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**UNITED STATES BANKRUPTCY COURT**

9

**CENTRAL DISTRICT OF CALIFORNIA**

10

**SAN FERNANDO VALLEY DIVISION**

11

In re

CASE NO. 2:11-bk-21678-MT

12

ALFRED PAUL SECKEL and ISABEL

Chapter 7

13

MAXWELL, Joint Debtors,

Adv. No.:

14

Debtors.

15

ENSIGN CONSULTING LIMITED,

COMPLAINT TO DETERMINE  
NONDISCHARGEABILITY OF DEBT  
PURSUANT TO 11 U.S.C. §§ 523(a)(2),  
523(a)(4), 523(a)(6)

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Plaintiff,

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v.

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ALFRED PAUL SECKEL and ISABEL

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MAXWELL,

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Defendants.

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Creditor Ensign Consulting Limited ("Plaintiff" or "Ensign") complains and alleges as follows:

### **JURISDICTION AND VENUE**

1. This is an adversary proceeding that arises in and relates to *In re Alfred Paul Seckel and Isabel Maxwell*, Case No. 2:11-bk-21678-MT, filed in the Los Angeles Division of the United States Bankruptcy Court for the Central District of California under chapter 7 of title 11 of the United States Code (the "Bankruptcy Code"). This adversary proceeding is a core proceeding under 28 U.S.C. §§ 157(b)(2)(I) and (J). This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 157 and 1334.

2. Venue properly lies in this judicial district under 28 U.S.C. §§ 1408 and 1409.

### **THE PARTIES**

3. Debtor Alfred Paul Seckel ("Seckel") is an individual residing, on information and belief, in the County of Los Angeles, California.

4. Joint Debtor Isabel Maxwell ("Maxwell" and collectively with Seckel, the "Debtors") is the spouse of Seckel, and is an individual residing, on information and belief, in the County of Los Angeles, California.

5. Plaintiff Ensign Consulting Limited is a British Virgin Islands corporation and is a creditor of the Debtors by virtue of debts owed to it by the Debtors as a result of certain conduct of the Debtors as alleged in a Complaint filed in Case No BC456732 in the Superior Court of the State of California, County of Los Angeles, styled *Ensign Consulting Limited v. Seckel, et. al.*

### **BACKGROUND**

6. Seckel and Maxwell defrauded Ensign out of over \$543,259.

7. Like most similar fraudulent schemes, the Debtors' efforts to defraud Ensign were not clear until it was too late. As will be described in greater detail below, the Debtors' ploy involved the purchase of antique rare books and a portrait of Sir Isaac Newton painted in 1689 using Ensign's funds to allegedly be resold at a profit. The Debtors, however, absconded with Ensign's funds and the valuables the Debtors purchased on Ensign's behalf using Ensign's capital. Further, the Debtors, through repeated misrepresentations, sought to conceal the fraudulent

1 scheme from Ensign until Ensign's funds and the valuables purchased with them were out of  
2 Ensign's reach.

3 **A. Building Credibility**

4 8. Seckel spent years crafting a persona that he exploited to defraud Ensign and  
5 others. Seckel boasts that he taught at the California Institute of Technology, and has a Wikipedia  
6 page and other websites that he controls, which he uses to attempt to maintain his appearance of  
7 respectability. Seckel claims to be an expert on optical illusions. On the website of  
8 IllusionWorks, LLC, a company Seckel owns and used to perpetuate the fraudulent scheme,  
9 Seckel refers to himself as "the best and the world's most famous master illusionist Seckel."

10 9. Seckel used an initial relatively small investment in antique globes to con Ensign  
11 into allegedly investing with the Debtors.

12 10. On or about January 2007, Seckel approached Adam Gold, a consultant for Ensign  
13 with respect to the transactions described below, about an investment opportunity involving two  
14 rare antique globes. Seckel stated that he would purchase the globes using Ensign's funds and  
15 then sell them to a third party for a profit. Seckel and Ensign would, accordingly to Seckel, "split  
16 the profit 50/50. That will be fair for all, and minimize risk." Based upon Seckel's  
17 representations and promises, Ensign, through its consultant Gold, made a payment of \$100,000  
18 into the alleged antique globes investment.

19 11. In April 2007, Seckel claimed to have sold the globes for a 30% profit for Ensign.  
20 Seckel wrote to Gold in an email on or about April 9, 2007: "I hope you are pleased with the  
21 transaction, as 30% return on your funds (considering that I made the same) is not bad for the  
22 amount of time ..." Shortly thereafter, to further bolster his investment prowess, Seckel reminded  
23 Gold to "remember that the dealer also made an enormous chunk on this, so it shows that I know  
24 how to buy."

25 12. Ensign is informed and believes and on that basis alleges that the transaction  
26 concerning the globes was not as profitable as Seckel stated. Seckel, for himself and on behalf of  
27 Maxwell, made the above representations to deceive Ensign into believing that Seckel was a  
28 legitimate and successful investor and a trustworthy partner. Further, Seckel sought to entice

1 Ensign to: 1) provide an even greater sum of money to the Debtors; and 2) purchase valuables that  
2 would end up in the Debtors' possession.

