

STEVEN L. LEVITT & ASSOCIATES, P.C.

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ALICE ANN JUNG on her own behalf, as  
Executrix of the Estate of MIROSLAV JUNG,  
Deceased, JOSEF JUNG, MICHELLE JUNG,  
and JAROSLAV JUNG a/k/a JERRY JUNG

01 Civ. 6993 (RMB)(SDNY)

Plaintiffs,

**AMENDED  
COMPLAINT**

-against-

**JURY TRIAL DEMANDED**

JANET C. NESCHIS, individually and in her  
capacities as Trustee of the Jacques and Natasha  
Gelman Trust dated November 18, 1997, and as  
Trustee of the Trust Created Under the Last Will  
Testament of Natasha Gelman dated April 23,  
1993, ROBERT P. LITTMAN, individually and in  
his capacity as Successor Trustee of the Trust  
Created Under the Last Will and Testament of  
Natasha Gelman dated April 23, 1993, and  
MARYLIN G. DIAMOND, individually and in her  
capacity as Trustee of the Jacques and Natasha Gelman  
Trust dated November 18, 1997, and as Trustee of the  
Trust created Under the Last Will and Testament of  
Natasha Gelman dated April 23, 1993, ANTURIA  
STIFTUNG, DR. MARTIN ESCHER, DR. PETER  
SPRENGER and Dr. CONRAD SCHULTHESS,

Defendants.

-----X  
Plaintiffs Alice Ann Jung, on her own behalf, as Executrix of the Estate of MIROSLAV  
JUNG, JOSEF JUNG, MICHELLE JUNG, and JERRY JUNG on their own behalf and JOSEF  
JUNG and MICHELLE JUNG (hereinafter collectively referred to as the "Plaintiff Jung  
Family"), by their attorneys, Edwin Kassoff, as General Counsel to Steven L. Levitt &  
Associates, P.C., as and for their Amended Complaint, respectfully allege, upon information and  
belief, as follows:

1. That this action arises from a fraudulent scheme perpetrated by Defendants Janet

C. Neschis (hereinafter referred to as "Defendant Neschis"), Robert R. Littman (hereinafter referred to as "Defendant Littman") and others, to defraud Mrs. Natasha Gelman (hereinafter referred to as "Mrs. Gelman"), an elderly, wealthy widow who became mentally incompetent in the last years of her life. The purpose of the scheme was to obtain control over Mrs. Gelman's substantial assets and divert them to Defendant Neschis' and Defendant Littman's personal use and benefit.

2. That to carry out the scheme, inter alia, the Defendant Neschis and Defendant Littman interfered with the contractual rights and legitimate expectations of the charitable beneficiaries of a Liechtenstein Foundation (hereinafter the "Defendant Anturia Stiftung") established by Mrs. Gelman and her late husband.

3. That Plaintiff Jung Family was an intended beneficiary of the Defendant Anturia Stiftung.

4. That the Defendant Neschis and Defendant Littman unlawfully obtained control over Mrs. Gelman's assets through a concerted plan, which included, *inter alia*, the creation of fraudulent will and trust documents and fraudulent letters of instruction purporting to express the intentions of Mrs. Gelman; accompanying Mrs. Gelman to meetings with outside parties who might have discovered the extent of Mrs. Gelman's incapacitated condition, and controlling such contacts and meetings in such a way as to prevent Mrs. Gelman's incapacitated condition from becoming obvious; when such control or attempts at control failed, using financial influence, and threats, to coerce third parties into remaining silent with respect to Mrs. Gelman's incapacitated condition, and other misconduct as yet unknown to the Plaintiff Jung Family.

5. That the conspiracy to defraud Mrs. Gelman and steal from her legitimate beneficiaries was formed in New York and many of the acts in furtherance of the conspiracy

were perpetrated in New York.

6. That Defendant Neschis was Mrs. Gelman's attorney. That Defendant Littman was Mrs. Gelman's close companion, who took up residence in her home in Mexico, and used that proximity of residence to further his and the Defendant Neschis' scheme to obtain control over the assets of Mrs. Gelman throughout the world. The Defendants Neschis, Littman and Diamond were assisted by others residing in the U.S., Mexico and Europe, including but not limited to the other Defendants herein. The Defendants also include the trustees of two trusts created fraudulently by Defendant Neschis and Defendant Littman to receive the proceeds of their fraud.

7. That these acts, as well as the acts as yet unknown to the Plaintiffs, occurred during the last years of Mrs. Gelman's life after she had been rendered incompetent by Alzheimer's disease and was incapable of protecting her own interests or managing her own affairs.

8. That following the onset of Mrs. Gelman's incapacity, the Defendant Neschis, the Defendant Littman and the Defendant Marilyn G. Diamond (hereinafter referred to as the "Defendant Diamond") and others acted to effect unauthorized changes to Mrs. Gelman's financial affairs and/or estate plan, including causing changes to the by laws of a Liechtenstein foundation (the Defendant Anturia Stiftung) which had been created by Mrs. Gelman and her late husband to provide funds to members of Mrs. Gelman's family (the Plaintiff Jung Family) as well as to various charities involved in health care research and the arts, to convert for their own use and benefit millions of dollars intended for Plaintiff Jung Family and others by transferring the funds into fraudulently created trusts and/or to their own control.

9. That the Defendants Neschis, Littman, Diamond and others took advantage of

Mrs. Gelman's mental condition and, falsely purporting to act on Mrs. Gelman's behalf, caused unlawful and unauthorized changes in the beneficiary provisions of the By Laws of the Defendant Anturia Stiftung, which changes, inter alia, purported to eliminate Plaintiff Jung Family as beneficiary.

10. That upon information and belief, the Defendant Anturia Stiftung, through its officers and/or directors and/or agents, including but not limited to the Defendants Dr. Martin Escher (hereinafter referred to as the "Defendant Dr. Escher"), Dr. Peter Sprenger (hereinafter referred to as the "Defendant Dr. Sprenger") and Dr. Conrad Schulthess (hereinafter referred to as the "Defendant Dr. Schulthess") as members of the Board of the Defendant Anturia Stiftung, as well as a now-deceased member of that Board, one Dr. Willy Staehelin, (hereinafter referred to as "Dr. Staehelin") knew, and/or had reason to know that, by 1991, at the latest, Mrs. Gelman was incapable of changing, directing or causing the change, or agreeing to the change, of any of the by-laws of the Defendant Anturia Stiftung because her capacity to do so had been destroyed by the progression of her Alzheimer's Disease.

11. That despite such knowledge on the part of the Defendant Anturia Stiftung it agreed, through its officers and/or directors and/or agents to adopt, agree to and/or implement purported changes to the Defendant Anturia's Stiftung by-laws which purported to change the percentages of shares of distribution to the detriment of the Plaintiffs and to the benefit of the Defendants Neschis, Littman and Diamond.

12. That at the behest of the Defendant Neschis, with the assistance of the Defendant Litmann, the Defendant Diamond, the Defendant Anturia Stiftung acting through members of its Board, exerted economic influence, including the threat that they would withdraw the funds maintained by the Defendant Anturia Stiftung from various financial institutions, if those

institutions questioned Mrs. Gelman's capacity to cause changes to the By-Laws of the Defendant Anturia Stiftung.

13. That the Defendant Neschis and Defendant Littman unlawfully withdrew and/or converted over \$10 million from the Defendant Anturia Stiftung, and other funds and property of Mrs. Gelman, during her lifetime.

14. That the repeated and persistent acts of fraud and undue influence on Mrs. Gelman engaged in by the Defendant Neschis and Defendant Littman, and others, as set forth below, which were designed to convert Mrs. Gelman's assets to the Defendant Neschis and Defendant Littman by effecting unauthorized changes to Mrs. Gelman's estate plan, constitute a pattern of racketeering activity that began in 1990 or 1991 and which continues to the present day.

15. That since the outset of the proceedings relating to Mrs. Gelman's affairs, in 1998, the Defendant Diamond has lent her support to the positions taken by the Defendants Neschis and Littman in various proceedings, including the probate proceedings in the New York County Surrogate's Court and a Liechtenstein arbitration. In addition, the Defendant Diamond has qualified to serve, and is serving, as a trustee of an Inter Vivos Trust created by Mrs. Gelman, even though accepting this role required special permission from the Chief Administrative Judge on account of her judicial status. In November of 2001, the Defendant Diamond personally received \$1,100,000 of the proceeds of the Defendant Anturia Stiftung as a result of the Liechtenstein arbitration.

16. By this lawsuit, Plaintiff Jung Family seeks:

- a. a declaration that Plaintiff Jung Family is entitled to receive a distribution of not less than twenty-seven (27%) percent of the assets, wherever

- located of the Defendant Anturia Stiftung;
- b. an award of damages against the Defendant Neschis, Defendant Littman and Defendant Diamond, and/or an Order that they disgorge from the fraudulently-created trusts, a sum of money equal to the amount of the Plaintiff Jung Family's rightful share of the assets of the Defendant Anturia Stiftung, including its proportionate share of the amounts unlawfully withdrawn from the Defendant Anturia Stiftung by the Defendant Neschis and Defendant Littman, plus interest;
  - c. the imposition of constructive trust over the property of all of the Defendants;
  - d. the assessment of punitive damages against the Defendant Neschis, Defendant Littman and Defendant Diamond;
  - e. an award of treble damages against the Defendant Neschis and Defendant Littman under the RICO statute; and
  - f. an award of attorney's fees that Plaintiff Jung Family was required to expend to uncover and expose Defendant's misfeasance, against the Defendant Neschis, Defendant Littman and Defendant Diamond.

### **Jurisdiction and Venue**

17. This action arises under:
  - a. the Racketeer Influenced and Corrupt Organizations provisions of the Organized Crime Control Act of 1970; 18 U.S.C. § 1961, et seq. ("RICO") and;
  - b. applicable common law principles of conversion and tortious interference

with contract. This Court has jurisdiction over this action under RICO, 18 U.S.C. § 1965(a), Section 1331 of the Judicial Code (28 U.S.C. § 1331) (federal question jurisdiction) and Section 1367 of the Judicial Code (28 U.S.C. § 1367 (supplemental jurisdiction)). The amount in controversy exceeds \$75,000, exclusive of costs and interests.

18. That venue is proper in this District pursuant to RICO, 18 U.S.C. § 1965(a), and Section 1391 of the Judicial Code (28 U.S.C. § 1391). The Defendant Neschis, Defendant Littman and Defendant Diamond reside in New York, and most of the events giving rise to the claims asserted herein occurred in New York.

#### **The Parties**

19. That at all times hereinafter mentioned, Plaintiff Alice Ann Jung was and still is an individual and a resident of the County of San Bernadino, State of California.

20. That at all times hereinafter mentioned, Plaintiff Jerry Jung was and still is an individual and a resident of the County of San Bernadino, State of California.

21. That at all times hereinafter mentioned, Plaintiff Josef Jung was and still is an individual and a resident of the County of San Bernadino, State of California.

22. That at all times hereinafter mentioned, Plaintiff Michelle Jung was and still is an individual and a resident of the County of San Bernadino, State of California.

23. That at all times hereinafter mentioned, the Defendant Neschis was and is an attorney admitted to practice in the State of New York. At the present time, the Defendant Neschis is a member of the law firm of McLaughlin & Stern, LLP. During the time of the events at issue herein, the Defendant Neschis was a member of the law firm of Leavy, Rosensweig & Hyman. That the Defendant Neschis is a resident of the State of New York.

24. That the Defendant Neschis alleges to have been appointed as a trustee of the Jacques and Natasha Gelman Trust, a testamentary trust, by the terms of the alleged Last Will and Testament of Natasha Gelman dated April 23, 1993 and is presently purporting to serve in that capacity.

25. That the Defendant Neschis was allegedly appointed as a trustee of the Jacques and Natasha Gelman trust, an inter vivos trust, by the terms of the trust instrument dated November 18, 1997, and is presently purporting to serve in that capacity.

26. That the Defendant Neschis is sued individually and in her capacities as Trustee of the Jacques and Natasha Gelman inter vivos trust and as Trustee of the Jacques and Natasha Gelman testamentary trust.

27. That at all times hereinafter mentioned, the Defendant Littman is a resident of the State of New York. The Defendant Littman was allegedly appointed as an alternate trustee of the Jacques and Natasha Gelman Trust, a testamentary trust, by the terms of the Last Will and Testament of Natasha Gelman dated April 23, 1993.

28. That the Defendant Littman is sued individually and in his capacity as alternate Trustee of the Jacques and Natasha Gelman testamentary trust.

29. That at all times hereinafter mentioned, the Defendant Diamond is sued individually and in her capacities as Trustee of the Jacques and Natasha Gelman inter vivos trust and as Trustee of the Jacques and Natasha Gelman testamentary trust.

30. That the Defendant Diamond is an attorney admitted to practice in the State of New York and, since 1991, is an Acting Justice of the New York Supreme Court sitting in New York County. The Defendant Diamond is a resident of the State of New York.

31. That at various times set forth herein, the Defendant Diamond was a partner in the



law firm of Leavy Rosenweig & Hyman, in which the Defendant Neschis was also a partner. The Defendant Diamond represented Mrs. Gelman prior to the time she left the firm to assume her duties as a judge. Thereafter, the Defendant Diamond was allegedly appointed as a trustee of the Jacques and Natasha Gelman Trust, a testamentary trust, by the terms of the alleged Last Will and Testament of Natasha Gelman dated April 23, 1993 and is presently purporting to serve in that capacity.

32. That the Defendant Diamond was allegedly appointed as a trustee of the Jacques and Natasha Gelman Trust, (hereinafter referred to as "the Inter Vivos Trust"), by the terms of the trust instrument dated November 17, 1997, and is presently purporting to serve in that capacity.

33. That at all times hereinafter mentioned, the Defendant Anturia Stiftung was a charitable foundation organized under the laws of the Principality of Liechtenstein, with its offices in Vaduz, Liechtenstein.

34. That at various times hereinafter mentioned, the Defendant Dr. Escher, Defendant Dr. Sprenger and Defendant Dr. Schulthess were members of the Board of the Defendant Anturia Stiftung.

#### Natasha Gelman's Estate Plan

35. That Jacques and Natasha Gelman accumulated substantial wealth as a result of Mr. Gelman's success as an entertainment agent and film producer. The Gelmans became collectors of modern art and by the end of their lives had accumulated a collection of approximately eighty-five (85) paintings by modern European masters like Picasso, Matisse, Miro and Bonnard and a separate collection of 95 works of Mexican modern art, both of which are world-renowned.

36. That Jacques and Natasha Gelman had no children.

37. That to preserve their wealth, the Gelmans established various offshore investments. Some of these entities were formed to receive the royalties of Mr. Gelman's successful films.

38. That these entities were created on the advice of Sidney Cohn, Esq., Mr. Gelman's longtime attorney and, upon information and belief, the father of the Defendant Neschis. Mr. Cohn had established relationships in, among other places, Liechtenstein and Switzerland, which facilitated the creation of Liechtenstein investment entities on behalf of his clients, the Gelmans.

39. That the assets deposited into these entities were to be distributed in accordance with their terms upon the death of the Gelmans, and would not pass under the Gelmans' wills. Among these entities were the Waterford Settlement Trust, Aldford Holdings Limited, Paramount Holdings, Limited, Anturia Stiftung Foundation and others.

40. That the Defendant Neschis took advantage of her father's established relationships in Switzerland and Liechtenstein and elsewhere to gain the trust of these foreign fiduciaries, which facilitated her fraudulent schemes.

41. That in or about 1985, the Gelmans founded the Defendant Anturia Stiftung, a Stiftung (or foundation) organized under the laws of the Principality of Liechtenstein.

42. That as of June 1998, the Defendant Anturia Stiftung held in excess of \$36 million in assets; and as of July 1, 2001, the Defendant Anturia Stiftung held in excess of \$39.8 million in assets..

43. That upon information and belief, the laws of the Principality of Liechtenstein provide that a Stiftung is an entity administered by a board of trustees in accordance with its

charter by-laws. The Charter of the Defendant Anturia Stiftung provides that "The purpose of the Anturia shall be the management of the Defendant Anturia Stiftung's capital assets and all transactions relating thereto, as well as the distribution of bequests from the earnings of the Defendant Anturia Stiftung's capital assets, or from the capital assets themselves, to any person and/or institutions designated as beneficiaries by the Board of Trustees in a governing instrument."

44. That in accordance with the Charter, the board of trustees of the Defendant Anturia Stiftung (hereinafter referred to collectively as the "Defendant Anturia Trustees") enacted by-laws. As further described herein, the by-laws of the Defendant Anturia Stiftung, as amended from time to time, provided that the assets of the Defendant Anturia Stiftung would be distributed to the beneficiaries of the Defendant Anturia Stiftung in accordance with the terms of the by-laws upon the death of the surviving spouse.

45. That it was expressly understood by the Gelmans and the Defendant Anturia Trustees and/or Fides and/or Credit Suisse, that the Gelmans would provide instructions, and that the Defendant Anturia Trustees would follow the instructions of the Gelmans, with respect to changing the beneficiaries and the bequests set forth in the by-laws.

46. That at the time that the Defendant Anturia Stiftung was established, the Gelmans were assured that they would continue to control the money in the Defendant Anturia Stiftung. This assurance was also given effect by the designation of Jacques and Natasha Gelman as unconditional primary beneficiaries of the foundation.

47. That it was clear to everyone when the Foundation was established, and later on as well, that the wishes of the Gelmans, particularly with respect to the designation of beneficiaries, the shares such beneficiaries were to receive, and the amendments to the By-Laws,

were always to be carried out. In fact, all legitimate changes were instituted and authorized personally by Mr. or Mrs. Gelman.

48. That pursuant to the By-Laws as they existed in 1985, the Plaintiff Jung Family was to receive twenty-eight (28%) percent of the Defendant Anturia Stiftung's assets, with virtually all of the remainder going to various charitable institutions.

49. That Jacques Gelman died on July 23, 1986.

50. That from time to time following Mr. Gelman's death, and prior to her loss of mental capacity, Mrs. Gelman made certain legitimate amendments to the By-Laws of the Defendant Anturia Stiftung. On each occasion on which a legitimate change was made, Mrs. Gelman traveled to Zurich, Switzerland, and made the changes in her own handwriting to a copy of the By-Laws.

51. That on or about August 10, 1989, prior to the events at issue herein, and while Mrs. Gelman remained of sound mind and free of duress and undue influence, the By-Laws of the Defendant Anturia Stiftung were amended to provide as follows:

- a. that Plaintiff Jung Family, would receive thirty-four percent (34%) of the assets of the Defendant Anturia Stiftung;
- b. that the Weizman Institute would receive twenty percent (20%) of the assets of the Defendant Anturia Stiftung;
- c. that other named charities would receive thirty-nine percent (39%) of the assets of the Defendant Anturia Stiftung (the charities and the percent of the assets to be given to each was specifically set forth); and
- d. that other named beneficiaries would receive the remaining seven percent (7%) of the assets.

52. That in 1989, Mrs. Gelman agreed to bequeath the collection of modern European art, valued at more than \$300 million, to the Metropolitan Museum of Art in New York. The museum exhibited the Jacques and Natasha Gelman collection in 1990. The Gelmans' Mexican art collection and real property in Mexico were to be disposed of in accordance with a Mexican will. The Gelmans' remaining New York assets were to be disposed of by a will to be probated in New York.

53. That on or about August 13, 1991, prior to the events at issue herein, and while Mrs. Gelman remained of sound mind and free of duress and undue influence, the by-laws of the Defendant Anturia Stiftung were amended to provide as follows:

- a. that Plaintiff Jung Family would receive as much as approximately thirty-seven percent (37%) of the assets of the Defendant Anturia Stiftung;
- b. that Defendant Littman would receive approximately one percent (1%) of the assets of the Defendant Anturia Stiftung;
- c. that the Weizman Institute would receive twenty percent (20%) of the assets of the Defendant Anturia Stiftung;
- d. that other named charities would receive thirty-nine percent (39%) of the assets of the Defendant Anturia Stiftung (the charities and the percent of the assets to be given to each was specifically set forth); and
- e. other named beneficiaries would receive the remaining three percent (3%) of the assets.

54. That the percentage interests of Plaintiff Jung Family were increased from the prior by-laws.

55. That the by-laws dated August 10, 1989 and/or the by-laws dated August 13, 1991

were the last by-laws executed in accordance with Mrs. Gelman's instructions while Mrs. Gelman remained of sound mind and free of duress and undue influence (the "Last Valid By-Laws").

**Defendants' Fraud and Undue Influence Over Mrs. Gelman**

56. That some time in late 1991, Mrs. Gelman began to suffer from Alzheimer's disease. As her disease progressed, Mrs. Gelman became forgetful, did not want to socialize, and exhibited angry outbursts and other irrational behavior. After a serious bout with pneumonia in November 1991, her condition worsened to the point where she became listless, could not recall day-to-day events and was confused by financial transactions.

57. That by late 1991, the nature of Mrs. Gelman's condition, and her inability to manage her affairs, became obvious.

58. That by late 1991, Mrs. Gelman could no longer travel independently. As a result, the Defendant Littman accompanied her on all of her travels between Mexico, New York, Zurich and elsewhere.

59. That by 1994, in conversations with a member of the Plaintiff Jung Family, Mrs. Gelman was unable to recognize or acknowledge the identity of the Defendant Neschis and the Defendant Diamond as her attorneys.

60. That on or about December 11, 1994, in a conversation with a member of the Plaintiff Jung Family, Mrs. Gelman, who was in her home in Mexico, denied having been to New York for many years, even though she had been there within the past year, and had traveled to New York on numerous occasions.

61. That as early as January of 1992, Mrs. Gelman was diagnosed as suffering from short term memory deficit, and was treated with prescription medications for Alzheimer's

disease.

62. That in March 1995, Mrs. Gelman was examined by Fred Plum, M.D., a neurologist affiliated with the New York Hospital - Cornell Medical Center. Dr. Plum concluded, in a written report of his examination, that "Mrs. Gelman appears to have progressive Alzheimer's Disease with a fairly typical pattern of memory loss leading all cognitive disabilities in their deterioration," and that "the results of the present examination indicate that she lacks testamentary mental capacity."

