.C.
Two North Central Avenue, Suite 1750
Phoenix, Arizona 85004

Attorneys for Defendant

Mary Sandberg

EXHIBIT “D”

ED 14

MICHAEL K. JEANES
Clerk of the Superior Court

By DESIREE NELSON, Deputy
Date 04/09/2001 Time 11:12 AM

Description	Qty	Amount
CASE# CV2001-005996		
CIVIL NEW COMPLAINT	001	150.00
TOTAL AMOUNT		150.00

Receipt# 00003987482

John R. Augustine, Jr. (#013743)
John R. Augustine, Jr., P.C.
The Citadel, Suite 300
2727 North Third Street
Phoenix, Arizona 85004-1106
602/650-1515

Attorney for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

WESTMINSTER AGENCIES, LTD., an Isle of Man corporation,

Plaintiff,

vs.

DYNAMIC ASSOCIATES, INC., a Nevada corporation; JAN WALLACE and JOHN DOE WALLACE, husband and wife; HERB CAPOZZI and JANE DOE CAPOZZI, husband and wife; LOGAN ANDERSON and JANE DOE ANDERSON, husband and wife; W. A. LUCKY, III and VICKIE TALLEY LUCKY, husband and wife; J. T. SIMMONS and JANE DOE SIMMONS, husband and wife; R. MICHAEL ASBURY and JANE DOE ASBURY, husband and wife; WILLIAM H. MEANS and JANE DOE MEANS, husband and wife; HARRY MOLL and JANE DOE MOLL, husband and wife, JOHN and JANE DOES I - X; XYZ CORPORATIONS I - X; and ABC PARTNERSHIPS I - X,

Defendants.

No. CV CV2001-005996

COMPLAINT

(Breach of Contract, Securities Fraud, Declaratory Relief)

For its complaint against defendants, plaintiff Westminster Agencies, Ltd. hereby alleges as follows:

I. THE PARTIES, JURISDICTION AND VENUE

1. Plaintiff Westminster Agencies, Ltd. (hereinafter "Westminster") is a Isle of Man corporation duly authorized to and conducting business in the United Kingdom and elsewhere.

2. Defendant Dynamic Associates, Inc. (hereinafter "DAI") is a Nevada corporation, which headquarters and primary business operations are, and were at all times material hereto, located in Maricopa County, Arizona. DAI was organized in or about, July, 1989 as a "blank check" enterprise without any specified business. By 1995, through a series of mergers and/or acquisitions, DAI had become a publicly traded holding company (National Quotation Bureau's Bulletin Board—the lowest echelon electronic securities market) engaged in the health care management business. Prior to 1995, DAI had little or not substantive operations. During 1995, the company commenced limited operations in the business of medical microwave technology acquisition. In or about September, 1996, DAI offered for sale and sold the securities that form the basis for the herein cause of action. All of the acts of DAI as alleged herein occurred within or were initiated from Maricopa County, Arizona.

3. Defendant Jan Wallace (hereinafter "Wallace") is, on information and belief and was at all times material hereto, a Canadian citizen residing and doing business in Maricopa County, Arizona. Wallace was, at all times material hereto, President, Chief Operating Officer and a Director of defendant DAI. In the foregoing capacities, Wallace was directly or indirectly responsible for the securities offering which forms the basis for the herein cause of action. All of

the acts of Wallace as alleged herein occurred within or from Arizona. Defendant John Doe Wallace is, on information and belief, Wallace's husband. All of the acts of Wallace as alleged herein were, also on information and belief, undertaken on behalf of her marital community with John Doe Wallace. When John Doe Wallace's true identity is revealed, plaintiff will seek leave of court to amend its complaint to reflect the same.

4. Defendant Herb Capozzi (hereinafter "Capozzi") is, on information and belief and was at all times material hereto, a Canadian citizen doing business in Maricopa County, Arizona. Capozzi was, at all times material hereto, a director of defendant DAI. In the foregoing capacity, Capozzi was directly or indirectly responsible for the securities offering which forms the basis for the herein cause of action. All of the acts of Capozzi as allged herein occurred within or from Arizona. Jane Doe Capozzi is, on information and belief, Capozzi's wife. All of the acts of Capozzi as alleged herein were, also on information and belief, undertaken on behalf of his marital community with Jane Doe Capozzi. When Jane Doe Capazzi's true identity is revealed, plaintiff will seek leave of court to amend its complaint to reflect the same.

5. Defendant Logan Anderson (hereinafter "Anderson") is, on information and believe and was at all times material hereto, a New Zealand citizen residing and doing business in Maricopa County, Arizona. Anderson was, at all times material hereto, Secretary, Treasurer and a Direct of defendant DAI. In the foregoing capacities, Anderson was directly or indirectly responsible for the securities offering which forms the basis for the herein cause of action. All of the acts of Anderson as alleged herein occurred within or from Arizona. Defendant Jane Doe Anderson is, on information and belief, Anderson's wife. All of the acts of Anderson as alleged

herein were, also on information and belief, undertaken on behalf of his marital community with Jane Doe Anderson. When Jane Doe Anderson's true identity is revealed, plaintiff will seek leave of court to amend its complaint to reflect the same.

6. Defendants W. A. Talley and Vickie Talley Lucky (hereinafter "the Luckys") are husband and wife. On information and belief, the Luckys are United States citizens residing and doing business in Louisiana and elsewhere, including Arizona. The Luckys were, at all times material hereto, officers and directors of Genisis, a subsidiary of defendant DAI. In the foregoing capacities, the Luckys were directly or indirectly responsible for the securities offering which forms the basis for the herein cause of action. All of the Luckys' acts as alleged herein occurred within or from Arizona. Each of the Luckys' acts were undertaken on behalf of themselves and one another.

7. Defendant J.T. Simmons (hereinafter "Simmons") is, on information and belief and was at all times material hereto, a United States citizen residing and doing business in Maricopa County, Arizona. Simmons was, at all times material hereto, Vice President of Operations of defendant DAI. In the foregoing capacity, Simmons was directly or indirectly responsible for the securities offering which forms the basis for the herein cause of action. All of the acts of Simmons as alleged herein occurred within or from Arizona. Defendant Jane Doe Simmons is, on information and belief, Simmons' wife. All of the acts of Simmons were, also on information and belief, undertaken on behalf of his marital community with Jane Doe Simmons.

8. Defendant R. Michael Asbury (hereinafter "Asbury") is, on information and belief and was at all times material hereto, a United States citizen residing and doing business in Maricopa County, Arizona. Asbury was, at all times material hereto, Chief Financial Officer of defendant DAI. In the foregoing capacity, Asbury was directly or indirectly responsible for the securities offering which forms the basis for the herein cause of action. All of the acts of Asbury as alleged herein occurred within or from Arizona. Defendant Jane Doe Asbury is, on information and belief, Asbury's wife. All of the acts of Asbury were, also on information and belief, undertaken on behalf of his marital community with Jane Doe Asbury. When Jane Doe Asbury's true identity is revealed, plaintiff will seek leave of court to amend its complaint to reflect the same.

9. Defendant William H. Means (hereinafter "Means") is, on information and belief and was at all times material hereto, a United States citizen residing and doing business in Louisiana and elsewhere, including Arizona. Means was, at all times material hereto, Executive Vice President of defendant DAI. In the foregoing capacity, Means was directly or indirectly responsible for the securities offering which forms the basis for the herein cause of action. All of the acts of Means occurred within or from Arizona. Defendant Jane Doe Means is, on information and belief, Means' wife. All of the acts of Means were, also on information and belief, undertaken on behalf of his marital community with Jane Doe Means. When Jane Doe Means' true identity is revealed, plaintiff will seek leave of court to amend its complaint to reflect the same.

10. Defendant Harry Moll (hereinafter "Moll") is, on information and belief and was at all times material hereto, a Canadian citizen residing and doing business in British Columbia Canada and elsewhere, including Arizona. Although not formally an officer or director of defendant DAI, Moll exercised considerable influence and control over the activities of the company. As such, Moll was directly or indirectly responsible for the securities offering which forms the basis for the herein cause of action. All of the acts of Moll as alleged herein occurred within or from Arizona. Defendant Jane Doe Moll is, on information and belief, Moll's wife. All of the acts of Moll were, also on information and belief, undertaken on behalf of his marital community with Jane Doe Moll. When Jane Doe Moll's true identity is revealed, plaintiff will seek leave of court to amend its complaint to reflect the same.

11. Defendants John and Jane Does I - X, XYZ Corporations I - X, and ABC Partnerships I - X are fictitiously named individuals and/or entities whose/which true identities and involvement in the activities complained of herein are presently unknown. When these fictitiously named defendants' true identities and/or involvement herein is/are revealed, plaintiff will seek leave of court to amend its complaint to reflect the same.

12. By virtue of the foregoing and otherwise, this court has jurisdiction over the matter and the parties hereto and venue herein is proper.

II. EVENTS GIVING RISE TO DEFENDANT'S LIABILITY

The Offering.

13. Plaintiff repeats and realleges paragraphs 1 through 12 hereof as if fully set forth hereinagain.

14. In or about August, 1996, defendant DAI entered into a "final" Acquisition Agreement to purchase 100% of the issued and outstanding common stock of Genesis Health Management Corporation ("Genesis")[1] for $15,000,000 ($12,000,000 cash and a $3,000,000 carry back Promissory Note) and 3,000,000 shares of DAI common stock (valued at $3.33 for purposes of the acquisition). In order to finance the foregoing, DAI, through its Board of Directors and in coordination with the Board of Directors of Genesis, authorized the sale of 1,000 units of securities in the form of "10% Convertible Subordinated Notes" (the "Notes").[2]

15. The Notes were not registered for sale with the United States Securities and Exchange Commission (the "SEC") but were instead sold (purportedly) in reliance upon an exemption from the registration requirements set forth in the Securities Act of 1933 (the "Securities Act" or the "'33 Act"). The particular exemption relied upon requires that offers and sales only be made to individuals or entities outside the United States. This exemption is commonly referred to as "Regulation S."

16. In connection with the offer and sale of the Notes referenced herein above, DAI, with the active assistance of Genesis and its Officers and Directors, prepared and circulated a private offering memorandum (the "Memorandum") dated September 16, 1996. According to the Memorandum, approximately 78% of the proceeds to be raised (total funds to be raised $18.5 million) or $14.5 million was to be used in connection with the acquisition of Genesis.

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[1] According to the Memorandum, Genesis was engaged in, among other things, the business of small hospital management.

[2] Each of the 1,000 units were offered at $18,500 with interest payable semi-annually on January 15 and July 15 with the principal due on or before September 15, 2006.

17. According to DAI press releases and other information disseminated by or at the direction of the company, Genesis, and their respective officers and directors (the individual defendants hereto), at or leading up to the date of the Note offering complained of herein, Genesis was touted as a highly profitable enterprise that would add substantially to DAI's financial status. Indeed, according to information which the company disseminated or caused to be disseminated in or about August, 1996, Genesis claimed to have 22 hospitals under contract with double digit growth expected in the coming year. Specifically, according to a DAI press release dated August 14, 2001, by virtue of the proposed acquisition of Genesis, pre-tax profits were projected to by "over $10 million."

18. In actuality, Genesis' profitability and growth projects were either grossly over stated or completely misrepresented altogether. Alternatively, the representations regarding profitability and growth were not supported in fact. Further, notwithstanding repeated references to the profitability of Genesis, the Memorandum contains no financial statements or other specific information to support the company's assertions respecting the same. As a result, plaintiff was required to simply take defendants' word that the company was indeed profitable and that such profitability would positively impact DAI.

19. By virtue of defendants' glowing representations respecting Genesis' profitability, and notwithstanding general disclaimers in the Memorandum to the contrary, plaintiff was led to believe that investment in the Notes represented an extremely safe and secure vehicle in which to place its funds. In addition, according to the Memorandum itself, although investors were considered "unsecured," in the event of any merger or consolidation (see ***"The Proposed***

Merger" below), any acquiring corporation or individual would be required to execute a supplemental trust indenture for the benefit of the Note holders. As a result of the foregoing, *plaintiff was given further assurance that the Notes would be repaid.*

20. In addition to the foregoing, by virtue of the conversion feature of the Notes (Note holders were permitted to convert debt to common stock equity at $3.50 per share) and the glowing representations regarding profitability, plaintiffs were further ensured of repayment of their investment monies together with substantial profits thereon. In this regard, defendants, either directly or indirectly, represented to plaintiff that it would secure NASDAQ (a higher echelon stock market than the Bulletin Board) within one year and that, as a result, DAI's shares would be highly liquid and, therefore, easily sold. More importantly, based upon the information disseminated by defendants, the DAI's stock was projected to be trading at $6 per share within one (1) year and $17 per share within three (3) years. As result of the foregoing, *investment in* the Notes was touted as a "can't lose" proposition.

21. Based upon defendants' representations as set forth above and otherwise, plaintiff determined to invest in the Notes. In this regard, in or about late October and early December, 1996, plaintiff purchased a total of 11 units for a total purchase cost of $203,500.

The Cover-up.

22. After the units were sold, the acquisition of Genesis was consummated. By virtue of the foregoing, the owners of Genesis (including defendants Means, the Luckys and Asbury) were paid $12 million cash, $3 million in the form of a carry back note, and approximately 3,000,000 shares of DAI common stock.

23. Shortly after plaintiff purchased the Notes, defendants continued to tout the profitability of its Genesis subsidiary. For example in a December, 1996 press release, defendants claimed that Genesis was "highly profitable" and that, by virtue of the same, no further financing would be necessary for its other subsidiaries. In addition, the company claimed to have an additional 11 hospitals committed for management services in 1997.[3] After the December, 1996 press release referenced above (which information induced plaintiffs additional investment), all DAI press releases referring to future profitability or other matters incorporated a disclaimer stating, in effect, that there existed various risks which made achievement of such future matters uncertain.

24. On or about January 15, 2000, the company refused or otherwise failed to make the semi-annual interest payment. As a result, since that time, a condition of default has existed and the full amount of DAI's debt to plaintiff is now due and owing and demand therefor is hereby made.

The Proposed Merger.

25. As part of the Note indenture, defendant DAI is required to secure from any entity or person that is to acquire "all or substantially all" of the company's assets a supplemental indenture that, in essence, obligates the acquiring entity or person to assume responsibility for repayment of the Notes.

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[3] Although not incorporated into the Memorandum, information regarding the 11 additional hospitals and the fact that financing could now be internally generated was communicated to plaintiff prior to its December Note purchase and, in fact, such information was instrumental in its decision to invest additional funs.