3 **Moving Onto Larger "Investments"—The Newton Portrait**

4 13. The Debtors did not wait long to approach Ensign with the fraudulent rare books  
5 and portrait scheme. On or about April 9, 2007, Seckel wrote to Gold: "We are at a chateau,  
6 where believe it or not, the owner has an enormous collection of antiquarian science books  
7 inherited from her dad. It is a stunning collection. I am trying to negotiate it out now, but will  
8 only do so at a price that makes a lot of sense..."

9 14. Less than two weeks later, Seckel sent an email to Gold about a portrait of Sir Isaac  
10 Newton. Seckel wrote: "This is the item I am currently trying to sell before buying! The most  
11 famous original painting of Sir Isaac Newton commissioned by Newton himself at the very height  
12 of his career!"

13 15. Seckel, in concert with Maxwell, continued to attempt to convince Ensign to invest  
14 in the portrait of Sir Isaac Newton painted by Sir Godfrey Kneller (hereinafter "Newton Portrait").  
15 This included Seckel's representations made on or about April 2007 that Nathan P. Myhrvold, the  
16 former Chief Technology Officer of Microsoft, desired to purchase the Newton Portrait for  
17 \$300,000.

18 16. In or around the end of April 2007, Debtors, using Ensign's funds, purchased the  
19 Newton Portrait for \$168,000 on behalf of Ensign.

20 **B. The Rare Books Scheme**

21 17. After Ensign invested in the Newton Portrait, Seckel approached Ensign about  
22 investing in rare books. Seckel described these rare books as either "'pre-sold,' or as good as 'pre-  
23 sold,'" and promised that Seckel would be able to sell them for a quick profit soon after  
24 purchasing the books with Ensign's funds. In April of 2007 Seckel wrote that "when I do my  
25 deals, I usually have end customers in mind, which is why I don't get 'stuck' with items. As I  
26 always buy below wholesale, I have too many opportunities." In or about May 1, 2007, Seckel  
27 wrote "Modesty aside Adam [Gold], in this area I know exactly what I am doing..."

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1 18. Seckel, for himself and as Maxwell's agent, claimed that an allegedly renowned  
2 rare art dealer estimated the value of the Newton Portrait at \$2,000,000. At the time Seckel made  
3 this representation to Ensign, Seckel knew that this alleged appraisal was false and misleading.  
4 Seckel made this representation with the intention of encouraging Ensign to provide more money  
5 to the Debtors or to purchase rare books that would end up in the Debtors' custody.

6 19. To coax Ensign into giving more money to the Debtors or to purchase valuables  
7 that the Debtors would take possession of, Seckel continued to make fraudulent misrepresentations  
8 to Gold, with the intention that Ensign rely on them. These include, but are not limited to,  
9 Seckel's email sent on or about May 15, 2007 to Gold that: "I will never BS you about this  
10 market, as I know the risks to a very high probability. . . . I have never gotten 'stuck' with an  
11 item, save one, which was not a book, but something else entirely. . . . I have never seen any  
12 antiquarian books decrease in value" and "As I have said, i [sic] have been doing this for over 30  
13 years. I know all the high-end dealers, and have been doing significant business with them some  
14 of them for that long. Selling literally millions of dollars worth of material. . . . This is why I  
15 have so much clout" (which Seckel emailed to Gold on or about May 22, 2007).

16 20. Between approximately June 15, 2007 and August 1, 2007, Ensign, relying on the  
17 Debtors' false representations, sent wire transfers to Seckel, Maxwell, or entities related or  
18 controlled by them, or directly to certain booksellers, in the amount of \$483,910 for the purchase  
19 of twelve sets of rare books and valuables (hereinafter "Rare Books"), in addition to the \$168,000  
20 Ensign paid for the Newton Portrait (Newton Portrait and Rare Books hereinafter collectively  
21 "Valuables") (Ensign's payments hereinafter collectively the "Valuables Payment").

22 21. At the time that Ensign made the Valuables Payment, Seckel, both for himself and  
23 as agent for Maxwell, promised that: (i) the Valuables Payment would be invested in certain  
24 Valuables for Ensign's account; and (ii) title to the Valuables purchased with the Valuables  
25 Payment would be taken in Ensign's name. Debtors made these promises without an intent to  
26 keep them and with the intent of inducing Ensign to provide Debtors with the required purchase  
27 money and/or possession of the Valuables.

