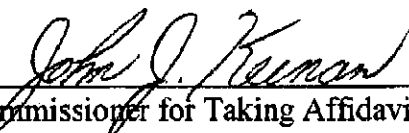


This is Exhibit "C" to the

Affidavit of James Torchia

Sworn to this 4th day of June, 2009


A Commissioner for Taking Affidavits, etc.

John J. Keenan

Plaintiff's Amended Complaint fails as a result of Plaintiff's fraud.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's Amended Complaint fails under the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims of fraud must be dismissed because Plaintiff fails to plead fraud with particularity.

Subject to and without waiving the foregoing defenses, Defendants NVI and Torchia respond to each allegation of the statement of claim as follows:

1.

Defendants NVI and Torchia have insufficient information to either admit or deny the allegations of paragraph 1 of Plaintiff's Amended Complaint.

2.

Defendants NVI and Torchia admit the allegations of paragraph 2 of Plaintiff's Amended Complaint.

3.

Defendants NVI and Torchia admit the allegations of paragraph 3 of Plaintiff's Amended Complaint.

4.

Defendants NVI and Torchia admit that Celello is a citizen and resident of Georgia and that he is a lawyer licensed to practice law in that state. Defendants NVI and Torchia deny the remaining allegations of paragraph 4 of Plaintiff's Amended Complaint as stated.

5.

Defendants NVI and Torchia admit that Duscio was the president of USI, but has insufficient knowledge to either admit or deny Duscio's current official status with USI.

Defendants NVI and Torchia have insufficient information to either admit or deny the remainder of the allegations of paragraph 5 of Plaintiff's Amended Complaint.

6.

Defendants NVI and Torchia admit that this Court has subject matter jurisdiction over this Complaint pursuant to 28 U.S.C. § 1332(a)(1).

7.

Defendants NVI and Torchia deny the allegations of paragraph 7 of Plaintiff's Amended Complaint.

8.

Defendants NVI and Torchia deny the allegations of paragraph 8 of Plaintiff's Amended Complaint.

9.

Defendants NVI and Torchia admit the allegations of paragraph 9 of Plaintiff's Amended Complaint.

10.

Defendants NVI and Torchia admits the entry of orders dated April 15, 2003, and July 21, 2003, and deny the remainder of the allegations of paragraph 10 of Plaintiff's Amended Complaint as stated.

11.

Defendants NVI and Torchia admit the allegations of paragraph 11 of Plaintiff's Amended Complaint.

12.

Defendants NVI and Torchia admit the allegations of paragraph 12 of Plaintiff's Amended Complaint.

13.

Defendants NVI and Torchia have insufficient information to admit or deny the allegations concerning the reasons for the Receiver's decision to sell TPI's policies. Defendants NVI and Torchia admit that NVI participated in some form in the effort of the Receiver to sell the TPI policies. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 13 of Plaintiff's Amended Complaint.

14.

Defendants NVI and Torchia admit that NVI participated in some form in the effort of the Receiver to sell TPI's policies, and that Duscio acted as agent for USI in such negotiations. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 14 of Plaintiff's Amended Complaint.

15.

Defendants NVI and Torchia deny the allegations of paragraph 15 of Plaintiff's Amended Complaint.

16.

Defendants NVI and Torchia deny the allegations of paragraph 16 of Plaintiff's Amended Complaint.

17.

Defendants NVI and Torchia admit the existence of the Escrow Agreement. As the terms of the agreement speak for themselves, Defendants NVI and Torchia deny the remainder of the allegations of paragraph 17 of Plaintiff's Amended Complaint.

18.

Defendants NVI and Torchia admit the allegations of paragraph 18 of Plaintiff's Amended Complaint.

19.

Defendants NVI and Torchia admit the existence of the Sale Agreement. As the terms of the agreement speak for themselves, Defendants NVI and Torchia deny the remainder of the allegations of paragraph 19 of Plaintiff's Amended Complaint.

20.

As the terms of the Sale Agreement speak for themselves, Defendants NVI and Torchia deny the allegations of paragraph 20 of Plaintiff's Amended Complaint.

21.

Defendants NVI and Torchia admit the allegations of paragraph 21 of Plaintiff's Amended Complaint.

22.

Defendants NVI and Torchia admit that the Receiver's Sale Motion was filed with this Court on January 19, 2005. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 22 of Plaintiff's Amended Complaint.

23.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 23 of Plaintiff's Amended Complaint.

