

- e) unjust enrichment;
- f) breaches of fiduciary duty;
- g) fraud and deceit;
- h) negligent misrepresentation; and/or
- i) the Massachusetts Consumer Protection Act, M.G.L. c. 93A, §§ 2 and 11.

2. The Plaintiff further alleges that, as a result and as caused by the Defendant's securities fraud, breaches, actions, omissions, policies, practices, and/or courses of conduct, Auctus has suffered irreparable harm, requiring injunctive relief and specific performance, harm to its business and reputation in the investment industry, damages from the Defendant's coercion, duress, and unfair and deceptive anti-competitive acts, causing lost revenue, lost profits and prospective business, together with its injuries and damages.

3. The Plaintiff respectfully requests that its causes of action against the Defendant proceed to a trial by jury, that a judgment be entered on all Counts against the Defendant and that Auctus be awarded its general, compensatory and consequential damages and losses, costs, interest, plus multiple and/or punitive damages, attorneys' fees, and grant, order and enter temporary, preliminary and permanent injunctive and equitable relief, and grant, order and enter declaratory relief, and any such other relief as this Honorable Court deems just and appropriate.

II. PARTIES

4. The Plaintiff, Auctus Fund, LLC is a limited liability company, duly organized in the State of Delaware, with its principal place of business located at 545 Boylston Street, 2nd Floor, Boston, Massachusetts 02116.

5. Upon information and belief, the Defendant, Hemp Naturals Inc., is a Delaware corporation, with its principal place of business located at 16950 North Bay Road, Suite 1803, Sunny Isles Beach, Florida 33160.

III. JURISDICTION AND VENUE

6. The Plaintiff asserts that this Honorable Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, and pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Section 27(a) of the Exchange Act, 15 U.S.C. § 78aa(a).

7. The Plaintiff contends that, pursuant to 28 U.S.C. § 1391(b), venue is proper in the District of Massachusetts in that, pursuant to the Transaction Documents (as defined below), the Plaintiff Auctus and Defendant HPMM agreed that any and all disputes between and/or among them shall be brought, *inter alia*, in the state or federal courts in the Commonwealth of Massachusetts. Additionally, this Court is in such District where the Plaintiff Auctus is headquartered and has its principal place of business and is where the violated conduct described herein is alleged to have occurred.

8. This Court has personal jurisdiction, generally and specifically, over the Defendant by express terms of the Transaction Documents, and as arising from their extensive business contacts, generally over time and specifically, in their business dealings with Auctus within the Commonwealth of Massachusetts.

IV. FACTUAL BACKGROUND

A. Auctus Invests in HPMM and the Parties Execute the Transaction Documents

9. On or about February 4, 2019, the Company executed, *inter alia*, a certain Securities Purchase Agreement (hereinafter the “Purchase Agreement” or the “SPA”) and a certain Convertible Promissory Note with a principal amount of \$75,000.00 (hereinafter the “Note”), thereby entering into a contract with the Fund for its investment in HPMM. *See* Purchase Agreement, attached, restated and incorporated by reference herein as **Exhibit A**; Note, attached, restated and incorporated by reference herein as **Exhibit B**.

10. A review of the Transaction Documents reveals that the Note has a conversion feature into which entitles the Plaintiff to convert, at amounts and upon timing that Auctus deemed appropriate, the Defendant's debt obligations, in whole or in part, into publicly traded shares of HPMM common stock. Under the terms and conditions of the Transaction Documents, the Plaintiff has, and has had, a contractual right to convert at a price for HPMM common stock, averaged over a series of prior trading days, including and preceding the Conversion Date.

11. By the Transaction Documents, Defendant HPMM was also required to allocate and reserve shares of its common stock for future conversions by the Plaintiff. The reservation of shares was an independent obligation by the Defendant to the Plaintiff, and was a mechanism by which to effectuate the share conversion as envisioned by the Note.

12. In reliance upon the Transaction Documents, during the relevant time period, the Plaintiff issued a Notices of Conversions in an effort to convert of its investment into shares of publicly traded HPMM common stock in OTC Market, and, as a HPMM shareholder and at various times, the Plaintiff has held certain equity positions in HPMM shares in the Defendant Company.

13. Thus, in detrimental reliance upon the information, representations and statements from the Defendant, the Plaintiff invested thousands of dollars in the Company, which has, and has had, a fiduciary duty and a duty of the utmost loyalty to the Plaintiff. Unfortunately, to its detriment, the Plaintiff has learned that the Defendant misrepresented and deceived the Fund, and omitted material information while having a duty of disclosure, regarding the Company and perpetrated securities fraud in connection with the offer, purchase and sale of securities, in violation of, *inter alia*, Section 10(b) of the Exchange Act and Rule 10b-5, as promulgated thereunder, and the Massachusetts Uniform Securities Act, M.G.L. c. 110A, §§101, *et seq.*, *as amended*.