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1           22.     The Rare Books included: Apianus, *Cosmographia*; Doppelmayr, *Composite*  
2     *Celestial Atlas* (1750); John Hill, *The Vegetable System* (1786) (26 volumes); Merian, Maria  
3     Sibylle (3 volumes bound in one), *Sermo Super Psalmum L*, and Johannes Chrysostomus, *De*  
4     *raparatione lapsi*; Watson and Crick, *The Genetical Implications of DNA* (1953); Priestley's  
5     *History and Present State of Electricity*; Johannes Chrysostmus, *Saint* (345-407); Thomas  
6     Aquinas, *Saint, De Vistiis et Virtutibus Numero* (1493); Moffet, *Insectorum Sive Minomorum*  
7     *Animalium Theatrum* (1634 First Edition); Buffon, *Historie Naturale*; John Hill, *The Vegetable*  
8     *System* (1786) (26 volumes); Johannes Schonsperger, *Herbarius zu teutsch unnd allerhandt*  
9     *kreuteren*; and Thurneisser, *Sammelband* 1754.

10           23.     In August of 2007, when the Debtors claimed that no sales had yet occurred, Gold  
11     asked Seckel whether he believed he would sell any of the Valuables in September. Seckel  
12     responded by email on or about August 15, 2007: "YES!!!! Most definitely. I am extremely  
13     confident. Not worried at all..." Seckel claimed that this belief was "Backed up 100% by  
14     experience and knowledge." Notwithstanding this, Seckel had repeatedly represented that the  
15     books were "sold" or "pre-sold. Had these representations been true, the Valuables would have  
16     been sold before August of 2007.

17           24.     Seckel and Maxwell intentionally and continually frustrated Ensign's ability to  
18     attempt to oversee the alleged investment in the Rare Books and mitigate any potential losses. On  
19     or about August 17, 2007, when Ensign raised concerns regarding why the inventory of books was  
20     not selling quickly, Seckel became defensive and wrote: "Please stop fretting about the inventory  
21     of books. It just stresses me, and it is not helpful. I have it 100% under control, and will be  
22     leveraging a lot of the volumes in my large transaction... . . . You will come out of this very very  
23     sweet."

24           25.     Seckel failed to conduct adequate due diligence before purchasing John Hill's "The  
25     *Vegetable System*," one of the Valuables, for \$199,000. Had Seckel done so, he would have  
26     discovered that the book was missing a plate, which Seckel later agreed to rectify but never did.  
27     This negligence resulted in the value of the book being much less than Seckel previously

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1 represented to Ensign. Nevertheless, Seckel and Maxwell either secreted with this set of books or  
2 the funds from their sale.

3 26. In March of 2008, when Ensign again voiced concerns that the Valuables had not  
4 yet been sold, the Debtors reiterated that they were still working diligently to sell the Valuables for  
5 a profit. On or about March 14, 2008, Seckel wrote: "Now, all that being said, as I told you in a  
6 previous e-mail, I have been positioning the Newton, et al in a way that can bring in the returns  
7 that I initially promised. It takes a little time and patience, but is on track and I believe strongly  
8 that it will have a successful conclusion."

9 27. On or about March 15, 2008, in response to Gold's concerns about the investment,  
10 Seckel pointed to his alleged success in the antique globes investment in an attempt to placate  
11 Ensign. Seckel wrote in an email at that time: "After all, you made a large profit on the globe and  
12 now the recent book that was sold. Don't forget that. You could never have gotten that rate of  
13 return elsewhere." Shortly thereafter, on or about March 16, 2008, Seckel wrote in an email: "Let  
14 us be VERY VERY CLEAR! 1. You will NOT loose money on this rare book transaction.  
15 Period. 2. You will make a profit on this rare book transaction. Period."

16 28. Maxwell, at all times, was fully aware of the fraudulent scheme, and assisted  
17 Seckel in perpetrating the fraud upon Ensign. To further the fraud and make sure that it remained  
18 undiscovered, Maxwell made representations to Gold on numerous occasions from 2007 to 2009  
19 that were intended to dissuade Ensign from demanding the return of the funds Seckel owed Ensign  
20 or possession of the Valuables. Maxwell repeatedly stated that Ensign should not be concerned  
21 about the investment in the Valuables, offered excuses for Seckel's avoidance of questions relating  
22 to the status of the sale of the Valuables or where they were located, and made assurances on  
23 several occasions that Ensign's investments into the Valuables were secure. In fact, Maxwell  
24 made a commitment in writing on or about May of 2008 to use her personal income to cover any  
25 losses from Ensign's purchase of the Valuables. On information and belief, when Maxwell made  
26 these representations, she knew they were false and that the Debtors had already sold some of the  
27 Valuables, and further that the Debtors had retained Ensign's funds and/or share of the profit  
28 enjoyed from each item's sale.

1           29.     Maxwell and Seckel intentionally made the above misrepresentations to Gold with  
2 the knowledge that Ensign would rely on them. Ensign held off on escalating its efforts to recoup  
3 the investment amounts and take possession of the Rare Books and Newton Portrait in reliance  
4 upon Maxwell's and Seckel's misrepresentations described above. Maxwell and Seckel knew or  
5 should have known that Ensign would rely on the above representations, to Ensign's detriment.  
6 On information and belief, and unbeknownst to Ensign, even after the Debtors had already sold  
7 certain of the Rare Books to third parties or had traded them in exchange for satisfaction of  
8 unrelated debts that the Debtors owed to third parties, the Debtors continued to represent that they  
9 were in possession of all of the Rare Books. Further, the Debtors represented that they were  
10 continuing their efforts to sell them for a profit on Ensign's behalf.

