

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Chestnut Exploration Partners, Inc.,
f/k/a Chestnut Energy Partners, Inc.
(CRD No. 127228),

and

Mark A. Plummer
(CRD No. 4608699),

Respondents.

DISCIPLINARY PROCEEDING
NO. 2014040501801

COMPLAINT

The Department of Enforcement alleges:

I. INTRODUCTION

1. Respondent Chestnut Exploration Partners, Inc., formerly known as Chestnut Energy Partners, Inc. (and with both entities referred to herein as “Chestnut”), and Respondent Mark Plummer (“Plummer”), acting with scienter, made material misrepresentations and omissions to 88 Chestnut customers who purchased investment contract securities in a private placement oil and gas offering. Chestnut acted as the placement agent and broker for the sales of the securities (the “4x4 Securities”), which were called “units of joint venture interests” in the Chestnut 2007 4x4 Joint Venture (the “4x4 Joint Venture”). Plummer owned and controlled both Chestnut and Chestnut Exploration, Inc. (“CEI”), the Managing Venturer of the 4x4 Joint

Venture. The Chestnut customers who invested in the 4x4 Securities have collectively lost more than \$5 million, representing more than a 90% loss on their investment.

2. By making material misrepresentations and omissions in connection with the sale of the 4x4 Securities, Chestnut and Plummer from October 2007 through June 2008 (the “4x4 Offering Period”) violated Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 thereunder, as well as NASD Conduct Rules 2110 and 2120, as alleged in the First Cause of Action. By the same conduct, Chestnut and Plummer also violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933 (“Securities Act”) and NASD Conduct Rule 2110, as alleged in the Second and Third Causes of Action (which are pleaded in the alternative to the First Cause of Action).

3. Commencing in May 2008, Chestnut and Plummer also improperly collected funds from the 4x4 investors by charging them well completion assessments for an oil and gas well (the “third Prospective Well” in the anticipated four-well project) that, as Chestnut and Plummer knew, was nowhere close to being drilled or completed and, in fact, was never drilled or completed. Chestnut and Plummer then wrongfully misused at least \$567,110 of these well completion funds by wrongfully transferring the funds to CEI. This transfer of completion funds was in direct contravention of the representations that Chestnut and Plummer had made to investors in the 4x4 Securities’ offering document, the 4x4 Confidential Offering Memorandum (“4x4 CIM”). From 2008 through the present, Chestnut failed to return these customer funds to the investors. From 2008 through December 11, 2014 – the last date of his association with Chestnut – Plummer similarly failed to require CEI (as owned and controlled by Plummer) to return to Chestnut’s customers the misused and wrongfully transferred customer funds, *even after no efforts were ever made to drill or to attempt to complete the third Prospective Well*. By

their conduct, Chestnut and Plummer misused Chestnut customer funds and failed to act in accordance with high standards of commercial honor and just and equitable principles of trade, in violation of NASD Conduct Rules 2330(a) and 2110 and FINRA Rules 2150(a) and 2010, as alleged in the Fourth Cause of Action.

4. Chestnut also failed to have adequate supervisory procedures in place in connection with the 4x4 Offering, thereby violating NASD Conduct Rules 3010 and 2110, as alleged in Fifth Cause of Action.

5. Chestnut and Plummer's fraud, misuse of customer funds and unethical conduct came to light in 2014, after FINRA staff began an investigation into this matter following receipt of an investor complaint in early 2014.

6. In December 2014, after years of misleading 4x4 Securities investors and misusing customer funds, Chestnut and Plummer turned their efforts to attempting to mislead FINRA staff in their investigation of this matter. Specifically, on or about December 2, 2014, Plummer falsified and altered a highly important 4x4 project document that FINRA staff had requested Chestnut to produce. On December 3, 2014, Chestnut – acting with Plummer's knowledge and at his direction – produced this falsified document to FINRA staff in an attempt to mislead the staff in the investigation in this matter. Plummer continued his scheme to mislead FINRA staff when, in a December 11, 2014 on the record interview, he repeatedly provided false and misleading testimony about the falsified document. By this conduct, Plummer violated FINRA Rules 8210 and 2010, and Chestnut violated FINRA Rule 2010, as alleged in the Sixth Cause of Action.

II. RESPONDENTS AND JURISDICTION

7. Chestnut is a member of FINRA and is registered as a broker-dealer with the U.S. Securities and Exchange Commission. The firm first registered with the NASD in October 2003 as Plummer Securities, Inc. In October 2006, the firm changed its name to Chestnut Energy Partners, Inc. (as it was known during the 4x4 Offering Period), and in December 2011, the firm changed its name to Chestnut Exploration Partners, Inc. Both Chestnut Exploration Partners, Inc. and Chestnut Energy Partners, Inc. – which share the same CRD number, CRD 127228 – are referred to in this Complaint as Chestnut.

8. Throughout Chestnut's history as a broker-dealer, almost all of its securities sales to customers have been securities that were issued by affiliates of Chestnut (including limited partnerships and joint ventures managed by Chestnut affiliate CEI) and that were related to oil and gas projects.

9. Respondent Plummer holds Series 22, 39, and 63 securities licenses. Prior to obtaining his securities licenses, Plummer worked as a Petroleum engineer with Oryx Energy and Sun Oil Company. At all times relevant to this Complaint and up through the present, Plummer, either directly or through a holding company, owned a controlling ownership interest in Chestnut. From Chestnut's inception through late 2014, Plummer controlled Chestnut as its CEO and/or President and also was licensed as a registered representative of Chestnut. Plummer resigned as President of Chestnut on or about November 7, 2014.

10. On December 12, 2014, Plummer directed and caused Chestnut to file a Form U-5 that stated that, as of December 12, 2014, Plummer was no longer associated or licensed with Chestnut.

11. FINRA has jurisdiction over Chestnut because it is currently registered as a FINRA member firm. Although Plummer is no longer registered with FINRA or associated with a FINRA member, FINRA has jurisdiction over him for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because this Complaint was filed within two years after the December 12, 2014 effective date of termination of Plummer's registration with Chestnut. Plummer's misconduct alleged in the Complaint occurred from October 2007 through December 11, 2014, while Plummer was associated with Chestnut, a FINRA member firm.

12. In connection with the offering of the 4x4 Securities ("the 4x4 Offering"), CEI as Managing Venturer of the 4x4 Joint Venture (acting through CEI's President, Plummer) filed with the U.S. Securities and Exchange Commission ("SEC") on or about December 20, 2007 a SEC Form D, entitled "Notice of Sale of Securities Pursuant to Regulation D, Section 4(6), And/Or Uniform Limited Offering Exemption." Plummer had signed the Form D on December 14, 2007, stating that the Form D was being filed under SEC Rule 506 and the Uniform Limited Offering Exemption ("ULOE") for small issuers of securities. The 4x4 Securities sold to Chestnut's customers in this private placement offering were issued by the 4x4 Joint Venture, acting through CEI as Managing Venturer (and with CEI controlled at all times by its owner and President, Plummer). As alleged in Section VII below, and in connection with the federal securities law violations alleged in the First and Second Causes of Action, the "units of joint venture interests" in the 4x4 Joint Venture that were sold in the 4x4 Offering were investment contracts and, hence, were securities under Section 3(a)(10) of the Exchange Act and Section 2(a)(1) of the Securities Act.

III. CHESTNUT AND PLUMMER MADE MATERIAL MISREPRESENTATIONS AND OMISSIONS IN CONNECTION WITH THE SALE OF THE 4X4 SECURITIES

A. Chestnut and Plummer's Representations to Investors in the 4x4 CIM

13. In connection with the 4x4 Offering and in advance of each sale of 4x4 Securities, Chestnut and Plummer caused the 4x4 CIM written offering document (dated October 17, 2007) to be provided to prospective investors. The 4x4 Offering Period ran from October 2007 (with the first sale made in December 2007) through June 2008.

14. In the 4x4 CIM, Chestnut and Plummer informed investors that Chestnut was the placement agent for the 4x4 Offering. Every sale of the 4x4 Securities was made through Chestnut as placement agent and broker for the sale. Each of the 88 investors who purchased the 4x4 Securities was, therefore, a direct customer of Chestnut.

15. Chestnut and Plummer told investors in the 4x4 CIM that CEI was the Managing Venturer of the 4x4 Joint Venture and that CEI, in turn, was owned and controlled by Plummer.

16. Plummer – both in his capacity as President and CEO of Chestnut (the placement agent for the 4x4 Offering) and as President/CEO and owner of CEI (the Managing Venturer for the 4x4 Joint Venture, which was the issuer of the 4x4 Securities) – had ultimate control and authority over the statements made in the 4x4 CIM. Moreover, because Plummer owned and controlled both Chestnut and CEI, Chestnut, through Plummer, also had ultimate control and authority over the statements made in the 4x4 CIM, based on Chestnut's role as placement agent.

17. In the 4x4 CIM, Chestnut and Plummer stated that the objective of the 4x4 Joint Venture was to obtain an interest – specifically, up to an 18% Working Interest and up to a 13.5% Net Revenue Interest – in four oil and gas wells to be located on two different Texas well sites and then to participate in the production of oil and gas from those four wells. In the oil and gas industry, Working Interest is an interest in property that entitles the owner of that interest to a

share of the production from the property, usually subject to a royalty. Net Revenue Interest, by contrast to Working Interest, is the share of revenue accruing to the Working Interest after deducting all lease and other property burdens (royalty, overriding royalty or similar burdens).

18. The 4x4 CIM informed investors that the two sites on which the four wells would be located were the Hopper site (sometimes referred to as the “Hooper” site in the 4x4 CIM) in Hood County, Texas, and the Crowley site (also known as the “Teeter” site) in Tarrant County, Texas.

19. The 4x4 CIM stated that one of the four wells – the Hopper Well #1H on the Hopper well site – already had been drilled and was producing oil and gas at the time of the commencement of the 4x4 Offering. The 4x4 CIM referred to the Hopper Well #1H as the Producing Well.

