

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:)	
)	
MJK Clearing, Inc.,)	Bky. No. 01-4257 (RJK)
)	
Debtor.)	
)	
)	
James P. Stephenson, in his capacity as trustee for the estate of MJK Clearing, Inc.,)	Adv. No. 02-4185 (RJK)
)	
Plaintiff,)	
)	
vs.)	<u>AMENDED COMPLAINT</u>
)	
Deutsche Bank AG, Deutsche Bank Securities, Inc., Deutsche Bank Securities Limited, Wayne Breedon, RBF International, Inc., Kenneth D' Angelo, Richard Evangelista, GenesisIntermedia, Inc., Ramy El-Batrawi, Ultimate Holdings, Ltd., Adnan Khashoggi, Bradford Keiller, and John Does 1-10,)	<u>JURY TRIAL DEMANDED</u>
)	
Defendants.)	
)	
)	

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Plaintiff, James P. Stephenson, in his capacity as trustee (“Plaintiff” or “Trustee”) for the estate of MJK Clearing, Inc. (“MJK”), by his attorneys, for his Complaint against Defendants Deutsche Bank, AG (“Deutsche Bank”); Deutsche Bank Securities, Inc. (“Deutsche Bank Securities”); Deutsche Bank Securities Limited (“Deutsche Bank SL”); Wayne Breedon; RBF International, Inc. (“RBF”); Kenneth D’Angelo; Richard Evangelista; GenesisIntermedia, Inc. (“GENI”); Ramy El-Batrawi; Ultimate Holdings, Ltd. (“Ultimate”); Adnan Khashoggi; Bradford Keiller; and John Does 1-10 (collectively the “Defendants”), states and alleges as follows:

INTRODUCTION

1. This case seeks to recover for the estate of MJK more than \$335,000,000 in damages caused by a wide-ranging and sophisticated securities loan and market manipulation scheme that was financed by Deutsche Bank, one of the world’s largest financial institutions. The scheme directly caused the insolvency of MJK and resulted in the loss of the jobs of more than 200 Minnesota residents.

2. The scheme was hatched and orchestrated by three old friends, who between them had decades of experience in the securities industry – Kenneth D’Angelo, a convicted stock-loan felon, Richard Evangelista, a senior manager of a small brokerage firm then known as Freeman Securities, Inc.,¹ and Wayne Breedon, the head of securities lending for Deutsche Bank in Toronto, Canada. The scheme was all made possible by Deutsche Bank, which advanced hundreds of millions of

¹ Freeman Securities became Native Nations Securities, Inc. as a result of an acquisition and name change in early 2001. For convenience, the entity is referred to as “Native Nations” in this Complaint.

dollars to fund it. It reaped millions of dollars in proceeds for, among others, Adnan Khashoggi, a well-known Saudi financier and arms-merchant and his business partner, Ramy El-Batrawi.

3. Beginning at least as early as the summer of 1999, Deutsche Bank, Mr. D'Angelo, and Mr. Evangelista, operated and funded a complex and sophisticated set of arrangements to manipulate the market price of the securities of several American companies and dump those securities on MJK and others at vastly inflated prices. The scheme utilized Deutsche Bank's securities lending operations in Toronto, Canada, where the head of securities lending, Wayne Breedon, appears to have had unlimited access to Deutsche Bank's cash.

4. Stock lending between legitimate broker/dealers is a common and acceptable practice whereby brokerage firms borrow shares of stock from other brokers to cover short positions or for other legitimate purposes. Stock lending is intended to be a low-risk proposition, because the borrowing broker secures its promise to return the stock by providing cash (or its equivalent) to the lending broker in an amount equal to or greater than the market value of borrowed stock. If the market value of the stock changes while it is on loan, the borrowing broker provides additional cash to the lender if the market value has gone up and the lending broker returns cash if the market value has gone down, thereby keeping the value of the borrowed stock in balance with the collateral. Adjusting the cash to reflect the market value of the securities is called "marking" to market. However, if stock is "loaned" in exchange for cash collateral and the lender fails to return the cash, the lender has effectively sold the stock for the amount of cash collateral.

5. In this case, Mr. Breedon and his long-time associates, Mr. D'Angelo and Mr. Evangelista, stood the business of stock lending on its head. On a daily basis, Mr. D'Angelo, Mr. Breedon and Mr. Evangelista coordinated stock-loan transactions with dozens of American and Canadian brokerage firms, transactions which were presented as legitimate stock loans but were really little more than devices to obtain cash for the benefit of the promoters behind the securities being lent.

6. The difficulty of a typical market manipulation scheme is that, while it may be possible to drive up the price of thinly-traded stocks through phony bids, "wash sales" and other devices, it is difficult to sell any substantial quantity of the stock at the artificially-high price without depressing that price. The scheme utilized by Defendants brilliantly overcame that fundamental problem. By purporting to "lend" the securities in question, Mr. Breedon, Mr. D'Angelo and Mr. Evangelista could require unsuspecting broker/dealers to advance cash as "collateral" for the loans of the securities, and then as the prices of the securities were driven up, the "borrowing" brokerage firms were required to advance additional cash as "collateral." Thus, the scheme enabled the owners of the securities to profit from massive increases in market price without having to unload the securities into a market that had few real buyers. Effectively, Defendants sold securities to stock borrowers and the borrowers became unwitting buyers at inflated prices.

7. Using this scheme, from the summer of 1999 through September 25, 2001, Mr. D'Angelo, with the knowledge and assistance of Mr. Breedon, Mr. Evangelista, and others who helped them, manipulated the prices of the securities of GENI, Imperial Credit Industries, Inc., Holiday RV Superstores, Inc., and perhaps

others yet to be determined. In so doing, they used Deutsche Bank and its affiliates as the source of some \$200 million to fund the cash collateral required to support fraudulent stock loans, carefully structuring the transactions so that when problems arose Deutsche Bank SL could foist the losses off on the unsuspecting brokerage firms they had selected to be victims of their schemes.

8. For example, here is how the scheme worked for GENI:

Step One: Defendants El-Batrawi and Ultimate acquire most of the securities of GENI.

Step Two: El-Batrawi and Ultimate “lend” stock to Deutsche Bank SL via Native Nations and MJK. Specifically, Defendants “lend” to Native Nations; Native Nations lends to MJK; and MJK lends to other broker/dealers, who then lend to Deutsche Bank SL. In exchange for the securities, Deutsche Bank SL sends cash down the chain, through the other broker/dealers, through MJK, through Native Nations and finally to El-Batrawi and Ultimate. Because Defendants do not intend to return the cash, they have effectively but secretly sold the securities.

Step Three: With most of the stock now parked at Deutsche Bank SL and out of public circulation, Defendants manipulate the price by churning the few remaining public shares. As the price goes up, Deutsche Bank SL, the other brokers, MJK and Native Nations all “mark,” thus sending more cash down the chain, ultimately to El-Batrawi and Ultimate.

Step Four: As the “loans” and the amounts of cash increase, Defendants arrange for more brokers to be added to the chain between Native Nations and Deutsche Bank SL so that when the stock price drops (as it inevitably will, since it is being artificially propped up by conspirators), Deutsche Bank SL will be able to get its cash collateral back from the brokers with which it had direct dealings by marking or returning shares, eventually leaving MJK and the other intermediate brokers holding the proverbial “bag” filled with virtually worthless securities.

9. MJK, unaware of Defendants’ intentional manipulation of the securities of GENI, Imperial Credit Industries, Inc., and Holiday RV Superstores, Inc., implicitly relied on the integrity of the market prices with respect to those securities. Just as a retail investor who buys or sells stock at the price set by the market does so

in reliance on the integrity of that price, MJK entered into the stock-loan transactions believing that the market prices and/or published prices of the securities accurately reflected each security's market value.

10. In addition to the market manipulation scheme, from the fall of 1999 through the summer of 2001, Deutsche Bank SL also engaged in a deliberate series of phony month-end transactions that enabled Native Nations to stay in business. Deutsche Bank SL sent large amounts of cash to Native Nations at or near the end of the month, and then took those funds back at the beginning of the following month. To hide these temporary month-end infusions, Deutsche Bank SL and Native Nations falsified their accounting records to show that stock-loan positions had been "marked" when in fact the monies transferred did not bear any relationship to the movement of the price of the securities on that day. The movement back and forth of millions of dollars at or near month end provided Native Nations with the "window dressing" it needed to falsify its true net capital calculations, FOCUS reports, and financial statements, thus permitting it to stay in business and play a pivotal role in Defendants' scheme.

11. Eventually, the scheme collapsed in the aftermath of the terrorist attacks on September 11, 2001, when the market rigging could no longer be sustained and Native Nations went out of business. Since MJK did not have adequate capital to absorb the more than \$200 million loss it sustained, MJK failed and was taken over by regulators, resulting in the loss of hundreds of millions of dollars of creditors' and shareholders' money and the jobs of more than 200 employees. As a result of MJK's failure, other brokers sustained massive losses as well, but Deutsche Bank SL was

largely successful in insulating itself from the problem. In fact, Deutsche Bank SL made at least \$7 million in fees while the scheme persisted, and Mr. Breedon, Mr. Evangelista and Mr. D'Angelo discussed, and may in fact have received, significant under-the-table payments.

12. Various details of the schemes came to the attention of senior management at Deutsche Bank several times during 2001, but Deutsche Bank deliberately ignored those details. For example, when Ramy El-Batrawi, the CEO of GENI, announced in mid-July 2001 that Ultimate's purchases of GENI shares were funded in part by an open-ended line of credit from Deutsche Bank, Deutsche Bank publicly denied any such relationship. When Mr. Breedon needed a temporary participant in the loan chain, Deutsche Bank Securities (of New York) advanced the funds and accepted the position until the new victim's money was substituted. And when Mr. Breedon's New York supervisors in the stock-loan area discussed Mr. Breedon's huge stock-loan transactions and expressed concern about restricting the supply of GENI stock to the market, he simply ignored them, with no apparent consequences. Most tellingly, Deutsche Bank recorded most or all of Mr. Breedon's telephone calls during the time period of the scheme, and Mr. Breedon, Mr. D'Angelo, Mr. Evangelista, and others were completely unguarded in disclosing details of their maneuvers in the literally thousands of calls they made to plan and carry out the scheme. Deutsche Bank's senior management in New York and London paid no attention to all this information and let Mr. Breedon and the others continue with their illicit activities.

13. This case seeks to recover for the estate of MJK the more than \$209,000,000 in lost stock-loan funds, along with the approximately \$100,000,000 in damages caused by the destruction of MJK's business, and more than \$30,000,000 to date in costs and expenses incurred to acquire securities the trustee was required to deliver to customers of MJK and to administer the estate. In addition, Plaintiff seeks treble damages under the RICO Act, interest, attorneys' fees and, to the extent permitted by law, punitive damages.

JURISDICTION

14. This Court has jurisdiction over this adversary proceeding pursuant to the Securities Investor Protection Act of 1970 (“SIPA”), 15 U.S.C. §§ 78aaa, et seq., and 28 U.S.C. §§ 157 and 1334.

15. On September 27, 2001, the Securities Investor Protection Corporation (“SIPC”) filed a Complaint and Application (the “Application”) against MJK in the United States District Court for the District of Minnesota (the “District Court”), and the District Court entered an Order Commencing SIPA Liquidation Proceeding (the “Order”) commencing the SIPA liquidation proceeding against MJK (the “Liquidation Proceeding”).

16. Pursuant to 15 U.S.C. § 78eee(b)(2)(A)(i), upon the filing of the Application, the District Court was given exclusive jurisdiction over MJK and its property wherever located. Pursuant to 15 U.S.C. § 78eee(b)(2)(A)(iii), the District Court was also given all the jurisdiction, powers, and duties conferred upon a court of the United States having jurisdiction over cases under 11 U.S.C. §§ 101 et seq. (“Bankruptcy Code”) in connection with the Liquidation Proceeding, together with such other jurisdiction, powers and duties as are prescribed by SIPA.

17. Pursuant to the Order and 15 U.S.C. § 78eee(b)(2)(B)(4), the entire Liquidation Proceeding was removed to the United States Bankruptcy Court for the District of Minnesota (“Bankruptcy Court”) and assigned Adversary Number 01-4257. The Liquidation Proceeding is pending in the Bankruptcy Court. Pursuant to 15 U.S.C. § 78eee(b)(2)(4)(B), the Bankruptcy Court possesses all of the jurisdiction,

powers, and duties conferred upon the District Court under 15 U.S.C. § 78eee(b)(2)(A) in connection with the Liquidation Proceeding.

18. Pursuant to 28 U.S.C. § 1334(b) and (e), made applicable to the Liquidation Proceeding by 15 U.S.C. § 78eee(b)(2)(A)(iii), original jurisdiction in the District Court is granted over this civil proceeding. Title 28 U.S.C. § 157 is applicable to this Liquidation Proceeding pursuant to 15 U.S.C. § 78eee(b)(2)(A)(iii). This matter is a non-core proceeding, which arises under applicable federal, state and common law and is otherwise related to the Liquidation Proceeding. Pursuant to 15 U.S.C. § 78eee(b)(2)(B)(4) and 28 U.S.C. § 157(c)(1), the Bankruptcy Court has jurisdiction to hear this matter.

19. The Bankruptcy Court also has jurisdiction over the subject matter of this action pursuant to Section 27 of the Securities Exchange Act of 1934, the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1965(a)), 28 U.S.C. § 1331, principles of supplemental jurisdiction (28 U.S.C. § 1367), and 28 U.S.C. §§ 157 and 1334.

20. This Bankruptcy Court has personal jurisdiction over those Defendants that are subject to service of process in the United States pursuant to 15 U.S.C. § 78aa and 18 U.S.C. § 1965(B). Those Defendants have sufficient minimum contacts with the State of Minnesota to satisfy constitutional due process requirements. The Bankruptcy Court also has personal jurisdiction over those Defendants outside the United States, as they are subject to worldwide service of process pursuant to 15 U.S.C. § 78aa and the rules of this Court. As set forth below, the Defendants outside the United States have sufficient minimum contacts with the United States to satisfy

constitutional due process requirements. Moreover, those Defendants purposefully directed their activities towards residents of the United States, and specifically towards the residents of the District of Minnesota, and Plaintiff's injuries directly relate to and arise out of those activities.

21. Pursuant to Fed. R. Bankr. P. 7008(a), Plaintiff consents to entry of final orders and judgments by the Bankruptcy Court, demands a trial by jury, and consents to a jury trial in the Bankruptcy Court.

22. The Trustee is the duly appointed representative of the estate of MJK.

23. The Trustee has the exclusive right to pursue any and all claims of the MJK estate against Defendants pursuant to applicable provisions of SIPA and the Bankruptcy Code.

VENUE

24. Venue in the Bankruptcy Court is proper under 28 U.S.C. § 1409(a) and (c), made applicable to this Liquidation Proceeding by 15 U.S.C. § 78eee(b)(2)(A)(iii). Venue is also proper in the District of Minnesota pursuant to 28 U.S.C. § 1391(b) and 18 U.S.C. § 1965(b). Many of the fraudulent acts and transactions occurred in Minnesota, and the massive losses suffered by MJK and its creditors occurred here.

PARTIES

25. Pursuant to the Order, the Trustee was appointed as trustee of the estate of MJK.

26. Deutsche Bank is an international bank headquartered in Frankfurt, Germany. It is one of the largest financial service providers in the world, with more than 95,000 employees, more than 2,300 branches and office locations in more than 70 countries and nearly one trillion euros in assets. Among its numerous other activities, Deutsche Bank operates a worldwide securities lending business managed in New York, London, Hong Kong, Frankfurt and Milan. Deutsche Bank also operates a branch in Canada which participated in the fraudulent stock-loan activities and which employed Defendant Breedon.

27. Deutsche Bank Securities, formerly known as Deutsche Bank Alex Brown, Inc., is a securities broker/dealer headquartered in New York City, New York, with offices throughout the United States and internationally. Deutsche Bank Securities is a subsidiary of Deutsche Bank and is directly and indirectly controlled by Deutsche Bank. As part of its broker/dealer operations, Deutsche Bank Securities conducts a securities lending business under the central control and management of Deutsche Bank. Deutsche Bank Securities participated directly in the fraudulent stock-loan activities set forth herein.

28. Deutsche Bank SL is a Canadian broker/dealer with offices in various locations in Canada that engages in securities lending and other brokerage transactions. Deutsche Bank SL is the successor to McLean McCarthy Inc., a Canadian firm Deutsche Bank acquired in the early 1990's. It is a wholly owned

subsidiary of Deutsche Bank, and Deutsche Bank lists it as a “branch” on its web-site. Its securities lending activities are managed and controlled, directly or indirectly, by Deutsche Bank in New York and in London.

29. Prior to being placed on administrative leave in the spring of 2002, Wayne Breedon was an employee of Deutsche Bank SL and Deutsche Bank in Toronto who initiated and controlled securities lending transactions. During most of the year 2001, he had no immediate supervisors in Toronto and was thus the de facto, if not titular, head of Deutsche Bank’s and Deutsche Bank SL’s securities lending in the Toronto office. Mr. Breedon was formerly associated with RBF, a firm that acted as a securities lending “finder” and was controlled by Defendant Kenneth D’Angelo. Mr. Breedon and Mr. D’Angelo are long-time friends and business associates.

30. RBF is a New Jersey corporation controlled by Kenneth D’Angelo with offices formerly at 4 Ethel Rd., Suite 402, Edison, New Jersey, which acts as a securities lending “finder” or broker. In 1993, RBF was disciplined by the SEC for violating tender offer rules by selling securities borrowed from Native Nations. As will be described below, Native Nations was the broker/dealer that lent securities to MJK as part of the Defendants’ scheme.

31. Kenneth D’Angelo is an individual residing in Edison, New Jersey. Mr. D’Angelo controls RBF. Mr. D’Angelo has a history of securities-loan fraud dating back to the 1980’s. On March 4, 1985, Mr. D’Angelo pled guilty to conspiracy to defraud and wire fraud in connection with fraudulent stock-loan transactions and phony purchases and sales of securities, transactions which took place from 1978 to 1982, and which gave Mr. D’Angelo and others temporary use of

more than \$1,000,000 belonging to other brokerage firms. In 1993, Mr. D'Angelo and Native Nations were sanctioned by the SEC and agreed to return more than \$500,000 in illegal profits obtained by violating tender offer rules in connection with stock-loan transactions. Mr. D'Angelo ultimately was sued by the SEC in 1997 to collect the final \$225,000 which he had previously agreed to pay.

32. Richard Evangelista is also a New Jersey resident. He was formerly a senior vice-president of Native Nations, the firm sanctioned with Mr. D'Angelo in 1993. He is a close business associate of Mr. D'Angelo. Mr. Evangelista was fired by Native Nations in September 2001, supposedly for falsifying Native Nations' books and records in connection with certain of the securities-loan transactions which are the subject of claims in this suit. In other proceedings related to the GENI stock loans referenced in this Complaint, Mr. Evangelista has refused to testify, invoking his 5th Amendment privilege against self-incrimination.

33. GENI is a Delaware corporation with its registered address in Van Nuys, California. It purportedly was in the business of marketing and selling various products through network and cable television channels and was attempting to develop internet kiosks in shopping centers. Its stock was offered to the public at \$8.50/share in the spring of 1999 and began public trading in June 1999. As a result of Defendants' acts described below, the price of GENI stock reached nearly \$60/share on a split-adjusted basis. Its stock was quoted on the National Association of Securities Dealers Automated Quotation System ("NASDAQ"), until it voluntarily delisted its stock on January 29, 2002. It now trades on the "pink sheets" for pennies a share.

34. At all relevant times, Ramy El-Batrawi was the chief executive officer and chairman of the board of GENI. Mr. El-Batrawi was also a major shareholder in GENI. Mr. El-Batrawi was a resident of California prior to October 2001. Mr. El-Batrawi was named as a defendant in a securities fraud case involving GENI in California in October 2001, but has been evading service of process since that time.

35. Ultimate is a Bermuda investment company, with no known operations, apparently owned by Defendant Adnan Khashoggi. Ultimate was a major GENI shareholder and provided securities for the stock-loan transactions of Mr. D'Angelo, RBF, Mr. Breedon and Deutsche Bank and its affiliates.

36. Defendant Adnan Khashoggi is a Saudi financier and arms dealer, and the director and president of Ultimate. Mr. Khashoggi was a central figure in the 1986 Iran-Contra scandal whereby profits from arms sales to Iran were diverted to assist Nicaraguan rebels. Mr. Khashoggi is currently a fugitive from an arrest warrant issued in Thailand arising out of the collapse of the Bangkok Bank of Commerce. He is allegedly a long-time friend and business partner of Mr. El-Batrawi. Mr. Khashoggi participated in the manipulation of the market for GENI stock through his control of Ultimate.

37. Bradford Keiller is a lawyer by training whose most recent business appears to have been owning a strip-club in Las Vegas, Nevada. Employees there claim he has now terminated his involvement with that establishment. He has maintained a residence and mailing address in both Texas and Nevada. Mr. Keiller participated in the market manipulation of GENI stock by undertaking hundreds of purchases and sales of GENI stock for the purpose of maintaining the stock price and

falsely making it appear that there was a genuine interest in the stock. Between February 2001 and September 2001, Mr. Keiller bought and sold more than \$22 million worth of GENI stock and also sent millions of dollars to Ultimate.

38. John Does 1-10 are third parties who knowingly or recklessly participated in the fraudulent schemes and transactions described below.

BASIS FOR THE TRUSTEE'S ALLEGATIONS

39. Pursuant to SIPA, the Trustee has a duty to investigate the circumstances leading to the failure of MJK. See 15 U.S.C. § 78fff-1(d). The Trustee and his lawyers are in the process of conducting that investigation. In connection with the investigation and with the approval of the Bankruptcy Court, the Trustee and his lawyers have served or attempted service of subpoenas on at least 45 entities and individuals and obtained thousands of pages of documents and electronic recordings of hundreds of telephone conversations. In addition, lawyers for the Trustee have interviewed numerous witnesses, met with counsel for other participants in the transactions at issue, obtained and reviewed SEC filings on GENI, Imperial Credit Industries, Inc., Holiday RV Superstores, Inc. and other entities, and reviewed court filings from other proceedings related to matters at issue here.

40. In addition, the Trustee has engaged PricewaterhouseCoopers LLP and Matrix Associates, Incorporated to render advice and to review trading and financial records, and has hired Borden Ladner Gervais LLP in Toronto, Canada, to assist him with those aspects of this proceeding which relate to Canada.

41. The allegations set forth herein are based on the results of the Trustee's investigation, which is continuing. The Trustee reserves the right to file any amended or further pleadings which facts uncovered in the future may require.

BACKGROUND FACTS

42. This case relates to a lengthy series of fraudulent transactions in an area of the securities business known as securities lending or, more commonly, “stock loan.” Regulation T of the Board of Governors of the Federal Reserve System, 12 C.F.R. § 220 *et seq.*, generally governs the extension of credit by brokers and dealers. Regulation T requires that a broker’s or dealer’s extension of credit to a customer take place in a margin account (12 C.F.R. § 220.4(a)) and be subject to certain limits. For equity securities, the most that can initially be lent to a customer is 50% of the market value of the stock.

43. There is an exception to the general provisions of Regulation T, however, to allow broker/dealers to borrow and loan customer securities in order to make delivery in the case of a bona fide short sale or a failure to receive securities required to be delivered to a contra-party to a securities transaction. See 12 C.F.R. § 220.10. In such instances, the firm borrowing the security must post cash or Treasury securities equal to at least 100 percent of the current market value of the securities borrowed to the lending broker. See SEC Rule 15c3-3(b)(3). All securities lending activities by broker/dealers must be conducted in accordance with the provisions of Regulation T and SEC Rule 15c3-3. Native Nations’ extensions of credit to Ultimate, El-Batrawi, Keiller and others did not comply with these rules and were therefore illegal (12 C.F.R. § 220.03).

44. A broker/dealer such as MJK may borrow securities from another broker/dealer without regard to the provisions of Regulation T (12 C.F.R.

§ 220.10(c)). Thus, MJK could legally borrow securities from Native Nations and re-lend the securities without inquiring as to whether the original transaction had a permissible purpose. This rule facilitates “conduit” transactions whereby securities are borrowed and re-lent from one firm to another in a series of transactions or “loan chains” before the borrowed stock arrives at its final destination, or “end user.”

Those conduit transactions take place for various reasons, including the fact that the lender and end user do not have an agreement to do stock-loan business together and must route the stock through a third-party with whom both have agreements to conduct business.

45. Broker/dealers engaging in such “conduit” transactions routinely utilize the Depository Trust Company (“DTC”) as the entity to facilitate transfers of cash collateral and securities from one firm to another. Once securities are recorded in the account of a broker/dealer at DTC, the shares of that security become fungible and there is no way for another broker/dealer to know the circumstances under which those shares were placed into DTC. Thus, firms acting as intermediaries in “conduit” transactions necessarily assume that those with whom they deal are lending or borrowing in accordance with Regulation T and other regulations. Indeed, the standard agreements which broker/dealers use contain representations and warranties to that effect.

46. For example, the standard agreements used by Deutsche Bank SL provide as follows:

§ 10.C. “Each party hereto represents and warrants that the execution, delivery and performance by it of this Agreement and each Loan hereunder will at all times

comply with all applicable laws and regulations including those of applicable securities regulatory and self-regulatory organizations.”

47. Deutsche Bank SL’s standard agreement also provides the following regarding the purposes for which it will borrow securities:

§ 10.3 “Borrower represents and warrants that it . . . is borrowing or will borrow the Loaned Securities for the purpose of making Delivery of such securities in the case of short sales, failure to receive securities required to be Delivered, or for the general purposes of its business.”

48. As will be seen below, in this case Defendants Deutsche Bank and its affiliated entities and persons; RBF and its president, Kenneth D’Angelo; and Richard Evangelista of Native Nations concocted a series of fraudulent transactions taking advantage of the DTC system and the assurance on which other broker/dealers relied that all of the parties to conduit transactions were in compliance with Regulation T and other applicable rules. Native Nations was a member of DTC, and Defendants used Native Nations’ account at DTC as a starting point for a series of fraudulent stock-loan transactions that did not comply with applicable regulations, but which were merely a clever way to steal funds from downstream counter-parties, funds that were then used to rig markets and to enrich the promoters of the scheme. Defendants El-Batrawi, Keiller, and Khashoggi were either the promoters of companies whose shares were used as part of the fraud, and who participated in the market rigging, or were market participants who helped rig prices by engaging in phony transactions.

DEUTSCHE BANK SL USES THE FRAUDULENT GENI STOCK-LOAN TRANSACTIONS TO FINANCE RAMY EL-BATRAWI AND OTHERS.

49. The most damaging of the fraudulent market manipulation activities in which Defendants engaged were the GENI transactions. Ultimately, the GENI fraud caused losses to MJK of some \$130 million.

50. Prior to June 1999, GENI was a privately held California-based marketing and promotions company controlled by Defendant Ramy El-Batrawi, which was trying to break into the market for interactive multimedia technologies and the internet. As the Prospectus for its Initial Public Offering dated June 14, 1999, disclosed, however, GENI had achieved little success from its efforts and most of its revenue was derived from related-party transactions. In essence, it was little more than its founder, Mr. El-Batrawi, and some ideas.

51. Even with the booming market for internet stocks in 1999, the IPO of GENI was a difficult sale and the IPO offering period was lengthy. The lead underwriter, Millennium Financial Group, had never previously underwritten an IPO. Eventually, the 2,000,000-share offering was purportedly distributed to the public at a price of \$8.50/share. The Prospectus indicated that 1,000,000 shares of GENI stock were likely to be sold in Europe, and shortly after the commencement of public trading of the stock, on August 12, 1999, it appears that Deutsche Bank, through its Canada branch, obtained and “lent” 1,000,000 shares of GENI to Deutsche Bank SL in a transaction arranged by Mr. El-Batrawi’s associates, Mr. Breedon and Mr. D’Angelo. Shortly thereafter, on October 8, 1999, another 1,000,000 shares was “borrowed” by Deutsche Bank SL, this time from Native Nations. The transaction

was orchestrated by Mr. D'Angelo's company, RBF, and the stock Native Nations "lent" appears to have been obtained from Global Leisure, a company owned by Mr. El-Batrawi. Thus, within four months after the effective date of the IPO prospectus, an amount of GENI shares equal to the total of the offering was under the control of Mr. El-Batrawi, Mr. Breedon and Mr. D'Angelo and was on deposit with Deutsche Bank SL. Thereafter, Deutsche Bank SL, Mr. El-Batrawi, Mr. D'Angelo, Mr. Evangelista and Mr. Breedon controlled its future distribution by controlling the GENI stock-loan transactions.

52. Deutsche Bank SL advanced \$6 million for the first 1,000,000 shares it "borrowed" on August 12, 1999, and another \$4 million for the 1,000,000 shares "borrowed" from Native Nations on October 8, 1999. Presumably at least some of the \$4 million went from Native Nations to Mr. El-Batrawi, although the amount is presently uncertain. It is clear, however, that Native Nations' records were falsified with respect to this transaction, a blatant violation of SEC rules, and thereafter Native Nations continued to maintain false entries relating to the value of GENI stock it was lending and the circumstances under which it was acquired. Native Nations did not routinely carry customer margin accounts and was not engaging in broker/dealer conduit transactions or making legitimate stock loans for the purpose of making delivery on short sales or of delivering securities failed to be received in connection with legitimate securities transactions. By borrowing securities from its customers and putting them into the stock-loan chain through its "box" at DTC, Native Nations was flagrantly violating Regulation T, facts of which Deutsche Bank SL, Mr. D'Angelo, Mr. El-Batrawi and Mr. Breedon were well aware.