B. Defendant's Misrepresentations and Omissions of Material Facts and Securities Fraud in Connection with Offer, Purchase and Sale of Securities

14. The Plaintiff asserts and alleges that the Defendant HPMM misrepresented, omitted and failed to provide material facts to Auctus in connection with its investments and in the offer, purchase and sale of securities, and especially with respect to the business, finances, operations and other material matters relating to the Defendant, including but not limited to certain corporate transactions of Defendant HPMM.

15. From the period between or about August 8, 2018, and December 28, 2018 the Defendant filed several Forms 8-Ks with the U.S. Securities and Exchange Commission (hereinafter the "SEC" or the "Commission"). Each of these filings disclosed that HPMM had executed Securities Purchase Agreements and Convertible Promissory Notes with various investment funds, and other comparable transactions. None of these SEC filings, however, indicated the Defendant's intention to imminently withdraw the registration of its shares with Commission and no longer have publicly tradeable shares of HPMM common stock.

16. For example, on or about October 1, 2018, the Defendant filed a Form 8-K with the Commission, which provided, in pertinent part:

"On October 1, 2018 ("Closing Date"), Hemp Naturals, Inc. (the "Company") entered into a securities purchase agreement (the "Agreement") with Power Lending Group LTD (the "Investor"), pursuant to which the Company will issue a Six Month, 12% Secured Convertible Promissory Note, ("Note") secured by Company common stock with a face value of \$65,000 which provides a conversion feature equal to a variable conversion price equal to 61% multiplied by the Market Price defined as the lowest one day closing bid price for the Company common stock during the twenty day period ending on the latest complete trading day in the OTC Markets prior to the conversion date. The proceeds will be used for general corporate purposes and working capital. On October 2, 2018, the Closing Date, the Company initially reserved 6,589,819 shares of its common stock, ("Common Stock") for issuance upon for conversion of the Notes in accordance with the terms thereof ("Reserved Shares"). The Investor shall have the right to periodically request that the number of Reserved Shares be increased."

17. Upon information and belief, the Defendant's statements were incomplete, misleading, and/or misrepresentative or omitted material information with a duty to disclose the same, the Defendant failed to disclose its intention to imminently withdraw the registration of its shares with Commission and no longer have publicly tradeable shares of HPMM common stock.

18. As a further example, on or about October 18, 2018, the Defendant filed a Form 8-K with the Commission, which provided, in pertinent part:

“On October 18, 2018 (“Closing Date”), Hemp Naturals, Inc. (the “Company”) entered into a securities purchase agreement (the “Agreement”) with Power Lending Group LTD (the “Investor”), pursuant to which the Company will issue a Six Month, 12% Secured Convertible Promissory Note, (“Note”) secured by Company common stock with a face value of \$78,000 which provides a conversion feature equal to a variable conversion price equal to 55% multiplied by the Market Price defined as the lowest one day closing bid price for the Company common stock during the twenty day period ending on the latest complete trading day in the OTC Markets prior to the conversion date. The proceeds will be used for general corporate purposes and working capital. On October 22, 2018, the Closing Date, the Company initially reserved 10,129,870 shares of its common stock, (“Common Stock”) for issuance upon for conversion of the Notes in accordance with the terms thereof (“Reserved Shares”). The Investor shall have the right to periodically request that the number of Reserved Shares be increased.”

19. Upon information and belief, the Defendant's statements were incomplete, misleading, and/or misrepresentative or omitted material information with a duty to disclose the same, the Defendant failed to disclose its intention to imminently withdraw the registration of its shares with Commission and no longer have publicly tradeable shares of HPMM common stock.

20. As a further example, on or about November 8, 2018, the Defendant filed a Form 8-K with the Commission, which provided, in pertinent part:

“On November 8, 2018 (“Closing Date”), Hemp Naturals, Inc. (the “Company”) entered into a securities purchase agreement (the “Agreement”) with Bellridge Capital, LP (the “Investor”), pursuant to which the Company will issue a Six Month, 12% Secured Convertible Promissory Note, (“Note”) secured by Company common stock with a face value of \$65,000 which provides a conversion feature equal to a variable conversion price equal to 55% multiplied by the Market Price defined as the lowest one day closing bid price for the Company common stock during the twenty day period ending on the latest complete trading day in the OTC

Markets prior to the conversion date. The proceeds will be used for general corporate purposes and working capital. On November 14, 2018, the Closing Date, the Company initially reserved 2,300,000 shares of its common stock, (“Common Stock”) for issuance upon for conversion of the Notes in accordance with the terms thereof (“Reserved Shares”). The Investor shall have the right to periodically request that the number of Reserved Shares be increased.”

21. Upon information and belief, the Defendant’s statements were incomplete, misleading, and/or misrepresentative or omitted material information with a duty to disclose the same, the Defendant failed to disclose its intention to imminently withdraw the registration of its shares with Commission and no longer have publicly tradeable shares of HPMM common stock.

