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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

13 GARY JOHNSON, individual and
derivatively on behalf of GREENSPAN
14 ADJUSTERS INTERNATIONAL, INC., a
corporation, and ADJUSTERS
15 INTERNATIONAL PACIFIC
16 NORTHWEST, INC., a corporation,

17
18 Plaintiff,

19 v.

20 GREENSPAN ADJUSTERS
INTERNATIONAL, INC.; ADJUSTERS
21 INTERNATIONAL PACIFIC
NORTHWEST, INC.; GORDON SCOTT,
22 III; STEVE SEVERAID; PAUL MIGDAL;
23 JAMES WARREN; CLAY GIBSON;
DREW LUCURELL; CHRIS LUCURELL;
24 and DOES 1 through 20, inclusive,

25 Defendants.
26
27
28

Case No. CGC-20-583239

**FIRST AMENDED COMPLAINT AND
DEMAND FOR A JURY TRIAL**

1. Age Discrimination in Violation of the FEHA;
2. Disability Discrimination in Violation of the FEHA;
3. Failure to Accommodate a Disability in Violation of the FEHA;
4. Failure to Engage in a Good Faith Interactive Process of Disability Accommodation in Violation of the FEHA;
5. Failure to Prevent Discriminatory and Retaliatory Practices in Violation of FEHA;
6. Retaliation in Violation of FEHA;
7. Retaliation in Violation of Labor Code § 98.6;
8. Wrongful Termination in Violation of Public Policy;
9. Breach of Contract;
10. Failure to Pay Wages in Violation of the Labor Code;
11. Failure to Pay All Necessary Expenditures in Violation of Labor Code § 2802

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- 12. Failure to Pay Earned Wages Upon Discharge in Violation of Labor Code § 203;
- 13. Failure to Furnish Timely and Accurate Wage Statements in Violation of Labor Code § 226;
- 14. Abuse of Control;
- 15. Breach of Fiduciary Duty;
- 16. Breach of Duty of Care;
- 17. Breach of Duty of Loyalty;
- 18. Involuntary Dissolution of a California Corporation;
- 19. Unjust Enrichment;
- 20. Accounting of Corporation; and
- 21. Unfair, Unlawful, and/or Fraudulent Business Practices in Violation of Business and Professions Code § 17200, *et seq.*

Plaintiff GARY JOHNSON (“Johnson”), individually and derivatively on behalf of GREENSPAN ADJUSTERS INTERNATIONAL, INC. (“Greenspan”) and ADJUSTERS INTERNATIONAL PACIFIC NORTHWEST, INC. (“AIPNW”), allege as follows:

I. INTRODUCTION

1. This is an action brought by Johnson, individually and derivatively on behalf of Greenspan and AIPNW, against Greenspan and AIPNW (collectively, “Corporate Defendants”), Johnson’s former employers, and against his former business partners working with him for Corporate Defendants, Defendants GORDON SCOTT, III (“Gordon”), STEVE SEVERAID (“Severaid”), PAUL MIGDAL (“Migdal”), JAMES WARREN (“Warren”), CLAY GIBSON (“Gibson”), DREW LUCURELL (“D. Lucurell”), and CHRIS LUCURELL (“C. Lucurell”) (collectively, “Individual Defendants”), and Defendants DOES 1-20 (collectively, “Defendants”).

2. Corporate Defendants are independent public insurance adjusting firms. Greenspan was founded in 1946, is based in San Francisco, California, and is one of the largest independent public insurance adjusting firm in the United States. AIPNW is based in Seattle, Washington, and is affiliated with Greenspan.

3. Johnson worked for Greenspan for over 36 years, from 1982 until his wrongful termination in 2018. He rose up through the ranks to become a partner and shareholder of both Corporate Defendants, and at some point, he served as Greenspan’s CEO and President.

1 4. Individual Defendants, who together control a majority of Corporate Defendants,
2 acted in concert by means of a series of bad faith and wrongful actions to accomplish the joint
3 purpose of discriminating against and retaliating against Johnson with the ultimate goal of
4 cheating him out of compensation he is entitled to, removing him as an active partner with
5 Corporate Defendants, and ultimately wrongfully terminating him. Johnson, therefore, alleges
6 various business, corporate, wage and hour, and employment torts against Defendants relating to
7 his employment with Defendants.

8 5. Johnson also brings a shareholder derivative action on behalf of Corporate
9 Defendants against their officers and directors seeking to remedy for Individual Defendants’
10 abuse of control of the companies, including breaches of their fiduciary duties, that have caused
11 substantial losses to Corporate Defendants. Johnson, therefore, also seeks damages, corporate
12 governance reforms, and accounting, to remedy for Individual Defendants’ abusive and wrongful
13 conduct.

14 6. As such, Johnson seeks compensatory damages and/or restitution, general, civil
15 and punitive damages, and the cost of suit, including attorneys’ fees, for the harm caused to him
16 by this wrongful conduct of Defendants.

17 **II. PARTIES**

18 7. Johnson is 64 years old, and worked as a Public Adjuster for Greenspan for over
19 36 years.

20 8. Greenspan is a California Corporation, located 400 Oyster Point Boulevard, Suite
21 519, San Francisco, California 94080. Greenspan is an independent public insurance adjusting
22 firm with its headquartered located in San Francisco, California. Greenspan was and still is an
23 employer in California within the meaning of the California Fair Employment and Housing Act
24 (“FEHA”), California Government Code (“Gov’t Code”) § 12926, *et seq.*, particularly Gov’t
25 Code § 12926(d). At all times relevant to this action, Greenspan was and is controlled by
26 Individual Defendants who collectively exercise majority control over the corporation, its
27 management committees, and its Board of Directors

28 9. AIPNW is a Washington Profit Corporation, located 4300 36th Avenue West,
Seattle, Washington 98199-1675. AIPNW is an independent public insurance adjusting firm with
its office located in Seattle, Washington. Johnson is informed and believes that AIPNW was and
still is an employer in California within the meaning of the FEHA, and particularly Gov’t Code

1 § 12926(d). At all times relevant to this action, AIPNW was and is controlled by Individual
2 Defendants who collectively exercise majority control over the corporation, its management
3 committees, and its Board of Directors.

4 10. Johnson is informed and believes that both Greenspan and AIPNW were and still
5 are alter egos and were his joint employers within the meaning of the FEHA, the California Labor
6 Code, and California labor and employment laws.

7 11. Scott is a resident of San Francisco, California. Scott is a Shareholder, Director,
8 President, and CEO of Greenspan. Scott is a Shareholder and Director of AIPNW. At all times
9 relevant hereto Scott was also the alter ego of Greenspan and AIPNW, and a unity of interest
10 exists between Scott and each of Corporate Defendants.

11 12. Gibson is a resident of Novato, California. Gibson is a Shareholder, Director, and
12 COO of Greenspan. At all times relevant hereto Gibson was also the alter ego of Greenspan, and
13 a unity of interest exists between Gibson and Greenspan.

14 13. Severaid is a resident of San Francisco, California. Severaid is a Director, and
15 Shareholder of Greenspan. At all times relevant hereto Severaid was also the alter ego of
16 Greenspan, and a unity of interest exists between Severaid and Greenspan.

17 14. Migdal is a resident of San Francisco, California. Migdal is a Director,
18 Shareholder, and General Counsel of Greenspan. At all times relevant hereto Scott was also the
19 alter ego of Greenspan, and a unity of interest exists between Scott and Greenspan.

20 15. Warren is a resident of Alameda, California. Warren is a Principal, and
21 Shareholder of Greenspan. At all times relevant hereto Warren was also the alter ego of
22 Greenspan, and a unity of interest exists between Warren and Greenspan.

23 16. C. Lucurell is a resident of Seattle, Washington. C. Lucurell is a Principal,
24 Secretary, Treasurer, and Shareholder of AIPNW. At all times relevant hereto C. Lucurell was
25 also the alter ego of AIPNW, and a unity of interest exists between C. Lucurell and AIPNW.

26 17. D. Lucurell is a resident of Seattle, Washington. D. Lucurell is a Principal,
27 Shareholder, and President of AIPNW. At all times relevant hereto D. Lucurell was also the alter
28 ego of AIPNW, and a unity of interest exists between D. Lucurell and AIPNW.

18 Johnson is informed and believes that Individual Defendants were and still are
19 alter egos of each of Corporate Defendants within the meaning of the California Labor Code, and
20 California labor and employment laws.

1 19. Defendants Does 1 through 20 are sued herein under fictitious names pursuant to
2 California Code of Civil Procedure § 474. These Defendants are in some way liable for the
3 damages sustained by Johnson. Upon information and belief, Does 1 through 20 acted with and
4 on behalf of named Defendants in the alleged violations. Johnson does not, at this time, know
5 the true names or capacities of said unnamed Defendants, but prays that the same may be inserted
6 herein when ascertained.

7 20. Johnson is informed, believes and thereon alleges that each of Defendants
8 designated as a Doe is responsible in some manner for the events and happenings herein, and that
9 Johnson's injuries and damages as hereinafter set forth were proximately caused by said
10 Defendants. Johnson is informed and believes and thereon alleges that at all times herein
11 mentioned, each of Defendants sued herein was the agent and/or employee of each of the
12 remaining Defendants, and each of them, was at all times acting within the purpose and scope of
13 such agency and employment.

14 21. Johnson is informed and believes and thereon alleges that Individual Defendants
15 collectively own a substantial majority of shares and equity of Greenspan and AIPNW and
16 together form a block of controlling shareholders and exercise majority control over these
17 corporations, their management committees, and their Boards of Directors.

18 22. Individual Defendants along with Defendants Does 1 through 20 all acted in
19 concert and while assuming the duties of controlling shareholders of Greenspan and AIPNW with
20 respect to all acts by Individual Defendants alleged herein.

21 **III. JURISDICTION AND VENUE**

22 23. Jurisdiction and venue are proper because Johnson's claims and causes of actions
23 arose in this county and because Defendants do business and/or reside in this county.

24 24. In response to Defendants' unlawful conduct, Johnson filed a Charge of
25 Discrimination and Retaliation with the Equal Employment Opportunity Commission ("EEOC")
26 against Greenspan on October 11, 2018 (EEOC Charge No.: 550-2018-01843). On December 6,
27 2019, the EEOC issued a Right-To-Sue Notice permitting Johnson to file a civil action under both
28 federal and state laws, including the FEHA. A copy of said Charge of Discrimination and Right-
To-Sue Notice are attached hereto as **Exhibit 1**.

 25. In response to Defendants' unlawful conduct, Johnson filed a subsequent Charge
of Discrimination and Retaliation with the Equal Employment Opportunity Commission

1 (“EEOC”) against AIPNW on June 14, 2019 (EEOC Charge No.: 551-2019-02285). On
2 December 9, 2019, the EEOC issued a Right-To-Sue Notice permitting Johnson to file a civil
3 action under both federal and state laws, including the FEHA. A copy of said Charge of
4 Discrimination and Right-To-Sue Notice are attached hereto as **Exhibit 2**.

5 **IV. FACTUAL ALLEGATIONS**

6 **A. Johnson Started as a Junior Employee of Greenspan and Became a Major 7 Partner and Owner of the Form**

8 26. Greenspan is an independent public adjusting firm that was originally founded in
9 1946 as the Sidney Greenspan Company. Through mergers and acquisitions, Greenspan is now
10 affiliated with 6 independent public adjusting firms in Adjusters International, which is the largest
11 nationwide coalition of public adjusters in the United States. Upon information and belief, at the
12 time of Johnson’s wrongful termination, Greenspan was also the largest independent public
13 insurance business in the United States.

14 27. Johnson was hired by Greenspan’s founder in 1982 as an Executive General
15 Adjuster and later became a Public Adjuster. Through his exceptional success at his job, his skill
16 set, and his years of dedication to Greenspan, Johnson became a minority partner/shareholder in
17 the firm in 1985, and subsequently a full partner in 1990.