53. There was no sound business reason for Deutsche Bank SL to accumulate the 2,000,000 shares of GENI that it held in its DTC stock-loan account at the end of 1999. The shares were not needed to cover customer short positions or “fails.” Rather, the transaction was a disguised distribution of GENI stock, with substantial fees paid to Mr. D’Angelo, Deutsche Bank SL, and others involved in the transaction. Mr. Breedon and Deutsche Bank SL knew that collecting cash back from Mr. El-Batrawi and other Defendants would be a difficult undertaking at best, since Mr. El-Batrawi and other Defendants were spending the cash obtained for other purposes or to try to promote GENI, as shown in the following conversation:

Partial Conversation between Wayne Breedon and Ken D’Angelo (11/9/00)

Breedon: Yeah, well why is he [El-Batrawi] still needing money though? I guess I don’t understand.
D’Angelo: What do you mean? He’s rolling out all those centerlinqs [GENI mall kiosks].
Breedon: No, I know, but look at how much money he has, has taken.
D’Angelo: Oh yeah, I know.
Breedon: You know what I mean? If . . .
D’Angelo: He’s using that, he’s used that to put [GENI] product out. Believe me. Why do you think I’ve been out there two or three times to see the office, to see everything, whatever? You know, I believe people, but at the same time I only believe it when I really see it. You get my point.

54. Throughout the year 2000, Mr. El-Batrawi tried various schemes to promote GENI. As Mr. El-Batrawi needed more money, he or his companies would simply obtain additional cash through the stock-loan system, either by “lending” additional GENI shares to Native Nations and on to Deutsche Bank SL, or by obtaining the proceeds of “marks” which resulted from the increase in the GENI stock price which Defendants were orchestrating. Beginning in February 2000, Mr. El-Batrawi’s long-time associate, Adnan Khashoggi, began to acquire GENI stock in

public purchases and private transactions, all through his Bermuda-based entity, Ultimate, and that stock was also simply distributed through the stock-loan chain in transactions arranged by RBF and sent from Native Nations to Deutsche Bank SL. By December 31, 2000, Deutsche Bank SL was holding 5,010,000 shares of GENI stock (up from 2,000,000 shares), and had advanced to Mr. El-Batrawi, Mr. Khashoggi's company (Ultimate), Mr. D'Angelo and others more than \$88,230,000 (up from \$10,000,000).

55. The recorded conversations show clearly that the stock-loan arrangements were undertaken in large part as a way to get money to Mr. El-Batrawi and other Defendants, as follows:

Partial Conversation between Wayne Breedon and Ken D'Angelo (11/7/00)

D'Angelo: Hello.
Breedon: Yes.
D'Angelo: Yes?
Breedon: If Ramy doesn't need money, why doesn't he just take stock back?
D'Angelo: He does need money.
...
Breedon: Well, I thought, well you know before he said he was taking stuff off because he was getting financing and then I see . . .
D'Angelo: He didn't get it.
Breedon: Is that still in the works?
D'Angelo: Yes. Twenty-five million and another piece, too. I may be doing a hundred and ten thousand shares today. I'm working on that now.
Breedon: Mm hmm.
D'Angelo: What we're doing is the mark - to mark at a hundred and ten. Then we're done, okay. Because he's in the process now to try, where is the stock trading by the way? What's the volume?

Partial Conversation between Wayne Breedon and Ken D'Angelo (1/5/01)

D'Angelo: Okay? Now, leave out a million and a half dollars that we may have to do for Ramy. A million . . .
Breedon: When?
D'Angelo: Today.

Breedon: May have?
D'Angelo: May have. Here's the problem – where his stock is sitting at . . .
Breedon: Yeah?
D'Angelo: Nobody has made delivery.
Breedon: Un huh.
D'Angelo: The shorts are up the [expletive omitted] gazoo on it.

Partial conversation between Wayne Breedon and Ken D'Angelo (1/8/01)

Breedon: Hmm. How much money does Ramy want?
D'Angelo: Not much. I think like two or three million. So, everything'll be fine. Everything'll be perfect. It'll work. It'll work. It'll work. Hold on please. Alright, let me take this line.
Breedon: Alright.
D'Angelo: I'll be back.
Breedon: Bye.
D'Angelo: Bye.

Partial conversation between Wayne Breedon and Ken D'Angelo (1/11/01)

Breedon: Alright. What's ahh, what's ahh, ahh how much money does, is it Freeman that needs money? errr . . .
D'Angelo: No.
Breedon: Ramy?
D'Angelo: It's gonna go to Ramy. Okay, but I told him, I'm not taking too much because you know, I'm just worried that God forbid, we have a whatever, you know, it's gotta come back.
Breedon: That's what I mean. I mean, you know if, if it goes down, then I'm gonna need the money back from everybody.
D'Angelo: You telling me what I don't know?
Breedon: And I can't, I can't, I can't not get it back.
D'Angelo: I . . . I already went through that with him.
Breedon: Yeah, yeah.
D'Angelo: Alright, and he's talking big time, so, but I ain't giving him a lot. But I gotta give him something.
Breedon: Yeah.
D'Angelo: A taste.
Breedon: Well, he got a lot today.²
D'Angelo: I know. But I'm just saying, ahh, because I wanna just switch everything around and make it right.
Breedon: Yeah.

² Records indicate that on January 11, 2001, Deutsche Bank SL sent \$3,510,000 to Native Nations in "marks," money which presumably went to Mr. El-Batrawi. In addition, \$2,000,000 in "mark" money was sent by Deutsche Bank SL to Native Nations the next day.

56. Deutsche Bank SL had no legitimate need for such massive volumes of GENI stock. Certainly Deutsche Bank SL did not need the more than 5 million shares it had borrowed to cover short positions. At all relevant times, Deutsche Bank SL's "borrowing" position in GENI was millions of shares greater than the total short positions in the market. Deutsche Bank SL's "borrowing" actually exceeded the total number of shares available for public trading in most months of the period after August 1999. Nor is there any indication that Deutsche Bank SL had customer fails to receive that supported any of the GENI stock borrowing. Rather, the transactions were simply a way to turn stock owned by Mr. Khashoggi through Ultimate, Mr. El-Batrawi and others into cash while fraudulently passing the credit risk associated with those transactions to other broker/dealers.

**DEFENDANTS USE STOCK-LOAN MONEY TO MANIPULATE THE
MARKET FOR GENI STOCK IN 2000.**

57. Mr. El-Batrawi, Mr. Khashoggi and Mr. D'Angelo, along with brokers working at their direction, also had increasing needs for cash in 2000 because part of the efforts to promote GENI stock included massive purchases and sales to manipulate the market and inflate the price of GENI. Using Ultimate, Mr. Khashoggi began to be a serious buyer of GENI stock in March 2000, and throughout 2000 regularly bought and sold millions of dollars of GENI stock. By year end 2000, Ultimate had purchased more than \$28.9 million of GENI.³ The money for those transactions came directly or indirectly from Deutsche Bank SL through the stock-loan activity. The following conversations between Mr. Breedon and Mr. D'Angelo illustrate how the arrangement worked:

Partial conversation between Wayne Breedon and Ken D'Angelo (10/4/00)

D'Angelo: You know? So...we're gonna have to do probably a small ticket [i.e., a small stock-loan transaction] on Friday, okay? Because he has to maneuver something, I don't know. I didn't get into it. He told me he'll talk to me later about it. It's like maybe a hundred and thirty thousand shares or something. But we'll use a price of fifteen [i.e., there will be a stock loan of about 130,000 GENI shares at a price of \$15/share, for a total of \$1,950,000]. If it's not it... Well, I know he's gotta do, he's gotta do something today, tomorrow, and Friday. He actually has to bring this stock up, but I don't know how he's handling that either. All I know is around 3:00 when I talk to him, he says, "[expletive omitted] let me go." He says, "I gotta make some maneuvers." And I said, "what are you talking about?" He says, "I gotta get this stock up." I said, "alright, do what you gotta do." Well, that's nice to see, right?

Breedon: Yeah.

D'Angelo: Fifteen and three quarters puts us right back in the ball game.

³ Included in this number are purchases made by Ultimate through its own accounts as well as purchases made by account representatives and financial advisors of Ultimate.

Breedon: Yeah.⁴

Partial conversation between Wayne Breedon and Ken D'Angelo (10/6/00)

Breedon: What's going on here?
D'Angelo: Don't tell me they're getting killed.
Breedon: Dow's down a hundred and fifty three, but (not precisely clear)
D'Angelo: Well, he was supposed to, I was on the phone with him so you understand.
Breedon: Hmm.
D'Angelo: With the other guy on the phone. He said he's buying between a hundred and a hundred and fifty thousand shares in the open market between today and tomorrow. I mean between today and Monday. So, they've gotta get the stock up to eighteen and a half.

Partial conversation between Wayne Breedon and Ken D'Angelo (10/6/00)

D'Angelo: That's what I believe in. I don't want to know about whatever. B-b-b bah bah bah. I wanna know it's gonna [expletive omitted] happen. [Expletive omitted]. 'Cause in order for him to push out that eighteen and a half dollar stock, it's gotta be to eighteen and a half.
Breedon: Yup.
D'Angelo: So they gotta run it.
Breedon: Yup.
D'Angelo: I think what the guy's thinking is, I could be wrong, but I think he should have started it today. I think was his thinking was that on Monday there's not going to be a helluva a lot of people around, so it'll be easier for him to lift something with no big volume.
Breedon: Yeah, that's true.

Partial conversation between Wayne Breedon and Ken D'Angelo (10/17/00)

D'Angelo: Well, all I know is I'm going to pump everybody up today. I don't know how I'm gonna do it. I'm gonna even tell Ramy he's gotta go up. Okay. Whether he goes on his own or he does a buy-in thing or whatever they're just going to have to do it. Everybody's gotta go up. I'll be after everybody's case today Wayne, and I'm telling the ETA guy we can't do it today.
Breedon: Mmm hmm.

⁴ Deutsche Bank SL's records show that it undertook the transaction Mr. D'Angelo was discussing by borrowing 150,000 shares of GENI from Native Nations on Friday, October 6, 2000, at a price of \$15/share.

Partial conversation between Wayne Breedon and Ken D'Angelo (11/2/00)

D'Angelo: How's the GENI look?
Breedon: It's up, it's up today.
D'Angelo: Well, it's supposed to be. It was supposed to be yesterday, but . . .
Breedon: Fifteen and fifteen sixteenths and there's news on it. Says "chairman buys a hundred thousand more."⁵
D'Angelo: Yeah. No [expletive omitted]. Alright. How bad did the account look today?
Breedon: It was down an extra million.
D'Angelo: Oh my God. Well, hopefully after today cause I told him I wanted it over sixteen. And, of course, I'll be with him, so you know, I will pester him to death.

Partial conversation between Wayne Breedon and Ken D'Angelo (11/3/00)

D'Angelo: I made sure, yeah, I made sure it didn't go over seventeen.
Breedon: That should take care of 607 [Native Nations].
D'Angelo: Oh, that's just a wonderful thing.
Breedon: You know, I'm just doing a little calculation and it looks like it does.
D'Angelo: Alright. Well, we're gonna be much higher next week.
Breedon: Yeah.

Partial conversation between Wayne Breedon and Ken D'Angelo (11/6/00)

Breedon: So how's Ramy Samy?
D'Angelo: He seems fine. I mean, you know, he, he seems like he's, I don't know, want to use the word right, focused.
Breedon: Mm hmm.
D'Angelo: To get everything done. He's gonna push the stock up a quarter of a point or half a point every day.
Breedon: Mm hmm.
D'Angelo: He's got a guy from Oppenheimer.
Breedon: Right.
D'Angelo: An supposedly, the guy's gonna buy two big blocks. It could be five hundred to a million or it could be more. It seems ever since the stock started moving, like all of a sudden, like . . .
Breedon: There's interest.

Partial conversation between Wayne Breedon and Ken D'Angelo (11/8/00)

D'Angelo: Trading big volume there baby.

⁵ Records indicate that Mr. El-Batrawi did, in fact, buy 100,000 shares of GENI for \$1,157,575 in early November.

Breedon: Yeah. Franklin's saying they're up over eighteen dollars. He says, "I think I'll short it at month end."
D'Angelo: Yeah, he called me.
Breedon: Yeah?
D'Angelo: He said, "why didn't you tell me to buy it? I, I, I said "come on, huh. Why you starting your [expletive omitted] . . ." Why didn't I tell you to buy it? The [expletive omitted] do I, you know. I didn't want to tell him I knew it was going up. Just in case it, keeping it going and making everything work.
Breedon: Yeah.

58. Also in 2000, Defendant Bradford Keiller began to participate in the GENI market manipulation. He signed a stock-loan agreement with Ultimate and began borrowing GENI shares from Ultimate, even though neither he nor Ultimate was a broker/dealer and the agreements were merely "window dressing." He also began buying GENI stock in the market, through several different brokers and different accounts, as part of a plan to drive up the GENI stock price.

59. At no time did Mr. Breedon, Mr. El-Batrawi, Mr. Khashoggi, Mr. D'Angelo, Mr. Keiller, and the others working with them ever file a Schedule 13D or in any other way disclose that they were acting in a common group to buy and control GENI stock.⁶ By the end of 2000, the combined group of Mr. El-Batrawi and Ultimate owned some 77.5% of the outstanding GENI stock, a fact Defendants never disclosed. Defendants were also engaged in a concerted effort to restrict the supply of GENI shares in order to perpetuate a short squeeze (a market maneuver to restrict availability of stock to those who have sold stock they did not own – "short sellers" – so that they are forced to deliver the shares they have sold – covering their short

⁶ While Ultimate and Mr. El-Batrawi each filed Schedule 13D's at various times, none of them disclosed that they were acting in a common group to buy and control GENI stock.

positions -- by buying increasingly scarce and expensive shares), all with money from Deutsche Bank SL, as clearly shown in the following conversation:

Partial conversation between Wayne Breedon and Ken D'Angelo (1/8/01)

D'Angelo: He brought it to a quarter because we may have to do a mark tomorrow rather than to do more shares, but we'll worry about that tomorrow.

Breedon: You mean?

D'Angelo: Yeah, did you see it?

Breedon: What about RVEE? The guy's sleeping on the [expletive omitted] job there.

D'Angelo: Ah, go [expletive omitted] yourself.

Breedon: Twelve hundred shares.

D'Angelo: I know, I'm, I called him, whatever, I'm calling him in about twenty-five minutes. [Expletives omitted].

...

Breedon: Yeah, GENI might not stay up there, though.

D'Angelo: It'll stay up there.

Breedon: They're bidding seventeen and thirteen sixteenths.

D'Angelo: Well.

Breedon: Asking seventeen and seven eighths.

D'Angelo: Well, that ain't over yet.

Breedon: It ain't over 'til the fat lady sings.

D'Angelo: Correct-a-mundo.

Breedon: You talk to him today?

D'Angelo: Yeah, I spoke to him a few times. He's got a big meeting tomorrow. He's got somebody that may come in with thirty million dollars.

Breedon: Yep.

D'Angelo: Like I told you, he seems like he's got a lot of things going right now.

Breedon: Yeah.

D'Angelo: I just hope, like I said, just part of it follows through.

Breedon: Yeah.

D'Angelo: You know there's over a million shares short?

Breedon: They must just, they mustn't be shorting it just because of the FASH [Fashion Mall].

D'Angelo: Well, they're just doing it to do it because they're caught now.

Breedon: Yeah.

D'Angelo: He's really got them caught, in theory.

Breedon: Well, yeah, I mean if there's no bloody stock out there.

D'Angelo: There's none. We got five million and change [Deutsche Bank SL was holding more than 5 million GENI shares] and there's only 6.4 million shares outstanding.

Breedon: Just buy the suckers in.

D'Angelo: Yep.

Breedon: Keep buying them in, buying them in.

60. In addition to their failure to acknowledge that they were acting in a common group to buy and control GENI stock, Defendants made misrepresentations and material omissions in filings that were submitted to the SEC.

61. By April 2000, Ultimate reported that it was the beneficial owner of at least 5% of the issued and outstanding shares of GENI and was required to file a Schedule 13D with the SEC.

62. Ultimate filed its first Schedule 13D on May 22, 2000, reporting that: (a) it was the beneficial owner of 7.74% of GENI as of May 19, 2000; (b) it had purchased the shares of GENI for investment purposes; and (c) it funded such purchases with its own working capital and loans made by “Deutsche Bank” pursuant to an open-ended line of credit with interest at 8.5% per annum. Between May 2000 and September 2001, Ultimate filed with the SEC no less than 21 reports – changes and amendments to its Schedule 13D as well as Form 4’s – disclosing its ownership interests in GENI. In many of these filings Ultimate continued to report that its purchases of GENI were financed, at least in part, by its line of credit with “Deutsche Bank.”

63. Throughout the remainder of 2000 and into 2001, Ultimate continued to increase its GENI holdings, reporting on its Schedule 13D’s and Form 4’s purported beneficial ownership of GENI ranging, for example, from 411,466 shares in May 2000, to 2,465,077 shares in December 2000, to 9,514,269 (post-split) shares in March 2001, to 8,743,843 shares in June 2001, and 9,460,443 shares at the end of August 2001. All of these filings, throughout this time period, contained material

misrepresentations and omitted to disclose that Ultimate operated in an orchestrated fashion with the other Defendants to control the purchases and sales of GENI stock in amounts vastly in excess of those reported by Ultimate. The filings also failed to disclose that Defendants had effectively sold GENI shares via the stock lending chains.

64. El-Batrawi also routinely filed Form 4's, Schedule 13D's and Schedule 13G's and amendments thereto with the SEC, reporting his GENI ownership. As a beneficial owner of more than 5% of GENI, El-Batrawi, like Ultimate, was required to report his beneficial ownership in accordance with Section 13(d) of the 1934 Act. El-Batrawi reported on his Section 13D's and Form 4's purported beneficial ownership of GENI ranging, for example, from 2,912,622 shares in May 1999, to 2,858,223 shares in June 2000, to 9,045,969 (post-split) shares in March 2001, to 8,743,843 shares in June 2001, and 10,375,469 shares at the end of August 2001.

65. All of these filings throughout this time period materially misrepresented and omitted to disclose the material facts surrounding GENI, namely, that among other things:

a. Defendants operated in an orchestrated fashion in a group which collectively controlled the purchases and sales of GENI stock;

b. each of the Defendants, acting through one or members of the group, beneficially owned and controlled as much as 16 million shares out of 22 million total GENI shares issued;

c. Deutsche Bank SL was, in fact, financing the purchases being reported, though not through a line of credit, but rather through the deceptive stock-loan chains. In addition, Deutsche Bank SL together with the other Defendants, had put those chains into place to ensure that, if and when the scheme unraveled, other entities, and not Deutsche Bank, would be left to absorb the losses; and

d. the GENI shares referenced in these statements were not registered under the applicable provisions of the 1933 Act, were not exempt from registration, and in fact had already been sold in transactions involving interstate commerce in violation of Section 5 of the 1933 Act.

66. On September 6, 2001, El-Batrawi filed a Schedule 13D with the SEC in which he stated that he had obtained a loan of \$22.7 million from Ultimate for purposes of purchasing 1,329,500 shares of GENI on the public market – these purchases had occurred on or between August 17, 2001, and August 20, 2001. The Schedule 13D further stated that the loan was secured by the pledge of 8 million shares of GENI reportedly owned by El-Batrawi, and that El-Batrawi purportedly gave Ultimate the right to hypothecate these shares. These statements were materially false and misleading for the reasons stated in the preceding paragraph and for the additional reason that most, if not all, of the 8 million shares of GENI that El-Batrawi stated had been pledged by him to Ultimate had previously been transferred to Native Nations and ultimately to Deutsche Bank SL, through fictitious stock loans.

67. Similarly, a registration statement filed by Genesis for the sale of 10,615,884 shares of GENI, including the 8,570,214 shares ostensibly owned by Ultimate, became effective on May 25, 2001. It was signed by El-Batrawi. The registration statement was also materially false and misleading for the reasons stated above.

68. In addition, all distribution transactions involving GENI shares beneficially owned by Ultimate prior to May 25, 2001 – the effective date of the registration statement – were illegal transactions involving unregistered shares for purposes of Section 5 of the 1933 Act.

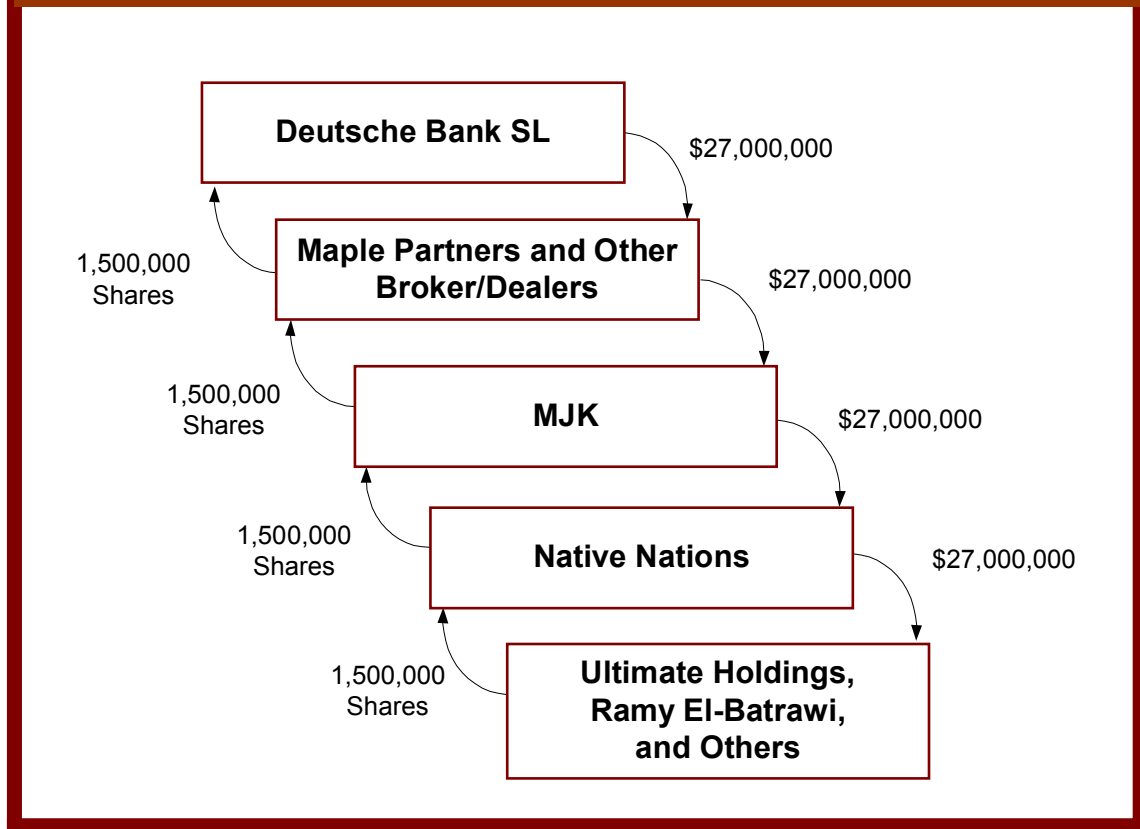
69. Even after the effective date of the May 25, 2001 registration statement, Defendants acted in violation of Section 5 of the 1933 Act by undertaking the various stock loan transactions at issue. First, the registration statement purported to cover only shares held by Ultimate, and did not register the stock previously possessed by El-Batrawi that was injected into the stock lending chains. Second, even Ultimate's shares were not effectively registered through this false registration statement, since they were no longer in its possession – having long since been transferred to Deutsche Bank SL. Moreover, even if the registration of those shares by Ultimate had become effective, it would not relieve the other Defendants – particularly the Deutsche Bank entities – from their independent obligation to register the securities before undertaking a secondary public offering.

MJK IS BROUGHT INTO THE TRANSACTIONS IN NOVEMBER 2000.

70. On November 10, 2000, MJK first became involved in borrowing and re-lending GENI stock. MJK was introduced to the GENI stock-loan transactions through a telephone call placed to Thomas Brooks, the head of stock loan at MJK, by Richard Evangelista or those working at his direction at Native Nations. Mr. Brooks was asked if MJK would participate in what was represented as a very large, but legitimate, stock-loan transaction, borrowing 1,500,000 shares of GENI from Native Nations and immediately re-lending it to another Jersey City broker/dealer, Maple Partners. Mr. Brooks understood that Native Nations had no customer margin accounts (and thus could not extend credit to customers on stock transactions), and thus understood the transaction would be a pass-through, or “conduit” deal, with some other broker/dealer acting to lend the stock to Native Nations. The transaction was structured and arranged by Mr. Breedon and Mr. D’Angelo. After receiving the GENI shares, MJK re-lent them to Maple Partners, which in turn re-lent the shares to other broker/dealers, which again re-lent them to Deutsche Bank SL. The cash collateral for the loan of the GENI shares was \$27,000,000, money which in all likelihood went to Mr. El-Batrawi and Mr. Khashoggi, and which was provided by Deutsche Bank through Deutsche Bank SL. The transaction is graphically illustrated below:

GENI

November 10, 2000



71. By undertaking this GENI stock-loan transaction, MJK agreed to return to its counter-party, Maple Partners, the \$27,000,000 cash it had received as collateral when MJK lent Maple Partners the GENI stock. MJK also received a similar undertaking from Native Nations, the party to whom MJK had given \$27,000,000. Unfortunately, however, MJK's obligation to Maple Partners was not dependent on MJK's ability to obtain its own cash collateral back from Native Nations. MJK was thus exposed to the risk that it might owe \$27,000,000 to Maple Partners, but be unable to collect the corresponding amount from Native Nations. Native Nations had excess net regulatory capital of less than \$5 million, and, as will be described below,

was only able to stay in business because its accounting records were falsified by, among other things, temporary cash transfers from Deutsche Bank SL. Additionally, Native Nations' own counter-parties (Mr. El-Batrawi, Ultimate and the like) had received most, if not all, of the \$27,000,000 and would not return it if the GENI stock manipulation scheme failed to achieve its hoped-for profits. MJK's only protection from serious loss was its collateral security interest in the 1,500,000 shares of GENI stock. In a very real sense, although MJK did not know it at the time, MJK stood in the position of a buyer of the GENI shares, exposed to all the risk of loss associated with a decline in the share price and having a buyer's need for the complete and honest disclosure the securities laws require.

72. At the time when MJK first was solicited to engage in the GENI stock-loan transaction with Native Nations in or about November 2000, MJK was not told the following material facts relating to GENI and the GENI stock loan:

- a. that the market price of GENI was being artificially manipulated by Defendants and bore no relationship to the true value of the company;
- b. that there was no real market for GENI stock and that the apparent interest in buying and selling GENI stock was the result of phony orders, "wash sales" and other devices;
- c. that the GENI stock-loan activity was really just a device to enable Deutsche Bank SL to distribute stock for Ramy El-Batrawi and Adnan Khashoggi through orchestrated stock-loan transactions;
- d. that the GENI stock which was the subject of the stock-loan activity had not been deposited into a margin account in accordance with Regulation T and the loans in question were not motivated by a legitimate need to cover short sales or customer fails to deliver;
- e. that Native Nations was not acting as a true conduit borrower and lender, in that there was no broker/dealer counter-party on the other side of the Native Nations transaction, but that Native Nations was really acting as an agent of

Deutsche Bank and Deutsche Bank SL to distribute securities coming from Ultimate and/or Mr. El-Batrawi;

f. that the cash collateral MJK delivered to Native Nations was going to fund a market manipulation scheme and Native Nations' counter-parties were virtually certain not to return the cash collateral;

g. that Native Nations' books and records had been falsified to enable it to receive the GENI stock; and

h. that Native Nations did not value the GENI stock correctly on its books and, therefore, that counter-party "marks" would have to be rigged to cover that fact.

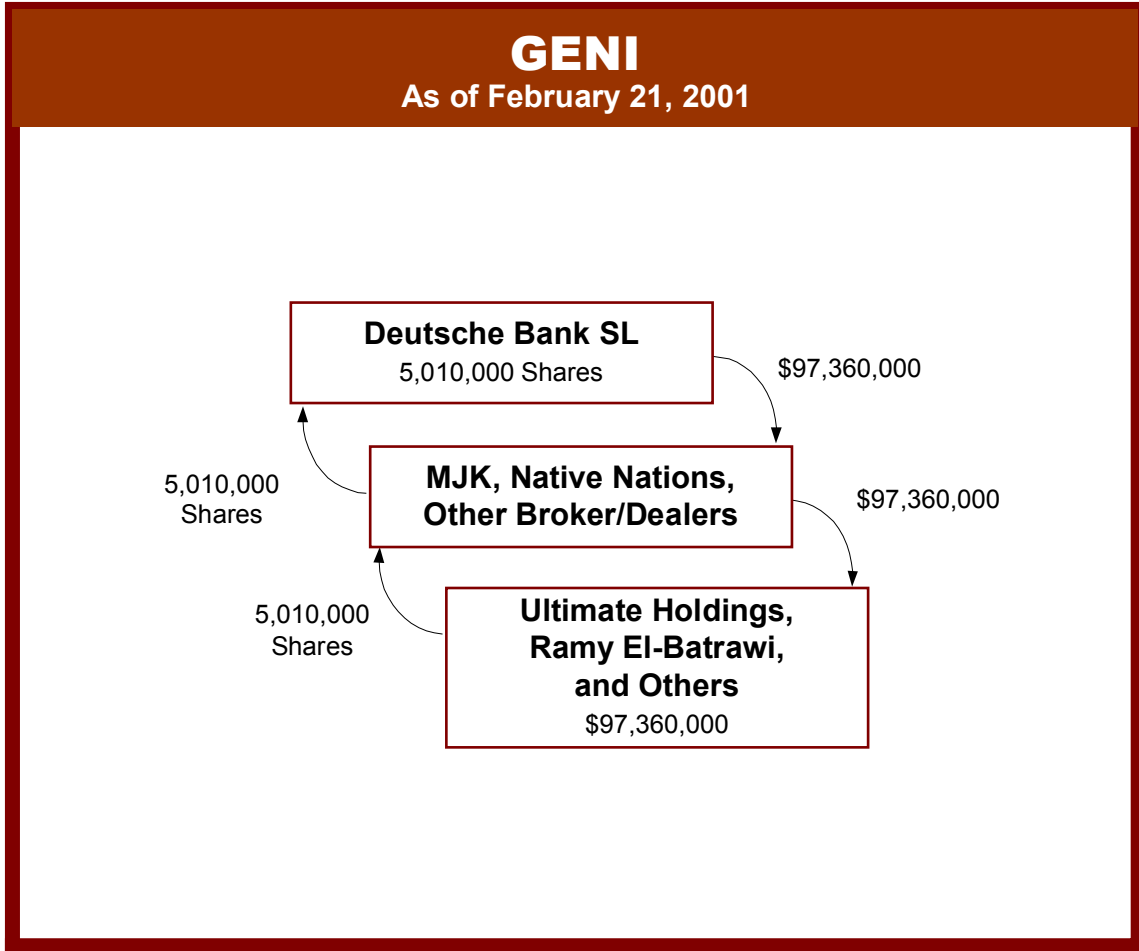
73. Without advising MJK of the ongoing market manipulation scheme into which MJK was being drawn, Mr. Evangelista, Mr. Breedon, and Mr. D'Angelo, or those working under their direction, misled MJK, falsely advising that the transaction was a legitimate stock-loan arrangement, in which Native Nations was acting as a conduit or pass-through borrower and lender. If Native Nations' status as a conduit lender was not stated explicitly, such activity by Native Nations was at least implicit in the very nature of the transaction, since the fact that Native Nations did not routinely carry customer margin accounts and had very little capital necessarily meant that it could act only in a conduit capacity. Indeed, MJK was never advised of the material facts detailed above, despite frequent communications between Mr. Brooks or others in MJK's stock-loan department and Mr. Breedon, Mr. Evangelista, Mr. D'Angelo, and others under their control.