22. As yet another example, on or about December 14, 2018, the Defendant filed a Form 8-K with the Commission, which provided, in pertinent part:

“On December 7, 2018 (“Closing Date”), Hemp Naturals, Inc. (the “Company”) entered into a securities purchase agreement (the “Agreement”) with Power Lending Group LTD (the “Investor”), pursuant to which the Company will issue a Six Month, 12% Secured Convertible Promissory Note, (“Note”) secured by Company common stock with a face value of \$43,000 which provides a conversion feature equal to a variable conversion price equal to 61% multiplied by the Market Price defined as the lowest one day closing bid price for the Company common stock during the twenty day period ending on the latest complete trading day in the OTC Markets prior to the conversion date. The proceeds will be used for general corporate purposes and working capital. On December 7, 2018, the Closing Date, the Company initially reserved 9,090,909 shares of its common stock, (“Common Stock”) for issuance upon for conversion of the Notes in accordance with the terms thereof (“Reserved Shares”). The Investor shall have the right to periodically request that the number of Reserved Shares be increased.”

23. Upon information and belief, the Defendant’s statements were incomplete, misleading, and/or misrepresentative or omitted material information with a duty to disclose the same, the Defendant failed to disclose its intention to imminently withdraw the registration of its shares with Commission and no longer have publicly tradeable shares of HPMM common stock.

24. As an additional example, on or about December 14, 2018, the Defendant filed a further Form 8-K with the Commission, which provided, in pertinent part:

“On December 14, 2018 (“Closing Date”), Hemp Naturals, Inc. (the “Company”) entered into a securities purchase agreement (the “Agreement”) with Armada Investment Fund LLC (the “Investor”), pursuant to which the Company will issue a Six Month, 12% Secured Convertible Promissory Note, (“Note”) secured by Company common stock with a face value of \$38,500.00 which provides a conversion feature equal to a variable conversion price equal to 61% multiplied by the Market Price defined as the lowest one day closing bid price for the Company common stock during the twenty day period ending on the latest complete trading day in the OTC Markets prior to the conversion date. The proceeds will be used for general corporate purposes and working capital. On December 14, 2018, the Closing Date, the Company initially reserved 1,175,000 shares of its common stock, (“Common Stock”) for issuance upon for conversion of the Notes in accordance with the terms thereof (“Reserved Shares”). The Investor shall have the right to periodically request that the number of Reserved Shares be increased.”

25. Upon information and belief, the Defendant’s statements were incomplete, misleading, and/or misrepresentative or omitted material information with a duty to disclose the same, the Defendant failed to disclose its intention to imminently withdraw the registration of its shares with Commission and no longer have publicly tradeable shares of HPMM common stock.

26. As a further example, on or about December 27, 2018, the Defendant filed a Form 8-K with the Commission, which provided, in pertinent part:

“On December 19, 2018 (“Closing Date”), Hemp Naturals, Inc. (the “Company”) entered into a securities purchase agreement (the “Agreement”) with Adar Bays, LLC (the “Investor”), pursuant to which the Company will issue up to approximately \$140,000 in two 8% Secured Convertible Promissory Notes, (“Notes”) with a face value of \$70,000 each which provides conversion features equal to 55% of the lowest trading price of the Company’s common stock for the last 20 trading days prior to conversion, as well as 8% per annum interest. The Agreement includes customary representations, warranties and covenants by the Company and customary closing conditions. On the Closing Date December 20, 2018, the Company reserved Two million three hundred fifty thousand (2,314,000) shares of its common stock, (“Common Stock”) for issuance upon for conversion of the Notes in accordance with the terms thereof (“Reserved Shares”). The Investor shall have the right to periodically request that the number of Reserved Shares be increased so that the number of Reserved Shares equals at least 700% of the number of shares of Company common stock issuable upon conversion of the Notes.”

27. Upon information and belief, the Defendant’s statements were incomplete, misleading, and/or misrepresentative or omitted material information with a duty to disclose the

same, the Defendant failed to disclose its intention to imminently withdraw the registration of its shares with Commission and no longer have publicly tradeable shares of HPMM common stock.

28. As another example, on or about December 27, 2018, the Defendant filed a further Form 8-K with the Commission, which provided, in pertinent part:

“On December 4, 2018 (“Closing Date”), Hemp Naturals, Inc. (the “Company”) entered into a securities purchase agreement (the “Agreement”) with EMA Financial LLC.,(the “Investor”), pursuant to which the Company will issue a Six Month, 12% Secured Convertible Promissory Note, (“Note”) secured by Company common stock with a face value of \$65,000.00 which provides a conversion feature equal to a variable conversion price equal to 61% multiplied by the Market Price defined as the lowest one day closing bid price for the Company common stock during the twenty day period ending on the latest complete trading day in the OTC Markets prior to the conversion date. The proceeds will be used for general corporate purposes and working capital. On December 18, 2018, the Closing Date, the Company initially reserved 3,000,000 shares of its common stock, (“Common Stock”) for issuance upon for conversion of the Notes in accordance with the terms thereof (“Reserved Shares”). The Investor shall have the right to periodically request that the number of Reserved Shares be increased.”

29. Upon information and belief, the Defendant’s statements were incomplete, misleading, and/or misrepresentative or omitted material information with a duty to disclose the same, the Defendant failed to disclose its intention to imminently withdraw the registration of its shares with Commission and no longer have publicly tradeable shares of HPMM common stock.