63. That based on Dr. Plum's finding and eyewitness accounts of Mrs. Gelman's condition from the time of her husband's death, Robert Freundlich, M.D., a neurologist with experience treating elderly patients with Alzheimer's disease, concluded in 1999 that "it is my opinion that Mrs. Gelman was suffering from dementia of the Alzheimer's type in 1992."

64. That on the same day she met with Dr. Plum, Mrs. Gelman told a member of the Plaintiff Jung Family that she wanted to speak to "her mommy" on that day, even though her mother had died in 1969.

65. That the Gelmans were originally represented by Sidney Cohn, Esq., a member of Cohn, Glickstein & Lurie (the "Cohn firm"). Mr. Cohn was an entertainment lawyer who had a longstanding relationship with Mr. Gelman dating back to the 1950's. The Cohn firm prepared wills and codicils for the Gelmans until 1989. Mr. Cohn died in 1991.

66. That shortly before Mr. Cohn's death, representation of Mrs. Gelman was transferred to the Defendant Diamond, then an attorney in the Cohn firm. That the Defendant Diamond represented Mrs. Gelman until the Defendant Diamond was elected as a judge in 1991.

67. That the Defendant Diamond subsequently obtained permission from the Administrative Judge of the Courts, in 1998, to continue to be involved with the management of

Mrs. Gelman's affairs "on weekends and evenings." While the Defendant Diamond represented that she had been made a co-trustee of charitable trusts which Mrs. Gelman had established, in making this representation she failed to report to the Administrative Judge that the trusts in question controlled tens of millions of dollars, and that Mrs. Gelman's estate included substantial and world famous art collections and foundations and trusts in this country and in several foreign jurisdictions.

68. In or about 1991, representation of Mrs. Gelman was transferred to the Defendant Neschis, Mr. Cohn's daughter and the Defendant Diamond's former law partner. It was around or after Mr. Cohn's death, when the Defendant Neschis became counsel to Mrs. Gelman, that the events at issue herein commenced.

69. That in or about late 1991, the Defendant Neschis and Defendant Littman, with the assistance of the Defendant Diamond, began to take unlawful advantage of Mrs. Gelman's impaired mental condition by fraudulently assuming fiscal authority over Mrs. Gelman's assets, cementing themselves as the sole custodians of her substantial estate and charitable trust, unlawfully taking millions of dollars from the Defendant Anturia Stiftung and Mrs. Gelman's personal assets, and increasing the bequests, commissions and/or fees to be received by these Defendants.

70. That on or about December 2, 1991 and April 1, 1992, Mrs. Gelman purportedly executed general powers of attorney in favor of the Defendant Neschis and Defendant Littman. The only witness to the power of attorney granted to the Defendant Littman was the Defendant Neschis. The witness to the powers of attorney granted to the Defendant Neschis were employees of the Defendant Neschis' own law firm. In addition, during April of 1992, Mrs. Gelman purportedly signed several additional powers of attorney authorizing the Defendant



Neschis to conduct transactions in Mrs. Gelman's accounts at several banks in New York.

71. That these documents were executed under duress and undue influence and after Mrs. Gelman was no longer of sound mind, and for the purpose of obtaining and consolidating the Defendants' control over Mrs. Gelman's assets.

72. That on or about April 1, 1992, Mrs. Gelman purportedly executed a Mexican general power of attorney authorizing the Defendant Littman to conduct transactions on behalf of Mrs. Gelman in Mexico. Although prepared for use in Mexico, this document was executed in New York and was witnessed only by the Defendant Neschis and a legal assistant employed by the Defendant Neschis' law firm.

73. That this document was executed under duress and undue influence and after Mrs. Gelman was no longer of sound mind, and for the purpose of obtaining and consolidating Defendants' control over Mrs. Gelman's assets.

74. That at various times between April and October 1992, the Defendants Neschis, Littman and Diamond caused the trustees of the Defendant Anturia Stiftung to enact fraudulent By-Laws which purported substantially to change the dispositive provisions of those By-Laws to favor, among others, the Defendant Littman and the Defendant Diamond and a charitable trust to be controlled by the Defendant Neschis.

75. That to the extent that Mrs. Gelman purportedly requested or ratified such changes, such requests and ratification were the product of duress and undue influence exerted by the Defendant Neschis, Defendant Littman and Defendant Diamond after Mrs. Gelman was no longer of sound mind, and for the purpose of obtaining and consolidating those Defendants' control over Mrs. Gelman's assets.

**The Fraudulent 1992 Amendments to the Anturia Stiftung By-Laws**

76. That in or about April 1992, the Defendant Neschis traveled to Zurich with Mrs. Gelman to meet with representatives of Fides and/or Credit Suisse, the asset management company responsible for administering the Defendant Anturia Stiftung.

77. That at the time of this trip, Dr. Madeline-Claire Levis, an employee of Fides primarily responsible for administration of the Defendant Anturia Stiftung, formed the opinion that Mrs. Gelman was no longer of sound mind.

78. That in June 1992, the Defendant Neschis inquired of Dr. Levis concerning the procedures for making changes to the By-Laws of the Defendant Anturia Stiftung. Specifically, she asked whether a letter signed by Mrs. Gelman would be sufficient.

79. That on at least two occasions prior to October 1992, the Defendants Neschis, Littman, Diamond and others discussed making changes to the By-Laws of the Defendant Anturia Stiftung. That the Defendant Neschis, Defendant Littman and Defendant Diamond decided upon the changes to be made to the 1991 By-Laws. Specifically, they decided to increase the share of the Defendant Littman, decrease the share of Plaintiff Jung Family and include the Defendant Diamond as a three percent (3%) beneficiary.

80. That in addition, the Defendant Neschis decided to eliminate all but one of the Gelmans' charitable beneficiaries, and instead directed the shares previously allocated to the charitable beneficiaries to the Testamentary Trust.

81. That the only charitable beneficiary to remain a beneficiary after the requested changes would be the Metropolitan Museum of Art.

82. That the Defendant Neschis thereafter fraudulently obtained Mrs. Gelman's signature on a letter to the Trustees of the Defendant Anturia Stiftung dated June 5, 1992, which

purported to instruct the Defendant Anturia Trustees to make changes to the 1991 By-Laws.

83. That this letter was signed by Mrs. Gelman under duress and after she was no longer of sound mind.

84. That the Defendant Neschis thereafter transmitted the June 5 1992 letter of instructions to Dr. Levis and asked that the requested changes be made.

85. That Dr. Levis had serious misgivings about making the changes to the by-laws requested in the written instructions based on the facts that:

- a. Mrs. Gelman had never requested changes other than in person, in her own handwriting;
- b. the requested changes were dramatically different from the Gelmans' intentions during the seven years since the Defendant Anturia Stiftung was created; and
- c. Dr. Levis had concluded, during her meeting with Mrs. Gelman in April 1992, that Mrs. Gelman was no longer mentally competent.

86. That as a result, Dr. Levis refused to make the requested changes without a satisfactory explanation of the unusual circumstances.

87. That the Defendant Neschis refused to provide any explanation, and instead became angry and threatened to withdraw the Defendant Anturia Stiftung's funds from Credit Suisse Bank if the changes were not made immediately.

88. That the Defendant Neschis called upon her longstanding family friend, Dr. Stachelin, who is now deceased, who was one of the Trustees of the Defendant Anturia Stiftung, and asked him to exert his influence to compel Dr. Levis to make the requested changes.

89. That as a result of this threat, and Dr. Staehelin's influence, Dr. Levis agreed to, or was compelled to, process the requested changes.

90. That Fritz Hochner, a Director of Credit Suisse who had known the Gelmans since the early 1970's, learned of the proposed changes to the By-Laws of the Defendant Anturia Stiftung and became concerned that the substantial increase in the bequest to the Defendant Littman was inconsistent with what he knew to be the Gelmans' prior intentions.

91. That Mr. Hochner personally traveled to Mexico to meet with Mrs. Gelman, whom he had known for many years, in or about October of 1992 and, after meeting with Mrs. Gelman, concluded that she was no longer of sound mind.

92. That Mr. Hochner telephoned Mrs. Gelman again in December of 1992 while another Credit Suisse employee was present in her home in Mexico. Based on this telephone conversation, Mr. Hochner confirmed his conclusion that the change to the by-laws to leave a substantial percentage to the Defendant Littman was not Mrs. Gelman's intention.

93. That in or about October 1992, Neschis presented to the Trustees of the Defendant Anturia Stiftung a revised letter dated September 29, 1992 purportedly containing written instructions from Mrs. Gelman concerning slightly different amendments to the By-laws of the Anturia.

94. That specifically, this letter purported to remove all charitable beneficiaries from the By-laws, including Plaintiff Jung Family and the Metropolitan Museum of Art, and instead directed to the Testamentary Trust the shares previously allocated to the charitable beneficiaries.

95. That the amendments set forth in the September 29, 1992 letter included:

- a. reducing the interest of members of Plaintiff Jung Family in the assets of the Defendant Anturia Stiftung from approximately thirty-seven (37%)

- percent to approximately five (5%) percent;
- b. increasing the interest of the Defendant Littman in the assets of the Defendant Anturia Stiftung from approximately one (1%) percent to approximately thirty-one (31%) percent;
- c. adding the Defendant Diamond as a beneficiary of approximately three (3%) percent of the assets of the Defendant Anturia Stiftung;
- d. adding one Rita Sultan Brownstein as a beneficiary of approximately ½ of 1 % of the assets of the Defendant Anturia Stiftung; and
- e. adding the Testamentary Trust as a beneficiary of approximately fifty-seven (57%) percent of the assets of the Defendant Anturia Stiftung.

96. That thereafter, on or about October 19, 1992, the Trustees of the Defendant Anturia Stiftung issued amended By-laws reflecting the changes requested by Neschis (the "October 19, 1992 By-Laws").

97. That the Defendant Neschis used her family's longstanding and close relationship with Dr. Staehelin, then a trustee of the Defendant Anturia Stiftung, to help her accomplish her unlawful ends.

98. That following the December 1992 telephone conversation between Mr. Hochner and Mrs. Gelman, the Defendant Neschis learned of Mr. Hochner's and Dr. Levis's investigation into Mrs. Gelman's mental capacity and intentions.

99. That in or about January of 1993, the Defendant Neschis traveled to Zurich, Switzerland, with her law partner, Steven Hyman, to complain to Dr. Staehelin and to the Defendant Dr. Escher, about Mr. Hochner's and Dr. Levis's investigation.

100. That Mr. Hochner and Dr. Levis were summoned to the meeting and were

pressured to stop asking questions about Mrs. Gelman. The Defendant Neschis threatened to remove the assets of the Defendant Anturia Stiftung from Fides and/or Credit Suisse if Mr. Hochner and Dr. Levis did not cease their investigation.

101. That in fact, the letters referred to above in paragraphs 82 and 93 were signed under duress and undue influence and at a time when Mrs. Gelman was not of sound mind.

102. That Plaintiff Jung Family was removed as a beneficiary of the Defendant Anturia Stiftung in utter disregard of the wishes of Mr. and Mrs. Gelman, and solely as a result of the fraudulent conduct of the Defendant Neschis, Defendant Littman and Defendant Diamond as well as other individuals and Defendants named herein, and their undue influence over Mrs. Gelman.

103. That the share of the assets of the Defendant Anturia Stiftung intended for Plaintiff Jung Family was substantially eliminated and the same share was diverted to the Defendants Littman and Diamond and to the Testamentary Trust.

#### **The Fraudulent 1993 Last Will and Testament**

104. That on or about April 23, 1993, Mrs. Gelman purportedly changed her will by executing a new Last Will and Testament (the "1993 Will").

105. That in the 1993 Will, the Defendant Neschis was appointed to serve as executor of the estate. That the Defendant Diamond and Defendant Littman were each appointed as an alternate executor. In wills executed prior to 1989, Sidney Cohn had been appointed to serve as executor or co-executor.

106. That under the terms of the 1993 Will, Mrs. Gelman's closest living blood relatives, Miroslav Jung, Jaroslav Jung and Mario Sebastian, were each receive a bequest of \$10,000.00.

107. That under the terms of the 1993 Will, the Defendant Littman was to receive a \$500,000.00 bequest.

108. That the bequests to Plaintiff Jung Family are substantially lower, and the bequest to Defendant Littman is substantially higher, than bequests in earlier wills executed by Mrs. Gelman.

109. That the 1993 Will also provided for the creation of the Jacques and Natasha Gelman Trust (the "Testamentary Trust"), to exist in perpetuity, for charitable, literary, educational and other purposes, to be funded by Mrs. Gelman's residuary estate.

110. That the Testamentary Trust was to be administered by the Defendants Neschis and the Defendant Diamond as co-trustees, and the Defendant Littman as alternate trustee. The 1993 Will purported to authorize the Trustees to spend the income and principal of the Testamentary Trust, in their sole discretion, consistent with its purposes.

111. That the reduction of the bequests to the Plaintiff Jung Family substantially increased Mrs. Gelman's residuary estate, which was to be placed into the Testamentary Trust, which was to be controlled by the Defendants Neschis and Diamond.

112. That a similar testamentary trust was first included in Mrs. Gelman's will in 1988. However, in the 1993 Will, Defendant Neschis and Defendant Littman changed the purposes for which the assets of the Testamentary Trust would be used.

113. That the 1988 will provides that the assets of the trust were to "be used for medical research for Heart Disease, Arthritis, Cancer and for the assistance of the aged and infirm."

114. That this provision remained unchanged in three subsequent wills executed in 1989 and 1990. However, the 1993 Will adds : "or (b) for the aid and assistance of artists in the

United States and Mexico through a program of annual gifts to artists."

115. That the reduction of the bequests to Plaintiff Jung Family substantially increased Mrs. Gelman's residuary estate, which was to be placed into the Testamentary Trust, which was to be controlled by the Defendants Neschis and Diamond.

116. That the 1993 Will was made after Mrs. Gelman no longer had testamentary capacity and was no longer of sound mind.

117. That Mrs. Gelman was influenced to execute the 1993 Will by fraud, duress and undue influence brought to bear by the Defendants, Littman and Diamond for their personal benefit.

118. That the Defendants Neschis, Littman and Diamond fraudulently obtained their own appointment as Trustees of the Testamentary Trust for the purpose of obtaining and consolidating their control over Mrs. Gelman's assets.

#### **The Purported Mexican Will**

119. That in or about January of 1993, the Defendant Neschis contacted a Mexican attorney to make inquiries about whether the Defendant Littman could be appointed as a trustee of the Gelmans' Mexican art collection. That Defendant Neschis advised the Mexican attorney that she would come to Mexico to finalize arrangements for the creation of the Natasha Gelman Foundation for this purpose. Papers were prepared in accordance with the Defendant Neschis' discussions with the Mexican attorney. However, Defendant Neschis thereafter stopped communicating with the Mexican attorney.

120. That on or about March 10, 1992, and again on January 19, 1993, Defendant Littman transmitted to Defendant Neschis two of his own proposals for the disposition of the Gelmans' Mexican art collection.



121. That the first proposal would have placed the collection in perpetuity with the Centro Cultural/Arte Contemporaneo, the Mexican museum which then employed Defendant Littman. That in the second proposal (submitted after the Centro Cultural /Arte Contemporaneo unexpectedly failed) the collection would be placed in perpetuity with the San Francisco Museum of Modern Art.

122. That in each such proposal, the Defendant Neschis and Defendant Littman were each to receive lifetime appointment as members of an oversight committee with responsibility to supervise the exhibition of the collection.

123. That the Defendant Neschis rejected the proposals.

124. That at all such times, upon information and belief, Defendant Neschis and Defendant Littman knew that Mrs. Gelman was, and would have been, unable to agree to the terms of the disposition of the Mexican art collection by virtue of her mentally incapacitated condition.

125. That the Defendant Neschis contacted a different Mexican law firm and arranged for the preparation of a new Mexican will for Mrs. Gelman.

126. That on or about August 20, 1993, Mrs. Gelman purportedly executed a new Mexican will.

127. That pursuant to the terms of this purported Mexican will, the Gelmans' Mexican art collection was to be bequeathed to Defendant Littman outright, subject only to the conditions that the collection be kept together and that it be exhibited in a private museum which was to be selected by Defendant Littman.

128. That pursuant to the terms of this purported Mexican will Mrs. Gelman's real property in Mexico was to be sold and the proceeds used to maintain the art collection, and to

pay bequests to two of Mrs. Gelman's household servants. Upon information and belief, the Defendant Littman continues to live in the house, to this day.

129. That pursuant to the terms of the purported Mexican will, Defendant Littman was named as executor and Defendant Neschis was named as successor executor, even though, upon information and belief, she has never lived in Mexico.

**Other Purported Dispositions of Mrs. Gelman's Property**

130. That on or about October 28, 1994, Mrs. Gelman purportedly executed an affidavit attesting that at the time of her execution of the 1993 Will, it had been her intention that the Defendant Neschis should receive a full commission for her services as executor of Mrs. Gelman's estate, and that the Defendant Neschis's law firm, Leavy Rosensweig & Hyman, receive legal fees incurred in connection with administration of the estate.

131. That this affidavit was executed after Mrs. Gelman had lost testamentary capacity and was no longer of sound mind.

132. That Mrs. Gelman was influenced to execute this affidavit by fraud, duress and undue influence brought to bear by the Defendant Neschis for the personal benefit of Defendant Neschis and her law firm.

133. That under circumstances as yet unknown to the Plaintiff Jung Family, the Defendant Neschis became the sole trustee of the Waterford Settlement Trust and in that capacity has sole and exclusive control over substantial amounts of the Gelmans' wealth which is located in England.

134. That among the beneficiaries of the Waterford Settlement Trust are Defendant Littman and the Inter Vivos Trust controlled by Defendant Neschis.

135. That on or about November 18, 1997, Mrs. Gelman purportedly executed an

assignment of her interests in an entity called Telemont Holdings, Limited (which had been formed by Jacques Gelman with the assistance of Sidney Cohn to receive certain proceeds from Mr. Gelman's successful film projects) to the Waterford Settlement Trust.

136. That the effect of this assignment was to transfer substantial sums of the Gelmans' money to Defendant Neschis' exclusive control.

137. That the document which made the assignment to Waterford was purportedly executed more than two years after the conclusion by Mrs. Gelman's neurologist, Dr. Plum, that she lacked testamentary capacity, as set forth in Paragraphs 61 and 62, supra.

138. That Mrs. Gelman's signature on the document which purportedly assigned her Telemont Holdings interests to the Waterford Settlement Trust was fraudulently obtained.

139. That between December of 1998 and December of 1999, the Inter Vivos Trust controlled by the Defendant Neschis received distributions from the Waterford Settlement Trust totaling in excess of \$11 million. Records of any transfers or distributions concerning the Waterford Settlement Trust after December of 1999 are presently unavailable to the Plaintiff Jung Family.

#### **Diversions of Income from Defendant Anturia Stiftung**

140. That in April 1992 and continuing through 1998, Defendant Neschis caused substantial distributions to be made from the assets of the Defendant Anturia Stiftung to herself or for her personal benefit.

141. That these distributions were not authorized by Mrs. Gelman and were fraudulently obtained by the Defendant Neschis and Defendant Littman.

142. That by handwritten note dated April 30, 1992, which was purportedly signed by Mrs. Gelman, Defendant Neschis directed a representative of Credit Suisse to "arrange for the

immediate transfer to my Credit Suisse, New York account of \$150,000 (U.S.)" from the accounts of the Defendant Anturia Stiftung and/or from accounts held for the Gelmans.

143. That in the same note, Defendant Neschis directed Credit Suisse to send all future interest earned on the Defendant Anturia Stiftung funds, and/or Mrs. Gelman's funds, directly to Mrs. Gelman's Credit Suisse account in New York.

144. That these instructions were followed by Credit Suisse, and the requested distributions were made.

145. That available bank records for Mrs. Gelman's account at Credit Suisse New York reflect at least the following distributions received from Credit Suisse Zurich: \$198,000 on November 30, 1992; \$61,700 on January 28, 1993; \$152,500 on March 1, 1993; \$154,600 on June 1, 1993; \$159,400 on August 2, 1993; \$245,600 on September 2, 1993; \$216,000 on November 15, 1993; \$126,000 on February 22, 1994; \$175,000 on May 27, 1994; \$175,000 on July 27, 1994; \$290,000 on August 30, 1994; \$277,000 on November 30, 1994; and \$272,000 on February 28, 1995.

146. That Mrs. Gelman also maintained accounts with various banks in New York, including the Morgan Bank and the Bank of New York, and in Mexico, with Bancomer, the records of which are presently unavailable to Plaintiff Jung Family.

147. That other similar distributions were made periodically, records of which are presently unavailable to Plaintiff Jung Family. There was over \$30 million in the Defendant Anturia Stiftung accounts in 1992, and interest payments were made to the Gelman accounts in New York from 1992 to 1998. Interest earned and sent to Mrs. Gelman's account at Credit Suisse in New York is believed to be in excess of \$10 million.

148. That pursuant to the powers of attorney referred to above and other instruments or

practices presently unknown to Plaintiff Jung Family, the Defendant Neschis, and Defendant Littman had access to the funds in Mrs. Gelman's account at Credit Suisse in New York and converted said funds to their own use.

149. That as a result of the provision in the Last Valid By-Laws of the Defendant Anturia Stiftung the Plaintiff Jung Family was given thirty-seven (37%) percent of the assets of the Defendant Anturia Stiftung. That at the time of Mrs. Gelman's death, if the Last Valid By-Laws had remained in effect, because of the death of one Jung beneficiary, the Plaintiff Jung Family had a twenty-seven percent (27%) interest in these converted funds.

**Creation of Inter Vivos Trust and The 1998 Amendment to By-Laws**

150. That on or about November 18, 1997, the Defendant Neschis, Defendant Littman and the Defendant Diamond fraudulently caused Mrs. Gelman to execute a trust instrument purporting to create the Jacques and Natasha Gelman Trust (the "Inter Vivos Trust").