26. In or about August, 2000, DAI entered into negotiations to merge its business into another entity. As part of such merger, the merged entity has proposed to convert plaintiff's Notes into common stock of the surviving entity. DAI and the (proposed) merged entity refuse to acknowledge responsibility for the debt which the Notes represent as part of the financial statements of the new entity. In any event, because of the limited operations of the merging entity, it appears that repayment of the debt, even if recognized, would be dubious at best.

III. CLAIMS FOR RELIEF

First Claim for Relief

(Breach of Contract—DAI)

27. Plaintiff repeats and realleges paragraphs 1 through 26 hereof as if fully set forth hereinagain.

28. The Notes at issue herein constitute a contract for the payment of money by and between plaintiff and defendant DAI. In connection with the aforesaid contract, defendant DAI was and is obligated to pay plaintiff 10% interest per annum on all outstanding principal and to return to plaintiff such principal on or before September 15, 2006. DAI has failed or otherwise refused to make the interest payments required and such failure or refusal constitutes a breach of contract whereby plaintiff is entitled to demand, and plaintiff hereby so demands, repayment of the entire principal now outstanding together with interest thereon at the rate of 10% per annum from the date of default until paid in full.

29. By virtue of defendant DAI's breach of contract as set forth above, plaintiff is additionally entitled to an award of its reasonably incurred attorney's fees pursuant to A.R.S. § 12-341.01.

Second Claim for Relief

(Securities Fraud-all defendants)

30. Plaintiff repeats and realleges paragraphs 1 through 29 hereof as if fully set forth hereinagain.

31. The Notes offered for sale and sold by DAI to plaintiff constitute securities within the meaning of A.R.S. § 44-1801(A)(23). All of the defendants participated, either directly or indirectly, in the offers and sales of securities to plaintiffs at issue here by, among other things, making or causing to be made untrue statements of material fact or omitting to state material facts, in light of the circumstances under which they were made, not misleading. For example, defendants misrepresented: that Genesis was highly profitable and, as a result, investment in the Notes was not risky as would otherwise be the case with a development stage company; that, by virtue of the protective clauses incorporated into the Notes offering, plaintiffs would be protected against loss; that, although disclosed as a risk factor (*i.e.* inability to obtain subsequent financing), Genesis profitability insured that financing needs would be generated internally. In addition, while making affirmative statements regarding profitability, defendants omitted or otherwise failed to disclose pertinent information respecting Genesis' actual results of operations and financial condition.

32. The foregoing misrepresentations and omissions of material fact constitute securities fraud within the meaning of A.R.S. § 44-1991(A)(2) and, by virtue of the same, plaintiffs are entitled to rescind their purchase of Notes and they hereby tender the same pursuant to A.R.S. § 44-2001. In addition, plaintiffs are further entitled to an award of interest on all amounts invested together with its taxable court costs and reasonably attorney's fees.

Third Claim for Relief

(Declaratory Relief--DAI)

33. Plaintiff repeats and realleges paragraphs 1 through 32 hereof as if fully set forth hereinagain.

34. The Notes and trust indenture thereunder purchased by plaintiffs constitute contracts. In connection with such contracts, defendant DAI is obligated to take certain measures to protect Note holders, including plaintiff, by securing a supplemental indenture whereunder any entity or person acquiring all or substantially all of defendants assets must assume responsibility for the debt represented by the Notes. By virtue of a proposed merger whereunder Note holders, including plaintiff, are to be offered only equity participation and not recognition of the outstanding debt, defendant DAI has or is about to breach the terms of the Note and trust indenture thereunder.

35. The protections set forth above are involve an import legal right, status and relations among the parties and they are therefore subject to declaratory adjudication. Specifically, plaintiff is entitle to a declaratory judgment stating its rights *vis a vis* continuance and a creditor to any entity acquiring defendants' assets.

IV. DEMAND FOR RELIEF

WHEREFORE, Plaintiff demands judgment in its favor and against the defendants as set forth herein as follows:

1. For all of plaintiffs' damages proximately caused by or incurred as a result of defendants acts as alleged herein and in an amount to be proven at trial in this matter but in no event less than $203,500;
2. For all pre-judgment and post-judgment interest at the legal rate on all amounts awarded herein;
3. For all of plaintiffs' costs and attorneys' fees incurred herein;
4. For declaratory judgment confirming plaintiff's rights under the Note and trust indenture agreement.
5. For such other and/or further relief as the court deems just and proper in the circumstances.

DATED this 5th day of April, 2001

JOHN R. AUGUSTINE, JR., PC

John R. Augustine, Jr.
The Citadel, Suite 300
2727 North Third Street
Phoenix, Arizona 85004-1106
Attorney for Plaintiff

D:\...\Westminster\P\Complaint

EXHIBIT “E”

STATEMENT OF FACTS

1. Jan Mary Wallace resides at [redacted]. Her social security number is [redacted].

2. Ms. Wallace has dual citizenship in Canada and purportedly in the Cayman Islands, but she is a resident alien and U.S. taxpayer.

3. Ms. Wallace is currently Chief Executive Officer, President, and a Director of Davi Skin, Inc. ("Davi Skin"), a thinly-capitalized, publicly-traded cosmetics company located either at 11990 San Vicente Blvd., Suite 300, Los Angeles, CA 90049 or 4223 Glencoe Avenue, Suite 130, Marina Del Rey, California.[1] Ms. Wallace is also President of Wallace Black Financial Services, a consulting company that assists firms with raising equity capital. Until January 17, 2008, Ms. Wallace also served as President, CEO, and a Director of Secured Diversified Investment, Ltd., a small publicly-traded company.

4. Ms. Wallace owns, directly or indirectly, and uses several offshore bank and securities accounts, as well as several offshore entities, to conceal her assets and trading profits from illegal penny stock "pump and dump" schemes and other activities.

5. Although the exact amounts at issue are unknown, Ms. Wallace has hidden substantial assets abroad, totaling millions of dollars. Upon information and belief, Ms. Wallace has not disclosed the existence of these assets or accounts to the Internal Revenue Service under Title 31 and has not reported the income generated in these accounts under Title 26.

6. Based on a Davi Skin Active Shareholder Report as of July 13, 2007 (issued by Davi Skin's transfer agent, Pacific Stock Transfer Company), attached hereto as Exhibit A, the

[1] For reasons unknown, Davi Skin has been unable to timely file its required disclosures with the Securities Exchange Commission ("SEC") for over a year.

four largest unrestricted common stock positions in Davi Skin were held by Arch Ltd., Hepburn Holdings Ltd., Sunshine Ltd., and The Chloe Group of Companies (Chloe is the name of Ms. Wallace's daughter).[2] All four of these companies are owned and/or controlled by Ms. Wallace, and all four have the same address: The LOM Building, 27 Reid St., Hamilton, Bermuda.

7. The LOM Building is owned and occupied by LOM Holdings, a Bermuda-based parent company of a group of financial services companies founded by brothers Brian Lines and Scott Lines. "LOM" stands for Lines Overseas Management. The Lines brothers and LOM Holdings are currently being sued by the SEC for engaging in illegal "pump and dump" penny stock scams. The complaint in this lawsuit, filed in 2007 in the U.S. District Court for the Southern District of New York, is attached hereto as Exhibit B. In addition to providing offshore brokerage services and administrative services for corporate nominees, the LOM group also provides offshore banking services. *See* <http://www.lom.com/>.

8. Ms. Wallace routinely wires funds to LOM Securities in Bermuda and the Cayman Islands as payment for administration of her corporate nominees Arch Ltd., Sunshine Ltd., Hepburn Holdings, Ltd., and The Chloe Group of Companies. *See* Exhibit C attached hereto. Ms. Wallace has wired funds to LOM using JP Morgan Chase and HSBC Bank USA as correspondent banks, with beneficiary banks including The Bank of Bermuda Limited (account number 1010-956504) and Bank of NT Butterfield (Bermuda) (account number 20.006.840.351501.100).

9. Ms. Wallace has also used and/or controls a firm named Bridge Street Services Limited in these transactions.

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[2] Another large Davi Skin shareholder, Artist House Holdings, Inc., based in Japan, sued Davi Skin and its principals in 2006 for securities fraud. According to a Form 8-K filed with the SEC

(footnote continued on next page)

10. Ms. Wallace uses these offshore entities to acquire free-trading shares in defunct, publicly-traded corporate shells. These shell entities are then sold to a private company in what is termed as a "reverse merger."[3] The transaction is a means of taking a private company public without the cost and scrutiny associated with an initial public offering.

11. After materially false information touting the merger and prospects for the new company is disseminated to the investing public (the "pump" phase), Ms. Wallace then causes her offshore corporate nominees (such as Arch Ltd., Hepburn Holdings Ltd., Sunshine Ltd., and The Chloe Group of Companies) to sell the free-trading shares of the company at an artificially-inflated price (the "dump" phase). Thereby, Ms. Wallace pockets substantial profits on the sale of the stock, and in turn avoids paying capital gains on the sales as the shares are sold by offshore nominees and the proceeds are retained in offshore accounts.

12. By her own admission under oath, Ms. Wallace has been sued at least six or seven times for fraud or similar malfeasance with respect to her roles in various public companies. In one such case, *Thomas & Wong General Contractor, Inc. v. Blume Law Firm, et al.*, Superior Court of Arizona (Maricopa County), CV No. 2005-051325, Mr. Edward Tarapaski testified under oath that Ms. Wallace maintains offshore bank accounts. An excerpted copy of the trial transcript is attached hereto as Exhibit D.

(footnote continued from previous page)
by Davi Skin on July 9, 2008 and signed by Ms. Wallace, the lawsuit was settled for $650,000.

[3] Upon information and belief, Ms. Wallace has a long-standing relationship with Cane Clark, LLP, a Las Vegas-based securities law firm well known as a facilitator of thinly-capitalized reverse-merger transactions. Also upon information and belief, Ms. Wallace has conspired with several individuals in her pump and dump activities, including Kyleen Cane, a principal of Cane Clark LLP, as well as Devi Johal and Mujit Johal. These individuals may use offshore banking and brokerage arrangements similar to Ms. Wallace's in order to conceal their activities.

13. Dennis Mandell, the whistleblower in this action, discovered the above information through an investigation of allegations of fraud associated with one of the companies Ms. Wallace appears to have intended to use as part of one of her pump and dump schemes.

LEGAL ANALYSIS

Based on the facts outlined above and upon information and belief, Ms. Wallace is in violation of two primary sets of rules administered by the IRS with respect to assets and transactions in foreign jurisdictions: (1) the foreign bank account reporting regime under 31 U.S.C. § 5314 and the regulations promulgated thereunder (commonly referred to as the "FBAR" requirements), and (2) the anti-deferral regime of subpart F of the Internal Revenue Code. These violations have resulted and continue to result in the material underreporting and fraudulent concealment of Ms. Wallace's income and assets and render Ms. Wallace subject to civil penalties and interest, as described below.

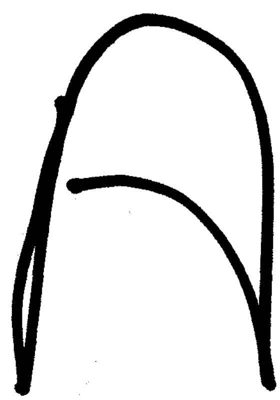
Although Ms. Wallace is a citizen of Canada and possibly the Cayman Islands, she is a legal resident of the United States, and as such, is a "United States person" for federal income tax purposes and therefore subject to U.S. taxation on her worldwide income. *See* I.R.C. § 7701(a)(30).

Pursuant to 31 U.S.C. § 5314 and 31 C.F.R. § 103.24, "[e]ach person subject to the jurisdiction of the United States . . . having a financial interest in, or signature authority or other authority over, a bank, securities or other financial account in a foreign country shall report such relationship to the [IRS] for each year in which such relationship exists . . . ." These provisions require that a Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts (FBAR) be filed if the aggregate balances of such foreign accounts exceed $10,000 at any time during the year. As Ms. Wallace is subject to the jurisdiction of the United States, and upon information and belief has not disclosed the existence of substantial assets held in accounts with Bermudan and/or Cayman Islands banks, Ms. Wallace is in clear violation of 31 U.S.C. § 5134. Accordingly, pursuant to 31 C.F.R. § 103.57(g)(2), Ms. Wallace is subject to a penalty of up to

$100,000 for each violation (i.e., each failure to report a foreign account each year in which such account held more than $10,000 in assets).

Furthermore, I.R.C. § 951 requires that U.S. shareholders of controlled foreign corporations ("CFCs") include, on a current basis, their pro rata share of all subpart F income earned by the CFC in which they hold an interest. A "U.S. shareholder" for purposes of subpart F is a 10% or greater stakeholder in a foreign company. A company is a CFC if it is held more than 50% by U.S. shareholders. Upon information and belief, Ms. Wallace's corporate nominees managed by LOM Securities are held exclusively by herself and her immediate family members, and as such qualify as CFCs. Under I.R.C. § 952(a)(2), subpart F income includes all foreign base company income which in turn, under I.R.C. § 954(a)(1), includes all foreign personal holding company income. Section 954(c) defines foreign personal holding company income as, *inter alia*, dividends, interest, and gains from the sale of property such as stock or other capital assets. Accordingly, subpart F requires that Ms. Wallace include in her gross income all investment income and capital gains earned by her offshore entities. Upon information and belief, her failure to do so constitutes a violation of subpart F and is evidence of a willful attempt to evade her U.S. federal income tax obligations.

As a consequence of the violations described above, Ms. Wallace is subject to penalties and interest, in addition to the taxes due and owing. At a minimum, Ms. Wallace is subject to the I.R.C. § 6662 penalty for negligence or disregard of rules and regulations and/or substantial understatement of income tax, which imposes a penalty of 20% of the understatement attributable to the penalized conduct. Furthermore, Ms. Wallace may be subject to the civil fraud penalty of section 6663, which imposes a penalty of 75% of the understatement of tax liability due to fraud. The section 6663 penalty requires a showing of intent "to evade taxes known to be due and owing by conduct intended to conceal, mislead, or otherwise [to] prevent the collection of taxes, [where] there is an underpayment of tax." *Nelon v. Commissioner*, T.C. Memo. 1997-49. Ms. Wallace's failure to disclose offshore accounts and the use of offshore entities to conceal her trading activities strongly suggests an intent on Ms. Wallace's part to defraud the IRS, in addition to concealing her illegal securities activities. Finally, Ms. Wallace is also subject to interest on back taxes and penalties at a rate of 3% plus the short-term federal rate. I.R.C. § 6621(a)(2). Interest began to accrue on the due dates of the returns for which there were understatements of tax liability. I.R.C. § 6601(e)(2)(B).