30. From the period between or about August 8, 2018, and December 28, 2018, the Defendant filed at least seven (7) Forms 8-K with the Commission.

31. Between or about August 8, 2018, and December 28, 2018, the Defendant entered into multiple transactions with various investors and/or funds, certain of which transactions apparently included convertible promissory notes, and in certain transaction(s), HPMM promised to reserve shares of common stock for conversion by such investor(s).

32. Upon information and belief, the Defendant has not filed any amendment(s) to its various Forms 8-Ks, has not re-registered its securities, nor made additional filings in order to cure

and disclose omissions of material facts, which the reasonable investor would deem important to its investment, while having a duty to disclose the same to, *inter alia*, the Plaintiff, which relied upon the same, to its detriment.

C. Defendant HPMM Files SEC Form 15 and Withdraws its Registration

33. On or about April 2, 2019, approximately two (2) months after Auctus invested into HPMM, the Company filed Form 15, titled “*Certification and Notice of Termination of Registration Under Section 12(g) of the Securities Exchange Act of 1934 or Suspension of Duty to File Reports Under Sections 13 and 15(d) of the Securities Exchange Act of 1934,*” with the Commission. See HPMM’s Form 15 filing, dated, April 2, 2019, as attached, restated and incorporated by reference herein as **Exhibit C**.

34. The Defendant’s Form 15 expressly notified the public that, *inter alia*, HPMM would no longer maintain current financial reports with the Commission. The suspension of HPMM’s statutory obligation to file reports under Sections 13 and 15(d) is a breach of the Plaintiff’s Transaction Documents and further has cataclysmic consequences to the ability of the Fund to convert its investment into publicly tradeable securities of HPMM common stock.

35. By the filing of a Form 15 within a mere two (2) months of Auctus’ investment, the Defendant fraudulently induced the Plaintiff after it reasonably relied upon the Transaction Documents and the Company’s representations and warranties. Moreover, by the filing of the Form 15 with the Commission, Plaintiff’s right to convert HPMM’s Note was delayed by six (6) months.

36. Shortly after the Plaintiff and the Defendant executed the Transactions Documents, HPMM filed its Form 10-K with the Commission for the 2018 fiscal year, but then failed to file any quarterly or annual reports thereafter.

37. As a further demonstration of Defendant’s intentional fraudulent behavior, an investor similar situated to the Plaintiff filed suit against the company alleging that HPMM assured the

investor it would not file a Form 15. *See Coventry Enterprises, LLC v. Hemp Naturals, Inc.*, Case No. 1:19-cv-11057-JGK-KNF (U.S. Dist. Ct., S.D.N.Y.)(hereinafter the “NY Litigation”).

38. In the NY Litigation, the plaintiff invested in HPMM and purchased certain convertible notes from another fund in a comparable transaction as that pending in the instant litigation. the NY plaintiff alleged that HPMM fraudulently induced it, *inter alia*, because the Company had made express verbal promises that it had no intention of filing a Form 15 prior to the plaintiff’s hundreds of thousands of dollars of investment in the Company. *See id.* ¶ 1.

39. As set forth herein, the Defendant has committed securities fraud and made material misrepresentations and omitted material information while having a duty to disclose the same to Auctus, *inter alia*, in connection with the offer, purchase and sale of HPMM securities, and in connection with the Transaction Documents, in detrimental reliance upon which the Plaintiff invested thousands of dollars in the Company, to its detriment.

D. Events of Default and Defendant’s Breaches of the Transaction Documents

40. The Plaintiff asserts that the Defendant has incurred and/or caused several Events of Default, as set forth in Article III, entitled “*Events of Default*,” of the Notes. These Events of Default included, *inter alia*, breaches of following provisions of the Transaction Documents: a) Sections 1.4(d) (Delivery of Common Stock upon Conversion); b) 1.4(e) (Obligation of Borrower to Deliver Common Stock); c) 1.4(h) (Failure to Deliver Common Stock Prior to Delivery Date) 2.8 (Non-circumvention); d) 3.1 (Failure to pay Principal or interest - acceleration); e) 3.2 (Failure to Honor Conversion); f) 3.4 (Breach of Agreements and Covenants – Sections 2.8 of the Note – (Non-circumvention); g) 3.5 (Breach of Representations and Warranties – Section 3(g) (SEC Documents; Financial Statements) of that certain Securities Purchase Agreement (the “SPA”) by and between HPMM and AFL dated February 4, 2019; h) 3.10 (Failure to Comply with the Exchange Act); and 3.22

(unavailability of Rule 144). Such Events of Default, together with others, have occurred and continue to occur.