11                               **Seckel's Written Agreements with Ensign**

12           30.     On June 4, 2008, Ensign and Seckel formalized their agreement concerning the  
13 investment in the Valuables into a formal written contract ("June 2008 Agreement").

14           31.     The June 2008 Agreement provides in pertinent part:

15                   "[D]uring February 2007, you [*i.e.*, Seckel] approached Adam Gold, an  
16 advisor to Ensign Consulting Limited ("Ensign") . . . [and] . . . identified a number  
17 of rare books, portraits and ephemera that you were interested in purchasing for  
18 resale purposes and inquired if Ensign would be interested in financing the venture.

19                   At that time, it was represented by you that all items were of the highest  
20 quality and, with the exception of the Isaac Newton portrait (the "Newton"), would  
21 likely be re-sold within relatively short timeframes, at profit margins of at least  
22 20% . . . .

23                   The list of items (each a "Valuable" and collectively, the "Valuables")  
24 together with the schedule of the advances made are listed in Appendix A attached  
25 hereto. To date none of the Valuables have been sold. . . . We hereby agree that:

- 26                   • We both acknowledge and agree that: (i) the attached Exhibit A is true and  
27 correct; and (ii) that a total amount of \$651,910 was advanced, at your  
28 direction, to purchase each and every Valuable listed in Appendix A.



- You will use your best efforts to sell all of the Valuables at a profit.
- In the event any Valuable is sold: (i) in an amount that exceeds the price listed in Appendix A, you shall pay Ensign the full amount advanced for the purchase of the Valuable plus 50% of any profit received . . . .
- You acknowledge that you, as the custodian of the Valuables, will use the highest degree of care to ensure that the Valuables are maintained in good condition and that there is no material adverse change to any valuable listed in Appendix A that may negatively impact on its value.
- Should any material adverse change occur to any of the Valuables listed in Appendix A between the date of this letter and immediately prior to a successful sale and receipt of funds, you will be required to notify Ensign immediately and pay to Ensign an amount equal to the purchase price for such Valuable, as listed in Appendix A. . . .”

32. The June 2008 Agreement also included a payment schedule in the event that Seckel was unable to sell all of the Valuables by July 31, 2008.

33. The valuables listed in the June 2008 Agreement are substantially similar to the list of Valuables set forth in this Complaint.

#### **Improperly Using the Newton Portrait as Collateral**

34. Unbeknownst to Ensign, in or around July of 2008, after Seckel had entered into the June 2008 Agreement with Ensign, the Debtors offered the Newton Portrait to Michael Sharpe Rare & Antiquarian Books, LLC (“Michael Sharpe”) as collateral for a debt that Seckel owed that book dealer for the purchase of a 15<sup>th</sup> Century manuscript. On information and belief, Seckel received a manuscript worth approximately \$275,000 from Michael Sharpe on or about June of 2008. Seckel promised to either return the manuscript or pay Michael Sharpe \$275,000. Seckel did neither. Rather, on or about July 25, 2008, the Debtors offered Michael Sharpe the Newton Portrait to compensate the bookseller for his theft of the manuscript.

35. In or around July of 2008, the Debtors gave Michael Sharpe possession of the Newton Portrait, despite the June 2008 Agreement with Ensign and the fact that Seckel had no

1 right to give custody of the portrait to a third party to satisfy an unrelated debt. The Debtors never  
2 notified Gold or Ensign that they had offered the Newton Portrait as collateral for a third-party  
3 debt or that they had delivered possession of the portrait to one of the Debtors' creditors.

4 36. Since Ensign paid for and owned the Newton Portrait, and Seckel otherwise had no  
5 ownership interest in the Newton Portrait, Seckel had no right to use the Newton Portrait as  
6 collateral for his personal debt owed to Michael Sharpe.

7 **Seckel's Breach of the June 2008 Agreement**

8 37. Since Seckel represented that he had not sold any of the Valuables and that they  
9 were all in the same condition, pursuant to a written amendment dated August 26, 2008 ("August  
10 2008 Amendment"), Ensign agreed to modify the payment schedule set forth in the June 2008  
11 Agreement. Ensign and Seckel also agreed to add the following attorneys' fees provision to the  
12 June 2008 Agreement: "In the event that Ensign instructs an attorney for collection or enforcement  
13 of the above or commences any legal proceeding to enforce or collect any or all of the above  
14 amount, then you [*i.e.* Seckel] shall pay to Ensign all reasonable attorneys' fees, costs and  
15 expenses incurred in connection therewith, in addition to all other amounts due hereunder."

16 38. When negotiating the August 2008 Amendment, Seckel concealed the fact that he  
17 had offered the Newton Portrait as security for an unrelated debt, and, on information and belief,  
18 that he had already sold some of the Valuables.