20. The three other anticipated wells in the four-well project – the Hopper Well #2H, the Crowley Well, and the Hopper Well #3H – were not yet drilled and not yet in production at the time of the commencement of the 4x4 Offering, according to the 4x4 CIM, which referred to these three wells as the Prospective Wells. Chestnut and Plummer told investors that the anticipated well drilling, testing and completion sequence for the three Prospective Wells was for the Hopper Well #2H to be drilled and completed first, followed by the Crowley Well, then, last, by the Hopper Well #3H.

21. The third and final Prospective Well (Hopper Well #3H) was never drilled and was never attempted to be completed.

22. In the 4x4 CIM, Chestnut and Plummer informed investors that drilling, testing and completion of the three Prospective Wells – as well as operation of the Producing Well and later operation of the Prospective Wells after drilling and completion – would be undertaken by a

third party well operator that was not affiliated with Chestnut or CEI. Chestnut and Plummer told the 4x4 investors that CEI, as Managing Venturer for the 4x4 Joint Venture, would enter into contracts with this well operator addressing, among other issues, the Joint Venture's share of the costs for the drilling, testing and completion of the Prospective Wells, the acquisition of the Joint Venture's interest in the Producing Well, and the operation of each of the wells once the wells went into production.

23. The 4x4 investors made their investments in two phases. The initial investment was to pay for the acquisition of the 4x4 Joint Venture's share of the Producing Well and for the Joint Venture's share of costs for drilling and testing of the three Prospective Wells. The second phase of the investment (the well completion assessment phase) was to pay for the costs to complete whichever Prospective Wells that, following drilling and testing of these wells, were deemed appropriate to be completed. For investor-funded oil and gas drilling projects, it is a common practice to have investors first make an initial investment to pay for drilling and testing of a well and then, after drilling and testing of the well, pay an additional well completion assessment, if testing of the well indicates that completion of the well (and the substantial costs associated with such completion) is warranted.

24. In the 4x4 Offering, the investors made their initial investments at the offering price of \$109,076 per "unit" of joint venture interests purchased (with this offering price excluding the subsequent well completion assessment). The 4x4 CIM informed investors that the well completion assessments charged to investors in the second phase of their investment would be based on the number of Prospective Wells that were attempted to be completed, after drilling and testing of the wells. Chestnut and Plummer told investors in the 4x4 CIM that there would be a maximum well completion assessment of \$53,724 per "unit" of joint venture interests purchased

if all three Prospective Wells were attempted to be completed. The 4x4 CIM represented to investors that they would pay a lower completion assessment of \$35,816 per unit of joint venture interests if only two Prospective Wells were attempted to be completed, and would be assessed a well completion assessment of only \$17,908 per unit of joint venture interests purchased if only one Prospective Well was attempted to be completed.

25. The 4x4 CIM stated that a total of 36 “units of joint venture interests” were offered for sale in the 4x4 Offering. Chestnut’s records indicate that 88 investors invested a total of \$3,890,266 in the initial investment phase of the 4x4 Offering, prior to the investors’ subsequent payment of the well completion assessments.

26. Chestnut and Plummer told the investors in the 4x4 CIM that 15% of this approximately \$3.9 million in the initial investment phase would go to Chestnut for commissions and due diligence fees (for total commissions and due diligence fees exceeding \$580,000). The 4x4 CIM stated that the remaining 85% of the \$3.9 million would be paid by the 4x4 Joint Venture to Chestnut affiliate CEI, with CEI to use these investment proceeds (i) to pay the third party well operator for the 4x4 Joint Venture’s share of costs to acquire the up to 18% Working Interest in the Producing Well (Hopper Well #1H); and (ii) to pay the operator for the 4x4 Joint Venture’s share of the costs for drilling and testing the three Prospective Wells.

27. In the 4x4 CIM, Chestnut and Plummer told investors that CEI would be able to retain as a “management fee” the amount of the 85% of the initial offering proceeds of \$3.9 million that exceeded what CEI ultimately paid to the well operator for the 4x4 Joint Ventures’ share of the well acquisition cost for Hopper Well #1H and for the drilling and testing costs for the Prospective Wells, plus certain other related costs to be borne by CEI. On the other hand, under the turnkey drilling feature of the 4x4 Offering, the 4x4 CIM stated that, in the event that

there were unanticipated cost overruns in the drilling and testing of the Prospective Wells, CEI (not the 4x4 investors) would be responsible for the Joint Venture's share of these cost overruns.

28. The 4x4 CIM informed investors that, after the investors' initial \$3.9 million investment (at \$109,076 per "unit"), and after the drilling and testing of the Prospective Wells, the 4x4 investors would be required to pay a well completion assessment based on the number of Prospective Wells that were attempted to be completed. Chestnut and Plummer expressly promised investors in the 4x4 CIM that the maximum well completion assessment of \$53,724 per unit (or \$1,934,064 for all 36 units in the 4x4 Offering) would be assessed only "for the purpose of funding the Venturers' [the investors'] allocable portion of completing all the Prospective Wells if such Completion attempts are warranted. In the event Completion is not warranted with respect to all the Prospective Wells, the Venturers may be called upon to pay Completion Assessments of up to \$17,908 per Unit for Prospective Well for which a Completion attempt is warranted."

29. Accordingly, in the event that only two of the three Prospective Wells were attempted to be completed, investors should only have been required to pay well completion assessments in the amount of \$35,816 per "unit" of joint venture interests, according to the 4x4 CIM. This represented a reduction of \$17,908 per "unit" of joint venture interests purchased, with a total reduction for all investors of \$644,688 for all 36 units (as compared to the maximum well completion assessment of \$1,934,064 for 36 units at \$53,724 per unit).

30. With respect to the investors' payment of the well completion assessments, the 4x4 CIM further stated that there would be a vote by the 4x4 investors on any such assessments recommended by CEI (as controlled by Plummer). The investors had no independent third party sources of information about the Prospective Wells, so that, in voting on well completion

assessments, the 4x4 investors were entirely dependent on the well completion assessment recommendation made by Plummer on behalf of CEI as Managing Venturer.

31. Chestnut and Plummer told investors in the 4x4 CIM that, once a well completion assessment call was made, the investors were required to make the completion assessment payments on a timely basis. The 4x4 CIM provided that, if the majority of investors approved the recommended well completion assessment, then any investor who failed to make timely well completion assessment payments in the amount owed would forfeit and lose his or her interest in that portion of the 4x4 Joint Venture related to the particular Prospective Well (or Prospective Wells) for which the investor failed to make the required completion payment. This provision gave Plummer, Chestnut and CEI substantial leverage over the 4x4 investors.

32. The 4x4 CIM not only limited what investors would be required to pay in well completion assessments, but also strictly limited what amounts of well completion assessment funds that the 4x4 Joint Venture could transfer to CEI. The 4x4 CIM terms made it clear that the 4x4 Joint Venture could not send to CEI – and CEI could not retain – well completion funds for any well that was never attempted to be completed.

33. In the 4x4 CIM, Chestnut and Plummer represented to investors that CEI would be entitled to receive from the 4x4 Joint Venture only \$17,908 per unit of joint venture interest for each Prospective Well that was in fact “attempted to be completed.” Therefore, the 4x4 Joint Venture would be able to transfer to CEI \$53,724 per unit in well completion funds only in the event that all three Prospective Wells were attempted to be completed and, if only two of the Prospective Wells were attempted to be completed, the 4x4 Joint Venture only would be able to transfer to CEI \$35,816 per unit.

34. The 4x4 CIM further stated that CEI, in turn, was to use the well completion funds received from the 4x4 Joint Venture to pay the third party well operator for the Joint Venture's share of the costs for completing the Prospective Wells. Nothing in the 4x4 CIM allowed Chestnut affiliate CEI (as owned and controlled by Plummer) to pocket for its and its owner Plummer's benefit well completion funds for any well that was never attempted to be completed. In fact, however, that is exactly what happened, as alleged in Sections III(B)-(D) and IV below.

35. In the 4x4 CIM, Chestnut and Plummer also told investors that the payment of the completion funds to CEI would be further addressed in a "Turnkey Completion Contract" that would be entered into between the 4x4 Joint Venture, on the one hand, and CEI, on the other hand. As the 4x4 CIM provided: "If the Venture determines that Completion is to be attempted on any of the Prospective Wells, then the Venture will enter into a Turnkey Completion Contract (herein so called) with Chestnut Exploration [CEI], pursuant to which Chestnut Exploration will, among other things, pay the Venture's share of the costs to Complete such Prospective Well, in one potentially productive zone or formation, and, if successful, otherwise pay all of the completion costs associated with the Prospective Wells, for an aggregate fixed price to the Venture of \$1,934,064 (\$53,724 per Unit subscribed) if Completion is attempted upon all Prospective Wells," while in the event that completion was *not* attempted upon all three Prospective Wells, the Turnkey Completion Contract would be required to call for the 4x4 Joint Venture to pay CEI only an "an aggregate price of \$644,688 (\$17,908 per Unit subscribed) for each Prospective Well upon which Completion is attempted." No such Turnkey Completion Contract was ever executed between CEI and the 4x4 Joint Venture.

36. Although the 4x4 CIM stated that substitute and different well locations might later be chosen for one or more of the three Prospective Wells remaining to be drilled, the first and

second Prospective Wells were drilled at the exact same locations indicated in the 4x4 CIM, as Hopper Well #2H and the Crowley Well. The third Prospective Well, however, was never drilled, never tested and never attempted to be completed at either the Hopper Well #3H site or at any other well site.

37. Chestnut and Plummer also told investors in the 4x4 CIM that it was possible that one or more of the Prospective Wells would never be drilled and never be completed. As discussed above, however, Chestnut and Plummer repeatedly informed investors in the 4x4 CIM that, if a Prospective Well was not attempted to be completed, the investors would not be required to pay for – and the 4x4 Joint Venture would not be permitted to send to CEI, and CEI would not be permitted to retain – the completion cost assessment for that well.

B. Chestnut and Plummer's Representations to the 4x4 Investors Were False When Made, and Chestnut and Plummer Schemed to Defraud the Investors

38. Prior to the first sale of the 4x4 Securities in December 2007, Chestnut and Plummer already had developed a fraudulent plan and scheme to assess the maximum well completion assessment of \$53,724 per “unit” of joint venture interests, irrespective of whether the third Prospective Well (Hopper #3H) was ever drilled and ever attempted to be completed. Furthermore, Chestnut and Plummer schemed to have the 4x4 Joint Venture transfer the unearned and wrongfully assessed maximum completion assessments to CEI and to allow CEI to wrongfully retain these unearned completion fees, even in the event that the third Prospective Well was never attempted to be completed. This fraudulent scheme was in direct contravention of the representations that Chestnut and Plummer had made to investors in the 4x4 CIM.