18 28. Johnson duties as a Public Adjuster included representing private clients in
19 negotiations with insurance companies, estimating insurance losses, management of inventory,
20 accounting, and management of Corporate Defendants’ production activities. At times, Johnson
21 was the largest producer of revenue for Greenspan in both referrals and adjusting claims.

22 29. In 2003, Johnson and Scott fully acquired Greenspan. Johnson was then elected
23 President and CEO, in which position he served until 2005 when Greenspan acquired and merged
24 with AIPNW. Johnson then continued to serve as a co-chairman of the firm.

25 30. Following the merger and acquisition of AIPNW in 2005, Scott became the
26 President and CEO of Greenspan.

27 31. Johnson was employed by Greenspan as a Public Adjuster until his wrongful
28 termination on August 15, 2018.

32. Upon information and belief, at all times relevant to this litigation, Johnson owned
approximately 12.3% of Greenspan, including approximately 17,885 shares and warrants.
Exclusive of all shares or equity in Greenspan owned by Individual Defendants, upon information
and belief, at all times relevant to this litigation, Johnson owned over a third (33 and 1/3rd percent)

1 of the total equity in Greenspan.

2 33. Upon information and belief, exclusive of all shares or equity in Greenspan owned
3 by Individual Defendants, Johnson also owns over a third (33 and 1/3rd percent) of the total equity
4 in AIPNW by virtue of the fact that Greenspan and AIPNW are the alter ego of one another, and
5 that Greenspan is the sole owner of all shares in AIPNW.

6 **B. Johnson's Affiliation with AIPNW as an Employee and Owner**

7 34. AIPNW is an independent public adjusting firm located in Seattle, Washington,
8 which performs substantially the same business primarily in the pacific northwest (but also in
9 California) as performed by Greenspan in California.

10 35. Greenspan acquired and merged with the operations of AIPNW in or around April
11 2005. Since the acquisition and merger, Greenspan is and was at all relevant times the alter ego
12 of AIPNW and of each of Individual Defendants, and it maintained a unity of interest between
13 itself and AIPNW and each of Individual Defendants. Since its acquisition by and merger with
14 Greenspan, AIPNW is and was at all relevant times the alter ego of Greenspan and of each of
15 Individual Defendants, and it maintained a unity of interest between itself and Greenspan and
16 each of Individual Defendants.

17 36. Johnson was employed by AIPNW in California as a Public Adjuster from April
18 19, 2005.

19 37. AIPNW has never provided any notice to Johnson that it terminated him.
20 However, AIPNW has nevertheless wrongfully withheld his monthly salary since August 15,
21 2018, at the same time he was wrongfully terminated by Greenspan.

22 **C. As He Became Older and Disabled, Johnson Was Increasingly Subjected to
23 Discriminatory and Retaliatory Actions by Defendants**

24 38. As he became the President and CEO of Greenspan in 2005, Scott begun with a
25 pattern and practice of preferring younger employees for management positions as he felt that
26 younger, healthier managers would ensure the ongoing profitability of Corporate Defendants.
27 Scott also regarded younger employees as being more energetic, and less prone to injury.

28 39. As one of the founders of Corporate Defendants, Johnson was initially somewhat
protected from Scott's age bias. However, as he aged and became disabled, he was subjected to
an increased level of bias and harassing conduct by Individual Defendants, and primarily by Scott.

40. Scott's age- and disability- bias toward Johnson became more apparent over time
because Scott felt that younger managers would be more profitable for the firm.

1 41. Scott and the other Individual Defendants then began a pattern and practice of and
2 exploited their majority control over Corporate Defendants to harass, discriminate and retaliate
3 against Johnson, and particularly sidelining Johnson from his management role in the firm. For
4 example, Scott sent an email to Johnson, seemingly out of the blue, which read, “I have been
5 concerned for a while we do not share the same visions and goals.” Almost immediately
6 thereafter, Johnson was removed from the Management Committee of Greenspan. Scott and
7 Migdal then added Severaid, Gibson, and Fratkin to the Management Committee, and by
8 exploiting their majority control over Corporate Defendants they instructed Gibson to withhold
9 meeting notes for a while until Johnson complained. After Johnson complained, Gibson exploited
10 the majority control over Corporate Defendants and began sending “redacted” meeting notes to
11 Johnson. Johnson was never made aware of the dates of said meetings because Scott and Migdal
12 wanted to be absolutely certain Johnson never attended a Management Meeting after being
13 removed from the Management Committee of the firm.

14 42. On about December 11, 2012, Johnson was injured in an auto accident that
15 occurred within the scope of his employment. Since it was a major accident, his injuries included
16 injuries to his neck, spine, and right knee. Johnson was transported by ambulance to a local
17 hospital where he subsequently incurred a pulmonary embolism secondary to a hospital-acquired
18 MRSA infection.

19 43. As a result of these series of serious injuries, Johnson was hospitalized for
20 approximately three months during which he underwent no less than nine surgeries. Thereafter,
21 he required approximately three months of intermittent medical leave.

22 44. During his medical leave of absence, Corporate Defendants assigned Johnson’s
23 duties to Jessica Bivens, a much younger employee.

24 45. Following the accident, Johnson asked the office manager to submit a workers’
25 compensation claim on his behalf. Instead, however, Corporate Defendants’ general counsel, Ivo
26 Labar, instructed Johnson to pursue a personal injury action rather than file a workers’
27 compensation claim. Johnson acquiesced at that time because he did not want to risk retaliation
28 from Corporate Defendants.

 46. Johnson returned to duty on approximately July 2013, but he required ongoing
accommodations due to his residual physical limitations.

1 47. The disparate treatment of Johnson intensified following his injury 2013 as Scott
2 and the other Individual Defendants then began to view Johnson as too old and physically infirm
3 to continue working for the firm altogether and exploited their majority control over Corporate
4 Defendants to harass, discriminate and retaliate against Johnson.

5 48. On February 2014, Greenspan promoted Fratkin and Severaid, both of whom are
6 substantially younger than Johnson, to assume operational control over the firm without
7 performing an outside search for a COO and without performing due diligence to determine
8 Fratkin's and Severaid's qualifications.

9 49. Johnson opposed these actions by Greenspan because neither Severaid nor Fratkin
10 were qualified to assume control over Greenspan as Severaid had no formal education or
11 experience managing a firm, and Fratkin was also a convicted felon that could not legally perform
12 licensed work for Corporate Defendants.

13 50. Fratkin was previously convicted of one or more felonies in connection with
14 embezzlement or other felonies involving dishonesty or a breach of trust. The convictions related
15 to the following criminal prosecutions: *The People of the State of California v. Mark Bruce*
16 *Fratkin*, Case No. SC027551A, 1991, Superior Court of California, County of San Mateo; and
17 *The People of the State of California v. Mark Bruce Fratkin*, Case No. NF215912A, 1991,
18 Superior Court of California, County of San Mateo.

19 51. As a result of his criminal convictions, Fratkin was banned from engaging in the
20 business of insurance pursuant to, *inter alia*, 18 U.S.C. 1033, which prohibits anyone who has
21 been convicted of a felony involving dishonesty or a breach of trust from engaging in the business
22 of insurance unless they have obtained the written consent of the States of California's and
23 Washington's respective Insurance Commissioner.

24 52. Further, it was a criminal offense for Corporate Defendants to willfully employ
25 Fratkin in a position in which he would engage in the business of insurance. Nevertheless,
26 Corporate Defendants did exactly that. On information and belief, Corporate Defendants also
27 knowingly made and submitted fraudulent statements to various governmental agencies,
28 including on forms for Business Entity Application Public Adjuster Licenses of the State of
California (Form CDI 181) omitting and/or falsely describing the involvement of Fratkin and
failing to identify him as a "Prohibited Person".

1 53. After Johnson protested of these practices, in mid-2014, Defendants removed
2 operational control from Fratkin and Severaid. However, Individual Defendants held a grudge
3 against Johnson because of his opposition to the appointment of Fratkin and Severaid, and
4 exploited their majority control over Corporate Defendants to harass, discriminate and retaliate
5 against Johnson.

6 54. On about November 6, 2015, Individual Defendants exploited their majority
7 control to harass, discriminate and retaliate against Johnson by attempting to demote him by
8 stripping him of his position as an officer of Greenspan and reducing his status to that of an
9 adjuster.

10 55. Moreover, after appearing to take action against Fratkin and Severaid, Individual
11 Defendants then exploited their majority control over Corporate Defendants to illegally re-engage
12 Fratkin to perform acts on behalf of Corporate Defendants, including by permitting and/or
13 requiring that Fratkin perform acts that he was legally precluded from performing as a result of
14 his felon status.

15 56. On November 11, 2015, Larry Pratt, who then served as the COO of Greenspan,
16 sent an email to all employees of the firm without the knowledge and consent of Johnson falsely
17 indicating that Johnson was retiring. Johnson believes that this email was sent to as part of the
18 Individual Defendant's harassing, discriminatory and retaliatory scheme to force Johnson to quit.
19 As a result, Johnson received numerous calls inquiring about his upcoming retirement. Individual
20 Defendants exploited their majority control over Greenspan to further harass, discriminate and
21 retaliate against Johnson further by refusing to allow Johnson to clarify that he was not retiring
22 from the firm.

23 57. Johnson complained to Individual Defendants about the reduction in his role in
24 Greenspan and requested reinstatement as an officer during a January 21, 2016 Board of Directors
25 meeting. Individual Defendants initially refused to reinstate Johnson. However, on December
26 15, 2015, Johnson was reinstated to his position as Co-Chairman of Greenspan, yet again giving
27 another reason to Individual Defendants to harass, discriminate and retaliate against by getting
28 rid of him.

 58. Despite reinstating Johnson as an officer, Individual Defendants exploited their
majority control of Corporate Defendants to harass, discriminate and retaliate against him by

1 limiting his role in Greenspan to supervision of the Pleasanton office, which was a satellite office
2 of the firm.

3 59. Further, despite his formal role as a Co-Chairman of Greenspan, Individual
4 Defendants exploited their majority control to harass, discriminate and retaliate against Johnson
5 by barring Johnson from attending Board of Directors or other management meetings of
6 Greenspan.

7 60. On February 3, 2017, Johnson fell 20 feet while performing his duties for
8 Corporate Defendants with the result that he was hospitalized for approximately two weeks.
9 Johnson filed a workers' compensation claim for this occupational injury.

10 61. This injury caused Scott and the other Individual Defendants to view Johnson with
11 even greater hostility and form greater conviction that Johnson was too old and disabled to
12 continue working for Corporate Defendants.

13 **D. Corporate Defendants' Failure to Pay Bonuses, Reimbursement of Expenses,
14 and Commissions to Johnson**

15 62. Puerto Rico was devastated by Hurricane Maria in late September 2017.

16 63. On October 12, 2017, Defendants desired to exclude Johnson from participation
17 in the governance of Corporate Defendants. Accordingly, Scott sent Johnson with a team of
18 employees in order to capitalize on the business opportunities in Puerto Rico created by Hurricane
19 Maria. The team, which was referred to as "Operation Puerto Rico", included Johnson, Eric Metz
20 ("Metz"), Andy Wooldridge ("Wooldridge"), and Kevin Johnson ("K. Johnson"). The team was
21 sent to Puerto Rico to help with insurance related matters as a result of the destruction caused by
22 the hurricane.

23 64. Johnson agreed to participate in Operation Puerto Rico pursuant to a separate
24 compensation agreement ("PR Commission Contract") executed on October 12, 2017. A copy
25 of the PR Commission Contract is attached hereto as **Exhibit 3**.

26 65. The PR Commission Contract provided that Johnson would receive 10% of total
27 adjusting receipts and 5% of sales with no offset of charges.

28 66. Johnson is informed and believes that Corporate Defendants earned in excess of
\$13 million in revenue from the Puerto Rico Operation. Pursuant to Johnson's compensation
agreement, the PR Commission Contract, he was therefore entitled to in excess of \$1.9 million in
adjusting and sales commissions.

1 67. Individual Defendants exploited their majority control over Corporate Defendants
2 to harass, discriminate and retaliate against Johnson by removing him from the Puerto Rico
3 Operation, and deny him the compensation that he was due to him for that operation.