DAVI SKIN

2,249,825

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER

Active Share Holders	565
Active Certificates	637
Free Trading Stock	5,926,598
Restricted Stock	8,684,610
Shares Outstanding	14,611,208

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
ABERDEEN HOLDINGS LTD INC	08/22/2001	1960	33	R	08/22/2001	No
* THE LOM GROUP 27 REID ST	Total Shares		33	Total Certificates		1
HAMILTON, ON CANADA						
DENNIS ACKERMAN	02/25/1998	1345	1			No
	Total Shares		1	Total Certificates		1
ROBERT F. ACKERSON	02/25/1998	1074	1			No
60 KNOLLS CRESCENT AVE.	Total Shares		1	Total Certificates		1
BRONX, NY 10463-0000						
WILLIAM ADAM	02/25/1998	1261	1			No
7584 BEL ARBOR TRL	Total Shares		1	Total Certificates		1
WEBSTER, NY 14580-9476						
VMR AG	10/04/2000	1899	1,240	R		No
C/O DEUTSCHE BANC ALEX BR 1635 MARKET ST 17TH FLOOR	Total Shares		1,240	Total Certificates		1
PHILADELPHIA, PA 19103						
DONALD R AHO	02/25/1998	1260	1			No
1015 PINEWOOD DR	Total Shares		1	Total Certificates		1
PINECITY, NY 14571-0000						
BERNHARD ALTENDEITERING	11/03/1998	1508	5	R		No
* ORCHIDEANSTER	Total Shares		5	Total Certificates		1
NORDHORN, GERMANY 48529						
BABETTE ALTMAN	02/25/1998	1329	1			No
4850 WINTER HAVEN WAY	Total Shares		1	Total Certificates		1
ROSEVILLE, CA 95747-8252						
DAVID AMMERMAN	02/25/1998	1089	1			No
75 PENN EST	Total Shares		1	Total Certificates		1
EAST STROUDSBURG, PA 18301-9028						
LINDA C ANDERSON	12/20/2005	5210	2,909	R	12/20/2005	No
	Total Shares		2,909	Total Certificates		1

DAVI SKIN

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER 238528 103

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
ARCH LTD.	04/03/2007	5309	573,847			No
* THE LOM BUILDING 27 REID STREET	Total Shares		573,847	Total Certificates		1
HAMILTON, BERMUDA HM11						
PETER ARDITA	02/25/1998	1214	1			No
1119 SAVOY DR	Total Shares		1	Total Certificates		1
MELVILLE, NY 11747-5281						
ARTIST HOUSE HOLDINGS INC	04/04/2006	5231	566,667	S	04/04/2006	No
3F YUSHIN BLDG 3-27-11 SHIBUYA	Total Shares		566,667	Total Certificates		1
SHIBUYA-KU, TOKYO JAPAN						
SYLVIA ASCHER	02/25/1998	1057	1			No
58 E 83RD ST APT 2-A	Total Shares		1	Total Certificates		1
NEW YORK, NY 10028-0000						
ASLAN DEVELOPMENT	12/01/2006	5276	3,333	R	12/01/2006	No
C/O DWYER SMITH LAW FIRM 8712 W. DODGE RD #400	Total Shares		3,333	Total Certificates		1
OMAHA, NE 68114						
470842538						
ASLAN MORTGAGE	12/01/2006	5274	2,800	R	12/01/2006	No
2242 SO. 156 CIR	Total Shares		2,800	Total Certificates		1
OMAHA, NE 68130						
911749681						
GENEVIEVE F. AUBRY	02/25/1998	1092	1			No
16 EDGEWOOD RD	Total Shares		1	Total Certificates		1
PEEKSKILL, NY 10566-0000						
BANKHAUS H AUFHAEUSER	10/12/1999	1661	41			No
KAT KAPITALBERATUNG TOELZERSTRASSE 23	10/12/1999	1662	41			No
GENEVA, SWITZERLAND 82031	Total Shares		82	Total Certificates		2
CHRISTINE AZZARELLO	05/15/2006	5233	800			No
& GREGORY AZZARELLO JTTEN	Total Shares		800	Total Certificates		1
339 SOUTH HOWARD						
PLAINFIELD, IL 60544 325443210						
GEORGE BALOGH	02/25/1998	1140	1			No
17 SOUTH DR	Total Shares		1	Total Certificates		1
GREAT NECK, NY 11021-0000						

DAVI SKIN

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER 238528 103

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
ANTHONY S. HARRISON	02/25/1998	1135	1			No
2900 OAKHILL LN	Total Shares		1	Total Certificates		1
MOUNT DORA, FL 32757-9525						
202-10-4242						
TRACEY HARROW	11/16/1999	1727	5			No
1 HERON TERRACE CAMDEN RD CARSHALTON VILLAGE	Total Shares		5	Total Certificates		1
SURREY, UK SM5 2NS						
HELEN HARVARD	02/25/1998	1077	1			No
4020 PRATT AVE.	Total Shares		1	Total Certificates		1
BRONX, NY 10466-0000						
WILLIAM M. HEALEY JR	02/25/1998	1107	1			No
255 SOUNDVIEW AVE.	Total Shares		1	Total Certificates		1
WHITE PLAINS, NY 10606-0000						
FANNING M. HEARON, JR	02/25/1998	1353	1			No
	Total Shares		1	Total Certificates		1
RUDOLF HEINZ	02/03/2000	1817	100	R		No
NIEDENAU 82	Total Shares		100	Total Certificates		1
FRANKFURT AM, GERMANY 60325						
JOSEPH HEJNA	02/25/1998	1250	1			No
254 PENNSYLVANIA ST.	Total Shares		1	Total Certificates		1
BUFFALO, NY 14201-0000						
* HEPBURN HOLDINGS LTD	04/03/2007	5310	573,847			No
THE LOM BUILDING 27 REID STREET	Total Shares		573,847	Total Certificates		1
HAMILTON, BERMUDA HM11						
FRAN HERRIDGE	02/25/1998	1079	1			No
BOB HERRIDGE	Total Shares		1	Total Certificates		1
18 ORCHARD DR						
ARMONK, NY 10504-0000						
MARGERY H. HERRMANN	02/25/1998	1095	1			No
2202 THEALL RD	Total Shares		1	Total Certificates		1
RYE, NY 10580-1423						
70286516						

DAVI SKIN

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER 238528 103

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
STRATEGIC GROUP LTD	01/04/2000	1781	461			No
SUITE 41/42 VICTORIA HOUS 26 MAIN STREET PO BOX 743	**Total Shares**		**461**	**Total Certificates**		**1**
COLLEEN SULLIVAN	02/25/1998	1343	1			No
	Total Shares		**1**	**Total Certificates**		**1**
HENRY L SUMMERS	02/25/1998	1056	1			No
1840 7TH AVE #5C NEW YORK, NY 10026-0000	**Total Shares**		**1**	**Total Certificates**		**1**
HERMAN SUNA	02/25/1998	1360	1			No
75 NOBLE ST. LYNBROOK, NY 11563-0000	**Total Shares**		**1**	**Total Certificates**		**1**
* **SUNSHINE LTD**	04/03/2007	5312	573,847			No
THE LOM BUILDING 27 REID STREET HAMILTON, BERMUDA HM11	**Total Shares**		**573,847**	**Total Certificates**		**1**
GEORGE M. SWEETMAN	02/25/1998	1108	1			No
34 MORSEMERE PLACE YONKERS, NY 10701-0000	**Total Shares**		**1**	**Total Certificates**		**1**
ANDREW TABBAT	02/25/1998	1122	1			No
2218 THEALL ROAD RYE, NY 10850	**Total Shares**		**1**	**Total Certificates**		**1**
GUS TAHMIN	02/25/1998	1113	1			No
48 FIELDCREST RD. CRESTWOOD, NY 10707-0000	**Total Shares**		**1**	**Total Certificates**		**1**
MERCIAN / MAKOTO TAKEUCHI	04/07/2005	5126	10,000	S	04/07/2005	No
	Total Shares		**10,000**	**Total Certificates**		**1**
PETER P. TALLARINE	02/25/1998	1203	1			No
2286 CUSTOM VLG CT BELLMORE, NY 11710-0000	**Total Shares**		**1**	**Total Certificates**		**1**

DAVI SKIN

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER 238528 103

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
TAKAHIRO TASHIO	04/07/2005	5124	317,895	S	04/07/2005	No
	Total Shares		317,895	Total Certificates		1
MICHAEL TEDESCO 64 OLD TAPPAN RD. GLEN COVE, NY 11542-0000	02/25/1998	1186	1			No
	Total Shares		1	Total Certificates		1
NORMAN L TESSIER ROAD 1 BOX 185 SHAPON SPRINGS, NY 13459-0000	02/25/1998	1240	1			No
	Total Shares		1	Total Certificates		1
* THE CHLOE GROUP OF COMPANIES THE LOM BUILDING 27 REID STREET HAMILTON, BERMUDA HM11	04/03/2007	5311	573,847			No
	Total Shares		573,847	Total Certificates		1
JULIUS THELMO 62 LIVE OAK DR HOLBROOK, NY 11741-0000	02/25/1998	1210	1			No
	Total Shares		1	Total Certificates		1
A. THORSON 551 MAIN ST. #W201 NEW YORK, NY 10044-0000	02/25/1998	1062	1			No
	Total Shares		1	Total Certificates		1
MICHAEL TIGHE 333 URIBE ST LAS VEGAS, NV	05/16/2005	5150	200			No
	08/15/2005	5163	300	R	08/15/2005	No
	Total Shares		500	Total Certificates		2
DONALD A. TOY 45 SUTTON PLACE S APT 1414 NEW YORK, NY 10022-2444 069-28-5497	02/25/1998	1051	1			No
	Total Shares		1	Total Certificates		1
SARNA TRADING HOTTINGER STR 17 ZURICH, SWITZERLAND CH-8032	10/12/1999	1698	73			No
	Total Shares		73	Total Certificates		1
GEARY TRIGLETH 2001 HEARTHSTONE DRIVE CARROLLTON, TX 75101 447560247	08/03/2004	5047	125,000	R	08/03/2004	No
	Total Shares		125,000	Total Certificates		1

B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN N. LINES;
SCOTT G. S. LINES;
LOM (HOLDINGS) LTD.;
LINES OVERSEAS MANAGEMENT LTD.;
LOM CAPITAL LTD.;
LOM SECURITIES (BERMUDA) LTD.;
LOM SECURITIES (CAYMAN) LTD.;
LOM SECURITIES (BAHAMAS) LTD.;
ANTHONY W. WILE;
WAYNE E. WILE;
ROBERT J. CHAPMAN;
WILLIAM TODD PEEVER;
PHILLIP JAMES CURTIS; AND
RYAN G. LEEDS,

Defendants.

Civil Action No.______________

COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission") alleges:

SUMMARY OF ALLEGATIONS

1. This action concerns two separate, but similar, fraudulent schemes to manipulate the stock prices of two microcap companies, Sedona Software Solutions, Inc. ("Sedona") and SHEP Technologies, Inc. ("SHEP"). During the relevant periods, Sedona and SHEP shares were quoted and traded on the Over-the-Counter Bulletin Board ("OTCBB"). The schemes took place in 2002 and 2003, and involved the substantial participation of a Bermuda-based securities firm,

C

HEPBURN HOLDINGS LTD.
Mareva House, 4 George Street
P.O. Box N3937, Nassau, Bahamas

USD UNITED STATES DOLLARS – WIRE INSTRUCTIONS

Bank Details:	JP Morgan Chase 4 Chase Metrotech Center New York, NY U.S.A.
ABA Number:	021 000 021
SWIFT:	CHAS US 33
Account Name:	Bank of Butterfield
Account Number:	0011067808

Beneficiary Bank:	Bank of NT Butterfield Hamilton Bermuda
SWIFT:	BNTB BM HM
Account Name:	LOM Client Funds
Account Number:	20.006.840.351501.100
Reference:	1001790 – Hepburn Holdings Ltd.

M

BRIDGE STREET SERVICES LIMITED

USD WIRE TRANSFER INSTRUCTIONS

Correspondent Bank:	HSBC Bank USA 452 Fifth Avenue New York, NY 10018 U.S.A. SWIFT Code: MRMDUS33 FED ABA: 021001088 CHIPS ABA: 0108
Beneficiary Bank:	The Bank of Bermuda Limited 6 Front Street Hamilton HM 11 Bermuda SWIFT Code: BBDA BMHM
Beneficiary Account Number:	1010-956504
Beneficiary Account Name:	Bridge Street Services Limited Reference: Client and/or Company Name

Bridge Street Services Limited

Marquee Place, Suite 300
430 West Bay Road
P.O. Box 30691 SMB
Grand Cayman
Cayman Islands, BWI

INVOICE

Our ref: 8ULNN8G9/1236 01/11/2005

LOM Securities (Cayman) Limited
Buckingham Square, Penthouse
P.O. Box 30997SMB
West Bay Road, SMB
Cayman Islands

Sunshine Ltd

Description	USD sum
Professional Fees:	
2006 Corporate Administration Fee	2,500.00
Grand Total:	USD 2,500.00

Invoice is payable upon receipt
Please ensure prompt payment on or before January 31, 2006
to avoid penalty fees

Bridge Street Services Limited

Marquee Place, Suite 300
430 West Bay Road
P.O. Box 30691 SMB
Grand Cayman
Cayman Islands, BWI

INVOICE

Our ref: 8UML06T4/1374 01/11/2005

Ms. Devi JOHAL
LOM Securities (Bermuda) Limited
The LOM Building
27 Reid Street
Hamilton HM 11
Bermuda

Arch Ltd

Description	USD sum
Professional Fees:	
2006 Corporate Administration Fee	2,500.00
Grand Total:	USD 2,500.00

Invoice is payable upon receipt
Please ensure prompt payment on or before January 31, 2006
to avoid penalty fees

Bridge Street Services Limited

Marquee Place, Suite 300
430 West Bay Road
P O Box 30691 SMB
Grand Cayman
Cayman Islands, BWI

INVOICE

Our ref 8UML06T4/1374 01/11/2005

Ms Devi JOHAL
LOM Securities (Bermuda) Limited
The LOM Building
27 Reid Street
Hamilton HM 11
Bermuda

Arch Ltd

Description	USD sum
Professional Fees	
2006 Corporate Administration Fee	2,500 00

Grand Total	USD 2,500 00

Invoice is payable upon receipt
Please ensure prompt payment on or before January 31, 2006
to avoid penalty fees

Bridge Street Services Limited

Marquee Place, Suite 300
430 West Bay Road
P O Box 30691 SMB
Grand Cayman
Cayman Islands, BWI

INVOICE

Our ref 8ULNN8G9/1236 01/11/2005

LOM Securities (Cayman) Limited
Buckingham Square, Penthouse
P O Box 30997SMB
West Bay Road, SMB
Cayman Islands

Sunshine Ltd

Description	USD sum
Professional Fees	
2006 Corporate Administration Fee	2,500 00

Grand Total	USD 2,500 00

Invoice is payable upon receipt
Please ensure prompt payment on or before January 31, 2006
to avoid penalty fees

D A

###1

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

THOMAS & WONG GENERAL CONTRACTOR, INC., Plaintiffs,

vs.