DEUTSCHE BANK SETS UP MJK TO TAKE A MASSIVE LOSS.

74. In connection with its year-end audit for the year 2000 (as of December 31, 2000), Native Nations' auditors sent out confirmations of purported stock-loan positions to various alleged counter-parties. In mid-February 2001, the returned confirmations disclosed that Native Nations' books showed fictitious entries for the GENI stock-loan position, entries that falsely showed Native Nations had borrowed the GENI stock from First Union Securities and other broker/dealers. Native Nations did not advise the NASD, the SEC, or any other regulator of the false entries. Nor did it advise MJK that its records had been falsified with regard to the GENI stock loans in which MJK was involved. Rather, presumably to allow its auditors to certify Native Nations' financial statement for filing with regulators, by date of February 16, 2001, Native Nations signed a form "Master Securities Loan Agreement" with the true counter-party, Ultimate. In a letter dated February 21, 2001, Ultimate confirmed to Native Nations that it had lent 5,010,000 shares of GENI to Native Nations. These documents were aimed at "papering" Native Nations' records to confer an air of legitimacy to the GENI transactions. The Master Securities Loan Agreement falsely represented that Ultimate was a broker/dealer involved in institutional stock lending, that the transactions it had effected complied with all applicable laws and regulations, and that the transactions were for a proper purpose. In fact, Ultimate was the beneficial owner of the stock, was using phony stock "loan" transactions to distribute unregistered shares in violation of Section 5 of the Securities Act, and that the purpose of the transactions was to manipulate the price of GENI.

75. These misrepresentations were material – indeed, they were specifically designed to provide false assurance, implicitly and explicitly (through the Master Securities Loan Agreement), that the introduction of the GENI shares into the stock lending chain complied with the law and was for a proper purpose. The misrepresentations were made knowingly or recklessly as each Defendant had played an active role in the reality these representations were designed to hide. They were intended to deceive downstream participants, including MJK, and were successful in doing so. These misrepresentations were only one of many coordinated steps in Defendants’ overarching scheme to defraud.

76. As of February 21, 2001, all 5,010,000 shares of GENI lent by Ultimate to Native Nations had been re-lent to others and ended up in the account of Deutsche Bank SL. In return for that stock, Deutsche Bank SL had now advanced more than \$97,000,000. MJK was never told it was borrowing and lending stock from Mr. Khashoggi’s Bermuda-based Ultimate, rather than from legitimate broker/dealers. As of February 21, 2001, the GENI stock-loan chain looked like this:



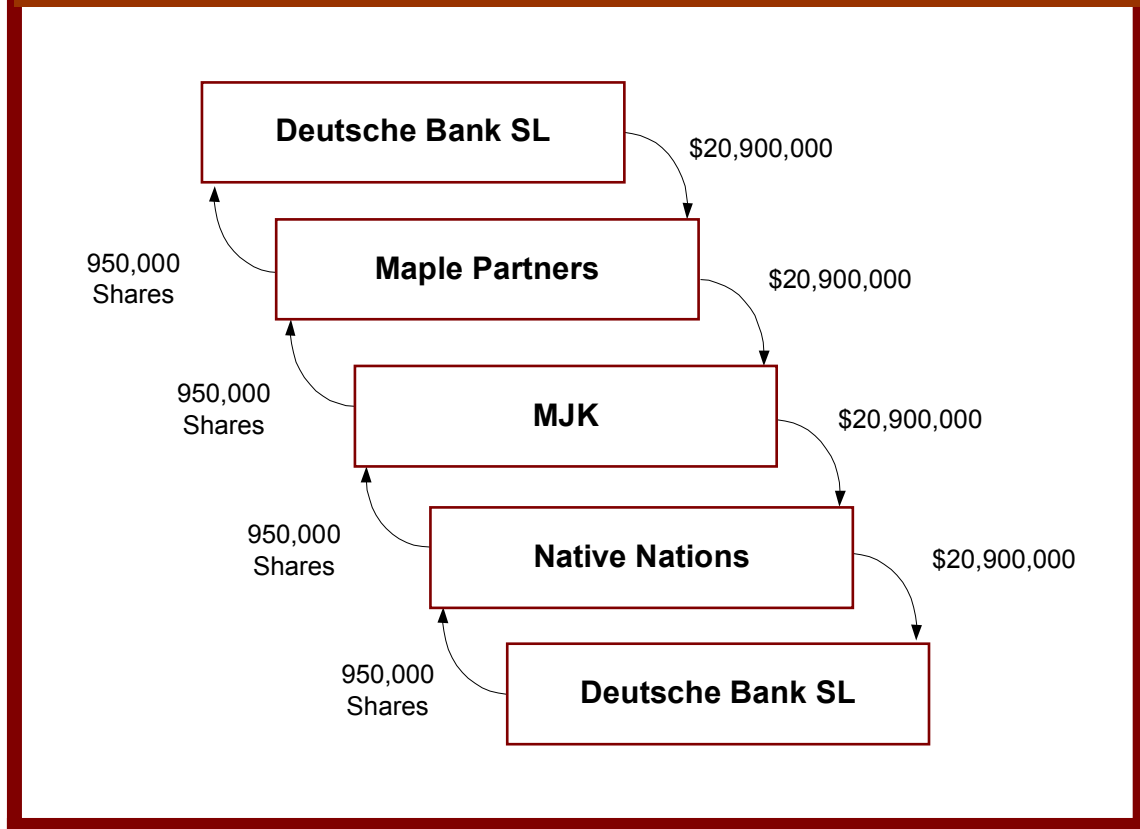
77. MJK was unaware of the Defendants’ intentional manipulation of the market for GENI stock and relied on the integrity of the market price with respect to that stock. Just as a retail investor who buys or sells stock at the price set by the market does so in reliance on the integrity of that price, MJK entered into the GENI stock-loan transactions believing that the market price of GENI accurately reflected its value.

78. Shortly after Native Nations’ auditors discovered the false entries on Native Nations’ books and records, Deutsche Bank SL reduced its credit limits with Native Nations and systematically began to reduce its direct stock-loan position with

Native Nations on GENI. Deutsche Bank SL also worked at the same time to orchestrate new arrangements to inject more solvent firms into the stock-loan chains between it and Native Nations. The obvious purpose of these arrangements was to insulate Deutsche Bank SL from financial loss in the event that the GENI market manipulation proved to be unsuccessful. With that objective, on or about March 1, 2001, Mr. D'Angelo, Mr. Breedon or someone under their control contacted Tom Brooks at MJK to discuss increasing MJK's borrowing of GENI shares from Native Nations by 950,000 shares. By then MJK had already increased its borrowing from 1,500,000 shares to 1,750,000 shares, so that an additional 950,000 shares would give MJK a total of 2,700,000 shares. GENI was then trading at \$22/share, so such a transaction would require MJK to pay Native Nations \$20,900,000. However, as it was explained to Mr. Brooks, the transaction would be a "run through" whereby MJK would immediately lend the GENI stock to another firm (Maple Partners), which would lend it again, so that the GENI stock ended up with Mr. Breedon at Deutsche Bank SL. No one explained to Mr. Brooks that Deutsche Bank SL already had the 950,000 shares in its possession, and that the transaction was being orchestrated as a "run through" just to insert MJK into the loan chain between Native Nations and Deutsche Bank SL, thereby reducing Deutsche Bank SL's credit risk. Mr. Brooks agreed to the transaction, and the 950,000 shares which Native Nations lent to MJK on March 1, 2001, came from Deutsche Bank SL, and ended up back at Deutsche Bank SL, that same day. The net effect of the transaction was that Deutsche Bank SL reduced its credit risk exposure with Native Nations by approximately \$21 million. The transaction is displayed graphically as follows:

GENI

March 1, 2001



79. As had been the case with MJK's first borrowing of GENI stock in November 2000, the March 1, 2001, transaction was presented as a legitimate stock-loan arrangement involving solvent broker/dealers acting in compliance with the securities laws. As Mr. Breedon knew, however, the transaction was actually quite different – behind it were violations of numerous securities laws; Native Nations could not return the cash it received from MJK; those with whom Native Nations was dealing were engaged in a massive market manipulation; and Mr. Breedon was setting up MJK to take a loss which otherwise would have been suffered by Deutsche Bank SL. Unaware of these facts and misled by the apparent integrity of the market for

GENI and the apparent legitimacy of the transaction, however, MJK agreed to the stock loan and re-lent the GENI shares as directed by Mr. Breedon to Maple Partners, which re-lent the shares to Deutsche Bank SL.

80. In presenting the transaction, Mr. D'Angelo, Mr. Breedon, or those under their control misled MJK by intentionally and deliberately omitting the following:

a. that the market price of GENI was being artificially manipulated by Defendants and bore no relationship to the true value of the company;

b. that there was no real market for GENI stock and that the apparent interest in buying and selling GENI stock was the result of phony orders, "wash sales" and other devices;

c. that the GENI stock-loan activity was really just a device to enable Deutsche Bank and its affiliates to distribute stock for Ramy El-Batrawi and Adnan Khashoggi;

d. that the GENI stock which was the subject of the stock-loan activity had not been deposited into a customer margin account in accordance with Regulation T and the loans in question were not motivated by a legitimate need to cover short sales or customer fails to receive;

e. that Native Nations was not acting as a true conduit borrower and lender, in that there was no broker/dealer counter-party on the other side of the Native Nations transaction, but that Native Nations was really acting as an agent of Deutsche Bank and Deutsche Bank SL to distribute securities coming from Ultimate or Mr. El-Batrawi;

f. that a substantial portion of the cash collateral MJK delivered to Native Nations was going to fund a market manipulation scheme and Native Nations' counter-parties were virtually certain not to return the cash collateral;

g. that Native Nations' books and records had been falsified to enable it to receive the GENI stock;

h. that Native Nations did not value the GENI stock correctly on its books and, therefore, that counter-party "marks" would have to be rigged to cover that fact; and

i. that Native Nations could not pay “marks” on GENI if the GENI stock price declined significantly.

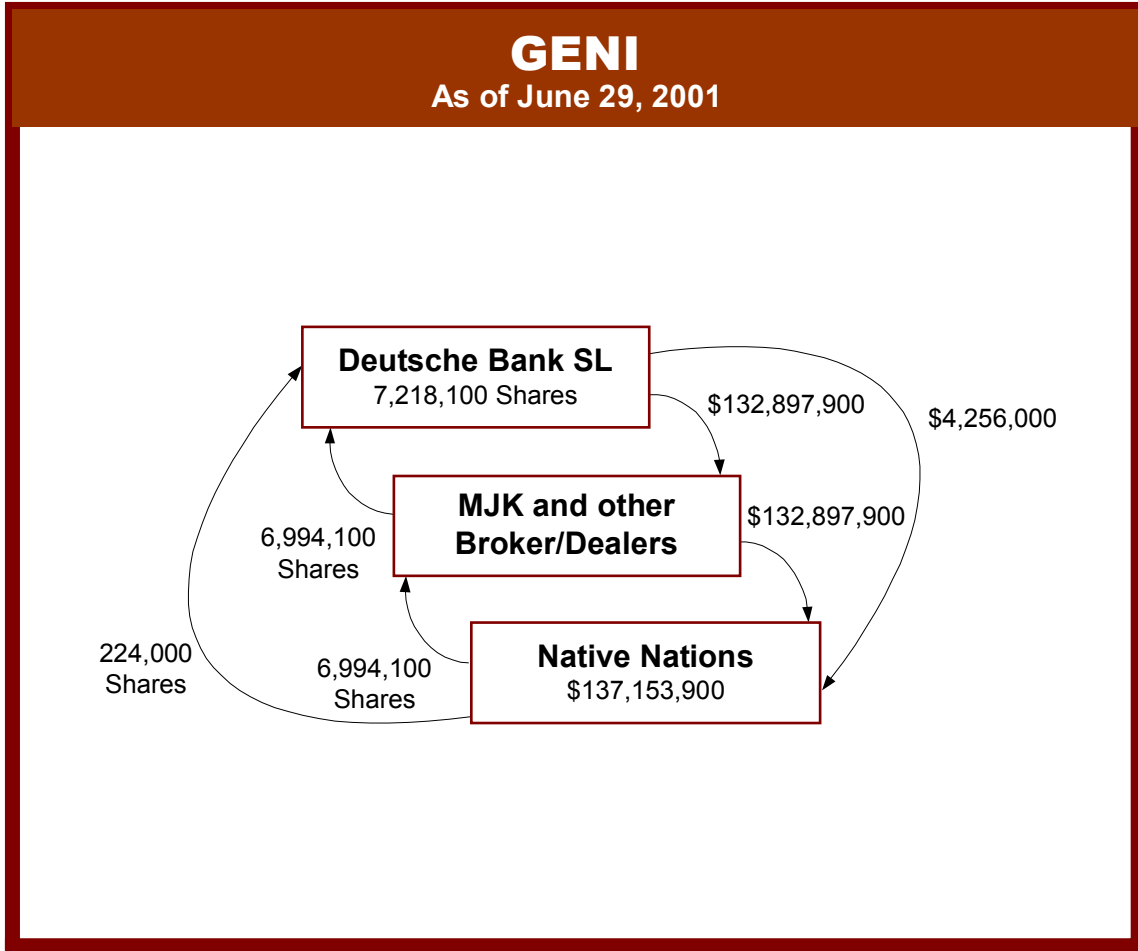
81. Following the March 1, 2001, transaction, MJK’s borrow position in GENI with Native Nations continued to increase, growing to a total of 10,111,400 shares on June 30, 2001 (adjusted for a 3 for 1 split which took place March 22, 2001), for which it had advanced cash of \$192,116,600, as follows:

Date	Size of MJK’s Borrow Position	Price/Share	Cash Advanced
11/10/00	1,500,000	\$18/share	\$27,000,000
11/30/00	1,500,000	\$18/share	\$27,000,000
12/15/00	1,500,000	\$18/share	\$27,000,000
12/31/00	1,750,000	\$18/share	\$31,500,000
1/15/01	1,750,000	\$20/share	\$35,000,000
1/31/01	1,750,000	\$20/share	\$35,000,000
2/15/01	1,750,000	\$20/share	\$35,000,000
2/28/01	1,750,000	\$21/share	\$36,750,000
3/15/01	2,700,000	\$23/share	\$62,100,000
3/30/01	8,100,000	\$8/share	\$64,800,000
4/15/01	8,100,000	\$9/share	\$72,900,000
4/30/01	8,730,000	\$12/share	\$104,760,000
5/15/01	7,274,100	\$15/share	\$109,111,500
5/31/01	5,965,400	\$17/share	\$101,411,800
6/15/01	6,095,400	\$17-18/share	\$103,751,800
6/30/01	10,111,400	\$19/share	\$192,116,600

82. All of the additional GENI transactions set forth in paragraph 78 were arranged, directly or indirectly, by Mr. Breedon, Mr. D’Angelo, and Mr. Evangelista, who then communicated the necessary instructions to MJK. During all of these transactions and the corresponding communications with Mr. D’Angelo, Mr. Breedon, or others under their control, MJK was never informed of the omissions described above in paragraph 77. All of the GENI stock MJK borrowed from Native

Nations came from Mr. El-Batrawi or Ultimate, orchestrated by Mr. D'Angelo's company, RBF, and all of it was sent to Deutsche Bank SL.⁷ At all times, Mr. D'Angelo and Deutsche Bank SL, through Mr. Breedon, controlled the loan-chain arrangements, and Deutsche Bank SL's cash made the whole transaction work. The credit department of Deutsche Bank insisted, however, that Deutsche Bank SL reduce its direct position with Native Nations, while allowing Deutsche Bank SL to accumulate a massive position in GENI so long as Deutsche Bank SL inserted well-capitalized broker/dealers as its counter-parties to protect it when the inevitable collapse came. By June 29, 2001, Deutsche Bank SL's direct exposure to Native Nations on GENI was down from more than 4.5 million shares (split-adjusted in January 2001) to 224,000 shares, as can be seen here:

⁷ There was a short period of time during June and July 2001, when approximately 3.5 million shares of GENI apparently ended up at Nomura Securities (or its affiliates). However, even during that period of time more than 6 million shares of GENI that MJK had borrowed from Native Nations were re-lent to Deutsche Bank SL.



83. The recorded conversations of Mr. Breedon and Mr. D’Angelo make it clear that they deliberately took advantage of MJK as a victim of Defendants’ scheme. The head of stock loan at MJK, Thomas Brooks, is regularly described as “that kid Tom at 139” (139 was MJK’s account designation with DTC). Mr. Breedon and Mr. D’Angelo obviously realized that MJK had no credit limits with Native Nations and that MJK was willing to do deals which were being organized and promoted by a massive international firm like Deutsche Bank. Mr. Breedon and Mr. D’Angelo deliberately kept MJK in the dark about who was really providing the GENI stock that Native Nations was lending, and when Native Nations collapsed in

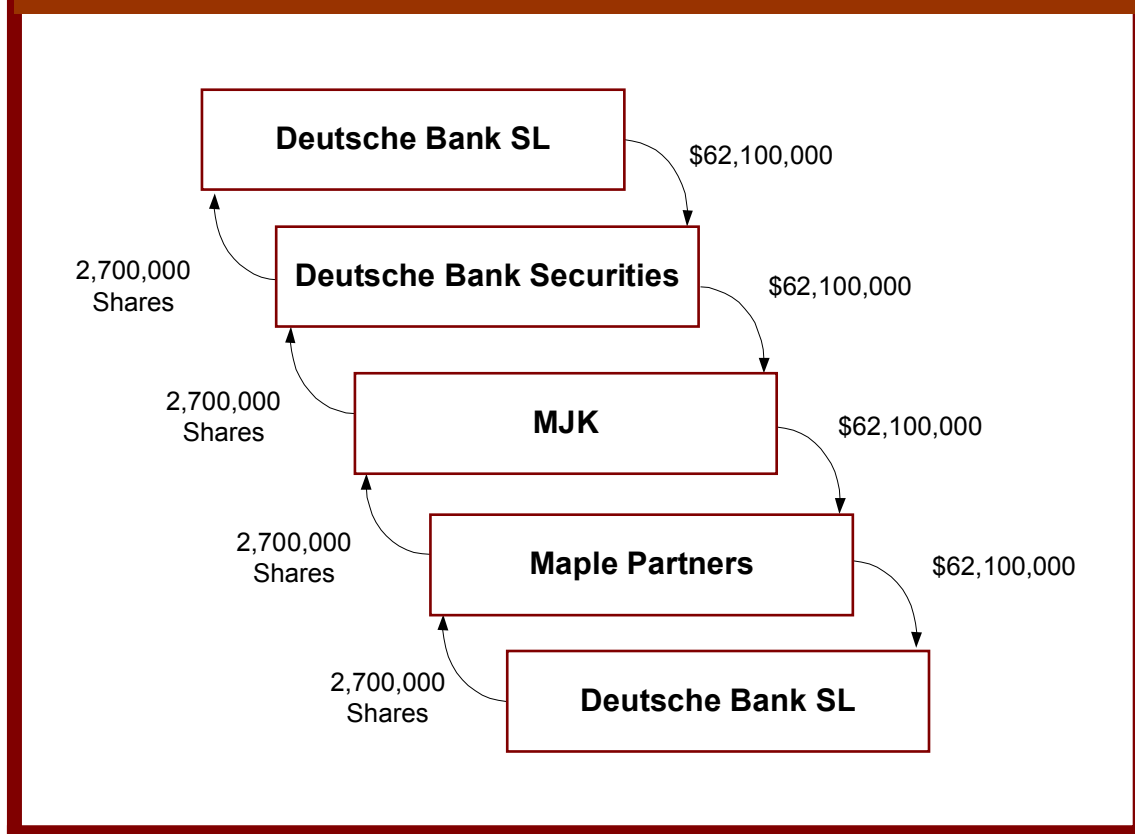
September 2001, bringing MJK down with it, Mr. Breedon simply lied to Mr. Brooks in denying any knowledge about what had happened.

**DEUTSCHE BANK MANAGEMENT LEARNS
OF FRAUDULENT ACTIVITIES AND DOES NOTHING.**

84. On several occasions during the life of the GENI scheme, the activities of Mr. Breedon and Deutsche Bank SL required the assistance of others in Deutsche Bank, assistance that was always forthcoming. On March 16, 2001, Maple Partners, one of the major participants in the stock-loan chain, decided to remove itself from the transaction. Maple Partners had borrowed 2,700,000 GENI shares from MJK, and re-lent that same amount to Deutsche Bank SL. Deutsche Bank SL returned the GENI stock to Maple Partners, as it was required to do, but Mr. Breedon and Mr. D'Angelo realized that if Maple Partners then returned the stock to MJK, and MJK returned it to Native Nations, the whole arrangement would collapse, because Native Nations could not possibly give MJK back the \$62,100,000, which MJK had provided as collateral for the stock. With the whole scheme threatening to collapse, Deutsche Bank Securities (then known as Deutsche Bank Alex. Brown) took the 2,700,000 shares from MJK so that the stock would not be returned to Native Nations. Deutsche Bank Securities then re-lent the GENI stock back to Deutsche Bank SL in Toronto, and the problem was solved. In other words, Deutsche Bank Securities stepped in as a substitute for Maple Partners. The transaction looked like this:

GENI

March 16, 2001



85. A few days later, on Friday, March 23, 2001, Mr. Breedon's supervisors in New York, Andrew Deluise and Edwin Connelly, became aware of the 2,700,000-share transaction between MJK, Deutsche Bank Securities in New York, and Deutsche Bank SL, and learned that Mr. Breedon had more than 5 million GENI shares. They were immediately concerned that the transaction was of questionable propriety and posed financial risk for Deutsche Bank (since the GENI stock was relatively thinly traded and since MJK obviously did not have the financial ability to pay a \$62.1 million loss). They insisted that the transaction be taken off the books, and other broker/dealers (Pax Clearing and Nomura Securities) were then substituted

for Deutsche Bank Securities in New York in the loan-chain transaction. Thus, Nomura and Pax Clearing, not Deutsche Bank, stood to suffer a loss if GENI's stock price plummeted.

86. On Monday, March 26, 2001, Mr. Breedon was called by Mr. Deluise and Mr. Connelly, and told to reduce the size of his "non-purpose" stock-loan borrowing so that Deutsche Bank could make its books look better in anticipation of a possible public offering of its stock. Mr. Breedon admitted that he had a 5 million-share borrow position in GENI. Mr. Connelly knew that GENI stock was in very short supply in the market and immediately recognized that it appeared Mr. Breedon was restricting the supply of GENI stock, thus manipulating the market. Mr. Breedon never denied the market manipulation, but made excuses why an immediate return was not possible, as follows:

Partial conversation between Wayne Breedon, Andrew Deluise, and Edwin Connelly (Deutsche Bank) (3/26/01)

Breedon: I got some, um I got Genesis on my book.
Connelly: Genesis? GNSS?
Breedon: No G-E-N-I.
Connelly: Oh, that's a real tough one.
Breedon: It is but I can't lend it out but I wish I could.
Connelly: How much, how much do you have there?
Breedon: I've got more than you would ever need.
Deluise: Yeah Seannie mentioned that to me on Friday [on March 23, 2001].
Breedon: Yeah.
Deluise: What's that worth.
Breedon: Um, well, I think it's just over seven dollars a share right now [it was actually worth more than \$20/share].
Connelly: Right.
Deluise: How many shares?
Breedon: Hold on a minute. Ah five million.
Connelly: Five million shares?
Breedon: Yup.
Connelly: Of G-E-N-I?

Breedon: Yup.
Deluise: And how do we, how did you get owner of that?
Connelly: Who's lending that to us?
Breedon: Ah, I've got – I've got Gundy, Nomura um ah National Bank and I've, I've got some non-purpose through 032 [Deutsche Bank Securities in New York] as well.
Deluise: On that same name?
Breedon: No, no. Not on that. Ah some ah...
Connelly: So, who are the people involved in that one, in the G-E-N-I? Nomura, did you say?
Breedon: Yeah, Nomura ah Gundy, ah National Bank of Canada, NBF ah National Bank Financial used to be ah First Marathon.
Deluise: And why can't you lend it?
Connelly: Is that termed out?
Breedon: Ah, yeah that's the termed one. I know it's pulling a zero on the street but...
Connelly: Oh easily, yeah.
Breedon: ...I don't know why people are shorting it when they can't get locates on it. Just ah, you know, I guess traders are traders, I guess.
Connelly: Traders are traders, that's right.
Breedon: Traders are traders, they do what they want. Right? As long as they get a commission.
Connelly: Umm...
Deluise: So, that's worth about thirty-five million bucks then? Right?
Breedon: Yeah.
Deluise: You're, you're basically just sittin' on that stock. Right?
Breedon: Yup.
Connelly: Okay.
Deluise: And ah termed 'till when?
Breedon: Ah, middle of April.
Deluise: So, it takes us past where we need to be.
Connelly: It takes us past where we want to be and I...
Breedon: Are you guys...
Connelly: I don't want you to renew that one, Wayne.
Breedon: No?
Connelly: No.
Breedon: Okay.
Connelly: Um, I know, is this, there's a need for this stock on the street and to have that sitting there, financing it, doesn't look good. You know what I mean?
Breedon: Doesn't look good how?
Connelly: There are, there are, you know...
Deluise: Buy-ins.
Connelly: ...there are people that are getting bought in on this name, Wayne.
Deluise: And Deutsche Bank is sitting on a boat load.

Connelly: ...Deutsche Bank's sitting on five million shares.
Breedon: Mm hmm.
Connelly: I mean, I know it's a non-purpose transaction.
Breedon: Right.
Connelly: It's not like we are, 'cause it's really not ours. It's not like, you know, hoarding it.
Breedon: That's right.
Connelly: But I don't like the way it would look for even us. We're having problems with our own customers...
Breedon: Right.
Connelly: ...saying that, "we can't find this stock and you all are sitting on five million shares in, in Canada." I don't like the way that looks.
Breedon: Yeah.
Connelly: I, and I also would rather see that, you know, A: I don't see, I don't want be part of um kind of restricting the supply.
Breedon: Mm hmm
Connelly: And B: um I'd like to see it out, throughout the street. I'd like to see that, that stock hit the street so that things loosen up.

87. As a result of the 2,700,000-share/\$62,100,000 transaction on March 23, 2001, by which Deutsche Bank Securities in New York stepped in for Maple Partners, Mr. Breedon's New York supervisors became aware of Deutsche Bank SL's massive underlying position in GENI, and Mr. Breedon was advised to eliminate the position. Rather than do so, however, Mr. Breedon simply claimed he could not eliminate the position until some undetermined future date and the New York supervisors said nothing further.

88. In the end, Mr. Connelly and Mr. Deluise simply walked away from the problem once Deutsche Bank had been protected from loss. They never asked if Mr. Breedon had returned the stock (he had not) or if his restriction of supply was continuing (it was). The scheme continued.

89. In May 2001, Mr. Connelly received an e-mail reporting that Deutsche Bank had "tons" of GENI. Since Mr. Connelly knew he did not have "tons" of GENI

on his New York books, the e-mail must have been referring to the Toronto branch, where Mr. Breedon by then had more than 7 million shares (and \$131.7 million in value) of GENI stock, a position Mr. Connelly had told Mr. Breedon to eliminate. Mr. Connelly did not check with Mr. Breedon. Mr. Connelly apparently did nothing.

90. On July 18, 2001, Mr. El-Batrawi announced that Ultimate had been purchasing GENI shares in part with an open-ended line of credit from Deutsche Bank, an announcement made in an apparent attempt to bolster the GENI market price in response to continuing short-sale activity. The announcement essentially confirmed the arrangement in place at Deutsche Bank SL with respect to GENI, in that at the time of the announcement Deutsche Bank SL had provided about \$130 million in connection with the 7.2 million of GENI shares it then held. Rather than disclose the arrangement, with the attendant scrutiny that would have taken place, Deutsche Bank flatly denied that it had a banking relationship with Ultimate. Those in New York who knew of the huge GENI stock-loan position simply kept quiet.