4 68. Moreover, Johnson is informed and believes that Individual Defendants' removal
5 of Johnson from the Puerto Rico Operation caused a substantial disruption in the Puerto Rico
6 Operation that resulted in a significant loss of revenue that would have been obtained if Johnson
7 had remained. As a result of Defendants' harassing, discriminatory and retaliatory wrongful
8 action, the Puerto Rico Operation generated less revenue that it would have otherwise with the
9 result that Johnson was wrongfully deprived of commissions and wages on this lost revenue.

10 69. On June 26, 2018, Corporate Defendants acknowledged that it owed Johnson
11 "sales commissions on fees for losses that you signed or helped signed." Corporate Defendants
12 promised to pay these commissions "as soon as fees are collected, and commissions are
13 reasonably calculated." However, Corporate Defendants breached this promise by failing to pay
14 the commissioned owed to Johnson to date.

15 70. Pursuant to the agreement among the shareholders of Greenspan, Johnson was
16 entitled to receive 35% of Greenspan's annual debt-free net cash flow as a bonus. However,
17 Individual Defendants exploited their majority control over Corporate Defendants to further
18 punish Johnson by failing to pay any of this bonus for 2018. Johnson informed and believes the
19 amount of the he was entitled to receive in excess of \$1.5 million for 2018.

20 71. Individual Defendants' developed a severe bias against Johnson because of his
21 age, disability, and complaints about the sexual harassment of employees, and his opposition to
22 corporate malfeasance by Corporate Defendants. Individual Defendants' unlawful bias led them
23 to use their majority control over Corporate Defendants to withhold Johnson's compensation
24 including his bonus for 2019 as well, and thus is entitled to receive 35% of Greenspan's annual
25 debt-free net cash flow as a bonus for 2019 and for each subsequent year.

26 72. Johnson was also entitled to receive reimbursement of expenses for his work for
27 Corporate Defendants, including but not limited to reimbursement for all travel and mileage
28 expenses he incurred working for them. However, Individual Defendants exploited their majority
control over Corporate Defendants by withholding reimbursement of these expenses from
Johnson.

1 73. As a result, Johnson is still owed significant amounts of moneys in unreimbursed
2 expenses that he incurred during his work for Corporate Defendants.

3 **E. Defendants Retaliated against Johnson because He Opposed and Complained**
4 **about Sexual Harassment of Employees by Metz in Puerto Rico**

5 74. While on assignment in Puerto Rico, Eric Metz engaged in sexually harassing and
6 inappropriate conduct against his subordinates Wooldridge and K. Johnson in violation of
7 Corporate Defendants’ written policy against sexual harassment and Puerto Rico and California
8 laws.

9 75. This conduct included making sexually explicit comments to Wooldridge and K.
10 Johnson describing his activities as a swinger in highly graphic detail that included, but was not
11 limited to, the following:

- 12 a. Describing group sex with his wife and other men;
- 13 b. Describing his wife giving oral sex to other men;
- 14 c. Stating that he loved to watch “several guys fuck his wife”;
- 15 d. Stating that he loved to “watch guys cum all over her face”; and
- 16 e. Offering to show pictures of men having sex with his wife.

17 76. On information and belief, Metz also attempted to recruit Wooldridge and K.
18 Johnson into engaging in group sexual relations with Metz and Metz’ wife. Metz told Wooldridge
19 that he thought that Wooldridge was “the right person and at the right age to please his wife.”
20 Similarly, Metz told K. Johnson that he and his wife “like to fuck younger men” and that he was
21 about the same age as their “former lover”.

22 77. K. Johnson complained to Johnson on or about November 13, 2017. Johnson
23 discussed Metz’ conduct with Wooldridge on or about November 14, 2017.

24 78. After speaking to K. Johnson and Wooldridge, Johnson complained to Scott, who
25 was then Greenspan’s CEO/President, concerning Metz’ conduct. Scott was dismissive to this
26 complaint and merely deflected Johnson’s complaint to Gibson because he exploited majority
27 control over Corporate Defendants.

28 79. Because Scott did not take his complaint seriously, on November 14, 2017,
Johnson obtained a written statement concerning Metz’ inappropriate conduct from Wooldridge.
Johnson forwarded the statement to Scott and Gibson the same day.

 80. Scott and Individual Defendants were furious that Johnson had made a formal
sexual harassment complaint about Metz because they viewed Metz as one of Corporate

1 Defendants' top money-makers and considered him to be a key driver of the firms' future growth.
2 Scott and the other Individual Defendants were also concerned that Johnson's sexual harassment
3 complaint would disrupt the Operation Puerto Rico. As a result, Gibson told Johnson that he
4 should have protected the firm by keeping the issue with Metz quiet. Gibson was particularly
5 angry that Johnson made the complaint in writing as that made it more difficult to cover up.
6 Individual Defendants considered Johnson's complaints against Metz for sexual harassment to be
7 another indication that Johnson was too old and out of step with the times.

8 81. In retaliation for Johnson's sexual harassment complaint about Metz, Individual
9 Defendants exploited their majority control over Corporate Defendants to further harass,
10 discriminate and retaliate against Johnson by scrutinizing every aspect of Johnson's performance
11 in order to manufacture an excuse to take adverse actions against him. To that end, Corporate
12 Defendants undertook a sham investigation of Johnson's complaint of sexual harassment against
13 Metz that was intended to exonerate Metz of and wrongdoing. At the same time, Individual
14 Defendants exploited their majority control over Corporate Defendants to further harass,
15 discriminate and retaliate against Johnson by focusing its investigation on Johnson rather than
16 Metz.

17 82. On information and belief, the investigation by Corporate Defendants confirmed
18 that Metz' had made the offensive comments toward Wooldridge and K. Johnson about which
19 Johnson had complained. However, it unreasonably excused Metz' conduct by claiming that no
20 one was offended by it despite statements from both Wooldridge and K. Johnson to the contrary.

21 83. At the same time, Individual Defendants exploited their majority control over
22 Corporate Defendants to harass, discriminate and retaliated against Johnson by accelerating its
23 campaign of harassment against him.

24 84. For example, on May 23, 2018, pursuant to this practice of discrimination and
25 retaliation, Individual Defendants exploited their majority control over Corporate Defendants and
26 removed Johnson from his position on the Puerto Rico Team and replaced him with Masood
27 Khan, who is substantially younger.

28 85. Individual Defendants next exploited their majority control over Corporate
Defendants to strip Johnson of his position as Co-Chairman of Greenspan, and reassigned
Johnson to work as an adjuster in California.

1 **F. Failure to Accommodate Johnson’s Request for Intermittent Leave and His**
2 **Wrongful Termination**

3 86. As a result of the earlier discrimination, harassment and retaliation by Corporate
4 Defendants that was facilitated, *inter alia*, by the exploitation of the majority control over
5 Corporate Defendants by Individual Defendants, Johnson suffered significant stress causing him
6 to seek medical treatment. Johnson’s doctor then recommended a course of treatment that would
7 require Johnson to take intermittent leave for approximately 1 hour per week over a six-month
8 period.

9 87. On June 25, 2018, Johnson’s doctor informed Corporate Defendants that he
10 required intermittent leave of 1 hour per week for the next six months. Johnson’s doctor also
11 recommend that Johnson take a short vacation.

12 88. In an effort to further punish Johnson for his complaints, Individual Defendants
13 exploited their majority control over Corporate Defendants to further harass, discriminate and
14 retaliate against Johnson by willfully and unreasonably misreading Johnson’s June 25, 2018
15 doctor’s note to be a request for an indefinite, continuous leave of absence rather than a request
16 for intermittent leave.

17 89. On June 26, 2018, Corporate Defendants acknowledged that it owed Johnson
18 “sales commissions on fees for losses that you signed or helped signed.” Corporate Defendants
19 promised to pay these commissions “as soon as fees are collected, and commissions are
20 reasonably calculated.” However, Corporate Defendants breached this promise by failing to pay
21 the commissions owed to Johnson to date.

22 90. Knowing that Individual Defendants controlled a majority of Corporate
23 Defendants, Scott announced in an email to all employees that leadership team of Executive
24 officers would including Scott as President/CEO, Migdal as Executive Vice President/Secretary,
25 Severaid as Senior Vice President/Treasurer, and Gibson as Chief Operations Officer. In the same
26 email, Scott announced that the Board of Directors would consist of Scott, Migdal, Severaid and
27 Chris Glenister. In this way, Individual Defendants exploited their majority control over
28 Greenspan to further harass, discriminate and retaliate against him.

 91. On July 3, 2018, in retaliation for seeking an accommodation and consistent with
its practice of age and disability discrimination and exploiting Individual Defendants’ majority
control over Corporate Defendants, Gibson placed Johnson on an *involuntary* continuous unpaid
leave of absence, which it unlawfully designated “FMLA Leave.”

1 92. Johnson clarified and reiterated that he only required intermittent leave and not
2 continuous leave in a meeting with Scott and Migdal on June 4, 2018. Nevertheless, in an
3 unlawful attempt to force Johnson to resign, Individual Defendants again exploited their majority
4 control over Corporate Defendants to persist in their discriminatory and retaliatory effort to force
5 Johnson to take an involuntary continuous leave of absence.

6 93. On July 7, 2018, Johnson further objected to this involuntary leave of absence and
7 submitted a doctor's note that clarified that "Mr. Johnson is able to return to work with the
8 Greenspan Company Adjusters International effective 9 July 2018 I do not believe that Mr.
9 Johnson's current symptoms...impair his ability to function with assigned work responsibilities."

10 94. Nevertheless, Gibson further harassed, discriminated and retaliated against
11 Johnson--knowing that Individual Defendants maintained majority control over Corporate
12 Defendants by prohibiting him from returning to work and by turning off Johnson's e-mail and
13 cell phone: "I am Chief Operations Officer of the Company and as such I am instructing you to
14 NOT return to work until such time as the Company allows you to do so, we are turning off your
15 e-mail account and your cell phone."

16 95. On July 9, 2018, Johnson's doctor sent yet another correspondence which
17 attempted to clarify that Johnson did not require a continuous leave of absence. Johnson's doctor
18 stated unequivocally: "I want to stress that, at the present time, Mr. Johnson *is able to return to*
19 *work* with Greenspan Co.-Adjusters International effective 9 July 2018." (Emphasis added.)

20 96. Consequently, that same day (July 9, 2018), Johnson made another attempt to
21 engage in an interactive process with Corporate Defendants, and that he believed that their
22 conduct was harassing, discriminatory and retaliatory.

23 97. On July 13, 2018, Individual Defendants exploited their majority control over
24 Corporate Defendants to further harass, discriminate and retaliate against Johnson by reiterating
25 that he was on a forced administrative leave so that Greenspan could further consider his
26 physician's statements that he was able to work. Greenspan again emphasized that it would not
27 allow Johnson to "perform any work" even though he is able to do so. Greenspan then informed
28 Johnson that his physician must provide written answers to Greenspan's questions concerning his
health before it would permit Johnson to return to work.

 98. On or about July 22, 2018, Johnson's physician provided Corporate Defendants
with a completed questionnaire which again clearly stated that Johnson was able to return to work.

1 99. Although Johnson complied with all of Corporate Defendants’ illegal demands,
2 they still refused to return him to work. On July 24, 2018, Greenspan wrote him that he would
3 remain on administrative leave except that it expected him to appear for an interview in
4 connection with an investigation into his “conduct as an Officer, Director and employee of the
5 company” which it had allegedly launched during his forced leave of absence.

6 100. On August 15, 2018, Individual Defendants further exploited their majority
7 control over Corporate Defendants to harass, discriminate and retaliate against Johnson by
8 unlawfully terminating him in a letter based on the pretext that Johnson had violated some
9 undisclosed policy: “Our investigation into your conduct revealed numerous violations of
10 Company policies [and this] letter is to inform you that as of today, August 15, 2018, we are
11 terminating your employment with the Company.”