24.

Defendants NVI and Torchia admit that on February 17, 2005, USI wired \$33,500,000 to Celello's Client Trust Account. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 24 of Plaintiff's Amended Complaint.

25.

Defendants NVI and Torchia admit that this Court commenced an evidentiary hearing on the Receiver's Sale Motion on February 24, 2005, which continued on the dates provided in the Complaint. As the nature of the testimony speaks for itself, Defendants NVI and Torchia deny the remainder of the allegations of paragraph 25 of Plaintiff's Amended Complaint.

26.

As the nature of the testimony given at the hearing speaks for itself, Defendants NVI and Torchia deny the allegations of paragraph 26 of Plaintiff's Amended Complaint.

27.

As the nature of the testimony given at the hearing speaks for itself, Defendants NVI and Torchia deny the allegations of paragraph 27 of Plaintiff's Amended Complaint.

28.

As the nature of the testimony given at the hearing speaks for itself, Defendants NVI and Torchia deny the allegations of paragraph 28 of Plaintiff's Amended Complaint.

29.

Defendants NVI and Torchia admit that Judge Carmody issued a Report and Recommendation dated May 25, 2005, the terms of which speak for themselves.

30.

Defendants NVI and Torchia admit that on June 13, 2005, USI wired \$4.5 million to Celello's trust account. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 30 of Plaintiff's Amended Complaint as stated.

31.

Defendants NVI and Torchia admit the allegations of paragraph 31 of Plaintiff's Amended Complaint.

32.

Defendants NVI and Torchia admit generally that some of the TPI policies were transferred to USI and Celello transferred certain USI funds to the Receiver as required by the Sale Agreement and Escrow Agreement. However, Defendants NVI and Torchia deny the specific allegations of paragraph 32 of Plaintiff's Amended Complaint as stated.

33.

Defendants NVI and Torchia admit that USI wired \$2 million to Celello's Trust Account on December 13, 2005. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 33 of Plaintiff's Amended Complaint.

34.

Defendants NVI and Torchia deny the allegations of paragraph 34 of Plaintiff's Amended Complaint.

35.

Defendants NVI and Torchia deny the allegations of paragraph 35 of Plaintiff's Amended Complaint.

36.

Defendants NVI and Torchia admit that between January 13, 2005, and December 13, 2005, USI wired \$45,015,000 to Celello's Trust Account on the dates and amounts provided in paragraph 36 of the Complaint. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 36 of Plaintiff's Amended Complaint as stated.

37.

Defendants NVI and Torchia admit that USI deposited an additional amount of \$2,518,451.52, and that this amount, plus accrued interest and the \$45,015,000 deposited as provided in paragraph 36, totals \$48,506,767.15. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 37 of Plaintiff's Amended Complaint.

38.

Defendants NVI and Torchia admit the allegations of paragraph 38 of Plaintiff's Amended Complaint.

39.

Defendants NVI and Torchia admit that in June, 2007, Celello transferred \$921,159.46 to an escrow agent selected by the Receiver and USI. Defendants NVI and Torchia deny the remainder of the allegations of paragraph 39 of Plaintiff's Amended Complaint.

40.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 40 of Plaintiff's Amended Complaint.

41.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 41 of Plaintiff's Amended Complaint.

42.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 42 of Plaintiff's Amended Complaint.

43.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 43 of Plaintiff's Amended Complaint.

44.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 44 of Plaintiff's Amended Complaint.

45.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 45 of Plaintiff's Amended Complaint.

46.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 46 of Plaintiff's Amended Complaint.

47.

Defendants NVI and Torchia have insufficient knowledge to either admit or deny the allegations of paragraph 47 of Plaintiff's Amended Complaint.

48.

As the terms of the USI/NVI Agreement speak for themselves, Defendants NVI and Torchia deny the allegations of paragraph 48 of Plaintiff's Amended Complaint.

49.

Defendants NVI and Torchia deny the allegations of paragraph 49 of Plaintiff's Amended Complaint.

50.

Defendants NVI and Torchia deny the allegations of paragraph 50 of Plaintiff's Amended Complaint.

51.

Defendants NVI and Torchia deny the allegations of paragraph 51 of Plaintiff's Amended Complaint.

52.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

53.

Defendants NVI and Torchia deny the allegations of paragraph 53 of Plaintiff's Amended Complaint.

54.

Defendants NVI and Torchia deny the allegations of paragraph 54 of Plaintiff's Amended Complaint.