41. For example, Section 3.2 of the Convertible Promissory Note, entitled “*Conversion and the Shares*,” states, in pertinent part, that an “Event of Default” occurs when,

The Borrower fails to issue shares of Common Stock to the Holder (or announces or threatens in writing that it will not honor its obligation to do so) upon exercise by the Holder of the conversion rights of the Holder in accordance with the terms of this Note, fails to transfer or cause its transfer agent to transfer (issue) (electronically or in certificated form) any certificate for shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to this Note as and when required by this Note, directs its transfer agent not to transfer or delays, impairs, and/or hinders its transfer agent in transferring (or issuing) (electronically or in certificated form) any certificate for shares of Common Stock to be issued to the Holder upon conversion of or otherwise pursuant to this Note as and when required by this Note, fails to remove (or directs its transfer agent not to remove or impairs, delays, and/or hinders its transfer agent from removing) any restrictive legend (or to withdraw any stop transfer instructions in respect thereof) on any certificate for any shares of Common Stock issued to the Holder upon conversion of or otherwise pursuant to this Note as and when required by this Note (or makes any written announcement, statement or threat that it does not intend to honor the obligations described in this paragraph) and any such failure shall continue uncured (or any written announcement, statement or threat not to honor its obligations shall not be rescinded in writing) for three (3) business days after the Holder shall have delivered an accurately calculated Notice of Conversion, fails to remain current in its obligations to its transfer agent, causes a conversion of this Note is delayed, hindered or frustrated due to a balance owed by the Borrower to its transfer agent, fails to repay Holder, within forty eight (48) hours of a demand from the Holder, any amount of funds advanced by Holder to Borrower’s transfer agent in order to process a conversion, fails to reserve sufficient amount of shares of common stock to satisfy the Reserved Amount at all times as set forth herein, and/or an exemption under Rule 144 is unavailable for the Holder’s deposit into Holder’s brokerage account and resale into the public market of any of the conversion shares under this Note at any time after the date which is six (6) months after the date that the Holder funded the Purchase Price under this Note.

See Note (**Exhibit B**), § 3.2 (emphasis added).

42. On or about February 25, 2020, and pursuant to the terms and conditions of the Purchase Agreement and the Note, the Fund executed and delivered a certain Notice of Conversion (hereinafter the “Conversion Notice”), totaling \$10,584.42, by which it elected to make a conversion

of accrued interest, plus fees under the February 4th Note. *See* Plaintiff's Conversion Notice, as attached, restated and incorporated by reference herein as **Exhibit D**.

43. It is undisputed that the Defendant failed to issue shares of its common stock to the Plaintiff after the submission of the Conversion Notice to the Company's TA, in accordance with Section 3.2 of terms and conditions of the Note and the Transaction Documents.

44. Additionally, the Fund asserts that the Company has breached the Transaction Documents, and particularly the Notes, pursuant to, *inter alia*, Section 3.4, entitled "*Breach of Covenants*," which provides in pertinent part, that an Event of Default occurs when:

The Borrower breaches any material covenant or other material term or condition contained in this Note and any collateral documents including but not limited to the Purchase Agreement and such breach continues for a period of ten (10) days after written notice thereof to the Borrower from the Holder.

See id. (**Exhibit B**), § 3.4 (emphasis added).

45. Furthermore, the Plaintiff asserts that HPMM has caused a breach of the Note pursuant to, *inter alia*, Section 3.5, entitled "*Breach of Representations and Warranties*," which provides in pertinent part, that an Event of Default occurs when:

Any representation or warranty of the Borrower made herein or in any agreement, statement or certificate given in writing pursuant hereto or in connection herewith (including, without limitation, the Purchase Agreement), shall be false or misleading in any material respect when made and the breach of which has (or with the passage of time will have) a material adverse effect on the rights of the Holder with respect to this Note or the Purchase Agreement.

See id. (**Exhibit B**), § 3.5 (emphasis added).

46. As a result of such Events of Default and the continuation of the same without cure, on or about August 22, 2019, Plaintiff Auctus delivered its Notice of Default on the February 4, 2019 Note (hereinafter the "Default Notice") to the Company. Since the delivery of the Notices of Default, the Company has failed to cure the same, which default continues to the present date. *See* Default Notices, attached, restated and incorporated by reference herein as **Exhibit E**.

47. Upon the occurrence of an Event of Default under Section 3.1 of the Auctus Note, the entire principal and accrued interest shall be due and owing hereunder. Furthermore, an Event of Default pursuant to Section 3 of such Note, the Company is required to pay, and shall pay, Plaintiff Auctus the “Default Sum” (as defined therein), due under the Note as multiplied by One Hundred - Fifty and 00/100 (150.00%) percent. Thus, as of July 13, 2020, the Company owes Plaintiff Auctus, under the SPA and the Note, the Default Sum Totaling Three-Hundred-Ninety-Nine-Thousand-Two Hundred –Forty-Seven and 30/100 (**\$346,213.84**) Dollars (U.S.). *See* Auctus Schedule as of March 2, 2020, attached, restated and incorporated by reference herein as **Exhibit 1**. Until paid, the Default Sum shall continue to accrue the default interest rate of Twenty-four and 00/100 (24.00%) percent per year, provided by the Note.