12 **G. Corporate Malfeasance by Individual Defendants Directed at Corporate**
13 **Defendants**

14 101. Defendants permitted Fratkin to serve as a Public Adjuster despite that fact that he
15 lacked the requisite licenses which he could not obtain because he was a convicted felon.

16 102. Defendants also permitted Fratkin to impersonate licensed Public Adjusters
17 working for Corporate Defendants in emails and over the telephone in order to permit him to
18 conduct work as a Public Adjuster.

19 103. On information and belief, Individual Defendants also exploited their majority
20 control over Corporate Defendants by permitting a corporate culture that tolerated unethical,
21 immoral, and illegal conduct by employees including but not limited to Scott and Severaid. On
22 information and belief, this conduct of Individual Defendants included routinely permitting
23 employees to misappropriate Corporate Defendants’ funds for their own purposes by funding
24 personal trips, purchasing prostitutes, holding extravagant parties in strip clubs during which lap
25 dances and other sexual acts were paid for with corporate funds of Corporate Defendants.

26 104. Individual Defendants also exploited their majority control over Corporate
27 Defendants by allowing and authorizing Scott to routinely pay and authorize the payment of cash
28 bribes to individuals in exchange for access to clients and business.

29 **H. Shareholder Demand Is Futile**

30 105. Johnson was a shareholder of record of Greenspan at all relevant times mentioned
31 above. Johnson was also a shareholder of AIPNW insofar as Greenspan, and AIPNW are the
32 alter ego of one another and that Greenspan owns AIPNW in its entirety.

1 106. Johnson complained about the above conduct by Defendants many times. Each
2 time, Individual Defendants exploited their majority control over Corporate Defendants to ignore
3 Johnson's complaints and moreover to increase their retaliatory actions against him.

4 107. Accordingly, any further demand to the directors of Greenspan or AIPNW any
5 relief sought in this action, because any such demand would have been futile or useless as all of
6 the directors and officers of Greenspan to whom such a demand could have been made were the
7 perpetrators of the wrongful acts alleged herein, and all of whom had repeatedly exploited their
8 majority control over Corporate Defendants to ignore Johnson's complaints.

9 108. As alleged previously herein, Scott was the perpetrator who—relying on
10 Individual Defendants majority control of Greenspan—initiated the pattern and practice of
11 sidelining Johnson from his management role in the firm due to his age and disability, disregarded
12 Johnson's complaints about Metz, failed to accommodate Johnson's disability, was responsible
13 for Greenspan's termination of Johnson, knowingly permitted Fratkin to serve as a Public
14 Adjuster for Greenspan despite the fact that he lacked the requisite licenses to do so and was
15 precluded from eligibility to obtain them, and misappropriated Corporate Defendants' funds for
16 his own purposes by funding personal trips, purchasing prostitutes, and holding extravagant
17 parties in strip clubs during which lap dances and other sexual acts were paid for with corporate
18 funds of Corporate Defendants.

19 109. As alleged previously herein, Severaid—relying on Individual Defendants
20 majority control of Greenspan—participated in and ratified the pattern and practice of sidelining
21 Johnson from his management role in the firm due to his age and disability, knowingly permitted
22 Fratkin to serve as a Public Adjuster for Greenspan despite the fact that he lacked the requisite
23 licenses to do so and was precluded from eligibility to obtain them, and misappropriated
24 Corporate Defendants' funds for his own purposes by funding personal trips, purchasing
25 prostitutes, and holding extravagant parties in strip clubs during which lap dances and other sexual
26 acts were paid for with corporate funds of Corporate Defendants.

27 110. As alleged previously herein, Migdal—relying on Individual Defendants majority
28 control of Greenspan—participated in and ratified the pattern and practice of sidelining Johnson
from his management role in the firm due to his age and disability, failed to accommodate
Johnson's disability, made certain Johnson would be forbidden from attending management
meetings after his removal from the Management Committee, was responsible for Greenspan's

1 termination of Johnson, knowingly permitted Fratkin to serve as a Public Adjuster for Greenspan
2 despite the fact that he lacked the requisite licenses to do so and was precluded from eligibility to
3 obtain them, and participated in and ratified the misappropriation Corporate Defendants' funds
4 for his own purposes by funding personal trips, purchasing prostitutes, and holding extravagant
5 parties in strip clubs during which lap dances and other sexual acts were paid for with corporate
6 funds of Corporate Defendants.

7 111. As alleged previously herein, Gibson—relying on Individual Defendants majority
8 control of Greenspan—participated in and ratified the pattern and practice of sidelining Johnson
9 from his management role in the firm due to his age and disability, disregarded Johnson's
10 complaints about Metz, was responsible for Greenspan's termination of Johnson, placed Johnson
11 on an *involuntary* continuous unpaid leave of absence which Greenspan unlawfully designated
12 "FMLA Leave," prohibited Johnson from returning to work and turned off Johnson's e-mail and
13 cell phone, knowingly permitted Fratkin to serve as a Public Adjuster for Greenspan despite the
14 fact that he lacked the requisite licenses to do so and was precluded from eligibility to obtain
15 them, and participated in and ratified the misappropriation Corporate Defendants' funds for his
16 own purposes by funding personal trips, purchasing prostitutes, and holding extravagant parties
17 in strip clubs during which lap dances and other sexual acts were paid for with corporate funds of
18 Corporate Defendants.

19 112. As alleged previously herein, Warren—relying on Individual Defendants majority
20 control of Greenspan—participated in and ratified the pattern and practice of sidelining Johnson
21 from his management role in the firm due to his age and disability, participated in and ratified
22 Greenspan's termination of Johnson, knowingly permitted Fratkin to serve as a Public Adjuster
23 for Greenspan despite the fact that he lacked the requisite licenses to do so and was precluded
24 from eligibility to obtain them, and participated in and ratified the misappropriation Corporate
25 Defendants' funds for his own purposes by funding personal trips, purchasing prostitutes, and
26 holding extravagant parties in strip clubs during which lap dances and other sexual acts were paid
27 for with corporate funds of Corporate Defendants.

28 113. As alleged previously herein, C. Lucurell—relying on Individual Defendants
majority control of Greenspan—participated in and ratified the pattern and practice of sidelining
Johnson from his management role in the firm due to his age and disability, participated in and
ratified Greenspan's termination of Johnson, knowingly permitted Fratkin to serve as a Public

1 Adjuster for Greenspan despite the fact that he lacked the requisite licenses to do so and was
2 precluded from eligibility to obtain them, and participated in and ratified the misappropriation
3 Corporate Defendants' funds for his own purposes by funding personal trips, purchasing
4 prostitutes, and holding extravagant parties in strip clubs during which lap dances and other sexual
5 acts were paid for with corporate funds of Corporate Defendants.

6 114. As alleged previously herein, D. Lucurell—relying on Individual Defendants
7 majority control of Greenspan—participated in and ratified the pattern and practice of sidelining
8 Johnson from his management role in the firm due to his age and disability, participated in and
9 ratified Greenspan's termination of Johnson, knowingly permitted Fratkin to serve as a Public
10 Adjuster for Greenspan despite the fact that he lacked the requisite licenses to do so and was
11 precluded from eligibility to obtain them, and participated in and ratified the misappropriation
12 Corporate Defendants' funds for his own purposes by funding personal trips, purchasing
13 prostitutes, and holding extravagant parties in strip clubs during which lap dances and other sexual
14 acts were paid for with corporate funds of Corporate Defendants

15 115. Because of the foregoing wrongful conduct of Individual Defendants alleged
16 above and throughout this pleading, it would have been futile for Johnson to bring a demand to
17 the Board of Greenspan or AIPNW, because these directors, comprised entirely of Individual
18 Defendants, could not have exercised independent and disinterested business judgment in
19 responding to a demand directly accusing them of such misconduct. Such a demand would have
20 in effect been a request that Individual Defendants sue themselves for, among other things,
21 violating California employment laws; breaching their own duties owed to Corporate Defendants
22 and Johnson as a minority shareholder, employee, and individual; misappropriating Corporate
23 Defendants' funds; and illegally allowing Fratkin to practice public adjusting on Corporate
24 Defendants' behalf without a license. Such a demand would thus have been futile and useless.

25 116. Moreover, while still employed by Corporate Defendants, Johnson complained
26 many times of Individual Defendants' retaliatory conduct towards him, as described above.
27 Nevertheless, he was ultimately wrongfully terminated from Corporate Defendants by the very
28 same Individual Defendants, again illustrating the futility of a demand for the relief sought herein.

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FIRST CAUSE OF ACTION
Age Discrimination in Violation of the FEHA
(Asserted against Corporate Defendants)

117. Johnson repeats and re-alleges all of the previous allegations herein by reference.

1 118. The FEHA offers protections to employees against the unlawful practices of
2 employers by broadly prohibiting employment discrimination in discharges, or terms and
3 conditions of employment based on age.

4 119. As set forth above, Individual Defendants were biased against Johnson for because
5 of his age. As Individual Defendants exercised majority control over Corporate Defendants, their
6 bias resulted in the bias of Corporate Defendants against Johnson because of his age.

7 120. As set forth above, Individual Defendants bias against Johnson was so strong that
8 they exploited their majority control over Corporate Defendants to cause Corporate Defendants
9 to treat Johnson differently for younger workers and to discriminate against Johnson based upon
10 his age, a protected class under the FEHA.

11 121. By taking adverse employment actions against Johnson based upon his age,
12 including the establishment of a hostile work environment for many years, the unfair demotion,
13 and wrongful termination of Johnson, Corporate Defendants have violated the FEHA.

14 122. Corporate Defendants' actions, as described above, directly and proximately
15 caused, and continue to cause, Johnson to suffer loss of income, severe emotional distress,
16 anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to his
17 professional reputation.

18 123. Therefore, Johnson is entitled to damages according to proof at trial.

19 124. In committing the acts alleged herein, Corporate Defendants acted with
20 oppression, fraud, and/or malice, and in reckless or willful disregard of Johnson's rights. Johnson
21 is therefore entitled to punitive damages in an amount according to proof at trial.

22 **SECOND CAUSE OF ACTION**
23 **Disability Discrimination in Violation of the FEHA**
24 **(Asserted against Corporate Defendants)**

25 125. Johnson repeats and re-alleges all of the previous allegations herein by reference.

26 126. FEHA offers protections to employees against the unlawful practices of employers
27 by broadly prohibiting employment discrimination in discharges, or terms and conditions of
28 employment, based on disability.

127. As set forth above, Individual Defendants were biased against Johnson for because
of his actual and/or perceived disabilities, which are protected classes under the FEHA. As
Individual Defendants exercised majority control over Corporate Defendants, their bias resulted

1 in the bias of Corporate Defendants against Johnson because of his actual and/or perceived
2 disabilities.

3 128. As set forth above, Johnson was treated differently and discriminated against
4 based upon his actual and/or perceived disabilities, which are protected classes under the FEHA.

5 129. By taking adverse employment actions and subjecting Johnson to discrimination,
6 harassment, and a hostile work environment based upon his disabilities, Corporate Defendants
7 violated the FEHA.

8 130. Corporate Defendants' actions, as described above, directly and proximately
9 caused, and continue to cause, Johnson to suffer loss of income, severe emotional distress,
10 anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to his
11 professional reputation.

12 131. Therefore, Johnson is entitled to damages according to proof at trial.

13 132. In committing the acts alleged herein, Corporate Defendants acted with
14 oppression, fraud, and/or malice, and in reckless or willful disregard of Johnson's rights. Johnson
15 is therefore entitled to punitive damages in an amount according to proof at trial.

16 **THIRD CAUSE OF ACTION**

17 **Failure to Accommodate a Disability in Violation of the FEHA** 18 **(Asserted against Corporate Defendants)**

19 133. Johnson repeats and re-alleges all of the previous allegations herein by reference.

20 134. Corporate Defendants have a duty to provide reasonable accommodation to its
21 employees who are disabled within the meaning of the FEHA.

22 135. Pursuant to Gov't Code § 12945(b), Johnson was disabled within the meaning of
23 the FEHA since no later than June 25, 2018, and Corporate Defendants was aware that Johnson
24 was disabled since no later than June 25, 2018.