151. That the Defendant Neschis and Defendant Diamond were named as a co-trustees of the Inter Vivos Trust. In addition to commissions, the Trustees are authorized to perform professional services for the Inter Vivos Trust at their regular rates. The Trustees are also expressly authorized to arbitrate and settle claims on behalf of the Inter Vivos Trust. The Trustees are expressly excused from filing inventories and periodic accountings in any court. The Trustees may spend the trust assets "in their sole and absolute discretion" "for use exclusively within the United States for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals."

152. That this provision is substantially different from the provision creating a charitable testamentary trust in Mrs. Gelman's wills prior to 1993.

153. That as a result of these provisions, there is no one likely to challenge the

administration of the Inter Vivos Trust. The New York Surrogate's Court would not ordinarily assert jurisdiction over an inter vivos trust in connection with administration of the estate, and has in fact declined to do so with respect to the Inter Vivos Trust.

154. That the above-referenced trust instrument is not properly verified.

155. That Mrs. Gelman's execution of the instrument was purportedly witnessed by the Defendant Neschis and a witness whose signature is utterly illegible. That the witness whose signature is illegible is believed to be Defendant Littman.

156. That the illegible signature is not verified. Mrs. Gelman's signature is not verified by the notary public.

157. That instead, the notary public attests, with respect to Mrs. Gelman's signature, only that the Defendant Neschis came before him and that Defendant Neschis stated to him that Defendant Neschis saw Mrs. Gelman execute the instrument.

158. That according to the Defendant Neschis, the trust instrument was executed by Mrs. Gelman in Mexico, on November 18, 1997. That Defendant Neschis has contended that she was in Mexico on November 18, 1997 to witness the execution. That Defendant Neschis further contended that she traveled back to the United States from Cuernavaca, Mexico, on that same November 18, 1997, and that she appeared before the notary public on November 18, 1997 to verify her signature as a witness, and to provide the highly irregular verification of Mrs. Gelman's signature provided above.

159. That both the trust instrument and the verifications, are silent with respect to the fact that the instrument was signed in Mexico.

160. That in truth and in fact, Defendant Neschis did not actually witness Mrs. Gelman's signature in Mexico and return to New York to appear before a notary public on that

same day. Rather, the trust instrument was falsely and fraudulently created by Defendant Neschis, Defendant Littman and Defendant Diamond, the alleged witnessing of Mrs. Gelman's execution of the trust was false, and Mrs. Gelman's alleged signature was fraudulently procured, all in furtherance of the fraudulent scheme of the Defendant Neschis, Defendant Littman and Defendant Diamond.

161. That if Mrs. Gelman signed this document, it was signed under duress and undue influence and at a time when Mrs. Gelman was not of sound mind.

162. That the document was purportedly executed more than two years after Dr. Plum's conclusion in March 1995 that Mrs. Gelman "lacks testamentary mental capacity," as described above.

163. That Mrs. Gelman's signature on the trust instrument was fraudulently procured, and the Defendant Neschis' and Defendant Littman's execution of the document as witnesses of Mrs. Gelman's signature was false and fraudulent.

164. That on or about November 18, 1997, the Defendant Neschis fraudulently caused Mrs. Gelman to sign a letter sent by Defendant Neschis to the Defendant Anturia Stiftung requesting additional changes to the by-laws. The letter requested that the Inter Vivos Trust be substituted for the Testamentary Trust as the beneficiary of fifty-seven (57%) percent of the assets of the Defendant Anturia Stiftung.

165. That Defendant Littman observed the alleged execution, by Mrs. Gelman, of the Inter Vivos Trust at a time when he knew that she no longer possessed the testamentary capacity to do so.

166. That the letter also advised the Defendant Anturia Stiftung that Elizabeth Jung had died, and thus that, pursuant to the terms of the by-laws, her one (1%) percent share should

be distributed to the Inter Vivos Trust instead. These changes were made and the by-laws amended on January 27, 1998 (the "January 27, 1998 By-Laws"). Under the January 27, 1998 By-Laws, the Inter Vivos Trust was entitled to receive fifty-eight (58%) percent of the assets of the Defendant Anturia Stiftung.

167. That if Mrs. Gelman signed the letter referred to above in paragraph 106, it was signed under duress and undue influence and at a time when Mrs. Gelman was not of sound mind.

168. That as a result of the letter referred to above in paragraph 106, in January 1998 the twenty-seven (27%) percent share of the assets of the Defendant Anturia Stiftung originally intended for Plaintiff Jung Family was wrongfully transferred to the Inter Vivos Trust for the personal benefit of the Trustees of the Inter Vivos Trust.

**Defendants' Conduct After Mrs. Gelman's Death.**

169. That Mrs. Gelman died on May 2, 1998, at the age of 86.

170. That the 1993 Will was offered for probate by Defendant Neschis in May 1998. That Defendant Neschis qualified to serve as executor of the Estate of Natasha Gelman and is presently serving in that capacity. Proceedings relating to administration of the Estate of Natasha Gelman are ongoing in the Surrogate's Court, New York County. Because the assets of the Defendant Anturia Stiftung are not part of Mrs. Gelman's New York probate estate, Plaintiff Jung Family's claims herein are not pending before, and will not be adjudicated by, the Surrogate's Court, New York County.

171. That soon after Mrs. Gelman's death in 1998, the Defendant Anturia Stiftung approved a payment of \$500,000 to the Inter Vivos Trust.

172. That on or about July 16, 1999, the Defendants Neschis and Diamond commenced



an arbitration proceeding in Liechtenstein purportedly against the trustees of the Defendant Anturia Stiftung, seeking an award compelling the trustees to make payment of 58% of the Defendant Anturia Stiftung assets to the Inter Vivos Trust in accordance with the provisions of the January 27, 1998 By-Laws.

173. That members of the Jung family were joined in the proceedings as third party intervenors.

174. That a hearing was held and by decision dated June 8, 2001, the arbitration panel concluded that the assets of the Defendant Anturia Stiftung should be distributed in accordance with the January 27, 1998 By-Laws.

175. That on or about November 9, 2001, the Inter Vivos Trust received \$21,030,000 from the Defendant Anturia Stiftung assets in accordance with the January 27, 1998 By-Laws.

176. That on or about November 9, 2001, Defendant Littman personally received \$11,140,000 from the Defendant Anturia Stiftung's assets in accordance with the January 27, 1998 By-Laws.

177. That on or about November 9, 2001, the Defendant Diamond personally received \$1,100,000 from the Defendant Anturia Stiftung's assets in accordance with the January 27, 1998 By-Laws.

178. That since that time Defendant Neschis, in her capacity as trustee of the Inter Vivos Trust, has used and expended trust assets in her absolute discretion, including to pay attorneys fees in this and other proceedings, and to pay herself trustee's commissions.

179. That during the fiscal year ending on November 30, 1999, Defendant Neschis caused the Inter Vivos Trust to pay \$217,350 in legal fees and expenses, including the sum of \$29,572 to McLaughlin & Stern, LLP, the firm where she is now a partner, \$15,223 to Marxer &

Partner, a Liechtenstein law firm that represented the Defendant Neschis and Defendant Diamond in the Liechtenstein arbitration and provided a foreign law affidavit in the proceedings and \$172,555 to an entity known as Denmur Treu Bond und Verwaltungs-Anstalt, whose role is not currently known to Plaintiff.

180. That during the fiscal year ending on November 30, 2000, Defendant Neschis caused the Inter Vivos Trust to pay a total of \$296,768 in legal fees and expenses, including the sum of \$216,403 to McLaughlin & Stern, LLP, the firm where she is now a partner; \$15,000 to Kaye Scholer, Fierman Hays & Handler LLP, (the firm that represents the Defendants Neschis and Diamond in these proceedings \$40,416 to Marxer & Partner; \$15,806 to Weil Gotshal & Manges (which supplied an affidavit concerning U.S. law for submission in the Liechtenstein arbitration on behalf of Defendant Neschis and Defendant Diamond and \$9,143 to Dr. H.L. Bernard Vischer, whose role is not presently known to the Plaintiff.

181. That during the fiscal year ending on November 30, 2000, Defendant Neschis caused the Inter Vivos Trust to make the following charitable gifts: \$110,000 to the Museo del Barrio "to preserve the cultural heritage of Puerto Ricans"; \$36,000 to the Art Student's Leagues of New York "to provide education for artists;" and \$43,360 to the Pratt Institute "to provide education for artists."

182. These gifts, which were made in the sole and exclusive discretion of Defendant Neschis, are not in accordance with the criteria expressed by Mrs. Gelman for the charitable testamentary trust created in her wills prior to 1993, but rather in accordance with the new criteria inserted by Defendant Neschis into Mrs. Gelman's will and the Inter Vivos Trust after Mrs. Gelman was no longer of sound mind.

183. Although additional information is not available to the Plaintiff Jung Family at

this time, it is believed that Defendant Neschis has continued, and continues to the present day, to pay her substantial legal fees and expenses, as well as substantial commissions from the Inter Vivos Trust.

**Defendant Neschis' Similar Fraudulent Conduct  
in Connection with other Clients.**

184. Defendant Neschis has engaged in similar fraudulent conduct against other former clients of her father, Defendant Cohen. In particular, Defendant Neschis has been accused of altering document, converting funds to her personal use and benefit and refusing to turn over amounts rightfully belonging to her clients.

185. Evelyn Williams-Jones, the widow of film producer Carl Foreman, represented by Proschkauer Rose LLP sued Defendant Neschis for the return of shares of stock in Highroad Productions, a corporation formed by Foreman to receive revenues from his films. Mr. Foreman has give Cohn his longtime attorney a 25% interest in Highroad Productions. Cohen held the remaining 75% in trust for Mr. Foreman. The shares representing Mr. Foreman's 75% interest in Highroad remained in Cohn's possession for safekeeping. Mr. Foreman died in 1984 leaving his 75% interest in Highroad to Ms. William-Jones.<sup>1</sup> After Cohn's death in 1991 Defendant Neschis took over the management of Highroad in place of her father. Ms. William-Jones wrote to Defendant Neschis asking her to turn over the 75% interest in Highroad. Defendant Neschis claimed ownership of the shares and refused to relinquish them falsely taking the position that Mr. Foreman had made a gift of the share to Cohn. Ms. Williams-Jones sued Defendant Neschis and the executors of Cohn's estate for return of the shares. The action was ultimately settled in Ms. Williams-Jones' favor. However, before agreeing to the settlement Defendant Neschis extracted a peculiar concession from Ms. Williams-Jones that "Janet C. Neschis should not have

been named a defendant herein”.

186. The Estate of Cantinflas, the Mexican film star who collaborated with Jacques Gelman, has alleged that Defendant Neschis engineered a scheme to deprive the Cantinflas Estate of its rightful share of the profits of Cantinflas films, and steered those assets to the Gelman Estate (Controlled by Neschis). Cantinflas and Mr. Gelman shared revenues from certain films through offshore entities created by Cohn, including Telemont Anstalt, a Liechtenstein trust entity, to which they conveyed the rights to a number of Cantinflas films. Telemont was owned 65% by Cantinflas and 35% by Gelman. The Estate of Cantinflas has alleged that Defendant Neschis fraudulently obtained Mrs. Gelman's signature on documents dated November 18, 1997 assigning assets held by Telemont to another offshore entity, the Waterford trust, controlled by the Gelmans (and now controlled by the Defendant Neschis as executor of Mrs. Gelman's Estate).

187. With respect to each of these situations, Defendant Neschis is alleged to have engineered suspicious document changes and misappropriated client assets for her own personal benefit. In each case, Defendant Neschis fraudulent actions took place after the death or disability of the principals to the transactions. Defendant Neschis succession to her father's position as counsel for these longtime clients leaving Defendant Neschis with unfettered access to her client's assets. Indeed the fraudulent documents alleged to have been created by Defendant Neschis in connection with Telemont Anstalt were dated the same day as the fraudulent instrument purportedly creating the Inter Vivos Trust, and the fraudulent "letter of instructions" to the Defendant Anturia Stiftung trustees requesting that the Inter Vivos Trust be substituted as a primary beneficiary.

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**COUNT I**  
**(Declaratory Relief Against All Defendants)**

188. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-187" as though more fully set forth at length herein.

189. The October 19, 1992 By-Laws and the January 27, 1998 By-Laws of the Defendant Anturia Stiftung were wrongfully procured by Defendant Neschis, Defendant Littman Defendant Diamond, the Defendant Anturia Trustees, and others, by fraud, duress and undue influence brought to bear on Mrs. Gelman after Mrs. Gelman was no longer of sound mind. Defendants' actions were not authorized by Mrs. Gelman and were designed to divert Mrs. Gelman's assets to the benefit of Defendants and away from her legitimate beneficiaries.

190. That upon information and belief, the Defendant Anturia Stiftung, acting through its Officers and/or Directors and/or Agents, including but not limited to Defendant Dr. Escher, Defendant Dr. Sprenger and Defendant Dr. Schulthess knew and had reason to know that the purported October 19, 1992 By-Laws and the purported January 27, 1998 by-laws had been wrongfully procured by Defendant Neschis, Defendant Littman and others by fraud, duress and undue influence brought to bear on Mrs. Gelman after she was no longer of sound mind.

191. That notwithstanding the foregoing, for reasons as yet unknown to the Plaintiffs herein, the Defendant Anturia Stiftung facilitated the adoption of the purported October 19, 1992 By-laws, and the purported January 27, 1998 by-laws, and further caused and facilitated the transfer of funds to Defendant Neschis and Defendant Littman and others, in furtherance of their fraudulent scheme to defraud.

192. The Inter Vivos Trust has wrongfully claimed a right to receive fifty-eight (58%) percent of the assets of the Defendant Anturia Stiftung in accordance with the January 27, 1998

By-Laws. If assets of the Defendant Anturia Stiftung were and/or are distributed in accordance with the January 27, 1998 By-Laws, Plaintiff Jung Family will be deprived of its rightful interest in the assets of the Defendant Anturia Stiftung. Accordingly, a justiciable controversy is presented.

193. By reason of the foregoing, as well as other acts yet to be uncovered, Plaintiff Jung Family is entitled to a declaration that: a) Plaintiff Jung Family is entitled to receive a collective distribution of twenty-seven (27%) percent of the assets, wherever located, of the Defendant Anturia Stiftung, and b) no Defendant may distribute, remove or disburse any assets received from the Defendant Anturia Stiftung prior to Plaintiff Jung Family receiving its rightful share of twenty-seven (27%) percent of the assets in the Defendant Anturia Stiftung at the time of Mrs. Gelman's death.

**COUNT II**  
**(Conversion Against Defendants Neschis and Littman)**

194. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-193" as though more fully set forth at length herein.

195. The Last Valid By-Laws, together with the Defendant Anturia Stiftung's Charter and all express and implied understandings between the Gelmans and the Defendant Anturia Stiftung's and/or Fides, constituted a valid, enforceable contract between the Gelmans and the Defendant Anturia Stiftung's, and/or Fides concerning the disposition of the assets of the Defendant Anturia Stiftung.

196. The October 19, 1992 By-Laws and all subsequent by-laws were executed as a result of fraud, duress and undue influence and do not constitute a valid or enforceable contract.

197. The October 19, 1992 By-Laws and all subsequent by-laws did not validly revoke

or supersede the Last Valid By-Laws.

198. Plaintiff Jung Family is a third-party beneficiary of the contract comprised of the Last Valid By-Laws and the Charter, and/or all understandings and assurances provided to the Gelmans, pursuant to which Plaintiff Jung Family is entitled to distribution of not less than twenty-seven (27%) percent of the assets of the Defendant Anturia Stiftung upon Mrs. Gelman's death. Accordingly, the contract comprised of the Last Valid By-Laws, the Charter and/or all understandings and assurances provided to the Gelmans gave Plaintiff Jung Family a valid and enforceable interest in not less than twenty-seven (27%) percent of the assets of the Defendant Anturia Stiftung.

199. That the Defendants Neschis, Littman and Diamond improperly converted Plaintiff Jung Family's interest in the assets of the Defendant Anturia Stiftung for the benefit of Defendants by causing the execution of the October 19, 1992 By-Laws and the January 1998 By-Laws.

200. In addition, the Defendant Neschis and Defendant Littman improperly converted the amounts of interest earned on the Defendant Anturia Stiftung's assets that they fraudulently transferred to the Credit Suisse account in New York to which they had access.

201. As a result of the wrongful conduct of Defendants Neschis, Littman and Diamond set forth herein, as well as other acts yet to be uncovered, Plaintiff Jung Family has been deprived of its rightful interest in not less than twenty-seven (27%) percent in the full and undepleted assets of the Defendant Anturia Stiftung under the terms of the Last Valid By-Laws. Accordingly, Plaintiff Jung Family has been damaged in the amount of funds improperly converted, which is not less than \$21 million.

**COUNT III**  
**(Conversion Against Defendant Anturia Stiftung)**

202. That the Plaintiff Jung Family repeats and reiterates each and every allegation contained in Paragraphs "1-201" as though more fully set forth at length herein.

203. That upon information and belief, and at all times hereinafter mentioned, the Defendant Anturia Stiftung knew, and had reason to know, that it was without authority to distribute the assets of the Defendant Anturia Stiftung pursuant to the provisions of the purported October 19, 1992 By-Laws and the purported January 27, 1998 by laws, because said by-laws had been purportedly changed by Mrs. Gelman when she was no longer of sound mind and therefore no longer capable of changing, directing or causing or agreeing to any such changes in the by-laws of the Defendant Anturia Stiftung at any time after 1991.

204. That despite such knowledge, the Defendant Anturia Stiftung transferred funds, as set forth above, with the intention that, by doing so it would benefit Defendants Neschis, Littman and Diamond, as well as deprive the Plaintiff Jung Family of property, to wit money, that was the rightful property of the Plaintiff Jung Family.

205. That the Defendant Anturia Stiftung knew and had reason to know that the Plaintiff Jung Family was the legal owner of such property, to wit money, and/or that it had a right to such property superior to that of Defendants Neschis, Littman and Diamond.

206. That in addition, the Defendant Anturia Stiftung aided and facilitated Defendant Neschis and Defendant Littman improperly to convert the amounts of interest earned on the Defendant Anturia Stiftung assets that they fraudulently caused the Defendant Anturia Stiftung to transfer to the Credit Suisse account in New York to which Defendant Neschis and Defendant Littman had access.



207. That by virtue of the foregoing, the Defendant Anturia Stiftung deprived the Plaintiff Jung Family of such property, to wit money, and/or interfered with the Plaintiff Jung Family's expectations with regard to such property, despite the fact that it had no authority to do so.

208. That as a result of the wrongful conduct of the Defendant Anturia Stiftung set forth above, as well as other acts yet to be uncovered, Plaintiff Jung Family has been deprived of its rightful interest in not less than twenty-seven (27%) percent in the full and undepleted assets of the Defendant Anturia Stiftung under the terms of the Last Valid By-Laws. Accordingly, Plaintiff Jung Family has been damaged in the amount of funds improperly converted, which is not less than \$21 million.

**COUNT IV**  
**(Tortious Interference With Contractual Relations**  
**Against Defendants Neschis and Littman)**

209. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-208" as though more fully set forth at length herein.

210. That the Last Valid By-Laws, together with the Defendant Anturia Stiftung Charter and all express and implied understandings between the Gelmans and the Defendant Anturia Stiftung, constituted a valid, enforceable contract between the Gelmans and the Defendant Anturia Stiftung and/or Fides.

211. That the Plaintiff Jung Family was a third-party beneficiary of the contract comprised of the Last Valid By-Laws, Charter and all understandings and assurances provided to the Gelmans pursuant to which the Plaintiff Jung Family is to receive not less than thirty seven percent (27%) of the assets of the Defendant Anturia Stiftung.

212. That at all relevant times, Defendant Neschis and Defendant Littman were aware

of the existence and provisions of the Last Valid By-Laws. Specifically, Defendant Neschis and Defendant Littman were aware of the fact that under the Last Valid By-Laws, Plaintiff Jung Family was entitled to receive not less than twenty-seven (27%) percent of the assets of the Defendant Anturia Stiftung.

213. That Defendant Neschis and Defendant Littman intentionally and wrongfully procured and effected the elimination of the Last Valid By-Laws and Plaintiff Jung Family's rights thereunder by fraudulently obtaining the execution of the October 19, 1992 By-Laws and/or the January 27, 1998 By-Laws..

214. In addition, Defendant Neschis and Defendant Littman improperly converted the amounts of interest earned on the Defendant Anturia Stiftung assets that they fraudulently transferred to the Credit Suisse account in New York to which they had access.

215. As a result of the wrongful conduct of Defendant Neschis and Defendant Littman, as well as other acts yet to be uncovered, Plaintiff Jung Family has been deprived of its rightful interest in not less than twenty-seven (27%) percent of the full and undepleted assets of the Defendant Anturia Stiftung under the terms of the Last Valid By-Laws. Accordingly, Plaintiff Jung Family has been damaged in the amount of not less than twenty-seven (27%) percent of the funds improperly diverted plus interest, which is not less than \$21 million.

**COUNT V**  
**(Unjust Enrichment Against Defendants**  
**Neschis, Littman and Diamond)**

216. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-215" as though more fully set forth at length herein.

217. The Last Valid By-Laws, together with the Defendant Anturia Stiftung's Charter and all express and implied understandings between the Gelmans and the Defendant Anturia

Stiftung, made it clear that, while Natasha Gelman was still of sound mind, it was her intention to bequeath to the Plaintiff Jung Family thirty-seven percent (37%) of the assets of the Defendant Anturia Stiftung.

218. At all relevant times, the Defendants Neschis, Littman and Diamond were aware of the existence and provisions of the Last Valid By-Laws. Specifically, the Defendants Neschis Littman and Diamond were aware of the fact that under the Last Valid By-Laws, Plaintiff Jung Family was entitled to receive not less than twenty-seven (27%) percent of the assets of the Defendant Anturia Stiftung at the time of Mrs. Gelman's death.

219. That the Defendants Neschis, Littman and Diamond intentionally and wrongfully procured and effected the elimination of the Last Valid By-Laws and Plaintiff Jung Family's rights thereunder by fraudulently obtaining the execution of the October 19, 1992 By-Laws.