39. Moreover, for the entire period of the 4x4 Offering's securities sales to Chestnut's customers from December 2007 through June 2008, Chestnut and Plummer were actively

considering never having the third Prospective Well drilled and, indeed, were planning to sell off the 4x4 Joint Venture's interest in the entire Hopper well site at some point in the future, at a time when the Hopper Well #1H and Hopper Well #2H were completed, but when the well site for the third Prospective Well (Hopper Well #3H) was still undrilled and uncompleted.

40. On or about October 17, 2007 – and pursuant to their fraudulent scheme – Plummer and CEI prepared (but did not execute nor sign) a Turnkey Acquisition and Drilling Contract between CEI, on the one hand, and the 4x4 Joint Venture (acting through its Managing Venturer, CEI), on the other hand. This document was never distributed to the 4x4 investors. While Plummer falsified this document by signing it on or about December 2, 2014 (despite the document stating it had been signed on October 17, 2007), as discussed in Section V below, the Turnkey Acquisition and Drilling Contract had been unsigned prior to December 2014.

41. The terms of the unexecuted Turnkey Acquisition and Drilling Contract provided that CEI would be entitled to the same combined acquisition, drilling and well completion payment from the 4x4 Joint Venture irrespective of whether the third Prospective Well (Hopper Well #3H) was ever drilled or completed. Indeed, the Turnkey Acquisition and Drilling Contract expressly addressed the possibility that the third Prospective Well would never be drilled and completed, as well as addressing the possibility that it might be drilled and completed, *and expressly provided that CEI in either case would receive the same compensation*, even though CEI would not be required to pay for any drilling or completion costs in the event that the third Prospective Well was never drilled or completed.

42. The well completion and contract payment terms of this unsigned 4x4 Turnkey Acquisition and Drilling Contract (dated October 17, 2007) were directly contrary to the well completion assessment provisions of the 4x4 CIM, which also was dated October 17, 2007. In

particular, the unsigned 4x4 Turnkey Acquisition and Drilling Contract purported to allow CEI – in direct contravention of the terms of the 4x4 CIM – to receive and retain the maximum well completion assessment, even in the event that only the first and second Prospective Wells were attempted to be completed and that the third Prospective Well was never attempted to be completed.

43. Furthermore, the unsigned October 17, 2007 Turnkey Acquisition and Drilling Contract revealed that Plummer and CEI, in October 2007, already were considering the possibility of selling off the joint venture’s interest in the entire Hopper site at an auction at some point in the future, at a time when Hopper Well #1H and Hopper Well #2H both would be in production but with Hopper Well #3H (the third Prospective Well) neither drilled nor completed. As the October 17, 2007 Turnkey Acquisition and Drilling Contract states: “The Venture intends to sell the two current Hopper wells [Hopper Well #1H and the Hopper Well #2H] and prospective wells” – including the undrilled Hopper Well #3H – “and keep the Crowley Teeter well as it should account for 80% of the value of the program.”

44. Plummer and Chestnut never informed investors of the terms of the unsigned October 17, 2007 Turnkey Acquisition and Drilling Contract, and never updated, corrected or supplemented the 4x4 CIM to reflect the materially different terms of the Turnkey Acquisition and Drilling Contract, as compared to the terms required by the October 17, 2007 4x4 CIM.

45. As reflected in the unexecuted Turnkey Acquisition and Drilling Contract, throughout the 4x4 Offering Period of December 2007 through June 2008, Plummer and Chestnut never intended to provide investors the required \$17,908 per unit of joint venture interest (\$664,688 for all 36 units sold) reduction from the maximum completion assessment in the event that only two of the three Prospective Wells were attempted to be completed, as

required by the 4x4 CIM. Moreover, throughout the 4x4 Offering Period, and contrary to the representations in the 4x4 CIM, Plummer on behalf of CEI never entered into – and never intended to enter into – the Turnkey Completion Contract required by the terms of the 4x4 CIM, with Plummer choosing instead to prepare an unexecuted Turnkey Acquisition and Drilling Contract that was entirely in conflict with the required terms set forth in the 4x4 CIM. Finally, Plummer and Chestnut entirely failed to disclose to investors during the 4x4 Offering Period Plummer’s plan to sell the Hopper well site at an auction and, to the contrary, the 4x4 CIM expressly represented that Plummer and Chestnut anticipated all four wells in the 4x4 project would be drilled and completed and go into production.

C. During the 4x4 Offering Period, and as They Had Earlier Planned, Chestnut and Plummer Wrongfully Assessed and Fraudulently Charged Excessive Well Completion Assessments in Contravention of the Requirements of the 4x4 CIM

46. Consistent with Chestnut and Plummer’s scheme to fraudulently overcharge the 4x4 investors for the well completion assessments and to misuse these fraudulently obtained investors’ funds, Chestnut and Plummer, commencing in May 2008 and continuing for several months thereafter in 2008, did indeed overcharge the investors the well completion assessment. Chestnut and Plummer called for investors to pay the maximum well completion assessment of \$53,724 per unit of joint venture interests purchased, even though the third Prospective Well, as of May 2008, was nowhere close to being completed. Accordingly, pursuant to the 4x4 CIM, the well completion assessment amount should have been \$35,816 per unit, based on the fact that, as of May 2008, only two of the Prospective Wells (Hopper Well #2H and the Crowley Well) were to be attempted to be completed.

47. Commencing in May 2008, Plummer sent well completion assessment letters to the 4x4 investors who already had purchased 4x4 Securities. The letters from Plummer called for

investors to pay the maximum well completion assessment of \$53,724 per unit and falsely told investors that, with respect the third Prospective Well (Hopper Well #3H), “we should start drilling this well in a month.” This representation regarding the drilling of the third Prospective Well was false when made and was known by Plummer to be false when made. Neither Plummer nor Chestnut (nor CEI, as controlled by Plummer) had any intention or knowledge that that the third Prospective Well would begin drilling by June 2008.

48. Moreover, separate and apart from when drilling of the third Prospective Well might commence, Plummer and Chestnut in May 2008 knew that the third Prospective Well would not be completed at any time soon and, consequently, knew that no completion assessment call for funds to complete the third Prospective Well should have been made to investors in May 2008 and that, instead, the May 2008 completion call should have called only for well completion assessments for Hopper Well #2H and the Crowley Well and should have been for \$35,816 per unit, rather than for the maximum well completion assessment of \$53,724 per unit.

49. In the May 2008 well completion letters, Plummer also failed to inform the 4x4 investors that, since October 2007, Chestnut and Plummer had planned to charge the maximum well completion assessment of \$53,724 – irrespective of whether the third Prospective Well warranted drilling or completion and irrespective of whether Chestnut and Plummer intended to ever seek drilling and completion of the third Prospective Well.

50. In his well completion letters, Plummer also fraudulently omitted any mention of the highly material fact that, contrary to the requirements of the 4x4 CIM, Plummer and CEI had never entered into the Turnkey Completion Contract required by the terms of the 4x4 CIM. Plummer also fraudulently omitted in his well completion letters any mention of the material fact

that Plummer – as reflected in the unexecuted Turnkey Acquisition and Drilling Contract – intended to sell the drilled Hopper Wells and Hopper well site at some point in the future.

51. The investors, unaware of Plummer's and Chestnut's fraudulent misrepresentations and material omissions, voted in favor of these recommended completion assessments, as had been fraudulently described to them by Plummer, and made the requested maximum completion assessments payments of \$53,724 per unit, with the investors acting in the belief (based upon Plummer's false statements) that all three Prospective Wells shortly would be attempted to be completed. The investors' vote on the assessments and payment of the fraudulently-overcharged completion assessments was induced by Plummer's fraudulent misrepresentations and omissions in the May 2008 letters and by Plummer and Chestnut's fraudulent misrepresentations and omissions in the 4x4 CIM.

52. Due to the fact that some investors never paid their required maximum well completion assessments of \$53,724 per unit of joint venture interests, CEI's records show that the 4x4 Joint Venture ultimately received in 2008 a total \$1,741,623 in well completion assessments from the 4x4 investors.

53. Under the terms of the 4x4 CIM, and pursuant to the representations made by Chestnut and Plummer to investors in that offering document, the investors in May 2008 should have been assessed a completion assessment of \$35,816 per unit, rather than the maximum well completion assessment of \$53,724 per unit, based on the fact that only two of the Prospective Wells (Hopper Well #2H and the Crowley Well) would be attempted to be completed in spring 2008. The investors, in paying \$1,741,623 in well completion assessments (at \$53,724 per unit) were overcharged by 33 1/3 percent, or a total of \$580,541.

54. In 2009, Chestnut refunded \$13,431 of these well completion over-assessments to a single complaining 4x4 investor, so that the current net total amount of Chestnut and Plummer's over-charges in well completion assessments was at least \$567,110 (\$580,541 less \$13,431).

55. Commencing in May 2008 and continuing through the last of the investors' payments of completion assessments, Chestnut and Plummer also caused all of the investors' well completion assessment payments (including the wrongfully overcharged assessments of \$17,098 per unit, for a total of at least \$567,110) to be transferred to CEI. This transfer was directly contrary to the terms of the 4x4 CIM, in which Chestnut and Plummer had told the investors that transfers of completion assessments from the Joint Venture to CEI would be made only for \$17,908 per unit of joint venture interest for each Prospective Well that was in fact attempted to be completed. Under the terms of the 4x4 CIM, the 4x4 Joint Venture – controlled by Plummer, as CEO of the Managing Venturer, CEI – was only permitted to send \$35,816 per unit of joint venture interests purchase to CEI for well completion efforts, since only two Prospective Wells (Hopper Well #2H and the Crowley Well) were attempted to be completed in 2008.