25 136. As set forth above, Individual Defendants were biased against Johnson for because
26 of his actual and/or perceived disabilities. As Individual Defendants exercised majority control
27 over Corporate Defendants, their bias resulted in Corporate Defendants' breach of their duty to
28 reasonably accommodate Johnson when Corporate Defendants denied his multiple requests for
intermittent leave to attend periodic doctor's appointments.

137. Corporate Defendants' actions, as described above, directly and proximately
caused, and continue to cause, Johnson to suffer loss of income, severe emotional distress,

1 anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to his
2 professional reputation.

3 138. Therefore, Johnson is entitled to damages according to proof at trial.

4 139. In committing the acts alleged herein, Corporate Defendants acted with
5 oppression, fraud, and/or malice, and in reckless or willful disregard of Johnson's rights. Johnson
6 is therefore entitled to punitive damages in an amount according to proof at trial.

7 **FOURTH CAUSE OF ACTION**
8 **Failure to Engage in a Good Faith Interactive Process of Disability Accommodation in**
9 **Violation of the FEHA**
10 **(Asserted against Corporate Defendants)**

11 140. Johnson repeats and re-alleges all of the previous allegations herein by reference.

12 141. Pursuant to Gov't Code § 12945, Johnson was disabled within the meaning of the
13 FEHA since no later than June 25, 2018, and Corporate Defendants were aware that Johnson was
14 disabled since no later than June 25, 2018.

15 142. Pursuant to Gov't Code § 12940(n), Corporate Defendants had a duty to engage
16 in a good faith and meaningful interactive process to accommodate Johnson's disabilities.

17 143. Johnson made multiple requests for reasonable accommodations to attend period
18 doctors' appointments which were unreasonably denied.

19 144. As set forth above, Individual Defendants possessed a strong bias against Johnson
20 because of his disability. Individual Defendants exploited their majority control over Corporate
21 Defendants to deny Johnson reasonable accommodations.

22 145. Accordingly, Corporate Defendants breached their duty under the FEHA by failing
23 to engage in a good faith and meaningful interactive process to accommodate Johnson. Rather
24 than engage in this process, Corporate Defendants merely put Johnson on involuntary and
25 indefinite unpaid leave, and then terminated him entirely a few days later.

26 146. Corporate Defendants' actions, as described above, directly and proximately
27 caused, and continue to cause, Johnson to suffer loss of income, severe emotional distress,
28 anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to his
professional reputation.

147. Therefore, Johnson is entitled to damages according to proof at trial.

1 148. In committing the acts alleged herein, Corporate Defendants acted with
2 oppression, fraud, and/or malice, and in reckless or willful disregard of Johnson's rights. Johnson
3 is therefore entitled to punitive damages in an amount according to proof at trial.

4 **FIFTH CAUSE OF ACTION**
5 **Failure to Prevent Discriminatory and Retaliatory Practices in Violation of FEHA**
6 **(Asserted against Corporate Defendants)**

7 149. Johnson repeats and re-alleges all of the previous allegations herein by reference.

8 150. Pursuant to Gov't Code § 12940(k), Corporate Defendants have a duty to take all
9 reasonable steps necessary to prevent discrimination and harassment from occurring in their place
10 of employment.

11 151. As set forth above, Individual Defendants possessed a strong bias against Johnson
12 because of his age, disability, complaints on behalf of employees, and opposition to corporate
13 malfeasance. Individual Defendants exploited their majority control over Corporate Defendants
14 to cause Corporate Defendants ignore Johnson's complaints about harassment, discrimination and
15 retaliation.

16 152. Upon information and belief, Corporate Defendants failed to prevent
17 discrimination and retaliation in the workplace and that this conduct included, but was not limited
18 to, the following: (a) failure to properly train all supervisory employees, including Metz, Scott,
19 and Gibson regarding discrimination and retaliation in the workplace; (b) failure to effectively
20 enforce policies and procedures regarding the prevention and abatement of discrimination and
21 retaliation; (c) failure to prevent employees, including Individual Defendants, from retaliating
22 against Johnson because of his complaints; (d) failure to investigate complaints of discrimination
23 and retaliation made by Johnson in good faith; and (e) failure to ensure compliance with federal
24 and California anti-discrimination and anti-retaliation laws.

25 153. Upon information and belief, Corporate Defendants failed to implement effective
26 discrimination prevention and reporting procedures, inform employees of what the firm's
27 discrimination and harassment reporting procedures were, if any, or take any other reasonable
28 steps to prevent discrimination and retaliation.

154. Corporate Defendants' actions, as described above, directly and proximately have
caused, and continue to cause, Johnson to suffer losses of income and work opportunities and
have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity,
personal embarrassment, and damage to his professional reputation.

1 155. As such, Johnson is entitled to damages according to proof at trial.

2 156. In doing the acts herein alleged, Corporate Defendants acted with oppression,
3 fraud, malice, and in reckless or in willful disregard of Johnson's rights. Johnson is therefore
4 entitled to punitive damages in an amount according to proof at the time of trial.

5 **SIXTH CAUSE OF ACTION**
6 **Retaliation in Violation of FEHA**
7 **(Asserted against Corporate Defendants)**

8 157. Johnson repeats and re-alleges all of the previous allegations herein by reference.

9 158. Under the FEHA, Corporate Defendants are forbidden from retaliating against any
10 person for opposing any practices forbidden by FEHA.

11 159. As set forth above, Individual Defendants possessed a strong bias against Johnson
12 because of his age, disability, complaints on behalf of employees, and opposition to corporate
13 malfeasance. Individual Defendants exploited their majority control over Corporate Defendants
14 to cause Corporate Defendants a strong bias against Johnson because of his prior complaints
15 against them.

16 160. Individual Defendants exploited their majority control over Corporate Defendants
17 to cause Corporate Defendants to violate this provision of the FEHA by acting in a retaliatory
18 manner towards Johnson because he asserted his rights under the FEHA, including, but not limited
19 to, his right to an environment free of discrimination, harassment, and retaliation due to his age
20 and disability and his right to have his disabilities reasonably accommodated. Corporate
21 Defendants also retaliated against Johnson because he opposed sexual harassment by Metz
22 against Wooldridge and K. Johnson.

23 161. Corporate Defendants retaliated against Johnson by taking various adverse actions
24 including, but not limited to, subjecting him to harassment, discrimination, and a hostile work
25 environment; demoting him, removing him from his responsibilities in Puerto Rico, placing him
26 on administrative leave, and wrongfully terminating him.

27 162. Corporate Defendants' actions, as described above, directly and proximately
28 caused, and continue to cause, Johnson to suffer loss of income, severe emotional distress,
anguish, pain and suffering, humiliation, indignity, personal embarrassment, and damage to his
professional reputation.

163. Therefore, Johnson is entitled to damages according to proof at trial.

1 164. In committing the acts alleged herein, Corporate Defendants acted with
2 oppression, fraud, and/or malice, and in reckless or willful disregard of Johnson's rights. Johnson
3 is therefore entitled to punitive damages in an amount according to proof at trial.

4 **SEVENTH CAUSE OF ACTION**
5 **Retaliation in Violation of Labor Code § 98.6**
6 **(Asserted against Corporate Defendants)**

7 165. Johnson repeats and re-alleges all of the previous allegations herein by reference.

8 166. Labor Code § 98.6 provides in relevant part that an employer shall not "in any
9 manner discriminate, retaliate, or take any adverse employment action against any employee ...
10 because the employee ... made a written or oral complaint that he or she is owed unpaid wages."

11 167. Johnson made a written complaint to Corporate Defendants that he was owed
12 unpaid wages, as well as that he was being wrongfully subjected to a hostile work environment
13 and was being discriminated against due to his age and disabilities.

14 168. On June 26, 2018, Greenspan acknowledged that it owed Johnson "sales
15 commissions on fees for losses that you signed or helped signed." Greenspan promised to pay
16 these commissions as soon as fees are collected, and commissions are reasonably calculated."

17 169. As set forth above, Individual Defendants possessed a strong bias against Johnson
18 because of his complaints about his wages and commissions.

19 170. Individual Defendants exploited their majority control over Corporate Defendants
20 to cause Corporate Defendants to fail to address Johnson's concerns, did not address the
21 discrimination at all, and instead began a process of retaliating against him and ultimately
22 terminated him.

23 171. Therefore, Johnson is entitled to damages according to proof at trial.

24 172. In committing the acts alleged herein, Corporate Defendants acted with
25 oppression, fraud, and/or malice, and in reckless or willful disregard of Johnson's rights. Johnson
26 is therefore entitled to punitive damages in an amount according to proof at trial.

27 **EIGHTH CAUSE OF ACTION**
28 **Wrongful Termination in Violation of Public Policy**
(Asserted against Corporate Defendants)

173. Johnson repeats and re-alleges all of the previous allegations herein by reference.

174. An employer commits tortious termination in violation of public policy when there
is an applicable public policy protecting an employee with a certain status and the employer
terminates the employee because of his protected status. *Tameny v. Atlantic Richfield Co.* (1980)

1 27 Cal.3d 167. A duty is implied by law on the part of the employer to conduct its affairs in
2 compliance with public policy, expressed judicially or by statute.

3 175. The public policy expressed in FEHA and the Labor Code protects Johnson from
4 the discrimination and retaliation because of his disability, age, and protected activity. Corporate
5 Defendants committed wrongful termination in violation of public policy because it terminated
6 Johnson for discriminatory and retaliatory motives as set forth above.

7 176. As set forth above, Individual Defendants possessed a strong bias against Johnson
8 because of his age, disability, complaints on behalf of employees and over his wages and
9 commissions, and opposition to corporate malfeasance.

10 177. Individual Defendants exploited their majority control over Corporate Defendants
11 to cause Corporate Defendants, as described above, to directly and proximately cause, and
12 continue to cause, Johnson to suffer losses of income and work opportunities and have caused
13 severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal
14 embarrassment, and damage to his professional reputation.

15 178. As such, Johnson is entitled to damages according to proof at trial.

16 179. In doing the acts herein alleged, Corporate Defendants acted with oppression,
17 fraud or malice, and in reckless or in willful disregard of Johnson's rights. Johnson is therefore
18 entitled to punitive damages in an amount according to proof at the time of trial.

19 **NINTH CAUSE OF ACTION**
20 **Breach of Contract**
21 **(Asserted against Corporate Defendants)**

22 180. Johnson repeats and re-alleges all of the previous allegations herein by reference.

23 181. Johnson and Corporate Defendants entered into the PR Commission Contract that
24 entitled Johnson to commissions on October 12, 2017.

25 182. The PR Commission Contract between Johnson and Corporate Defendants
26 constitutes a valid, legally binding contract between Defendants and Johnson.

27 183. The PR Commission Contract provided that Johnson would receive 10% of total
28 adjusting receipts and 5% of sales with no offset of charges.

184. Johnson is informed and believes that Corporate Defendants earned in excess of
\$13 million in revenue from the Puerto Rico Operation. Pursuant to Johnson's compensation
agreement, PR Commission Contract, he was entitled to in excess of \$1.9 million in adjuster and
sales commissions.

1 185. On June 26, 2018, Corporate Defendants acknowledged that it owed Johnson
2 “sales commissions on fees for losses that you signed or helped signed.” Corporate Defendants
3 promised to pay these commissions “as soon as fees are collected, and commissions are
4 reasonably calculated.”

5 186. As set forth above, Individual Defendants possessed a strong bias against Johnson
6 because of his age, disability, complaints on behalf of employees and for his wages and
7 commissions, and opposition to corporate malfeasance.

8 187. Individual Defendants exploited their majority control over Corporate Defendants
9 to cause Corporate Defendants to breach this agreement by failing to pay the commissioned owed
10 to Johnson.

11 188. Johnson performed all of the duties required under the terms of the Contract by
12 performing his day-to-day employment with Corporate Defendants from on or about October 12,
13 2017 to his wrongful termination on about August 15, 2018.

14 189. Corporate Defendants’ failure to abide by the terms of the Contract caused
15 Johnson to suffer damages, including but not limited loss of income, benefits, and further damages
16 in an amount according to proof at trial.