220. That the Defendants Neschis, Littman and Diamond therefore prevented Mrs. Gelman from providing for the Plaintiff Jung Family in her will as set forth above under the Last Valid By-Laws because Mrs. Gelman became incompetent after the execution of the Last Valid By-Laws.

221. In addition, Defendant Neschis and Defendant Littman improperly converted the amounts of interest earned on the Defendant Anturia Stiftung assets that they fraudulently transferred to the Credit Suisse account in New York to which they had access.

222. As a result of the wrongful conduct of Defendants Neschis, Littman and Diamond, Plaintiff Jung Family has been deprived of its rightful interest in not less than twenty-seven (27%) percent of the full and undepleted assets of the Defendant Anturia Stiftung under the terms of the Last Valid By-Laws.

223. That by virtue of the foregoing,, Defendants Neschis, Littman and Diamond have

been unjustly enriched in an amount of not less than twenty-seven (27%) percent of the funds improperly diverted plus interest, which is not less than \$21 million.

**COUNTS VI AND VII**  
**(Allegations Common To Rico Counts**  
**Against Defendants Neschis and Littman)**

224. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-223" as though more fully set forth at length herein.

225. As set forth herein, Defendant Neschis and Defendant Littman engaged in a scheme to defraud Mrs. Gelman designed to gain control over her substantial wealth and to divert her money and property to their personal use and benefit. Mrs. Gelman was vulnerable to the Defendants' scheme because she had no close family members living with her to protect her interests and supervise her affairs as her mental condition deteriorated. Moreover, as Defendant Neschis and Defendant Littman understood, Mrs. Gelman had no direct descendants expecting to inherit her large estate, and it was unlikely that the charitable institutions to which she had left large bequests would ever discover Defendants' fraudulent acts.

226. That beginning in 1990 or 1991, Defendant Neschis, Defendant Littman and others took advantage of Mrs. Gelman's declining mental condition by deceiving Mrs. Gelman into believing that they would protect her interests, and thereby falsely earned her trust and confidence.

227. In furtherance of the fraudulent scheme, Defendant Neschis, Mrs. Gelman's attorney, and Defendant Littman, Mrs. Gelman's close personal companion, assumed control over Mrs. Gelman's financial affairs, including her estate plan and the Defendant Anturia Stiftung, without her permission, and created fraudulent documents purporting to carry out Mrs. Gelman's intent but which actually furthered the fraudulent scheme.

228. Essential to the scheme was Defendants' agreement to conceal from everyone other than the participants in the scheme the truth about Mrs. Gelman's lack of mental capacity, and to exclude all others from Mrs. Gelman's inner circle.

229. Through their acts of fraud and concealment, as well as other acts yet to be uncovered, Defendant Neschis and Defendant Littman became Mrs. Gelman's principal advisors and caretakers, and thereby cemented themselves as the primary custodians of Mrs. Gelman's worldwide assets for the purpose of converting those assets to their personal use and benefit.

230. That at various times Defendant Littman, knowing that Mrs. Gelman was no longer physically or mentally competent to travel alone, or otherwise to manage her own affairs, arranged for Mrs. Gelman to travel to other locations, and accompanied her on such travels, in order for her to execute documents and engage in other transactions in furtherance of the fraudulent scheme of Defendant Neschis and Defendant Littman.

#### **Person**

231. The Defendant Neschis, Defendant Littman, the Inter Vivos Trust and the Testamentary Trust are each a "person" as defined in 18 U.S.C. § 1961(3) because each is an entity capable of holding legal and/or beneficial interest in property.

#### **Enterprise**

232. At all times relevant herein, Defendants operated an "enterprise" within the meaning of 18 U.S.C. § 1961(4) comprised of Mrs. Gelman's identity and estate, both before and after her death, including her interest in and rights to direct the disposition of the assets of the Defendant Anturia Stiftung, her interests in and right to direct the trusts purportedly created by Mrs. Gelman, and, after May 1998, her probate estate.

### The Enterprise Period

233. The Enterprise Period began in 1990 or 1991 when Defendant Neschis and/or Defendant Littman gained control over Mrs. Gelman's identity and affairs, and continued after Neschis and/or Littman gained control over Mrs. Gelman's probate estate and trusts, and continues to the present day.

234. Moreover, in order to further the interests of the Enterprise, the Defendants will continue to engage in and commit acts of Racketeering Activity into the future.

### Pattern of Racketeering Activity

235. The acts described in the preceding paragraphs constitute "pattern of racketeering activity" as that term is defined in 18 § 1961(1), (5). Specifically, on numerous occasions, Defendant Neschis and Defendant Littman took advantage of Mrs. Gelman's lack of mental capacity to obtain the fraudulent execution of documents, including letters of instructions, a will, powers of attorney and a trust instrument, without authority from Mrs. Gelman, that were designed to change Mrs. Gelman's estate plan and divert her assets to Defendants' own benefit and to deprive her legitimate beneficiaries of their intended shares of Mrs. Gelman's assets upon her death.

236. The scheme alleged herein includes the fraudulent manipulation of virtually every aspect of Mrs. Gelman's finances from 1992 until her death in 1998. Among other things, the Defendants altered her New York will, her Mexican will, the dispositive provisions to the Anturia her plans for her Mexican art collection, her interests in entities formed by her late husband to receive substantial royalties from his films, and created new inter vivos trust to circumvent the testamentary trust that had been included in Mrs. Gelman's wills since at least 1986.

237. Each and every one of these manipulations was effected through the creation of false and fraudulent documents purportedly signed by Mrs. Gelman and passed off by Defendant Neschis and Littman as the true wishes and intentions of Mrs. Gelman. Each and every one of these manipulations substantially benefitted Defendant Neschis and Defendant Littman and ultimately diverted virtually all of Mrs. Gelman's substantial wealth originally located around the world to the control of these Defendants.

238. The acts described in the preceding paragraphs pose a threat of continued criminal activity. Specifically, Defendant Neschis continues to practice law in the State of New York on behalf of clients seeking advice and representation in connection with estate planning. Many of these clients had been clients of her late father, Sidney Cohn, Esq., and for that reason place their trust and confidence in Defendant Neschis. That Defendant Neschis has demonstrated a pattern of manipulating her clients' assets for her own benefit through the use of false and fraudulent documents prepared by her.

239. In addition, as set forth above, Defendant Neschis continues to the present day to expend the assets of the Inter Vivos Trust for her own personal benefit.

240. In addition, the Defendants will continue to transfer stolen property across State Lines and National Borders in the future, in furtherance of their scheme.

241. Each of these acts was committed, and/or will be committed by Defendant Neschis and/or Defendant Littman, and had similar results, injuring numerous separate victims, including Plaintiff Jung Family, and thus constituted a "pattern of racketeering activity."

#### **Foreign Commerce**

242. In carrying out their scheme to defraud, Defendants engaged in monetary and commercial transactions that took place in New York, Switzerland, Liechtenstein and Mexico,

and which affect assets in those countries as well as assets in the United Kingdom.

243. Moreover, in continuing to carry out their scheme to defraud, the Defendants will continue to engage in monetary and commercial transactions which will take place in New York, Switzerland, Liechtenstein and Mexico.

### **Predicate Acts**

#### **Mail Fraud and Wire Fraud (18 U.S.C. §§ 1341, 1343)**

244. For the purpose of executing or attempting to execute the aforesaid schemes and artifices to defraud, throughout the Enterprise Period and as alleged more fully above, Defendants committed acts of mail fraud by causing numerous separate letters and other documents to be delivered, via the United States mails, and acts of wire fraud by causing interstate wire communications to be transmitted between New York, Switzerland, Liechtenstein, Mexico and elsewhere, in violation of 18 U.S.C. §§ 1341 and 1343, including but not limited to the following:

245. On or about March 10, 1992, Defendant Littman transmitted by fax from Mexico to Defendant Neschis in New York a document setting forth a proposal for the disposition of Mrs. Gelman's Mexican Art collection, including the lifetime appointment of Defendant Littman and Defendant Neschis as members of an oversight committee with responsibility to supervise the exhibition of the collection. The proposal did not reflect Mrs. Gelman's wishes or intentions but instead reflected the Defendant Littman's own intentions and his participation with Defendant Neschis in the fraudulent scheme to gain control of Mrs. Gelman's assets, including the Mexican art collection.

246. On or about March 26, 1992, Defendant Littman transmitted by fax from Mexico to Defendant Neschis in New York a list of the works of art comprising Mrs. Gelman's Mexican



art collection. This document was prepared and transmitted in furtherance of the fraudulent scheme to gain control of Mrs. Gelman's assets, including the Mexican art collection.

247. On or about April 15, 1992, Defendant Neschis transmitted via the United States mails from New York to Switzerland a letter to Dr. Staehelin which was purportedly signed by Mrs. Gelman fraudulently authorizing the trustees of the Defendant Anturia Stiftung to release to Defendant Neschis "all documents and records pertaining to the Defendant Anturia Stiftung Foundation Limag Trust controlled by Fides, including but not limited to the trust instrument and all financial records pertaining to the trust." The letter went on to authorize the trustees "to discuss with her all matters pertaining to the trust."

248. On or about April 21, 1992, Defendant Littman telephoned from Mexico to an attorney named Richard Dunlap in Los Angeles, California, to request financial records relating to Mrs. Gelman's interests in companies holding her late husband's interests in the films he had produced during his lifetime. That Defendant Littman sought these records for the purpose of discovering and taking control of, Mrs. Gelman's interests in those entities.

249. On or about April 30, 1992, Defendant Neschis transmitted via the United States mails from New York to Switzerland a letter of instructions to Credit Suisse, Zurich purportedly authorized by Mrs. Gelman that fraudulently directed Credit Suisse to pay all interest earned on the Defendant Anturia Stiftung and other accounts of Mrs. Gelman directly to an account in Mrs. Gelman's name at Credit Suisse in New York, which was controlled by Defendant Neschis. In response to the fraudulent letter of instructions, Credit Suisse thereafter distributed interest from the Defendant Anturia Stiftung and other accounts directly to Defendant Neschis' control. Each distribution of interest was made by wire transmission from Switzerland to New York.

250. On or about May 18, 1992, Defendant Littman transmitted by fax from Mexico to

Defendant Neschis in New York an affidavit purportedly signed by Mrs. Gelman in connection with certain litigation that had been commenced against Mrs. Gelman and others in the Superior Court of the State of California, County of Los Angeles, relating to her late husband's interests in films he had produced during his lifetime. The affidavit was signed by Mrs. Gelman after she was no longer of sound mind, and was prepared by Defendant Neschis in furtherance of the fraudulent scheme to consolidate control over Mrs. Gelman's assets.

251. On or about September 29, 1992, Defendant Neschis transmitted via the United States mails a letter of instructions to the trustees of the Defendant Anturia Stiftung purportedly authorized by Mrs. Gelman that fraudulently instructed the trustees of the Defendant Anturia Stiftung to amend the by-laws to include the Testamentary Trust as a beneficiary of fifty-seven (57%) percent of the trust assets, and to eliminate Plaintiff Jung Family as a beneficiary and deprive it of its rightful interest in not less than twenty-seven (27%) percent of the trust assets.

252. On or about October 9, 1992, Defendant Neschis communicated by telephone with an official of Credit Suisse in New York and confirmed by letter transmitted by telecopier the same day, falsely stating that "Mrs. Gelman has asked me to instruct Credit Suisse to transfer the sum of \$20,000 to [the account of Aldford Holdings Limited at] Morgan Guaranty." In accordance with these false instructions, the sum of \$20,000 was thereby transferred to Defendant Neschis' control.

253. On or about December 17, 1992, Defendant Littman transmitted via the United States mails from Mexico to Defendant Neschis in New York a "corrected page of this false memorandum and a letter of instructions purportedly presented to Mrs. Gelman for signature by the Credit Suisse representative.

254. On or about January 19, 1993, Defendant Littman transmitted by fax from Mexico

to Defendant Neschis in New York a document setting forth an alternate proposal for the disposition of Mrs. Gelman's Mexican art collection, including the lifetime appointment of Defendant Littman and Defendant Neschis as members of an oversight committee with responsibility to supervise the exhibition of the collection. The proposal did not reflect Mrs. Gelman's wishes or intentions but instead reflected Defendant Littman's own intentions, and his participation with Defendant Neschis in the fraudulent scheme to gain control of Mrs. Gelman's assets, including the Mexican art collection.

255. On or about January 25, 1993, Defendant Neschis communicated by telephone from New York with Juan Pablo de la Calle P. in Mexico to inquire about the possibility of appointing Defendant Littman as trustee to hold the Gelman's Mexican Art collection. That Defendant Neschis specifically inquired whether Defendant Littman would be permitted to serve as trustee in light of the fact that he was not a Mexican citizen. This communication was made in furtherance of the fraudulent scheme to gain control over Mrs. Gelman's assets.

256. On or about April 19, 1993, Defendant Neschis transmitted by United States mails to attorneys in Guernsey, C.I., a proxy purportedly signed by Mrs. Gelman in her capacity as holder of 5,000 shares of Paramount Holdings Limited, granting certain Bermudian attorneys her proxy to vote her shares at the annual meeting of the company. This proxy was furnished in furtherance of the fraudulent scheme to control Mrs. Gelman's assets.

257. On or about April 23, 1993, Defendant Littman transmitted by fax from Mexico to Defendant Neschis in New York instructions concerning Mrs. Gelman's bank account at Bancomer in Mexico. This transmission was part of the fraudulent scheme to gain control over Mrs. Gelman's assets, including funds located in Mexico.

258. On or about June 14, 1993 Defendant Neschis transmitted via the United States

mails a letter of instructions to Dr. Madeline-Claire Levis purportedly signed by Mrs. Gelman requesting that Dr. Escher be appointed as a trustee of the Defendant Anturia Stiftung Foundation in the place of Dr. Staehelin. Dr. Staehelin was a longtime friend and acquaintance of Defendant Neschis' father, Sidney Cohn, but had become old and infirm and was no longer able to assist Defendant Neschis with her fraudulent scheme. Dr. Escher was a partner of Dr. Staehelin. Defendant Neschis added him to the Defendant Anturia Stiftung Board of Trustees to preserve her influence over the Defendant Anturia Stiftung in furtherance of the fraudulent scheme.

259. On or about June 21, 1993, Defendant Littman transmitted via the United States mails from Mexico to Defendant Neschis in New York a letter enclosing documents he "found in Natasha's safe" to wit, a letter from one Richard Dunlap that "talks of an account in Curacao we are unaware of," and "the registration of Natasha's Mexican Will with the proper authorities in 1989." Defendant Littman was reporting to Defendant Neschis on the progress of the scheme to defraud, specifically the results of his theft of important financial documents from Mrs. Gelman's safe.

260. On or about July 21, 1993, Defendant Littman transmitted by fax from Mexico to Defendant Neschis in New York the name and address of Carlos Hank Gonzalez, formally a political official in Mexico. According to Defendant Littman, Mr. Gonzalez is "a very corrupt figure." Although the precise role of Mr. Gonzalez and the significance of the fact that Defendant Littman provided his contract information to Defendant Neschis, is not presently known to plaintiff it is believed that this information was provided to Defendant Neschis in furtherance of the fraudulent scheme.

261. On or about July 25, 1993, Defendant Neschis caused her assistant Rita Sultan

Braunstein, to transmit by fax from New York to a representative of Columbia Pictures in Burbank, California, a letter purportedly authorizing Columbia Pictures to "release all documents and information pertaining to the distributions from the Cantinflas Films to Defendant Neschis and/or Steve Hyman, Mrs. Gelman's attorneys and to discuss any matters with them." This letter was part of the fraudulent scheme to gain control of Mrs. Gelman's assets.

262. On or about August 9, 1993, Defendant Neschis caused Joanna First, a legal assistant employed by her firm to transmit by the United States mails from New York to a representative of Warner Brothers in Burbank, California, a letter purportedly authorizing Warner Brothers to "send all statements and checks for Telemont Anstalt to Janet C. Neschis." This letter was part of the fraudulent scheme to gain control of Mrs. Gelman's assets.

263. On or about August 23, 1993, Defendant Neschis transmitted by Federal Express a letter to Carlos Sesma, Esq., a Mexican attorney in Mexico, requesting English translations of Mrs. Gelman's existing Mexican will and Power of Attorney. Defendant Neschis sought these documents for the purpose of engineering fraudulent amendments to these documents in furtherance of the scheme to gain control over Mrs. Gelman's assets.

264. On or about September 10, 1993, Defendant Neschis transmitted by the United States mail a letter of instructions purportedly signed by Mrs. Gelman to a bank official at Morgan Guaranty in New York that fraudulently directed Morgan Guaranty to increase the monthly distribution from Mrs. Gelman's account to an account maintained by Rita Sultan Braunstein, Defendant Neschis' assistant, to \$6,000.00 per month. In response to the fraudulent letter of instructions, Morgan Guaranty paid \$6,000.00 per month beginning on October 1, 1993 from Mrs. Gelman's accounts directly to Defendant Neschis' control.

265. On or about October 5, 1993, Defendant Littman transmitted by fax from Belgium

to Defendant Neschis in New York a copy of a letter from the San Francisco Museum of Modern Art concerning exhibition of works of art from Mrs. Gelman's collections with a cover letter asking Defendant Neschis to respond to the request. On or about the same date Defendant Littman transmitted a response by fax from Belgium to museum officials in San Francisco advising them that "the matter is settled" and Defendant Neschis had already written to them. This correspondence demonstrates the control exerted by Defendant Neschis and Defendant Littman over Mrs. Gelman's art collections.

266. On or about December 6, 1993, Defendant Littman transmitted a fax from Mexico to Defendant Neschis in New York a statement from Bancomer in Mexico relating to Mrs. Gelman's account there. This transmission was part of the fraudulent scheme to gain control over Mrs. Gelman's assets, including funds located in Mexico.

267. On or about December 15, 1992, Defendant Littman transmitted by fax from Mexico to Defendant Neschis in New York a memorandum purportedly recording a visit by a representative of Credit Suisse to Mrs. Gelman at her home in Mexico City. The memorandum falsely and fraudulently recorded the events that transpired during that meeting, and was intended to, and did, conceal Defendants' fraudulent conduct, which allowed defendants to continue to pursue their fraudulent scheme.

268. On or about October 4, 1994, Defendant Littman conferred by telephone with Defendant Neschis, for the purpose of furthering and concealing the Defendants' fraudulent conduct, which allowed the Defendants to continue to pursue their fraudulent scheme.

269. On or about December 17, 1994, Defendant Littman conferred by telephone with Defendant Neschis to discuss with her the Plaintiff Jerry Jung's concerns about Mrs. Gelman's mental condition, for the purpose of furthering and concealing the Defendants' fraudulent

conduct, which allowed the Defendants to continue to pursue their fraudulent scheme.

270. On or about November 18, 1997, Neschis transmitted via United States mails a letter of instructions to the trustees of the Defendant Anturia Stiftung purportedly authorized by Mrs. Gelman that fraudulently instructed the trustees of the Defendant Anturia Stiftung to amend the by-laws to include the Inter Vivos Trust as a beneficiary of fifty-eight (58%) percent of the trust assets.

- a. On or about July 16, 1999,<sup>1</sup> Defendant Neschis transmitted via United States mails to the trustees of the Defendant Anturia Stiftung in Liechtenstein a letter demanding arbitration over the fraudulent claim of the Inter Vivos Trust to fifty-eight (58%) percent of the assets of the Defendant Anturia Stiftung in accordance with the January 27, 1998 By-Laws. The purpose of this letter was to give effect to the January 27, 1998 By-Laws and thereby divert to Defendants' control the assets of the Defendant Anturia Stiftung that should rightfully have been distributed to Mrs. Gelman's legitimate beneficiaries, including Plaintiff Jung Family.

**(Transportation of Stolen Goods, Securities, Moneys Fraudulent State Tax Stamps, or Articles Used in Counterfeiting in Violation of 18 U.S.C. 2314)**

271. Throughout the Enterprise Period, Defendant Neschis and Defendant Littman transported stolen moneys with a value in excess of \$5,000.00 in interstate and foreign commerce, knowing the same to have been stolen, converted or taken by fraud.

272. Throughout the Enterprise Period, Defendant Neschis and Defendant Littman committed larceny in the form of embezzlement and obtaining property by false pretenses or promise in violation of N.Y. Penal Law § 155.05.

273. Specifically, in April 1992, Defendant Neschis fraudulently directed Credit Suisse, Zurich to pay all interest earned on the assets of the Defendant Anturia Stiftung and other accounts of Mrs. Gelman to an account in Mrs. Gelman's name at Credit Suisse in New York.

274. The purpose of this fraudulent conduct was to siphon assets from the Defendant Anturia Stiftung and Mrs. Gelman to an account to which Defendant Neschis and Defendant Littman each had access and power of attorney.

275. Throughout the Enterprise Period, defendants embezzled many millions of dollars from Mrs. Gelman, and from the assets that would otherwise have been distributed to her legitimate beneficiaries by this method.

276. In addition, in or about October 1992, Defendant Neschis and Defendant Littman fraudulently caused the trustees of the Defendant Anturia Stiftung to amend the by-laws to provide that the Testamentary Trust should receive fifty-seven (57%) percent, and that Defendant Littman should receive thirty-one (31%) percent, of the assets of the Defendant Anturia Stiftung. In November 1997, Defendant Neschis fraudulently directed the trustees of the Defendant Anturia Stiftung to amend the by-laws to provide that the Inter Vivos Trust should receive fifty-eight (58%) percent of the assets of the Defendant Anturia Stiftung.

277. By these fraudulent acts as well as other acts yet to be uncovered, defendants improperly diverted many millions of dollars from the rightful beneficiaries of the Defendant Anturia Stiftung, thereby injuring among others, the Plaintiff Jung Family, which is a rightful beneficiary of not less than twenty-seven (27%) percent of the assets of the Defendant Anturia Stiftung.



278. That these fraudulent acts were accomplished by and through the transportation of stolen moneys across national borders and across state lines, in interstate and/or foreign commerce.

**COUNT VI**  
**(Violation of 18 U.S.C. § 1962(c))**  
**Against Defendants Neschis and Littman**

279. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-278" as though more fully set forth at length herein.