**DEFENDANTS CONTINUE TO MANIPULATE THE
MARKET PRICE OF GENI IN THE SUMMER OF 2001.**

91. The following conversations between Mr. Breedon and Mr. D'Angelo and others at RBF clearly show the continuing GENI market manipulation:

Partial conversation between Wayne Breedon and Ken D'Angelo (6/14/01)

Breedon: Ah . . . did um . . . you talk to Scott today?
D'Angelo: No I didn't. I'm tra . . . I'm trading GENI today for Ramy 'cause he's out of the office.
Breedon: Uh-huh. I thought Anthony does the trading?
D'Angelo: Yeah, but I'm watchin it.
Breedon: I see.
D'Angelo: We're up to . . . we're up to ahh thirty two thousand shares.
Breedon: Wow.
D'Angelo: It's not funny.
Breedon: He wants to buy it so he can sell it?
D'Angelo: No.
Breedon: (Laughter)
D'Angelo: No, all he's doing is protecting it.
Breedon: You know – pretty soon he's going to own more shares than there are outstanding 'cause of the shorts. (Laughter)
D'Angelo: If he don't already.
Breedon: Huh?
D'Angelo: If he don't already.
Breedon: Yeah really. Can you imagine?
D'Angelo: Yeah I can imagine.
Breedon: I – I own thirty two point five million shares of this and there's only twenty nine million shares outstanding.

Conversation between Wayne Breedon and Ken D'Angelo (7/11/01)

Breedon: Yeah?
D'Angelo: Where is it?
Breedon: Sixteen seventy-six.
D'Angelo: Oh my God.
Breedon: Uh, they've got news that somebody's . . . that Ultimate's selling seven hundred thousand.
D'Angelo: That ain't right. How much volume?
Breedon: Fifty-nine four.
D'Angelo: Oh God. Sixteen what?
Breedon: Sixteen seventy-five. Sixty thousand one hundred.

D'Angelo: What a day for my machine to be out.
Breedon: No support there?
D'Angelo: That's exactly the problem.
Breedon: What's, is there something wrong with the transmission or something?
D'Angelo: Yep. They had a thunderstorm or something last night and knocked the power out.
Breedon: Oh, in the, in your building?
D'Angelo: Yep. Where is it now?
Breedon: Sixteen seventy-five.
D'Angelo: And how many volume?
Breedon: Sixty-one two.
D'Angelo: Jesus Christ. It's just not a good day. Where's the bid and offer now?
Breedon: Seventy-five - Seventy-six.
D'Angelo: How much volume?
Breedon: Sixty-four four.
D'Angelo: It's really gonna cost us to get it back up again now. Where's it now?
Breedon: Still the same.
D'Angelo: Alright, let me come back to you.
Breedon: Yup, bye.

Partial Conversation between Wayne Breedon and Mosey (RBF) (7/11/01)

Breedon: Did you get, did your traders get their machines going now?
Mosey: Um, Glen finally came up and Paul's gonna work on the other one.
Breedon: Well, at least one's going, right?
Mosey: Yeah. Yeah.
Breedon: I know Ken was having a fit.
Mosey: However good or bad that is.
Breedon: Yeah, really. Now GENI was down to fifteen seventy-five.
Mosey: Where is it now?
Breedon: Seventeen fifty.
Mosey: GENI made it down from fifteen seven to seventeen fifty now. I don't know who jumped in – no it's Wayne. I don't know who jumped in, but it wasn't for Glen's or Kenny's benefit cause . . .
Breedon: No, that's two hundred eighty-nine...
Mosey: Glen only came up a couple of minutes ago.
Breedon: Oh yeah, two hundred eighty-nine two hundred shares.
Mosey: No, somebody uh...
Breedon: Yeah.
Mosey: I know, not good, not good.
Breedon: He says, "it's gotta happen when I'm not there." nah nah nah

Conversation between Wayne Breedon and Ken D'Angelo (7/11/01)

D'Angelo: Hello?

Breedon: Hi.
D'Angelo: Yes?
Breedon: Back on the plus side.
D'Angelo: Where is it?
Breedon: Eighteen oh six.
D'Angelo: Okay.
Breedon: Five hundred and twenty-thousand shares.
D'Angelo: Yeah, well, did some magic here.
Breedon: Eh. How you making out with the bond guys?

Partial Conversation between Wayne Breedon and Mosey (RBF) (7/11/01)

Mosey: No, I spoke to him, I don't know, it must have been about 3:30. And he wasn't sounding in any kind of a good mood at all.
Breedon: No?
Mosey: No.
Breedon: I'm looking at umm, lot of volume on GENI. A million two fifty-one five.
Mosey: Yeah, I know, I saw that. Actually, me and Glen are laughing 'cause he was just in here reading one of the teeny chat boards. These people are pretty funny on this stuff. You know, the one that cracked me up the most was "where are the people who have been propping up this stock this morning?"
Breedon: Who are the other people?
Mosey: No, it said, no "where were the people who have been propping this stock this morning?"
Breedon: Oh, is that what it said?
Mosey: Uh huh. And me and Glen just started laughing.
Breedon: You – he's in Atlanta.
Mosey: Exactly. And the system is down so nobody could buy anything.
Breedon: Yeah, really. How much did you end up buying? Having to buy...
Mosey: They weren't, they weren't, you know, that's what I said to Glen. I said "jeez, Glen, is this what would go on every day if you didn't just keep jumping in and buying it?"
Breedon: Yeah, I guess he ended up helping buy stock, right?
Mosey: What?
Breedon: He had to end up buying stock.
Mosey: Oh yeah. Glen who, I don't know, does Kenny give you all this information?
Breedon: Oh, he, he tells me some of it. Like yesterday, I think he only had six thousand or whatever.
Mosey: No, well he ended up with a lot of stock today.
Breedon: Lot of stock today?
Mosey: But it might have been in one of Ramy's accounts, not Kenny's accounts.
Breedon: Yeah.

Mosey: But Glen told me he traded over three hundred thousand shares today.⁸
Breedon: Oh, buying and selling?
Mosey: Mmm hmm.
Breedon: Yeah.
Mosey: Yeah, but he told me that he ended up a bunch.
Breedon: He sell the stocks, selling it back at a higher price because he's gotta support it.
Mosey: Well, that's exactly what he's been doing.
Breedon: I know, but that doesn't make sense.
Mosey: No, it doesn't make any sense at all.
Breedon: Like why doesn't he just give the money away to the guy?
Mosey: I know, it'd be a lot easier.
Breedon: Right? Yeah. Why didn't he just give the guy, you know, four bucks a share, you know, at two million dollars, right? For doing nothing. Except causing aggravation
Mosey: Mmm hmm.
Breedon: Yeah, what can you do? Everybody's got a mind of their own, I guess.
Mosey: Yep.
Breedon: Alrighty, well, you have a good night there, dear.
Mosey: Well, you too, my Wayner.
Breedon: Okay, well a, well we might have a problem with the marks tomorrow because at eighteen and a dime, I know Nomura and I know HSBC will not want to do marks.
Mosey: Mmm hmm.
Breedon: You know, so...
Mosey: Nope, maybe he'll be able to hold everybody off on that tomorrow.
Breedon: Yeah. I mean if, I mean that's...
Mosey: Okay.
Breedon: ...Nomura and, you know.
Mosey: Alright, we'll see what gets decided on that.

Partial conversation between Wayne Breedon and Ken D'Angelo (9/6/01)

Breedon: Yes. How's it going? I saw the news. Three to one.
D'Angelo: Yeah.
Breedon: Yeah, that boosted the stock a little bit.
D'Angelo: Yep. Now we gotta go from here.
Breedon: Go from here.
D'Angelo: He wants to get it up to eighteen today.
Breedon: Oh yeah?
D'Angelo: That'll help you out.
Breedon: Yeah, eighteen is fine.

⁸ Records indicate that on July 11, 2001, 256,784 shares of GENI were purchased in one of Ken D'Angelo's brokerage accounts for \$4,600,610.

D'Angelo: You know.
Breedon: I don't have a problem with that.
D'Angelo: I didn't think so

92. Defendants' market manipulation activities during 2001 are also apparent from a review of the activity in various brokerage accounts. In 2001, Ramy El-Batrawi, Ultimate, Bradford Keiller, Ken D'Angelo, and others acting at their direction collectively had a total of at least 51 different accounts with at least 16 broker/dealers. Those accounts were used to buy and sell GENI stock, with the sole objective of raising (or at least maintaining) the market price and showing apparent volume or liquidity in the market.

93. As a thinly traded security, GENI was subject to greater volatility than more actively traded securities. As long as the GENI stock price did not decline, all participants in the lending chain continued to make money and Defendants continued to profit. Were the price of GENI to decline, however, Native Nations would have been forced to meet marks-to-market sent by its downstream borrowers and return cash collateral either held by Native Nations or paid by Native Nations to Ultimate, El-Batrawi and others. However, Native Nations was not in a position to satisfy any such cash demands, a fact that threatened the entire scheme. To avoid this risk and to preserve their profit position, El-Batrawi and D'Angelo, along with brokers working at their direction, and with Breedon's and Deutsche Bank SL's assistance in controlling the supply of GENI, engaged in a pattern of manipulative and deceptive trading aimed at artificially inflating, or at least maintaining GENI's price.

94. For example, in August 2001, Mr. El-Batrawi himself bought more than \$23 million in GENI stock,⁹ and Mr. D'Angelo that same month bought \$30 million in GENI stock, at the same time he was selling about \$27 million in GENI stock. In fact, from June through September 2001, Mr. D'Angelo cumulatively bought more than \$67.2 million and sold \$68.7 million in GENI stock.¹⁰ On more than one occasion during that time, Mr. D'Angelo proudly maintained that he alone was the market for GENI:

Partial conversation between Wayne Breedon and Ken D'Angelo (6/14/01)

D'Angelo: Hello?

Breedon: Howdy.

D'Angelo: Howdy.

Breedon: How goes it?

D'Angelo: It was not a very good day today, Wayne.

Breedon: Hmm.

D'Angelo: Goodnight, Glen. This is not a good day, bud. 'Cause I got maneuvers up the gazoo. 'Cause Ramy couldn't buy any stock today. So I had to [expletive omitted] sit here. And get [expletive omitted] pounded, you know. But, that's the way it goes.

Breedon: There's not that much volume today – 139.

D'Angelo: Do you have an adding machine?

Breedon: Tina's still there?

D'Angelo: Do you have an adding machine? Do you have one now? Okay, thirty-three thousand times sixteen eighty. What does that come to?

Breedon: Five fifty-four four.

D'Angelo: Fine. That's what I bought today, okay? Now, this is not Deutsche Bank, this is not Freeman Securities, this is not Ramy El-Batrawi, this is me.¹¹

Breedon: I thought you were buying it for him.

⁹ This number includes purchases made through accounts in Mr. El-Batrawi's name, in the name of GenesisIntermedia.com, in the name of Genesis Diversified, and in the name of John Gray, a part owner of GENI.

¹⁰ These numbers include purchases and sales of GENI stock made in accounts of Mr. D'Angelo and in accounts of his relatives.

¹¹ Records indicate that on June 14, 2001, Mr. D'Angelo purchased 34,200 shares of GENI stock for \$575,128.25.

D'Angelo: No, he couldn't put it in his account. Don't you understand? Now I gotta maneuver.

Breedon: Hold on.

Breedon: Yes?

D'Angelo: Hold on.

Breedon: I called him and you're buying so he can pay you or whatever, right?

Partial conversation between Wayne Breedon and Ken D'Angelo (7/01)

D'Angelo: You can't even believe what I've done in the last week.

Breedon: Yeah.

D'Angelo: Did I tell ya what I've been doin'? I'm the new guy supporting the market.

Breedon: Yeah.

D'Angelo: I hadda buy close to two million dollars worth of stock over the last four days and I had to have Freeman lend me two million dollars because I had to send a check into Anthony for a million eight plus. Without me doing that? Believe me, the stock would have been fourteen dollars.¹²

Breedon: Why, why is it not . . .

D'Angelo: Because he can't keep buying into Ultimate without reporting it. You know what I'm saying?

Breedon: Yeah.

D'Angelo: He's gotta go ahead and if he buys it he's gotta report it, and then when he sells it he's gotta report it. Me, mine is just an in and out. I ain't making no big money on this [expletive omitted] thing you know. I sold a bunch of stock today so I think I should be ok with monies and whatever the case'd be in three days. So, I got maneuvers up the [expletive omitted] gazoo here. You know and the way it works as per Ramy if this all comes down, and everything works he said he'll probably walk away with maybe five million or seven million which don't sound like a lot, but he'll have nine million shares of stock, all his stock back and then because he's under the one forty four rule, he can sell one percent a month. Which is, I think I told you at ninety thousand a month, and ah hey, nine million shares at twenty bucks is a hundred and eighty million dollars. What the [expletive omitted]? You know. So, I mean, he'll be fine. So you know, so don't think I forgot about you I already told him that you and Richie have to share in whatever, but he doesn't know how the compensation's gonna come.

Breedon: Hmm.

¹² Records indicate that Mr. D'Angelo purchased 101,227 shares of GENI for \$1,822,175 between June 28, 2001, and July 3, 2001. In addition, \$2,000,000 was transferred from Native Nations to Mr. D'Angelo on June 26, 2001.

95. Other Defendants engaged in the same feverish pattern of buying and selling GENI stock in an orchestrated pattern of market manipulation. Bradford Keiller actually sold about \$11 million more GENI stock than he bought during 2000 and 2001 -- his purchases were approximately \$11.6 million but his sales were \$22.6 million. Presumably, the difference was stock he sold on behalf of Ultimate, since between July 9 and September 17, 2001, he transferred at least \$8 million to Ultimate's brokerage accounts. Collectively, Ultimate and Messrs. El-Batrawi, D'Angelo, and Keiller bought an astounding \$230.8 million in GENI stock.

96. Defendants' scheme achieved its ends for a considerable period of time. GENI's market capitalization had been a modest \$45.1 million at the time of its IPO. In just over two years, Defendants drove the market capitalization to \$460.9 million, a phenomenal 921% increase, with no change in GENI's underlying prospects and in fact worsening financial performance. Indeed, GENI's multimillion-dollar net losses, its multimillion-dollar negative stockholders' equity, and its multimillion-dollar negative working capital during the period 1999 through 2001 highlight its poor financial performance.

THE GENI MARKET MANIPULATION SCHEME COLLAPSES.

97. Finally, in September 2001, the GENI market manipulation scheme collapsed. In the aftermath of the September 11, 2001, terrorist attacks, the Defendants could not sustain the market price for GENI and the stock price dropped dramatically, falling from \$17/share to \$9/share in the week after the stock markets reopened on September 17, 2001. As it was contractually required to do, by September 25, 2001, MJK had paid out about \$64.9 million in cash to its counterparties based on marks-to-market, but could recover none of that money from Native Nations. Native Nations announced that it was out of business, and MJK advised federal regulators of its problems and was placed into a SIPA liquidation, suffering an enormous financial and personal toll.

98. Deutsche Bank SL's arrangements worked perfectly, however. Because it had a tiny direct position with Native Nations, and because it had large firms between it and MJK, Deutsche Bank SL recovered about \$120,800,000 of the approximately \$123,300,000 million it had outstanding in the GENI loan chain when the market collapse began,¹³ as confirmed by Deutsche Bank SL and Deutsche Bank Securities in New York on September 26:

Partial conversation between Wayne Breedon, Andrew Deluise, and Edwin Connelly (9/26/01)

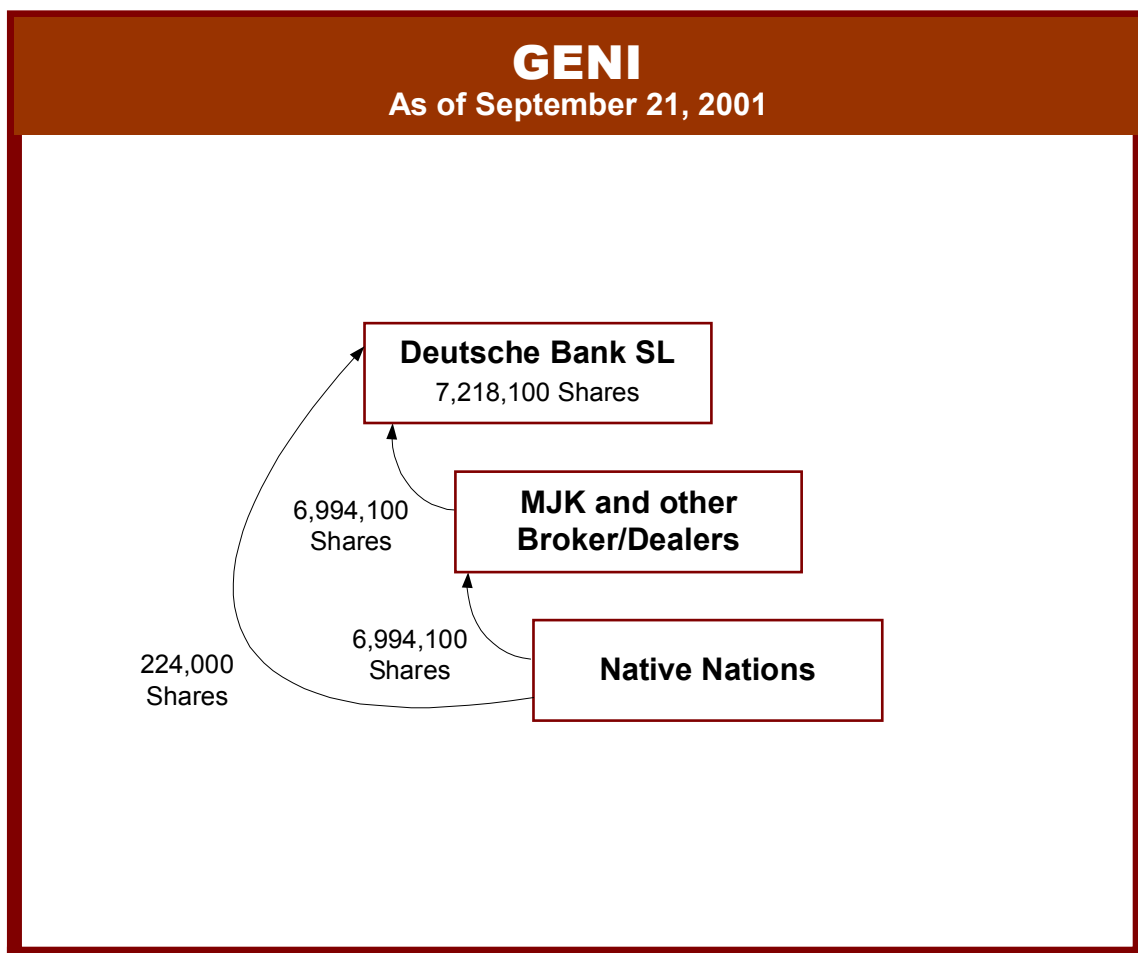
Connelly: You got back all the GENI and you got all the cash back?
Breedon: Yeah, we got all the cash . . .
Deluise: On all but two hundred and twenty-four thousand to Freeman?
Connelly: Right.

¹³ In fact, when looking at the entire month of September 2001, Deutsche Bank SL recovered \$127,471,800 of the \$129,935,800 that it had outstanding in the GENI stock loan chain.

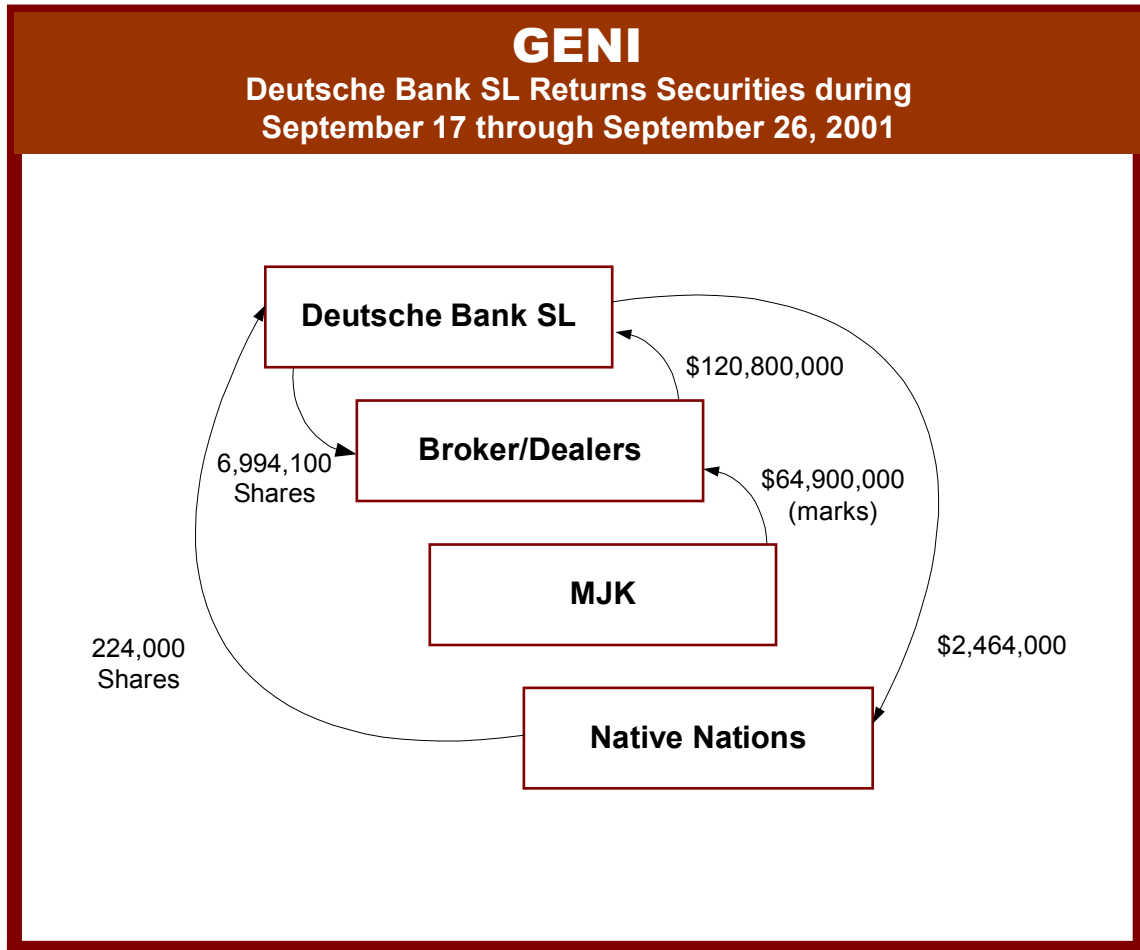
Deluise: Yes.
Breedon: I mean, other people are probably stuck with it, but not us.
Deluise: Which is a good thing.
Breedon: Yeah.
Deluise: But maybe a bad thing for whoever it is you were, you got it back to.

Mr. D'Angelo, Mr. El-Batrawi, Mr. Khashoggi, Mr. Keiller, Ultimate, and others simply absconded with the money they had obtained.

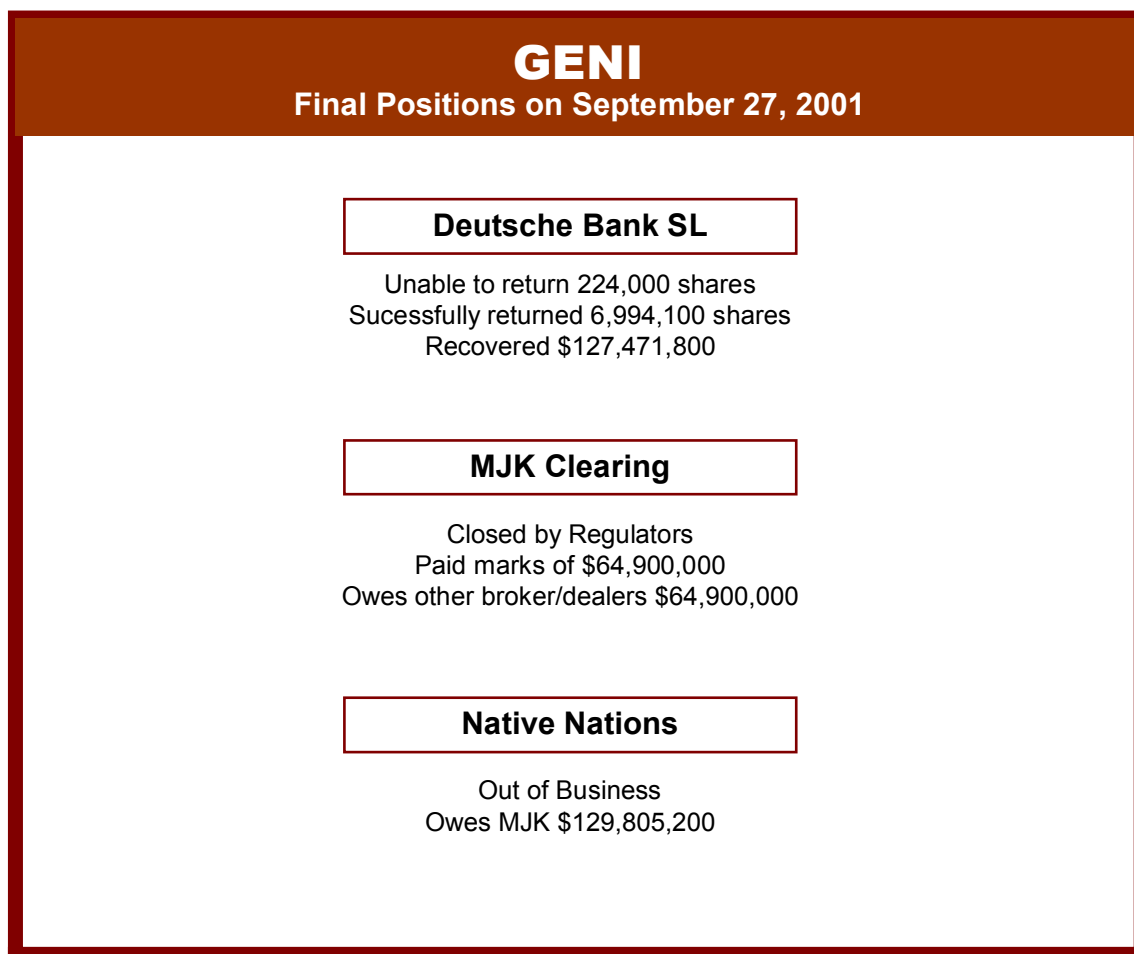
99. The following charts illustrate Deutsche Bank's success in protecting itself from the losses in the GENI scheme. The first chart shows Deutsche Bank SL's position as of September 21, 2001:



The next charts shows Deutsche Bank SL returning the GENI shares on September 26, 2002, and MJK paying “marks” during the week of September 17, 2002:



The following chart shows the respective positions of MJK, Deutsche Bank SL, and Native Nations on September 27, 2001:



100. The fraudulent GENI market manipulation scheme and its aftermath has spawned litigation and arbitration throughout the country between broker/dealers involved in the stock-loan chain. These proceedings collectively involve well over \$100 million in claims. At present, R.W. Baird & Co., Inc. (“Baird”) is involved in an NYSE arbitration with Wedbush Securities, Inc. (“Wedbush”). E*Trade Securities, Inc. (“E*Trade”) and Wedbush are engaged in a separate NYSE arbitration. E*Trade is also involved in litigation with Nomura Securities International, Inc. (“Nomura”) in the United States District Court for the Southern

District of New York and with Fiserv Securities, Inc. in the United States District Court for the Eastern District of Pennsylvania. Within the bankruptcy proceeding here in Minnesota, Ferris, Baker Watts, Inc., has initiated an adversary proceeding against the Trustee.

**DEFENDANTS ALSO MANIPULATE THE MARKET FOR IMPERIAL
CREDIT BONDS.**

101. While the GENI scheme was underway, Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Mr. Breedon, Mr. D'Angelo, Mr. Evangelista, and others were also engaged in similar manipulative devices with respect to other securities. While the full extent of these activities is not yet known, these Defendants engaged in fraudulent dealings similar to those in GENI stock with respect to two other securities which were the subject of stock-loan transactions involving MJK: Imperial Credit Industries, Inc. ("ICII") bonds and Holiday RV Superstores, Inc. ("RVEE") stock.

102. At all relevant times hereto, ICII and RVEE were owned and managed by substantially the same persons. In or about June 1999, Michael Riley, through Atlas Recreational Holdings ("Atlas") obtained a controlling interest in RVEE. As a result of that transaction, Riley, the chairman of Atlas, became the chairman of RVEE's board of directors. William Curtis, a close associate of Riley's who assisted Atlas and Riley in obtaining the financing to fund their acquisition of the controlling interest in RVEE, was also named to the RVEE board in 1999. Although not publicly disclosed until January 2002, almost three years later, Atlas' acquisition of RVEE was made possible by a related-party loan that was subsequently refinanced with a "loan" from Deutsche Bank SL that was "sourced" through Native Nations. Also in January 2002, it was disclosed that this loan was secured by substantially all of the RVEE stock nominally held by Atlas.

103. Riley and Curtis also formed their own holding company in 2000, known as Imperial Group Holdings, for the purpose of taking control of ICII. Prior to this time, Curtis had worked as a regional vice president of ICII subsidiary Coast Business Credit. Through Imperial Group Holdings, Riley and Curtis secretly acquired more than 50% of the debt then outstanding for ICII and in December 2000 surprised the ICII board with a demand that they be involved in the restructuring of ICII's debt. By June 2001, Riley joined ICII's board of directors and effective August 1, 2001, he became the chairman. The details with respect to the ICII scheme follow. RVEE is discussed in the next section.