TENTH CAUSE OF ACTION
Failure to Pay Wages in Violation of the Labor Code
(Asserted against Defendants)

17 190. Johnson repeats and re-alleges all of the previous allegations herein by reference.

18 191. Wages are due to the employee twice a month—first between the first and tenth
19 day of the month, then between the sixteenth and twenty-sixth day. California Labor Code §
20 204(a).

21 192. Corporate Defendants failed to pay the commission due to Johnson under the PR
22 Commission Contract.

23 193. Pursuant to the agreement among the shareholders of Greenspan, Johnson was
24 entitled to receive 35% of Greenspan’s annual debt-free net cash flow as a bonus.

25 194. As set forth above, Individual Defendants possessed a strong bias against Johnson
26 because of his age, disability, complaints on behalf of employees and for his wages and
27 commissions, and opposition to corporate malfeasance.

28 195. However, Individual Defendants exploited their majority control over Corporate
Defendants to cause Corporate Defendants to fail to pay any of this bonus for 2018. Johnson

1 informed and believes the amount of the he was entitled to receive in excess of \$1.5 million for
2 2018.

3 196. Johnson was not paid this bonus for 2019 as well, and thus is entitled to receive
4 35% of Greenspan's annual debt-free net cash flow as a bonus for 2019 and for each subsequent
5 year.

6 197. Commissions and bonuses are considered wages under the California labor Code
7 §§ 200, 201, 202, and 218. Consequently, Corporate Defendants have failed to pay for work done
8 by the required date.

9 198. As a result of Corporate Defendants' failure to pay all of the commission owed to
10 Johnson, he has suffered significant damages in an amount to be proven at trial.

11 199. As Individual Defendants acted on behalf of Corporate Defendants, they may be
12 liable for unpaid wages pursuant to Labor Code § 558.1 and/or California law.

13 **ELEVENTH CAUSE OF ACTION**
14 **Failure to Pay All Necessary Expenditures in Violation of Labor Code § 2802**
15 **(Asserted against All Defendants)**

16 200. Johnson repeats and re-alleges all of the previous allegations herein by reference.

17 201. Labor Code § 2802 provides that an employer shall indemnify his or her
18 employees for all necessary expenditures or losses incurred by employees in direct consequence
19 of the discharge of his or her duties, or of his or her obedience to the directions of the employer.

20 202. As a result of Corporate Defendants policy and practice, Johnson was not
21 reimbursed for all of the expenses he incurred for Corporate Defendants' work, including but not
22 limited to travel and mileage costs for owning and operating his personal automobiles.

23 203. Corporate Defendants have not paid Plaintiffs in full for the necessary
24 expenditures they incurred as required by Labor Code § 2802.

25 204. Pursuant to Labor Code § 2802(b), Plaintiffs are entitled to recover in a civil action
26 the unpaid balance of all necessary expenditures they incurred in the discharge of their duties.

27 205. As a direct and proximate result of Corporate Defendants' conduct, Johnson has
28 suffered damages, in an amount to be proven at trial.

29 206. As Individual Defendants acted on behalf of Corporate Defendants, they may be
30 liable for unreimbursed expenses pursuant to Labor Code § 558.1 and/or California law.

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1 **TWELTH CAUSE OF ACTION**
2 **Failure to Pay Earned Wages upon Discharge in Violation of Labor Code § 203**
3 **(Asserted against All Defendants)**

4 207. Johnson repeats and re-alleges all of the previous allegations herein by reference.

5 208. At the time of Johnson's wrongful termination by Corporate Defendants owed and
6 were required to pay him substantial commissions, bonuses, and benefits.

7 209. Defendants willfully failed to pay Johnson the full amount of wages earned on his
8 last day of employment, in violation of Labor Code § 203.

9 210. As of the filing of this Complaint, Defendants have failed to pay Johnson the full
10 amount of his wages. Johnson is therefore entitled to all such penalties in an amount to be proven
11 at trial.

12 211. As Individual Defendants acted on behalf of Corporate Defendants, they may be
13 liable for unpaid waiting time penalties pursuant to Labor Code § 558.1 and/or California law.

14 **THIRTEENTH CAUSE OF ACTION**
15 **Failure to Furnish Timely and Accurate Wage Statements**
16 **in Violation of Labor Code § 226**
17 **(Asserted against All Defendants)**

18 212. Johnson repeats and re-alleges all of the previous allegations herein by reference.

19 213. At all times relevant herein, Corporate Defendants failed to issue accurate itemized
20 wage statements that properly and accurately itemized the number of hours worked by Johnson
21 and the actual payments owed to Johnson thereto, in violation of Labor Code 226(a) and IWC
22 Wage Order 5 § 7.

23 214. Johnson did not receive an accurate wage statement because commissions he is
24 owed were not reflected in his wage statements.

25 215. Corporate Defendants knowingly and intentionally failed to comply with Labor
26 Code § 226(a) and IWC Wage Order 5 § 7, causing damages to Johnson.

27 216. These damages, including but not limited to costs expended calculating his true
28 amount of hours worked and the amount of employment taxes not properly paid to state and
federal authorities, are difficult to estimate.

Therefore, Johnson elects to recover statutory damages of \$50.00 for the initial
pay period in which the violation occurred and \$100.00 for each violation in subsequent pay
periods, pursuant to Labor Code § 226(e), up to the statutory maximum of \$4,000.00.

1 224. None of these actions were made with the utmost loyalty and in the highest good
2 faith towards Johnson, Greenspan, or AIPNW. Instead, Individual Defendants abused their
3 control over Corporate Defendant's corporate activities to benefit themselves in a manner
4 detrimental to Johnson and Corporate Defendants, with the purpose of diminishing the terms,
5 conditions, and privileges of Johnson's role as a corporate officer so much so that Johnson would
6 feel forced to resign and sell his ownership stake in Corporate Defendants to Individual
7 Defendants at a reduced value.

8 225. Individual Defendants' misconduct alleged herein constitutes an abuse of their
9 ability to control and influence Greenspan and AIPNW, for which they are legally responsible.

10 226. Individual Defendants' misconduct alleged herein also constitutes a waste of
11 Greenspan and AIPNW's corporate property by its own directors and officers.

12 227. Individual Defendants' misconduct alleged herein also constitutes a breach of their
13 duties as a controlling shareholder owed to Johnson as a minority shareholder.

14 228. Individual Defendants are bound by their conduct because Greenspan and AIPNW
15 are nothing more than alter ego companies for Individual Defendants.

16 229. As a direct and proximate result of Individual Defendants' abuse of control,
17 Greenspan and AIPNW have sustained significant damages.

18 230. As a result of the misconduct alleged herein, Individual Defendants are liable to
19 the Companies.

20 231. Plaintiff on behalf of Greenspan and AIPNW has no adequate remedy at law.

21 232. As a direct and proximate result of Individual Defendants' abuse of control,
22 Johnson has also suffered damages as an individual. Individual Defendants acted in concert to,
23 among other things, sideline Johnson's role in Corporate Defendants due to his age and disability,
24 and later wrongfully terminated his employment. Individual Defendants' actions, as described
25 above, directly and proximately have caused, and continue to cause, Johnson to suffer damages
26 in an amount to be proven at trial including loss of income and work opportunities and have
27 caused severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal
28 embarrassment, and damage to his professional reputation..

 233. As such, Johnson is entitled to damages according to proof at trial.

1 234. In doing the acts herein alleged, Individual Defendants acted with oppression,
2 fraud or malice, and in reckless or in willful disregard of Johnson's rights. Johnson is therefore
3 entitled to punitive damages in an amount according to proof at the time of trial.

4 **FIFTHTEENTH CAUSE OF ACTION**
5 **Breach of Fiduciary Duty**
6 **(Asserted against Individual Defendants)**

7 235. Johnson repeats and re-alleges all of the previous allegations herein by reference.

8 236. A fiduciary duty under common law arises when one individual enters into a
9 confidential relationship with another, which may take many forms. Fiduciary duties are also
10 imposed as a matter of law in certain technical, legal relationships, including, but not limited to,
11 agents towards principals, partner towards partner, joint venture toward co-joint venture,
12 corporate officers and directors toward corporation and its shareholders, and controlling
13 shareholders towards minority shareholders. The duty of a fiduciary requires that one individual
14 act with the utmost loyalty and in the highest good faith toward the other in all proceedings
15 regarding the scope of the fiduciary relationship.

16 237. Individual Defendants are bound by their conduct because Greenspan and AIPNW
17 are nothing more than alter ego companies for Individual Defendants.

18 238. Individual Defendants had a fiduciary relationship with Johnson individually
19 because Individual Defendants collectively exercised majority control over Corporate Defendants
20 to harass, discriminate and retaliate against Johnson, and because all Individual Defendants were
21 partners, co-founders, and/or co-joint ventures in Corporate Defendants. Each of these
22 individuals also owe fiduciary duties to each other and to Corporate Defendants by virtue of their
23 status as corporate officers and directors of Corporate Defendants. Each of these individuals are
24 also in a fiduciary relationship with each other through their status as shareholders of Corporate
25 Defendants.

26 239. Further, Individual Defendants controlled a majority share versus Johnson's
27 minority share, Individual Defendants owed Johnson a fiduciary duty to (1) avoid using their
28 power to control Corporate Defendants' corporate activities to benefit themselves alone or in a
manner detrimental to the minority, and (2) to instead use their ability to control Corporate
Defendants in a fair, just, and equitable manner for the benefit of all shareholders, including
Johnson.

1 240. Additionally, at all relevant times, Individual Defendants acted in concert with one
2 another and, as a group, acted as a controlling shareholder of Corporate Defendants and assumed
3 all duties of a controlling shareholder. As they assumed such duties, they jointly owed a duty to
4 Johnson, as a minority shareholder, to use their ability to control the corporation in a fair, just,
5 and equitable manner and refrain from using their power to control corporate activities to benefit
6 themselves alone or to the detriment of Johnson or other minority shareholders.

7 241. Individual Defendants breached the duty of care they owed to Corporate
8 Defendants and their shareholders by engaging and/or ratifying in the conduct described above,
9 including, but not limited to, failing to pay Corporate Defendants wages and commissions; failing
10 to prevent discrimination and harassment against employees; paying bribes; permitting a felon to
11 impersonate a licensed public adjuster; misappropriating Corporate Defendants funds for their
12 own purposes, including funding personal trips, purchasing prostitutes, extravagant parties in strip
13 clubs including lap dances and other sexual acts paid for with Corporate funds; and
14 discriminating, harassing, retaliating, reducing the terms and conditions of Johnson's employment
15 with Corporate Defendants, and ultimately wrongfully terminating Johnson from Corporate
16 Defendants due to his age, disability, and in retaliation for his exercise of his right to oppose
17 harassment and discrimination.

18 242. None of the above actions were made with the utmost loyalty and in the highest
19 good faith towards Johnson. Instead, Individual Defendants engaged in this conduct to control
20 Corporate Defendant's corporate activities to benefit themselves in a manner detrimental to
21 Johnson, with the purpose of diminishing the terms, conditions, and privileges of Johnson's role
22 as a corporate officer so much so that Johnson would feel forced to resign and sell his ownership
23 stake in Corporate Defendants to Individual Defendants at a reduced value.

24 243. Individual Defendants' misconduct alleged herein constitutes an abuse of their
25 ability to control and influence Greenspan and AIPNW, for which they are legally responsible.

26 244. Individual Defendants' misconduct alleged herein also constitutes a waste of
27 Greenspan and AIPNW's corporate property by its own directors and officers.

28 245. Individual Defendants' misconduct alleged herein also constitutes a breach of their
duties as a controlling shareholder owed to Johnson as a minority shareholder.

 246. As a direct and proximate result of Individual Defendants' breaches of duty to
Johnson, Johnson has also suffered damages as an individual. Individual Defendants acted in

1 concert to, among other things, sideline Johnson's role in Corporate Defendants due to his age
2 and disability, and later wrongfully terminated his employment. Individual Defendants' actions,
3 as described above, directly and proximately have caused, and continue to cause, Johnson to
4 suffer damages in an amount to be proven at trial including loss of income and work opportunities
5 and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity,
6 personal embarrassment, and damage to his professional reputation.