55.

Defendants NVI and Torchia deny the allegations of paragraph 55 of Plaintiff's Amended Complaint.

56.

Defendants NVI and Torchia deny the allegations of paragraph 56 of Plaintiff's Amended Complaint.

57.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

58.

Defendants NVI and Torchia deny the allegations of paragraph 58 of Plaintiff's Amended Complaint.

59.

Defendants NVI and Torchia deny the allegations of paragraph 59 of Plaintiff's Amended Complaint.

60.

Defendants NVI and Torchia deny the allegations of paragraph 60 of Plaintiff's Amended Complaint.

61.

Defendants NVI and Torchia deny the allegations of paragraph 61 of Plaintiff's Amended Complaint.

62.

Defendants NVI and Torchia deny the allegations of paragraph 62 of Plaintiff's Amended Complaint.

63.

Defendants NVI and Torchia deny the allegations of paragraph 63 of Plaintiff's Amended Complaint.

64.

Defendants NVI and Torchia deny the allegations of paragraph 64 of Plaintiff's Amended Complaint.

65.

Defendants NVI and Torchia deny the allegations of paragraph 65 of Plaintiff's Amended Complaint.

66.

Defendants NVI and Torchia deny the allegations of paragraph 66 of Plaintiff's Amended Complaint.

67.

Defendants NVI and Torchia deny the allegations of paragraph 67 of Plaintiff's Amended Complaint.

68.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

69.

Defendants NVI and Torchia deny the allegations of paragraph 69 of Plaintiff's Amended Complaint.

70.

Defendants NVI and Torchia deny the allegations of paragraph 70 of Plaintiff's Amended Complaint.

71.

Defendants NVI and Torchia deny the allegations of paragraph 71 of Plaintiff's Amended Complaint.

72.

Defendants NVI and Torchia deny the allegations of paragraph 72 of Plaintiff's Amended Complaint.

73.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

74.

Defendants NVI and Torchia deny the allegations of paragraph 74 of Plaintiff's Amended Complaint.

75.

Defendants NVI and Torchia deny the allegations of paragraph 75 of Plaintiff's Amended Complaint.

76.

Defendants NVI and Torchia deny the allegations of paragraph 76 of Plaintiff's Amended Complaint.

77.

Defendants NVI and Torchia deny the allegations of paragraph 77 of Plaintiff's Amended Complaint.

78.

Defendants NVI and Torchia deny the allegations of paragraph 78 of Plaintiff's Amended Complaint.

79.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of this Complaint as if fully incorporated herein.

80.

Defendants NVI and Torchia deny the allegations of paragraph 80 of Plaintiff's Amended Complaint.

81.

Defendants NVI and Torchia deny the allegations of paragraph 81 of Plaintiff's Amended Complaint.

82.

Defendants NVI and Torchia deny the allegations of paragraph 82 of Plaintiff's Amended Complaint.

83.

Defendants NVI and Torchia deny the allegations of paragraph 83 of Plaintiff's Amended Complaint.

84.

Defendants NVI and Torchia deny the allegations of paragraph 84 of Plaintiff's Amended Complaint.

85.

Defendants NVI and Torchia deny the allegations of paragraph 85 of Plaintiff's Amended Complaint.

86.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

87.

Defendants NVI and Torchia deny the allegations of paragraph 87 of Plaintiff's Amended Complaint.

88.

Defendants NVI and Torchia deny the allegations of paragraph 88 of Plaintiff's Amended Complaint.

89.

Defendants NVI and Torchia deny the allegations of paragraph 89 of Plaintiff's Amended Complaint.

90.

Defendants NVI and Torchia deny the allegations of paragraph 90 of Plaintiff's Amended Complaint.

91.

Defendants NVI and Torchia deny the allegations of paragraph 91 of Plaintiff's Amended Complaint.

92.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

93.

Defendants NVI and Torchia deny the allegations of paragraph 93 of Plaintiff's Amended Complaint.

94.

Defendants NVI and Torchia deny the allegations of paragraph 94 of Plaintiff's Amended Complaint.

95.

Defendants NVI and Torchia deny the allegations of paragraph 95 of Plaintiff's Amended Complaint.

96.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

97.

Defendants NVI and Torchia deny the allegations of paragraph 97 of Plaintiff's Amended Complaint.

98.

Defendants NVI and Torchia deny the allegations of paragraph 98 of Plaintiff's Amended Complaint.