280. That Defendant Neschis and Defendant Littman conducted or participated in, and continue to direct and participate in, directly and indirectly, the affairs of the enterprise through the pattern of racketeering activity involving predicate acts that include embezzlement, fraud, larceny, mail fraud and wire fraud.

281. That Defendant Neschis and Defendant Littman benefitted and profited, and continue to benefit and profit, from these racketeering acts as alleged in the preceding paragraphs.

282. That the Plaintiff Jung Family has been injured by reason of Defendant Neschis's and Defendant Littman's racketeering activities in violation of 18 U.S.C. § 1962(c).

283. That as a direct and proximate result of Defendants' racketeering activities, as well as other acts yet to be uncovered, Plaintiff Jung Family has suffered damages as alleged in the preceding paragraphs.

284. That under the provisions of 18 U.S.C. § 1964(c), Plaintiff Jung Family is entitled to recover treble damages, costs of bringing this suit, and attorney's fees.

**COUNT VII**  
**(Violation of 18 U.S.C. §1962(d))**  
**Against Defendants Neschis and Littman**

285. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-284" as though more fully set forth at length herein.

286. In violation of 18 U.S.C. §1962(d), at all times relevant herein, Defendant Neschis and Defendant Littman conspired, and continue to conspire, with others, to violate 18 U.S.C. §1962(d) through a pattern of racketeering activity.

287. That the Defendant Neschis, Defendant Littman and others committed, and continue to commit, numerous wrongful overt acts, as above in the pattern of racketeering activity, in furtherance of the conspiracy, including but not limited to, commencement of arbitration proceedings under false pretenses to make wrongful claim of entitlement to fifty-eight (58%) percent of the assets of the Defendant Anturia Stiftung.

288. That the Defendant Neschis, Defendant Littman and others agreed to commit the predicate acts set forth herein, with knowledge that such acts were part of the pattern of racketeering activity and part of the scheme to defraud Mrs. Gelman, to the material detriment of Plaintiff Jung Family and the other rightful beneficiaries of the assets of the Defendant Anturia Stiftung.

289. As a direct and proximate result of Defendants' conspiracy to violate 18 U.S.C. §1962(c), as well as other acts yet to be uncovered, Plaintiff Jung Family has suffered damages as alleged in the preceding paragraphs.

290. Under the provisions of 18 U.S.C. §1964(a), Plaintiff Jung Family as an innocent person is entitled to equitable relief in the form of restitution and disgorgement of all earnings, profits and benefits obtained by Defendants.

291. Under the provisions of 18 U.S.C. §1964(c), Plaintiff Jung Family is entitled to recover treble damages, costs of bringing this suit, and attorney's fees.

**COUNT VIII**  
**(Constructive Trust Against All Defendants)**

292. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-291" as though more fully set forth at length herein.

293. That by virtue of the foregoing, a relationship of confidence and trust existed by and between Defendant Neschis, Defendant Littman, Defendant Diamond, the Defendant Anturia Stiftung, Defendant Dr. Escher, Defendant Dr. Sprenger and Defendant Dr. Schulthess and the Plaintiff Jung Family.

294. That by virtue of the foregoing, Defendant Neschis, Defendant Littman, Defendant Diamond, Defendant Anturia Stiftung, Defendant Dr. Escher, Defendant Dr. Sprenger and Defendant Dr. Schulthess had an obligation to carry out what they knew, and had reason to know, were the actual testamentary intentions of Mrs. Gelman, as they existed before she became of unsound mind.

295. That by virtue of the foregoing, there existed an express or implied promise on the part of the Defendants that they would effectuate what they knew to be the testamentary intentions of Mrs. Gelman.

296. That despite the foregoing, the Defendants caused the funds of the Defendant Anturia Stiftung to be distributed in a manner that was not consistent with the testamentary intentions of Mrs. Gelman.

297. That despite the foregoing, the Defendants caused the funds to be distributed for their own benefits, and for the benefit of others not yet known to the Plaintiffs.

298. That as a result of such acts, as well as other acts to be uncovered, all the Defendants are constructive trustees, *ex malificio*, of such assets.

299. That as a result of the foregoing, the Plaintiff Jung Family demand that a constructive trust be imposed on all of the assets of all of the Defendants wherever located, and that all of the Defendants be deemed trustees for the benefit of the Plaintiff Jung Family, and that all corporate opportunities, assets, monies, properties, and the like diverted from and/or converted from the Plaintiff Jung Family be immediately transferred and returned to the Plaintiff Jung Family.

#### COUNT IX

#### (Constructive Trust II Against Defendants Neschis, Littman and Diamond)

300. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-299" as though more fully set forth at length herein.

301. That by virtue of the foregoing misconduct, as alleged herein, which includes, but is not limited to, bringing about the changes in Mrs. Gelman's estate plan when she was no longer of sound mind, as set forth above, so as to divert monies to the Inter Vivos Trust and the Testamentary Trust, the Inter Vivos Trust and the Testamentary Trust have received assets, and will continue to receive assets, that are in truth and in fact the property of the Plaintiff Jung Family.

302. That by virtue of the foregoing misconduct, as alleged herein, the Defendants Neschis, Littman and Diamond have caused the Inter Vivos Trust and the Testamentary Trust to receive assets which are in truth and in fact the property of the Plaintiff Jung Family.

303. That as trustees under the Inter Vivos Trust and Testamentary Trust, the Defendants Neschis, Littman and Diamond had a confidential and/or fiduciary relationship with

Mrs. Gelman and her legitimate heirs, including the Plaintiff Jung Family, as a matter of law.

304. That the Defendants took advantage of and/or otherwise abused the confidential and/or fiduciary relationship described hereinabove, by converting and/or diverting corporate opportunities, assets, monies, properties, and the like otherwise owned by and/or due to the Plaintiff Jung Family.

305. That as a result of the foregoing, as well as other acts yet to be uncovered, the Plaintiff Jung Family demand that a constructive trust be imposed on all of the assets of the Defendants Neschis, Littman and Diamond wherever located, and that the Defendants Neschis, Litman and Diamond be deemed trustees for the benefit of the Plaintiff Jung Family, and that all corporate opportunities, assets, monies, properties, and the like diverted from and/or converted from the Plaintiff Jung Family, and transferred to the Inter Vivos Trust or the Testamentary Trust be immediately transferred and returned to the Plaintiff Jung Family.

#### **COUNT X**

##### **(Constructive Trust III, Defendants Neschis, Littman and Diamond)**

306. That the Plaintiff Jung Family repeats, reiterates and realleges each and every allegation as contained in paragraphs "1-305" as though more fully set forth at length herein.

307. That by virtue of the foregoing, the Defendants were unjustly enriched, at the expense and to the detriment of the Plaintiff Jung Family.

308. That by virtue of the foregoing, the Defendants have come into property, to wit, the assets of the Inter Vivos Trust and Testamentary Trust, as well as testamentary bequests received by them from the assets of the Defendant Anturia Stiftung.

309. That by virtue of the foregoing, the Defendants have come into such property under such circumstances that they should not, in equity, be allowed to retain it.

310. That by virtue of the foregoing, the Defendants are constructive trustees with regard to the assets of the Inter Vivos Trust and Testamentary Trust.

311. That all the Defendants are knowing transferees of the fraudulent conveyances, conversions, and/or transferred assets, as set forth hereinabove.

312. That all the Defendants paid insufficient and/or no consideration for such conveyances and/or transfers.

313. That by virtue of the foregoing, a constructive trust exists with respect to the assets of the Inter Vivos Trust and Testamentary Trust, in favor of the Plaintiff Jung Family.

**WHEREFORE**, Plaintiff Jung Family prays for an order and judgment against defendants as follows:


- a. For a declaration that Plaintiff Jung Family is entitled to receive a distribution of twenty-seven (27%) percent of the assets, wherever located, of the Defendant Anturia Stiftung;
- b. For damages against Defendant Neschis and Defendant Littman, jointly and severally, and/or disgorgement from the Inter Vivos Trust, in the amounts improperly converted from Plaintiff Jung Family, to be proven at trial but not less than \$21 million;
- c. For punitive damages against Defendant Neschis and Defendant Littman;
- d. For treble damages against Defendant Neschis and Defendant Littman pursuant to 18 U.S.C. §1964(c) for Defendants' civil RICO violations;
- e. For an order imposing a constructive trust on all of the assets of the Defendants wherever located;
- f. For the costs of this action, including attorneys' fees and amounts

expended in discovering defendants' fraud; and

g. For such other and further relief as the Court shall deem just and proper.

Dated: Williston Park, New York  
October 30, 2002

**STEVEN L. LEVITT & ASSOCIATES, P.C.**

  
\_\_\_\_\_  
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*Attorneys for Plaintiff Weizmann Institute of Science*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WEIZMANN INSTITUTE OF SCIENCE,

*Plaintiff,*

*-against-*

00 Civ. 7850 (RMB)

**AMENDED COMPLAINT**

JURY TRIAL DEMANDED

JANET C. NESCHIS, individually and in her capacities as Trustee of the Jacques and Natasha Gelman Trust dated November 18, 1997, and as Trustee of the Trust Created Under the Last Will and Testament of Natasha Gelman dated April 23, 1993, ROBERT R. LITTMAN, individually and in his capacity as Successor Trustee of the Trust Created Under the Last Will and Testament of Natasha Gelman dated April 23, 1993, and MARYLIN G. DIAMOND, in her capacity as Trustee of the Jacques and Natasha Gelman Trust dated November 18, 1997, and as Trustee of the Trust Created Under the Last Will and Testament of Natasha Gelman dated April 23, 1993.

*Defendants.*

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Plaintiff Weizmann Institute of Science ("Weizmann Institute"), by its attorneys Proskauer Rose LLP, for its amended complaint, alleges on information and belief, except as to paragraph 6, which is alleged on personal knowledge, as follows:



1. This action arises from a fraudulent scheme perpetrated by defendants Janet C. Neschis, Robert R. Littman and others, to defraud Mrs. Natasha Gelman, an elderly, wealthy widow who became mentally incompetent in the last years of her life. The purpose of the scheme was to obtain control over Mrs. Gelman's substantial assets and divert them to Neschis' and Littman's personal use and benefit. To carry out the scheme, *inter alia*, Neschis and Littman interfered with the contractual rights and legitimate expectations of the charitable beneficiaries of a Liechtenstein Foundation established by Mrs. Gelman and her late husband. Plaintiff Weizmann Institute was an intended beneficiary of the Liechtenstein Foundation. Neschis and Littman unlawfully obtained control over Mrs. Gelman's assets through, *inter alia*, creating fraudulent will and trust documents and fraudulent letters of instruction purporting to express the intentions of Mrs. Gelman. Neschis and Littman concealed their scheme by controlling access to Mrs. Gelman after the onset of her incapacity to create an illusion that she remained of sound mind and in control of her affairs, and thereby to prevent discovery of her incapacity and defendants' scheme. When defendants' control and attempts at control failed, they resorted to financial influence and/or threats to coerce others to remain silent with respect to Mrs. Gelman's incapacity. The conspiracy to defraud Mrs. Gelman and steal from her legitimate beneficiaries was formed in New York, and many of the acts in furtherance of the conspiracy were perpetrated in New York. Defendant Neschis was Mrs. Gelman's attorney. Defendant Littman was Mrs. Gelman's close companion. They were assisted by others residing in the U.S., Mexico and Europe. The defendants also include the trustees of two trusts created fraudulently by defendants Neschis and Littman to receive the proceeds of their fraud. The acts occurred during the last years of Mrs. Gelman's life after she had been rendered incompetent by Alzheimer's disease and was incapable of protecting her own interests or managing her own affairs.

2. Following the onset of Mrs. Gelman's incapacity, defendants Neschis, Littman and others acted to effect unauthorized changes to Mrs. Gelman's financial affairs, including the Liechtenstein foundation (the Anturia Foundation) created by Mrs. Gelman and her late husband, to convert to their own use and benefit millions of dollars intended for plaintiff and others by transferring the funds to their own control. Neschis, Littman and others took advantage of Mrs. Gelman's mental condition and, falsely purporting to act on Mrs. Gelman's behalf, caused unlawful and unauthorized changes in the beneficiary provisions of the Anturia Foundation by-laws, which changes, *inter alia*, purported to eliminate plaintiff Weizmann Institute as a beneficiary. Further, Neschis and Littman unlawfully withdrew over \$10 million from the Anturia Foundation, and other funds of the widow, during her lifetime. Their persistent acts of fraud and undue influence on Mrs. Gelman, set forth below, which were designed to convert Mrs. Gelman's assets to Neschis and Littman by effecting unauthorized changes to Mrs. Gelman's financial affairs, constitute a pattern of racketeering activity that began in 1990 or 1991 and continues to the present day.

3. By this lawsuit, plaintiff Weizmann Institute seeks: a) an award of damages against defendants Neschis and Littman, and/or disgorgement from the fraudulently-created trust, in the amount of plaintiff's rightful share of the assets of the Anturia Foundation, including its proportionate share of the amounts unlawfully withdrawn from the Anturia Foundation by Neschis and Littman, plus interest; b) imposition of a constructive trust over the assets of the Anturia Foundation improperly received by Littman and the Inter Vivos Trust; c) punitive damages against Neschis and Littman; d) treble damages against Neschis and Littman under the RICO statute; and e) an award of attorneys fees that plaintiff was required to expend to uncover and expose defendants' misfeasance, against Neschis and Littman.

### **Jurisdiction and Venue**

4. This action arises under a) the Racketeer Influenced and Corrupt Organizations provisions of the Organized Crime Control Act of 1970, 18 U.S.C. § 1961, *et seq.* (“RICO”) and b) applicable common law principles of conversion and tortious interference with contract. This Court has jurisdiction over this action under RICO, 18 U.S.C. § 1965(a), Section 1331 of the Judicial Code (28 U.S.C. § 1331) (federal question jurisdiction) and Section 1367 of the Judicial Code (28 U.S.C. § 1367) (supplemental jurisdiction). This Court also has subject matter jurisdiction over plaintiff’s claims arising under state law under Section 1332(a)(2) of the Judicial Code (28 U.S.C. § 1332(a)(2)) in that plaintiff is an entity organized under the laws of Israel having its principal place of business in Israel, and all defendants are citizens of the United States and residents of the State of New York. The amount in controversy exceeds \$75,000, exclusive of costs and interest.

5. Venue is proper in this District pursuant to RICO, 18 U.S.C. § 1965(a), and Section 1391 of the Judicial Code (28 U.S.C. § 1391). Defendants reside in New York, and most of the events giving rise to the claims asserted herein occurred in New York.

### **The Parties**

6. Plaintiff Weizmann Institute is an international center of scientific research and graduate study located in Rehovot, Israel. The Weizmann Institute was founded in 1934 by Dr. Chaim Weizmann, a chemist and world Zionist leader. Now a community of 2,400 scientists and postgraduate students, the Weizmann Institute has remained at the forefront of international scientific research and development. Research by Weizmann Institute scientists benefits the public interest, notably in the fight against disease and hunger, the protection of the environment, and the

development of new technologies for economic growth. The Institute is a charitable organization under the laws of the State of Israel.

7. Defendant Janet C. Neschis ("Neschis") is an attorney admitted to practice in the State of New York and a member of McLaughlin & Stern, LLP. During the time of the events at issue herein, Neschis was a member of Leavy, Rosensweig & Hyman. Neschis is a resident of the State of New York. Neschis alleges to have been appointed as a trustee of the Jacques and Natasha Gelman Trust, a testamentary trust, by the terms of the alleged Last Will and Testament of Natasha Gelman dated April 23, 1993 and is presently purporting to serve in that capacity. Neschis was allegedly appointed as a trustee of the Jacques and Natasha Gelman Trust, an *inter vivos* trust, by the terms of the trust instrument dated November 18, 1997, and is presently purporting to serve in that capacity. Neschis is sued individually and in her capacities as Trustee of the Jacques and Natasha Gelman *inter vivos* trust and as Trustee of the Jacques and Natasha Gelman testamentary trust.

8. Defendant Robert R. Littman ("Littman") is a resident of the State of New York. Littman was allegedly appointed as an alternate trustee of the Jacques and Natasha Gelman Trust, a testamentary trust, by the terms of the Last Will and Testament of Natasha Gelman dated April 23, 1993. Littman was Mrs. Gelman's constant companion. As Mrs. Gelman's mental condition deteriorated, Littman took up residence in Mrs. Gelman's homes in Mexico and used his close proximity to Mrs. Gelman to further the scheme to control Mrs. Gelman and her assets. Littman controlled access to Mrs. Gelman, traveled with her and purported to speak for her and represent her in connection with business and personal matters, including matters relating to Mrs. Gelman's world-renowned collections of European and Mexican paintings. Littman is sued

individually and in his capacity as alternate Trustee of the Jacques and Natasha Gelman testamentary trust.

9. Defendant Marilyn G. Diamond ("Diamond") is sued solely in her capacities as Trustee of the Jacques and Natasha Gelman *inter vivos* trust and as Trustee of the Jacques and Natasha Gelman testamentary trust. No allegations of unlawful conduct herein are directed against Diamond. Diamond is an attorney admitted to practice in the State of New York and, since 1991, is an Acting Justice of the New York Supreme Court sitting in New York County. Diamond is a resident of the State of New York. Diamond was a partner in Leavy Rosensweig & Hyman, in which Neschis was also a partner, and represented Mrs. Gelman prior to the time she left the firm to assume her duties as a judge. Thereafter, Diamond was allegedly appointed as a trustee of the Jacques and Natasha Gelman Trust, a testamentary trust, by the terms of the alleged Last Will and Testament of Natasha Gelman dated April 23, 1993 and is presently purporting to serve in that capacity. Diamond was allegedly appointed as a trustee of the Jacques and Natasha Gelman Trust, an *inter vivos* trust, by the terms of the trust instrument dated November 17, 1997, and is presently purporting to serve in that capacity.

#### **Natasha Gelman's Estate Plan**

10. Jacques and Natasha Gelman accumulated substantial wealth as a result of Mr. Gelman's success as an entertainment agent and film producer. The Gelmans became collectors of modern art and by the end of their lives had accumulated a collection of approximately 85 paintings by modern European masters like Picasso, Matisse, Miro and Bonnard and a separate collection of 95 works of Mexican modern art, both of which are world-renowned. They had no children.

11. To preserve their wealth, the Gelmans established various offshore investments. Some of these entities were formed to receive the royalties of Mr. Gelman's successful films. These entities were created on the advice of Sidney Cohn, Esq., Mr. Gelman's longtime attorney. Mr. Cohn had established relationships in, among other places, Liechtenstein and Switzerland, which facilitated the creation of Liechtenstein investment entities on behalf of his clients. The assets deposited into these entities were to be distributed in accordance with their terms upon the death of the Gelmans, and would not pass under the Gelmans' wills. Among these entities were Waterford Settlement Trust, Aldford Holdings, Limited, Paramount Holdings, Limited, Telemont Anstalt and Anturia Foundation. Neschis took advantage of her father's established relationships to gain the trust of these foreign fiduciaries, which facilitated her fraudulent schemes.

12. In or about 1985, the Gelmans founded the Anturia Foundation, a Stiftung organized under the laws of the Principality of Liechtenstein. As of June 1998, the Foundation held in excess of \$36 million in assets. As of July 1, 2001, the Foundation held in excess of \$39.8 million in assets.

13. Liechtenstein law provides that a Stiftung is administered by a board of trustees in accordance with its charter and by-laws. The Charter of the Anturia Foundation provides that "The purpose of the Foundation shall be the management of the Foundation's capital assets and all transactions relating thereto, as well as the distribution of bequests from the earnings of the Foundation's capital assets, or from the capital assets themselves, to any persons and/or institutions designated as beneficiaries by the Board of Trustees in a governing instrument."

14. In accordance with the Charter, the board of trustees of the Anturia Foundation (the "Foundation Trustees") enacted by-laws. As further described herein, the by-laws of the Anturia Foundation, as amended from time to time, provided that the assets of the Anturia Foundation would be distributed to the beneficiaries of the Foundation in accordance with the terms of the by-laws upon the death of the surviving spouse.

15. It was expressly understood by the Gelmans and the Foundation Trustees, Fides and/or Credit Suisse that the Gelmans would provide instructions, and that the Foundation Trustees, Fides and/or Credit Suisse would follow the instructions of the Gelmans, with respect to changing the beneficiaries and the bequests set forth in the by-laws. At the time the Foundation was established, the Gelmans were assured that they would continue to control the money in the Foundation. This assurance was also given effect by the designation of Jacques and Natasha Gelman as unconditional primary beneficiaries of the foundation. It was clear to everyone when the foundation was established, and later on as well, that the wishes of the Gelmans, mainly with respect to designation of beneficiaries and amendments to the by-laws, were always to be carried out. In fact, all legitimate changes were instituted and authorized personally by Mr. or Mrs. Gelman.

16. Jacques Gelman died on July 23, 1986. From time to time following Mr. Gelman's death, and prior to her loss of mental capacity, Mrs. Gelman made certain legitimate amendments to the by-laws of the Anturia Foundation. On each occasion on which a legitimate change was made, Mrs. Gelman traveled to Zurich and made the changes in her own handwriting to a copy of the by-laws.

17. On or about August 10, 1989, prior to the events at issue herein, and while Mrs. Gelman remained of sound mind and free of duress and undue influence, the by-laws of the Anturia Foundation were amended to provide as follows:

- a. that the Weizmann Institute, plaintiff herein, would receive 20% of the assets of the Foundation;
- b. that members of the Jung family (Mrs. Gelman's blood relatives) would receive approximately 34% of the assets of the Foundation;
- c. that other named charities would receive 39% of the assets of the Foundation (the charities and the percent of the assets to be given to each was specifically set forth); and
- d. other named beneficiaries would receive the remaining 7% of the assets.

18. In 1989, Mrs. Gelman agreed to bequeath the collection of modern European art, valued at more than \$300 million, to the Metropolitan Museum of Art in New York. The museum exhibited the Jacques and Natasha Gelman collection in 1990. The Gelmans' Mexican art collection and real property in Mexico were to be disposed of in accordance with a Mexican will. Mrs. Gelman's remaining New York assets were to be disposed of by a will to be probated in New York.