7 247. In doing the acts herein alleged, Individual Defendants acted with oppression,
8 fraud or malice, and in reckless or in willful disregard of Johnson's rights. Johnson is therefore
9 entitled to punitive damages in an amount according to proof at the time of trial.

10 **SIXTEENTH CAUSE OF ACTION**
11 **Breach of Duty of Care**
12 **(Asserted against Individual Defendants)**

13 248. Johnson repeats and re-alleges all of the previous allegations herein by reference.

14 249. Directors and officers of a corporation owe a fiduciary duty of care to the
15 corporation and its shareholders. Moreover, Individual Defendants had a fiduciary duty of care
16 to Johnson individually because Individual Defendants collectively exercised majority control
17 over Corporate Defendants to the detriment of Johnson. The fiduciary duty of care requires that
18 a director or officer of a corporation serve, in good faith, in a manner that the director or officer
19 believes to be in the best interests of the corporation and its shareholders and with such care and
20 reasonable inquiry that an ordinarily prudent person in a like position would use under similar
21 circumstances.

22 250. Individual Defendants are bound by their conduct because Greenspan and AIPNW
23 are nothing more than alter ego companies for Individual Defendants.

24 251. The business decisions of a director or officer will generally not violate the duty
25 of care so long as the director or officer was disinterested and independent, acting in good faith,
26 and reasonably diligent in informing themselves of the facts before making the business decision
27 in question.

28 252. Individual Defendants at all relevant times herein, were and are directors and
officers of Corporate Defendants. As such, Individual Defendants owed a fiduciary duty of care
towards Corporate Defendants and their shareholders, including Johnson, to act, in good faith, in
a manner that is in the best interests of Corporate Defendants and its shareholders.

1 253. Additionally, at all relevant times, Individual Defendants acted in concert with one
2 another and, as a group, acted as a controlling shareholder of Corporate Defendants and assumed
3 all duties of a controlling shareholder. As they assumed such duties, they jointly owed a duty to
4 Johnson, as a minority shareholder, to use their ability to control the corporation in a fair, just,
5 and equitable manner and refrain from using their power to control corporate activities to benefit
6 themselves alone or to the detriment of Johnson or other minority shareholders.

7 254. Individual Defendants breached the duty of care they owed to Corporate
8 Defendants and their shareholders by ratifying and/or engaging in the conduct described above,
9 including, but not limited to, failing to pay Corporate Defendants wages and commissions; failing
10 to prevent discrimination and harassment against employees; paying bribes; permitting a felon to
11 impersonate a licensed public adjuster; misappropriating Corporate Defendants funds for their
12 own purposes, including funding personal trips, purchasing prostitutes, extravagant parties in strip
13 clubs including lap dances and other sexual acts paid for with Corporate funds; and
14 discriminating, harassing, retaliating, reducing the terms and conditions of Johnson's employment
15 with Corporate Defendants, and ultimately wrongfully terminating Johnson from Corporate
16 Defendants due to his age, disability, and in retaliation for his exercise of his right to oppose
17 harassment and discrimination.

18 255. Individual Defendants did not take above actions in good faith to further the best
19 interests of Johnson, Corporate Defendants and their shareholders. Individual Defendants were
20 not disinterested or independent, did not act in good faith, and were not reasonably diligent in
21 informing themselves of true facts before engaging in any of the conduct described above.
22 Instead, Individual Defendants took this course of conduct to benefit themselves at the expense
23 and detriment of Johnson, Corporate Defendants and their shareholders, by attempting to force
24 Johnson to resign from Corporate Defendants and sell his shares in Corporate Defendants to
25 Individual Defendants at a reduced price.

26 256. Individual Defendants' misconduct alleged herein constitutes an abuse of their
27 ability to control and influence Greenspan and AIPNW, for which they are legally responsible.

28 257. Individual Defendants' misconduct alleged herein also constitutes a waste of
Greenspan's and AIPNW's corporate property by its own directors and officers.

 258. Individual Defendants' misconduct alleged herein also constitutes a breach of their
duties as a controlling shareholder owed to Johnson as a minority shareholder.

1 259. As a direct and proximate result of Individual Defendants' breaches of duty to
2 Johnson, Johnson has also suffered damages as an individual. Individual Defendants acted in
3 concert to, among other things, sideline Johnson's role in Corporate Defendants due to his age
4 and disability, and later wrongfully terminated his employment. Individual Defendants' actions,
5 as described above, directly and proximately have caused, and continue to cause, Johnson to
6 suffer damages in an amount to be proven at trial including loss of income and work opportunities
7 and have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity,
8 personal embarrassment, and damage to his professional reputation.

9 260. In doing the acts herein alleged, Individual Defendants acted with oppression,
10 fraud or malice, and in reckless or in willful disregard of Johnson's rights. Johnson is therefore
11 entitled to punitive damages in an amount according to proof at the time of trial.

12 **SEVENTEENTH CAUSE OF ACTION**
13 **Breach of Duty of Loyalty**
14 **(Alleged against Individual Defendants)**

15 261. Johnson repeats and re-alleges all of the previous allegations herein by reference.

16 262. Directors and officers of a corporation owe a fiduciary duty of loyalty to the
17 corporation and its shareholders. Moreover, Individual Defendants had a fiduciary duty of loyalty
18 to Johnson individually because Individual Defendants collectively exercised majority control
19 over Corporate Defendants to harass, discriminate and retaliate the detriment of Johnson. The
20 fiduciary duty of loyalty requires that a director or officer of a corporation place the corporation's
21 and stockholder's interests ahead of any other business or personal interests of that director or
22 officer.

23 263. Individual Defendants are bound by their conduct because Greenspan and AIPNW
24 are nothing more than alter ego companies for Individual Defendants.

25 264. Individual Defendants at all relevant times herein, were and are directors and
26 officers of Corporate Defendants. As such, Individual Defendants owed a fiduciary duty of
27 loyalty towards Johnson, Corporate Defendants and their shareholders to place Corporate
28 Defendants' interests ahead of their own business and personal interests.

 265. Additionally, at all relevant times, Individual Defendants acted in concert with one
another and, as a group, acted as a controlling shareholder of Corporate Defendants and assumed
all duties of a controlling shareholder. As they assumed such duties, they jointly owed a duty to
Johnson, as a minority shareholder, to use their ability to control the corporation in a fair, just,

1 and equitable manner and refrain from using their power to control corporate activities to benefit
2 themselves alone or to the detriment of Johnson or other minority shareholders.

3 266. Individual Defendants breached the duty of loyalty they owed to Johnson,
4 Corporate Defendants and their shareholders by ratifying and/or engaging in the conduct
5 described above, including, but not limited to, failing to pay Corporate Defendants wages and
6 commissions; failing to prevent discrimination and harassment against employees; paying bribes;
7 permitting a felon to impersonate a licensed public adjuster; misappropriating Corporate
8 Defendants funds for their own purposes, including funding personal trips, purchasing prostitutes,
9 extravagant parties in strip clubs including lap dances and other sexual acts paid for with
10 Corporate funds; and discriminating, harassing, retaliating, reducing the terms and conditions of
11 Johnson's employment with Corporate Defendants, and ultimately wrongfully terminating
12 Johnson from Corporate Defendants due to his age, disability, and in retaliation for his exercise
13 of his right to oppose harassment and discrimination.

14 267. In taking the above actions, Individual Defendants did not place the interests of
15 Corporate Defendants and its shareholders ahead of their own business and personal interests.
16 Instead, Individual Defendants took this course of conduct to benefit themselves at the expense
17 and detriment of Johnson, Corporate Defendants and their shareholders, by attempting to force
18 Johnson to resign from Corporate Defendants and sell his shares in Corporate Defendants to
19 Individual Defendants at a reduced price.

20 268. Individual Defendants' misconduct alleged herein constitutes an abuse of their
21 ability to control and influence Greenspan and AIPNW, for which they are legally responsible.

22 269. Individual Defendants' misconduct alleged herein also constitutes a waste of
23 Greenspan and AIPNW's corporate property by its own directors and officers.

24 270. Individual Defendants' misconduct alleged herein also constitutes a breach of their
25 duties as a controlling shareholder owed to Johnson as a minority shareholder.

26 271. As a direct and proximate result of Individual Defendants' breaches of duty to
27 Johnson, Johnson has also suffered damages as an individual. Individual Defendants acted in
28 concert to, among other things, sideline Johnson's role in Corporate Defendants due to his age
and disability, and later wrongfully terminated his employment. Individual Defendants' actions,
as described above, directly and proximately have caused, and continue to cause, Johnson to
suffer damages in an amount to be proven at trial including loss of income and work opportunities and

1 have caused severe emotional distress, anguish, pain and suffering, humiliation, indignity,
2 personal embarrassment, and damage to his professional reputation.

3 272. In doing the acts herein alleged, Defendants acted with oppression, fraud or
4 malice, and in reckless or in willful disregard of Johnson's rights and Johnson is therefore entitled
5 to punitive damages in an amount according to proof at the time of trial.

6 **EIGHTTEENTH CAUSE OF ACTION**
7 **Involuntary Dissolution of a California Corporation**
8 **(Alleged against Individual Defendants and Greenspan)**

9 273. Johnson repeats and re-alleges all of the previous allegations herein by reference.

10 274. Scott, Severaid, and Migdal, are shareholders and/or partners of Greenspan.

11 275. A court may order the dissolution of a corporation against its will under
12 Corporations Code § 1800, *et seq.* where those in control of the corporation have been guilty of
13 or have knowingly countenanced persistent and pervasive fraud, mismanagement or abuse of
14 authority or persistent unfairness toward any shareholders or the corporation's property is being
15 misapplied or wasted by its directors and officers. Corporations Code § 1800(b)(4).

16 276. The dissolution of Greenspan is justified because there is internal dissension
17 among two or more factions of shareholders at Greenspan, with Johnson on the one hand and
18 Individual Defendants on the other hand, such that Greenspan's business can no longer be
19 conducted with advantage as to any of them.

20 277. The dissolution of Greenspan is also justified because Individual Defendants have
21 been guilty of or knowingly countenances persistent and pervasive fraud and mismanagement of
22 Greenspan, abused their authority, acted with persistent unfairness towards Johnson, and wasted
23 Greenspan's property, by ratifying and/or engaging in the conduct described above, including,
24 but not limited to: failing to pay Greenspan's wages and commissions; failing to prevent
25 discrimination and harassment against employees; paying bribes; permitting Fratkin, a convicted
26 felon, to unlawfully impersonate a licensed public adjuster despite being ineligible to ever obtain
27 a license to do so; misappropriating Greenspan's funds for their own purposes, including funding
28 personal trips, purchasing prostitutes, extravagant parties in strip clubs including lap dances and
other sexual acts paid for with Corporate funds; and discriminating, harassing, retaliating,
reducing the terms and conditions of Johnson's employment with Greenspan, and ultimately
wrongfully terminating Johnson from Greenspan due to his age, disability, and in retaliation for
his exercise of his right to oppose harassment and discrimination.

1 278. Accordingly, it is necessary for the protection of Greenspan and Johnson's
2 interests that Greenspan be dissolved and wound up immediately.

3 **NINETEENTH CAUSE OF ACTION**
4 **Unjust Enrichment**
5 **(Alleged against all Defendants)**

6 279. Johnson repeats and re-alleges all of the previous allegations herein by reference.

7 280. By their wrongful acts and omissions described above, Individual Defendants were
8 unjustly enriched at the expense of and to the detriment of Greenspan and AIPNW. These
9 wrongful acts included, but were not limited to: failing to pay Corporate Defendants wages and
10 commissions; paying bribes; permitting a felon to impersonate a licensed public adjuster;
11 misappropriating Corporate Defendants funds for their own purposes, including funding personal
12 trips, purchasing prostitutes, extravagant parties in strip clubs including lap dances and other
13 sexual acts paid for with Corporate funds; and ultimately wrongfully terminating Johnson from
14 Corporate Defendants in retaliation for his exercise of his right to oppose Individual Defendants'
15 conduct.