99.

Defendants NVI and Torchia deny the allegations of paragraph 99 of Plaintiff's Amended Complaint.

100.

Defendants NVI and Torchia deny the allegations of paragraph 100 of Plaintiff's Amended Complaint.

101.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

102.

Defendants NVI and Torchia deny the allegations of paragraph 102 of Plaintiff's Amended Complaint.

103.

Defendants NVI and Torchia deny the allegations of paragraph 103 of Plaintiff's Amended Complaint.

104.

Defendants NVI and Torchia deny the allegations of paragraph 104 of Plaintiff's Amended Complaint.

105.

Defendants NVI and Torchia deny the allegations of paragraph 105 of Plaintiff's Amended Complaint.

106.

Defendants NVI and Torchia deny the allegations of paragraph 106 of Plaintiff's Amended Complaint.

107.

Defendants NVI and Torchia deny the allegations of paragraph 107 of Plaintiff's Amended Complaint.

108.

Defendants NVI and Torchia deny the allegations of paragraph 108 of Plaintiff's Amended Complaint.

109.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

110.

Defendants NVI and Torchia deny the allegations of paragraph 110 of Plaintiff's Amended Complaint.

111.

Defendants NVI and Torchia deny the allegations of paragraph 111 of Plaintiff's Amended Complaint.

112.

Defendants NVI and Torchia deny the allegations of paragraph 112 of Plaintiff's Amended Complaint.

113.

Defendants NVI and Torchia deny the allegations of paragraph 113 of Plaintiff's Amended Complaint.

114.

Defendants NVI and Torchia adopt and incorporate herein their responses to all prior allegations of the Amended Complaint as if fully incorporated herein.

115.

Defendants NVI and Torchia deny the allegations of paragraph 115 of Plaintiff's Amended Complaint.

116.

Defendants NVI and Torchia deny the allegations of paragraph 116 of Plaintiff's Amended Complaint.

117.

Defendants NVI and Torchia deny the allegations of paragraph 117 of Plaintiff's Amended Complaint.

118.

Defendants NVI and Torchia deny the allegations of paragraph 118 of Plaintiff's Amended Complaint.

119.

Defendants NVI and Torchia deny the allegations of paragraph 119 of Plaintiff's Amended Complaint.

120.

Defendants NVI and Torchia deny the allegations of paragraph 120 of Plaintiff's Amended Complaint.

WHEREFORE, Defendants NVI and Torchia request that Plaintiff's Amended Complaint be dismissed in its entirety, and that all requested relief, including the request for constructive trust added to the Amended Complaint, be denied, with judgment for Defendants NVI and Torchia, and all costs to Plaintiff.

COUNTERCLAIM OF DEFENDANT NVI

COMES NOW defendant National Viatical, Inc. ("NVI") and restates herein in full the counterclaim which it asserted against Plaintiff in its Answer and Counterclaim, as follows:

BACKGROUND FACTS

1.

NVI is a Georgia corporation engaged in the viatical settlement business.

2.

In or about April 2003, NVI was contacted by the receiver of Trade Partners, Inc., ("TPI") a failing viatical business based in Michigan. The receiver asked for assistance in managing TPI's approximately 850 life insurance policies.

3.

NVI agreed to manage the TPI policies for the receiver, and performed these services for and on behalf of the receiver.

4.

In 2004, the receiver commenced an effort to market the TPI policies for sale. NVI and president James Torchia assisted the receiver in finding a buyer for the TPI policies.

5.

NVI and Torchia assisted the receiver in finding Plaintiff USI as a potential buyer. NVI and Torchia had a history of business dealings with USI and its president, Tony Duscio.

6.

USI and the receiver agreed to terms on the sale of the TPI policies. USI and the receiver also agreed to employ Celello as the escrow agent for the transaction.

7.

On January 13, 2005, USI and Celello entered into the Escrow Agreement attached to the Brief in Support of Plaintiff's Motion for Preliminary Injunction as Exhibit 2. Duscio executed the agreement in his official capacity as president of USI.

8.

On January 14, 2005, USI and the receiver entered into the Sale Agreement attached to the Brief in Support of Plaintiff's Motion for Preliminary Injunction as Exhibit 6. Duscio executed the agreement in his official capacity as president of USI.

9.