56. Because the third Prospective Well (Hopper Well #3H) was never attempted to be completed (either in 2008 or any time thereafter), Chestnut and Plummer's transfer to CEI of the maximum completion assessment payments made by the 4x4 investors (\$53,724 per unit) was a misuse of Chestnut customer funds in the amount of the \$17,908 per unit, for a total net wrongful transfer of the \$567,110, in direct contravention of the promises and representations that Chestnut and Plummer had made to the 4x4 investors in the 4x4 CIM.

D. Chestnut and Plummer Committed Securities Fraud

57. Chestnut and Plummer's representations to the investors in the 4x4 CIM – as distributed by Chestnut to investors throughout the 4x4 Offering Period from October 2007 through June 2008 – were materially false and misleading when made.

58. Chestnut and Plummer knew that the representations in the 4x4 CIM were false and misleading and contained material omissions, or, in the alternative, were highly reckless in allowing the 4x4 Securities to be sold on the basis of the false and misleading 4x4 CIM, with its material misrepresentations and omissions.

59. Chestnut and Plummer's representations to the 4x4 Offering investors were materially false and misleading in that the evidence demonstrates that, at the time of the 4x4 Offering in late 2007 and 2008, Chestnut and Plummer *already had decided to call for the maximum well completion assessment of \$53,724 per unit irrespective of whether only two or all three Prospective Wells were attempted to be completed* – directly contrary to what the 4x4 investors had been promised by Chestnut and Plummer in the 4x4 CIM.

60. Moreover, at the time of the 4x4 Offering, and directly contrary to the representations provided to investors in the 4x4 CIM, Chestnut and Plummer already had decided to cause the Joint Venture to pay the full completion assessment to CEI and then let CEI wrongfully pocket and retain the excessive well completion assessments paid by Chestnut's customers, the 4x4 investors.

61. Chestnut and Plummer's misrepresentations and material omissions included (i) misrepresentations regarding what the investors would be charged in well completion assessments in the event that only two of the three Prospective Wells were attempted to be completed; (ii) misrepresentations regarding the amount Chestnut affiliate CEI would be paid by

the 4x4 Joint Venture in the event that only two of the three Prospective Wells were attempted to be completed; (iii) omissions relating to Plummer and Chestnut's plan to require investors to pay the maximum completion assessment of \$53,724 per unit, irrespective of whether the third Prospective Well would be attempted to be completed and then to have the 4x4 Joint Venture transfer all of these funds to CEI, contrary to the provisions of the 4x4 CIM; (iv) omissions relating to Chestnut and Plummer's undisclosed plans to sell off 4x4 Joint Venture's interest in two Hopper wells (Hopper Well #1H and Hopper Well #2H) and the well site for the undrilled Hopper Well #3H (the third Prospective Well); (v) misrepresentations in the 4x4 CIM that CEI and the 4x4 Joint Venture would enter into a Turnkey Completion Contract with terms consistent with the representations set forth in the 4x4 CIM; and (vi) omissions in failing to inform investors that, contrary to the express representations in the 4x4 CIM regarding the required Turnkey Completion Contract, the only turnkey agreement that the Joint Venture and CEI had ever drafted (but not yet executed) contained terms – as reflected in the October 17, 2007 Turnkey Acquisition and Drilling Contract – regarding CEI's receipt and use of the well completion assessment funds that were in direct conflict with the mandated terms set forth in the 4x4 CIM.

62. The 4x4 investors – each of whom is a direct customer of Chestnut – have suffered massive losses on their investments, losing more than 90% of their investments in the 4x4 project. These Chestnut customers invested \$3,890,266 in the initial investment phase and \$1,741,623 in the well completion assessment phase. Of this investment of more than \$5.6 million, the 4x4 investors have suffered combined losses well in excess of \$5 million.

63. Based on the Chestnut customer losses and the wrongful enrichment benefit to Chestnut and Plummer (as owner of both Chestnut and Plummer) from the 4x4 Offering, then

under either a disgorgement or restitution measure of sanctions (and separate and apart from any fine-based sanction), any sanction in this matter certainly should include restitution to the Chestnut customers who invested in the 4x4 Securities – and disgorgement from Chestnut and Plummer – of at the least the following combined amounts: (i) the at least \$567,110 in misused customer funds, as discussed above; (ii) Chestnut’s commissions of more than \$580,000 from the 4x4 Offering (by which commissions Chestnut was wrongfully enriched in a fraudulent offering); and (iii) separate and apart from the wrongfully transferred \$567,110 mentioned in point (i) above, any of the *other substantial additional wrongful gains made by Plummer* as owner of CEI based on CEI’s receipt of a very substantial share of the fraudulently-obtained 4x4 Offering proceeds, with respect to such 4x4 Offering proceeds received by CEI that CEI did not itself pay out, as costs of the 4x4 Joint Venture, to the well operator or other third parties for costs associated with the Producing Well or the Prospective Wells. Neither Chestnut nor Plummer should be permitted to retain their gains and profits from their fraudulent and wrongful conduct toward the 4x4 Securities investors in connection with the fraudulent 4x4 Offering.

**IV. CHESTNUT AND PLUMMER MISUSED CUSTOMER FUNDS AND
ENGAGED IN CONDUCT THAT WAS INCONSISTENT
WITH HIGH STANDARDS OF COMMERCIAL HONOR
AND JUST AND EQUITABLE PRINCIPLES OF TRADE BOTH DURING
AND AFTER THE 4X4 OFFERING PERIOD**

64. In connection with their dealings with 4x4 investors, and separate and apart from Chestnut and Plummer’s offering-related violations charged in the First, Second and Third Causes of Action, Chestnut and Plummer also engaged in additional misconduct – commencing in May 2008 and continuing for many years thereafter – that (i) was inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of NASD Conduct Rule 2110 (for conduct on or before December 14, 2008) and FINRA Rule 2010 (for

conduct on or after December 15, 2008), and (ii) constituted a misuse of Chestnut customer funds, in violation of NASD Conduct Rule 2330(a) (for conduct on or before December 13, 2009), and FINRA Rule 2150(a) (for conduct on or after December 14, 2009). These claims are the focus of the Fourth Cause of Action of this Complaint.

65. In Section III(C) above, this Complaint already has alleged the facts concerning certain misconduct of Chestnut and Plummer in spring 2008 relating to, among other things, Plummer's May 2008 completion call letters, Chestnut and Plummer's wrongful assessment and collection of the maximum completion assessment, and the wrongful transfer of the \$567,110 in the overcharged completion assessments from the 4x4 Joint Venture to CEI. The facts from Section III(C) above are incorporated by reference in the Fourth Cause of Action and will not be repeated in this Section IV, which instead will focus on the subsequent misconduct of Chestnut and Plummer following the conclusion of the 4x4 Offering Period in June 2008.

66. Following the conclusion of the 4x4 Offering Period in June 2008 and for many years thereafter, Chestnut and Plummer continued to misuse customer funds and act in a manner toward Chestnut customers that was inconsistent with high standards of commercial honor and just and equitable principles of trade.

67. Throughout the second half of 2008 and through all of 2009, drilling of the third Prospective Well (Hopper Well #3H) never commenced, and no effort was made to complete that well.

68. Yet Plummer and Chestnut never required CEI to return to Chestnut's customers the \$567,110 in misused funds that Plummer and Chestnut wrongfully had sent to CEI from the accounts of the 4x4 Joint Venture, in direct contravention of the requirements of the 4x4 CIM. Even though CEI was only permitted to receive from the Joint Venture completion funds for

Prospective Wells that were “attempted to be completed”, and even though the third Prospective Well had not even commenced drilling at any point in 2008, Plummer and Chestnut still did not return the \$567,110 in misused customer funds in 2008, 2009 or any subsequent year.

69. Chestnut and Plummer’s contravention of high standards of commercial honor and just and equitable principles of trade, as well as their misuse of Chestnut customers funds, then continued in 2010 and later years. In late 2010, faced with low oil and gas production from the Hopper #1H and Hopper #2H wells, Chestnut and Plummer recommended to investors that they approve the auction sale of the 4x4 Joint Ventures’ interest in Hopper Well #1H and Hopper Well #2H, as well as the Hopper undrilled well sites (including the site for the never-drilled third Prospective Well, Hopper Well #3H).

70. With more than two years having passed since Plummer’s May 2008 completion call assessment, and with no one having made any effort to even start drilling the third Prospective Well, Plummer, through CEI, plainly was required to return to the 4x4 investors the \$567,110 in misused Chestnut customer funds. Yet Chestnut and Plummer failed to return these funds to Chestnut customers, even though Plummer and CEI had absolutely no basis for continuing to hold the excessive completion funds in late 2010 for a well (the third Prospective Well, Hopper Well #3H) that had never been drilled and, following the Hopper well and site sale, would never be attempted to be completed.

71. The investors approved the Hopper auction sale, and the auction provided the entire 4x4 Joint Venture with less than \$7,000 in net auction sales proceeds.

72. Following the auction sale, Chestnut and Plummer subsequently claimed that the investors’ vote in favor of this sale in 2010 at Plummer’s recommendation somehow waived the investors’ rights to return of the \$567,110 in fraudulent and excessive completion fees that they

had been charged by Chestnut and Plummer in 2008 and that Plummer and Chestnut had wrongfully transferred from the Joint Venture to CEI in 2008.

73. In fact, nothing in the 2010 sale of the Hopper wells and leasehold waived any 4x4 investors' rights to return of the excess \$567,110 that investors had been charged in well completion assessments and that had wrongfully transferred to CEI. Moreover, nothing in the written documents that Plummer in 2010 had provided to investors in connection with the vote on the Hopper well and leasehold sale – a vote that Plummer himself had recommended to investors – even remotely hinted that approving such a sale later would cause Chestnut and Plummer to claim that the investors' approval of the sale somehow had waived their rights to recoup the \$567,110 in over-charged completion funds.

74. Precisely to the contrary, Plummer told investors in 2010 that his plan was to have the third Prospective Well drilled and completed on the Crowley Well site as a substitute well site. While the third Prospective Well was never drilled or completed on the Crowley site or any other site, the fact that Plummer told investors about the Crowley alternative site plainly demonstrates that he well understood that Plummer, Chestnut and CEI had no possible basis for CEI continuing to hold investor completion funds for a well (the third Prospective Well) that never would be drilled or completed.