19 **The Allegedly "Stolen" Rare Books**

20 39. Seckel claimed that three books were "stolen" by a rare books dealer called  
21 Tiburcio allegedly located in New York. Ensign paid over \$103,550 for these books. Seckel  
22 claims that he sent these books to Tiburcio to allow the "book seller" to review them prior to  
23 purchase, but that Tiburcio refused to return them. On September 15, 2008, to give a false  
24 impression that he was in control of the situation, Seckel claimed: "I went to NY, but Tiburco  
25 [sic] and staff were in Madrid at the bookfair there. It was a complete waste. I wanted to surprise  
26 them. I am going back next week, when they have returned." On information and belief, there is  
27 no rare book dealer in New York called "Tiburcio" or "Tiburco."

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40. Throughout 2008, Seckel and Maxwell ignored Ensign's repeated demands for the contact information of Tiburcio. The Debtors, on information and belief, fraudulently concealed their illegal activities by ignoring requests for information. Had the Debtors' told the truth or otherwise not intentionally obstructed Ensign's ability to discover the fraud, Ensign would have discovered Seckel and Maxwell's fraudulent activities much earlier than it did. The Debtors deprived Ensign of an opportunity to mitigate its losses.

**Further Amendments to the Agreements with  
Ensign to Account for Seckel's Breaches**

41. Under the October 2008 Amendment, the alleged theft of the three rare books by "Tiburco" triggered the "material adverse change" provision of the June 2008 Agreement. On October 8, 2008, Seckel and Ensign entered into a further amendment to the June 2008 Agreement to reflect that a "material adverse change" had occurred ("October 2008 Amendment"). Under this further written amendment, Seckel agreed to pay Ensign for the entire cost of the books, which totaled \$103,550, "no later than 31 October 2008."

42. On November 1, 2008, Seckel and Ensign entered into a further written amendment to the June 2008 Agreement as amended ("November 2008 Amendment"), to modify Seckel's repayment schedule. The June 2008 Agreement and all amendments thereto shall be referred to hereinafter collectively as "June 2008 Agreement and Amendments." When all of the above amendments were made, Ensign had not yet discovered: the Debtors' fraud; the fact that Debtors had given possession of the Newton Portrait to Michael Sharpe as collateral for an unrelated debt; that some of the Rare Books had been sold; and that some of the Rare Books had been traded to satisfy the Debtors' unrelated debts to third parties.

**The Debtors' Further Misrepresentations**

43. On or about December 1, 2008, Debtors made a payment of \$108,651 to Ensign. That was the first and only payment ever made by the Debtors. The Debtors failed to make any further payments to Ensign, despite Ensign's repeated demands.

44. Neither Seckel nor Maxwell ever stated or even suggested that they would need to sell any of the Valuables to make that payment to Ensign. Moreover, the Debtors did not have the

1 express or implied authority to sell the Valuables without Ensign's permission. Yet Ensign later  
2 learned that the Debtors pawned certain of the Valuables to make this payment. At about the same  
3 time, Seckel sent an email to Gold which characterized this payment as "[a] miracle of a semi-  
4 religious nature, given the current economic climate." Seckel made this representation to obstruct  
5 Ensign's ability to discover Seckel and Maxwell's fraud and the fact that the Debtors had  
6 improperly pawned some of the Valuables.

7 45. On or about July 3, 2009, Ensign wrote to Seckel concerning his default under the  
8 June 2008 Agreement and Amendments. Ensign wrote: "Ensign Consulting has decided to take  
9 possession of the Valuables as defined in our letter agreement dated 4 June 2008. We will appoint  
10 Bloomsbury Auctions to facilitate this process and, to this effect, Rupert Powell whom you have  
11 already spoken to, or an associate of his, will be contacting you regarding the logistics of  
12 collecting the valuables. We look forward to your cooperation."

13 46. Ensign employed the services of Bloomsbury Auctions to contact Seckel and  
14 confirm the details of the Valuables, determine where the Valuables were located and if Seckel  
15 was still in possession of any of them, and to arrange for the items to be collected from Seckel or  
16 his agents in order to transfer their possession to Bloomsbury Auctions, who would hold the  
17 Valuables on Ensign's behalf.

18 47. Seckel refused to cooperate with the efforts of Bloomsbury Auctions with respect  
19 to the above, and Bloomsbury was unable to take possession of the Valuables. Ensign is informed  
20 and believes, and on that basis alleges, that the Debtors refused to cooperate with Bloomsbury  
21 Auctions to continue to conceal the fraud that they were perpetrating upon Ensign.

22 48. On October 3, 2009, Seckel finally admitted that he had pawned some of the books,  
23 presumably almost a year after having done so. In an email exchange with Gold, Seckel wrote: "I  
24 did not do this with all the books [*i.e.* pawn], only two, and used this amount to help pay Ensign,  
25 which was a matter of the UTMOST urgency at the time, and I had no other way, and had  
26 explained this over and over again."