After conducting a hearing on the sale, the United States Magistrate Judge recommended approval of the sale of the TPI policies by the receiver to USI, by Order dated May 25, 2005, and

attached to the Brief in Support of Plaintiff's Motion for Preliminary Injunction as Exhibit 10. This Court approved the Magistrate Judge's recommendation by Order dated July 19, 2005, and attached to the Brief in Support of Plaintiff's Motion for Preliminary Injunction as Exhibit 12.

10.

In early to mid-2005, pursuant to the terms of the Sale Agreement, the parties began transferring the benefits of some of the TPI policies to USI. In turn, USI assumed responsibility for managing the policies. During this time, USI's president Duscio, faced with the task of managing a large number of policies with a face value of approximately \$160 million, commenced negotiations with NVI for assistance in managing the TPI policies.

11.

Torchia and Duscio negotiated the terms of NVI's management of the TPI policies on behalf of USI. During these negotiations, Duscio was, as he had been for some time, president of USI and the officer in charge of NVI is a Georgia corporation engaged in the viatical settlement business. Neither Duscio nor any other agent, employee, officer, or director of USI ever informed or notified NVI of any limitation on Duscio's authority to enter into any such agreement.

12.

On July 26, 2005, USI and NVI entered into the USI/NVI Agreement, attached to the Brief in Support of Plaintiff's Motion for Preliminary Injunction as Exhibit 13. The USI/NVI Agreement required a lump sum payment of \$5 million from USI to NVI, in consideration for NVI's management of each of the policies through and until each policy's expiration.

13.

The USI/NVI Agreement encompasses almost 850 life insurance policies, many of which insure persons who are expected to live up to eleven (11) years or more. The lump sum payment of \$5 million reflects the expectation of management of each policy, at a market rate of \$50 per month, for an average of approximately ten years. This amount is reasonable and within the bounds of the market in the viatical settlement and management business.

14.

At all times since July 26, 2005, through the present, NVI has fully performed its obligations to USI as provided by the USI/NVI Agreement. USI has accepted these services without complaint and has benefited from NVI's efforts.

15.

Upon information and belief, USI experienced a change in management in early 2007. The new officers, Messrs. Panos and Halas referenced in the complaint, disagreed with Duscio's decision to hire NVI to manage the TPI policies, and now, over two years after the execution of the USI/NVI Agreement, have directed USI to file this action in a belated effort to renege on the deal.

COUNT I-ANTICIPATORY BREACH

16.

NVI adopts and incorporates by reference all prior allegations of its counterclaim as if fully restated herein.

17.

By filing this action, USI has repudiated its obligations under the USI/NVI Agreement, and has made clear its intent to refuse to perform or receive further services from NVI in connection with the agreement.

18.

USI's actions constitute an anticipatory breach of the USI/NVI Agreement.

19.

As a result of USI's anticipatory breach, NVI is unable to continue to perform its obligations under the agreement and is entitled to damages in an amount to be proven at trial.

20.

In engaging in an anticipatory breach of the USI/NVI Agreement, USI has acted in bad faith, been stubbornly litigious, and caused NVI unnecessary trouble and expense so as to allow NVI to recover its reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, NVI demands judgment against USI on Count I for USI's anticipatory breach of the USI/NVI Agreement, in an amount to be proven at trial, plus reasonable attorneys' fees and expenses, all costs of this action, and such other and further relief as this Court deems proper and just.

COUNT II-QUANTUM MERUIT/UNJUST ENRICHMENT

21.

NVI adopts and incorporates by reference all prior allegations of its counterclaim as if fully restated herein.

22.

From July 26, 2005 to the present, and continuing thereafter, NVI has provided and will continue to provide policy management and other services to USI in accordance with the terms of the USI/NVI Agreement. USI accepted these services.

23.

USI has benefited from the services provided by NVI.

24.

The actual value of the services provided by NVI, through today's date, is no less than \$5 million.

25.

In the event this Court rescinds the USI/NVI Agreement and/or obtains a money judgment against Defendants NVI and Torchia, USI will have been unjustly enriched by NVI's services since July 26, 2005. NVI would therefore be entitled to payment of \$5 million, representing the value of such services to USI.

26.

In accepting NVI's services, and then attempting to rescind the agreement and recover all payments made to NVI thereunder, USI has acted in bad faith, been stubbornly litigious, and caused NVI unnecessary trouble and expense so as to allow NVI to recover its reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, NVI demands judgment against USI on Count II for USI's unjust enrichment, and/or on a theory of quantum meruit, in the amount of \$5 million, plus interest as provided by law, reasonable attorneys' fees and expenses, all costs of this action, and such other and further relief as this Court deems proper and just.