BLUME LAW FIRM, et al., Defendants.

CV No. 2005-051325

February 6, 2008
Phoenix, Arizona

BEFORE THE HONORABLE: ROBERT C. HOUSER, Judge

REPORTER'S TRANSCRIPT OF PROCEEDINGS
Jury Trial

Lisa H. Vitoff
Certified Court Reporter
CCR #50251

###2

A P P E A R A N C E S

FOR THE PLAINTIFFS:
MR. BRYAN F. MURPHY
Attorney at Law

FOR THE DEFENDANTS:
MS. CLAIR AMBROSIO
Attorney at Law

P R O C E E D I N G S

THE COURT: CV 2005-051325, Thomas and Wong Contractors,

Incorporated v Jan Wallace. This is the time set for continuation of trial. The record will show the presence of counsel, the parties, and members of the jury.
Good morning. You may proceed
MR. MURPHY: Plaintiff calls Gary Blume.
THE COURT: Well, all right. We were in the midst of reading some deposition testimony, I think, when we recessed last night. Are you going to interrupt that deposition testimony to call Mr. Blume and return to that?
MR. MURPHY: I would request we do so, since he's a live witness.

###3

THE COURT: All right, that's fine. Let's proceed.
Will you step forward and be sworn, please?

GARY R. BLUME,

having been duly sworn herein, took the stand and testified as follows:

DIRECT EXAMINATION

BY MR. MURPHY:
Q Thank you, your Honor.
Your full name, please?
A Gary R. Blume.
Q You're an attorney licensed in this state, sir?
A Yes.
Q You have represented Jan Wallace since the, oh, mid 1990s, is that correct, in various matters?
A I don't specifically recall. I worked for her for a while.
Q Sir, let me show you what has been marked for identification as Exhibit 42. Do you recognize this as invoices, the first dated March 14, 2003, the second dated May 12, 2003, the third dated June 17, 2003, regarding service related to, oh, the transaction with BDV Investments and Thomas and Wong?
A I do recognize these. They are records that are kept in the ordinary course of my business. But they do not all relate to Thomas and Wong.

###4

Q Fair enough. But they are accurate recitations of the time billed on those matters?
A Yes.
MR. MURPHY: I would offer Exhibit 42 into evidence, your Honor.
MS. AMBROSIA: I have no objection.
THE COURT: 42 is admitted.
BY MR. MURPHY:
Q Sir, I'm going to go to the first page of this exhibit. There are time entries on your invoice of March 14, 2003, as follows: March 6, 2003, Gary R. Blume, meeting with Jan and clients regarding drafting of promissory note, security agreement and discussion, preparation for meeting with forms and discussion at meeting. Then March 8, 2003, Gary R. Blume, meeting with client. Both of those for two hours.
Do you have a recollection of those meetings, sir?
A Not specifically.
Q Do you recall who was present in your offices on March 6, 2003, with regard to that meeting listed on the invoice?
A March 6th? No, I don't.
Q Do you recall who was present on March 8, 2003?
A Not specifically.
Q Was Jan present -- pardon me, was Jan Wallace present at both meetings, to the best of your recollection?
A I believe so. I'm just unsure of the dates.

A During the time of -- you asked me where I was during the time of the wire transfer; is that right?
Q Yes.
A I was in -- I believe I was in Korea, not in Brunei.
Q Do you know when you went to Germany with John Beardmore?
A I believe I left Korea about in the last week of April, near the end of April.
Q So you made the wire transfer before you went to Germany?
A I think so.
Q So both wire transfers were made prior to you going to Germany?
A I think there was three. One was in the beginning of April, I remember that.
And I think there was two more after that. I have a record of it, if you want me to take a look.
Q Did you sue the Lake Bank?
A I did, yes.
Q Is that lawsuit still going on?
A I don't know what the status of it. The last I heard there was technicality that was preventing it from going forward.
They recited some statute, and I don't know what

##98

that statute really means. But right now it's not going forward. I think.
Q So you don't know if they've refiled against the Lake Bank?
A I don't know.
Q But you didn't get a judgment against them?
A No, I didn't.
Q And you haven't --
A It hasn't gone to court. I've been deposed in that lawsuit, but it hasn't gone to trial yet.
Q And again, what were your duties in regard to Jan Wallace?
A What does that mean?
Q Well, you testified that Jan Wallace had all these duties to you. She was the attorney, the --
A I was to supply the money, that's what I was there for, that's what I agreed to do.
Q But that was not -- you, you were not providing the money to Jan Wallace, you were providing the money to BDV?
A I think we've established that.
Q How much money did you pay Jan Wallace?
A I didn't pay her anything, but it looked like she paid herself a hell of a lot.
Q What do you mean by that comment?
A Well, you know, there is 50,000 bucks that went to

##99

her, that I didn't know about, that I found out about later.
That's one of the reasons I filed this lawsuit.
Q Where does it show that the $50,000 went to Jan Wallace?
A That was told to me by Billy Cortegiano in the spring of '05.
And I asked Jan Wallace about it. She said that she had received $50,000. I was pretty upset about that.
Q But you knew that Jan Wallace had a contract with BDV?
A No, I didn't know she had a contract with BDV.
Q But that's what you said in the Homeland Security

report?
A No, it isn't.
Q I discussed the loan with Jan Wallace and learned that the Lake Bank would be put into a public company shell that she owned and was listed on the stock exchange.
A Yeah, there was some general conversation about that. I don't know at what stage it is.
And there was about a two-minute conversation, I told her I wasn't interested in anything about that.
Q In the public company, you weren't interested?
A Yeah.
MS. AMBROSIO: I have no further questions.
THE COURT: Mr. Murphy.

#100

CROSS-EXAMINATION

BY MR. MURPHY:
Q Sir, I want to clarify, there's a date at the top of this document, which is Exhibit 69, the submission that you made at the request of Homeland Security of September 3.
Is that when you created that document?
A I created the document in February of '03.
Q Let me go through some of the issues that were raised on examination.
You were asked a question at Page 2 about I discussed the loan with Jan Wallace and that Lake Bank would be put into a public company.
A Yeah.
Q Did she tell you she had an outstanding contract to do that?
A No.
Q Did she tell you that she was owed money by Lake Bank for that?
A No.
Q And that's what you put there, is as much as you knew about it?
A Yeah. That was a -- that conversation lasted about two seconds -- about two minutes.
That's not what I do, public companies are not what I do.

#101

Q Now, March -- let me go to the next page of this document, I believe it's Page 3 of Exhibit 69.
It starts March 6 '03: Jan Wallace, Ed Tarapaski, and John Beardmore meet at the law office of Gary Blume and draft and sign a promissory note attesting to the terms of our agreement.
Now, that was what you worked from -- you were working from memory at the time?
A Yeah.
Q Do you believe that's an accurate statement, in every respect, as you look at it today?
A No, it's not accurate.
Q What is inaccurate about the statement?
A The agreement was reached on the 6th of --
Could you put it back, please?
Q I beg your pardon?
A The agreement, the terms of the promissory note, were agreed to on the 6th.
And that's when the drafting, as I understood it, was going to start, but it was signed on the 8th of March, not the 6th.
Q Very well.
A Again, they told me not go into a lot of detail,

just to give it to them.
Q Sir, next page: Jan thought of most of this and I

#102

think she did a good job of protecting our interest. I really believe that she put our well-being ahead of any financial gain on her part.
Was that your feeling at the time you wrote this in February of 2005?
A Mostly it was.
Q What changed your mind about that, sir?
A The biggest thing was the detectives at Homeland Security.
Q Describe why you say that.
A Well, in the, in the first meeting they asked me if I could give them any more specific information.
And I said, well, I'll try to. And -- but I said I think Jan Wallace could give you some pretty specific information as well. And so that, that meeting ended.
And then I went to my second meeting with the detectives, and they said, "Well, I thought you told us that this Jan Wallace was going to provide us with a lot of information."
They said, "We interviewed her and she was guarded, aggressive, and evasive."
And so then they had me telephone her from their office and they put me on a tape recorder and they told me to ask her about the disbursements from this Cane and Associates.
So I dialed her number, her hand phone number, but she didn't answer the phone.

#103

Q Was it Homeland Security that first alerted you to the possibility that she might have not done things right?
A Yeah. They really had some strong suspicions about her.
Q Now --
A There was other things besides that as well.
Q Now, sir, there were some questions about Thomas and Wong, some suggestions that they were involved in some improper conduct.
Did Homeland Security investigate Thomas and Wong?
A Yes, they investigated them. That was the first thing they did, is they said they were going to investigate us. I said that's fine.
Then they asked me for permission to investigate my bank accounts. I said that's okay.
And then they asked me for permission to investigate Thomas and Wong's bank accounts six months before this and six months after.
And I told them I would have to phone Charlene Wong. And I did and they gave them permission.
Q Did you hear anything further from the Homeland Security about a problem with Thomas and Wong?
A No, I did not.
Q Sir, I'm going to -- I believe Page 6, the statement that was put in front of you, all of the due diligence was

#104

complete except for the viewing of the gold.
A Yes.
Q Now, sir, at that time, had you investigated whether Jan Wallace had completed the due diligence?
A Well, I asked her on several occasions, yes.
Q What had she told you?
A She said she had.
Q Was that the basis of the information that you had

when you wrote this report to Homeland Security?
A No. I found out other things since then.
Q Subsequently. But at the time you send that to Homeland Security, you were relying on the information that Jan Wallace had given to you?
A I'm sorry, could you --
Q At the time you made this statement to Homeland Security, you were operating on the information that had been given to you by Jan Wallace?
A A lot of it.
Q Did you subsequently investigate whether those conditions had been satisfied?
A Well, I found out other information, yeah.
Q For instance, did you ever find a certificate of insurance in favor of Thomas and Wong?
A No.
Q Did you ever find a safekeeping receipt in favor of

#105

Thomas and Wong?
A No.
Q I'll rely on prior testimony to make sure that we move down the path.
Sir, there were some suggestions made that you drafted Exhibit 18, a promissory note of March 6, 2003 for $275,000. I'll put that up here.
Why did you hire Gary Blume, sir?
A To look after doing the legal work.
Q Did you do the legal work on this in any way?
A Not likely.
Q Did you draft that document, sir?
A No, I did not draft that document.
Q Do you have a clue who did?
A I don't know, but I saw it for the first time at Blume's office, so maybe he did.
Q Sir, let's go to the Homeland Security document, Exhibit 69. I'll go to the eighth page entry, under May 10, 2003.
I quote, "Time passed, and I was told the money was being held up in a Florida bank because the total melt was 12 million dollars and there was all kinds of paperwork to be completed.
I asked Jan why the money was in Florida.
She said, 'That was how the deal was structured with

#106

the refinery and she was in direct contact with the bank and it would be released soon.'
I told her we should not be concerned with the whole 12 million dollars and just get our share released, which was only 1,875,000."
Also it continues -- I won't complete that paragraph.
Is that the information Jan Wallace gave you?
A Yes, that's the information she gave me.
Q Is that what you reported to Homeland Security?
A Yes. I don't know why they would send the money off shore, even though I know she's got bank accounts there. I have no idea why.
Q Let me to go to Page 43 of your deposition. You were asked some questions about that.
I'm going to try and squeeze this up a little bit. I think it's legible.
Down at Line 18.
And the answer was given, again, Jan was looking

EXHIBIT "F"

DAVI SKIN

2,249,5

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER

Active Share Holders	565
Active Certificates	637
Free Trading Stock	5,926,598
Restricted Stock	8,684,610
Shares Outstanding	14,611,208

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
ABERDEEN HOLDINGS LTD INC THE LOM GROUP 27 REID ST HAMILTON, ON CANADA	08/22/2001	1960	33	R	08/22/2001	No
*	Total Shares		33	Total Certificates		1
DENNIS ACKERMAN	02/25/1998	1345	1			No
	Total Shares		1	Total Certificates		1
ROBERT F. ACKERSON 60 KNOLLS CRESCENT AVE. BRONX, NY 10463-0000	02/25/1998	1074	1			No
	Total Shares		1	Total Certificates		1
WILLIAM ADAM 7584 BEL ARBOR TRL WEBSTER, NY 14580-9476	02/25/1998	1261	1			No
	Total Shares		1	Total Certificates		1
VMR AG C/O DEUTSCHE BANC ALEX BR 1635 MARKET ST 17TH FLOOR PHILADELPHIA, PA 19103	10/04/2000	1899	1,240	R		No
	Total Shares		1,240	Total Certificates		1
DONALD R AHO 1015 PINEWOOD DR PINECITY, NY 14571-0000	02/25/1998	1260	1			No
	Total Shares		1	Total Certificates		1
* BERNHARD ALTENDEITERING ORCHIDEANSTER NORDHORN, GERMANY 48529	11/03/1998	1508	5	R		No
	Total Shares		5	Total Certificates		1
BABETTE ALTMAN 4850 WINTER HAVEN WAY ROSEVILLE, CA 95747-8252	02/25/1998	1329	1			No
	Total Shares		1	Total Certificates		1
DAVID AMMERMAN 75 PENN EST EAST STROUDSBURG, PA 18301-9028	02/25/1998	1089	1			No
	Total Shares		1	Total Certificates		1
LINDA C ANDERSON	12/20/2005	5210	2,909	R	12/20/2005	No
	Total Shares		2,909	Total Certificates		1