75. In subsequent years in 2011 through the present, and in continued violation of FINRA Rule 2010 and FINRA Rule 2150(a), Chestnut continued to act in a manner that was inconsistent with high standards of commercial honor and just and equitable principles of trade, and continued to misuse Chestnut customers' funds, by failing to return to the investors the excess \$567,110 in well completion assessments.

76. In subsequent years in 2011 through December 11, 2014, and in continued violation of FINRA Rule 2010 and FINRA Rule 2150(a), Plummer continued to act in a manner that was inconsistent with high standards of commercial honor and just and equitable principles of trade, and continued to misuse Chestnut customers' funds, by failing to return to the investors the excess \$567,110 in well completion assessments that had been wrongfully transferred to CEI (as owned and controlled by Plummer).

77. In the past, Chestnut and Plummer repeatedly have blamed financial problems at the unaffiliated well operator and the eventual 2011 bankruptcy of the well operator for various problems associated with the 4x4 project. Yet none of these operator-related financial issues in any way relieve Chestnut and Plummer from the consequences of their own intentional fraud and their own misconduct, including their securities fraud in the 4x4 Offering, their excessive and wrongful well completion assessments, their misuse of customer funds, and Chestnut's deficient supervisory systems and procedures in connection with the 4x4 Offering, as well as Plummer's own falsification of the Turnkey Acquisition and Drilling Contract on about December 2, 2014, Chestnut and Plummer's production of this falsified document to FINRA staff on December 3, 2014, and Plummer's false and misleading testimony about this document in an on the record interview.

V. CHESTNUT AND PLUMMER KNOWINGLY PROVIDED A FALSIFIED DOCUMENT TO FINRA IN AN ATTEMPT TO MISLEAD FINRA IN ITS INVESTIGATION, AND PLUMMER KNOWINGLY TESTIFIED FALSELY AND MISLEADINGLY ABOUT THAT DOCUMENT

78. Chestnut and Plummer's fraud and misconduct toward Chestnut customers who purchased the 4x4 Securities came to light in 2014, after FINRA staff, following receipt of a customer complaint, commenced an investigation of Chestnut and Plummer's conduct in

connection with the 4x4 Offering, the well completion assessments and other issues related to the 4x4 investments.

79. In connection with that investigation, FINRA staff sent a series of document requests to Chestnut, and also took on the record testimony of several individuals, including Plummer.

80. On October 30, 2014, FINRA staff sent to Chestnut by email a request for Chestnut to produce any turnkey agreements relating to the 4x4 Offering.

81. In an email to FINRA staff dated November 5, 2014 and that also copied Plummer, Chestnut (through its Chief Compliance Officer DR) told FINRA that “[a]s of today, Mr. Plummer has been unsuccessful in finding the Turnkey Agreement and believes it may have been moved offsite to Chestnut’s technical office or to storage.” Chestnut in the November 5, 2014 email requested additional time, until November 14, 2014, to respond to the request to produce any turnkey agreements.

82. FINRA granted the request for additional time, and on the extended due date of November 14, 2014, Chestnut (through DR) wrote another email to FINRA stating that Chestnut still had been unable to locate any turnkey agreement for the 4x4 Offering.

83. On December 3, 2014, Chestnut (through DR), acting at the direction of Plummer, sent an email to FINRA that stated in full as follows: “Attached is the Turnkey Agreement between Chestnut Exploration and the Chestnut 4x4 Joint Venture. Password will follow separately.”

84. The December 3, 2014 Chestnut email to FINRA staff also copied Plummer on the email. Plummer was fully aware of the contents of the December 3, 2014 Chestnut email to

FINRA staff, including both the text of the email and the signed Turnkey Acquisition and Drilling Contract that was attached to the email.

85. The attachment to the email was an electronic .pdf file of a scanned two-page document entitled “Turnkey Acquisition and Drilling Contract”. The Turnkey Acquisition and Drilling Contract provided to FINRA staff indicated on the face of the document, as signed by Plummer, that it had been signed in two separate signature blocks by Plummer on October 17, 2007, with Plummer signing both (i) on behalf of CEI in its own capacity and (ii) on behalf of the 4x4 Joint Venture, through CEI as Managing Venturer of the Joint Venture.

86. The lines immediately above Plummer’s signatures in the signature blocks on page 2 of the document stated: “IN WITNESS HEREOF, the parties hereto have executed this Contract on the date first above written”. The date “first above written” in the document was October 17, 2007, the date appearing on page 1 of the document.

87. The Turnkey Acquisition and Drilling Contract – as provided by Chestnut to FINRA staff on December 3, 2014 – appeared to be a fully executed agreement between the Chestnut 4x4 Joint Venture (referred to as the “Owner” in the document), on the one hand, and CEI (referred to as the “Contractor” in the document), on the other hand, as entered into by these parties on October 17, 2007, and with Plummer having signed the document on behalf of both parties to the contract on that date.

88. Plummer, in fact, had not signed this Turnkey Acquisition and Drilling Contract on October 17, 2007.

89. In violation of FINRA Rule 2010, and with intent to mislead FINRA staff in their investigation of this matter, Plummer had signed the Turnkey Acquisition and Drilling Contract on or about December 2, 2014, *more than seven years after the document (as provided to FINRA*

staff on December 3, 2014) stated that it had been signed. Plummer violated FINRA Rule 2010 both when he falsified the Turnkey Acquisition and Drilling Contract on or about December 2, 2014 and when, at his direction and with his knowledge, he provide the signed document to Chestnut to provide to FINRA staff. For its part, Chestnut violated FINRA Rule 2010 when, with the intent to mislead FINRA staff in the investigation of this matter, Chestnut produced the Turnkey Acquisition and Drilling Contract to FINRA staff on December 3, 2014, when Chestnut (through both Plummer and Chestnut CCO DR) knew the document had been signed and falsified by Plummer on or about December 2, 2014.

90. As discussed in more detail below, in March 2015 and April 2015 both Chestnut and Plummer – after being confronted with a demand by FINRA staff to inspect the original of the Turnkey Acquisition and Drilling Contract and with a demand for Chestnut and Plummer to produce all other copies, originals or drafts of the Turnkey Acquisition and Drilling Contract – admitted that Plummer had signed the Turnkey Acquisition and Drilling Contract document on or about December 2, 2014.

91. Plummer falsified and altered the Turnkey Acquisition and Drilling Contract when he signed it on or about December 2, 2014, knowing that, in signing the document, he was representing, as indicated on the face of the document, that he had signed this important document more than seven years earlier, on October 17, 2007. Acting with knowledge that the Turnkey Acquisition and Drilling Contract had been requested several weeks earlier by FINRA staff, Plummer falsified the document in an attempt to mislead FINRA staff that the Turnkey Acquisition and Drilling Contract had been fully executed and signed by him on October 17, 2007, the commencement of the 4x4 Offering Period.

92. When Chestnut (acting at Plummer's direction and with his knowledge) produced the signed Turnkey Acquisition and Drilling Contract to FINRA staff on December 3, 2014, neither Chestnut nor Plummer informed FINRA staff that the document had been signed on or about December 2, 2014. Chestnut and Plummer's conduct in supplying this falsified Turnkey Acquisition and Drilling Contract to FINRA violated FINRA Rule 2010, as both Chestnut and Plummer intended to mislead FINRA staff in their investigation of this matter.

93. When Plummer testified about the Turnkey Acquisition and Drilling Contract in an on the record interview on December 11, 2014, he did not inform FINRA staff that he had falsified the document on or about December 3, 2014. He also failed to inform FINRA staff that his representation in the document that it had been signed by him on October 17, 2007 was false.

94. In his on the record interview on December 11, 2014, Plummer repeatedly – and falsely – testified regarding the circumstances of his finding the document and the purported authenticity of the document, without revealing that he had falsified the Turnkey Acquisition and Drilling Contract shortly before it was provided to FINRA on December 3, 2014.

95. Referring to his search in his and Chestnut's files for the Turnkey Acquisition and Drilling Contract in late 2014, Plummer testified: "I scoured my Exploration & Production files and my personal well files, and I found it, I think, in my personal engineering file section ... and I finally found it after much searching." In his testimony under oath recounting these events regarding his finding of the document in late 2014, Plummer (i) never disclosed that the October 17, 2007 Turnkey Acquisition and Drilling Contract that he had found "after much searching" had been *unsigned* when he found it; (ii) never disclosed that he had altered the document by signing it on or about December 2, 2014; and (iii) never disclosed that his representation on the

face of the document that he had signed the document on October 17, 2007 was false. Plummer's December 11, 2014 testimony in his on the record interview, therefore, was false and misleading.

96. When directly asked under oath whether the Turnkey Acquisition and Drilling Contract had "remained unchanged since October 17, 2007," Plummer in his December 11, 2014 on the record interview answered: "I have no idea. It's been a long time since I have seen this document." This was false and misleading because Plummer knew that the document had not been "unchanged since October 17, 2007." Precisely to the contrary, Plummer knew that he had changed and altered the unsigned and unexecuted Turnkey Acquisition and Drilling Contract by signing it on or about December 2, 2014.

97. Next, when asked whether Plummer had "any reason to believe that the 4x4 Turnkey Acquisition and Drilling Contract was inauthentic," Plummer responded: "No. I mean, what do you mean by 'inauthentic'?" When the interviewer replied: "Well, not authentic," Plummer gave the following false and misleading response as to whether he had any reason to believe the Turnkey Acquisition and Drilling Contract was inauthentic: "No, not to the best of my knowledge. It seems very authentic because of the fact that that it is very specific to this program, which is quite unusual compared to our normal drilling programs." This testimony was false and misleading, because Plummer knew that the signed contract as produced to FINRA was inauthentic in that – while the Turnkey Acquisition and Drilling Contract had been in Chestnut's files in unexecuted form from October 17, 2007 through early December 2014 – Plummer had altered and falsified the document by signing it on or about December 2, 2014.