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**Fraudulent Sale of Newton Portrait**

49. On or about February 6, 2009, Michael Sharpe filed a complaint against Seckel in the Superior Court of the State of California for the County of Los Angeles Northeast District (Pasadena Courthouse) ("Creditor Lawsuit"). In that litigation, Michael Sharpe sought money Seckel allegedly owed it for the purchase of a 15<sup>th</sup> Century manuscript. Michael Sharpe sought to foreclose upon the security interest in the Newton Portrait that Seckel had previously improperly provided to the bookseller.

50. At all relevant times, Seckel fraudulently concealed from Ensign the fact that he had taken a manuscript worth \$275,000 from a third party and had offered the Newton Portrait as collateral for that debt.

51. On information and belief, Seckel objected to efforts to notify Ensign about the Michael Sharpe's planned sale of the Newton Portrait to a third party. Ensign was never properly served with any notification of Michael Sharpe's planned sale of the Newton Portrait to a third party.

52. On information and belief, the Newton Portrait was later sold to a third party. From the proceeds of that sale, in 2010, Seckel received approximately \$20,000 and Michael Sharpe received approximately \$278,000. On information and belief, Seckel did not disclose this payment in the bankruptcy scheduled the Debtors filed in their bankruptcy proceedings in 2011.

53. Nevertheless, even after the Newton Portrait was sold to a third party, Seckel continued to lie about the status of the Newton Portrait. On or about June 25, 2010 Seckel wrote to Gold: "newton [*sic*] didn't sell afterall [*sic*], but good news is that I can make everything whole from my other venture in water..."

54. Ensign did not learn about Seckel's use of the Newton Portrait as collateral, the Creditor Lawsuit, the attempts to sell the Newton Portrait, or the sale of the Newton Portrait until it was too late to object to the sale of the Newton Portrait.

**Other Improper Acts and Transfers**

55. Seckel, in concert with Maxwell, conspired to sell the Valuables and improperly transfer the funds from those sales to the Debtors or other entities and individuals, including but

1 not limited to William Reese and W.P. Watson, with actual intent to hinder, delay, or defraud  
2 Ensign and/or without receiving reasonably equivalent value in exchange for the transfers.  
3 Further, on information and belief, Maxwell participated in these transfers and all of the above-  
4 mentioned conduct with knowledge and the intent to assist Seckel in defrauding and hindering  
5 payment of the Debtors' payment obligation to Ensign.

6 56. Even as late as August 17, 2010, Seckel has continued to falsely represent that  
7 Ensign would recover the funds Ensign paid to the Debtors.

8 57. The Debtors sold each of the Valuables, and improperly appropriated the funds  
9 from those sales to themselves, or other third parties, traded them to satisfy debts owed to third  
10 parties unrelated to Ensign, or otherwise absconded with the Valuables.

11 58. On information and belief, the Debtor sold certain of the Valuables at a profit.

12 59. In fulfillment of the June 2008 Agreement, and as expressly acknowledged in  
13 Exhibit A to that agreement, Ensign funded Seckel with \$651,910, and fronted costs amounting to  
14 \$4,596 in June 2008. Ensign also incurred attorneys fees which currently exceed \$100,000.

15 60. Seckel and Maxwell directed Ensign to wire payments to Maxwell's personal bank  
16 account, IllusionWorks' bank account, or the bank accounts of other corporations controlled by  
17 Maxwell and/or Seckel. The Debtors used IllusionWorks and these other corporations to  
18 perpetrate the fraud on Ensign.

19 61. The Debtors have refused to pay Ensign the Valuables Payment. On information  
20 and belief, the Debtors have sold all of the Valuables or otherwise fraudulently transferred the  
21 funds from their sale to third parties.

22 62. The Debtors, and each of them, also converted property and specifically  
23 identifiable sums of money belonging to Ensign, including, without limitation, the Valuables  
24 Payment.

25 **C. The State Court Action**

26 63. On March 4, 2011, Ensign initiated a civil action, Case No. BC456732, in the Los  
27 Angeles Superior Court (the "State Court Action"), against Debtors for fraud, breach of contract,  
28 conversion, fraudulent transfer, promissory estoppel, and an accounting, amongst other causes of

1 action. After the Debtors failed to respond to the complaint, Ensign moved for and received an  
2 entry of default.

3 **D. The Bankruptcy Actions**

4 64. On June 8, 2011, before Ensign could file its motion for default judgment, the  
5 Debtors filed their first voluntary petition for bankruptcy (the "First Bankruptcy Proceeding"),  
6 under chapter 7 of the Bankruptcy Code. Debtors failed to appear at two scheduled 341(a)  
7 Meetings of Creditors, and the Court dismissed the First Bankruptcy Proceeding and closed the  
8 case on September 16, 2011.

9 65. On October 3, 2011, Seckel and Maxwell filed their second petition for bankruptcy  
10 (the "Second Bankruptcy Proceeding"). On November 4, 2011, the Debtors appeared at the first  
11 341(a) Meeting of Creditors, before Amy L. Goldman, Chapter 7 Trustee.