DAVI SKIN

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER 238528 103

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
* ARCH LTD. THE LOM BUILDING 27 REID STREET HAMILTON, BERMUDA HM11	04/03/2007	5309	573,847			No
	Total Shares		573,847	Total Certificates		1
PETER ARDITA 1119 SAVOY DR MELVILLE, NY 11747-5281	02/25/1998	1214	1			No
	Total Shares		1	Total Certificates		1
ARTIST HOUSE HOLDINGS INC 3F YUSHIN BLDG 3-27-11 SHIBUYA SHIBUYA-KU, TOKYO JAPAN	04/04/2006	5231	566,667	S	04/04/2006	No
	Total Shares		566,667	Total Certificates		1
SYLVIA ASCHER 58 E 83RD ST APT 2-A NEW YORK, NY 10028-0000	02/25/1998	1057	1			No
	Total Shares		1	Total Certificates		1
ASLAN DEVELOPMENT C/O DWYER SMITH LAW FIRM 8712 W. DODGE RD #400 OMAHA, NE 68114 470842538	12/01/2006	5276	3,333	R	12/01/2006	No
	Total Shares		3,333	Total Certificates		1
ASLAN MORTGAGE 2242 SO. 156 CIR OMAHA, NE 68130 911749681	12/01/2006	5274	2,800	R	12/01/2006	No
	Total Shares		2,800	Total Certificates		1
GENEVIEVE F. AUBRY 16 EDGEWOOD RD PEEKSKILL, NY 10566-0000	02/25/1998	1092	1			No
	Total Shares		1	Total Certificates		1
BANKHAUS H AUFHAEUSER KAT KAPITALBERATUNG TOELZERSTRASSE 23 GENEVA, SWITZERLAND 82031	10/12/1999	1661	41			No
	10/12/1999	1662	41			No
	Total Shares		82	Total Certificates		2
CHRISTINE AZZARELLO & GREGORY AZZARELLO JTTEN 339 SOUTH HOWARD PLAINFIELD, IL 60544 325443210	05/15/2006	5233	800			No
	Total Shares		800	Total Certificates		1
GEORGE BALOGH 17 SOUTH DR GREAT NECK, NY 11021-0000	02/25/1998	1140	1			No
	Total Shares		1	Total Certificates		1

DAVI SKIN

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER 238528 103

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
ANTHONY S. HARRISON 2900 OAKHILL LN MOUNT DORA, FL 32757-9525 202-10-4242	02/25/1998	1135	1			No
	Total Shares		1	Total Certificates		1
TRACEY HARROW 1 HERON TERRACE CAMDEN RD CARSHALTON VILLAGE SURREY, UK SM5 2NS	11/16/1999	1727	5			No
	Total Shares		5	Total Certificates		1
HELEN HARVARD 4020 PRATT AVE. BRONX, NY 10466-0000	02/25/1998	1077	1			No
	Total Shares		1	Total Certificates		1
WILLIAM M. HEALEY JR 255 SOUNDVIEW AVE. WHITE PLAINS, NY 10606-0000	02/25/1998	1107	1			No
	Total Shares		1	Total Certificates		1
FANNING M. HEARON, JR	02/25/1998	1353	1			No
	Total Shares		1	Total Certificates		1
RUDOLF HEINZ NIEDENAU 82 FRANKFURT AM, GERMANY 60325	02/03/2000	1817	100	R		No
	Total Shares		100	Total Certificates		1
JOSEPH HEJNA 254 PENNSYLVANIA ST. BUFFALO, NY 14201-0000	02/25/1998	1250	1			No
	Total Shares		1	Total Certificates		1
* HEPBURN HOLDINGS LTD THE LOM BUILDING 27 REID STREET HAMILTON, BERMUDA HM11	04/03/2007	5310	573,847			No
	Total Shares		573,847	Total Certificates		1
FRAN HERRIDGE BOB HERRIDGE 18 ORCHARD DR ARMONK, NY 10504-0000	02/25/1998	1079	1			No
	Total Shares		1	Total Certificates		1
MARGERY H. HERRMANN 2202 THEALL RD RYE, NY 10580-1423 70286516	02/25/1998	1095	1			No
	Total Shares		1	Total Certificates		1

DAVI SKIN

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER 238528 103

Stock Holder	Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
STRATEGIC GROUP LTD	01/04/2000	1781	461			No
SUITE 41/42 VICTORIA HOUS 26 MAIN STREET PO BOX 743	**Total Shares**		**461**	**Total Certificates**		**1**
COLLEEN SULLIVAN	02/25/1998	1343	1			No
	Total Shares		**1**	**Total Certificates**		**1**
HENRY L SUMMERS	02/25/1998	1056	1			No
1840 7TH AVE #5C NEW YORK, NY 10026-0000	**Total Shares**		**1**	**Total Certificates**		**1**
HERMAN SUNA	02/25/1998	1360	1			No
75 NOBLE ST LYNBROOK, NY 11563-0000	**Total Shares**		**1**	**Total Certificates**		**1**
* **SUNSHINE LTD**	04/03/2007	5312	573,847			No
THE LOM BUILDING 27 REID STREET HAMILTON, BERMUDA HM11	**Total Shares**		**573,847**	**Total Certificates**		**1**
GEORGE M. SWEETMAN	02/25/1998	1108	1			No
34 MORSEMERE PLACE YONKERS, NY 10701-0000	**Total Shares**		**1**	**Total Certificates**		**1**
ANDREW TABBAT	02/25/1998	1122	1			No
2218 THEALL ROAD RYE, NY 10850	**Total Shares**		**1**	**Total Certificates**		**1**
GUS TAHMIN	02/25/1998	1113	1			No
48 FIELDCREST RD. CRESTWOOD, NY 10707-0000	**Total Shares**		**1**	**Total Certificates**		**1**
MERCIAN / MAKOTO TAKEUCHI	04/07/2005	5126	10,000	S	04/07/2005	No
	Total Shares		**10,000**	**Total Certificates**		**1**
PETER P. TALLARINE	02/25/1998	1203	1			No
2286 CUSTOM VLG CT BELLMORE, NY 11710-0000	**Total Shares**		**1**	**Total Certificates**		**1**

DAVI SKIN

Active Shareholder Report

Common Stock as of 7/13/2007

CUSIP NUMBER 238528 103

Stock Holder		Date Issued	Cert No	No of Shares	Status	Date Restr	Lost or Stolen
TAKAHIRO TASHIO		04/07/2005	5124	317,895	S	04/07/2005	No
		Total Shares		317,895	Total Certificates		1
MICHAEL TEDESCO		02/25/1998	1186	1			No
64 OLD TAPPAN RD.		Total Shares		1	Total Certificates		1
GLEN COVE, NY 11542-0000							
NORMAN L TESSIER		02/25/1998	1240	1			No
ROAD 1 BOX 185		Total Shares		1	Total Certificates		1
SHAPON SPRINGS, NY 13459-0000							
* THE CHLOE GROUP OF COMPANIES		04/03/2007	5311	573,847			No
THE LOM BUILDING 27 REID STREET		Total Shares		573,847	Total Certificates		1
HAMILTON, BERMUDA HM11							
JULIUS THELMO		02/25/1998	1210	1			No
62 LIVE OAK DR		Total Shares		1	Total Certificates		1
HOLBROOK, NY 11741-0000							
A. THORSON		02/25/1998	1062	1			No
551 MAIN ST. #W201		Total Shares		1	Total Certificates		1
NEW YORK, NY 10044-0000							
MICHAEL TIGHE		05/16/2005	5150	200			No
333 URIBE ST		08/15/2005	5163	300	R	08/15/2005	No
LAS VEGAS, NV		Total Shares		500	Total Certificates		2
DONALD A. TOY		02/25/1998	1051	1			No
45 SUTTON PLACE S APT 1414		Total Shares		1	Total Certificates		1
NEW YORK, NY 10022-2444	069-28-5497						
SARNA TRADING		10/12/1999	1698	73			No
HOTTINGER STR 17		Total Shares		73	Total Certificates		1
ZURICH, SWITZERLAND CH-8032							
GEARY TRIGLETH		08/03/2004	5047	125,000	R	08/03/2004	No
2001 HEARTHSTONE DRIVE		Total Shares		125,000	Total Certificates		1
CARROLLTON, TX 75101	447560247						

EXHIBIT "G"

90067

FILED
LOS ANGELES SUPERIOR COURT
APR 21 2006
JOHN A. CLARKE, EXECUTIVE OFFICER/CLERK
BY J. SUNGA, DEPUTY

FARHAD NOVIAN, ESQ. (SBN 118129)
EMILY S. LEVIN, ESQ. (SBN 232366)
NOVIAN & NOVIAN, LLP
Attorneys at Law
1801 Century Park East, Suite 1201
Los Angeles, California 90067
Telephone: (310) 553-1222
Facsimile: (310) 553-0222

Attorneys for Plaintiff
PARRISH MEDLEY

Case assigned to Judge JOANNE O'DONNELL

D.37

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PARRISH MEDLEY, an individual, Plaintiff, v. JAN WALLACE, an individual; and DOES 1 through 20, inclusive, Defendants.	CASE NO.: BC351142 COMPLAINT FOR: 1. DEFAMATION PER SE (Libel: private figure-private concern); 2.DEFAMATION PER QUOD (Libel: private figure-private concern) 3. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; and 4. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS.

GENERAL ALLEGATIONS

1. Plaintiff PARRISH MEDLEY, ("Medley" or "Plaintiff") is and was at all relevant times herein a resident of the County of Los Angeles, California and was the Chief Executive Officer of Davi Skin, Inc. fka NW Medical, Inc. ("DAVI") from 2004, until his mutually agreed upon departure from DAVI on March 16, 2006. Since his resignation, MEDLEY has been acting as a consulting for DAVI.

2. Upon information Davi is a Nevada corporation, whose principal activity is to develop a grape-based skin care product line.

3. Upon information and belief, Defendant JAN WALLACE ("Wallace" or

CIV/CASE: BC351142 LEA/DEF#:
RECEIPT #: CCH2880004029
DATE PAID: 04/21/06 11:45:57 AM
PAYMENT: $320.00
RECEIVED:
CHECK:
CASH:
CHANGE: $0.00
CARD:

Novian Novian LLP
Attorneys at Law

"Defendant") is and was at all relevant times herein, a resident of Paradise Valley, Arizona.

4. Upon information and belief, WALLACE was a Director, President and Chief Executive Officer of MW Medical, Inc. ("MWMD") from December 1997 through her resignation October 1, 1998, and was then re-appointed on July 9, 1999 until the time of her resignation.

5. Upon information and belief, on March 15, 2003, MWMD executed a Promissory Note in favor of WALLACE for the principal sum of two-hundred forty eight thousand, three hundred and twenty five U.S. dollars ($248,325.00) (the "Note"). The principal plus 10% interest per annum was to become due June 15, 2003.

6. Upon information and belief, in June of 2004, for valuable consideration, WALLACE executed a notice of Partial Cancellation, electing to cancel a portion of the Note, leaving a balance owing of $200,000.00 plus any interest accrued from the date of issuance.

7. Upon information and belief, concurrent with the Notice of Partial Cancellation set forth in Paragraph 6 above, WALLACE executed a Loan Extension, agreeing to extend the maturity date of the $200,000 loan to December 31, 2005.

8. Upon information and belief, on or about September 26, 2005, WALLACE executed an Assignment of Promissory Note ("Assignment") assigning, conveying and transferring all of her rights in the Note to the individual(s) identified in Schedule A ("Assignee") for valid consideration.

9. Upon information and belief, on March 24, 2006, in anticipation of the 2005 year end audit, DAVI, in conjunction with the accounting firm of Child, Van Wagner & Bradshaw PLLC, contacted WALLACE regarding the outstanding Note, because, as of that time, DAVI had not yet recorded the Assignment.

10. Upon information and belief, WALLACE wrote the following statement, by hand, on the March 24, 2006 letter from Davi: "I state clearly, in the 2 and half years I have known Parish [sic], I find him to be a liar, a cheat, self-serving and of low moral character." (See Exhibit "A").

11. Upon information and belief, on April 13, 2006, at approximately 5:10 p.m., WALLACE transmitted, via facsimile, the March 24, 2006 letter, containing her hand written statement that, "in the 2 and half years I have known Parish [sic], I find him to be a liar, a cheat, self-

serving and of low moral character," to Child, Van Wagner & Bradshaw & Company. Upon information and belief, WALLACE requested that Child, Van Wagner & Bradshaw & Company share her comments with DAVI management.

12. Upon information and belief, Child, Van Wagner & Bradshaw & Company then telephoned and faxed DAVI's Chief Financial Officer, Margaret Robley, and DAVI's Bookkeeper, Staci Robley, and relayed WALLACE'S handwritten notes wherein she stated: " I state clearly, in the 2 and half years I have known Parish [sic], I find him to be a liar, a cheat, self-serving and of low moral character."

13. Upon information and belief, Margaret Robley then telephoned MEDLEY to inform him of the statement and faxed him a copy of WALLACE's statement.

FIRST CAUSE OF ACTION

Defamation Per Se

(Libel: private figure-private concern)

14. Plaintiff repeats, realleges and hereby incorporates paragraphs 1 through 13, inclusive above, as if fully set forth herein.

15. Plaintiff is informed and believes, and thereon claims and alleges that defendant harmed Plaintiff by making the following statement: "I state clearly, in the 2 and half years I have known Parish [sic], find him to be a liar, a cheat, self-serving and of low moral character."

16. The statements were made in writing, and transmitted via facsimile, to Davi's Accountant, Child, Van Wagner & Bradshaw & Company, thereby constituting libel.

17. Child, Van Wagner & Bradshaw & Company relayed the defamatory and libelous statements to Davi's current CFO, Margaret Robley, and BookKeeper, Staci Robley, via telephone and by transmitting same in writing.

18. Child, Van Wagner & Bradshaw & Company and Robley reasonably understood that the statements were about Parrish Medley, as the statement specifically identified plaintiff (*i.e.* defamation/libel per se).

19. Child, Van Wagner & Bradshaw & Company and Robley reasonably understood the statements to mean that plaintiff had committed an illegal act, specifically with respect to the Note.

20. Upon information and belief, defendant failed to use reasonable care to determine the truth or falsity of the statement.

21. Plaintiff is entitled to recovery against Defendant as the wrongful conduct was a substantial factor in causing the following actual damages to plaintiff: (a) harm to plaintiff's property, business, trade, profession and occupation; (b) expenses plaintiff has paid as a result of the defamatory statements; (c) harm to plaintiff's reputation and (d) shame, mortification, and hurt feelings.

22. Due to defendant's conduct, Plaintiff has suffered mental distress, mental suffering, and mental anguish, including, but not limited to highly unpleasant mental reactions, embarrassment, anger, and worry.