98. By testifying falsely and misleadingly under oath, Plummer violated FINRA Rules 2010 and 8210.

99. On February 4, 2015, FINRA staff sent a FINRA Rule 8210 request to Chestnut and Plummer that, among other things, demanded (i) production of all copies, originals and drafts of the Turnkey Acquisition and Drilling Contract in the possession, custody or control of Chestnut; (ii) production of all copies, originals and drafts of the Turnkey Acquisition and Drilling Contract in the possession, custody or control of any outside attorneys for Chestnut who had provided legal services in connection with the 4x4 Offering; (iii) production of any versions of the Turnkey Acquisition and Drilling Contract that had been sent to 4x4 investors; and (iv) inspection of the original of the Turnkey Acquisition and Drilling Contract. The February 4, 2015 request also required Chestnut and Plummer to state the date when Plummer had signed the Turnkey Acquisition and Drilling Contract.

100. Chestnut responded to the Rule 8210 request in a letter to FINRA staff dated March 5, 2015 and sent by email to FINRA staff on that date. In its response, Chestnut indicated that it had no other originals, copies or drafts of the Turnkey Acquisition and Drilling Contract other than the document that Chestnut had produced to FINRA staff on December 3, 2014. Chestnut further stated that it had no record of sending the Turnkey Acquisition and Drilling Contract to any 4x4 investors. Chestnut also stated that neither Chestnut nor Chestnut's attorneys who had worked on the 4x4 Offering had any record of Chestnut having provided the Turnkey Acquisition and Drilling Contract to these attorneys.

101. In its March 5, 2015 response, Chestnut admitted for the first time that Plummer had signed the Turnkey Acquisition and Drilling Contract on or about December 2, 2014. The firm stated: "Mark Plummer signed the Turnkey Acquisition and Drilling Contract on or about December 2, 2014. The firm is unable to determine whether Mark Plummer signed another copy or duplicate original on or about October 17, 2007."

102. In a subsequent on the record interview on April 23, 2015, Plummer admitted that he had signed the Turnkey Acquisition and Drilling Contract on or about December 2, 2014.

103. As Plummer further admitted in that interview, the Turnkey Acquisition and Drilling Contract that he had found in Chestnut's files was unsigned when he found the document in those files in late 2014.

VI. CHESTNUT HAD INADEQUATE SUPERVISORY SYSTEMS AND WRITTEN SUPERVISORY PROCEDURES TO SUPERVISE THE OFFER AND SALE OF THE AFFILIATED 4X4 OFFERING

104. Chestnut had no supervisory systems or written supervisory procedures in place to address the conflicts of interest associated with its participation in the 4x4 Offering.

Accordingly, Chestnut violated NASD Conduct Rule 3010, NASD Conduct Rule 2110 and FINRA Rule 2010, as alleged in the Fifth Cause of Action.

105. At all relevant times during the sale of securities in the 4x4 Offering, Chestnut, the broker-dealer that served as placement agent for the Offering, was wholly controlled and owned by Plummer. Moreover, Plummer also was the owner and CEO of CEI, the Managing Venturer for the 4x4 Joint Venture.

106. Plummer was solely responsible for performing due diligence on the 4x4 project Offering on behalf of the broker-dealer. As a result, there was no independent or arms-length due diligence on the 4x4 Offering. During the relevant time period in 2007 and 2008, Chestnut's supervisory systems and written procedures did not address how Chestnut would overcome the inherent conflicts of interests created by Plummer's roles at Chestnut and the affiliated entities, including CEI.

**VII. THE UNITS OF JOINT VENTURE INTERESTS SOLD IN 4X4 OFFERING
WERE INVESTMENT CONTRACTS AND WERE SECURITIES
UNDER THE EXCHANGE ACT AND THE SECURITIES ACT**

107. The First and Second Causes of Action of this Complaint assert claims against Chestnut and Plummer for violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder (the First Cause of Action) and for violations of NASD Conduct Rule 2110 based on violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act (the Second Cause of Action). Accordingly, the First and Second Causes of Action – but not the Third through Sixth Causes of Action of the Complaint – require as part of the elements of these claims evidence that the “units of joint venture interests” sold in the 4x4 Offering were securities, as the term “securities” is defined in Section 3(a)(10) of the Exchange Act and Section 2(a)(1) of the Securities Act.

108. The units of joint venture interests in the 4x4 Joint Venture that were sold in the 4x4 Offering were investment contracts and, hence, were “securities” under both Section 3(a)(10) of the Exchange Act and Section 2(a)(1) of the Securities Act.

109. The 4x4 Joint Venture was organized as a general partnership under Texas law. Yet control and management of the 4x4 Joint Venture on all important matters rested with CEI as the Managing Venturer for the 4x4 Joint Venture. CEI, in turn, was controlled by Plummer, its owner, President and CEO.

110. The success or failure of the 4x4 Joint Venture was to come through the entrepreneurial and managerial efforts of Plummer and CEI, together with the efforts of the unaffiliated third party operator of the Producing Well and the Prospective Wells, and *not* through any entrepreneurial or managerial efforts on the part of the 4x4 investors.

111. Indeed, the 4x4 CIM emphasized to investors just how dependent the 4x4 Joint Venture was on Plummer. In the 4x4 CIM, Chestnut and Plummer informed investors that

“Chestnut Exploration’s [CEI’s] ability to manage Venture affairs is predominantly dependent upon Chestnut Exploration’s director and principal executive officer, Mark Plummer.”

112. The units of joint venture interests sold to investors in the 4x4 Offering were investment contracts and, hence, securities based on the fact that (i) the turnkey contract provisions of the 4x4 Offering – as well as other factors – made it impossible as a practical matter for the investors to replace CEI as the Managing Venturer, thereby leaving the 4x4 investors with so little power in their hands that the 4x4 enterprise distributed power in a fashion similar to a limited partnership, rather than to a general partnership, at least up through the completion of all three Prospective Wells (which never occurred, as the third Prospective Well was never drilled nor completed); (ii) the 4x4 investors were incapable of exercising any meaningful management powers over the 4x4 Joint Venture; and (iii) the 4x4 investors were so dependent on the unique managerial abilities of CEI and Plummer that the investors could not effectively replace CEI as Managing Venturer of the 4x4 Joint Venture, or otherwise exercise meaningful venturer or partner powers. The satisfaction of any one of these three prongs demonstrates that the units of joint venture interests were securities.

113. The 4x4 investors were not provided with the information needed to exercise control over or otherwise manage the oil and gas projects. Accordingly, the investors did not have the practical ability to manage the oil and gas operations of the projects in which they were invested. Chestnut, CEI and Plummer – and not the investors – controlled every aspect of the 4x4 Joint Venture from start to finish, while the operator of the 4x4 wells controlled the actual operation and management of the wells. The only role that investors had was to provide the funding for the operations of the enterprise.

114. Furthermore, as a practical matter, the investors in the 4x4 Offering had absolutely no ability to manage or control the Joint Venture, and the “units of joint venture interests” purchased by the investors were investment contracts and securities, notwithstanding the empty assertions in the 4x4 Offering documents that that the investors were purportedly taking on management responsibilities for the 4x4 Joint Venture.

115. The investors in the 4x4 Offering had no role in the formation, day-to-day management, or operations of the 4x4 Joint Venture. Nothing in the actual operation of the oil and gas project or the 4x4 Joint Venture itself turned on the efforts of the 4x4 investors. To the contrary, the investors each were looking to make – and did make – a passive investment in an oil and gas project. Not surprisingly, given the investors’ dependence on Plummer and Chestnut, when the 4x4 Joint Venture called for votes of investors on issues (including the well completion vote in 2008, as induced by Plummer’s fraud, and the sale of the Hopper wells and leases in late 2010), the investors followed Plummer’s recommendation.

116. Moreover, while the investors in the 4x4 project nominally had the ability to replace CEI as Managing Venturer by majority vote, as provided in the 4x4 Joint Venture Agreement, this right as a practical matter was entirely illusory. First, as a group, the 4x4 investors had no expertise in managing oil and gas projects on their own, and had no practical ability to replace CEI as Managing Venturer. Second, many of the investors lived in areas that were geographically distant from the wells and from the business offices of Chestnut and CEI in Texas, making investor management of the projects by the individual investors impossible. Third, because of the fixed cost turnkey drilling, acquisition and completion features of the 4x4 project, the investors were entirely dependent on the management efforts of Plummer and CEI (as controlled by Plummer) for the time period up through the drilling and completion of the

wells and had no practicable means to replace CEI with an independent Managing Venturer prior to drilling and completion of the wells.

117. Because the 4x4 Offering provided 85% of the initial offering proceeds to CEI on a fixed contract basis to arrange with the well operator for well drilling and testing (and also provided CEI with the “management fee” described above), and because the 4x4 Offering also called for subsequent well completion assessments to be paid by the investors and then (subject to the limits alleged above of \$17,908 per unit per Prospective Well that was attempted to be completed) transferred from the Joint Venture to CEI, the investors – as a practical matter – could not replace CEI as Managing Venturer prior to completion of the wells. The entire financial structure of the 4x4 deal was centered on Chestnut-affiliate CEI acting as Managing Venturer and, as a result, the investors in the 4x4 project also had no practical ability to replace CEI as Managing Venturer up until at least the completion of the drilling of the wells (which, in fact, never took place, since the third Prospective Well was never drilled or attempted to be completed for the 4x4 project).

118. Even if all the wells had been drilled and completed (and they were not), the investors still had no practicable ability to hire another Managing Venturer for the 4x4 project, as the investors had no background sufficient to find such a replacement Management Venturer, and would have had to pay substantial sums to the new Managing Venturer to take on that role (when CEI itself already had received and taken its compensation up front).

119. The investors, as a group, were entirely unable to manage the 4x4 Joint Venture on their own, having had no prior expertise in the management of such an enterprise and having no ready means to even communicate with each other in the event that any investors were dissatisfied with CEI’s management of the 4x4 Joint Venture.

120. Chestnut and Plummer marketed the 4x4 Offering to the general public by a number of different techniques. Chestnut and Plummer utilized lead lists to cold call potential investors. Chestnut and Plummer also identified prospective investors from information cards that Plummer gathered in connection with his presentations at MoneyShow tradeshow across the United States. Chestnut also marketed the 4x4 Offering on the basis of prior sales made by Chestnut to certain investors.