104. ICII is the parent company of Southern Pacific Bank (an FDIC-insured bank), an industrial loan company and other lending entities headquartered in Torrance, California. Through the Southern Pacific Bank and various other subsidiaries, ICII offers various forms of commercial and industrial financings. In 2000 and 2001, ICII was experiencing serious operating losses. In 2000, ICII lost \$163.3 million, and in 2001 the company lost \$131.6 million. ICII and various of its directors were also named in federal securities suits in California in 1998 and in 2000 claiming that ICII made false and misleading statements in connection with the sale of its securities.

105. In addition to issuing common stock, ICII issued high-yield debt, including approximately \$165.9 million (face value) of 9.875% Series B Senior Notes due January 2007 (the "9.875% Notes") and approximately \$41 million (face value) of Remarketed Redeemable Par Securities, Series B of the Imperial Credit Capital Trust (the "Capital Trust Bonds"). On June 28, 2001, ICII completed an exchange

offer pursuant to which almost all of the 9.875% Notes and the Capital Trust Bonds, and other securities, were exchanged for new 12% Exchange Notes due June 30, 2005, (the “Exchange Notes”) in the principal amount (or face amount) of \$127.5 million. The 9.875% Notes, the Capital Trust Bonds and the Exchange Notes (collectively the “ICII bonds”) were all the subject of securities-loan transactions organized and controlled by Mr. Breedon, Mr. D’Angelo, Mr. Evangelista, and others working with them.

106. As was the case with GENI stock, Deutsche Bank SL was the source of demand for borrowing the 9.875% Notes, and possibly the Capital Trust Bonds. After the exchange, Mr. Breedon and Mr. D’Angelo managed the securities-loan arrangements for the Exchange Notes, but the Exchange Notes themselves were actually borrowed by other firms with whose employees Mr. Breedon and Mr. D’Angelo had relationships. As was also the case with GENI, Mr. D’Angelo and his firm, RBF, orchestrated how the ICII bonds were initially placed into the securities-loan chain. The principals of Imperial Group Holdings, Mr. Riley and Mr. Curtis, would communicate with Mr. D’Angelo when they were going to purchase ICII bonds. Imperial Group Holdings would then purchase ICII bonds in the open market and on the settlement date of the trade, would send the bonds through the securities-loan chain, first to Native Nations and thereafter to MJK and on to Deutsche Bank SL. In turn, Deutsche Bank SL would provide the cash collateral for the bonds, which Imperial Group Holdings would use to settle the trades.

107. Throughout the period of time the ICII bonds were in the securities-loan chain, Mr. D’Angelo and Mr. Breedon determined which firms would be

“marked” or told that the ICII bond values were being adjusted at any given time. They were always careful to make sure that Native Nations was never “marked” in any significant amount because, as was the case with the GENI stock, Native Nations would not have been able to return cash collateral to its counter-parties.

108. Deutsche Bank SL appears first to have borrowed ICII bonds on December 8, 2000, when it borrowed \$250,000 (face value) of the 9.875% Notes directly from Native Nations. Following the same pattern as GENI, Deutsche Bank SL borrowed another approximately \$86.3 million (face value) of the 9.875% Notes through loan chains that went from Native Nations to MJK to well-capitalized intermediate firms to Deutsche Bank SL, because Deutsche Bank SL knew that Native Nations and its true counter-party, Imperial Group Holdings, would not honor a demand to return the cash given as collateral for the ICII bonds.

109. Mr. D’Angelo, Mr. Breedon and others knowingly manipulated the published price for ICII bonds to maximize the amount of cash that could be obtained and kept through the use of the securities-loan transactions. The ICII bonds were not traded on any established market or exchange, but various financial publications and services would occasionally report the details of individual ICII-bond transactions. Mr. Breedon and Mr. D’Angelo along with others, monitored those reports closely and entered orders to buy ICII bonds for the sole purpose of artificially maintaining the price, as follows:

Partial conversation between Wayne Breedon and Ken D’Angelo (1/22/01)

Breedon: That other bond on Monday, I thought the price on it was wrong before. If it was wrong before, how come it’s going higher?
D’Angelo: Because they have them.

Breedon: Remember...

D'Angelo: I know, I know.

Breedon: Remember it was down...

D'Angelo: Yeah.

Breedon: ...at sixty or whatever or fifty-eight or whatever...

D'Angelo: Right, yeah, yeah.

Breedon: ...and then we put it up to seventy-nine...

D'Angelo: Right.

Breedon: ...or whatever. Right? And we knew that price was wrong.

D'Angelo: Right, we're just showing...

Breedon: When I was just showing at eighty-three, how can the price be wrong if it's still going up is what I'm asking?

D'Angelo: Well, Mr. Breedon, like normal, or I should say like usual, I don't have your answer. But I will check into it for you.

Breedon: I thought your, those other guys were setting the, the mark.

D'Angelo: That's what they told me. They never did it right from the beginning. Did you know that?

Breedon: I see.

Partial conversation between Wayne Breedon, Ken D'Angelo, and William Curtis (2/12/01)

Curtis: Wayne do you . . . you know why we had this announcement come out the way we did?

Breedon: Umm. Well, no, but I kinda figured you wanted to get the bonds down so you can buy more.

Curtis: Right. Right. Right.

Breedon: (Laughter)

Curtis: But, it's starting to work, so we gotta get this cleared up.

Breedon: At the same time, it makes the bonds that you have outstanding worth less. Not worthless, but worth less. Right?

Curtis: Right. So, what I need to close these at, Kenny, just so we're all clear, er, I've gotta have fifty-five and a half on the ten and a quarters, and ...

D'Angelo: That would be fine (not precisely clear)

Curtis: Forty-five on the nine and seven eighths?

D'Angelo: (not precisely clear)

Curtis: Say that again.

D'Angelo: I'm talking to Wayne.

Breedon: Oh, I didn't hear you Ken.

D'Angelo: Fifty-five and a half close?

Breedon: Yeah yeah.

D'Angelo: Okay cash forty five right?

Breedon: Yeah.

D'Angelo: On the mark.

Curtis: Yeah.

D'Angelo: (Not precisely clear) I guess what he's using is a thousand.
Curtis: Well, should I throw a bid out there and pull in some more bonds?
D'Angelo: Don't do anything, but . . .
Breedon: Yeah.

Partial conversation between Wayne Breedon and Ken D'Angelo (2/12/01)

Breedon: Yeah, but he did the big drop in the ten and a quarters.
D'Angelo: Yeah, that's fine.
Breedon: But . . .
D'Angelo: But we knew the other side was going to go up.
Breedon: Yeah.
D'Angelo: See the other side has been there the whole time.
Breedon: Why does the . . . why does the . . . why like would the lower, lower coupon one go up?
D'Angelo: Because we have most of em.
Breedon: Mmm hmm.
D'Angelo: You understand? We cornered the market. So they kinda control it.
Breedon: Is that the guy you deal with?
D'Angelo: What?
Breedon: Is this the guy you deal with?
D'Angelo: Yeah, of course. Who else?
Breedon: Hmm.

Partial conversation between Wayne Breedon and D'Angelo (3/1/01)

D'Angelo: He's in Chicago. I gotta call him later tonight. So, I'll call you.
Breedon: Yeah.
D'Angelo: He scared the hell out of me. So, and of course, they say the bonds are gonna be up tomorrow.
Breedon: Mmm Hmm. Yeah.
D'Angelo: Do you believe that?
Breedon: Up my [expletive omitted] that's where they are. That's why I can't talk right.
D'Angelo: (Laughter).

Partial conversation between Wayne Breedon and Ken D'Angelo (7/25/01)

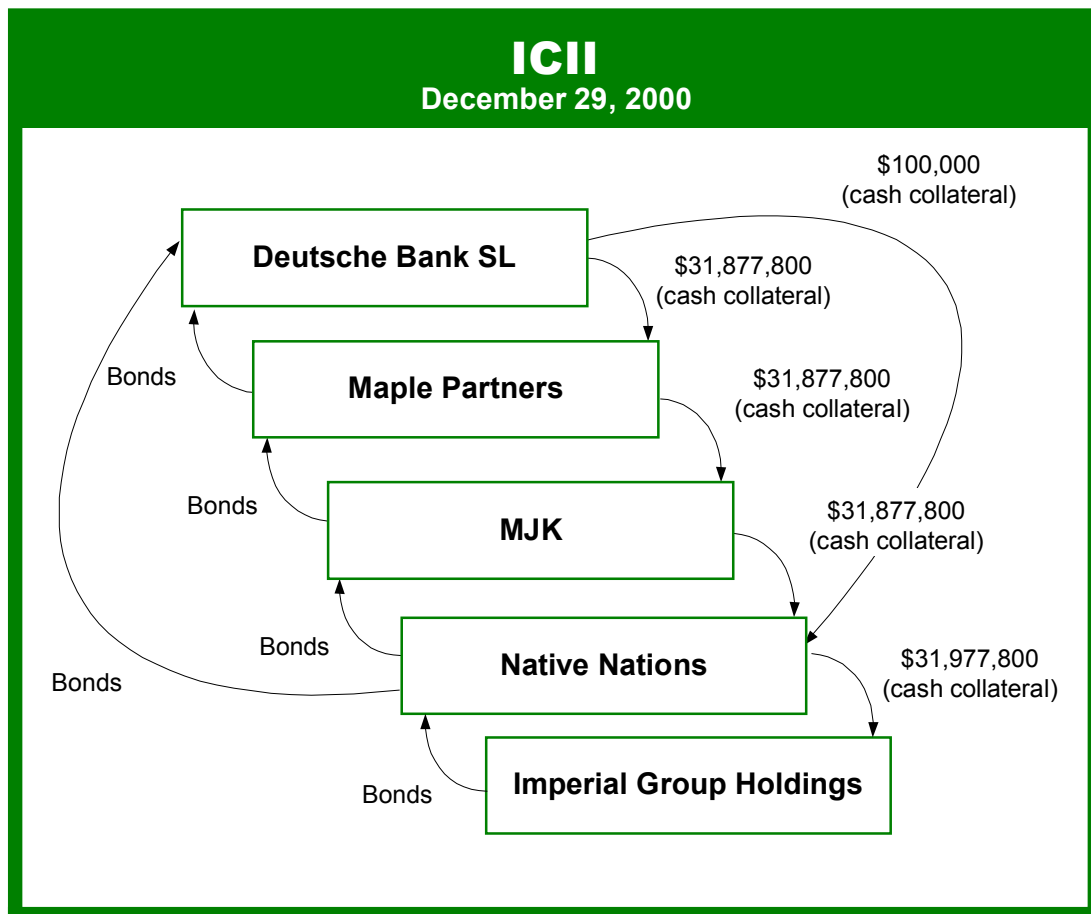
Breedon: Deutsche Bank
D'Angelo: Hey, good morning my Wayner.
Breedon: Good morning. How are you?
D'Angelo: Is it at 87? (not precisely clear)
Breedon: Oh, you're breaking up a little bit.
D'Angelo: Is it at 87?
Breedon: It's at 81.

D'Angelo: [Expletive omitted].
Breedon: What it is. That's where it is.
D'Angelo: 81?
Breedon: Yep, didn't change. Did not change.
D'Angelo: When you have a chance, fax that to me. I'm sick of this now. I bought a hundred bonds yesterday at 89.
Breedon: I'm just telling you. Who'd you buy them through?
D'Angelo: What the [expletive omitted] the difference?
Breedon: Well, it makes a difference if Loanet doesn't use that as a market maker...
D'Angelo: Well they...
Breedon: It doesn't make any difference at all.
D'Angelo: Well, we understand that, but we were told that Loanet is being used as that. They specifically contacted them and whatever the case may be, it's all a [expletive omitted] lie.
Breedon: Almost (not precisely clear).
D'Angelo: I, I, I'd just shut up right now. Alright, what else is on the move? Any news on anything?
Breedon: No, no news on any of it. No new news.
D'Angelo: Alright. Well, that's good. Alright, when you have a chance, do that. Other than that, this market still looks like still [expletive omitted]. Hopefully it turns around a little bit here.
Breedon: Yep. Okey dokey.
D'Angelo: Alright dokey schmokey.
Breedon: Talk to you in a bit.
D'Angelo: Bye.
Breedon: Bye.

110. At various times, Mr. D'Angelo and Mr. Breedon also discussed having others "help with the bonds" – i.e., help get the price up.

111. MJK first borrowed ICII bonds in December 2000. MJK borrowed \$3.6 million (face value) of the 9.875% Notes on December 18, 2000, in return for cash collateral of \$1,440,000. Later in December, MJK borrowed more 9.875% Notes in exchange for \$17,162,800. On December 27, 2000, MJK borrowed \$22.5 million (face value) of the Capital Trust Bonds in return for cash collateral of \$13,275,000. In all cases, the lender was Native Nations, and MJK re-lent the 9.875% Notes and the Capital Trust Bonds to Maple Partners, which re-lent them to

Deutsche Bank SL. Mr. D'Angelo and Mr. Breedon directly or indirectly organized this loan chain. As of December 29, 2000, the ICII securities-loan chain looked like this:



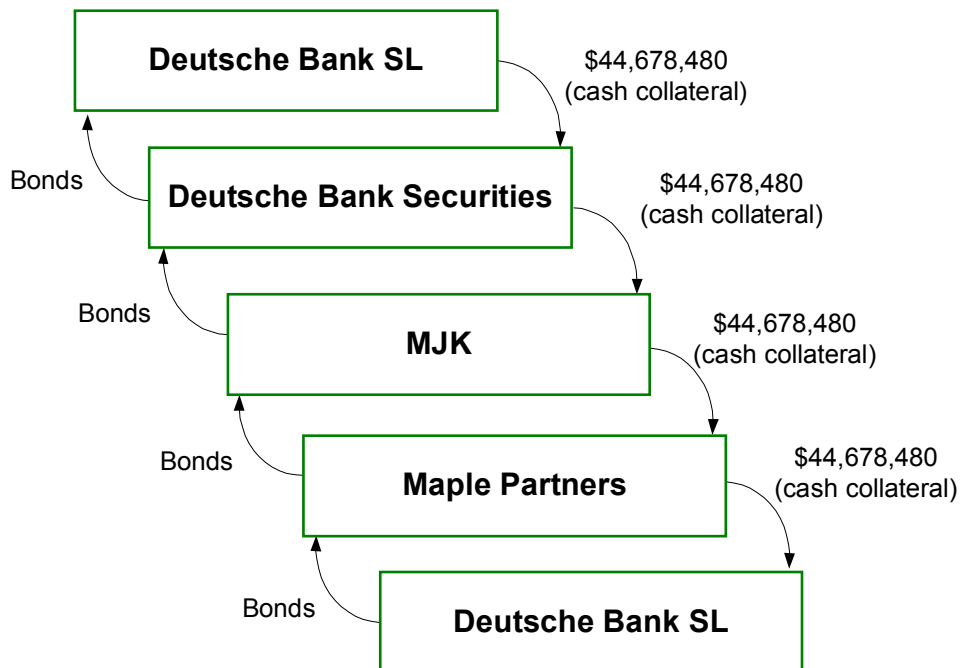
112. As was the case with GENI, the size of the positions MJK maintained in the ICII bonds rose rapidly once MJK indicated a willingness to engage in ICII-bond conduit transactions. By January 31, 2001, MJK had borrowed \$24.5 million (face value) of the Capital Trust Bonds, advancing cash collateral of \$19,355,000, and about \$80.6 million (face value) of the 9.875% Notes, advancing cash collateral of \$29,823,480. As of January 31, 2001, MJK's total cash outlay associated with the ICII bonds exceeded \$49,000,000. As before, all the ICII bonds came to MJK from

Native Nations and were re-lent by pre-arrangement with Mr. Breedon and Mr. D'Angelo to Maple Partners, which then re-lent them to Deutsche Bank SL. Thus, the ICII-bond loan transactions existed only because of Deutsche Bank SL's demand for the ICII bonds, and Deutsche Bank SL orchestrated the borrowing arrangements, provided the money and gave apparent legitimacy to the transactions.

113. Also similar to the GENI stock-loan scheme, Native Nations falsified its books and records in order to obtain the ICII bonds in the first instance. Eventually, as with the GENI transactions, Native Nations signed a form master securities loan agreement directly with Imperial Group Holdings, Inc., an affiliate of ICII, even though Imperial Group Holdings was not a broker/dealer. Notably, the agreement was dated the same date as the master securities loan agreement entered into between Ultimate and Native Nations, February 16, 2001.

114. As had been the case with GENI stock, in February and March 2001, Maple Partners decided to withdraw from the ICII-bond loan chain. Following the pattern of the GENI transactions, Deutsche Bank Securities in New York took over Maple Partners' position. MJK returned cash to Maple Partners of \$29,823,480 for the 9.875% Notes and \$14,855,000 for the Capital Trust Bonds and then loaned the 9.875% Notes and Capital Trust Bonds to Deutsche Bank Securities which immediately re-lent them to Deutsche Bank SL. This transaction can be illustrated as follows:

ICII February and March 2001



115. MJK was at all relevant times unaware of the Defendants' intentional manipulation of the ICII bonds. MJK entered into the ICII loan chain believing that the financial publications and services reporting on bond transactions accurately reflected the value of ICII bonds. In fact, those reports reflected the Defendants' manipulation of the price for ICII bonds.

116. In the spring of 2001, a problem developed with respect to the ICII bonds. ICII's financial problems had been causing the ICII bonds to trade at substantially discounted prices (to the extent they traded at all). ICII's principals and others attempted various transactions to address that situation. They finally decided

to undertake an exchange transaction whereby the 9.875% Notes and the Capital Trust Bonds, and certain other debt of ICII, would be exchanged for the Exchange Notes which were to bear a higher rate of interest. That transaction was announced in March 2001, and for the exchange to be completed, the 9.875% Notes and the Capital Trust Bonds had to be delivered into escrow and held pending issuance of the new Exchange Notes. To deliver the 9.875% Notes and the Capital Trust Bonds into escrow required that the securities-loan transactions be unwound and that cash “collateral” be returned. By the end of May 2001, the cash “collateral” was almost \$62,000,000 and those who had “lent” the Notes and Bonds to Native Nations had no intention of parting with that amount of money (and probably no ability to do so), most of which likely had been transferred into other accounts or used for market manipulations.

117. To address this situation, Mr. D’Angelo, Mr. Breedon, and other of the Defendants structured what Mr. D’Angelo called a “switch.” The “switch” was an arrangement whereby on the day the ICII bonds had to be delivered to the exchange escrow agent, additional GENI stock would be substituted throughout the securities-lending chain for the 9.875% Notes and Capital Trust Bonds. In that way, no cash had to change hands and the fiction could be maintained that the securities-loan transactions were legitimate and the cash “collateral” advanced by MJK could be returned by MJK’s counter-party -- Native Nations -- whenever it was requested.

118. The following conversation describes the “switch” transactions:

Partial conversation between Wayne Breedon, Ken D'Angelo, and Richard Evangelista (6/21/01)

D'Angelo: Now, what happens if for some stupid reason they don't want to do this? Do you have an idear?

Breedon: Well, uh yeah, well you could ahh, what if you took the bonds back and then loan out the GENI to get the money on them? You know. To keep your money flat? And then ahh . . .

D'Angelo: Pardon me?

Breedon: Why don't you take like half that take the stock . . . bonds back to 607 [Native Nations] . . .

D'Angelo: No, no, no, we have to take all the bonds back. Remember, the ten and a quarters and then we'd need both sets now.

Breedon: Oh, so you don't have enough money.

D'Angelo: Now, you're talking about a big [expletive omitted] number.

Breedon: Ahh, so you don't have enough money?

D'Angelo: I mean, we have enough GENI to do the man-maneuver, but, I don't know how we would do it now.

Breedon: Mm hmm. The only way, the only way I could see it is if ahh ahhh Rich did the reorg on it and kept his money flat.

D'Angelo: Pardon me?

Breedon: The only way I could see it is if ahh Rich Rich did the reorg and kept his money flat by lending out the GENI to get the money for ahh the bonds.

D'Angelo: Did you hear him Rich. I can't . . .

Evangelista: Yeah, no I-I heard him. In other words, I ugh . . .

Breedon: Like it's Nomura won't take the ahh or keep the bonds, okay maybe they'll keep the GENI until the reorg on the bonds is done. You know, for three days.

D'Angelo: You mean give em the GENI for free?

Breedon: Nooo. No, I take the bonds back in money against money and then deliver the GENI against money so you, your 607's money is flat.

D'Angelo: Oh, I get you.

Evangelista: Yeah, I would have to send the GENI back up to you.

Breedon: Well yeah, either that or . . .

Evangelista: Eventually. You know.

Breedon: Yeah, either that or Nomura would finance over the period because I'm, you know I got quite a bit of ahh I don't know if I could even take that much from Nomura Canada. You know.

119. On June 12, 2001, the beginning of the "switch" transaction occurred.

That day, Deutsche Bank SL returned the Capital Trust Bonds to MJK (through other broker/dealers), and MJK was told to re-lend them to Nomura. On June 21, 2001,

Deutsche Bank SL returned the 9.875% Notes to MJK (again through other broker/dealers), and MJK was again told to re-lend them to Nomura. Then on, June 27, 2001, the “switch” took place, with Nomura returning all the 9.875% Notes and Capital Trust Bonds it had borrowed through the loan chains back to MJK, and MJK returning them to Native Nations. Instead of returning approximately \$62,000,000 of cash collateral it held for the ICII bonds, that same day, Native Nations increased its loan of GENI to MJK from 6,980,400 shares to 10,480,400 shares, with a consequent required increase in cash “collateral” from MJK of \$63,000,000 (from \$119,587,200 to \$182,587,200). As a result, on June 27, 2001, MJK did not receive any cash back when it returned the 9.875% Notes and Capital Trust Bonds to Native Nations, since the new GENI borrowing meant that MJK owed Native Nations additional cash of \$63,000,000 to offset the cash it would have received when it returned the 9.875% Notes and Capital Trust Bonds. In fact, the “switch” actually ended up causing MJK to send more than \$1 million in additional cash to Native Nations. In the following conversation, Wayne Breedon describes the “switch” to one of the RBF employees:

Partial conversation between Wayne Breedon and Mosey (RBF) (7/10/01)

Mosey: And, and he said he had just finished up with you and they figured out he said he finally figured or somebody figured out what was the mishap somewhere along the line.

Breedon: Right.

Mosey: I have no idea what it was. Obviously, Nomura has some of this stock placed somewhere, not with you.

Breedon: Well, they’re . . .

Mosey: Is that . . .

Breedon: They’re holding on three and a half million shares.

Mosey: They are themselves?

Breedon: They are.

Mosey: Okay.

Breedon: Nomura, New York.

Mosey: New York.

Breedon: Right, because they were given, they were holding onto the bonds, right? The ICII bonds.

Mosey: Right

Breedon: Right, and then they had to go in for conversion, we had to replace it because they needed the money right?

Mosey: Oh, because it was term money with them, too?

Breedon: Well not only that, but they, they needed money to replace the ones for the bonds.

Mosey: That's right because somebody needed to provide the . . .

Breedon: That's right and . . .

Mosey: Yeah.

Breedon: and I couldn't do the conversion because I'm Canadian.

Mosey: Right.

Breedon: Right? So . . .

Mosey: So then the stock had to be sent to there to cover the money for the . . .

Breedon: Yeah, and all that rigmarole, yes.

Mosey: Yes. Kind of like swapping?

Breedon: Yeah.

Mosey: Sort of, kind of.

Breedon: Yeah.

Mosey: Ha, ha.

Breedon: Ha, ha, ha, ha, ha.

Mosey: What tangled webs.

Breedon: Yes. So, that's the story on that.

Mosey: So then basically, what's supposed to happen to the bonds if they ever come out of transfer?

Breedon: No, they have.

Mosey: Oh, they are out?

Breedon: The problem now is because they're brand new bonds, nobody is pricing them. And how can you finance an item that's not, that's not priced? That's the problem we're having right now. Otherwise, we would take the bonds out and replace them with the GENI.

Mosey: Right, and you would just get the GENI back and . . .

Breedon: Yeah, you get the GENI back to where it belongs and the bonds would go out. But there's nobody, you know, there's no pricing on Bloomberg, on Loanet, anywhere. Right?

Mosey: This is a fine kettle of fish.

Breedon: Yeah.

120. On July 17, 2001, the ICII-exchange transaction was completed and the new Exchange Notes were delivered to Native Nations. Immediately that day, those new Exchange Notes were placed into the securities-loan chain with MJK, and the

GENI stock-loan position was reduced by the 3.5 million additional shares (and \$63,000,000 in cash) that had been used as part of the “switch” in June. Again, the transactions were all arranged and controlled by Mr. Breedon, Mr. D’Angelo, Mr. Evangelista, and others working with them. Unwinding the new GENI stock loan originated with Nomura Securities, and flowed back through other broker/dealers before coming to MJK, which then returned the stock to Native Nations. As part of the transaction, the Defendants knowingly misrepresented the value of the new Exchange Notes (\$64.5 million face value), valuing them at \$63,210,000, almost precisely the amount reflected by the GENI stock they were removing from the securities-loan chain. As a result, when MJK returned the GENI stock to Native Nations, MJK received back no cash, but actually had to advance some additional cash “collateral” to Native Nations to reflect the \$210,000 amount by which the value of the Exchange Notes supposedly exceeded the value of the GENI stock. The “switch” transaction is displayed graphically as follows:

ICII "Switch"

Pre "Switch" June 21, 2001	"Switch" June 27, 2001	Post "Switch" July 17, 2001
\$181,295,720	\$182,587,200	\$182,215,200
<p style="margin: 0;">ICII \$61,708,520</p>	<p style="margin: 0;">GENI \$182,587,200</p>	<p style="margin: 0;">ICII \$63,210,000</p>
<p style="margin: 0;">GENI \$119,587,200</p>		<p style="margin: 0;">GENI \$119,005,200</p>

121. Mr. Breedon and Mr. D'Angelo, and others working with them, knew that the Exchange Notes were worth much less than the \$63,210,000 value which was used for the initial securities-loan transactions on July 17, 2001. They also knew that the market for the 9.875% Notes and the Capital Trust Bonds had been rigged before the exchange, a circumstance which had enabled Deutsche Bank SL to avoid "marking" the ICII bonds and thereby to avoid the need for Native Nations to come up with cash. But with the new Exchange Notes, Mr. D'Angelo, Mr. Breedon, and Mr. Evangelista made arrangements with friends at other firms to be the ultimate

borrowers, and those other firms had no concern about “marking” the Exchange Notes, if necessary.

122. Two days after the first loan/borrow transactions involving the Exchange Notes, on July 19, 2001, parties in the loan chain marked each other to reflect a value of \$54,180,000 for the bonds, rather than the initial \$63,210,000 value. Those “marks” resulted in \$9,030,000 in cash flowing back to the ultimate borrower (believed to be Nomura Securities or an affiliate) from the parties in the loan chain. As it was required to do, MJK paid its \$9,030,000 to its “borrower,” and then asked Native Nations to pay that \$9,030,000 to MJK. Mr. Evangelista, or those under his control, simply stonewalled, claiming that the “mark” was incorrect or giving other excuses, when in fact Mr. Evangelista knew that Native Nations did not have the \$9,030,000 and could not get it from RBF or any other entity. Tom Brooks of MJK was finally persuaded, by Mr. D’Angelo and Mr. Evangelista, that it was a good business deal for MJK not to demand the money from Native Nations, since MJK would then be in a position to charge substantial interest on those funds. Unaware of the fraudulent scheme of which he and MJK were then victims, Mr. Brooks agreed not to press Native Nations for payment.

123. The same events took place on August 29, 2001, when everyone in the loan chain from the ultimate borrower to MJK agreed to “mark” the ICII Exchange Notes down to \$47,340,000 -- a drop of another \$6,840,000. Again, MJK paid, but Native Nations did not pay, increasing its debt to MJK to \$15,870,000. Tom Brooks at MJK was once more persuaded not to press for payment, relying on the apparent

honesty and good-faith of the transactions Deutsche Bank SL and the other Defendants had structured.

124. In the week after the markets re-opened following the September 11, 2001, terrorist attacks, the Exchange Notes again declined in value, closing on Friday, September 21, 2001, at \$43,215,000. By September 27, 2001, when the Trustee was appointed, the Exchange Notes had declined in price to \$38,700,000, some \$24,510,000 less than MJK had given Native Nations in cash “collateral.” By then, Native Nations had closed its doors, and has never returned any of that cash “collateral” to MJK.

125. Throughout their course of dealing with MJK on the various ICII bonds, Mr. D’Angelo, Mr. Breedon, and others working with them represented that they were engaged in legitimate securities-loan transactions. They misled MJK and never advised MJK that:

- a. Mr. Breedon, Mr. D’Angelo, and others were making arrangements to set the prices artificially for the ICII bonds;
- b. Mr. Breedon and Mr. D’Angelo were selectively deciding who would get “marked” on the ICII bonds to make sure that Native Nations did not have to return cash;
- c. the ICII-bond loan transactions could not be closed or reversed because Native Nations could not return the cash “collateral”;
- d. the GENI/ICII “switch” was devised by Mr. D’Angelo and Mr. Breedon, and others, as a way to hide the fundamentally fraudulent nature of the ICII-bond transactions; and
- f. the money used in the ICII-bond loan transactions was being used in a manipulation of the market for ICII bonds, GENI stock, RVEE stock and possibly other securities.