23. Plaintiff is informed and believes and thereon alleges that such reckless, willful, intentional, outrageous, conduct, acts, errors and omissions were conducted by Defendant with malice, and entitle Plaintiff to punitive and exemplary damages in an mount to be submitted according to proof.

24. That Plaintiff requests and prays for damages, including compensatory, actual, special, general, emotional distress and all other damages in an amount according to proof.

SECOND CAUSE OF ACTION

Defamation Per Quod

(Libel : private figure - private concern)

26. Plaintiff repeats, realleges and hereby incorporates paragraphs 1 through 13 and 15 through 24, inclusive above, as if fully set forth herein.

27. Plaintiff is informed and believes, and thereon claims and alleges that defendant harmed Plaintiff by making the following statement: "I state clearly, in the 2 and half years I have known Parish [sic], find him to be a liar, a cheat, self-serving and of low moral character."

28. The statements were made in writing and transmitted via facsimile to Davi's Accountant, Child, Van Wagner & Bradshaw & Company, thereby constituting libel.

29. Child, Van Wagner & Bradshaw & Company then relayed the libelous statements to Davi's current CFO, Margaret Robley, and Bookkeeper Staci Robley, via telephone and by

transmitting same in writing.

30. Child, Van Wagner & Bradshaw & Company and Robley reasonably understood that the statements were about Plaintiff (*i.e.* defamation/libel per quod).

31. Because of the facts and circumstances known to the listeners and readers of the statements, they tended to injure Plaintiff in his occupation a, expose him to contempt and criticism, and to discourage others from associating or dealing with him in a business capacity.

32. Defendant failed to use reasonable care to determine the truth or falsity of the statement.

33. Plaintiff suffered harm to his property, business, profession, occupation, including money spent as a result of the statements.

34. The statements were a substantial factor in causing Plaintiff's harm.

35. Plaintiff is entitled to recovery against Defendant as the wrongful conduct was a substantial factor in causing the following actual damages to plaintiff: (a) harm to plaintiff's property, business, trade, profession and occupation; (b) expenses plaintiff has paid as a result of the defamatory statements; (c) harm to plaintiff's reputation and (d) shame, mortification, and hurt feelings.

36. Due to defendant's conduct, Plaintiff has suffered mental distress, mental suffering, and mental anguish, including, but not limited to highly unpleasant mental reactions, embarrassment, anger, and worry.

37. Plaintiff is informed and believes and thereon alleges that such reckless, willful, intentional, outrageous, conduct, acts, errors and omissions were conducted by Defendant with malice, and entitle Plaintiff to punitive and exemplary damages in an mount to be submitted according to proof.

38. Plaintiff requests and prays for damages, including compensatory, actual, special, general, emotional distress and all other damages in an amount according to proof.

THIRD CAUSE OF ACTION

(Intentional Infliction of Emotion al Distress)

39. Plaintiff re-alleges the allegations contained in paragraphs 1 through 13, 15

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Attorneys at Law

3/4/2014

through 24 and 26 through 38, inclusive, and incorporate them by this reference as though set forth in full.

40. Defendant's conduct towards Plaintiff as described herein was outrageous.

41. Defendant intended to cause Plaintiff emotional distress or acted with reckless disregard of the probability that Plaintiff would suffer emotional distress.

42. Plaintiff suffered severe emotional distress.

43. Defendant's conduct as described herein was a substantial factor in causing Plaintiff's severe emotional distress.

44. Plaintiff is informed and believes and thereon alleges that such reckless, willful, intentional, outrageous, conduct, acts, errors and omissions were conducted by Defendant with malice, and entitle Plaintiff to punitive and exemplary damages in an mount to be submitted according to proof.

FOURTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

45. Plaintiff re-alleges the allegations contained in paragraphs 1 through 13, 15 through 24, 26 through 38 and 42 through 43 inclusive, and incorporate them by this reference as though set forth in full.

46. Defendant was negligent towards Plaintiff as described herein.

47. Defendant owed a duty not to injure or defame Plaintiff and not cause him emotional distress.

48. Defendant breached that duty towards Plaintiff by defaming him and injuring him.

49. Plaintiff suffered serious emotional distress, such distress that an ordinary, reasonable person would be unable to cope with.

50. Defendant's negligence was a substantial factor in causing Plaintiff's serious emotional distress.

51. Due to Defendant's conduct, Plaintiff has suffered mental distress, mental suffering and mental anguish including, but not limited to highly unpleasant mental reactions, embarrassment, anger and worry.

52. Plaintiff prays and requests damages for emotional distress in an amount according to proof.

WHEREFORE, Plaintiff prays for judgment against defendant as follows:

1. For Judgment in favor of Plaintiff in am amount according to proof;

2. For the sum of $1,000,000.00, as compensatory, special, general and other damages;

3. For exemplary/punitive damages (except for the fourth cause of action) in an amount according to proof;

4. If Plaintiff fails to prove any actual damages but proves by clear and convincing evidence that defendant knew the statement was false or had serious doubts about the truth of the statement, then nominal damages are requested based upon the legal presumption of harm to reputation on a per quod cause, and if plaintiff simply proves the necessary elements under a per se cause, then nominal damages are automatic a there is an assumed harm to reputation.

5. For costs of suit herein incurred.

NOVIAN & NOVIAN, LLP
Attorneys At Law

By____________________________
FARHAD NOVIAN
Attorneys for PLAINTIFF PARRISH MEDLEY

8/4/2 1/ 0

Novian Novian, LLP
Attorneys at Law

Alan S. Gutman, SBN 128514
Matthew E. Hess, SBN 214732
LAW OFFICES OF ALAN S. GUTMAN
9401 Wilshire Boulevard, Suite 575
Beverly Hills, CA 90212-2918
Telephone: 310-385-0700
Facsimile: 310-385-0710

Attorneys for Plaintiff DAVID KAGEL and
Plaintiff and Counter-Defendant
PARRISH MEDLEY

FILED
2007 FEB -6 PM 3:13
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

DAVID KAGEL,
Plaintiff,
vs.
JAN WALLACE,
Defendant.

AND RELATED COUNTER-CLAIM.

PARRISH MEDLEY,
Plaintiff,
vs.
JAN WALLACE,
Defendant.

CASE NO. CV 06-3357 R (SSx)

CONSOLIDATED WITH
CASE NO. CV 06-3370 R (SSx)

DECLARATION OF PARRISH MEDLEY IN SUPPORT OF PLAINTIFFS' OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

[FILED CONCURRENTLY WITH MEMORANDUM OF POINTS AND AUTHORITIES, SEPARATE STATEMENT OF GENUINE ISSUES IN DISPUTE, DECLARATION OF MATTHEW E. HESS, AND EVIDENTIARY OBJECTIONS TO DECLARATIONS OF JAN WALLACE, MICHAEL WACHTELL, AND CARLO MONDAVI]

DATE: February 20, 2007
TIME: 10:00 AM
CTRM: 8
JUDGE: HON. MANUEL L. REAL

DOCKETED ON CM
FEB 15 2007
BY Bq 010

80

DECLARATION OF PARRISH MEDLEY

I, Parrish Medley, declare as follows:

1. I am over the age of 18 and one of the parties to this action. I make this declaration in support of Plaintiffs' Opposition to Defendant Wallace's Motion for Summary Judgment. I have personal knowledge of the facts herein and, if called as a witness, can and will testify competently thereto.

2. In early 2004, Carlo Mondavi approached me and asked me to assist him with starting a new skin care company. Carlo was aware that I had founded a company called Palm Beach Tan, Inc., and that I had built Palm Beach Tan from the ground up; I began as a sole proprietor, opened the first store, and grew the company from a single store into a highly successful chain of 11 stores, using my own money, until I sold the business to a group of private investors. Carlo, age 25, and his friend Josh Levine, age 24, wanted to start their own company, Davi Skin. They were aware that I had experience in founding a new company, building a brand, assembling a management team, marketing, and the like, and asked me to guide them through the process of starting Davi Skin.

3. In early 2004, I was appointed CEO of Davi Skin, Inc. My responsibilities were to raise money for the company, recruit the proper management, and build the financial, production, and marketing infrastructure of the company. I decided that the first task would be easier if the company were registered with the Securities and Exchange Commission.

Davi Skin's Purchase of MW Medical, Inc.

4. I investigated the possibility of having Davi Skin make an initial public offering, but I did not think this was possible as the company did not yet have any earnings or any products. I discussed this situation with Kyleen Cane, an attorney in Las Vegas, Nevada, who I had met, and she suggested

that Davi Skin would be a good candidate for a reverse merger.

5. Kyleen Cane told me that she represented a company called MW Medical, Inc., which was for sale. She said that she would speak to MW Medical's president, Jan Wallace, on my behalf. While I became aware that Ms. Cane had represented at least one company with which Ms. Wallace was involved, Ms. Cane never informed me of her intimate, years-long business and professional relationship with Ms. Wallace. Nor did she inform me that for several years she had served as President of one of the penny stock shell companies controlled by Ms. Wallace.

6. Ms. Cane informed me I could purchase MW Medical for $250,000, plus $50,000 in past due legal fees the company owed to Ms. Cane's firm. In return, I would receive a controlling interest in the company – approximately 90% of its outstanding stock – and all outstanding Promissory Notes.

7. I asked Ms. Cane to tell Ms. Wallace that this proposal was agreeable to me, and Ms. Wallace flew to Los Angeles to meet with me, whereupon we finalized the terms.

8. Before I purchased MW Medical, I reviewed the company's public filings and financial statements to ensure that it was indeed an inactive shell company; I did not want Davi Skin to inadvertently acquire a corporation saddled with debts or one that had lawsuits pending against it. My review of the financial statements quickly revealed that MW Medical had emerged from bankruptcy in 2002 and had not transacted any business at all since then.

9. The financial statements stated that MW Medical was "indebted" to Ms. Wallace and had issued her a Promissory Note which had a principal amount totaling approximately $570,000 as of December 31, 2003. The Promissory Note was convertible into the common stock of the company. Ms. Cane informed me that Ms. Wallace would use this Note to effectuate the sale

and merger; she would first convert as much of the Note as was needed to give her 90% of the Company's common stock. She would then convey the common stock, and whatever portion of the Note which had not been converted, to me at the close of the transaction.

Ms. Wallace and I Enter Into the Stock Purchase and Note Assignment Agreement

10. Accordingly, on March 15, 2004, I entered into a "Stock Purchase and **Note Assignment Agreement**" with Jan Wallace, Grace Sim, and MW Medical, Inc. (emphasis added.) A true and correct copy of the Stock Purchase and Note Assignment Agreement is attached hereto as Exhibit 2.[1] The document was prepared by Kyleen Cane.

11. Paragraph 1.2(c) of the Stock Purchase and Note Assignment Agreement requires Wallace and Sim to "deposit their shares and an assignment of debt" into an attorney escrow account. (emphasis added.)

12. Pursuant to Paragraph 1.2(c)'s requirement that Wallace and Sims execute an "Assignment of Debt," Wallace and Sim executed two Assignments, true and correct copies of which are attached hereto as Exhibits 8 and 9. Wallace's Assignment states in pertinent part:

> "For value received, the undersigned note holder, hereby assigns, conveys, and transfers all of her right, title, and interest in the attached **Promissory Notes** issued by MW Medical, Inc....to Parrish Medley or his assigns."

13. Wallace and Sim delivered these Assignments to me on the day of closing or shortly thereafter. **Once I received the Assignments, I believed the matter to be closed. Wallace and Sim no longer had any**

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[1] For the convenience of the Court, the Exhibits attached to the instant Declaration use the same numbering system as the corresponding exhibits in the parties' Joint List of Exhibits.

interest in MW Medical or Davi Skin.

14. The written Stock Purchase and Note Assignment Agreement contains **all** of the material terms of the agreement between myself and Ms. Wallace.

15. When I executed the Stock Purchase and Note Assignment Agreement, my intention – as evidenced by the agreement – was that Ms. Wallace would convey her **entire** interest in MW Medical to me. At the close of the transaction, she would not retain **any** interest in the company – whether debt or equity – whatsoever. In colloquial terms, Wallace was required to sell MW Medical to me **lock, stock, and barrel**. Wallace was not "investing" in Davi Skin by merging it with MW Medical, she was selling MW Medical to me. I would not have entered into the transaction on any other terms.

16. I did not expect to have any dealings Ms. Wallace after the closing, but I did expect her to execute any additional paperwork necessary to effectuate the sale and merger.

The Alleged Oral Agreement With Ms. Wallace

17. In her Declaration in support of her Motion for Summary Judgment, Ms. Wallace has stated that on the day of closing, I entered into a second, separate, oral agreement with her. According to Ms. Wallace, the oral agreement provided that she would assign one of her MW Medical, Inc. Promissory Notes to me on the condition that I pay her the full face value of the Note upon reassigning it to another. This statement is false. **I never entered into any such agreement with Ms. Wallace, at the closing or anywhere else.**

The Assignment

18. At first, I intended to cancel the Notes once I received them from Ms. Wallace and Ms. Sim so that Davi Skin would begin its tenure as a public company without any outstanding debt obligations. However, when Ms. Cane

said that Ms. Wallace would be conveying a convertible Note to me, I decided not to cancel it. A convertible note can be redeemed for either cash or common stock. Ms. Cane explained that convertible notes can be useful to a company because they afford the company great flexibility and allow the holder of the note the option of either participating in the "upside" of a company – via the conversion feature – or the repayment of the principal in a set dollar amount.

19. Accordingly, I asked that the transaction be structured such that after Ms. Wallace converted as much of the Note into MW Medical common stock as was necessary to effectuate the merger, she would then reduce the outstanding principal balance of the Note to $200,000, an amount I chose because it converted into an even number of shares of company stock. Ms. Wallace would then assign the Note to me at the close of the transaction. I never intended to retain the Note for my own benefit, but instead intended to use for the company's benefit. Accordingly, I asked that the Note be assigned to "Parrish Medley or his assigns," so that I could use it for the benefit of the company if the appropriate situation presented itself.

20. At the closing, Ms. Cane advised me that in order to effectuate the reverse merger of MW Medical into Davi Skin, Ms. Wallace would convert a portion of the Note into MW Medical common stock. Ms. Cane told me that I should then execute a new Promissory Note, payable to Ms. Wallace, in the principal amount which remained outstanding after the conversion. Ms. Wallace would then reduce the principal balance of the Promissory Note to $200,000. Finally, Ms. Wallace would assign the Note to me. Ms. Cane told me that these steps were necessary to effectuate the stock split, reverse merger, and sale (as described in the Stock Purchase and Note Assignment Agreement), and I relied on Ms. Cane's advice and followed her instructions. True and correct copies of the original Note, and the new Note in the reduced

principal amount, are attached hereto as Exhibits 3 and 5.