121. The investors identified pursuant to these tactics generally had no expertise in oil and gas operations and, instead, were primarily interested in deriving profits from *investing* in oil and gas wells. Moreover, most of the investors in the 4x4 project did not know each other and did not have ready access to information regarding the identity of other investors in the 4x4 Offering. Based on the investors' lack of expertise in managing oil and gas projects and the investors' geographic dispersion, these investors had no possible ability to manage the 4x4 Joint Venture on their own and, instead, were entirely dependent on CEI and Plummer to manage it. For this reason, among the others alleged above, the units of joint venture interests were indeed investment contracts and, hence, securities.

122. The investors in the 4x4 Offering were not entrepreneurs looking for businesses to own and operate. They were, instead, looking to earn a return on their investment dollars in securities investments managed by third parties, namely, CEI (as controlled by Plummer) and Plummer.

123. For all of the reasons set forth above, the units of joint venture interests sold by Chestnut and Plummer to investors in the 4x4 offering were investment contracts and, hence, securities under both Section 3(a)(10) of the Exchange Act and Section 2(a)(1) of the Securities

Act.

**FIRST CAUSE OF ACTION
MATERIAL MISREPRESENTATIONS AND OMISSIONS
BY CHESTNUT AND PLUMMER, ACTING WITH SCIENTER,
IN CONNECTION WITH THE SALE OF THE 4X4 SECURITIES**

*(Violations of Section 10(b) of the Exchange Act, SEC Rule 10b-5,
and NASD Conduct Rules 2110 and 2120 by Chestnut and Plummer)*

124. The Department realleges and incorporates by reference paragraphs 1-123 above.

125. The “units of joint venture interest” in the 4x4 Joint Venture that were sold in the 4x4 Offering, with Chestnut as placement agent, were investment contracts and, hence, securities, under Section 3(a)(10) of the Exchange Act.

126. SEC Rule 10b-5, as promulgated under Section 10(b) of the Exchange Act, states:

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 employ any device, scheme, or artifice to defraud,

(b) 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

(c) 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.

127. During the period from October 2007 through June 2008, in connection with sales of securities in the 4x4 Offering, Chestnut and Plummer, acting knowingly or recklessly, by the use of means or instrumentalities of interstate commerce, or of the mails, knowingly, willfully or recklessly: (i) employed devices, schemes, or artifices to defraud, (ii) made untrue statements of a material fact or omitted 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, concerning

investments in the 4x4 Offering, or (iii) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon investors, thereby violating Section 10(b) of the Securities Exchange Act and Rule 10b-5 thereunder, and NASD Conduct Rules 2120 and 2110.

128. Chestnut and Plummer's material misrepresentations and omissions included (i) misrepresentations regarding what the investors would be charged in well completion assessments in the event that only two of the three Prospective Wells were attempted to be completed; (ii) misrepresentations regarding the amount Chestnut affiliate CEI would be paid by the 4x4 Joint Venture in the event that only two of the three Prospective Wells were attempted to be completed; (iii) omissions relating to Plummer and Chestnut's plan to require investors to pay the maximum completion assessment of \$53,724 per unit, irrespective of whether the third Prospective Well would be attempted to be completed, and then to have the 4x4 Joint Venture transfer all of these funds to CEI, contrary to the provisions of the 4x4 CIM; (iv) omissions relating to Chestnut and Plummer's undisclosed plans to sell off 4x4 Joint Venture's interest in two Hopper wells (Hopper Well #1H and Hopper Well #2H) and the well site for the undrilled Hopper Well #3H (the third Prospective Well); (v) misrepresentations in the 4x4 CIM that CEI and the 4x4 Joint Venture would enter into a Turnkey Completion Contract with terms consistent with the representations set forth in the 4x4 CIM; and (vi) omissions in failing to inform investors that, contrary to the express representations in the 4x4 CIM regarding the required Turnkey Completion Contract, the only turnkey agreement that the Joint Venture and CEI had ever drafted (but not executed) contained terms – as reflected in the October 17, 2007 Turnkey Acquisition and Drilling Contract – regarding CEI's receipt and use of the well completion assessment funds that were in direct conflict with the mandated terms set forth in the 4x4 CIM.

129. Chestnut and Plummer knew that the representations in the 4x4 CIM were false and misleading and contain material omissions, or, in the alternative, were highly reckless in allowing the 4x4 Securities to be sold on the basis of the false and misleading 4x4 CIM, with its material misrepresentations and omissions.

130. Both Chestnut and Plummer were the “makers” of the statements in the 4x4 CIM, with ultimate authority over the contents of the 4x4 CIM, the offering document for the 4x4 Securities. Plummer – both in his capacity as President and CEO of Chestnut (the placement agent for the 4x4 Securities) and as President/CEO and owner of CEI (the Managing Venturer for the 4x4 Joint Venture, which was the issuer of the 4x4 Securities) – had ultimate control and authority over the statements made in the 4x4 CIM, with authority over both the contents of the 4x4 CIM and whether and how the statements in the 4x4 CIM would be communicated to prospective investors. Moreover, because Plummer owned and controlled both Chestnut and CEI, Chestnut, through Plummer, also had ultimate control and authority over the statements made in the 4x4 CIM, with authority over both the contents of the 4x4 CIM and whether and how the statements in the 4x4 CIM would be communicated to prospective investors. Chestnut also was prominently listed as the placement agent for the 4x4 Securities in the CIM, so that the statements in the 4x4 CIM are attributable to Chestnut.

131. The acts, practices and conduct engaged in by Chestnut and Plummer in connection with the 4x4 Offering violated Section 10(b) of the Exchange Act and SEC Rule 10b-5 thereunder, as well as NASD Conduct Rule 2120. The acts, practices and conduct engaged in by Chestnut and Plummer in connection with the 4x4 Offering also were inconsistent with high standards of commercial honor and just and equitable principles of trade, and violated NASD Conduct Rule 2110.

132. Chestnut and Plummer utilized the means or instrumentalities of interstate commerce, or of the mails in connection with the offer and sale of interests in the 4x4 Offering, including, but not limited to: (a) telephone calls to customers and prospective customers; and (b) the use of the mail to send offering materials to customers and prospective customers concerning the 4x4 Offering.

133. As a result of the foregoing, Chestnut and Plummer willfully violated Section 10(b) of the Exchange Act and SEC Rule 10b-5 thereunder, as well as NASD Conduct Rule 2120 and Rule 2110.

**SECOND CAUSE OF ACTION
MATERIAL MISREPRESENTATIONS AND OMISSIONS
BY CHESTNUT AND PLUMMER
IN CONNECTION WITH THE SALE OF THE 4X4 SECURITIES**

*(Violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act
and NASD Conduct Rule 2110 by Chestnut and Plummer)
(Pleaded in the Alternative to the First Cause of Action)*

134. The Department realleges and incorporates by reference paragraphs 1-133 above.

135. The “units of joint venture interest” in the 4x4 Joint Venture that were sold in the 4x4 Offering, with Chestnut as placement agent, were investment contracts and, hence, securities, under Section 2(a)(1) of the Securities Act.

136. Sections 17(a)(2) and 17(a)(3) of the Securities Act provide that:

- (a) It shall be unlawful for any person in the offer or sale of any securities ... by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly...
- (2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

137. During the 4x4 Offering Period, a violation of Section 17(a)(2) and Section 17(a)(3) of the Securities Act also was a violation of NASD Conduct Rule 2110.

138. During the period from late 2007 through June 2008, in connection with sales of securities in the 4x4 Offering, Chestnut and Plummer made false and misleading statements of material facts 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, thereby violating Section 17(a)(2) of the Securities Act and, in so doing, Chestnut and Plummer also violated NASD Conduct Rule 2110.

139. The acts, practices and conduct engaged in by Chestnut and Plummer in connection with the 4x4 Offering also were a practice and course of business that operated as a fraud or deceit upon the purchasers of the 4x4 Securities, such that Chestnut and Plummer thereby violated Section 17(a)(3) of the Securities Act. In violating Section 17(a)(3) of the Securities Act, Chestnut and Plummer also violated NASD Conduct Rule 2110.

140. Chestnut and Plummer each obtained money and property in connection with their violations of Section 17(a)(2) and 17(a)(3) of the Securities Act in the 4x4 Offering, including, but not limited to, commissions paid to Chestnut of 15% of the offering proceeds (a total in excess of \$580,000) and the receipt by CEI (as owned and controlled by Plummer) of more than \$560,000 in wrongfully assessed and wrongfully transferred completion assessments, as well as CEI's receipt of substantial other funds from the 4x4 Offering Proceeds.

141. The acts, practices and conduct engaged in by Chestnut and Plummer in connection with the 4x4 Offering were inconsistent with high standards of commercial honor and just and equitable principles of trade, and thereby violated NASD Conduct Rule 2110.

142. Chestnut and Plummer utilized the means or instrumentalities of interstate commerce, or of the mails in connection with the offer and sale of interests in the 4x4 Offering, including, but not limited to: (a) telephone calls to customers and prospective customers; and (b) the use of the mail to send offering materials to customers and prospective customers concerning the 4x4 Offering.

143. As a result of the foregoing, Chestnut and Plummer violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, and thereby violated NASD Conduct Rule 2110.

**THIRD CAUSE OF ACTION
MATERIAL MISREPRESENTATIONS AND OMISSIONS
BY CHESTNUT AND PLUMMER
IN CONNECTION WITH THE SALE
OF UNITS OF JOINT VENTURE INTERESTS IN THE 4X4 JOINT VENTURE**

*(Violations of NASD Conduct Rule 2110 by Chestnut and Plummer)
(Pleaded in the Alternative to the First and Second Causes of Action)*

144. The Department realleges and incorporates by reference paragraphs 1-143 above.

145. During the 4x4 Offering Period from October 2007 through June 2008, in connection with the sales of units of joint venture interests in the Chestnut 2007 4x4 Joint Venture to investors (Chestnut customers) in the 4x4 Offering, Chestnut and Plummer engaged in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade. In connection with the sale of these units of joint venture interests to Chestnut customers in the 4x4 Offering, Chestnut and Plummer made material misrepresentations and omissions of fact to the investors while Chestnut was registered with FINRA and while Plummer (who owned and controlled Chestnut) was associated with Chestnut. Chestnut and Plummer's misconduct, misrepresentations and omissions in connection with the sale of the units of joint venture interests in the 4x4 Joint Venture, with Chestnut acting as placement agent and with each

sale made to a Chestnut customer, occurred in the conduct of Chestnut and Plummer's business. Moreover, the conduct of Chestnut and Plummer was unethical and was undertaken in bad faith.