19. On or about August 13, 1991, prior to the events at issue herein, and while Mrs. Gelman remained of sound mind and free of duress and undue influence, the by-laws of the Anturia Foundation were amended to provide as follows:

- a. that members of the Jung family (Mrs. Gelman's blood relatives) would receive approximately 37% of the assets of the Foundation;
- b. that defendant Littman would receive approximately 1% of the assets of the Foundation;



- c. that the Weizmann Institute, plaintiff herein, would receive 20% of the assets of the Foundation;
- d. that other named charities would receive 39% of the assets of the Foundation (the charities and the percent of the assets to be given to each was specifically set forth); and
- e. other named beneficiaries would receive the remaining 3% of the assets.

The percentage interests of the Weizmann Institute and the other charitable beneficiaries were unchanged from the prior by-laws.

20. The by-laws dated August 10, 1989 and/or the by-laws dated August 13, 1991 were the last by-laws executed in accordance with Mrs. Gelman's instructions while Mrs. Gelman remained of sound mind and free of duress and undue influence (the "Last Valid By-Laws").

#### **Defendants' Fraud and Undue Influence Over Mrs. Gelman**

21. Some time in late 1991, Mrs. Gelman began to suffer from Alzheimer's disease. Mrs. Gelman became forgetful, did not want to socialize, and exhibited angry outbursts and other irrational behavior. After a serious bout with pneumonia in November 1991, her condition worsened to the point where she had become listless, could not recall day-to-day events and was confused by financial transactions. By late 1991, Mrs. Gelman could no longer travel independently. Thereafter, Littman and/or Neschis accompanied her on all of her travels, including between Mexico, New York, Switzerland and elsewhere.

22. On or about January 8, 1992, Mrs. Gelman was examined by Samuel Rapoport, M.D., Ph.D. in connection with complaints that Mrs. Gelman had been having "difficulty with memory for some time" and "great difficulty remembering appointments and remembering things from one minute to the next." Dr. Rapoport noted that "This became suddenly exacerbated

after an illness in the Fall that led to hospitalization for two weeks.” Dr. Rapoport concluded that “Mrs. Gelman has a clear short-term memory deficit.”

23. Prior to 1995, Mrs. Gelman made personal visits to her doctor, but the results of their observations are not presently known to plaintiff. In March 1995, Mrs. Gelman was examined by Fred Plum, M.D., a neurologist affiliated with the New York Hospital - Cornell Medical Center. Dr. Plum concluded, in a written report of his examination, that “Mrs. Gelman appears to have progressive Alzheimer’s Disease with a fairly typical pattern of memory loss leading all other cognitive disabilities in their deterioration,” and that “the results of the present examination indicate that she lacks testamentary mental capacity.” Based on Dr. Plum’s findings and eyewitness accounts of Mrs. Gelman’s condition from the time of her husband’s death, Robert Freundlich, M.D., a neurologist with experience treating elderly patients with Alzheimer’s disease, concluded in 1999 that “it is my opinion that Mrs. Gelman was suffering from dementia of the Alzheimer’s type in 1992.”

24. The Gelmans were originally represented by Sidney Cohn, Esq., a member of Cohn, Glickstein & Lurie (the “Cohn firm”). Mr. Cohn was an entertainment lawyer who had a longstanding relationship with Mr. Gelman dating back to the 1950’s. The Cohn firm prepared wills and codicils for the Gelmans until 1989. Mr. Cohn died in 1991. Shortly before Mr. Cohn’s death, representation of Mrs. Gelman was transferred to Diamond, then an attorney in the Cohn firm. Diamond represented Mrs. Gelman until Diamond was elected as a judge in 1991. In or about 1991, representation of Mrs. Gelman was transferred to defendant Neschis, Mr. Cohn’s daughter and Diamond’s former law partner. It was around or after Mr. Cohn’s death, when Neschis became counsel to Mrs. Gelman, that the events at issue herein commenced.

25. In or about late 1991, defendants Neschis and Littman began to take unlawful advantage of Mrs. Gelman's impaired mental condition by fraudulently assuming fiscal authority over Mrs. Gelman's assets, cementing themselves as the sole custodians of her substantial estate and charitable trust, unlawfully taking millions of dollars from the Anturia Foundation and Mrs. Gelman's personal assets, and increasing the bequests, commissions and/or fees to be received by these defendants.

26. On or about December 2, 1991 and April 1, 1992, Mrs. Gelman purportedly executed general powers of attorney in favor of Neschis and Littman. The only witness to the power of attorney granted to Littman was Neschis. The witness to the powers of attorney granted to Neschis were employees of Neschis' own law firm. Also during April 1992, Mrs. Gelman additionally purportedly signed several additional powers of attorney authorizing Neschis to conduct transactions in Mrs. Gelman's accounts at several banks in New York. These documents were executed under duress and undue influence and after Mrs. Gelman was no longer of sound mind, and for the purpose of obtaining and consolidating defendants' control over Mrs. Gelman's assets.

27. On or about April 1, 1992, Mrs. Gelman purportedly executed a Mexican general power of attorney authorizing Littman to conduct transactions on behalf of Mrs. Gelman in Mexico. Although prepared for use in Mexico, this document was executed in New York and was witnessed only by Neschis and a legal assistant employed by Neschis' law firm. This document was executed under duress and undue influence and after Mrs. Gelman was no longer of sound mind, and for the purpose of obtaining and consolidating defendants' control over Mrs. Gelman's assets located around the world.

28. As discussed in greater detail below, between April and October 1992, Neschis and Littman caused the trustees of the Anturia Foundation to enact fraudulent by-laws that substantially changed the dispositive provisions to favor, among others, Littman and a charitable trust to be controlled by Neschis.

29. On or about April 23, 1993, Mrs. Gelman purportedly changed her will by executing a new Last Will and Testament (the "1993 Will"). In the 1993 Will, Neschis is appointed to serve as executor of the estate. Diamond and Littman are each appointed as alternate executors. In wills executed prior to 1989, Sidney Cohn had been appointed to serve as executor or co-executor.

30. Under the terms of the 1993 Will, Mrs. Gelman's closest living blood relatives, Miroslav Jung, Jaroslav Jung and Mario Sebastian, each receive bequests of \$10,000. Littman receives a \$500,000 bequest. The bequests to the Jung family are substantially lower, and the bequest to Littman is substantially higher, than bequests in earlier wills executed by Mrs. Gelman.

31. The 1993 Will also provided for the creation of the Jacques and Natasha Gelman Trust (the "Testamentary Trust"), to exist in perpetuity, for charitable, literary, educational and other purposes, to be funded by Mrs. Gelman's residuary estate. The Testamentary Trust was to be administered by Neschis and Diamond as co-trustees, and Littman as alternate trustee. The Trustees are authorized to spend the income and principal of the Testamentary Trust, in their sole discretion, consistent with its purposes. The reduction of the bequests to the Jung family



28. As discussed in greater detail below, between April and October 1992, Neschis and Littman caused the trustees of the Anturia Foundation to enact fraudulent by-laws that substantially changed the dispositive provisions to favor, among others, Littman and a charitable trust to be controlled by Neschis.

29. On or about April 23, 1993, Mrs. Gelman purportedly changed her will by executing a new Last Will and Testament (the "1993 Will"). In the 1993 Will, Neschis is appointed to serve as executor of the estate. Diamond and Littman are each appointed as alternate executors. In wills executed prior to 1989, Sidney Cohn had been appointed to serve as executor or co-executor.

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31. The 1993 Will also provided for the creation of the Jacques and Natasha Gelman Trust (the "Testamentary Trust"), to exist in perpetuity, for charitable, literary, educational and other purposes, to be funded by Mrs. Gelman's residuary estate. The Testamentary Trust was to be administered by Neschis and Diamond as co-trustees, and Littman as alternate trustee. The Trustees are authorized to spend the income and principal of the Testamentary Trust, in their sole discretion, consistent with its purposes. The reduction of the bequests to the Jung family

substantially increased Mrs. Gelman's residuary estate, which was to be placed into the Testamentary Trust, which was to be controlled by Neschis.

32. A similar testamentary trust was first included in Mrs. Gelman's will in 1988. However, in the 1993 Will, defendants Neschis and Littman changed the purposes for which the assets of the Testamentary Trust would be used. The 1988 will provides that the assets of the trust "be used for medical research for Heart Disease, Arthritis, Cancer and for the assistance of the aged and infirm." This provision remained unchanged in three subsequent wills executed in 1989 and 1990. In fact, provisions expressing Mrs. Gelman's intention to benefit medical research in her testamentary plans appear in wills dating back to 1968. However, the 1993 Will adds: "or (b) for the aid and assistance of artists in the United States and Mexico through a program of annual gifts to artists," which is entirely new.

33. The 1993 Will was made after Mrs. Gelman no longer had testamentary capacity and was no longer of sound mind. Mrs. Gelman was influenced to execute the 1993 Will by fraud, duress and undue influence brought to bear by Neschis and Littman for their personal benefit. Neschis and Littman fraudulently obtained defendants' own appointment as Trustees of the Testamentary Trust for the purpose of obtaining and consolidating their control over Mrs. Gelman's assets.

34. In or about January 1993, Neschis contacted a Mexican attorney to make inquiries about whether Littman could be appointed trustee of the Gelmans' Mexican art collection. Neschis advised the Mexican attorney that she would come to Mexico to finalize arrangements for the creation of the Natasha Gelman Foundation for this purpose. Papers were prepared in

accordance with Neschis' discussions with the Mexican attorney. However, Neschis thereafter stopped communicating with the Mexican attorney.

35. On or about March 10, 1992 and January 19, 1993, Littman transmitted to Neschis two of his own proposals for disposition of the Gelman's Mexican art collection. In the first proposal, the collection would be placed in perpetuity with the Centro Cultural / Arte Contemporaneo, the Mexican museum at which Littman was then employed. In the second proposal (submitted after the Centro Cultural / Arte Contemporaneo unexpectedly failed), the collection would be placed in perpetuity with the San Francisco Museum of Modern Art. In both scenarios, Littman and Neschis would receive lifetime appointment as members of an oversight committee with responsibility to supervise the exhibition of the collection.

36. Rejecting each of these proposals, Neschis contacted a different Mexican law firm and arranged for the preparation of a new Mexican will for Mrs. Gelman. On or about August 20, 1993, Mrs. Gelman purportedly signed a new Mexican will. Pursuant to this will, the Gelmans' Mexican art collection is bequeathed to Littman outright, subject only to the conditions that the collection be kept together and that it be exhibited in a private museum to be selected by Littman. Mrs. Gelman's real property in Mexico is to be sold and the proceeds are to be used for the maintenance of the art collection, and payment of bequests to two of Mrs. Gelman's household servants. This will names Litman as executor. Incongruously, Neschis is named as a successor executor, despite the fact that she has never lived in Mexico.

37. On or about February 11, 1994, Neschis caused Mrs. Gelman to sign a power of attorney purporting to appoint Neschis as attorney-in-fact of Aldford Holdings, Ltd., a British



Virgin Islands corporation formed by the Gelmans for the purpose of preserving their assets in offshore entities. Mrs. Gelman's signature on the power of attorney is not notarized. On the same date, Neschis caused Mrs. Gelman to sign a corporate resolution on behalf of Aldford Holdings, Ltd. purportedly designating Morgan Guaranty Trust as the depository of the corporation's funds and purportedly designating Neschis to be the sole authorized signatory. These documents were signed by Mrs. Gelman as a result of fraud and undue influence after she was no longer of sound mind.

38. On or about October 28, 1994, Mrs. Gelman purportedly executed an affidavit attesting that at the time of her execution of the 1993 Will, it had been her intention that Neschis should receive a full commission for her services as executor of Mrs. Gelman's estate, and that Neschis' law firm, Leavy, Rosensweig & Hyman, receive legal fees incurred in connection with administration of the estate. This affidavit was executed after Mrs. Gelman had lost testamentary capacity and was no longer of sound mind. Mrs. Gelman was influenced to execute this affidavit by fraud, duress and undue influence brought to bear by Neschis and Littman for the personal benefit of Neschis and her law firm.

39. Under circumstances presently unknown to plaintiff, Neschis became the sole trustee of the Waterford Settlement Trust and in that capacity has sole and exclusive control over substantial amounts of the Gelmans' wealth located in England. Among the beneficiaries of the Waterford Settlement Trust are Littman and the Inter Vivos Trust controlled by Neschis.

40. On or about March 17, 1997, Neschis caused Mrs. Gelman to sign a power of attorney purporting to appoint Neschis as attorney-in-fact of Telemont Anstalt, a Liechtenstein trust entity formed by the Gelmans for the purpose of preserving their assets in offshore entities.

On the same date, Neschis caused Mrs. Gelman to sign a corporate resolution on behalf of Aldford Holdings, Ltd. purportedly designating Morgan Guaranty Trust as the depository of the corporation's funds and purportedly designating Neschis to be the sole authorized signatory. These documents were signed by Mrs. Gelman as a result of fraud and undue influence after she was no longer of sound mind.

41. On or about November 18, 1997, Mrs. Gelman purportedly executed an irrevocable assignment of her interests in an entity called Telemont Holdings, Limited (which had been formed by Jacques Gelman with the assistance of Sidney Cohn to receive certain proceeds from his successful films) to the Waterford Settlement Trust. The effect of the assignment was to transfer substantial sums of the Gelmans' money to Neschis's exclusive control. The document was purportedly executed more than two years after Dr. Plum's conclusion in March 1995 that Mrs. Gelman "lacks testamentary mental capacity," as described above in paragraph 23. Mrs. Gelman's signature on this trust instrument was fraudulently procured.

42. Between December 1998 and December 1999, the Inter Vivos Trust controlled by Neschis received distributions from the Waterford Settlement Trust totaling in excess of \$11 million. Records of any transfers after December 1999 are presently unavailable to plaintiff.

#### **The Fraudulent 1992 Amendments to the Anturia Foundation By-Laws**

43. In or about April 1992, Neschis caused Mrs. Gelman to travel to Zurich to meet with representatives of Credit Suisse and/or Fides, the asset management company responsible for administering the Anturia Foundation. At the time of this trip, Dr. Madeline-Claire Levis, an

employee of Fides primarily responsible for administration of the Anturia Foundation, formed the opinion that Mrs. Gelman was no longer of sound mind.

44. In June 1992, Neschis inquired of Dr. Levis concerning the procedures for making changes to the By-Laws of the Anturia Foundation. Specifically, she asked whether a letter signed by Mrs. Gelman would be sufficient.

45. On at least two occasions prior to October 1992, Neschis and others, including Littman, discussed making changes to the By-Laws of the Anturia Foundation. Neschis and Littman decided upon the changes to be made to the 1991 By-Laws. Specifically, they decided to increase the share of Littman, decrease the share of the Jung family and include Diamond as a beneficiary. In addition, Neschis decided to eliminate all but one of the Gelmans' charitable beneficiaries, including the Weizmann Institute, and instead directed the shares previously allocated to the charitable beneficiaries to the Testamentary Trust. The only charitable beneficiary to remain a beneficiary after the requested changes would be the Metropolitan Museum of Art.

46. Neschis thereafter fraudulently obtained Mrs. Gelman's signature on a letter to the Trustees of the Anturia Foundation dated June 5, 1992 which purported to instruct the Foundation Trustees to make changes to the 1991 By-Laws. This letter was signed by Mrs. Gelman under duress and after she was no longer of sound mind. Neschis transmitted the letter of instructions to Dr. Levis and asked that the requested changes be made.

47. Dr. Levis had serious misgivings about making the changes to the by-laws requested in the written instructions based on the facts that: a) Mrs. Gelman had never requested changes other than in person, in her own handwriting, b) the requested changes were dramatically

different from the Gelmans' intentions during the ten years since the Anturia Foundation was created, and c) Dr. Levis had concluded, during her meeting with Mrs. Gelman in April 1992, that Mrs. Gelman was no longer mentally competent. As a result, Dr. Levis refused to make the requested changes without a satisfactory explanation of the unusual circumstances.

48. Defendant Neschis refused to provide any explanation, and instead became angry and threatened to withdraw the Anturia Foundation's funds from Credit Suisse Bank if the changes were not made immediately. In addition, Neschis called upon her longstanding family friend, Dr. Staehelin, who was one of the Foundation Trustees, and asked him to exert his influence to compel Dr. Levis to make the requested changes.

49. As a result of this threat, and Dr. Staehelin's influence, Dr. Levis agreed to, or was compelled to, process the requested changes.

50. Fritz Höchner, a Director of Credit Suisse who had known the Gelmans since the early 1970's, learned of the proposed changes to the Anturia by-laws and became concerned that the substantial increase to Littman was inconsistent with what he knew to be the Gelmans' prior intentions. Like Dr. Levis, he became concerned that something was wrong and in or about October 1992, he personally traveled to Mexico to meet with Mrs. Gelman to discuss the matter. Based on his meeting with Mrs. Gelman, whom he had known for many years, he concluded that she was no longer of sound mind. Mr. Höchner telephoned Mrs. Gelman again in December 1992. Based on this telephone conversation, Mr. Höchner confirmed his conclusion that the change to the by-laws to leave a substantial percentage to Littman was not Mrs. Gelman's intention.

51. In or about October 1992, Neschis presented to the Anturia Foundation Trustees a revised letter dated September 29, 1992 purportedly containing written instructions from Mrs. Gelman concerning slightly different amendments to the by-laws of the Anturia Foundation. Specifically, this letter purported to remove all charitable beneficiaries from the by-laws, including the Weizmann Institute and the Metropolitan Museum of Art, and instead directed to the Testamentary Trust the shares previously allocated to the charitable beneficiaries. The amendments set forth in the letter included:

- a. Eliminating the Weizmann Institute, plaintiff herein, as a beneficiary of the Anturia Foundation;
- b. Reducing the interest of members of the Jung family in the assets of the Anturia Foundation from approximately 37% to approximately 5%;
- c. Increasing the interest of Littman in the assets of the Anturia Foundation from approximately 1% to approximately 31%;
- d. Adding Diamond as a beneficiary of approximately 3% of the assets of the Anturia Foundation;
- e. Adding Rita Sultan Braunstein as a beneficiary of approximately ½ of 1% of the assets of the Anturia Foundation; and
- f. Adding the Testamentary Trust as a beneficiary of approximately 57% of the assets of the Anturia Foundation.

52. Thereafter, on or about October 19, 1992, the Anturia Foundation Trustees issued amended by-laws reflecting the changes requested by Neschis (the "October 19, 1992 By-Laws"). Neschis used her family's longstanding and close relationship with Dr. Staehelin, then a trustee of the Anturia Foundation, to help her accomplish her unlawful ends.

53. Following the December 1992 telephone conversation between Mr. Höchner and Mrs. Gelman, Neschis learned of Mr. Höchner's investigation into Mrs. Gelman's mental

capacity and intentions. In or about January 1993, Neschis traveled to Zurich with her law partner, Steven Hyman, to complain to Dr. Staehelin and his partner, Dr. Escher, about Mr. Höchner's investigation and Dr. Levis' resistance to making the requested changes. Mr. Höchner and Dr. Levis were summoned to the meeting and were pressured to stop asking questions about Mrs. Gelman. Neschis threatened to remove the assets of the Anturia Foundation from Fides if Mr. Höchner and Dr. Levis did not cease their investigation.

54. In fact, the letters referred to above in paragraphs 46 and 51 were signed under duress and undue influence and at a time when Mrs. Gelman was not of sound mind.

55. The Weizmann Institute was removed as a beneficiary of the Anturia Foundation in utter disregard of the wishes and intentions of Mr. and Mrs. Gelman, and solely as a result of the fraudulent conduct of Neschis, Littman and others and their undue influence over Mrs. Gelman. The rightful share of the Anturia Foundation assets intended for plaintiff Weizmann Institute was eliminated and the same share was diverted to the Testamentary Trust.

#### **Diversion of Income from Anturia Foundation**

56. In April 1992 and continuing through 1998, Neschis caused substantial distributions to be made from the assets of the Anturia Foundation to herself or for her personal benefit. These distributions were not authorized by Mrs. Gelman and were fraudulently obtained by Neschis and Littman.

57. By handwritten note dated April 30, 1992, which is purportedly signed by Mrs. Gelman, Neschis directed a representative of Credit Suisse to "arrange for the immediate transfer to [Mrs. Gelman's] Credit Suisse, New York account of \$150,000 (U.S.)" from the accounts

of the Anturia Foundation and/or from accounts held for the Gelmans. In the same note, Neschis directed Credit Suisse to send all future interest earned on the Anturia Foundation funds, and/or Mrs. Gelman's funds, directly to Mrs. Gelman's Credit Suisse account in New York. These instructions were followed by Credit Suisse, and the requested distributions were made.

58. Available bank records for Mrs. Gelman's account at Credit Suisse New York reflect at least the following distributions received from Credit Suisse Zurich: \$198,000 on November 30, 1992; \$61,700 on January 28, 1993; \$152,500 on March 1, 1993; \$154,600 on June 1, 1993; \$159,400 on August 2, 1993; \$245,600 on September 2, 1993; \$216,000 on November 15, 1993; \$126,000 on February 22, 1994; \$175,000 on May 27, 1994; \$175,000 on July 27, 1994; \$290,000 on August 30, 1994; \$277,000 on November 30, 1994; and \$272,000 on February 28, 1995. Other similar distributions were made periodically, records of which are presently unavailable to plaintiff. In that there was over \$30 million in Anturia Foundation accounts in 1992, and interest payments were made to the Gelman accounts in New York from 1992 to 1998, interest earned and sent to Mrs. Gelman's account at Credit Suisse in New York is believed to be in excess of \$10 million.

59. Pursuant to the powers of attorney referred to above and other instruments or practices presently unknown to plaintiff, Neschis and Littman had access to the funds in Mrs. Gelman's account at Credit Suisse in New York and converted said funds to their own use.

60. As a result of the provision in the Last Valid By-Laws of the Anturia Foundation giving the Weizmann Institute 20% of the assets of said Foundation at the time of Mrs. Gelman's death, Weizmann Institute had a 20% interest in these converted funds.