48. In sum, the Defendant have committed breached the Transaction Documents, and committed federal securities fraud, perpetrated a fraud and deceit upon the Plaintiff, which has suffered as a consequence. The Defendant has been unjustly enriched and converted the Plaintiff’s assets, causing it to suffer further damages and injuries. As a result of the fraudulent scheme, actions, concealment, and omissions of the Defendant, the Plaintiff suffered damages of \$346,213.84, lost revenues, lost profits, interest costs and attorney’s fees to prosecute this action, to its detriment.

V. VIOLATIONS OF LAW

COUNT I - VIOLATIONS OF FEDERAL SECURITIES LAWS

49. The Plaintiff reasserts Paragraphs 1 through 48 of the Complaint, together with **Exhibits**, and restates and incorporates them herein by reference.

50. The Defendant violated the Securities Act, 15 U.S.C §77a, *et seq.*, in addition to Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b) and Rule 10b-5 promulgated thereunder, 17 C.F.R. §240.10b-5, in that, as described herein, and in connection with the purchase, offer and sale of securities, the Company knowingly, recklessly and intentionally:

- a) employed manipulative and deceptive devices and contrivances;
- b) employed devices, schemes and artifices to defraud;
- c) made untrue statements of material fact and omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and
- d) engaged in acts, practices and a course of business which operated as a fraud or deceit upon the Plaintiff.

51. During the relevant time period and as set forth herein, the Defendant, directly and/or indirectly, engaged in one or more common plans, schemes, and unlawful courses of conduct, to operate or perpetrate a fraud or deceit upon the Plaintiff, in connection with the offer, purchase and/or sale of HPMM securities.

52. During the relevant time period and as set forth herein, the Defendant, directly and/or indirectly, knowingly or recklessly engaged in acts, transactions, practices, and courses of business which operated as a fraud and deceit upon Plaintiff in connection with the offer, purchase and/or sale of HPMM securities.

53. During the relevant time period and as set forth herein, the Defendant, directly and/or

indirectly, published and disseminated false, deceptive and untrue statements of material facts to the Plaintiff in connection with the offer, purchase and/or sale of HPMM securities.

54. During the relevant time period and as set forth herein, the Defendant omitted material facts, with a duty to disclose such material facts, which a reasonable investor would require in order to make its investment decision, and in order to mislead the Plaintiff in connection with the offer, purchase and/or sale of HPMM securities.

55. During the relevant time period and as set forth herein, the Defendant made misrepresentations of material fact, and/or omitted material facts while a duty to disclose the same, which a reasonable investor, including the Plaintiff, would require in making its investment decision, and upon which it relied, to its detriment.

56. During the relevant time period and as set forth herein, the Defendant's purpose and effect of the scheme, plan, and unlawful course of conduct was, *inter alia*, to induce Plaintiff and others to purchase HPMM securities.

57. As a direct and proximate cause of the violations of the federal securities laws by the Defendant, Plaintiff has suffered, and continues to suffer, irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment, and resulted in the unjust enrichment of the Defendant.

COUNT II - VIOLATIONS OF MASSACHUSETTS STATE SECURITIES LAWS

58. The Plaintiff reasserts Paragraphs 1 through 57 of the Complaint, together with **Exhibits**, and restates and incorporates them herein by reference.

59. The Defendant violated the Massachusetts Uniform Securities Act, Massachusetts General Laws Chapter 110A, §§ 101, *et seq.*, *as amended*, in that, as described herein, it offered and sold securities by means of untrue statements of material fact.

60. The Defendant recklessly and intentionally misrepresented material information and omitted disclosure of material information to the Plaintiff in connection with the offer, purchase and sale of securities in the Commonwealth of Massachusetts.

61. During the relevant time period and as set forth herein, the Defendant, directly and/or indirectly, engaged in one or more common plans, schemes, and unlawful courses of conduct, to operate or perpetrate a fraud or deceit upon the Plaintiff, in connection with the offer, purchase and/or sale of HPMM securities.

62. During the relevant time period and as set forth herein, the Defendant, directly and/or indirectly, knowingly or recklessly engaged in acts, transactions, practices, and courses of business which operated as a fraud and deceit upon Plaintiff in connection with the offer, purchase and/or sale of HPMM securities.

63. During the relevant time period and as set forth herein, the Defendant, directly and/or indirectly, published and disseminated false, deceptive and untrue statements of material facts to the Plaintiff in connection with the offer, purchase and/or sale of HPMM securities.

64. During the relevant time period and as set forth herein, the Defendant omitted material facts, with a duty to disclose such material facts, which a reasonable investor would require in order to make its investment decision, and in order to mislead the Plaintiff in connection with the offer, purchase and/or sale of HPMM securities.

65. During the relevant time period and as set forth herein, the Defendant made misrepresentations of material fact, and/or omitted material facts while a duty to disclose the same, which a reasonable investor, including the Plaintiff, would require in making its investment decision, and upon which it relied, to its detriment.

66. During the relevant time period and as set forth herein, the Defendant's purpose and effect of the scheme, plan, and unlawful course of conduct was, *inter alia*, to induce Plaintiff and

others to purchase HPMM securities.