12 **FIRST CLAIM FOR RELIEF**

13 **[Against Debtors -- For Nondischargeability of Debt Obtained By False Pretenses,**  
14 **False Representation and Actual Fraud under 11 U.S.C. § 523(a)(2)(A)]**

15 66. Ensign restates, realleges, and incorporates herein by reference, paragraphs 1  
16 through 65, inclusive, of this Complaint as though fully set forth herein.

17 67. In approximately February 2007, Seckel and Maxwell, both for themselves and  
18 each others' agents, made the written and verbal misrepresentations set forth above directly to  
19 Ensign's consultant, Gold, concerning Seckel's intentions, accomplishments, and experience to  
20 induce Ensign to enter into a fraudulent investment scheme with the Debtors. These  
21 misrepresentations included, but are not limited to the following: (1) that Seckel intended to use  
22 Ensign's funds to purchase the Valuables on Ensign's behalf; (2) that Seckel intended to repay the  
23 Valuables Payment to Ensign; (3) that Seckel intended to share all of the profits from the sale of  
24 the Valuables with Ensign; and (4) that Seckel was skilled at investing in rare books and portrait.

25 68. Ensign is further informed and believes, and on that basis alleges, that Debtors  
26 concealed from and failed to inform Ensign of facts that were necessary in order to make the  
27 statements that the Debtors had made to Ensign not misleading. In particular, the Debtors  
28 concealed from and failed to inform Ensign that: (1) the Debtors' previous purchase and sale of

1 rare books and art had not been profitable; (2) that the Debtors owed significant amounts of money  
2 to third parties from whom they had purchased rare books or art; and (3) Seckel had been accused  
3 of fraud in the past.

4 69. Ensign is informed and believes, and based thereon alleges, that these  
5 representations were false when the Debtors made them and that the Debtors knew this at that time  
6 because the Debtors, at all times, were aware of the true facts.

7 70. The Debtors made the above false representations and concealed material facts  
8 from Ensign regarding Seckel's intentions, accomplishments, and experience with the intent to  
9 defraud Ensign and to induce Ensign, and its consultant, Gold, to rely on them by agreeing to  
10 invest funds with Seckel; by making the Valuables Payment; and by permitting the Debtors to take  
11 possession of the Valuables.

12 71. Ensign and its consultant, Gold, who did not know the true facts concerning the  
13 Debtors' representations and who were unaware of the facts necessary to make the Debtors'  
14 statements not misleading, did rely on those assertions of fact by agreeing to make the Valuables  
15 Payment and by permitting the Debtors to take possession of the Valuables. Had Ensign known  
16 the true facts concerning the Debtors' representations, omissions, and concealment, Ensign would  
17 never have agreed to make any payment directed by the Debtors, including but not limited to the  
18 Valuables Payment, and would have not permitted the Debtors to take possession of any of  
19 Ensign's property.

20 72. As a direct and proximate result of the Debtors' false representations and omissions  
21 and concealment of material facts, Ensign suffered injury in an amount according to proof, but not  
22 less than \$650,000. Accordingly, pursuant to 11 U.S.C. § 523(a)(2)(A), Ensign's claim against  
23 Debtors are non-dischargeable in an amount according to proof, but not less than \$650,000.

24 73. In doing the acts alleged herein, Debtors acted fraudulently and with malice,  
25 oppression, and the intention of depriving Ensign of property, legal rights, and otherwise causing  
26 injury to Ensign. This conduct was despicable and conducted with the willful and conscious  
27 disregard for the rights of Ensign, thereby resulting in injury, so as to justify an award of  
28 exemplary and punitive damages. Accordingly, pursuant to 11 U.S.C. § 523(a)(2)(A), Ensign's



claim against the Debtors is also non-dischargeable in an additional amount equal to the amount of punitive damages awarded pursuant to this claim for relief.

**SECOND CLAIM FOR RELIEF**

**[Against Seckel – For Nondischargeability of Debt for Fraud or Defalcation**

**While Acting in a Fiduciary Capacity under 11 U.S.C. 523(a)(4)]**

74. Ensign restates, realleges, and incorporates herein by reference, paragraphs 1 through 73, inclusive, of this Complaint as though fully set forth herein.

75. As a result of the partnership that Ensign and Seckel entered into to invest in the Valuables and sell them at a profit, Seckel owed Ensign and its consultant Gold a duty of utmost loyalty, fidelity, and care. Furthermore, Seckel had a duty to account for and act as trustees of the Valuables and the Valuables Payment owned by Ensign.

76. Ensign is informed and believes and thereon alleges, that Seckel has interfered with Ensign's rights to possession of the Valuables, the Valuables Payment, and any proceeds from the sale of the Valuables, by converting them to Debtors' use and/or the use of others.

77. Ensign is informed and believes and thereon alleges, that without right or justification, Seckel intentionally caused or permitted funds from the sale of the Valuables to be converted and misappropriated to the detriment of Ensign.