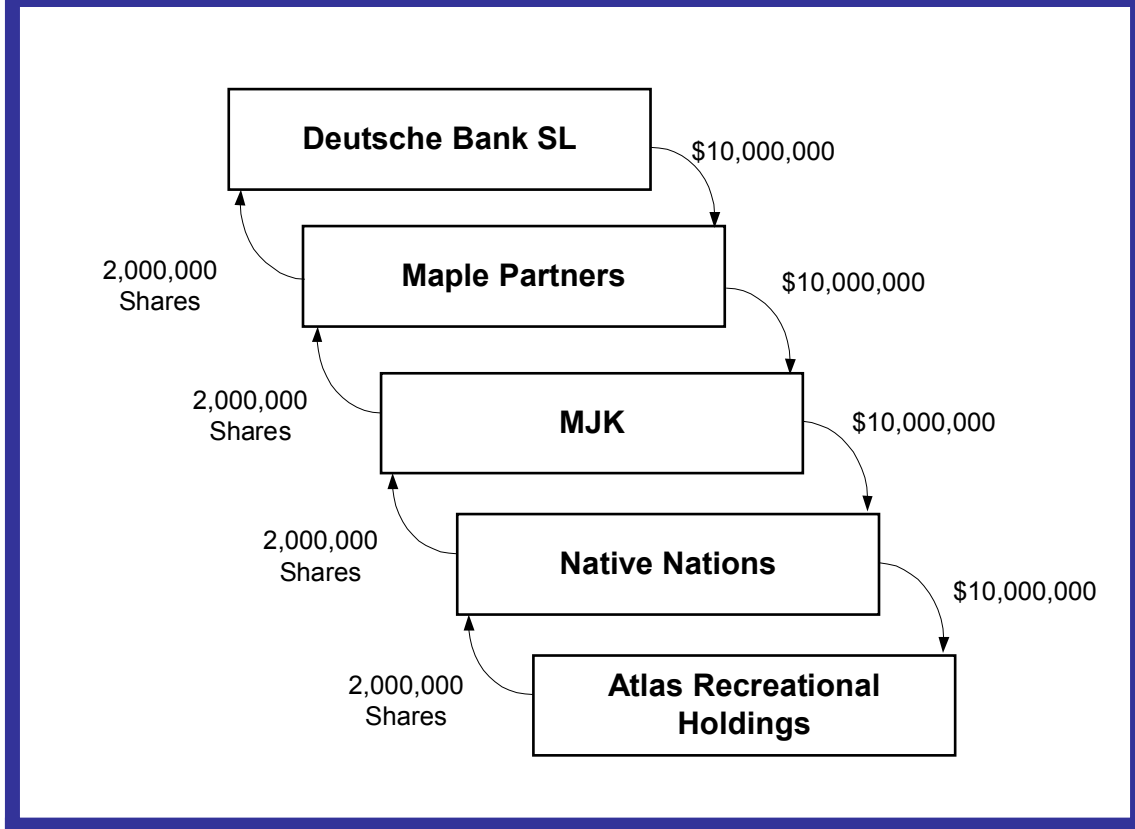
126. The Exchange Notes appear to have some modest value, unlike the virtually worthless GENI stock. The amount of the final recovery, which may be obtained as a result of MJK's interest in the Exchange Notes, is presently uncertain. MJK lost at least \$30 million as a result of the ICII-bond scam.

THE HOLIDAY RV SUPERSTORE SCAM.

127. The third security used in the Defendants' securities-fraud scams was Holiday RV Superstores, Inc. ("RVEE"). The pattern of transactions in RVEE, and the final effect of those transactions on MJK, was similar in all material respects to the pattern used in the GENI stock and ICII bond transactions.

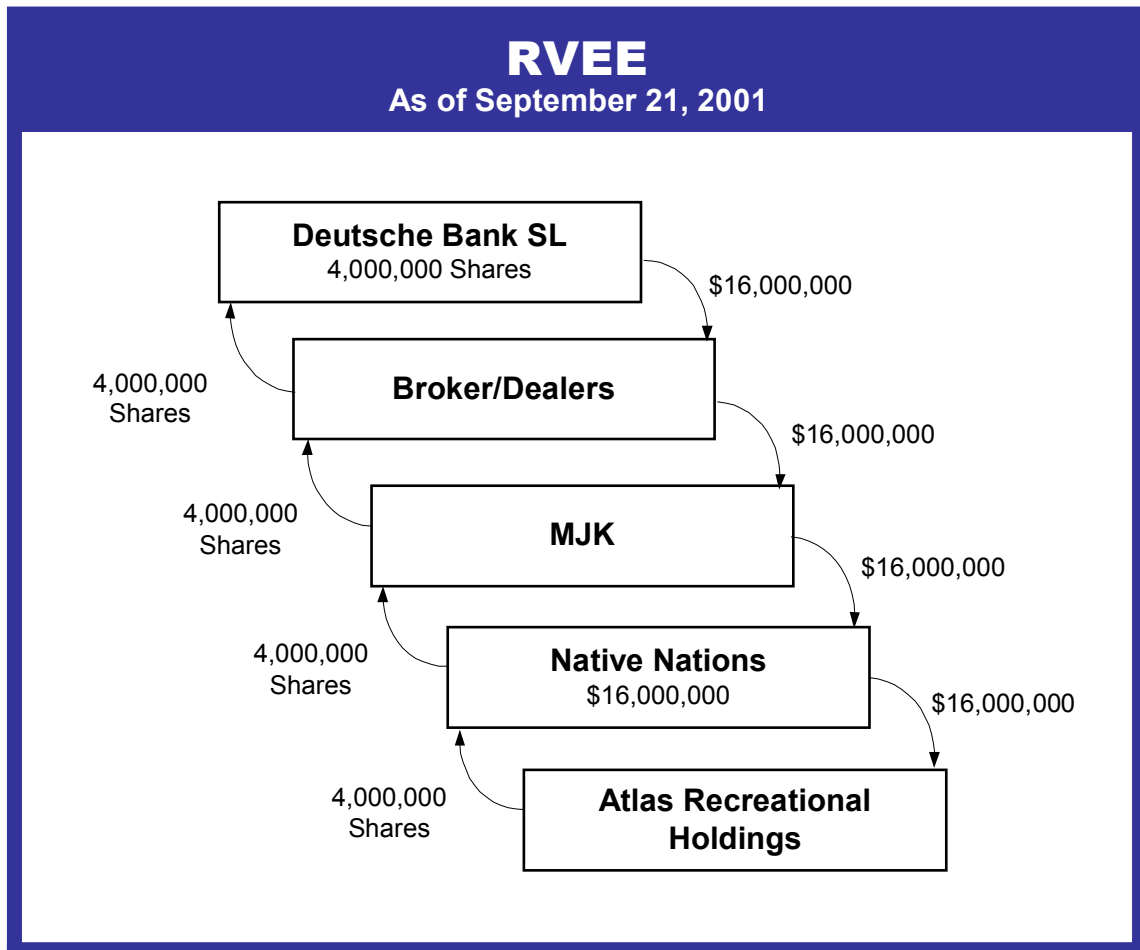
128. As was the case with GENI, Deutsche Bank SL first acquired a position in RVEE in July 1999, borrowing 1,000,000, and later a total of 2,000,000 shares of RVEE. In early 2000, the position was restructured into borrows of first 1,000,000 and then a total of 2,000,000 shares of RVEE directly from Native Nations. In December 2000, as it had with GENI and ICII, Deutsche Bank SL reconfigured the transactions to lower its risk by eliminating a direct counter-party position with Native Nations and inserting MJK and Maple Partners between it and Native Nations. MJK first acquired a borrow position in RVEE on December 5, 2000, when it borrowed 2,000,000 shares of RVEE from Native Nations, advancing \$10,000,000 as cash "collateral." The 2,000,000-share position was immediately lent to Maple Partners, and then re-lent to Deutsche Bank SL. The RVEE stock-loan chain looked like this:

RVEE
December 5, 2000

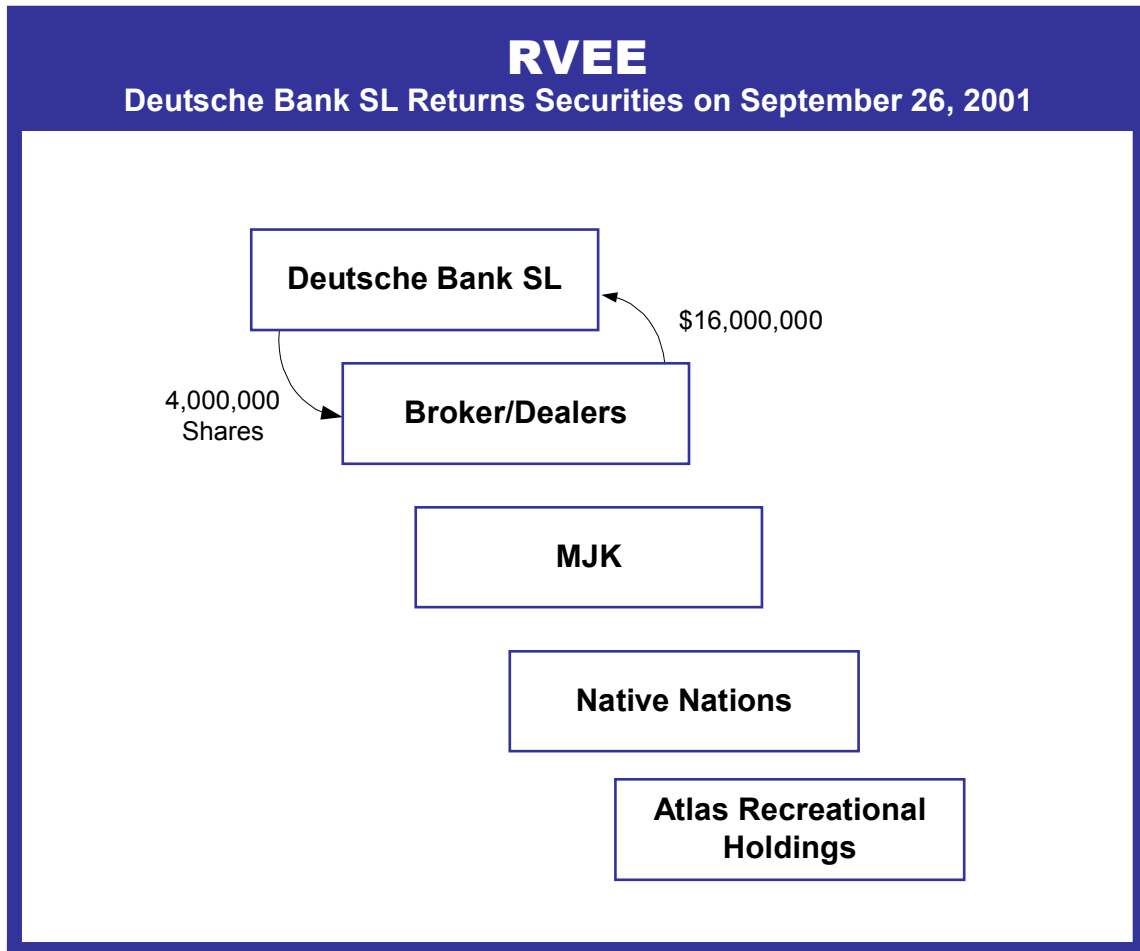


129. On February 9, 2001, Deutsche Bank SL increased its borrowing of RVEE stock to 4,000,000 shares, all of which had been lent by Native Nations to MJK, then to Maple Partners, and then to Deutsche Bank SL. The net amount of cash advanced as “collateral” by MJK in connection with the RVEE transactions was \$16,000,000 in March 2001. MJK’s borrow position in RVEE never changed until September 26, 2001, when Deutsche Bank SL put the stock back through the stock-loan chain. That resulted in a demand for \$16,000,000 from MJK that Deutsche Bank SL had known for at least a year could not be satisfied by Native Nations, MJK’s counter-party lender.

130. The following chart depicts the RVEE stock-loan arrangements in late September 2001:



Then on September 26, 2001, Deutsche Bank SL returned the RVEE shares:



The final positions of Deutsche Bank SL, Native Nations, and MJK with respect to RVEE were as follows:

RVEE
Final Positions on September 27, 2001

Deutsche Bank SL

Successfully returned 4,000,000 shares
Recovered \$16,000,000

MJK Clearing

Closed by Regulators
Owes other broker/dealers \$16,000,000

Native Nations

Out of Business
Owes MJK \$16,000,000

131. Mr. Breedon, Mr. D'Angelo, and others working with them organized, controlled, and monitored the RVEE stock loan chain throughout its existence. Mr. D'Angelo and Mr. Breedon regularly discussed efforts to drive up, or at least maintain, the RVEE price. For example:

Partial conversation between Wayne Breedon and Ken D'Angelo (11/14/00)

Breedon: 607. I got a new credit report for as of yesterday.
D'Angelo: Right.
Breedon: They were down over three million. RVEE is down a half a dollar today.

D'Angelo: That'll be back up. I already got on the phone with him. Alright, so hopefully everything . . .
Breedon: Mmm.

Partial conversation between Wayne Breedon and Ken D'Angelo (11/21/00)

D'Angelo: Yes Wayne.
Breedon: The market stands now on GENI and RVEE, 607's account will show under.
D'Angelo: Because of?
Breedon: GENI's down three eighths.
D'Angelo: Where's RVEE?
Breedon: Four dollars.
D'Angelo: I'll tell them to get it up. Good bye.
Breedon: Bye.

Partial conversation between Wayne Breedon and Ken D'Angelo (11/22/00)

Breedon: Deutsche Bank.
D'Angelo: I just been screaming at him.
Breedon: Yeah.
D'Angelo: Absolutely [expletive omitted] screaming at him. And, of course, he tells me, gives me this [expletive omitted] excuse there's nobody there. I said, "what do you mean there's nobody there?" Dave is not there. Bill's not there. I said, "Richie, it don't make – this ain't Freeman Richie – I said, "Richie, it don't make a difference who's there or who's not there. You know what the obligation is, you know where it's gotta be, whatever, and no less – three hundred shares. How [expletive omitted] embarrassing is that? He said, "yeah, the worst part about it is – if we would have bought two hundred shares and brought it right back up." I said, "I understand." What, how [expletive omitted] stupid can you be? I said, "you're doing your best to blow the relationship." Wait until I talk to his [expletive omitted] boss on Friday, you know what I mean?
Breedon: Yeah.

Partial conversation Wayne Breedon and Ken D'Angelo (1/3/01)

D'Angelo: I spoke to the kid, Rich, out in Chicago . . .
Breedon: Hmm.
D'Angelo: He asked me nicely if he can leave the ahh RVEE at four and an eighth today. Tomorrow he'll bring it right back up, 'cause he's doin some trading on somethin' – whatever. I said to him, "okay, fine, but I am telling you now there's no [expletive omitted] around tomorrow – that's going up to three eighths to a half." He said, "okay." I said, "you

know I heard ya.” He said, “yeah, yeah, yeah,” and that was it. Where is it trading?
Breedon: Mmmm. It’s not trading. It’s ahh bidding three and three quarters asking four dollars - last at an eighth.
D’Angelo: Well, he knows it can’t go lower than that. . . .

Partial conversation between Wayne Breedon and Ken D’Angelo (1/24/01)

D’Angelo: Now, I can see you sound much better.
Breedon: I said, “things do not look too good, do they?”
D’Angelo: Ah, well, since I don’t know and you’re now informing me, please continue to inform me.
Breedon: Three and three quarters on RVEE.
D’Angelo: Oh, well they know that. That’s gotta get up over four and change. Go ahead. Wait a minute. Three and three quarters. They had a volume problem with that today because somebody’s actually really selling it as I think you . . . How much is the volume?
Breedon: Seventy-seven three.
D’Angelo: Okay. Next.

Partial conversation between Wayne Breedon and Ken D’Angelo (1/26/01)

D’Angelo: Of course, and that’s what I told them was gonna happen. And they said, they can’t do that because you can’t go and borrow RVEE ‘cause it’s not around. I said, “don’t you understand? You’re missing the boat.” They don’t give a [expletive omitted]. They’re gonna do it anyway. Wayne, you know, we’ve seen it, we know it, I explain it, and they don’t ever believe me. Now, all of a sudden they’re starting to believe me. What a [expletive omitted].
Breedon: So, they’re saying RVEE’s gonna go down?
D’Angelo: No, they’re gonna say they can’t let it go down. They know they can’t let it go down. Or else, I’m gonna have to take the money and [expletive omitted] keep it and use it.
Breedon: That’s what I’d do.
D’Angelo: I told him, it won’t take him two million dollars to get it back up. You know, and I said then that’s only half of it. It should actually be four million. So, I went through the whole [expletive omitted] thing. Don’t get me wrong.
Breedon: Yeah.

Partial conversation between Wayne Breedon and Ken D’Angelo (3/6/01)

Breedon: But the GENI and RVEE are killing me with the five sixteenths.
D’Angelo: Yeah, I know. That’s ugly.
Breedon: So, we’re ten million dollars in marks that I can’t do.

D'Angelo: Yeah, well, GENI is gonna be up today. And RVEE, I will make sure they bring it up today.

Breedon: Yeah.

Partial conversation between Wayne Breedon and Ken D'Angelo (8/30/01)

D'Angelo: Yeah Wayner.

Breedon: Yeah, ummm, this, is the GENI gonna be a problem over month end?

D'Angelo: No. No. And neither is RVEE. I'm gonna get RVEE up to three seventy-five.

Breedon: 'Cause Franklin was saying on the RVEE, he wants to mark it to the exact pricing. That's what he told me. I said, "are you asking me or telling me?" He said, "I'm telling you." I'm, I'm more concerned on the GENI because I've got like over seven million shares....

D'Angelo: Yeah, I know what you mean. No, the GENI'll be up.

Breedon: Yeah.

D'Angelo: Well it's supposed to be up, but the RVEE is the one that I'm involved with.

132. Just as with the GENI stock and the ICII bonds, MJK was unaware of the Defendants' intentional manipulation of RVEE stock. As such, MJK implicitly relied on the integrity of the market price with respect to that stock just as a retail investor who buys or sells stock at the price set by the market does so in reliance on the integrity of that price.

133. In the case of RVEE, just as was the case with GENI and ICII, Native Nations acted as a starting point, where the shares entered the stock-loan chain. All or substantially all of the RVEE in the chain came from the holdings beneficially owned by Atlas and Michael Riley. All of these shares were unregistered with the meaning of Section 5 of the 1933 Act, and there were no applicable statutory exemptions to registration. In particular, Atlas and Riley obtained the shares at issue here in a 1999 private sale from the previous majority owner of RVEE. No registration statement had ever been filed with respect to those shares. Accordingly,

all of the RVEE stock-lending transactions at issue here were in violation of Section 5 of the 1933 Act.

134. Again, just as with GENI and ICII, Native Nations falsified its books and records in order to get the RVEE into the loan chain, and then, just as with GENI and ICII, Native Nations signed a form master securities loan agreement directly with Atlas even though it was not a broker/dealer. MJK was never told by Breedon, Deutsche Bank SL, D'Angelo, RBF, or anyone else that Native Nations was not acting in a true conduit capacity (because there was no broker/dealer from which it was borrowing the securities) and that it could not meet marks-to-market, much less return all of the cash collateral because it had passed the money on to the principals of Atlas. In addition, MJK was never told that the RVEE was being sent to Deutsche Bank SL so that it would remain out of the market and RVEE's promoters could use the money from the stock-loan transactions for some other purpose. As with GENI and ICII, Breedon was indispensable in providing a ready source of funds for Defendants' fraudulent schemes.

135. On September 26, 2001, Deutsche Bank SL eliminated its borrow position in RVEE, sending the stock back through the loan chain until it was tendered for delivery to MJK, which was unable to pay its counter-parties, Nomura and E*Trade, because MJK could not recover from Native Nations the \$16,000,000 it had advanced to Native Nations.

DEUTSCHE BANK SL PROPS UP NATIVE NATIONS.

136. SEC and NASD rules require that broker/dealers file monthly calculations, setting forth their net capital position. The rules also require that at all times broker/dealers must remain in compliance with within minimum net-capital requirements. If a broker/dealer does not maintain the required net capital, the broker/dealer is subject to increased scrutiny by the NASD or it may be shut down – as was the case with MJK. Native Nations, like other broker/dealers, submitted its FOCUS reports and net capital calculations on a monthly basis to regulators.

137. As early as October 1999, Deutsche Bank SL began making significant wire transfers of cash to Native Nations in an apparent attempt to make Native Nations' month-end net capital positions appear more positive than in reality they were. These transfers (often \$1 million or greater) occurred on numerous occasions and consisted of Deutsche Bank SL transferring cash to Native Nations at or near the end of the month and then retrieving its cash a few days later at the beginning of the next month. The following conversations demonstrate the arrangement:

Partial conversation between Wayne Breedon and Ken D'Angelo (6/01/00)

Breedon: Deutsche
D'Angelo: Yeah, its me.
Breedon: Hey me.
D'Angelo: I'm in the . . I'm on the plane.
Breedon: Okay. Hey, I got a solu . . . a possible solution. I don't know if . . .
D'Angelo: Oh, we're okay with it.
Breedon: You're okay?
D'Angelo: Yeah, he's gonna do two times five hundred thousand [two marks of \$500,000 each].
Breedon: To who?
D'Angelo: To you.
Breedon: Ah, okay. Now, do you want me . . . umm . . . not to put it on the loan? Or do you want me to put it on the loan?

D'Angelo: Ah, put it on the loan – On the GENI.
Breedon: Yeah?
D'Angelo: On the one that's five hundred thousand.
Breedon: Right.
D'Angelo: Or apply it any way you want and then of course the mark comes right off.
Breedon: Right. Okay. So there are going to be two lots?
D'Angelo: Yeah, two times five hundred.
Breedon: Is he doing 'em on both the GENI's or . . .
D'Angelo: I don't know what he's gonna do 'em on. If you want, call him direct.
Breedon: Okay.
D'Angelo: Richie. I just got off the phone with him.
Breedon: Yeah.

**Partial conversation between Wayne Breedon and Richard Evangelista (6/1/00)
(immediately following previous call)**

Evangelista: Yeah Wayne.
Breedon: Hey Rich, how 'ya doin?
Evangelista: Okay. How are you?
Breedon: I'm okay. So what's um . . . what are you going to mark me on big guy?
Evangelista: I'm gonna mark you on two lots of five hundred thousand.
Breedon: Okay. Okay, ah ba ba ba boom. Okay, so they should be coming through anytime?

Breedon: Ah we . . . wait a minute. We don't have a . . . we've got a five and a four and a four-fifty [lots of 500,000 shares, 400,000 shares and 450,000 shares].
Evangelista: A five and a four and a four-fifty?
Breedon: Yeah, and you already marked me on the four. So, wh . . . how are you gonna do that?
Evangelista: Ah, which ones are we . . . ahh which once are you marking now? (*To someone in the background.*) Ahh . . . the Holiday. Okay.
Breedon: What's he gonna do?
Evangelista: Wait a minute. Oh, there's only one lot of the hundred thousand.
Breedon: No, there's two lots of Holiday. A million each.
Evangelista: Oh, there's . . . oh, that's faster. Hold on one minute.

Evangelista: We got two lots of Holiday we're gonna . . . yeah, we're gonna . . . two lots that we're goin going from five to five and a half today [We're going to mark the price of RVEE from \$5.00 per share to \$5.50 per share on the two loan contracts of 1,000,000 shares each].
Breedon: Oh, okay.

Evangelista: And then you bounce ‘em back tomorrow.¹⁴

Breedon: Okay, you got it.

Conversation between Wayne Breedon and Ken D’Angelo (4/30/01)

Breedon: Deutsche Bank.

D’Angelo: Alright. You’re gonna probably get it in the [expletive deleted] for today only. Okay, 607 [Native Nations] has to mark you up for today and then come right back down. We gotta do that capital thing or whatever.

Breedon: Is that right?

D’Angelo: (Laughter) Please, Wayne. Yeah, that’s right. He said to a price of twelve. It’s probably big money, too.

Breedon: Yeah, probably. We’ll see tomorrow.

D’Angelo: Alright, he’s coming in with the mark just so you know.

Breedon: Why doesn’t he just do it . . . well what’s it trading at?

D’Angelo: It’ll be higher today – it’ll be over twelve way over twelve bucks today, not worried about that, but he’s gotta take care of this thing from . . .

Breedon: (Not precisely clear).

D’Angelo: I know.

Breedon: He’s gonna draw attention to it.

D’Angelo: I know that, but we gotta do it and then of course we’ll adjust it tomorrow. Believe me, we’ll adjust it, and I’m still arguing with them with the bonds. Okay honey?

Breedon: Alrighty.

D’Angelo: Thank you. Bye.

Breedon: Bye.

138. As a further example, on December 31, 1999, Deutsche Bank SL transferred to Native Nations \$2,000,000 under the guise of a “mark-to-market.” Then four days later, on January 4, 2000, Native Nations sent the money back to Deutsche Bank SL. An identical transaction occurred on January 26, 2000, with the \$2,000,000 being returned to Deutsche Bank SL on February 1, 2000. The following

¹⁴ As indicated on the chart below, Native Nations’ records indicate that on the date of these conversations, June 1, 2000, Deutsche Bank SL in fact transferred \$1,500,000 to Native Nations under the guise of “marks-to-market” on the RVEE stock. Deutsche Bank SL also transferred \$400,000 to Native Nations that day in connection with “marks-to-market” on the GENI. All of the money was returned to Deutsche Bank SL the following day, June 2, 2000.

chart summarizes the numerous transactions where Deutsche Banks SL wired money to Native Nations at or near month end, and then retrieved its cash only a few days later:

Initial Transfer from Deutsche Bank SL to Native Nations			Transfer from Native Nations to Deutsche Bank SL			# of days	Net Transfer
Date	Security	Cash Transferred	Date	Security	Cash Transferred		
10/29/99	GENI	\$875,000	11/01/99	GENI	\$(875,000)	3	\$ -
11/01/99	GENI	\$1,000,000	11/02/99	GENI	\$(1,000,000)	1	\$ -
12/01/99	GENI	\$1,000,000	12/02/99	GENI	\$(1,000,000)	1	\$ -
12/31/99	GENI	\$2,000,000	01/04/00	GENI	\$(2,000,000)	4	\$ -
01/26/00	GENI	\$2,000,000	02/01/00	GENI	\$(2,000,000)	6	\$ -
01/31/00	GENI	\$1,000,000	02/01/00	GENI	\$(1,000,000)	1	\$ -
01/31/00	RVEE	\$2,000,000	02/01/00	RVEE	\$(2,000,000)	1	\$ -
02/01/00	RVEE	\$1,000,000	02/01/00	RVEE	\$(1,000,000)	0	\$ -
02/29/00	GENI	\$8,500,000	03/01/00	GENI	\$(4,500,000)	1	\$4,000,000
03/01/00	RVEE	\$1,250,000	03/02/00	RVEE	\$(1,250,000)	1	\$ -
03/01/00	RVEE	\$1,250,000	03/02/00	RVEE	\$(1,250,000)	1	\$ -
05/01/00	GENI	\$625,000	05/02/00	GENI	\$(625,000)	1	\$ -
06/01/00	RVEE	\$500,000	06/02/00	RVEE	\$(500,000)	1	\$ -
06/01/00	RVEE	\$1,000,000	06/02/00	RVEE	\$(1,000,000)	1	\$ -
06/01/00	GENI	\$400,000	06/02/00	GENI	\$(400,000)	1	\$ -
06/30/00	GENI	\$800,000	07/05/00	GENI	\$(800,000)	5	\$ -
06/30/00	GENI	\$450,000	07/05/00	GENI	\$(450,000)	5	\$ -
06/30/00	GENI	\$500,000	07/05/00	GENI	\$(500,000)	5	\$ -
09/08/00	GENI	\$200,000	09/11/00	GENI	\$(200,000)	3	\$ -
11/10/00	GENI	\$3,550,000	11/14/00	GENI	\$(2,650,000)	4	\$900,000
02/01/01	GENI	\$2,000,000	02/02/01	GENI	\$(2,000,000)	1	\$ -
02/13/01	GENI	\$150,000	02/14/01	GENI	\$(150,000)	1	\$ -
02/21/01	GENI	\$200,000	02/22/01	GENI	\$(200,000)	1	\$ -
02/28/01	GENI	\$2,800,000	3/2/2001	GENI	\$(700,000)	2	\$2,100,000
04/02/01	GENI	\$1,600,000	4/4/2001	GENI	\$(960,000)	2	\$640,000
04/30/01	GENI	\$4,950,000	5/1/2001	GENI	\$(4,950,000)	1	\$ -
05/31/01	GENI	\$2,800,000	06/01/01	GENI	\$(2,800,000)	1	\$ -
05/31/01	GENI	\$3,600,000	06/01/01	GENI	\$(3,600,000)	1	\$ -
06/18/01	GENI	\$386,000	06/20/01	GENI	\$(386,000)	2	\$ -

The 4/30/01 transfer from Deutsche Bank SL to Native Nations of \$4,950,000 represents two separate transfers, one for \$3,600,000 and one for \$1,350,000.

139. These cash transfers by Deutsche Bank SL were made solely to falsify Native Nations' books and records and to give the false appearance to regulators and others that Native Nations' had adequate net capital to continue doing business. Had

Deutsche Bank SL not made these temporary cash transfers to Native Nations, Native Nations would have had to take larger “haircuts” in calculating its net capital, thereby directly reducing its net capital position. Deutsche Bank SL knowingly helped Native Nations manipulate its financial statements, net capital calculations and its FOCUS reports.

140. In essence, Deutsche Bank SL “propped up” Native Nations for nearly two years. Deutsche Bank SL enabled an insolvent broker/dealer to remain in business, resulting in a situation where Native Nations did not have adequate net capital to absorb a significant capital hit, such as a multimillion-dollar “mark-to-market” that could not be passed on to its real counter-party. Without the large temporary cash infusions from Deutsche Bank SL, Native Nations would have been forced out of business (or at least been subject to increased regulatory scrutiny) long before MJK was ever dragged into the securities-loan chains described above.

DEFENDANTS INTENDED TO COMMIT FRAUD

141. Mr. Breedon and Mr. D'Angelo talked quite openly about the fact that the transactions in which they were engaged were fraudulent. For example, in connection with the ICII "switch," Mr. D'Angelo told Mr. Breedon:

"Nobody's going to be happy with all the [expletive omitted] we've done here." (6/21/01).