**Creation of Inter Vivos Trust and 1998 Amendment to By-Laws**

61. On or about November 18, 1997, Neschis and Littman fraudulently caused Mrs. Gelman to execute a trust instrument purporting to create the Jacques and Natasha Gelman Trust (the "Inter Vivos Trust"). Neschis and Diamond were named as a co-trustees of the Inter Vivos Trust. In addition to commissions, the Trustees are authorized to perform professional services for the Inter Vivos Trust at their regular rates. The Trustees are also expressly authorized to arbitrate and settle claims on behalf of the Inter Vivos Trust. The Trustees are expressly excused from filing inventories and periodic accountings in any court. The Trustees may spend the trust assets "in their sole and absolute discretion" "for use exclusively within the United States for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals." This provision is substantially different from the provision creating a charitable testamentary trust in Mrs. Gelman's wills prior to 1993.

62. As a result of these provisions, there is no one likely to challenge the administration of the Inter Vivos Trust. The New York Surrogate's Court would not ordinarily assert jurisdiction over an *inter vivos* trust in connection with administration of the estate, and has in fact declined to do so with respect to the Inter Vivos Trust.

63. The above-referenced trust instrument is not properly verified. Mrs. Gelman's execution of the instrument was purportedly witnessed by Neschis and a witness whose signature is utterly illegible. The witness whose signature is illegible is believed to be Littman. The illegible signature is not verified. Mrs. Gelman's signature is not verified by the notary public. Instead, the notary public attests, with respect to Mrs. Gelman's signature, only that *Neschis* came before him and that Neschis stated to him that *Neschis* saw Mrs. Gelman execute the instrument.



64. According to Neschis, the trust instrument was executed by Mrs. Gelman in Mexico on November 18, 1997. Neschis contends that she was in Mexico on November 18, 1997 to witness the execution. Neschis further contends that she traveled to the United States from Cuernavaca, Mexico on the same day and appeared before the notary public on November 18, 1997 to verify her signature as a witness and to provide the highly irregular verification of Mrs. Gelman's signature provided above. It is significant to note that the trust instrument, as well as the verifications, are peculiarly silent with respect to the fact that the instrument was signed in Mexico.

65. Neschis did not actually witness Mrs. Gelman's signature in Mexico and return to New York to appear before a notary public the same day. Rather, the trust instrument was falsely and fraudulently created by Neschis and Littman.

66. If Mrs. Gelman signed this document, it was signed under duress and undue influence and at a time when Mrs. Gelman was not of sound mind. The document was purportedly executed more than two years after Dr. Plum's conclusion in March 1995 that Mrs. Gelman "lacks testamentary mental capacity," as described above in paragraph 23. Mrs. Gelman's signature on this trust instrument was fraudulently procured, and Neschis' and Littman's execution of this document as witnesses of Mrs. Gelman's signature was false and fraudulent.

67. Also on or about November 18, 1997, Neschis fraudulently caused Mrs. Gelman to sign a letter sent by Neschis to the Anturia Foundation requesting additional changes to the by-laws. The letter requested that the Inter Vivos Trust be substituted for the Testamentary Trust as the beneficiary of 57% of the assets of the Foundation. The letter also advised the Foundation that Elizabeth Jung had died, and thus that, pursuant to the terms of the by-laws, her 1% share should be distributed to the Inter Vivos Trust instead. These changes were made and the by-laws amended

on January 27, 1998 (the "January 27, 1998 By-Laws"). Under the January 27, 1998 By-Laws, the Inter Vivos Trust was entitled to receive 58% of the assets of the Anturia Foundation.

68. If Mrs. Gelman signed the letter referred to above in paragraph 67, it was signed under duress and undue influence and at a time when Mrs. Gelman was not of sound mind.

69. Under the terms of the Last Valid By-Laws, the 20% interest to which the Weizmann Institute is entitled would be increased by a proportionate share of the interest forfeited by Elizabeth Jung by her death.

70. As a result of the letter referred to above in paragraph 67, in January 1998 the share of the assets of the Anturia Foundation originally intended for the Weizmann Institute was wrongfully transferred to the Inter Vivos Trust for the personal benefit of the Trustees of the Inter Vivos Trust.

#### **Defendants' Conduct After Mrs. Gelman's Death**

71. Mrs. Gelman died on May 2, 1998, at the age of 86.

72. The 1993 Will was offered<sup>1</sup> for probate by Neschis in May 1998. Neschis qualified to serve as executor of the Estate of Natasha Gelman and is presently serving in that capacity. Proceedings relating to administration of the Estate of Natasha Gelman are ongoing in the Surrogate's Court, New York County. Because the Anturia Foundation assets are not part of Mrs. Gelman's New York probate estate, plaintiff's claims herein are not pending before, and will not be adjudicated by, the Surrogate's Court, New York County.

73. On or about July 16, 1999, Neschis commenced an arbitration proceeding in Liechtenstein purportedly against the trustees of the Anturia Foundation seeking an award compelling the trustees to make payment of 58% of the Anturia assets to the Inter Vivos Trust in accordance with the January 27, 1998 By-Laws. Plaintiff herein and members of the Jung family were joined in the proceedings as third-party intervenors. A hearing was held and, by decision dated June 8, 2001, the arbitration panel concluded that the assets of the Anturia Foundation should be distributed in accordance with the January 27, 1998 By-Laws.

74. On or about November 9, 2001, the Inter Vivos Trust received \$21,030,000 from the Anturia Foundation assets in accordance with the January 27, 1998 By-Laws.

75. On or about November 9, 2001, Littman personally received \$11,140,000 from the Anturia Foundation assets in accordance with the January 27, 1998 By-Laws.

76. On or about November 28, 2001, Diamond personally received \$1,100,000 from the Anturia Foundation assets in accordance with the January 27, 1998 By-Laws.

77. Since that time, Neschis in her capacity as trustee of the Inter Vivos Trust, has used and expended the trust assets in her absolute discretion, including to pay her substantial attorneys fees in this and other proceedings, and to pay herself trustee's commissions.

78. During the fiscal year ending on November 30, 1999, Neschis caused the Inter Vivos Trust to pay \$217,350 in legal fees and expenses as follows: (a) \$29,572 to McLaughlin & Stern, LLP (the firm in which Neschis is currently a partner); (b) \$15,223 to Marxer & Partner (the Liechtenstein law firm that represented Neschis and Diamond in the Liechtenstein arbitration and

that provided a foreign law affidavit in these proceedings); and (c) \$172,555 to Denmur Treu Bond und Verwaltungs-Anstalt (whose role is not presently known to plaintiff).

79. During the fiscal year ending on November 30, 2000, Neschis caused the Inter Vivos Trust to pay a total of \$296,768 in legal fees and expenses, as follows: (a) \$216,403 to McLaughlin & Stern, LLP (the firm in which Neschis is currently a partner); (b) \$15,000 to Kaye, Scholer LLP (the firm that represents Neschis and Diamond in these proceedings); (c) \$40,416 to Marxer & Partner (the Liechtenstein law firm that represented Neschis and Diamond in the Liechtenstein arbitration and that provided a foreign law affidavit in these proceedings); (d) \$15,806 to Weil, Gotshal & Manges (the law firm that provided a U.S. law affidavit for submission in the Liechtenstein arbitration on behalf of Neschis and Diamond); and (e) \$9,143 to Dr. H.L. Bernard Vischer (whose role is not presently known to plaintiff).

80. During the fiscal year ending on November 30, 2000, Neschis caused the Inter Vivos Trust to make the following charitable gifts: (a) \$110,000 to the Museo del Barrio "to preserve the cultural heritage of Puerto Ricans," (b) \$36,000 to the Art Student's Leagues of New York "to provide education for artists," and (c) \$42,360 to the Pratt Institute "to provide education for artists." These gifts, which were made in the sole and exclusive discretion of Neschis, are not in accordance with the criteria expressed by Mrs. Gelman for the charitable testamentary trust created in her wills prior to 1993, but rather in accordance with the new criteria inserted by Neschis into Mrs. Gelman's will and the Inter Vivos Trust after Mrs. Gelman was no longer of sound mind.

81. Although more recent information is not presently available to plaintiff, it is believed that Neschis has continued, and continues to the present day, to pay her substantial legal

fees and expenses, pay themselves commissions, and make substantial gifts from the Inter Vivos Trust in her sole discretion.

82. Although specific information is not presently available to plaintiff, it is believed that Neschis has continued, and continues to the present day, to exert wrongful control over the assets of other Gelman investment entities around the world, including Waterford Settlement Trust, Aldford Holdings, Limited, Paramount Holdings, Limited, Telemont Anstalt and other entities presently unknown to plaintiff.

83. Littman has continued, and continues to the present day, to exert wrongful control over assets properly belonging to Mrs. Gelman, including the Mexican art collection. Littman has falsely represented himself to be the legitimate curator of the Gelman's Mexican art collection. In his capacity as president of the Vergel Foundation, he has falsely represented that the Gelmans intended to give, and gave, their Mexican art collection to the Vergel Foundation. Without proper authority, Littman has exhibited the Gelman's Mexican art collection in ten cities around the world since Mrs. Gelman's death. From April to September 2002, the collection was exhibited at El Museo del Barrio in New York.

84. As set forth in paragraph 80 above, Neschis caused the Inter Vivos Trust to make a substantial charitable gift to El Museo del Barrio "to preserve the cultural heritage of Puerto Ricans." This gift was made at Littman's direction in furtherance of defendants' continuing conspiracy to maintain control over Mrs. Gelman's assets and conceal their scheme.

Neschis). Cantinflas and Mr. Gelman shared revenues from certain films through offshore entities created by Cohn, including Telemont Anstalt, a Liechtenstein trust entity, to which they conveyed the rights to a number of Cantinflas films. Telemont was owned 65% by Cantinflas and 35% by Gelman. The Estate of Cantinflas has alleged that Neschis fraudulently obtained Mrs. Gelman's signature on documents dated November 18, 1997 assigning assets held by Telemont to another offshore entity, the Waterford Settlement Trust, controlled by the Gelmans (and now controlled by Neschis as executor of Mrs. Gelman's Estate).

88. With respect to each of these situations, Neschis is alleged to have engineered suspicious document changes and misappropriated client assets for her own personal benefit. In each case, Neschis' fraudulent actions took place after the death or disability of the principals to the transaction, Neschis' succession to her father's position as counsel for these longtime clients, leaving Neschis with unfettered access to her client's assets. Indeed, the fraudulent documents alleged to have been created by Neschis in connection with Telemont Anstalt were dated *the same day* as the fraudulent instrument purportedly creating the Inter Vivos Trust as set forth in paragraph 61 and the fraudulent "letter of instructions" to the Anturia trustees requesting that the Inter Vivos Trust be substituted as the primary beneficiary as set forth in paragraph 67.

## COUNT I

### CONVERSION

(Against Defendants Neschis and Littman)

89. Plaintiff repeats and realleges the allegations of paragraphs 1-88.

90. The Last Valid By-Laws, together with the Anturia Foundation Charter and all express and implied understandings between the Gelmans and the Anturia Foundation, Fides

and/or Credit Suisse, constituted a valid, enforceable contract concerning the disposition of the assets of the Foundation.

91. The October 19, 1992 By-Laws and all subsequent by-laws were executed as a result of fraud, duress and undue influence and do not constitute a valid or enforceable contract. The October 19, 1992 By-Laws and all subsequent by-laws did not validly revoke or supersede the Last Valid By-Laws.

92. Plaintiff Weizmann Institute is a third-party beneficiary of the contract comprised of the Last Valid By-Laws, the Charter and/or all understandings and assurances provided to the Gelmans, pursuant to which the Weizmann Institute is entitled to distribution of not less than 20% of the assets of the Anturia Foundation upon Mrs. Gelman's death. Accordingly, the contract comprised of the Last Valid By-Laws, the Charter and/or all understandings and assurances provided to the Gelmans, gave plaintiff a valid and enforceable interest in not less than 20% of the assets of the Anturia Foundation.

93. Neschis and Littman improperly converted the Weizmann Institute's interest in the assets of the Anturia Foundation for the benefit of defendants by causing the execution of the October 19, 1992 By-Laws and January 27, 1998 By-Laws.

94. In addition, Neschis and Littman improperly converted the amounts of interest earned on the Anturia Foundation assets that they fraudulently transferred to the Credit Suisse account in New York to which they had access. The total interest diverted by Neschis and Littman is estimated to be at least \$10 million, and thus plaintiff Weizmann Institute's share of such interest would be not less than \$2 million.

95. As a result of the wrongful conduct of Neschis and Littman, plaintiff has been deprived of its rightful interest in not less than 20% of the full and undepleted assets of the Anturia Foundation under the terms of the Last Valid By-Laws. Accordingly, plaintiff has been damaged in the amount of funds improperly converted, which is not less than \$11 million.

## COUNT II

### **TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS (Against Defendants Neschis and Littman)**

I

96. Plaintiff repeats and realleges the allegations of paragraphs 1-95.

97. The Last Valid By-Laws, together with the Anturia Foundation Charter and all express and implied understandings between the Gelmans and the Anturia Foundation, Fides and/or Credit Suisse, constituted a valid, enforceable contract.

98. Plaintiff Weizmann Institute was a third-party beneficiary of the contract comprised of the Last Valid By-Laws, Charter and all understandings and assurances provided to the Gelmans, pursuant to which the Weizmann Institute is entitled to distribution of not less than 20% of the assets of the Anturia Foundation upon Mrs. Gelman's death.

I

99. At all relevant times, Neschis and Littman were aware of the existence and provisions of the Last Valid By-Laws. Specifically, Neschis and Littman were aware of the fact that under the Last Valid By-Laws, the Weizmann Institute was entitled to receive not less than 20% of the assets of the Anturia Foundation.



100. Neschis and Littman intentionally and wrongfully procured and effected the elimination of the Last Valid By-Laws and plaintiff's rights thereunder by fraudulently obtaining the execution of the October 19, 1992 By-Laws and/or the January 27, 1998 By-Laws.

101. In addition, Neschis and Littman improperly converted the amounts of interest earned on the Anturia Foundation assets that they fraudulently transferred to the Credit Suisse account in New York to which they had access. The total interest diverted by Neschis and Littman is estimated to be at least \$10 million, and thus plaintiff Weizmann Institute's share of such interest would be not less than \$2 million.

102. As a result of the wrongful conduct of Neschis and Littman, plaintiff has been deprived of its rightful interest in not less than 20% of the full and undepleted assets of the Anturia Foundation under the terms of the Last Valid By-Laws. Accordingly, plaintiff has been damaged in the amount of not less than 20% of the funds improperly diverted plus interest, which is not less than \$11 million.

#### **COUNTS III AND IV**

#### **ALLEGATIONS COMMON TO RICO COUNTS**

103. As set forth herein, Neschis and Littman engaged in a scheme to defraud Mrs. Gelman designed to gain control over her substantial wealth and to divert her money and property to their personal use and benefit. Mrs. Gelman was vulnerable to defendants' scheme because she had no close family members to protect her interests and supervise her affairs as her mental condition deteriorated. Moreover, as Neschis and Littman understood, Mrs. Gelman had no direct descendants expecting to inherit her large estate, and it was unlikely that the charitable institutions

to which she had left large bequests would ever discover defendants' fraudulent acts. Beginning in 1990 or 1991, Neschis, Littman and others took advantage of Mrs. Gelman's declining mental condition by deceiving Mrs. Gelman into believing that they would protect her interests, and thereby falsely earned her trust and confidence.

104. In furtherance of the fraudulent scheme, Neschis, Mrs. Gelman's attorney, and Littman, Mrs. Gelman's close personal companion, assumed control over Mrs. Gelman's financial affairs, including her estate plan and the Anturia Foundation, without her permission, and created fraudulent documents purporting to carry out Mrs. Gelman's intent but which actually furthered the fraudulent scheme. Essential to the scheme was defendants' agreement to conceal from everyone, other than the participants in the scheme, the truth about Mrs. Gelman's lack of mental capacity, and to exclude all others from Mrs. Gelman's inner circle. Through their acts of fraud and concealment, Neschis and Littman became Mrs. Gelman's sole advisors and caretakers, and thereby cemented themselves as the exclusive custodians of Mrs. Gelman's worldwide assets for the purpose of converting those assets to their personal use and benefit.

**A. Person**

105. Neschis, Littman, the Inter Vivos Trust and the Testamentary Trust are each a "person" as defined in 18 U.S.C. § 1961(3) because each is an entity capable of holding legal and/or beneficial interest in property.

**B. Enterprise**

106. At all times relevant herein, defendants operated an "enterprise" within the meaning of 18 U.S.C. § 1961(4) comprised of Mrs. Gelman's identity and estate, both before and after her death, including her interest in and rights to direct the disposition of the assets of Anturia

Foundation, her interests in and right to direct the trusts purportedly created by Mrs. Gelman, and, after May 1998, her probate estate.

**C. The Enterprise Period**

107. The Enterprise Period began in 1990 or 1991 when Neschis and/or Littman gained control over Mrs. Gelman's identity and affairs, and continued after Neschis and/or Littman gained control over Mrs. Gelman's probate estate and trusts, and continues to the present day.

**D. Pattern of Racketeering Activity**

108. The acts described in the preceding paragraphs constitute "pattern of racketeering activity" as that term is defined in 18 U.S.C. § 1961(1), (5). Specifically, on numerous occasions, Neschis and Littman took advantage of Mrs. Gelman's lack of mental capacity to obtain the fraudulent execution of documents, including letters of instructions, a will, powers of attorney and a trust instrument, without authority from Mrs. Gelman, that were designed to change Mrs. Gelman's financial affairs and estate plan, and divert her assets to defendants' own benefit and to deprive her legitimate beneficiaries of their intended shares of Mrs. Gelman's assets upon her death. Each of these acts was committed by Neschis and/or Littman, and had similar results, injuring numerous separate victims, including plaintiff Weizmann Institute, and thus constituted a "pattern of racketeering activity."

109. The scheme alleged herein includes fraudulent manipulation of virtually every aspect of Mrs. Gelman's finances from 1992 until her death in 1998. Defendants altered her New York will, her Mexican will, the dispositive provisions of the Anturia Foundation, her plans for her Mexican art collection, her interests in entities formed by her late husband to receive substantial

royalties from his films, and created a new inter vivos trust to circumvent the testamentary trust that had been included in Mrs. Gelman's will since at least 1968.

110. Each and every one of these manipulations was effected through the creation of false and fraudulent documents purportedly signed by Mrs. Gelman and passed off by Neschis and Littman as the true wishes and intentions of Mrs. Gelman. Each and every one of these manipulations substantially benefitted Neschis and Littman and ultimately diverted virtually *all* of Mrs. Gelman's substantial wealth originally located around the world *to the control of these defendants*. It is difficult to imagine a more comprehensive pattern of fraudulent conduct.

111. The acts described in the preceding paragraphs pose a threat of continued criminal activity. Specifically, Neschis continues to practice law in the State of New York on behalf of clients seeking advice and representation in connection with estate planning. Many of these clients had been clients of her late father, Sidney Conn, Esq. and for that reason place their trust and confidence in Neschis. Neschis has demonstrated a pattern of manipulating her clients' assets for her own benefit through the use of false and fraudulent documents prepared by her.

112. In addition, as set forth above, Neschis continues to the present day to expend the assets of the Inter Vivos Trust for her own personal benefit.

**E. Foreign Commerce**

113. In carrying out their scheme to defraud, defendants engaged in monetary and commercial transactions that took place in New York, Switzerland, Liechtenstein, Mexico, England and elsewhere around the world.

F. **Predicate Acts**

(1) **Mail and Wire Fraud (18 U.S.C. §§ 1341, 1343)**

114. For the purpose of executing or attempting to execute the aforesaid schemes and artifices to defraud, throughout the Enterprise Period and as alleged more fully above, defendants committed acts of mail fraud by causing numerous separate letters and other documents to be delivered via the United States mails, and acts of wire fraud by causing interstate wire communications to be transmitted between New York, Switzerland, Liechtenstein, Mexico and elsewhere, in violation of 18 U.S.C. §§ 1341 and 1343, including but not limited to the following:

115. On or about March 10, 1992, Littman transmitted by fax from Mexico to Neschis in New York a document setting forth a proposal for the disposition of Mrs. Gelman's Mexican art collection, including the lifetime appointment of Littman and Neschis as members of an oversight committee with responsibility to supervise the exhibition off the collection. The proposal did not reflect Mrs. Gelman's wishes or intentions but instead reflected Littman's own intentions and his participation with Neschis in the fraudulent scheme to gain control of Mrs. Gelman's assets, including the Mexican art collection.

116. On or about March 26, 1992, Littman transmitted by fax from Mexico to Neschis in New York a list of the works of art comprising Mrs. Gelman's Mexican art collection. This document was prepared and transmitted in furtherance of the fraudulent scheme to gain control of Mrs. Gelman's assets, including the Mexican art collection.

117. On or about April 15, 1992, Neschis transmitted via the United States mails from New York to Switzerland a letter to Dr. William Stahelin purportedly signed by Mrs. Gelman fraudulently authorizing the trustees of the Anturia Foundation to release to Neschis "all documents

and records pertaining to the Anturia Foundation Limat trust controlled by Fides, including but not limited to, the trust instrument and all financial records pertaining to the trust. This letter also authorizes you to discuss with her all matters pertaining to the trust.”

118. On or about April 21, 1992, Littman telephoned from Mexico to a Richard Dunlap in Los Angeles, California, to request financial records relating to Mrs. Gelman's interests in companies holding her late husband's interests in the films he had produced during his lifetime. Littman sought these records for the purpose of discovering, and taking control of, Mrs. Gelman's interests in these entities.

119. On or about April 30, 1992, Neschis transmitted via the United States mails from New York to Switzerland a letter of instructions to Credit Suisse, Zurich purportedly authorized by Mrs. Gelman that fraudulently directed Credit Suisse to pay all interest earned on the Anturia Foundation and other accounts of Mrs. Gelman directly to an account in Mrs. Gelman's name at Credit Suisse in New York, which was controlled by Neschis. In response to the fraudulent letter of instructions, Credit Suisse thereafter distributed interest from the Anturia Foundation and other accounts directly to Neschis' control. Each distribution of interest was made by wire transmission from Switzerland to New York.