Kyleen Cane Becomes Davi Skin's General Counsel

21. After the Stock Purchase and Note Assignment Agreement closed, I asked Kyleen Cane to become the general counsel to Davi Skin. Davi Skin needed an experienced securities lawyer, so I asked Ms. Cane to represent the company, and she agreed.

22. My knowledge of the securities laws is very limited. I worked as a stockbroker for a few years upon my graduation from college, but that was almost 20 years ago, and even then I only had a perfunctory working knowledge of the laws specifically applicable to brokers. I have never served as an officer or director of a public company and I know almost nothing about the laws applicable to individuals serving in those positions. Therefore I relied on Ms. Cane to inform me – and Davi Skin – of all applicable laws and regulations.

23. Ms. Cane prepared all of Davi Skin's securities filings and gave them to me to sign. I relied on her advice and assurances that the filings were correct. All of the filings disclosed the $200,000 Note on the balance sheet, so investors were always aware that the company owed this obligation. I once asked Ms. Cane whether the filings should be amended to also state the fact that the Note had been assigned to "Parrish Medley or his designates." She said that would be fine, but it was unnecessary as I did not intend to personally benefit from the Note. She told me that since Ms. Wallace had already agreed to execute a new Assignment (see Paragraph 25 *infra*), it would be easier to simply amend the company's filings once the Assignment was executed to state the name of the new assignee. I followed Ms. Cane's advice. If she had told me that the filings needed to be amended to state my name as the holder of the Assignment, I would have followed that advice as well.

Ms. Cane Informs Me that the Assignment Should Be Modified

24. A few months after the Stock Purchase and Note Assignment Agreement was signed, in the late summer or fall of 2004, I told Ms. Cane that I wanted to assign the Note to David Kagel to compensate him for services to the company. Ms. Cane informed me that the Assignment might make the Note subject to restrictions on trading if the assignee were to convert the Note into common stock or present it for payment.

25. As was stated above, the assignment was to "Parrish Medley or his designates." I never intended to keep the Assignment for myself, but instead intended to give it to Mr. Kagel. I certainly did not regard myself as the beneficiary of the Assignment. If I had been unable to give it to Mr. Kagel or had otherwise been unable to use it for the benefit of the company, I would have cancelled the Note.

26. In general, restrictions are imposed on the company debt and equity obligations to corporate insiders, such as the CEO of the company. These individuals are required to hold their debt and equity obligations and refrain from trading them for a set period for time after issuance, generally two years. The restriction follows the debt and equity obligations, and anyone receiving them from the corporate insider becomes subject to the restriction. This prevents the corporate insider from circumventing the holding period by conveying his or her stock to a relative, for example. Because the Assignment was to "Parrish Medley or his designates," the Note it assigned might be deemed restricted. The investor who received the Assignment might be unable to freely negotiate the Note thereafter.

27. Ms. Cane recommended that Ms. Wallace execute a new Assignment, in blank, i.e. an assignment to "the individuals on Schedule A," and not "Parrish Medley or his designates." She said that this was not strictly necessary, as she believed that the Assignment was all right in its present

form. However, she said that the best and most efficient course of action was simply to execute a new Assignment. She said that Ms. Wallace was required to perform such "cleanup work" under the terms of the Stock Purchase and Note Assignment Agreement.

28. Almost immediately thereafter, I contacted Ms. Wallace and asked her to execute a new Assignment. She agreed, but demanded 10,000 shares of company stock in return for doing so. I was shocked by her demand. She had agreed to execute any paperwork necessary to effectuate the Stock Purchase and Note Assignment Agreement, and she was breaching her promise. Second, I was shocked that Ms. Wallace would try to take advantage of Davi Skin in this way. At first I had no intention of giving her anything. I reflected on the matter further and realized that the only way I could compel Ms. Wallace to honor the Stock Purchase and Note Assignment Agreement was to sue her. That would cause Davi Skin to incur attorneys' fees and might take many months, if not years, to resolve. Although I deeply resented Ms. Wallace's demand, I decided that the most expeditious thing to do was give her 10,000 shares of my own stock. I had over 1,000,000 shares of Davi Skin stock at the time, so my proposal to convey 10,000 shares to Ms. Wallace did not substantially decrease the amount of my holdings. Ms. Wallace then said she would execute the new Assignment, and said that she would get Kyleen Cane to draw up all the necessary paperwork.

29. Ms. Wallace never executed the new Assignment. I intended to transfer the 10,000 shares of stock at the same time that she executed the new Assignment, but Wallace never executed anything so I never transferred the shares. In the months that followed I periodically asked Kyleen Cane to remind Ms. Wallace of her promise to execute the new Assignment, but Ms. Wallace never executed it.

30. Sometime after Ms. Wallace and I discussed the need to execute

a new Assignment, Kyleen Cane reminded me that the Note was due on December 31, 2004. Ms. Cane said she had asked Ms. Wallace to extend the due date of the Note until we could resolve the issue of the Assignment, which Ms. Wallace did.

Ms. Wallace Executes The Assignment in Blank

31. In or about August, 2005, the Note was about to mature again; it was due on December 31, 2005. I was also tired of waiting for Ms. Wallace, who still had not executed the new Assignment, and decided to resolve the issue of the Assignment once and for all. Although Ms. Wallace had promised to coordinate everything with Kyleen Cane, she had not done so. Therefore, I directed Ms. Cane to draft the revised Assignment, and asked her to tell Ms. Wallace that she needed to finally execute it. Ms. Cane informed me that Ms. Wallace would be more likely to do this if I gave her the 10,000 shares of stock first, so I asked Ms. Cane to issue it to her. A true and correct copy of the August 2, 2005 email from me to Kyleen Cane directing her to issue 10,000 restricted shares to Ms. Wallace is attached hereto as Exhibit 42.

32. A few days later Ms. Wallace claimed that I had agreed to give her 10,000 shares of unrestricted company stock instead of 10,000 of my own restricted shares. This statement was false. I never agreed to this, as I had no unrestricted stock to give, and had no reason to direct the company to issue it. I refused to give her any restricted stock. A few days later, she dropped her request for 10,000 unrestricted shares and said she would accept $10,000 in cash instead.

33. When Ms. Wallace made this demand, my relationship with Carlo Mondavi and Josh Levine, the other principals of Davi Skin, was very strained. Shortly thereafter, I resigned from the company. At the time, however, I thought I still might continue my relationship with Davi Skin. The last thing I

needed at this delicate time was a contretemps over the Assignment and the due date of the Note. Therefore, I agreed to give Ms. Wallace the $10,000.

34. Ms. Wallace told me that she was going to be in Newport Beach, California, and suggested that we meet at a Carl's Jr. across the street from the office where she would be transacting business. I met her there, paid Ms. Wallace the $10,000 from my own funds – in cash, as she had specified – and Ms. Wallace executed the new Assignment in blank. A true and correct copy of the Assignment is attached hereto as Exhibit 18.

35. Soon thereafter, Ms. Wallace gave Ms. Cane one or more (I cannot remember whether it was one or two) extensions of the Note. This was because the new Assignment was in blank, i.e. it was issued to the "individuals identified on Schedule A." Schedule A was to be created later, when the Assignment was given to its recipient. In the meantime, however, the Note might come due, and because Schedule A had not yet been filled in, there was technically no one with the authority to extend the due date. Therefore, Ms. Wallace one or more extensions as well to simplify matters.

I Give the Assignment to David Kagel

36. Ever since I became CEO of Davi Skin, David Kagel provided the company and me with invaluable advice. For example, in 2004 he introduced Davi Skin to David Horner, a legendary cosmetics industry executive who helped launch Giorgio perfume. David Horner has been retained by several companies, as well as several celebrities, to assist with the creation and development of fragrances and skin care products. In particular, Mr. Horner has worked with Hermes, Unilever, Procter & Gamble, Tiger Woods, and Prince Albert of Monaco. David Kagel arranged the introduction of David Horner to Carlo Mondavi and Josh Levine. Carlo, Josh and I had several meetings with Mr. Horner in both Los Angeles and New York. I wanted Mr. Horner to become the new CEO of Davi Skin (I always intended to serve as

the company's interim CEO, as my particular expertise was not in the cosmetics industry) but Carlo and Josh decided that they could not work with him.

37. David Kagel also introduced me to Pamela Friedman (an acquaintance of David Horner's), a former merchandising and product development executive at Crabtree & Evelyn, the perfume and skincare products company, and Victoria's Secret. In addition to this, David Kagel provided me with a great deal of counsel and other advice and, I believed, would have continued to be an invaluable asset in the future. Therefore, I decided to assign the Note to him. As early as 2004, I told Carlo that I was assigning the Note to Mr. Kagel.

38. After receiving the new Assignment in blank from Ms. Wallace, I gave it to David Kagel.

I Resign as CEO of Davi Skin

39. By December, 2005, my relationship with Davi Skin proved irreparable. I had a different vision for the future of the company than the other principals. Finally, in late 2005 the company hired Joseph Spellman to assume the role of CEO, and the company and I negotiated a separation agreement.

Ms. Wallace Threatens to Write a "Five-Page Letter."

40. Shortly thereafter, in March, 2006, Ms. Wallace telephoned me again and asked for another meeting at the Carl's Jr. in Newport Beach. She said that she had received a letter from Davi Skin's auditors inquiring about the status of the Note. She offered to "split" the proceeds of the Note with me. I told her that the note had never been mine to "split," and that in any case I had assigned the Note to David Kagel. She asked me to "think about" her proposal, and said that if I did not agree to her proposal she would write a "five-page letter" to Davi Skin's auditors. I told her that there was nothing

to think about and left the meeting. As I was driving home, Ms. Wallace called me on my car phone and asked me to "sleep on" her proposal and call her in the morning. I never returned her call.

Ms. Wallace's Allegations

41. Ms. Wallace has alleged that I promised to enter into various agreements with her, one Kelly Black, and one Michele Stewart to perform various consulting and private placement services. This statement is simply false. I do not recall ever meeting Michele Stewart. I did meet Kelly Black once, in 2004. When I was discussing the need for the new Assignment with Ms. Wallace, she said that a woman named Kelly Black might be able to help me raise money for Davi Skin. I decided to include a stop in Arizona on my next business trip and met with Ms. Wallace at a luncheon meeting. At the luncheon, she introduced me to the manager of a mutual fund who claimed to be able to raise an-unlimited amount of capital for Davi Skin. When I pressed him for details he responded that his plan required the Mondavi family to back Davi Skin's with Mondavi Winery Company stock, a plan which I knew to be unworkable. Ms. Black, who I met later that afternoon, claimed to know several investors who might be willing to invest in Davi Skin. I spoke to only one such investor, via telephone, but no investment capital ever materialized. Ms. Black also knew of two fledgling skincare companies and suggested that Davi Skin might want to enter into partnerships with them. Carlo, Joseph Spellman and I examined these proposals and determined they were not worth pursuing. None of the proposals of Ms. Wallace or Ms, Black were of any substance, and none of the investment capital they claimed they could bring to Davi Skin ever materialized. I certainly never agreed to enter into any of the alleged agreements with them.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 6, 2007 in Los Angeles, California.

PARRISH MEDLEY

STOCK PURCHASE AND NOTE ASSIGNMENT AGREEMENT

BETWEEN

MS. JAN WALLACE/MS. GRACE SIM

AND

MW MEDICAL, INC.

AND

PARRISH MEDLEY OR HIS DESIGNATES

March 15, 2004

STOCK PURCHASE AND NOTE ASSIGNMENT AGREEMENT

THIS STOCK PURCHASE AND NOTE ASSIGNMENT AGREEMENT ("Agreement") has been made and entered into as of this 15th day of March, 2004, by and among, Ms. Jan Wallace ("Wallace"), Ms. Grace Sim ("Sim"), MW Medical, Inc., a Nevada Corporation ("Company"), and Mr. Parrish Medley or his designates (the "Purchaser").

RECITALS:

A. Whereas, Wallace and Sim own approximately 78,350,000 shares of the Company and hold a combined secured debt obligation of the Company of approximately $856,432.

B. Whereas, the Purchaser desires to purchase both Wallace and Sim's debt and equity positions in the Company, all according to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants contained herein, the parties hereto agree as follows:

ARTICLE I.
THE STOCK PURCHASE

1.1. Purchaser agrees to purchase from Wallace and Sim all of their shares of common stock and their $856,432 secured debt of the Company (collectively the "Positions") for total consideration of $250,000.

1.2 Purchaser agrees to purchase Wallace and Sim's Positions in the Company as follows:

a) Wallace and Sim shall transfer to the Purchaser the following:

- All of their shares of common shares of the Company's stock currently held post reverse split;
- A termination of their stock options, if any, in the Company;
- All rights to cash advances, non-employment debt, and payroll debt in the amount of approximately $856,432.

b) For consideration for the transfer set forth in section 1.2(a) above, Purchaser shall:

- Pay to Wallace and Sim $75k immediately upon deposit of the Positions into the escrow, $100k upon the completion of the proposed 500/1 reverse split of the Company's common stock, and $75k upon the final transfer of the Positions upon Closing.

c) Wallace and Sim will deposit their shares and an assignment of debt into an attorney escrow along with the total Purchase funds of $250,000.

K/M 76

1.4 All transactions between the parties described in this Agreement shall be executed on or before March 31, 2004.

ARTICLE II.
REPRESENTATIONS AND WARRANTIES

2.1. Representations and Warranties of the Company. Wallace and Sim hereby represent and warrant to Purchaser that:

2.1.1. *Organization of the Company.* The Company is duly organized, validly existing, and in good standing under the laws of the state of Nevada and has all requisite corporate power to own its property and conduct the business in which it is engaged. The Company has full power and authority (corporate or otherwise) to execute, deliver and perform its obligations under this Agreement.

2.1.2. *Capitalization.*

2.1.2.1. The Company has an authorized capital stock consisting of 100,000,000 shares of common stock, par value $0.001 per share. There are 99,550,070 shares of common stock issue and outstanding. No shares of preferred stock have been issued. All shares of Company stock that have been issued are validly issued, fully paid, are non-assessable, and were issued in compliance with any preemptive or similar rights and in compliance with applicable laws.