78. Notwithstanding Ensign's several demands to cease the diversion of these funds and property and to deliver them to Ensign, Debtors have refused to do so.

79. As a proximate result of Debtor's conversion and misappropriation, Ensign has been damaged in an amount to be proven at trial but no less than \$650,000. Ensign's claim for these damages together with punitive damages as alleged below is nondischargeable pursuant to 11 U.S.C. § 523(a)(4).

80. In doing the acts alleged herein, Seckel acted fraudulently and with malice, oppression, and the intention of depriving Ensign of property, money, and legal rights, and otherwise causing injury to Ensign. This conduct was despicable and conducted with the willful and conscious disregard for the rights of Ensign, thereby resulting in injury, so as to justify an award of exemplary and punitive damages.

**THIRD CLAIM FOR RELIEF**

**[Against Both Debtors – For Nondischargeability of Debt for Willful and Malicious  
Conversion under 11 U.S.C. § 523(a)(6)]**

81. Ensign restates, realleges, and incorporates herein by reference, paragraphs 1 through 80, inclusive, of this Complaint as though fully set forth herein.

82. The Debtors directed Ensign to make the Valuables Payment, and Ensign made that payment. The Debtors were given possession of the Valuables.

83. Ensign is, and at all times relevant herein was, the owner of or entitled to the Valuables and the Valuables Payment it provided to the Debtors to purchase the Valuables. The Debtors wrongfully interfered with Ensign's interests in the Valuables and the Valuables Payment by refusing to return them.

84. Ensign is informed and believes, and on that basis alleges, that Debtors, and each of them, have interfered with Ensign's rights to possession of the Valuables and the Valuables Payment by willfully and maliciously converting them to Debtors' use and/or the use of others.

85. Ensign is informed and believes, and on that basis alleges, that without right or justification, Debtors willfully and maliciously exercised wrongful dominion and control over the Valuables Payment, the Valuables, the funds received from the sale of the Valuables, or the debts that the Debtors had forgiven by giving these third parties certain of the Valuables. Debtors' willful and malicious conduct was intended to and has in fact interfered with Ensign's rights to possess the aforementioned property.

86. Notwithstanding Ensign's several demands to return the Valuables Payment or the Valuables, and to deliver them to Ensign, the Debtors have refused to do so.

87. As a proximate result of Debtor's conversion and misappropriation, Ensign has been damaged in an amount to be proven at trial but no less than \$650,000. Ensign's claim for these damages together with punitive damages as alleged below is nondischargeable pursuant to 11 U.S.C. § 523(a)(6).

88. In doing the acts alleged herein, Debtors acted fraudulently and with malice, oppression, and the intention of depriving Ensign of property, money, and legal rights, and

1 otherwise causing injury to Ensign. This conduct was despicable and conducted with the willful  
2 and conscious disregard for the rights of Ensign, thereby resulting in injury, so as to justify an  
3 award of exemplary and punitive damages.

4  
5 **PRAYER FOR RELIEF**

6 **WHEREFORE**, Plaintiff respectfully prays relief as follows:

7 **On All Claims for Relief:**

- 8 1. For costs of suit incurred herein;  
9 2. For post-judgment interest and a decree that such interest is nondischargeable; and  
10 3. For such other and further relief as the Court deems just and proper.

11 **On the First Claim for Relief**

- 12 1. For judgment against the Debtors in an amount of at least \$650,000;  
13 2. For punitive and exemplary damages in an amount according to proof;  
14 3. For judgment determining that Plaintiff's claim for relief against Ensign is  
15 nondischargeable pursuant to 11 U.S.C. § 523(a)(2) in the amount of at least \$650,000, plus  
16 interests, costs, attorneys fees, and punitive damages awarded.

17 **On the Second Claim for Relief**

- 18 1. For judgment against the Debtors, and each of them, in an amount of at least  
19 \$650,000;  
20 2. For punitive and exemplary damages in an amount according to proof;  
21 3. For judgment determining that Plaintiff's claim for relief against Debtors, and each  
22 of them, is nondischargeable pursuant to 11 U.S.C. § 523(a)(4) in the amount of at least  
23 \$1,000,000, plus interests, costs, attorneys fees, and punitive damages awarded.

24 **On the Third Claim for Relief**

- 25 1. For judgment against the Debtors, and each of them, in an amount of at least  
26 \$650,000;  
27 2. For punitive and exemplary damages in an amount according to proof;

28 ///

1           3.       For judgment determining that Plaintiff's claim for relief against Debtors, and each  
2 of them, is nondischargeable pursuant to 11 U.S.C. § 523(a)(6) in the amount of at least \$650,000,  
3 plus interests, costs, attorneys fees, and punitive damages awarded.

4 Dated: December 02, 2011

Respectfully submitted:

5                   **ZUBER & TAILLIEU LLP**  
6                   OLIVIER A. TAILLIEU  
7                   RAFFI V. ZEROUNIAN

8  
9 By:



Attorneys for Plaintiff ENSIGN CONSULTING  
LIMITED