67. As a direct and proximate cause of the violations of the Massachusetts state securities laws by the Defendant, Plaintiff Auctus has suffered, and continues to suffer, irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment, and resulted in the unjust enrichment of the Defendant.

COUNT III – BREACHES OF CONTRACT

68. The Plaintiff reasserts Paragraphs 1 through 67 of the Complaint, together with **Exhibits**, and restates and incorporates them herein by reference.

69. Pursuant to the Purchase Agreement and the Note, the Fund invested in HPMM and sought to become a shareholder, in good faith, to join the Company in the accomplishment of its respective business goals and in accordance with the standards of the business and the securities industry.

70. The Plaintiff alleges that the Company is liable for breaches of contract and for a breach of implied covenant of good faith and fair dealing. A breach of contract is failure without excuse to perform a duty which is due under the contract. Additionally, the interpretation of a contract is a question of law, not fact. If the wording is not ambiguous, then the contract must be enforced according to its plain terms.

71. The Plaintiff performed its obligations under the Transaction Documents, and in good faith.

72. The Defendant, by its conduct and as described herein, violated the Transaction Documents, breaching its contract with the Plaintiff.

73. As a direct and proximate cause of the Defendant's breaches of its contracts, the Plaintiff has suffered, and continues to suffer, irreparable harm, and general, special, and

consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment.

**COUNT IV – BREACHES OF IMPLIED
COVENANT OF GOOD FAITH-FAIR DEALING**

74. The Plaintiff reasserts Paragraphs 1 through 73 of the Complaint, together with **Exhibits**, and restates and incorporates them herein by reference.

75. It is well established in that every contract carries an implied covenant of good faith and fair dealing whereby the parties treat each other fairly and act in good faith and no party to the contract shall take any action to harm another party's rights under the contract. The duty imposed by this "implied covenant of good faith and fair dealing" pertains to bad faith in the performance of a contract, not just in its execution or negotiation. Implicit in every contract is the requirement on faithfulness to an agreed upon common purpose and consistency with the justified expectations of the other party.

76. A breach of contract is the failure to perform for which legal excuse is lacking. As a matter of law, a contract existed, which the Defendant breached and failed to comply with the covenant of good faith and fair dealing. The law is clear - the Plaintiff had a binding contract and the Defendant had no legal basis, as a matter of law, to avoid its obligations under the Transaction Documents, including but not limited to damages which arose, and which might arise, as a result from the breach of such Transaction Documents.

77. The Defendant had a duty of good faith and fair dealing in its dealings with the Plaintiff and pursuant to the promises, contract, and statements made to the Plaintiff to induce it to enter into the contract and provide investment assets to the Defendant in exchange for its promise to honor its obligations under the same.

78. Under the covenant, the Defendant was obligated to a good faith performance of its obligations under the Transaction Documents with Auctus, and to be faithful and consistent to the justified expectations of the Plaintiff.

79. As described above, the Defendant breached the implied covenant of good faith and fair dealing with the Plaintiff.

80. As a direct and proximate cause of the Defendant's breaches of the implied covenant of good faith and fair dealing, the Plaintiff has suffered, and continues to suffer, irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment.

COUNT V – UNJUST ENRICHMENT

81. The Plaintiff reasserts Paragraphs 1 through 80 of the Complaint, together with the **Exhibits**, and restates and incorporates them herein by reference.

82. The Defendant's illegally received assets and benefits from the Plaintiff, as arising from its false and fraudulent statements and misrepresentations, and without providing equivalent value therefor.

83. The Defendant's actions, courses of conduct, and omissions were wantonly, intentionally, and maliciously conducted against the Plaintiff, to its detriment.

84. The Defendant has been unjustly enriched by their actions, as described herein.

85. As a direct and proximate cause of the Defendant's unjust enrichment, the Plaintiff has suffered, and continues to suffer, irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment.

COUNT VI – BREACH OF FIDUCIARY DUTY

86. The Plaintiff reasserts Paragraphs 1 through 85 of the Complaint, together with the **Exhibits**, and restates and incorporates them herein by reference.

87. A fiduciary relationship existed between the Plaintiff and the Defendant, requiring them to act with a duty of the utmost loyalty and trust on behalf of the Plaintiff. As a fiduciary, the Defendant was required to maintain and protect the welfare of the Plaintiff.

88. By engaging in the conduct described herein, the Defendant breached its fiduciary duties to the Plaintiff.

89. As a direct and proximate cause of the Defendant's breaches of fiduciary duty, the Plaintiff has suffered, and continues to suffer, irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment.

COUNT VII – FRAUD AND DECEIT

90. The Plaintiff reasserts Paragraphs 1 through 89 of the Complaint, together with the **Exhibits**, and restates and incorporates them herein by reference.

91. The actions of the Defendant described herein constitute fraud and deceit, including but not limited to the following:

- a) the Defendant made false representations of material facts, and/or omitted material facts with a duty of disclosure, knowing or having reason to know of their falsity;
- b) the Defendant made said misrepresentations and omissions for the purpose of inducing reliance from the Plaintiff; and
- c) the Plaintiff did rely upon said misrepresentations and omissions, to its detriment.