2.1.2.2. The Company does not have any outstanding subscriptions, options, preferred stock, rights, warrants, convertible securities or other agreements or commitments to issue, or contracts or any other agreements obligating the Company to issue, or to transfer from treasury, any shares of its capital stock or membership interests, as applicable, of any class or kind, or securities convertible into such stock or interests other than the obligation to issue shares of common stock of the Company as provided herein. No persons who are now holders of Company Stock, and no persons who previously were holders of Company Stock, are or ever were entitled to preemptive rights other than persons who exercised or waived those rights.

2.1.2.3. There is no outstanding vote, plan, pending proposal or right of any person to cause any redemption of Company stock. Neither the Company nor any of its affiliates, is under any obligation, contract or other arrangement to register (or maintain the registration of) any of its or their securities under federal or state securities laws.

2.1.2.4. The Company is not a party to any agreement, voting trust, proxy or other agreement or understanding of any character, whether written or oral, with any other stockholders of the Company with respect to or concerning the purchase, sale or transfer or voting of the Company stock or any other security of the Company.

2.1.3. *Compliance with Other Instruments; Consents.* Neither the execution of this Agreement nor the transfer of shares of common stock hereunder will conflict with, violate or result in a breach or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default), or result in a termination of, or accelerate the performance required by, or result in the creation of any encumbrance upon any assets of the Company under any provision of the Articles of Incorporation, Bylaws, indenture, mortgage, lien, lease, agreement, contract, instrument, order, judgment, decree, statute, ordinance, regulation or any other restriction of any kind or character to which the Company is bound.

2.1.4. *Litigation.* There are no legal, administrative, arbitration or other proceedings or claims pending against the Company, nor is the Company subject to any existing judgment which might affect the financial condition, business, property or prospects of the Company; nor has the Company received any inquiry from an agency of the federal or of any state or local government about the Transaction, or about any violation or possible violation of any law, regulation or ordinance affecting its business or assets.

2.1.5. *Full Disclosure.* None of the representations and warranties made by Wallace and Sim herein will contain any untrue statement of material fact, or omits any material fact, the omission of which would be misleading.

2.2. **Representations and Warranties of the Purchaser.** The Purchasers hereby represent and warrant as follows:

2.2.1 Each Purchaser has, either alone or with the assistance of a professional advisor, sufficient knowledge and experience in financial and business matters that they believe himself/herself capable of evaluating the merits and risks of an investment in the Positions and the suitability of an investment in the Company in light of their financial condition and investment needs, and legal, tax and accounting matters.

2.2.2 Each Purchaser has been given access to full and complete information regarding the Company and has utilized such access to the undersigned's satisfaction for the purpose of obtaining information in addition to, or verifying information provided by Wallace and Sim. Particularly, each Purchaser has been given reasonable opportunity to meet with and/or contact Company representatives for the purpose of asking questions of, and receiving answers from, such representatives concerning the Positions and to obtain any additional information, to the extent reasonably available, necessary to verify the accuracy of information provided.

2.2.3 Each Purchaser is an "accredited investor" as defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act").

2.2.4 Each Purchaser recognizes that an investment in the Shares involves a high degree of risk, including but not limited to the risk of losing his/her/its entire investment and the other risks described below.

ARTICLE III.
ARTICLE
SURVIVAL OF REPRESENTATIONS

3.1. Representations to Survive. The representations and warranties contained herein or in any document furnished pursuant hereto shall survive the consummation of any sale or transfer pursuant to this Agreement. Each party acknowledges and agrees that, except as expressly set forth in this Agreement, no party has made (and no ~~party is relying on~~) any representation or warranties of any nature, express or implied, regarding any or relating to any of the transactions contemplated by this Agreement.

ARTICLE IV.
MISCELLANEOUS

4.1. Assignability and Parties in Interest. This Agreement shall not be assignable by any of the parties hereto without the consent of all other parties hereto. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors. Nothing in this Agreement is intended to confer, expressly or by implication, upon any other person any rights or remedies under or by reason of this Agreement.

4.2. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Nevada. Each of the parties hereto consents to the personal jurisdiction of the federal and state courts in the State of Nevada in connection with any action arising under or brought with respect to this Agreement.

4.3. Counterparts. This Agreement may be executed as of the same effective date in one or more counterparts, each of which shall be deemed an original.

4.4. Headings. The headings and subheadings contained in this Agreement are included solely for ease of reference, and are not intended to give a full description of the contents of any particular Section and shall not be given any weight whatever in interpreting any provision of this Agreement.

4.5. Complete Agreement. This Agreement and the documents referred to herein contain the entire agreement between the parties and, except as provided herein, supersede all previous negotiations, commitments and writings.

4.6. Modifications, Amendments and Waivers. This Agreement shall not be modified or amended except by a writing signed by each of the parties hereto.

4.7. **Severability**. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced by any rule of law or public policy, all other terms and provisions of this Agreement will nevertheless remain in full force and effect. Upon any such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties hereto will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible.

4.8. **Completion of SEC Filings.** Purchaser shall advance immediately the costs of preparing the Company's current 10KSB audited financials. Any payments made in this regard shall be reimbursed to Purchaser through a reduction in Purchaser's final payment to Wallace and Sim required by Section 1.2(b). Wallace and/or Sim shall prepare, file and sign this final 10KSB on behalf of the Company.

4.9 **Indemnification.** Wallace and Sim further agree to indemnify and hold Purchase harmless from and against any and all claims or actions against the Company based in full or in part on events occurring prior to the Closing of this agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

JAN WALLACE

GRACE SIM

PARRISH MEDLEY

Principal Amount: $248,325.00

PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned, MW Medical, Inc., a Nevada corporation (or its successor or assigns) promises to pay to the order of Jan Wallace, an individual, at such address as may be designated in writing by the holder of this Note, the principal sum of TWO HUNDRED AND FORTY EIGHT THOUSAND, THREE HUNDRED AND TWENTY FIVE DOLLARS and NO CENTS ($248,325.00) in U.S. currency. The entire amount of principal with ten percent (10%) interest per annum shall become due and payable on June 15, 2003.

The undersigned and its successors and assigns, hereby waives presentment and demand for payment, diligence, notice of dishonor, protest and notice of protest of this Note, and any defense by reason of an extension of time for payment or other indulgence. Failure of the holder to assert any right herein shall not be deemed to be a waiver thereof.

This Promissory Note is made in settlement of all wages and employment fees owed to payee to date.

The holder of this note may, at its option, convert all or any portion of the promissory note to equity of MW at the same price as is available to those investors participating in the any private placement while this debt is outstanding. In the event that the holder of this Note wishes to convert during a period of time when no private offering of common stock is open, then the Note holder may convert at 50% of the market price at that time, or at $0.20 per share, whichever is lower.

Signed this 15th day of March, 2003

MW Medical, Inc.

By Grace Sin

Its: Chief Financial Officer

EXHIBIT 3

PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned, DAVI SKIN, Inc., a Nevada corporation (or its successor or assigns) promises to pay to the order of Jan Wallace, an individual, at such address as may be designated in writing by the holder of this Note, the principal sum of TWO HUNDRED THOUSAND and NO CENTS ($200,000.00) in U.S. currency. The entire amount of principal with ten percent (10%) interest per annum shall become due and payable on December 31, 2004.

The undersigned and its successors and assigns, hereby waives presentment and demand for payment, diligence, notice of dishonor, protest and notice of protest of this Note, and any defense by reason of an extension of time for payment or other indulgence. Failure of the holder to assert any right herein shall not be deemed to be a waiver thereof.

The holder of this note and beneficiary of the Security Agreement may, at its option, convert all or any portion of the promissory note to equity at the same price as is available to those investors participating in the any private placement while this debt is outstanding. In the event that the holder of this Note wishes to convert during a period of time when no private offering of common stock is open, then the Note holder may convert at 50% of the market price at that time, or at $0.20 per share, whichever is lower.

Signed this ____ day of June, 2003

Davi Skin, Inc.

By: ______________________

Its: President

EXHIBIT 5

ASSIGNMENT OF PROMISSORY NOTE

For Value Received, the undersigned note holder, hereby assigns, conveys and transfers all of her right, title and interest in the attached Promissory Note issued by MW Medical, Inc., along with any other rights she may have as a creditor of said Corporation, to Parrish Medley or his designates.

Dated: March __, 2004

Grace Sim
PO Box 5383
Scottsdale, AZ 85261

EXHIBIT 8

ASSIGNMENT OF PROMISSORY NOTES

For Value Received, the undersigned note holder, hereby assigns, conveys and transfers all of her right, title and interest in the attached Promissory Notes issued by MW Medical, Inc., along with any other rights she may have as a creditor of said Corporation, to Parrish Medley. or his designates.

Dated: March __, 2004

Jan Wallace
6929 E. Cheney Rd.
Paradise Valley, AZ 85253

EXHIBIT 9

For Value Received, the undersigned note holder, hereby assigns, conveys and transfers all of her right, title and interest in the attached Promissory Notes issued by MW Medical, Inc., along with any other rights she may have as a creditor of said Corporation, to Parrish Medley or his designates.

Dated: ____________ 2004

Jan Wallace

Jan Wallace
6929 E. Cheney Rd.
Paradise Valley, AZ 85253

EXHIBIT 18

-----Original Message-----
From: Cane, Kyleen [mailto:kcane@caneclark.com]
Sent: Wednesday, August 03, 2005 2:06 PM
To: Parrish Medley
Subject: RE: filing/vegas

We did get Jan to sign something; in fact, two somethings. I had her sign an extension to 12-31-05 and then another one to 9-06. (See attached) We were concerned about the dates and having to go back to her. So we focused on extending the time of the note for the auditor. We didn't have her change the transferee on the separate transfer agreement – now undated. This was one of those black bag documents which transferred the note to you or your designates. We never discussed this, but if you want to get your name off of it then we can get her to sign another one – we just need to get her the 10k shares.

In any case, we should get her the shares as soon as possible because the holding period on the transfer won't start until you make the transfer (unless you want to give her shares from the exercise of the options that were registered). I will have Susan work with you on the paperwork with you and the transfer agent, but basically it is just you sending in your certificate to the transfer agent with instructions.

I will try to free up the early part of Friday night so we can meet. 4:30 to 6 pm?

Kyleen Elisabeth Cane
Cane Clark, LLP
3273 E. Warm Springs
Las Vegas, NV 89120
(702) 312-6255 (Office)
(702) 944-7100 (Fax)
www.CaneClark.com

From: Parrish Medley [mailto:parrish.medley@daviskin.com]
Sent: Tuesday, August 02, 2005 4:36 PM
To: Cane, Kyleen

Ky

Jan must of signed something or else we would not have made it thru the audit at that time.......I let you know way back at that time that the 10k was approved and all good to give her – so lets make sure she gets those— they were suppose to res for 1 year----which should only have like 9 months left ....I can either meet with you anytime Friday evening,, for me like anytime **between 4pm and 9pm Friday evening** would be best-----or I could meet with you sat morn But I plan on being out late Friday So sat morn does not feel like the best choice— Parrish.

PARRISH MEDLEY
ceo/president

DAVI SKIN Inc.
301 N. Canon Dr. Suite 207
Beverly Hills, CA 90210
OFFICE: 310.205.9907 ext.209 FACSIMILE: 310.205.9909
CELL.310.402.3177

email: parrish.medley@daviskin.com website: www.daviskin.com

-----Original Message-----
From: Cane, Kyleen [mailto:kcane@caneclark.com]
Sent: Tuesday, August 02, 2005 10:53 AM
To: Parrish Medley
Subject: RE: filing/vegas

Glad you are back. I will be in meetings most of Friday but open on Saturday. Might be able to do something later in the day on Friday if need be.

I will work on Jan, but she has been asking about the stock you promised her. It would go a long way if we did a transfer and gave her the stock first and then asked her to make the change. Let me know.

I expect to get the draft SB2 back from Scott Wednesday or Thursday so should have something for you to look at when you get here.

See you then, Ky

Kyleen Elisabeth Cane
Cane Clark, LLP
3273 E. Warm Springs
Las Vegas, NV 89120
(702) 312-6255 (Office)
(702) 944-7100 (Fax)
www.CaneClark.com

From: Parrish Medley [mailto:parrish.medley@daviskin.com]
Sent: Monday, August 01, 2005 6:09 PM
To: Cane, Kyleen
Subject: filing/vegas

Hi ky

I am back from my world travel—exhausted....
I plan on being in Vegas Friday—any chance you are free for a bit Friday or Saturday—I plan on bringing you a check....I would like to get a copy of the last agreement thingy from Jan—I think it was worded to Parrish or his assigns — I think it would be better if it were just To______________. Another words blank as to who it is assigned to.........Can you take care of that for me and have a copy for me when we meet.......Where are we with this SB2 filing and you were going to provide me with a copy of the letter we would provide shareholders so that they can provide their broker when they choose to sell their stock 1st round guys and I think you said we would need to provide the same letter even when this SB-2 is filed and approved/cleared whatever.... Do you need anything from me in regards to getting this stock cleared to trade....

Regards,
P.

PARRISH MEDLEY
ceo/president

DAVI SKIN Inc.
301 N. Canon Dr. Suite 207
Beverly Hills, CA 90210
OFFICE: 310.205.9907 ext.209 FACSIMILE: 310.205.9909
CELL.310.402.3177

email: parrish.medley@daviskin.com website: www.daviskin.com

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not party to the within action; my business address is 9401 WILSHIRE BLVD., SUITE 575, BEVERLY HILLS, CA 90212-2918.

On **February 6, 2007** I served the foregoing document described as **DECLARATION OF PARRISH MEDLEY** on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

CLAIRE C. AMBROSIO
5455 WILSHIRE BLVD, STE. 1706
LOS ANGELES, CA 90036-4217
TELEPHONE: 323-938-2878
FACSIMILE: 323-939-7809
EMAIL: cambrolaw@aol.com

[XX] BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Beverly Hills, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[] BY PERSONAL SERVICE: I caused the envelope to be delivered by hand to the offices of the addressee.

[] BY FACSIMILE TRANSMITTAL: I sent by facsimile the above document on at .m. to the facsimile machine number identified above.

[] BY FEDERAL EXPRESS OVERNIGHT DELIVERY: I caused the above document to be sent by Federal Express overnight delivery, fully prepaid, in accordance with Code of Civil Procedure § 1013(c).

Executed on **February 6, 2007** at Beverly Hills, California.

I declare that I am employed in the office of a member of the bar of this court at whose direction this service was made.

Cecibel Gomez