120. In or about May 18, 1992, Littman transmitted by fax from Mexico to Neschis in New York an affidavit purportedly signed by Mrs. Gelman in connection with certain litigation that had been commenced against Mrs. Gelman and others in the Superior Court of the State of California, County of Los Angeles, relating to her late husband's interests in films he had produced during his lifetime. The affidavit was signed by Mrs. Gelman after she was no longer of sound

mind. The affidavit was prepared by Neschis in furtherance of the fraudulent scheme to consolidate control over Mrs. Gelman's assets.

121. On or about September 29, 1992, Neschis transmitted via the United States mails a letter of instructions to the trustees of the Anturia Foundation purportedly authorized by Mrs. Gelman that fraudulently instructed the trustees of the Anturia Foundation to amend the by-laws to include the Testamentary Trust as a beneficiary of 57% of the trust assets, and to eliminate the Weizmann Institute as a beneficiary and deprive it of its rightful interest in not less than 20% of the trust assets.

122. On or about October 9, 1992, Neschis communicated by telephone with an official of Credit Suisse in New York, and confirmed by letter transmitted by telecopier the same day, falsely stating that "Mrs. Gelman has asked me to instruct Credit Suisse to transfer the sum of \$20,000 to [the account of Aldford Holdings Limited at] Morgan Guaranty." In accordance with these false instructions, the sum of \$20,000 was thereby transferred to Neschis' control.

123. On or about December 15, 1992, Littman transmitted by fax from Mexico to Neschis in New York a memorandum purportedly recording a visit by a representative of Credit Suisse to Mrs. Gelman at her home in Mexico City. The memorandum falsely and fraudulently recorded the events that transpired during that meeting, and was intended to, and did, conceal defendants' fraudulent conduct, which allowed defendants to continue to pursue their fraudulent scheme.

124. On or about December 17, 1992, Littman transmitted via the United States mails from Mexico to Neschis in New York a "corrected" page of this false memorandum and a

letter of instructions purportedly presented to Mrs. Gelman for signature by the Credit Suisse representative.

125. On or about January 19, 1993, Littman transmitted by fax from Mexico to Neschis in New York a document setting forth an alternate proposal for the disposition of Mrs. Gelman's Mexican art collection, including the lifetime appointment of Littman and Neschis as members of an oversight committee with responsibility to supervise the exhibition off the collection. The proposal did not reflect Mrs. Gelman's wishes or intentions but instead reflected Littman's own intentions and his participation with Neschis in the fraudulent scheme to gain control of Mrs. Gelman's assets, including the Mexican art collection.

126. On or about January 25, 1993, Neschis communicated by telephone from New York with Juan Pablo de la Calle P. in Mexico to inquire about the possibility of appointing Littman as trustee to hold the Gelman's Mexican art collection. Neschis specifically inquired whether Littman would be permitted to serve as trustee in light of the fact that he was not a Mexican citizen. This communication was made in furtherance of the fraudulent scheme to gain control over Mrs. Gelman's assets.

127. On or about April 19, 1993, Neschis transmitted by the United States mails to attorneys in Guernsey, C.I., a proxy purportedly signed by Mrs. Gelman in her capacity as holder of 5,000 shares of Paramount Holdings, Limited, granting certain Bermudian attorneys her proxy to vote her shares at the annual meeting of the company. This proxy was furnished in furtherance of the fraudulent scheme to control Mrs. Gelman's assets.



128. On or about April 23, 1993, Littman transmitted by fax from Mexico to Neschis in New York instructions concerning Mrs. Gelman's bank account at Bancomer in Mexico. This transmission was part of the fraudulent scheme to gain control over Mrs. Gelman's assets, including funds located in Mexico.

129. On or about June 14, 1993, Neschis transmitted via the United States mails a letter of instructions to Dr. Madeline-Claire Levis purportedly signed by Mrs. Gelman requesting that Dr. Martin Escher be appointed as a trustee of the Anturia Foundation in the place of Dr. Staehelin. Dr. Staehelin was a longtime friend and acquaintance of Neschis' father, Sidney Cohn, but had become old and infirm and was no longer able to assist Neschis with her fraudulent scheme. Dr. Escher was a partner of Dr. Staehelin. Neschis added him to the Anturia Board of Trustees to preserve her influence over Anturia in furtherance of the fraudulent scheme.

130. On or about June 21, 1993, Littman transmitted via the United States mails from Mexico to Neschis in New York a letter enclosing documents he "found in Natasha's safe," to wit, a letter from one Richard Dunlap that "talks of an account in Curacao we are unaware of," and "the registration of Natasha's Mexican Will with the proper authorities in 1989." Littman was reporting to Neschis on the progress of the scheme to defraud, specifically the results of his theft of important financial documents from Mrs. Gelman's safe.

131. On or about July 21, 1993, Littman transmitted by fax from Mexico to Neschis in New York the name and address of Carlos Hank Gonzalez, formerly a political official in Mexico. According to Mr. Littman, Mr. Gonzalez is "a very corrupt figure." Although the precise role of Mr. Gonzalez, and the significance of the fact that Mr. Littman provided his contact

information to Ms. Neschis, is not presently known to plaintiff, it is believed that this information was provided to Neschis in furtherance of the fraudulent scheme.

132. On or about July 26, 1993, Neschis caused her assistant, Rita Sultan Braunstein, to transmit by fax from New York to a representative of Columbia Pictures in Burbank, California, a letter purportedly authorizing Columbia Pictures to "release all documents and information pertaining to the distributions from the Cantinflas Films to Janet Neschis and/or Steve Hyman, Mrs. Gelman's attorneys, and to discuss any matters with them." This letter was part of the fraudulent scheme to gain control of Mrs. Gelman's assets.

133. On or about August 9, 1993, Neschis caused Joanna First, a legal assistant employed by her firm, to transmit by the United States mails from New York to a representative of Warner Brothers in Burbank, California, a letter purportedly authorizing Warner Brothers to "send all statements and checks for Telemont Anstalt to Janet C. Neschis." This letter was part of the fraudulent scheme to gain control of Mrs. Gelman's assets.

134. On or about August 23, 1993, Neschis transmitted by Federal Express a letter to Carlos Sesma, Esq., a Mexican attorney in Mexico, requesting English translations of Mrs. Gelman's existing Mexican will and Power of Attorney. Neschis sought these documents for the purpose of engineering fraudulent amendments to these documents in furtherance of the scheme to gain control over Mrs. Gelman's assets.

135. On or about September 10, 1993, Neschis transmitted by the United States mails a letter of instructions purportedly signed by Mrs. Gelman to a bank official at Morgan Guaranty in New York that fraudulently directed Morgan Guaranty to increase the monthly

distribution from Mrs. Gelman's account to an account maintained by Rita Sultan Braunstein, Neschis' assistant, to \$6,000 per month. In response to the fraudulent letter of instructions, Morgan Guaranty paid \$6,000 per month beginning on October 1, 1993 from Mrs. Gelman's accounts directly to Neschis' control.

136. On or about October 5, 1993, Littman transmitted by fax from Belgium to Neschis in New York a copy of a letter from the San Francisco Museum of Modern Art concerning exhibition of works of art from Mrs. Gelman's collections, with a cover letter asking Neschis to respond to the request. On or about the same date, Littman transmitted a response by fax from Belgium to museum officials in San Francisco advising them that "the matter is settled" and Neschis had already written to them. This correspondence demonstrates the control exerted by Neschis and Littman over Mrs. Gelman's art collections.

137. On or about December 6, 1993, Littman transmitted by fax from Mexico to Neschis in New York a statement from Bancomer in Mexico relating to Mrs. Gelman's account there. This transmission was part of the fraudulent scheme to gain control over Mrs. Gelman's assets, including funds located in Mexico.

138. On or about August 15, 1994, Littman transmitted via the United States mails from Mexico to Neschis in New York invoices reflecting charges against Mrs. Gelman's American Express account relating to a trip to San Francisco and Los Angeles on which Littman had taken Mrs. Gelman. On or about August 30, 1994, Littman transmitted via the United States mails from Mexico to Neschis in New York proof of a refund to the American Express account. On or about September 12, 1994, Littman transmitted via the United States mails from Mexico to Neschis in New York plane tickets for Mrs. Gelman and a domestic employee to return to Mexico from New

York. These transactions reflect the close conspiracy between Neschis and Littman in connection with management of Mrs. Gelman's financial affairs and concealment of Mrs. Gelman's lack of mental capacity, which continued until Mrs. Gelman's death.

139. On or about March 23, 1995, Neschis transmitted via overnight courier from New York to an attorney in Los Angeles a "writ" purportedly signed by Mrs. Gelman in connection with an estate litigation involving the estate of Mario Moreno Reyes, also known as Cantinflas, the former partner of Jacques Gelman. According to Neschis' description of the document in the transmittal letter, its effect was to assert Mrs. Gelman's ownership of 35% of the Cantinflas films in a dispute with the Cantinflas estate over ownership of the films. Neschis procured Mrs. Gelman's signature on this document in furtherance of the scheme to control of Mrs. Gelman's assets.

140. On or about December 30, 1997, Neschis transmitted via facsimile and overnight courier a letter of instructions to the trustees of the Anturia Foundation purportedly authorized by Mrs. Gelman that fraudulently instructed the trustees of the Anturia Foundation to amend the by-laws to include the Inter Vivos Trust as a beneficiary of 58% of the trust assets.

141. On or about July 16, 1999, Neschis transmitted via the United States mails to the trustees of the Anturia Foundation in Liechtenstein a letter demanding arbitration over the fraudulent claim of the Inter Vivos Trust to 58% of the assets of the Anturia Foundation in accordance with the January 27, 1998 By-Laws. The purpose of this letter was to give effect to the January 27, 1998 By-Laws and thereby divert to defendants' control the assets of the Anturia Foundation that should rightfully have been distributed to Mrs. Gelman's legitimate beneficiaries, including plaintiff Weizmann Institute.

**(2) Transportation and Receipt of Converted Funds in Foreign Commerce, and Inducement to Travel in Foreign Commerce in Furtherance of Scheme to Defraud (18 U.S.C. §§ 2314, 2315)**

142. In or about April 1992, Neschis caused Mrs. Gelman to travel to Zurich to meet with representatives of Credit Suisse and/or Fides, in furtherance of the scheme to defraud and for the purpose of concealing the scheme. Specifically, the purpose of the trip was to create an illusion that Mrs. Gelman sought to make changes to the Anturia Foundation by-laws of her own free will at a time when she was no longer of sound mind or free of fraud and undue influence.

143. In or about April 1992, following Neschis' direction, Credit Suisse transferred \$150,000 and interest payments from Mrs. Gelman's Credit Suisse accounts in Switzerland to Mrs. Gelman's Credit Suisse accounts in New York. Pursuant to fraudulent powers of attorney, Neschis and Littman had access to the funds in Mrs. Gelman's New York accounts. Neschis and Littman received these funds knowing that they had been improperly converted from Mrs. Gelman's Swiss accounts.

144. At various times between 1992 and Mrs. Gelman's death, Littman caused Mrs. Gelman to travel internationally and within the United States, and accompanied her on such travels, in furtherance of the fraudulent scheme and for the purpose of concealing the scheme. Littman knew that at the time of these travels, Mrs. Gelman was no longer of sound mind and no longer able to travel alone or manage her own affairs. The purpose of these trips was to create an illusion that Mrs. Gelman was still mentally competent and/or to bring Mrs. Gelman to New York, Switzerland or other destinations where her presence was required for the execution of fraudulent documents or other transactions in furtherance of the fraudulent scheme.

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145. At various times between 1992 and Mrs. Gelman's death, Neschis and Littman transported in interstate and foreign commerce funds in excess of \$5,000 that they knowingly converted from Mrs. Gelman to be used for their own purposes in furtherance of the fraudulent scheme.

146. In or about November 2001, Littman and Neschis, in her capacity as a trustee of the Inter Vivos Trust, received distributions of funds from the Anturia Foundation in accordance with the January 27, 1998 By-Laws. The Anturia funds crossed a United States boundary in transit from Liechtenstein to New York after having been unlawfully converted by defendants. Littman and Neschis received these funds knowing that they had been unlawfully converted.

147. In or about 2001 and 2002, Littman transported in foreign commerce Mrs. Gelman's collection of Mexican art, knowing that he is not the legitimate custodian of said art collection and knowing the art collection to have been taken by fraud from Mrs. Gelman's Mexican probate estate pursuant to a fraudulent Mexican will created by Neschis and Littman. The Mexican art collection has a value in excess of \$5,000.

### COUNT III

#### VIOLATION OF 18 U.S.C. § 1962(c) (Against Neschis and Littman)

148. Plaintiff repeats and realleges the allegations set forth in paragraphs 1-147.

149. Neschis and Littman conducted or participated in, and continue to direct and participate in, directly and indirectly, the affairs of the enterprise through the pattern of racketeering activity involving predicate acts that include mail fraud, wire fraud, transportation of converted

funds in foreign commerce, receipt of converted funds transported across a United States boundary, and inducement of Mrs. Gelman to travel in foreign commerce in furtherance of defendants' scheme to defraud.

150. Defendants benefitted and profited, and continue to benefit and profit, from these racketeering acts as alleged in the preceding paragraphs.

151. Plaintiff has been injured by reason of defendants' racketeering activities in violation of 18 U.S.C. § 1962(c).

152. As a direct and proximate result of defendants' racketeering activities, plaintiff has suffered damages as alleged in the preceding paragraphs.

153. Under the provisions of 18 U.S.C. § 1964(c), plaintiff is entitled to recover treble damages, costs of bringing this suit, and attorney's fees.

#### COUNT IV

#### **VIOLATION OF 18 U.S.C. § 1962(d) (Against Neschis and Littman)**

154. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1-153.

155. In violation of 18 U.S.C. § 1962(d), at all times relevant herein, Neschis and Littman conspired, and continue to conspire, with others, to violate 18 U.S.C. § 1962(c) through a pattern of racketeering activity.

156. Neschis, Littman and others committed, and continue to commit, numerous wrongful overt acts, as outlined above in the pattern of racketeering activity, in furtherance of the

conspiracy, including but not limited to, commencement of arbitration proceedings under false pretenses to make a wrongful claim of entitlement to 58% of the assets of the Anturia Foundation.

157. Neschis, Littman and others agreed to commit the predicate acts set forth herein, with knowledge that such acts were part of the pattern of racketeering activity and part of the scheme to defraud Mrs. Gelman, to the material detriment of plaintiff and the other rightful beneficiaries of the assets of the Anturia Foundation.

158. As a direct and proximate result of defendants' conspiracy to violate 18 U.S.C. § 1962(c), plaintiff has suffered damages as alleged in the preceding paragraphs.

159. Under the provisions of 18 U.S.C. § 1964(a), plaintiff as an innocent person is entitled to equitable relief in the form of restitution and disgorgement of all earnings, profits and benefits obtained by defendants.

160. Under the provisions of 18 U.S.C. § 1964(c), plaintiff is entitled to recover treble damages, costs of bringing this suit, and attorney's fees.

## COUNT V

### CONSTRUCTIVE TRUST (Against All Defendants)

161. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1-160.

162. A relationship of trust and confidence existed between Mrs. Gelman and Neschis, her attorney, and Littman, her close personal companion. By virtue of the foregoing, there



arose an express or implied promise by Neschis and Littman to carry out Mrs. Gelman's true intentions with respect to, *inter alia*, the disposition of the assets of the Anturia Foundation.

163. Pursuant to the October 19, 1992 and/or January 27, 1988 By-Laws, the assets of the Anturia Foundation were transferred in derogation of the true intentions of Mrs. Gelman.

164. But for the fraudulent conduct of Neschis and Littman, which brought about the October 19, 1992 By-Laws and January 27, 1998 By-Laws, the assets of the Anturia Foundation would have been distributed in accordance with Mrs. Gelman's true intentions, as set forth in the Last Valid By-Laws.

165. As set forth in the Last Valid By-Laws, Mrs. Gelman intended to leave not less than 20% of the assets of the Anturia Foundation to the Weizmann Institute.

166. As a result of the fraudulent conduct of Neschis and Littman, defendants received substantially all of the assets of the Anturia Foundation under such circumstances that they may not in good conscience retain the beneficial interest.

167. Defendants have been unjustly enriched in the amount of the assets of the Anturia Foundation received by them.

168. In these circumstances, equity demands that a constructive trust be created over the assets of the Anturia Foundation in defendants' possession, and that defendants be converted into constructive trustees of these funds<sup>1</sup> for the benefit of the intended beneficiaries, to wit, the Weizmann Institute.

**COUNT VI<sup>1</sup>****TORTIOUS INTERFERENCE WITH EXPECTANCY OF INHERITANCE  
(Against Defendants Neschis and Littman)**

169. Plaintiff repeats and realleges the allegations of paragraphs 1-168.

170. The Last Valid By-Laws, together with the Anturia Foundation Charter and all express and implied understandings between the Gelmans and the Anturia Foundation, Fides and/or Credit Suisse, gave rise to a legitimate expectancy in plaintiff Weizmann Institute of receiving not less than 20% of the assets of the Anturia Foundation.

171. At all relevant times, Neschis and Littman were aware of the existence and provisions of the Last Valid By-Laws. Specifically, Neschis and Littman were aware of the fact that under the Last Valid By-Laws, the Weizmann Institute was entitled to receive not less than 20% of the assets of the Anturia Foundation.

172. Neschis and Littman intentionally and wrongfully procured and effected the elimination of the Last Valid By-Laws and plaintiff's rights thereunder by fraudulently obtaining the execution of the October 19, 1992 By-Laws and/or the January 27, 1998 By-Laws.

173. Plaintiff's expectancy under the Last Valid By-Laws was reasonably certain but for the fraudulent conduct of Neschis and Littman because Mrs. Gelman was or became incompetent after the execution of the Last Valid By-Laws.

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<sup>1</sup> By Decision dated October 3, 2002, the Court dismissed plaintiff's claim for tortious interference with expectancy of inheritance. The claim is pleaded here solely for purposes of preserving plaintiff's right to appeal the dismissal at the appropriate time.

174. In addition, Neschis and Littman improperly converted the amounts of interest earned on the Anturia Foundation assets that they fraudulently transferred to the Credit Suisse account in New York to which they had access. The total interest diverted by Neschis and Littman is estimated to be at least \$10 million, and thus plaintiff Weizmann Institute's share of such interest would be not less than \$2 million.

175. As a result of the wrongful conduct of Neschis and Littman, plaintiff has been deprived of its rightful interest in not less than 20% of the full and undepleted assets of the Anturia Foundation under the terms of the Last Valid By-Laws. Accordingly, plaintiff has been damaged in the amount of not less than 20% of the funds improperly diverted plus interest, which is not less than \$11 million.

#### COUNT VII<sup>2</sup>

#### FOR A DECLARATORY JUDGMENT (Against All Defendants)

176. Plaintiff repeats and realleges the allegations of paragraphs 1-175.

177. The October 19, 1992 By-Laws and the January 27, 1998 By-Laws of the Anturia Foundation were wrongfully procured by defendants Neschis, Littman and others by fraud, duress and undue influence brought to bear on Mrs. Gelman after Mrs. Gelman was no longer of sound mind. Defendants' actions were not authorized by Mrs. Gelman and were designed to divert Mrs. Gelman's assets to the benefit of defendants and away from her legitimate beneficiaries.

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<sup>2</sup> By Decision dated October 3, 2002, the Court dismissed plaintiff's claim for a declaratory judgment. The claim is pleaded here solely for purposes of preserving plaintiff's right to appeal the dismissal at the appropriate time.

178. The Inter Vivos Trust has wrongfully claimed a right to receive 58% of the assets of the Anturia Foundation in accordance with the January 27, 1998 By-Laws. If the assets of the Anturia Foundation are distributed in accordance with the January 27, 1998 By-Laws, plaintiff will be deprived of its rightful interest in the assets of the Anturia Foundation. Accordingly, a justiciable controversy is presented.

179. By reason of the foregoing, plaintiff is entitled to a declaration that a) plaintiff Weizmann Institute is entitled to receive a distribution of 20% of the assets, wherever located, of the Anturia Foundation, as increased by plaintiff's proportionate share of the forfeited interest of Elizabeth Jung in the assets of the Anturia Foundation; and b) no defendant may distribute, remove or disburse any assets received from Anturia Foundation prior to plaintiff receiving its rightful share of 20% of the assets in Anturia Foundation at the time of Mrs. Gelman's death, as increased by plaintiff's proportionate share of the forfeited interest of Elizabeth Jung.

WHEREFORE, plaintiff prays for an order and judgment against defendants as follows:

- a. For damages against Neschis and Littman, jointly and severally, and/or disgorgement from the Inter Vivos Trust, in the amounts improperly converted from plaintiff, to be proven at trial but not less than \$11 million;
- b. For punitive damages against Neschis and Littman;
- c. For treble damages against Neschis and Littman pursuant to 18 U.S.C. § 1964(c) for defendants' civil RICO violations;
- d. Impressing a constructive trust upon the assets of the Anturia Foundation received by defendants for the benefit of the intended beneficiaries of the assets of the Anturia Foundation in accordance with the Last Valid By-Laws;

- e. For a declaration that plaintiff Weizmann Institute is entitled to receive a distribution of 20% of the assets, wherever located, of the Anturia Foundation, as increased by plaintiff's proportionate share of the forfeited interest of Elizabeth Jung in the assets of the Anturia Foundation;
- f. For an order permanently enjoining defendants from using or transferring any part of the assets received from the Anturia Foundation directly to any person or entity, other than to the Weizmann Institute, until the Weizmann Institute has received its proportionate share of the assets in the Anturia Foundation at the time of the death of Mrs. Gelman;
- g. For the costs of this action, including attorneys' fees and amounts expended in discovering defendants' fraud; and
- h. For such other and further relief as the Court shall deem just and proper.

Dated: New York, New York  
October 30, 2002

PROSKAUER ROSE LLP

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