COUNT III-PROMISSORY ESTOPPEL

27.

NVI adopts and incorporates by reference all prior allegations of its counterclaim as if fully restated herein.

28.

USI, through its authorized agent Duscio, promised to pay NVI \$5 million in consideration for the provision of management services relating to the TPI policies.

29.

USI made these promises with the intent of inducing NVI to provide these services.

30.

In reasonable reliance upon USI's promises, NVI has provided such services and continues to provide such services to USI.

31.

USI now seeks to rescind its promise and recover its payment on the grounds that its purported agent was not authorized to make such promise.

32.

Injustice can be avoided only by enforcement of USI's promises to NVI.

33.

Accordingly, in the event USI obtains rescission of the USI/NVI Agreement and/or recovery of a money judgment against Defendants NVI and Torchia, USI would nevertheless indebted to NVI for value of the services which NVI has provided in reasonable reliance upon USI's promises, in an amount of no less than \$5 million.

34.

In inducing NVI to provide such services, USI has acted in bad faith, been stubbornly litigious, and caused NVI unnecessary trouble and expense so as to allow NVI to recover its reasonable attorney's fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

WHEREFORE, NVI demands judgment against USI on Count III under a theory of promissory estoppel, in the amount of \$5 million, plus interest as provided by law, reasonable

attorneys' fees and expenses, all costs of this action, and such other and further relief as this Court deems proper and just.

COUNT IV-ATTORNEY'S FEES

35.

NVI adopts and incorporates by reference all prior allegations of its counterclaim as if fully restated herein.

36.

USI has acted in bad faith, been stubbornly litigious, and caused NVI unnecessary trouble and expense so as to allow NVI to recover its reasonable attorneys' fees and expenses incurred in bringing this action pursuant to O.C.G.A. § 13-6-11.

37.

The USI/NVI Agreement provides that the prevailing party to any action to enforce the terms of the Agreement "shall be entitled to an award of the reasonable attorneys' fees and costs of litigation incurred in enforcing that party's rights" pursuant to the Agreement.

38.

Accordingly, NVI is entitled to an award of attorneys' fees and costs of litigation as permitted by Georgia law.

WHEREFORE, NVI demands judgment against USI on Count IV for its statutory and contracted attorneys' fees, in an amount to be proven, and such other and further relief that this Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Defendants NVI and Torchia hereby demand a trial by jury on the counts alleged in Plaintiff's Amended Complaint and NVI requests a trial by jury on all counts raised in its Counterclaim.

This the 26th day of June, 2008.

/s/ Jason W. Graham

Jason W. Graham
Georgia Bar No. 304595
Eric L. Jensen
Georgia Bar No. 391259
Attorneys for Defendant

Graham & Penman, LLP
2989 Piedmont Road, NE
Suite 200
Atlanta, Georgia 30305
Telephone: (404) 842-9380
Facsimile: (678) 904-3110
Email: jason@grahamandpenman.com

/s/ Paul A. McCarthy

Paul A. McCarthy (P47212)
Mark S. Penbery (P57683)
Counsel for Defendants NVI and Torchia

Rhoades McKee PC
161 Ottawa NW
Grand Rapids, MI 49503
Telephone: (616) 233-5133
Facsimile: (616) 459-5102
Email: pmccarthy@rhoadesmckee.com

CERTIFICATE OF SERVICE

I hereby certify that on the date below I served a copy of the Answer and Counterclaim in Response to Plaintiff's First Amended Complaint by the United States District Court for the Western District of Michigan's ECF System to:

David Murphy, Esq.
Kay Standridge Kress, Esq.
Paul D. Hudson, Esq.
Pepper Hamilton, LLP
100 Renaissance Center, 36th Floor
Detroit, Michigan 48243

William W. Jack, Jr.
Smith Haughey Rice & Roegge, PC
250 Monroe Avenue, NW
Suite 200
Grand Rapids, Michigan 49503

This the 26th day of June, 2008.

/s/ Jason W. Graham
Jason W. Graham
Georgia Bar No. 304595
Eric L. Jensen
Georgia Bar No. 391259
Attorneys for Defendant

Graham & Penman, LLP
2989 Piedmont Road, NE
Suite 200
Atlanta, Georgia 30305
Telephone: (404) 842-9380
Facsimile: (678) 904-3110
Email: jason@grahamandpenman.com