146. As a result of the foregoing, Chestnut and Plummer violated NASD Conduct Rule 2110 in connection with the sale of units of joint venture interests to the 4x4 investors in the 4x4 Offering.

**FOURTH CAUSE OF ACTION
MISUSE OF CUSTOMER FUNDS
AND VIOLATIONS OF HIGH STANDARDS OF COMMERCIAL HONOR
AND JUST AND EQUITABLE PRINCIPLES OF TRADE
BY CHESTNUT AND PLUMMER**

*(Violations of NASD Conduct Rules 2110 and 2330(a) and
FINRA Rules 2010 and 2150(a)
by Chestnut and Plummer)*

147. The Department realleges and incorporates by reference paragraphs 1-146 above.

148. From May 2008 to the present, Chestnut misused Chestnut customer funds and acted toward the 4x4 investors (each of whom was a brokerage customer of Chestnut) in a manner that was inconsistent with high standards of commercial honor and just and equitable principles of trade. From May 2008 to December 11, 2014, Plummer misused Chestnut customer funds and acted toward the 4x4 investors in a manner that was inconsistent with high standards of commercial honor and just and equitable principles of trade.

149. Chestnut and Plummer's misconduct, as set forth in detail in Section III(C) and Section IV above, included: (i) having Chestnut customers pay to the 4x4 Joint Venture the maximum well completion assessment of \$53,724 per "unit" of joint venture interests in May 2008, when the third Prospective Well, as Chestnut and Plummer knew, was nowhere close to being attempted to be completed and, consequently, the completion assessment was required under the 4x4 CIM to be \$35,816 per unit, a reduction of \$17,908 per unit; (ii) making false

representations and material omissions to Chestnut customers in the May 2008 completion call letters sent to investors by Plummer and Chestnut: (iii) wrongfully having the 4x4 Joint Venture transfer to Chestnut affiliate CEI in spring 2008 the \$567,110 in overcharged completion assessments, in direct contravention of the provisions of the 4x4 CIM (which required the transfer from the Joint Venture to CEI to be \$35,816 per unit, since only two of the Prospective Wells were attempted to be completed); (iv) hiding from Chestnut customers the existence and terms of the unsigned Turnkey Acquisition and Drilling Contract, the terms of which were in direct conflict with the Turnkey Completion Contract terms required by the 4x4 CIM; (v) continuing to allow CEI to retain the \$567,110 in misused Chestnut customer funds year after year (from 2008 to the present), even as the third Prospective Well was never drilled and never attempted to be completed; and (vi) making false statements to Chestnut customers regarding the purported plans for the drilling and completion of the third Prospective Well.

150. Chestnut acted in concert with Plummer and CEI in carrying out this misconduct directed toward Chestnut's customers.

151. The aforementioned acts, practices and conduct of Chestnut and Plummer were a misuse of customer funds in violation of NASD Conduct Rule 2330(a) (for conduct on or before December 13, 2009) and FINRA Rule 2150(a) (for conduct on or after December 14, 2009), and were inconsistent with high standards of commercial honor and just and equitable principles of trade in violation of NASD Conduct Rule 2110 (for conduct on or before December 14, 2008) and FINRA Rule 2010 (for conduct on or after December 15, 2008).

**FIFTH CAUSE OF ACTION
DEFICIENT SUPERVISORY SYSTEMS AND PROCEDURES BY CHESTNUT**

(Violations of NASD Conduct Rules 3010 and 2110 by Chestnut)

152. The Department realleges and incorporates by reference paragraphs 1-151 above.

153. During the time period that the investment contracts at issue here were being offered and sold to investors in 2007 and 2008, NASD Conduct Rule 3010(a) required member firms to implement a reasonable supervisory system. Required components of a reasonable supervisory system included: establishing, maintaining and enforcing written supervisory procedures designed to achieve compliance with applicable securities laws and regulations, and with the applicable FINRA Rules.

154. In addition, separate and apart from the general requirement for having appropriate written supervisory procedures, any firm that engages in Regulation D private placement offerings was required to have supervisory procedures under NASD Rule 3010 that were designed to address several specific issues concerning such Regulation D private placement offerings.

155. During the 4x4 Offering Period, Chestnut had no supervisory systems and written supervisory procedures in place to address – and Chestnut entirely failed to address – the conflicts of interest created by the firm’s participation in the 4x4 Offering, and Chestnut thereby violated NASD Conduct Rule 3010 and Rule 2110. Chestnut had no supervisory systems and written supervisory systems in place to address the conflicts of interest presented by the fact that, for example, Chestnut, CEI and Plummer stood to make substantial profits under the turnkey agreements and commissions (with CEI getting 85% of the investment proceeds to pay for drilling and acquisition fees and CEI’s profit from its management fee, and with Chestnut getting 15% of the investment proceeds in commissions and due diligence fees), no matter what losses

the investors incurred from the wells. While certain conflicts of interest were disclosed to investors in the 4x4 CIM, Chestnut for its part entirely failed to supervise numerous aspects of the conflict of interest issues raised by the 4x4 Offering, in violation of NASD Conduct Rule 3010 and NASD Conduct Rule 2110.

156. Chestnut also failed to address the conflicts by virtue of the fact that Plummer was solely responsible for the turnkey agreements between CEI and the 4x4 Joint Venture, that Plummer was the sole designated signatory for both CEI and the 4x4 Joint Venture for the turnkey agreements, and that Plummer and Chestnut both failed to ensure that Plummer, on behalf of CEI and the 4x4 Joint Venture, had entered into a Turnkey Completion Contract in compliance with the requirements of the 4x4 CIM. Chestnut failed in its supervisory responsibility to have in place appropriate supervisory procedures for the review and supervision of the 4x4 Offering, including the review and supervision of representations made to investors in connection with the offering, and the review of highly important turnkey agreement(s) for the 4x4 project.

157. Chestnut entirely failed to address in its written supervisory procedures a system for addressing and resolving the conflicts of interest in connection with the 4x4 Offering. As a result of the foregoing, Chestnut violated NASD Conduct Rule 3010 and NASD Conduct Rule 2110.

**SIXTH CAUSE OF ACTION
PLUMMER VIOLATED FINRA RULES BY FALSIFYING A KEY DOCUMENT
AND TESTIFYING FALSELY AND MISLEADINGLY ABOUT THE DOCUMENT,
AND CHESTNUT AND PLUMMER VIOLATED FINRA RULES BY PRODUCING THE
FALSIFIED DOCUMENT TO FINRA STAFF IN RESPONSE
TO A DOCUMENT REQUEST**

*(Violations of FINRA Rule 2010 and FINRA Rule 8210 by Plummer
And Violation of FINRA Rule 2010 by Chestnut)*

158. The Department realleges and incorporates by reference paragraphs 1-157 above.

159. In an attempt to mislead FINRA in connection with its investigation of this matter, Plummer violated FINRA Rule 2010 by engaging in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, when, in response to a FINRA document request, Plummer, on or about December 2, 2014, personally altered and falsified the Turnkey Acquisition and Drilling Contract. Plummer falsified the document by signing this previously unsigned and unexecuted document, which, following his signing of the document, falsely represented that Plummer signed it more than seven year earlier, on October 17, 2007. Plummer knew that the falsified document would be produced to FINRA staff in response to the document request made by FINRA.

160. As falsified by Plummer, the document appeared to be a 4x4 Joint Venture and CEI business record that had been fully executed in October 2007, at the start of the 4x4 Offering Period, when, in fact, the document, prior to Plummer's falsification, had been an unsigned and unexecuted document.

161. In an attempt to mislead FINRA in connection with its investigation of the 4x4 Offering, both Plummer and Chestnut then violated FINRA Rule 2010 by engaging in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, when, in response to a FINRA document request, Chestnut (with Plummer's knowledge and approval), produced to FINRA staff on December 3, 2014 the falsified Turnkey Acquisition and Drilling Contract that had been falsified and altered by Plummer on or about December 2, 2014, and made this document production in response to a document request made by FINRA staff in their investigation of this matter.

162. Plummer subsequently violated both FINRA Rule 2010 and Rule 8210 when, on December 11, 2014, he knowingly testified falsely and misleadingly about the Turnkey

Acquisition and Drilling Contract, as alleged in detail in Section V above, and when he failed to disclose in that testimony that the document – though stating on its face that it had signed by Plummer on October 17, 2007 – in fact had been signed by Plummer more than seven years later on or about December 2, 2014.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondents Chestnut and Plummer committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondents Chestnut and Plummer be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest, and monetary sanctions;
- C. make specific findings that Respondents Chestnut and Plummer willfully violated Section 10(b) of the Exchange Act and SEC Rule 10b-5 thereunder; and

D. order that Respondents Chestnut and Plummer bear such costs of the proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

Dated: July 21, 2015

FINRA DEPARTMENT OF ENFORCEMENT



Payne L. Templeton, Senior Litigation Counsel
FINRA Department of Enforcement
300 S. Grand Ave., Suite 1600
Los Angeles, CA 90071
Phone: 213-229-2311; Fax: 213-617-1570
Email: payne.templeton@finra.org

Karen E. Whitaker, Senior Regional Counsel
Penelope Brobst Blackwell,
Deputy Regional Chief Counsel
FINRA Department of Enforcement
12801 North Central Expressway, Suite 1050
Dallas, TX 75243
Phone: 972-716-7610 (Whitaker)
Phone: 972-716-7637 (Blackwell)
Fax: 972-716-7612
Email: karen.whitaker@finra.org
Email: penny.blackwell@finra.org

David B. Klafter, Regional Chief Counsel
FINRA Department of Enforcement
5200 Town Center Circle
Tower 1, Suite 200
Boca Raton, FL 33486
Phone: 561-443-8110; Fax: 561-443-7998
Email: david.klafter@finra.org
Authorized House Counsel
Admitted in New York and New Jersey only