142. Describing the ICII exchange, Mr. D'Angelo commented: "This thing has been so screwy from the get go." (6/21/01). Discussing his market manipulation efforts with Mr. Breedon, Mr. D'Angelo used phrases like, "I did some magic there" (7/11/01), or "I was the market for GENI" (6/14/01), or "I'm the new guy supporting the market (for GENI)" (7/01), or that Ramy El-Batrawi had to "make some maneuvers" to get the GENI stock price up (10/4/00). They discussed the fact that exposing the transactions in which they were engaged to scrutiny by the Depository Trust Company would "open up a Pandora's box" (1/5/01).

143. Mr. Breedon, Mr. D'Angelo, and Mr. Evangelista all knew that Native Nations had prepared fraudulent books and records since mid-1999 to enable the GENI stock-loan transactions, as shown in the following conversations:

Conversation between Wayne Breedon and Ken D'Angelo (6/19/01)

Breedon: Deutsche.

D'Angelo: Yeah, yeah. Hi - listen. Richie's not in today as you are aware of. The other guy is a [expletive omitted] crazy man. Okay, I don't know why he wants to do what he wants to do, but obviously I think he's afraid in case the NASD or somebody comes in that its not marked right.

Breedon: Oh. Two years we have this on and they're thinking of one day, it's today.

D'Angelo: Oh honey, please (not precisely clear).

Breedon: I could return it. Does he want me to return it?

D'Angelo: Wayne.
Breedon: He could, I could return it to him.
D'Angelo: Wayne.
Breedon: I wouldn't want to hurt his feelings. Maybe I should mark, maybe I should mark Imperial Credit Bond to market too. Maybe I shouldn't do these run throughs from 5008 for him.
D'Angelo: It'll, it'll balance out tomorrow. Hey, please, please. I have enough heat going here today.
Breedon: What the [expletive omitted] is he doing?
D'Angelo: I don't know, I really don't know to be honest with you, but I can't call because we had another problem on Friday that we're just adjusting now okay, so I just don't want to have a [expletive omitted] problem.
Breedon: Thank you.
D'Angelo: Yeah, bye.
Breedon: Bye.

144. In undertaking the transactions, Mr. Breedon, Mr. D'Angelo, Mr. El-Batrawi, and other Defendants were motivated in part by the desire to make money for Deutsche Bank and its affiliates, which made more than \$7 million in fees on the securities-loan deals.

145. Additionally, Mr. Breedon and Mr. D'Angelo expected huge under-the-table payments from Mr. El-Batrawi in connection with the transactions since, as both Mr. Breedon and Mr. D'Angelo stated frequently, none of the transactions would have been possible without the resources of Deutsche Bank provided by Mr. Breedon:

Partial conversation between Wayne Breedon and Ken D'Angelo (10/4/00)

D'Angelo: Okay. I told him I'm not doing . . . I said, "my guy in Canada doesn't want to do anything until we clear up this million share thing." Wayne, I – I had to put it to him that way because he'll have me [expletive omitted] nuts.
Breedon: Yeah, pushing and pushing and pushing.
D'Angelo: Well, it's good in a way. But you know, we gotta see some of these things [expletive omitted] happen.
Breedon: Yeah.
D'Angelo: 'Cause if they don't happen, including myself and you together, I'm scared for both of us. And you know where I'm coming from with that.
Breedon: Mmm hmm.

D'Angelo: I don't want to have no [expletive omitted] problems. As it was last week, I was so worried with the marks with the [expletive omitted], ahh, if you don't get the GENI up to sixteen and a quarter last Friday, it's basically a problem. You know. And you don't need to have anybody coming down on you. As it is, they look at you [expletive omitted] weird.

Breedon: Yeah.

D'Angelo: You [expletive omitted] weirdo.

Breedon: I hope he realizes all the stuff that we go through, you know.

D'Angelo: Ahh, you know what Wayne? Truthfully, they don't even know.

Breedon: Hmm.

D'Angelo: When I say that they say, "yeah, yeah, yeah." You know what I'm trying to say. They don't know. But, I already told my guy that there will be a rainbow and when the rainbow comes, we will get part of the rainbow. 'Cause if you think about this – he – he sells this million shares at eighteen and a half. Okay. I would guesstimate his average price has got to be fifteen and a half. Right?

Breedon: Mmm hmm.

D'Angelo: Sixteen? So, he's gotta make a few million dollars.

Breedon: Well, for sure.

Partial conversation between Wayne Breedon and Ken D'Angelo (10/17/00)

D'Angelo: Maybe what you oughta do is come with us – we're going ah we're going, we're going out to Arizona after our Thanksgiving and then to Las Vegas for a few days. Ahh, Al's sister.

Breedon: Oh yeah.

D'Angelo: Our relatives.

Breedon: Yeah.

D'Angelo: But that don't mean anything. Or you could meet us in Las Vegas.

Breedon: Yeah.

D'Angelo: 'Cause you're gonna get money out of this thing.

Breedon: Yeah.

D'Angelo: It's just a case of how we're doing it.

Partial conversation between Wayne Breedon and Ken D'Angelo (11/6/00)

D'Angelo: You know Wayner one way or another.

Breedon: Okey dokey.

D'Angelo: I'm gonna somehow get this all done. I know one thing. There's gonna be a rainbow at the end of this.

Breedon: Yeah.

D'Angelo: That's all I know. I had a little talk about that.

Breedon: Yeah.

D'Angelo: And I told him that, you know, you're part of it.

Breedon: Yeah.
D'Angelo: And not one disagreement whatsoever. So . . .
Breedon: That's good.
D'Angelo: It's gonna happen.
Breedon: Alrighty.

Conversation between Wayne Breedon and Ken D'Angelo (1/11/01)

D'Angelo: RBF and I.
Breedon: Hello.
D'Angelo: Wayne Weedon?
Breedon: That's me.
D'Angelo: Of Weedon and Weedon?
Breedon: Yep.
D'Angelo: How you weedon bud?
Breedon: Ah, weedon, weedon this and weedon that. Before you know it...
D'Angelo: Can you imagine it if this [expletive omitted] prince does do that two or three million shares of GENI?
Breedon: No.
D'Angelo: Do you know how that gets us off the schnide?
Breedon: Well, yeah.
D'Angelo: Do you know how livable that'll be?
Breedon: My take on this is that he'll probably end up using the money for something else. He'll, he'll buy five million shares of Apple or something.
D'Angelo: Well how about this, I wouldn't be surprised...
Breedon: No, neither would I.
D'Angelo: ...but, that'd be a whole other story if, you know what I'm trying to say? That's like a horse of another color, you know what I mean?
Breedon: Yeah. Did he...
D'Angelo: Fine.
Breedon: Did he, say anything more about Apple? I know, I know he said he bought some, but...
D'Angelo: No, he said that he didn't, he didn't speak to the guy.
Breedon: Oh.
D'Angelo: He's yet to speak to that guy from Microsoft. And the Microsoft people...
Breedon: Yeah.
D'Angelo: ...they're putting everything together. They're coming next week, not in two weeks. He said that's gonna get done.
Breedon: What's uh...
D'Angelo: And...
Breedon: Microsoft...
D'Angelo: Pardon me?
Breedon: What's Microsoft gonna do? with GENI?

D'Angelo: Microsoft is gonna be with GENI.
Breedon: Yeah.
D'Angelo: And all I keep on saying is keep up the good work.
Breedon: Yeah. What a, what a...
D'Angelo: So you understand, so you understand, just between you and I, and of course and, and when I see you and whatever, tell you, you do realize if this all works out . . . that I told them we gotta get stock and [expletive omitted] and all kind of stuff and whatever. Just so you know.
Breedon: Alright.
D'Angelo: And he has no disagreements at all because he has said, which is true, that we have kept him alive.
Breedon: And he couldn't have done probably none of this stuff without us, you know?
D'Angelo: Absolutely zip.
Breedon: Absolutely zip.
D'Angelo: You know, but I mean, at least he acknowledges that it isn't like, you know, he says differently.
Breedon: Yeah. Well, he's, he's gotta do what, you know, the sheik did to him at one time, I guess. Kind of thing, right?
D'Angelo: Yeah, well here's what I told him. See because this is gonna be the deal with the sheik. He's gonna take some of the stuff away from the sheik, supposedly, okay, stocks that he has. But the stocks that the guy has, is WorldCom, all easy stuff.
Breedon: Oh yeah.
D'Angelo: You understand?
Breedon: Mmm hmm.
D'Angelo: See, I know what he's gonna do. He's gonna [expletive omitted] take it and sell it right back into the market. 'Cause the guy'll never figure it out. I really don't care now.
Breedon: No.
D'Angelo: All I want to do is, he said I can't tell Richie a thing. So you understand. Alright, because that'll just, you know, 'cause once I tell Richie anything, he'll go, "when? what? what day?"
Breedon: Yeah.
D'Angelo: And we've had so many [expletive omitted] false starts, I don't need no [expletive omitted].
Breedon: No, it'll be nice to have things go smoothly for once.
D'Angelo: And the next thing is the bonds. Hopefully that works out.
Breedon: Yeah, that would...
D'Angelo: You know. Alright, now let me...ah [expletive omitted]. I'm at my desk, hold on. I'm not, I'm not at my desk I meant.

Partial conversation between Wayne Breedon and Ken D'Angelo (7/01)

D'Angelo: He's gotta go ahead and if he buys it he's gotta report it, and then when he sells it he's gotta report it. Me, mine is just an in and out. I ain't making no big money on this [expletive omitted] thing you know. I sold a bunch of stock today so I think I should be ok with monies and whatever the case'd be in three days. So, I got maneuvers up the [expletive omitted] gazoo here. You know and the way it works as per Ramy if this all comes down, and everything works, he said he'll probably walk away with maybe five million or seven million which don't sound like a lot but he'll have nine million shares of stock, all his stock back, and then because he's under the one-forty-four rule, he can sell one percent a month. Which is, I think I told you – at ninety thousand a month – and ah, hey, nine million shares at twenty bucks is a hundred eighty million dollars. What the [expletive omitted]? You know. So, I mean, he'll be fine. So you know, so don't think I forgot about you – I already told him that you and Richie have to share in whatever, but he doesn't know how the compensation's gonna come.

Breedon: Hmm.

D'Angelo: Cause, but I told him, it ain't gonna come from him to me you know what I mean, like, like, I don't know how we're doing it ok I got enough [expletive omitted] I'm involved with. And, of course, you know the guys from ICII know the same thing with the compensation [expletive omitted].

Breedon: Yeah.

D'Angelo: You get my point. I mean this was not done for ahh stock loan – yeah it was done for stock-loan money, but you know . . .

Breedon: Nothing doing with anything else.

D'Angelo: Correct. It had a lot to . . . without you, nothing would have been [expletive omitted] done. Well, I don't have to tell you don't you know I didn't forget anything. It's just that I'm not in the position that whatever as of this minute.

Breedon: Yeah.

D'Angelo: But very shortly, hopefully in the next week or so we will be

146. Throughout the more than two-year fraudulent scheme involving at least three different securities (GENI, ICII, RVEE), Defendants made the following false and misleading representations or omitted to disclose the following true facts, among others:

a. the securities loan transactions were not lawful because they (i) were not for a permitted purpose and otherwise violated Reg. T, and (ii) with respect

to GENI and RVEE, constituted an illegal offering of unregistered securities in violation of Section 5 of the Securities Act;

b. Defendants, acting in furtherance of one or more fraudulent schemes, had artificially manipulated the market price of the securities by, among other things, engaging in massive day-trading, staged transactions, and other manipulative and deceptive devices and contrivances designed to artificially manipulate and control the market for those securities;

c. the transactions were subject to extraordinary, undisclosed risks stemming from Defendants' manipulative and deceptive acts – in effect, MJK's sole protection from devastating losses in connection with those transactions was the value of the underlying securities;

d. the securities' market prices bore no relationship to their true value;

e. there was no real market for the securities and the apparent interest in buying and selling such securities was the result of phony orders, "wash sales" and other manipulative and deceptive devices and contrivances;

f. the securities lending transactions were manipulative and deceptive devices and contrivances, and were part of a scheme to enable Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, Evangelista, RBF, and D'Angelo to fund the distribution of securities for other Defendants, and others, through orchestrated stock loan transactions, and to enrich all Defendants at the expense of MJK and other victims;

g. Native Nations was not a true borrower and lender of the securities in that there was no broker/dealer counterparty on the other side of Native Nations, but it instead was acting as an instrumentality of Deutsche Bank SL, Breedon, RBF, D'Angelo and Evangelista to distribute the securities to Deutsche Bank SL and the cash to El-Batrawi, Ultimate and others;

h. the cash collateral that had been delivered upstream by MJK in the transactions at issue was being used to fund a market manipulation scheme or schemes, and Native Nations was certain or virtually certain not to return the cash collateral when and if needed; and

i. Native Nations' accounting records had been falsified by, among other things, fraudulent and deceptive temporary cash infusions from Deutsche Bank SL.

147. Defendants' fraudulent intent is also shown by their concerted efforts to cover up the transactions at issue. Many of the individual Defendants are avoiding service of process (like Defendant El-Batrawi) or have "taken Five" (like Defendants D'Angelo and Evangelista). For its part, Deutsche Bank and its affiliates have assisted in the cover up by:

- a. providing false information about its credit arrangements with Ultimate in July 2001;
- b. Mr. Breedon's denials to Mr. Brooks in September 2001, when Mr. Brooks asked Mr. Breedon if he knew who or what entity was the counter-party to Native Nations; and
- c. failing to advise the Trustee of the fraudulent transactions in which Mr. Breedon, Deutsche Bank SL, and others engaged, despite being aware of the Trustee's statutory duty to investigate the circumstances of the failure of MJK and to report on that investigation to the Bankruptcy Court.

DAMAGES

148. The actions of the Defendants described above have damaged MJK as follows:
- a. as a result of Defendants' actions, MJK advanced cash to Native Nations more than \$200,000,000 that Native Nations never returned. The Trustee has obtained a judgment against Native Nations for \$209,774,551.59, but to date has not collected anything on that judgment, and the prospects of substantial collection appear slim;
 - b. the actions of Defendants caused the failure of the business of MJK, resulting in the loss of more than 200 jobs, and the loss of MJK's value as a going concern, which value exceeded \$100,000,000;
 - c. the Trustee has incurred substantial expenses in acquiring securities the trustee is required to deliver to customers of MJK, investigating the acts of Defendants, and in winding up the affairs of MJK, which to date exceed \$13,000,000;
 - d. MJK has been subjected to litigation by others in the securities-loan chains, and has been forced to defend various proceeding to assure an orderly liquidation; and
 - e. MJK has incurred substantial attorneys' fees in this liquidation proceeding, which it is entitled to recover, and has also lost interest in an amount to be established at trial.

THE TRUSTEE'S CAUSES OF ACTION AGAINST DEFENDANTS

COUNT I

**SECTION 10(b) OF THE EXCHANGE ACT OF 1934 AND
RULE 10b-5 PROMULGATED THEREUNDER
(AGAINST ALL DEFENDANTS)**

149. Plaintiff restates every allegation of paragraphs 1 through 148 as if fully set forth herein.

150. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, made false and misleading statements of material fact regarding, engaged in manipulative and deceptive devices concerning, and directly participated in a scheme to manipulate the markets for, GENI stock, ICII bonds, and RVEE stock.

151. In addition, as set forth in paragraphs 42 to 148 herein, Defendants, and each of them, made false statements and omissions of material fact regarding, engaged in manipulative and deceptive devices concerning, and directly participated in a scheme to manipulate the markets for, GENI stock, ICII bonds, and RVEE stock for the purposes of: (1) artificially inflating the market prices of these securities; and (2) inducing MJK to engage in loan-borrow transactions involving these securities.

152. As set forth in paragraphs 42 through 148 herein, Defendants intentionally made these false statements and omissions knowing that they were false and misleading, or acting with deliberate, reckless disregard as to whether their statements were true or not. Defendants also intentionally engaged in manipulative and deceptive devices and participated in the market-manipulation scheme knowing that the devices and scheme were unlawful, or acting with deliberate, reckless

disregard as to whether their devices and schemes would unlawfully and artificially inflate the market prices of GENI stock, ICII bonds, and RVEE stock.

153. In deciding to engage in securities-loan transactions involving GENI stock, ICII bonds, and RVEE stock, MJK relied on Defendants' false statements and omissions of material fact and on the artificially-inflated market prices of these securities which resulted from Defendants' market manipulation.

154. The securities-loan transactions at issue in this case qualify as "sales" of a security within the meaning of 15 U.S.C. § 78c(a)(13).

155. MJK qualifies as a "purchaser" of securities within the meaning of 15 U.S.C. § 78c(a)(13). Defendants' manipulative scheme and false statements and omissions were in connection with the purchase or sale of GENI stock, ICII bonds, and RVEE stock to MJK by means of the securities-loan transactions at issue in this case.

156. At the time of the course of conduct alleged above, MJK was unaware of the nature of Defendants' manipulative scheme and of Defendants' false statements and omissions of material fact, and could not in the exercise of reasonable diligence have known the actual facts. Had MJK known the truth, MJK would not have purchased the GENI stock, ICII bonds, and RVEE stock by means of the securities-loan transactions at issue in this case.

157. MJK was also unaware that Defendants had made false statements and omissions of material fact involving GENI stock, ICII bonds, and RVEE stock, and that Defendants had engaged in manipulative and deceptive devices and were directly

participating in an unlawful scheme to artificially inflate the market prices of these securities.

158. In addition, as set forth in paragraphs 42 through 148 herein, Defendants, and each of them, acted as a common group to buy and control shares of GENI.

159. As set forth in paragraphs 42 through 148 herein, and in violation of Section 5 of the 1933 Act, 15 U.S.C. § 77e, Defendants neither caused to be filed nor made effective a registration statement in connection with the secondary distribution of GENI shares by means of the stock-loan transactions at issue in this case.

160. Moreover, in violation of Section 13(d), at no time did Defendants ever file a Schedule 13D that disclosed that they were acting as a common group to buy and control shares of GENI. Those Schedules 13D filed by Defendants were false and misleading because they failed to disclose the contracts, arrangements, understandings and relationships among Defendants, who participated as a group in the scheme to buy and control GENI stock. Those Schedules 13D filed by Defendants also failed to disclose the purposes of the acquisitions recorded therein, which consisted of, among other things, the scheme to restrict the supply of GENI shares in order to perpetuate a short squeeze, using money from Deutsche Bank SL.

161. The above misstatements and omissions of facts in the Schedules 13D filed by El-Batrawi and Ultimate, as well as the failures to file Schedules 13D by all Defendants, were material to any evaluation by MJK and members of the investing public with respect to their investment decisions concerning GENI.

162. Defendants have committed securities fraud in violation of Section 10(b) of the Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder.

163. MJK was injured as a direct result of Defendants' fraud.

164. Pursuant to 15 U.S.C. § 78, Plaintiff is entitled to recover actual damages suffered by MJK as a result of Defendants' fraud as well as other damages in an amount to be proven at trial.

COUNT II

SECTION 20 OF THE EXCHANGE ACT OF 1934 (AGAINST DEFENDANTS DEUTSCHE BANK SL, DEUTSCHE BANK SECURITIES, DEUTSCHE BANK, KHASHOGGI, AND D'ANGELO AS CONTROLLING PERSONS)

165. Plaintiff restates every allegation of paragraphs 1 through 164 as if fully set forth herein.

166. Defendants Deutsche Bank SL, Deutsche Bank Securities, and Deutsche Bank were "controlling persons" of Defendants Breedon, RBF, D'Angelo, Evangelista, El-Batrawi, Khashoggi, Ultimate, and Keiller, and of Native Nations, within the meaning of Section 20(a) of the Exchange Act of 1934, 15 U.S.C. § 78t, and had the power to influence and control and did influence and control, directly or indirectly, the decision-making and conduct of said entities and persons.

167. Defendant Deutsche Bank was a "controlling person" of Defendants Deutsche Bank Securities and Deutsche Bank SL.

168. Defendant Deutsche Bank Securities was a "controlling person" of Defendant Deutsche Bank SL.

169. Defendant Khashoggi was a “controlling person” of Defendant Ultimate.

170. Defendant D’Angelo was a “controlling person” of Defendant RBF.

171. As set forth in paragraphs 42 through 148 herein, all Defendants have committed securities fraud in violation of Section 10(b) of the Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder.

172. Pursuant to Section 20 of the Exchange Act of 1934, 15 U.S.C. § 78t and §78t(a), in their capacities as controlling persons of the foregoing Defendants and as a result of their culpable participation in the fraudulent scheme described herein, Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Khashoggi, and D’Angelo are personally liable, jointly and severally, for the wrongful acts of those Defendants which they control.

COUNT III

SECTION 12(a)(1) OF THE 1933 SECURITIES ACT (AGAINST DEFENDANT DEUTSCHE BANK SL)

173. Plaintiff restates every allegation of paragraphs 1 through 172 as if fully set forth herein.

174. Deutsche Bank SL acquired GENI shares from the “issuer” of the securities within the meaning of 15 U.S.C. § 77b(a)(11).

175. Deutsche Bank SL obtained GENI shares with a view to effectuate or to participate in a secondary distribution of GENI shares by means of the stock-loan transactions at issue in this case.

176. Deutsche Bank SL was an “underwriter” within the meaning of 15 U.S.C. § 77b(a)(11) with respect to the secondary distribution of GENI shares by means of the stock-loan transactions.

177. As an underwriter acquiring securities with a view to distribute those securities, Deutsche Bank SL was prohibited under 15 U.S.C. § 77e from offering or selling such securities in noncompliance with that section, which required Deutsche Bank SL to cause to be filed and made effective a registration statement in connection with any secondary distribution of GENI shares.

178. In violation of 15 U.S.C. § 77e, Deutsche Bank SL neither caused to be filed nor made effective a registration statement in connection with the secondary distribution of GENI shares by means of the stock-loan transactions at issue in this case.

179. The stock-loan transactions at issue at this case were sales within the meaning of 15 U.S.C. § 77l(a)(1).

180. MJK qualifies as a purchaser of securities within the meaning of 15 U.S.C. § 77l(a)(1).

181. Deutsche Bank SL qualifies as a seller of securities within the meaning of 15 U.S.C. § 77l(a)(1).

182. Title 15 U.S.C. § 77m provides that actions to enforce liability under 15 U.S.C. § 77l(a)(1) must be brought within one year of the violation and within three years of the security’s public offering.

183. Plaintiff has brought this action within three years of the date of the public offering of the securities purchased by MJK by means of the stock-loan transactions at issue in this case.

184. The one-year statute of limitations for violations of 15 U.S.C. § 771(a)(1) should be equitably tolled due to Deutsche Bank SL's fraudulent concealment of the facts giving rise to this claim until after the statutory period had run.

185. Plaintiff is entitled to recover the damages suffered by MJK as a result of Deutsche Bank SL's violation of 15 U.S.C. § 771(a)(1).

COUNT IV

SECTION 13(d) OF THE EXCHANGE ACT OF 1934 AND RULE 13d-101 PROMULGATED THEREUNDER (AGAINST ALL DEFENDANTS)

186. Plaintiff restates every allegation of paragraphs 1 through 185 as if fully set forth herein.

187. Section 13(d)(1) of the Exchange Act, 15 U.S.C. § 78m(d)(1), provides that any person acquiring five percent or more of the shares of any company registered under Section 12 of the Exchange Act, 15 U.S.C. § 78l, must file a Schedule 13D Statement. Section 13(d)(3), 15 U.S.C. § 78m(d)(3), provides that “[w]hen two or more persons act as a . . . group for the purpose of acquiring, holding or disposing of securities of an issuer, such . . . group shall be deemed a “person” for the purposes of this subsection.”

188. Under SEC Rule 13d-101, 17 C.F.R. § 240.13d-101, Item 4 of Schedule 13D must disclose, among other things, “the purpose or purposes of the

acquisition” including a description of any “plans or proposals” which the acquirer may have relating to, or resulting in, the acquisition of additional securities of the corporation or the disposition of securities of the corporation. Item 6 of Schedule D must describe “any contracts, arrangements, understandings or relationships (legal or otherwise)” among the persons filing the Schedule 13D and any other person.

189. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, acted as a common group to buy and control shares of GENI.

190. In violation of Section 13(d), at no time did Defendants ever file a Schedule 13D that disclosed that they were acting as a common group to buy and control shares of GENI.

191. Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Mr. Breedon, Mr. Khashoggi, Ultimate, Mr. El-Batrawi, Mr. D’Angelo, and Mr. Keiller never filed a Schedule 13D with respect to GENI.

192. With respect to GENI, the Schedules 13D filed by Mr. El-Batrawi (filed between December 29, 2000 and September 6, 2001) and those submitted by Ultimate (filed between May 22, 2000 and August 10, 2001) did not comply with Item 6 of Rule 13d-101, because they failed to disclose the contracts, arrangements, understandings and relationships among Mr. El-Batrawi, Ultimate, and the other Defendants who participated as a group in the scheme to buy and control GENI stock.

193. Also with respect to GENI, the Schedules 13D filed by Mr. El-Batrawi and Ultimate did not comply with Item 4 of Rule 13d-101, because they failed to disclose the purposes of the acquisitions recorded therein, which consisted of the

scheme, among others, to restrict the supply of GENI shares in order to perpetuate a short squeeze, using money from Deutsche Bank SL.

194. By virtue of the foregoing, Defendants have violated Section 13(d) of the Exchange Act and Rule 13d-101 promulgated thereunder.

195. The above misstatements and omissions of facts in the Schedules 13D filed by Mr. El-Batrawi and Ultimate, as well as the failures to file Schedules 13D by all Defendants, were material to any evaluation by MJK, shareholders and members of the investing public with respect to their investment decisions concerning GENI.

196. As a direct result of Defendants' violations, MJK was harmed.

197. Plaintiff is entitled to recover the damages suffered by MJK as a result of Defendants' violations.

COUNT V

SECTION 9 OF THE EXCHANGE ACT OF 1934 (AGAINST ALL DEFENDANTS)

198. Plaintiff restates every allegation of paragraphs 1 through 197 as if fully set forth herein.

199. Section 9(a)(2) of the Exchange Act, 15 U.S.C. § 78i, provides in relevant part that it shall be unlawful for any person "[t]o effect, alone or with one or more other persons, a series of transactions in any security registered on a national securities exchange . . . creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others."

200. Section 9(e) provides that: “Any person who willfully participates in any act or transaction in violation of [this section] shall be liable to any person who shall purchase or sell any security at a price which was affected by such act or transaction, and the person so injured may sue in law or in equity in any court of competent jurisdiction to recover the damages sustained as a result of any such act or transaction.”

201. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, effected a series of transactions in GENI stock and RVEE stock which had the result of artificially inflating the prices of these securities.

202. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, effected the series of transactions in GENI stock and RVEE stock which caused the artificial inflation of the prices of these securities for the manipulative purpose of inducing MJK to engage in stock-loan transactions involving these securities.

203. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, intentionally and directly participated in this scheme to manipulate the market prices for GENI stock and RVEE stock, either knowing that their scheme would artificially inflate the market prices of these securities and induce MJK to engage in stock-loan transactions involving these securities, or acting with deliberate, reckless disregard as to whether their scheme would artificially inflate the market prices of these securities and induce MJK to engage in stock-loan transactions involving these securities.

204. MJK was unaware that Defendants had directly participated in an unlawful scheme to artificially-inflate the market prices of GENI stock and RVEE stock.

205. In deciding to engage in stock-loan transactions involving GENI stock and RVEE stock, MJK relied on the artificially inflated market prices of these securities, which resulted from Defendants' market manipulation.

206. By virtue of the foregoing, Defendants have violated Section 9 of the Exchange Act.

207. As a direct result of Defendants' violations, MJK was harmed.

208. Plaintiff is entitled to recover the damages suffered by MJK as a result of Defendants' violations.

COUNT VI

SECTION 11 OF THE 1933 SECURITIES ACT (AGAINST DEFENDANTS DEUTSCHE BANK SL AND EL-BATRAWI)

209. Plaintiff restates every allegation of paragraphs 1 through 208 as if fully set forth herein.

210. On May 25, 2001, a registration statement, filed by GENI, became effective for the sale of 8,570,214 shares of GENI held by Ultimate. Some or all of the stock at issue in the securities lending transactions described herein involved GENI stock which was initially transferred from Ultimate to Native Nations, and which is traceable to the Registration Statement filed by GENI that became effective May 25, 2001.

211. Deutsche Bank SL was an underwriter of the registered offering within the meaning of Section 2(11) of the 1933 Act to the extent it was a direct or indirect participant in the distribution of GENI shares traceable to the Registration Statement that became effective on May 25, 2001.

212. Defendant El-Batrawi signed said Registration Statement.

213. The May 25, 2001, Registration Statement was materially false and misleading, as set forth in paragraphs 42 through 148 herein.

214. MJK was not aware of any of the facts constituting these material omissions, and could not, in the exercise of reasonable diligence, have uncovered the facts constituting these material omissions.

215. MJK was injured as a direct result of said false and misleading Registration Statement.

216. By virtue of the foregoing, Deutsche Bank SL and El-Batrawi have violated Section 11 of the 1933 Act.

217. MJK is entitled, pursuant to Section 11 of the 1933 Act, 15 U.S.C. § 77k, to rescind the sale of the GENI securities traceable to the May 25, 2001, Registration Statement, or alternatively is entitled to damages suffered and interest thereon.

COUNT VII

SECTION 15 OF THE 1933 SECURITIES ACT (AGAINST DEFENDANT DEUTSCHE BANK AND DEUTSCHE BANK SECURITIES)

218. Plaintiff restates every allegation of paragraphs 1 through 217 as if fully set forth herein.

219. Defendants Deutsche Bank Securities and Deutsche Bank were each a “controlling person” of Defendant Deutsche Bank SL within the meaning of Section 15 of the 1933 Act, 15 U.S.C. § 77o.