92. As a direct and proximate cause of the Defendant's fraud and deceit, the Plaintiff has suffered, and continues to suffer, irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment.

COUNT VIII - NEGLIGENT MISREPRESENTATION

93. The Plaintiff reasserts Paragraphs 1 through 92 of the Complaint, together with **Exhibits**, and restates and incorporates them herein by reference.

94. The conduct of the Defendant as described herein constitutes negligent misrepresentation because the Defendant negligently provided the Plaintiff with erroneous and misleading information, and negligently omitted material information with a duty to disclose, to the Plaintiff's detriment.

95. As a direct and proximate cause of the Defendant's negligent misrepresentations, the Plaintiff has suffered, and continues to suffer, irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment.

**COUNT IX - VIOLATIONS OF MASSACHUSETTS
CONSUMER PROTECTION ACT / M.G.L. C. 93A, §§ 2 & 11**

96. The Plaintiff reasserts Paragraphs 1 through 95 of the Complaint, together with the **Exhibits**, and restates and incorporates them herein by reference.

97. At all relevant times herein, the Defendant conducted a trade or business, as defined by the Massachusetts Consumer Protection Act, M.G.L. c. 93A, within the Commonwealth of Massachusetts.

98. The conduct of the Defendant as described herein, constitutes unfair and deceptive trade practices, and unfair competition, under Sections 2 and 11 of the Consumer Protection Act, including but not limited to claims that the Defendant:

- a) executed the Transaction Documents with full knowledge and understanding of the Defendant's obligations to the Plaintiff;
- b) fraudulently induced the Plaintiff to invest in the Company and thereby breached its promise to the Plaintiff;
- c) fraudulently concealed from the Plaintiff the full and complete financial and operational details and prospects of the Company in inducing the Plaintiff to make its investment in the Company;
- d) knowingly and intentionally concealed these activities from the Plaintiff, to its detriment; and/or
- e) violated the requirements, terms and conditions of existing statutes, rules and regulations meant for the protection of the public's health, safety or welfare.

99. As a direct and proximate cause of the Defendant's violations of the Massachusetts Consumer Protection Act, M.G.L. c. 93A, Sections 2 and 11, the Plaintiff has suffered, and continues to suffer, irreparable harm, and general, special, and consequential damages, including, but not limited to, loss of profits, interest, and other damages, injuries, and losses, to its detriment.

VI. REQUESTS FOR RELIEF

WHEREFORE, the Plaintiff, Auctus Fund, LLC, respectfully request that this Honorable Court grant it the following relief:

- A) Order, grant and enter temporary, preliminary and permanent injunctive and equitable relief, and specific performance, and finding that the Plaintiff has suffered irreparable harm, has a likelihood of success on the merits, that the balance of hardships favors the Plaintiff and that it is in the public interest to grant such temporary, preliminary and permanent injunctive and equitable relief, and specific performance for the benefit of the Plaintiff, as set forth herein;
- B) Determine that the Defendant is liable for all damages, losses, and costs, as alleged herein;
- C) Determine and award the Plaintiff, Auctus Fund, LLC, the actual losses sustained by it as a result of the violations of law by the Defendant, as set forth herein;
- D) Render a judgment and decision on behalf of the Plaintiff, Auctus Fund, LLC, on all Counts of the Complaint, and issue findings of fact and rulings of law, as necessary and appropriate, that the Defendant is liable, in all respects;
- E) Order, decide, adjudge, and determine that the liability of the Defendant, is for all losses, injuries, and damages, special, consequential, general, punitive, and/or otherwise, and for all interest and costs, as alleged herein;
- F) Award the Plaintiff, Auctus Fund, LLC, its costs, including, but not limited to, filing fees, costs, expenses and interest, for being required to prosecute this action;
- G) Award the Plaintiff, Auctus Fund, LLC, its actual attorneys' fees, for being required to prosecute this action;

- H) Award the Plaintiff, Auctus Fund, LLC, multiple, double, treble, and/or punitive damages in an amount to be determined;
- I) Enter judgment on behalf of the Plaintiff, Auctus Fund, LLC, on the Complaint;
- J) Order declaratory relief, as appropriate and as this Honorable Court deems necessary; and/or
- K) Any additional relief, which this Honorable Court deems just and proper.

**THE PLAINTIFF, AUCTUS FUND, LLC,
DEMANDS A TRIAL BY JURY ON ALL COUNTS SO TRIABLE**

Respectfully Submitted,
PLAINTIFF, Auctus Fund LLC,

By its Attorneys,

/s/ Philip M. Giordano

Philip M. Giordano, Esq. (BBO No. 193530)
Sophia E. Kyziridis, Esq. (BBO No. 703590)
Giordano & Company, P.C.
REED & GIORDANO, P.A.
47 Winter Street, Suite 800
Boston, Massachusetts 02108-4774
Telephone: (617) 723-7755
Facsimile: (617) 723-7756
Email: pgiordano@reedgiordano.com
Email: skyziridis@reedgiordano.com

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