220. Deutsche Bank Securities and Deutsche Bank, in their capacities as controlling persons of Deutsche Bank SL, each had the responsibility to manage the stock loan transactions and activities of Deutsche Bank SL, and to establish procedures to ensure that Deutsche Bank SL did not participate in the unlawful distribution of securities or underwriting of securities without first conducting reasonable due diligence in connection with such underwriting.

221. Deutsche Bank Securities and Deutsche Bank each failed to implement reasonable precautionary procedures and to maintain adequate systems of supervisory and internal controls. Therefore, they cannot demonstrate that they did not know and/or had no reasonable ground to believe the existence of the facts by reason of which Deutsche Bank SL has incurred liability under Counts III and VI above.

222. By reason of the foregoing, Deutsche Bank Securities and Deutsche Bank are liable to MJK jointly and severally under Section 15 of the 1933 Act, 15 U.S.C. § 77o, to the same extent Deutsche Bank SL would be liable, as alleged in Counts III and VI above, for the remedies sought in each of those counts.

COUNT VIII

**MINNESOTA SECURITIES ACT
MINN. STAT. § 80A.01
(AGAINST ALL DEFENDANTS)**

223. Plaintiff restates every allegation of paragraphs 1 through 222 as if fully set forth herein.

224. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, made false and misleading statements of material fact, omissions of material fact, and engaged in manipulative and deceptive devices in order to artificially inflate the market prices of GENI stock, ICII bonds, and RVEE stock.

225. In addition, as set forth in paragraphs 42 through 148 herein, Defendants, and each of them, made false and misleading statements of material fact and omissions of material fact in order to induce MJK to engage in stock-loan transactions involving GENI stock, ICII bonds, and RVEE stock.

226. As set forth in paragraphs 42 through 148 herein, Defendants made such false and misleading statements or omissions, engaged in manipulative devices, and engaged in market manipulation, either knowing that their statements were false and actions deceptive, or acting with deliberate, reckless disregard as to whether their statements were true or their actions deceptive.

227. MJK relied on Defendants' false and misleading statements or omissions and on the integrity of the markets which Defendants were manipulating in deciding to engage in the securities-loan transactions involving GENI stock, ICII bonds, and RVEE stock.

228. Defendants have committed securities fraud in violation of Minn. Stat. § 80A.01.

229. Pursuant to Minn. Stat. § 80A.23, Subd. 2, Plaintiff is entitled to recover actual damages suffered by MJK as a result of Defendants' fraud in an amount to be proven at trial, plus interest from the date of sale, and reasonable attorneys' fees.

COUNT IX

**MINNESOTA SECURITIES ACT
MINN. STAT. § 80A.03
(AGAINST ALL DEFENDANTS)**

230. Plaintiff restates every allegation of paragraphs 1 through 229 as if fully set forth herein.

231. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, effected transactions in GENI stock, ICII bonds, and RVEE stock by means of manipulative, deceptive, or fraudulent devices.

232. As set forth in paragraphs 42 through 148 herein, Defendants have effected such transactions for the purpose, among other things, of creating a false or misleading appearance of active trading in GENI stock, ICII bonds, and RVEE stock, or for the purpose of creating a false or misleading appearance with respect to the markets for those securities.

233. Defendants have committed securities fraud in violation of Minn. Stat. § 80A.03.

234. Pursuant to Minn. Stat. § 80A.23, Subd. 2, Plaintiff is entitled to recover actual damages suffered by MJK as a result of Defendants' fraud in an amount to be proven at trial, plus interest from the date of sale, and reasonable attorneys' fees.

COUNT X

**MINNESOTA SECURITIES ACT
MINN. STAT. § 80A.23, Subd. 3
(AGAINST DEFENDANTS DEUTSCHE BANK SL, DEUTSCHE BANK
SECURITIES, DEUTSCHE BANK, KHASHOGGI, AND D'ANGELO AS
CONTROLLING PERSONS)**

235. Plaintiff restates every allegation of paragraphs 1 through 234 as if fully set forth herein.

236. Defendants Deutsche Bank SL, Deutsche Bank Securities, and Deutsche Bank directly or indirectly controlled Defendants Breedon, RBF, D'Angelo, Evangelista, El-Batrawi, Khashoggi, Keiller, and Ultimate.

237. Defendant Deutsche Bank was a controlling person of Defendants Deutsche Bank Securities and Deutsche Bank SL.

238. Defendant Deutsche Bank Securities was a controlling person of Defendant Deutsche Bank SL.

239. Defendant Khashoggi was a controlling person of Defendant Ultimate.

240. Defendant D'Angelo was a controlling person of Defendant RBF.

241. As set forth in paragraphs 42 through 148, all defendants have committed securities fraud in violation of Minn. Stat. § 80A.01 and §80A.03.

242. Pursuant to Minn. Stat. § 80A.23, Subd. 3, in their capacities as controlling persons of the foregoing Defendants and as a result of their culpable participation in the fraudulent scheme described herein, Defendants Deutsche Bank SL, Deutsche Bank Securities, Deutsche Bank, Khashoggi and D'Angelo are liable for the wrongful acts of those Defendants which they control.

243. Pursuant to Minn. Stat. § 80A.23, Subd. 2, Plaintiff is entitled to recover actual damages suffered by MJK as a result of Defendants' fraud in an amount to be proven at trial, plus interest from the date of sale, and reasonable attorneys' fees.

COUNT XI

**RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT
18 U.S.C. § 1961, ET SEQ. (PLED IN THE ALTERNATIVE TO THE
FOREGOING COUNTS OF SECURITIES FRAUD)
(AGAINST DEFENDANTS DEUTSCHE BANK,
DEUTSCHE BANK SECURITIES, DEUTSCHE BANK SL,
BREEDON, RBF, D'ANGELO, EVANGELISTA, GENI,
EL-BATRAWI, ULTIMATE, AND KHASHOGGI)**

244. Plaintiff restates every allegation of paragraphs 1 through 243 as if fully set forth herein.

245. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D'Angelo, Evangelista, El-Batrawi, Ultimate, and Khashoggi are "persons" as defined in 18 U.S.C. § 1961(3). Defendant GENI is an "enterprise" as defined in 18 U.S.C. § 1961(4). Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D'Angelo, Evangelista, El-Batrawi, Ultimate, and Khashoggi received income derived, directly or indirectly, from the fraudulent scheme involving GENI stock described in detail hereinabove, which scheme constituted a "pattern of racketeering activity," as defined in 18 U.S.C. § 1961(5), comprised of multiple acts of wire fraud as proscribed by 18 U.S.C. § 1343 beginning in or about June 1999 and continuing at least until September 2001 (and could have continued indefinitely were it not for the dramatic decline in stock prices

following the September 11, 2001, terrorist attacks). These Defendants, having devised a scheme or artifice to defraud or for obtaining money by false or fraudulent pretenses, representations or promises, used literally hundreds of interstate and international telephone calls with one another and with various promoters and brokers, as well as wire communications with DTC and others, to orchestrate and carry out the fraudulent stock-loan scheme involving GENI stock described in detail hereinabove. These Defendants then used or invested the income they derived, directly or indirectly, from the above-described pattern of racketeering activity in the form of interest, commissions or payments of cash “collateral” and other monies to acquire an interest in or operate GENI, all in violation of 18 U.S.C. § 1962(a).

246. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D’Angelo, and Evangelista are “persons” as defined in 18 U.S.C. § 1961(3). ICII is an “enterprise” as defined in 18 U.S.C. § 1961(4). Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D’Angelo, and Evangelista received income derived, directly or indirectly, from the fraudulent scheme involving ICII bonds described in detail hereinabove, which scheme constituted a “pattern of racketeering activity,” as defined in 18 U.S.C. § 1961(5), comprised of multiple acts of wire fraud as proscribed by 18 U.S.C. § 1343 beginning in or about December 2000 and continuing at least until September 2001 (and could have continued indefinitely were it not for the dramatic decline in securities prices following the September 11, 2001, terrorist attacks). These Defendants, having devised a scheme or artifice to defraud or for obtaining money by false or fraudulent pretenses, representations or promises, used literally hundreds of

interstate and international telephone calls with one another and with various promoters and brokers, as well as wire communications with DTC and others, to orchestrate and carry out the fraudulent securities-loan scheme involving ICII bonds described in detail hereinabove. These Defendants then used or invested the income they derived, directly or indirectly, from the above-described pattern of racketeering activity in the form of interest, commissions or payments of cash “collateral” and other monies to acquire an interest in or operate ICII, all in violation of 18 U.S.C. § 1962(a).

247. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D’Angelo, and Evangelista are “persons” as defined in 18 U.S.C. § 1961(3). RVEE is an “enterprise” as defined in 18 U.S.C. § 1961(4). Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D’Angelo, and Evangelista received income derived, directly or indirectly, from the fraudulent scheme involving RVEE stock, described in detail hereinabove, which scheme constituted a “pattern of racketeering activity,” as defined in 18 U.S.C. § 1961(5), comprised of multiple acts of wire fraud as proscribed by 18 U.S.C. § 1343 beginning in or about June 1999 and continuing at least until September 2001 (and could have continued indefinitely were it not for the dramatic decline in stock prices following the September 11, 2001, terrorist attacks). These Defendants, having devised a scheme or artifice to defraud or for obtaining money by false or fraudulent pretenses, representations or promises, used literally hundreds of interstate and international telephone calls with one another and with various promoters and brokers, as well as wire communications by with DTC and others, to orchestrate and

carry out the fraudulent stock-loan scheme involving RVEE stock described in detail hereinabove. These Defendants then used or invested the income they derived, directly or indirectly, from the above-described pattern of racketeering activity in the form of interest, commissions or payments of cash “collateral” and other monies to acquire an interest in or operate RVEE, all in violation of 18 U.S.C. § 1962(a).

248. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, D’Angelo, Evangelista, GENI, El-Batrawi, Ultimate, and Khashoggi are “persons” as defined in 18 U.S.C. § 1961(3). Defendant RBF is an “enterprise” as defined in 18 U.S.C. § 1961(4). During the relevant time period referenced in this Complaint, Defendant D’Angelo was employed by RBF and the other Defendants were associated with RBF by doing business with RBF and utilizing RBF to conduct their fraudulent scheme involving GENI stock, ICII bonds, and RVEE stock described in detail hereinabove. During the relevant time period referenced in this Complaint, RBF was engaged in, or its activities affected, interstate and/or foreign commerce. During the relevant time period referenced in this Complaint, Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, D’Angelo, Evangelista, GENI, El-Batrawi, Ultimate, and Khashoggi conducted or participated, directly or indirectly, in the conduct of RBF’s affairs through a “pattern of racketeering activity,” as defined in 18 U.S.C. § 1961(5), comprised of multiple acts of wire fraud as proscribed by 18 U.S.C. § 1343 beginning in or about June 1999 and continuing at least until September 2001 (and could have continued indefinitely were it not for the dramatic decline in securities prices following the September 11, 2001, terrorist attacks). These Defendants, having devised a scheme or artifice to defraud or

for obtaining money by false or fraudulent pretenses, representations or promises, used literally hundreds of interstate and international telephone calls with one another and with various promoters and brokers, as well as wire communications with DTC and others, to orchestrate and carry out through RBF the fraudulent securities-loan scheme involving GENI stock, ICII bonds and RVEE stock described in detail hereinabove. This conduct was in violation of 18 U.S.C. § 1962(c).

249. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D'Angelo, Evangelista, GENI, El-Batrawi, Ultimate, and Khashoggi are "persons" as defined in 18 U.S.C. § 1961(3), and during the relevant time period referenced in this Complaint, they conspired to violate the provisions of subsections (a) and (c) of 18 U.S.C. § 1962, all in violation of 18 U.S.C. § 1962(d). The conspiracy of these Defendants and the resulting violations of 18 U.S.C. § 1962(a) and 18 U.S.C. § 1962(c) are described in detail hereinabove. Each of these Defendants agreed to participate in the above-described fraudulent schemes involving GENI stock, ICII bonds and RVEE stock, and they each committed overt acts in furtherance of those schemes.

250. MJK has been injured in its business or property by reason of the violations of 18 U.S.C. § 1962 set forth in paragraphs 244 through 249 above. Indeed, MJK has been injured so severely that it has been rendered insolvent and caused to cease entirely its business operations, with consequent great detriment to its customers, investors, owners, employees and the SIPC. Accordingly, Plaintiff is entitled to recover threefold the damages MJK has sustained (which damages without trebling significantly exceed \$250 million as described in detail hereinabove), as well

as the costs of this suit, including reasonable attorneys' fees, all pursuant to 18 U.S.C. § 1964(c).

COUNT XII

**RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT
18 U.S.C. § 1961, ET SEQ.
(AGAINST DEFENDANTS DEUTSCHE BANK,
DEUTSCHE BANK SECURITIES, DEUTSCHE BANK SL,
BREEDON, RBF, D'ANGELO AND EVANGELISTA)**

251. Plaintiff restates every allegation of paragraphs 1 through 250 as if fully set forth herein.

252. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D'Angelo, and Evangelista are "persons" as defined 18 U.S.C. § 1961(3). Native Nations is an "enterprise" as defined in 18 U.S.C. § 1961(4). During the relevant time period referenced in this Complaint, Defendant Evangelista was employed by Native Nations and the other Defendants were associated with Native Nations by doing business with Native Nations and utilizing Native Nations to conduct their fraudulent scheme involving GENI stock, ICII bonds, and RVEE stock described in detail hereinabove. During the relevant time period referenced in this Complaint, Native Nations was engaged in, or its activities affected, interstate and/or foreign commerce. During the relevant time period referenced in this Complaint, Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D'Angelo, and Evangelista conducted or participated, indirectly or indirectly, in the conduct of Native Nations' affairs through a "pattern of racketeering activity," as defined in 18 U.S.C. § 1961(5), comprised of multiple acts of wire fraud as proscribed by 18 U.S.C. § 1343 beginning in or about the fall of 1999 and continuing at least

until September 2001 (and could have continued indefinitely were it not for the dramatic decline in securities prices following the September 11, 2001, terrorist attacks). These Defendants, having devised a scheme or artifice to defraud or for obtaining money by false or fraudulent pretenses, representations or promises, used numerous interstate and international telephone calls with one another (and particularly between Defendants Breedon and D'Angelo), as well as wire communications with DTC and others: (i) to send money to Native Nations at or near the end of months and then shortly thereafter return the money to its source so as to falsify the books and records of Deutsche Bank SL, Native Nations and others; (ii) to make the financial position of Native Nations and its month-end net capital calculation and FOCUS Report appear much more positive than they were in reality; and (iii) to keep Native Nations in business and avoid regulatory action against it, and thus enable Native Nations to continue its role in the fraudulent scheme involving GENI stock, ICII bonds, and RVEE stock described in detail hereinabove. The following chart details various such transfers of money from Defendant Deutsche Bank SL to Native Nations over a period of almost two years:

Initial Transfer from Deutsche Bank SL to Native Nations			Transfer from Native Nations to Deutsche Bank SL			# of days	Net Transfer
Date	Security	Cash Transferred	Date	Security	Cash Transferred		
10/29/99	GENI	\$875,000	11/01/99	GENI	\$(875,000)	3	\$ -
11/01/99	GENI	\$1,000,000	11/02/99	GENI	\$(1,000,000)	1	\$ -
12/01/99	GENI	\$1,000,000	12/02/99	GENI	\$(1,000,000)	1	\$ -
12/31/99	GENI	\$2,000,000	01/04/00	GENI	\$(2,000,000)	4	\$ -
01/26/00	GENI	\$2,000,000	02/01/00	GENI	\$(2,000,000)	6	\$ -
01/31/00	GENI	\$1,000,000	02/01/00	GENI	\$(1,000,000)	1	\$ -
01/31/00	RVEE	\$2,000,000	02/01/00	RVEE	\$(2,000,000)	1	\$ -
02/01/00	RVEE	\$1,000,000	02/01/00	RVEE	\$(1,000,000)	0	\$ -
02/29/00	GENI	\$8,500,000	03/01/00	GENI	\$(4,500,000)	1	\$4,000,000
03/01/00	RVEE	\$1,250,000	03/02/00	RVEE	\$(1,250,000)	1	\$ -
03/01/00	RVEE	\$1,250,000	03/02/00	RVEE	\$(1,250,000)	1	\$ -

Initial Transfer from Deutsche Bank SL to Native Nations			Transfer from Native Nations to Deutsche Bank SL			# of days	Net Transfer
Date	Security	Cash Transferred	Date	Security	Cash Transferred		
05/01/00	GENI	\$625,000	05/02/00	GENI	\$(625,000)	1	\$ -
06/01/00	RVEE	\$500,000	06/02/00	RVEE	\$(500,000)	1	\$ -
06/01/00	RVEE	\$1,000,000	06/02/00	RVEE	\$(1,000,000)	1	\$ -
06/01/00	GENI	\$400,000	06/02/00	GENI	\$(400,000)	1	\$ -
06/30/00	GENI	\$800,000	07/05/00	GENI	\$(800,000)	5	\$ -
06/30/00	GENI	\$450,000	07/05/00	GENI	\$(450,000)	5	\$ -
06/30/00	GENI	\$500,000	07/05/00	GENI	\$(500,000)	5	\$ -
09/08/00	GENI	\$200,000	09/11/00	GENI	\$(200,000)	3	\$ -
11/10/00	GENI	\$3,550,000	11/14/00	GENI	\$(2,650,000)	4	\$900,000
02/01/01	GENI	\$2,000,000	02/02/01	GENI	\$(2,000,000)	1	\$ -
02/13/01	GENI	\$150,000	02/14/01	GENI	\$(150,000)	1	\$ -
02/21/01	GENI	\$200,000	02/22/01	GENI	\$(200,000)	1	\$ -
02/28/01	GENI	\$2,800,000	3/2/2001	GENI	\$(700,000)	2	\$2,100,000
04/02/01	GENI	\$1,600,000	4/4/2001	GENI	\$(960,000)	2	\$640,000
04/30/01	GENI	\$4,950,000	5/1/2001	GENI	\$(4,950,000)	1	\$ -
05/31/01	GENI	\$2,800,000	06/01/01	GENI	\$(2,800,000)	1	\$ -
05/31/01	GENI	\$3,600,000	06/01/01	GENI	\$(3,600,000)	1	\$ -
06/18/01	GENI	\$386,000	06/20/01	GENI	\$(386,000)	2	\$ -
The 4/30/01 transfer from Deutsche Bank SL to Native Nations of \$4,950,000 represents two separate transfers, one for \$3,600,000 and one for \$1,350,000.							

This conduct was in violation of 18 U.S.C. § 1962(c).

253. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D’Angelo, and Evangelista are “persons” as defined in 18 U.S.C. § 1961(3), and during the relevant time period referenced in this Complaint, they conspired to violate the provisions of subsection (c) of 18 U.S.C. § 1962, all in violation of 18 U.S.C. § 1962(d). The conspiracy of these Defendants and the resulting violation of 18 U.S.C. § 1962(c) are described in detail hereinabove. Each of these Defendants agreed to participate in the above-described fraudulent scheme to falsify and misrepresent the financial position and the viability of Native Nations, and they each committed overt acts in furtherance of that scheme.

254. MJK has been injured in its business or property by reason of the violations of 18 U.S.C. § 1962 set forth in paragraphs 251 through 253 above. If Native Nations had not been “propped up” financially and fraudulently kept in business by these Defendants, it would have failed or been forced out of the illicit scheme involving GENI stock, ICII bonds, and RVEE stock before it engaged in the fraudulent transactions with MJK detailed hereinabove that caused MJK horrendous losses and injured MJK so severely that it has been rendered bankrupt and caused to cease entirely its business operations. Accordingly, Plaintiff is entitled to recover threefold the damages MJK has sustained (which damages without trebling significantly exceed \$250 million as described in detail hereinabove), as well as the costs of this suit, including reasonable attorneys’ fees, all pursuant to 18 U.S.C. § 1964(c).

COUNT XIII

**RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT
18 U.S.C. § 1961, ET SEQ.
(AGAINST DEFENDANTS DEUTSCHE BANK,
DEUTSCHE BANK SECURITIES, DEUTSCHE BANK SL,
BREEDON, RBF, D’ANGELO, EVANGELISTA,
EL-BATRAWI, ULTIMATE, AND KHASHOGGI)**

255. Plaintiff restates every allegation of paragraphs 1 through 254 as if fully set forth herein.

256. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D’Angelo, Evangelista, El-Batrawi, Ultimate, and Khashoggi are “persons” as defined in 18 U.S.C. § 1961(3). Defendant GENI is an “enterprise” as

defined in 18 U.S.C. § 1961(4). Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D’Angelo, Evangelista, El-Batrawi, Ultimate, and Khashoggi engaged in multiple acts of the laundering of monetary instruments in violation of 18 U.S.C. § 1956 and engaged in multiple monetary transactions in property derived from specified unlawful activity in violation of 18 U.S.C. § 1957, all of which constituted a “pattern of racketeering activity,” as defined in 18 U.S.C. § 1961(5). Indeed, before MJK was lured into the above-described securities-loan transactions with Native Nations and others, these Defendants transferred and utilized funds received and derived from their fraudulent scheme involving GENI stock described in detail hereinabove to purchase additional shares of GENI stock. Some examples of such transfer and utilization of funds resulting from that criminal activity are set forth in the following chart:

BROKERAGE STATEMENT DETAILS					CASH RECEIVED FOR SHARES		SHARES PURCHASED WITH CASH	
STATEMENT PERIOD	ACCOUNT NAME	BROKERAGE FIRM	ACCOUNT NUMBER	OPENING CASH BALANCE	SHARES TO NATIVE NATIONS	AMOUNT RECEIVED	GENI SHARES PURCHASED	COST OF SHARES
May-00	ULTIMATE HOLDINGS	DOERGE CAPITAL MANAGEMENT	086-17067 007	\$ -	(270,000)	\$4,320,000	97,300	\$(1,531,844)
July-00	ULTIMATE HOLDINGS	DOERGE CAPITAL MANAGEMENT	086-17067 007	\$ -	(275,000)	\$4,400,000	3,500	\$(54,347)
August-00	ULTIMATE HOLDINGS	FIRST UNION SECURITIES	8474-6571	\$ -	(750,000)	\$12,000,000	7,200	\$(105,952)
September-00	ULTIMATE HOLDINGS	FIRST UNION SECURITIES	8474-6571	\$65,833	(410,000)	\$6,500,000	-	\$ -
October-00	ULTIMATE HOLDINGS	FIRST UNION SECURITIES	8474-6571	\$2,430,238	(60,000)	\$900,000	110,000	\$(1,660,182)
November-00	ULTIMATE HOLDINGS	FIRST UNION SECURITIES	8474-6571	\$249,749	(110,000)	\$1,870,000	110,000	\$(1,988,946)
December-00	ULTIMATE HOLDINGS	FIRST UNION SECURITIES	8474-6571	\$1,843,747	(140,000)	\$2,520,000	55,000	\$(938,951)
December-00	RAMY EL-BATRAWI	FIRST UNION SECURITIES	2987-5048	\$ -	(110,000)	\$1,980,000	-	\$ -
TOTALS					(2,125,000)	\$34,490,000	383,000	\$(6,280,222)

Indeed, records reveal that more than \$47 million was transferred out of the stock-loan chains and used by Defendants to purchase shares of GENI stock. Accordingly, these Defendants acquired or maintained through a pattern of racketeering activity an interest in or control of GENI, which is engaged in, or the activities of which affect, interstate or foreign commerce, all in violation of 18 U.S.C. § 1962(b).

257. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D'Angelo, Evangelista, El-Batrawi, Ultimate, and Khashoggi are "persons" as defined in 18 U.S.C. § 1961(3). Defendant GENI is an "enterprise" as defined in 18 U.S.C. § 1961(4). During the relevant time period referenced in this Complaint, Defendant El-Batrawi was employed by GENI and the other Defendants were associated with GENI by doing business with GENI and utilizing GENI to conduct their fraudulent activities described in detail hereinabove. During the relevant time period referenced in this Complaint, GENI was engaged in, or its activities affected, interstate and/or foreign commerce. During the relevant time period referenced in this Complaint, Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D'Angelo, Evangelista, El-Batrawi, Ultimate, and Khashoggi conducted or participated, directly or indirectly, in the conduct of GENI's affairs through a "pattern of racketeering activity," as defined in 18 U.S.C. § 1961(5), comprised of multiple acts of promotion money laundering as proscribed by 18 U.S.C. § 1956 and multiple monetary transactions in property derived from specified unlawful activity as proscribed by 18 U.S.C. § 1957, as described above, beginning in or about June 1999 and continuing at least until September 2001 (and could have continued indefinitely were it not for the dramatic

decline in securities prices following the September 11, 2001, terrorist attacks). These Defendants, having derived funds from their fraudulent scheme involving GENI stock, transferred and utilized those funds to acquire additional GENI stock and harm MJK as set forth in detail hereinabove. This conduct was in violation of 18 U.S.C. § 1962(c).

258. Defendants Deutsche Bank, Deutsche Bank Securities, Deutsche Bank SL, Breedon, RBF, D'Angelo, Evangelista, El-Batrawi, Ultimate, and Khashoggi are "persons" as defined in 18 U.S.C. § 1961(3), and during the relevant time period referenced in this Complaint, they conspired to violate the provisions of subsections (b) and (c) of 18 U.S.C. § 1962, all in violation of 18 U.S.C. § 1962(d). The conspiracy of these Defendants and the resulting violations of 18 U.S.C. § 1962(b) and 18 U.S.C. § 1962(c) are described in detail hereinabove. Each of these Defendants agreed to participate in the above-described money-laundering and prohibited monetary-transaction scheme involving GENI stock, and they each committed overt acts in furtherance of that scheme.

259. MJK has been injured in its business or property by reason of the violations of 18 U.S.C. § 1962 set forth in paragraphs 255 through 258 above. The acquisition and maintenance of an interest in or control of GENI through a pattern of racketeering activity by these Defendants caused the GENI stock-loan transactions in which MJK engaged to be extraordinarily harmful to MJK. Indeed, MJK has been injured so severely that it has been rendered bankrupt and caused to cease entirely its business operations, with consequent great detriment to its customers, investors, owner, employees, and the SIPC. Accordingly, Plaintiff is entitled to recover

threefold the damages MJK has sustained (which damages without trebling significantly exceed \$250 million as described in detail hereinabove), as well as the costs of this suit, including reasonable attorneys' fees, all pursuant to 18 U.S.C. § 1964(c).

COUNT XIV

COMMON LAW FRAUD (AGAINST ALL DEFENDANTS)

260. Plaintiff restates every allegation of paragraphs 1 through 259 as if fully set forth herein.

261. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, made false and misleading statements of material fact and omissions of material fact and engaged in deceptive devices and market manipulation in order to artificially inflate the market prices of GENI stock, ICII bonds, and RVEE stock.

262. In addition, as set forth in paragraphs 42 through 148 herein, Defendants, and each of them, made false and misleading statements of material fact and omissions of material fact in order to induce MJK to engage in securities-loan transactions involving GENI stock, ICII bonds, and RVEE stock.

263. As set forth in paragraphs 42 through 148 herein, Defendants made such false and misleading statements and omissions of material fact, either knowing that their statements were false, or acting with deliberate, reckless disregard as to whether their statements were true or not.

264. MJK relied on Defendants' false and misleading statements and material omissions in deciding to engage in the securities-loan transactions involving GENI stock, ICII bonds, and RVEE stock.

265. The wrongful actions of Defendants set forth herein constitute common law fraud.

266. Plaintiff is entitled to recover the actual damages suffered by MJK as a result of Defendants' fraud in an amount to be proven at trial.

COUNT XV

CONSUMER PROTECTION ACT MINN. STAT. §§ 325F.69, 8.31, SUBD. 3a (AGAINST ALL DEFENDANTS)

267. Plaintiff restates every allegation of paragraphs 1 through 266 as if fully set forth herein.

268. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, made false and misleading statements of material fact and engaged in deceptive devices and market manipulation in order to induce MJK to engage in stock-loan transactions involving GENI stock, ICII bonds, and RVEE stock.

269. As set forth in paragraphs 42 through 148, Defendants' conduct consisted of fraud, false pretense, false promise, misrepresentation, misleading statement, or deceptive practice, and Defendants intended that others, including MJK, rely thereon in connection with the sale of merchandise.

270. GENI stock, ICII bonds, and RVEE stock constitute "merchandise" pursuant to Minn. Stat. § 325F.68, subd. 2.

271. The stock-loan transactions actions at issue constitute “sales” pursuant to Minn. Stat. § 325F.68, subd. 4.

272. MJK was injured as a result of Defendants’ acts and conduct.

273. Pursuant to Minn. Stat. § 8.31, Subd. 3a, Plaintiff is entitled to recover damages suffered by MJK as a result of Defendants’ fraud in an amount to be proven at trial, together with costs and disbursements, including costs of investigation and reasonable attorneys’ fees.

COUNT XVI

CONSPIRACY TO DEFRAUD (AGAINST ALL DEFENDANTS)

274. Plaintiff restates every allegation of paragraphs 1 through 273 as if fully set forth herein.

275. As set forth in paragraphs 42 through 148 herein, Defendants, and each of them, conspired together with respect to all claims herein.

276. As a result of Defendants’ conspiracy, MJK was harmed.

277. Plaintiff is entitled to recover the damages suffered by MJK as a result of Defendants’ conspiracy.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For a judgment and decree as follows:
 - (a) awarding Plaintiff its damages against Defendants, jointly and severally, in an amount to be proven at trial; and
 - (b) awarding Plaintiff treble damages pursuant to 18 U.S.C. § 1964(c); and
 - (c) awarding Plaintiff interest and reasonable attorneys' fees; and
 - (d) awarding Plaintiff all of its other litigation expenses incurred in this action, including its costs and disbursements.
2. For such other and further legal and equitable relief as the Court may deem just and reasonable in the circumstances.

Dated: November 21, 2002

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