16 281. As a direct and proximate result of Individual Defendants' unjust enrichment,
17 Johnson has also suffered damages as an individual. Individual Defendants' actions, as described
18 above, directly and proximately have caused, and continue to cause, Johnson to suffer damages
19 in an amount to be proven at trial including loss of income and work opportunities and have
20 caused severe emotional distress, anguish, pain and suffering, humiliation, indignity, personal
21 embarrassment, and damage to his professional reputation.

22 282. Johnson, as a shareholder and representative of Greenspan and AIPNW, seeks
23 restitution from these defendants, and each of them, and seek an order of this Court disgorging
24 all profits, benefits, and other compensation obtained by Individual Defendants, and each of them,
25 from their wrongful conduct and fiduciary breaches.

26 **TWENTIETH CAUSE OF ACTION**
27 **Accounting of Corporation**
28 **(Alleged against Corporate Defendants)**

29 283. Johnson repeats and re-alleges all of the previous allegations herein by reference.

30 284. The amount of money due from Individual Defendants to Corporate Defendants
31 and Johnson is unknown to Johnson and cannot be ascertained without a full accounting of
32 Corporate Defendants' receipts, disbursements, and other pertinent financial information.

1 285. As such, Johnson is entitled to an accounting of each of the Corporate Defendants’
2 accounts and for all moneys Individual Defendants took in excess of what they were entitled to
3 draw.

4 **TWENTY-FIRST CAUSE OF ACTION**
5 **Unfair, Unlawful, and/or Fraudulent Business Practices**
6 **in Violation of Business and Professions Code § 17200, *et seq.***
7 **(Alleged against all Defendants)**

8 286. Johnsons repeat and re-allege all of the previous allegations herein by reference.

9 287. The California Business and Professions Code (“B&P Code”) § 17200, *et seq.* (the
10 “Unfair Business Practices Act”) prohibits unfair competition in the form of any unlawful, unfair
11 or fraudulent business act or practice.

12 288. B&P Code § 17202 provides that “[N]otwithstanding Section 2289 of the Civil
13 Code, specific or preventative relief may be granted to enforce a penalty, forfeiture, or penal law
14 in case of unfair competition.”

15 289. B&P Code § 1703 provides that the Court may restore to any person in interest
16 any money or property which may have been acquired by means of such unfair competition.

17 290. B&P Code § 17204 allows “any person who has suffered injury in fact and has
18 lost money or property as a result of such unfair competition” to prosecute a civil action for
19 violation of this code.

20 291. B&P code § 17204 allows “any person acting for the interest of itself, its members
21 or the general public” to prosecute a civil action for violation of the Unfair Business Practices
22 Act.

23 292. Beginning in 2018, Defendants have committed acts of unfair competition as
24 defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent
25 practices and acts described above, including, but not limited to, failing to pay Corporate
26 Defendants wages and commissions; discriminating, harassing, retaliating and failing to prevent
27 discrimination and harassment against employees; engaging in violations under FEHA; paying
28 bribes; permitting a felon to impersonate a licensed public adjuster; misappropriating Corporate
Defendants funds for their own purposes, including funding personal trips, purchasing prostitutes,
extravagant parties in strip clubs including lap dances and other sexual acts paid for with
Corporate funds; and discriminating, harassing, retaliating, reducing the terms and conditions of
Johnson’s employment with Corporate Defendants, and ultimately wrongfully terminating

1 Johnson from Corporate Defendants due to his age, disability, and in retaliation for his exercise
2 of his right to oppose harassment and discrimination.

3 293. The acts and practices described above constitute unfair, unlawful and fraudulent
4 business practices, and unfair competition, within the meaning of the Unfair Business Practices
5 Act. Defendants engaged in the above conduct for the purposes of reducing Corporate
6 Defendants' value by reducing its productivity and efficiency, so that when Johnson was forced
7 to sell his ownership stake, it would come at a reduced cost relative to the potential value of
8 Corporate Defendants, thereby artificially reducing the price of Corporate Defendants shares and
9 committing fraud on the market.

10 294. The acts and practices described above have allowed and will allow Corporate
11 Defendants to gain an unfair competitive advantage over law-abiding competitors who do not
12 seek to unlawfully discriminate, retaliate, and terminate employees on the basis of marital status,
13 religion, or political affiliation.

14 295. Johnson is entitled to restitution pursuant to B&P Code § 17203 for all moneys
15 unlawfully taken from him by Defendants during the four-year period prior to the filing of this
16 Complaint.

17 296. Injunctive relief is necessary and appropriate to prevent Corporate Defendants
18 from repeating their unlawful, unfair, and fraudulent business acts and practices described herein.

19 297. Pursuant to the B&P Code § 17203 and/or any other applicable law, Johnson seeks
20 an order preventing Corporate Defendants from engaging in an unlawful, unfair, and fraudulent
21 conduct, and preventing Corporate Defendants from profiting and benefiting from illegal and
22 wrongful acts.

23 298. Pursuant to the B&P Code § 17202, Johnson's success in this action will enforce
24 important rights affecting the public interest.

25 299. Johnsons takes upon themselves for the enforcement of these laws and prosecution
26 of these lawful claims. There is a financial burden involved in pursuing this action. Because this
27 action is seeking to vindicate an important public right, it would be against the interests of justice
28 to penalize Johnson by forcing them to pay attorneys' fees from any amount recovered from this
action.

300. An award of attorneys' fees is appropriate for this cause of action, inter alia,
pursuant to Code of Civil Procedure § 1021.5 and other applicable laws, because: a) this action

1 will confer a significant benefit upon the general public; b) there is a financial burden involved
2 in pursuing this action; and c) it would be against the interest of justice to force Johnson to pay
3 attorneys' fees from any amount recovered in this action.

4 **JURY DEMAND**

5 301. Johnson hereby demands a trial by jury in this action.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Johnson prays for judgment against Defendants, as follows:

8 1. For compensatory damages, restitution and such other damages according to
9 proof, including damages from Individual Defendants for the amount of damages sustained by
10 Corporate Defendants and Johnson as a result of Individual Defendants' breaches of fiduciary
11 duties, abuse of control, and unjust enrichment;

12 2. For injunctive relief, directing Corporate Defendants to take all necessary actions
13 to reform and improve their corporate governance and internal procedures to comply with
14 applicable laws and to protect Corporate Defendants and its shareholders from a repeat of the
15 damaging events described herein, including, but not limited to, putting forward for shareholder
16 vote resolutions for amendments to Corporate Defendants' By-Laws or Articles of Incorporation
17 and taking such other action as may be necessary to place before shareholders for a vote the
18 following corporate governance policies:

19 a. A proposal to ensure that all stock options and warrants granted to executive
20 and non-executive employees are properly awarded, valued and administered; and

21 b. Appropriately test and then strengthen the internal audit and control functions.

22 3. For general damages according to proof, including damages for emotional distress
23 and mental anguish;

24 4. For punitive damages;

25 5. For statutory and civil penalties and damages;

26 6. For injunctive relief;

27 7. For attorneys' fees and costs of suit;

28 8. For interest, including prejudgment interest at the legal rate; and

9. For such other and further relief as the Court may deem proper.

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Dated: June 29, 2020

CRAVENS & ASSOCIATES



By: _____

Daniel J. Cravens
Attorneys for Johnson GARY JOHNSON

EXHIBIT 1

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

FEPA

EEOC

550-2018-01843

California Department Of Fair Employment & Housing

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)

Mr. Gary Johnson

Home Phone (incl. Area Code)

Date of Birth

1954

Street Address

City, State and ZIP Code

3829 Antonin Way, Pleasanton, CA 94566

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

GREENSPAN ADJUSTERS INTERNATIONAL, INC.

No. Employees, Members

15 - 100

Phone No. (include Area Code)

Street Address

City, State and ZIP Code

400 Oyster Point Blvd., Suite 519, South San Francisco, CA 94080

Name

No. Employees, Members

Phone No. (include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY GENETIC INFORMATION
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest: 11-01-2017 Latest: 08-15-2018

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s))

Please see attached charge narrative.

RECEIVED

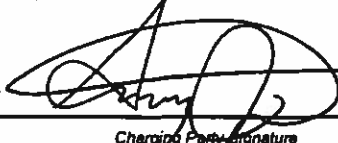
OCT 12 2018

EEOC - OLO

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

10/11/2018
Date


Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

RECEIVED

OCT 09 2018

EEOC - OLO

Additional Background Facts for EEOC:

GARY JOHNSON V. GREENSPAN ADJUSTERS INTERNATIONAL, INC.

Reason for complaint to the EEOC: Gary Johnson (“Mr. Johnson”) was born in 1954 and is approximately 64 years old. Mr. Johnson was previously employed by Greenspan Adjusters International, Inc. (“Company”), where he was subjected to (a) age discrimination; (b) disability discrimination; (c) filing a workers’ compensation claim; and (d) retaliation for making complaints to management, including reporting sexual harassment/discrimination involving other employees. Most of the discrimination happened in California, although part of the events occurred while Mr. Johnson was on assignment in Puerto Rico.

The Company is located 400 Oyster Point Blvd., Suite 519, South San Francisco, CA 94080. The President of the Company is Gordon Scott, III.

Mr. Johnson resides at 3829 Antonin Way, Pleasanton, CA 94566.

The final act of discrimination/retaliation occurred by the Company on August 15, 2018 when Mr. Johnson was terminated from employment.

The Company is an independent public insurance adjuster with its office in South San Francisco, California. Mr. Johnson resides in Pleasanton, California and was previously employed with the Company as a public adjuster. Following Hurricane Maria in Puerto Rico, the Company sent a team of employees to Puerto Rico to help with insurance related matters as a result of the destruction caused by the hurricane. Mr. Johnson was one of the employees sent from the Company’s California headquarters to work in the Puerto Rico insurance issues. Mr. Johnson arrived in Puerto Rico in late October 2017 at the Company’s request.

In November 2017, while in Puerto Rico, Mr. Johnson notified Company management (*i.e.*, Gordon Scott, the CEO/President) that he had received complaints from other employees, including Andy Woodbridge, that they were subjected to potential sexual harassment and related inappropriate conduct occurring in Puerto Rico by Eric Metz. Gordon Scott asked Mr. Johnson to gather additional information and to request that Mr. Woodbridge make a formal report to the Company. At Mr. Scott’s request, Mr. Johnson followed up with Mr. Woodbridge to solicit a written statement that was ultimately forwarded to management, including Clay Gibson (the Company’s COO). Other Company employees refused to work with Mr. Metz because Mr. Metz’s conduct allegedly caused severe emotional trauma. Indeed, Mr. Johnson’s own relationship with Mr. Metz was strained as a result of the emotional trauma that Mr. Metz’s alleged conduct caused on Mr. Johnson’s son, Kevin Johnson, who was also working with Mr. Metz in Puerto Rico at the time.

Unfortunately, the complaint was against Eric Metz, one of the Company’s rising stars. That infuriated the Company’s management, including Mr. Scott and Mr. Gibson. Mr. Scott and Mr. Gibson then engaged in blatant retaliation against Mr. Johnson for not protecting Mr. Metz and for being “rude” to him. Indeed, the Company’s COO, Mr. Gibson, complained in writing that Mr. Johnson’s report of alleged sexual harassment by Mr. Metz was somehow improper and that Mr. Johnson bringing the serious issue to the attention of management was merely “retaliation”

by Mr. Johnson against Mr. Metz. Mr. Gibson expected Mr. Johnson to sweep the allegations under the rug as opposed to reporting them. The fact that Mr. Gibson immediately blamed Mr. Johnson for even daring to report Mr. Metz' inappropriate conduct speaks volumes. The Company purported to conduct an "investigation" into the conduct of Mr. Metz. However, over the course of the alleged "investigation" it is evident that the Company sought to retaliate against Mr. Johnson for daring to bring the matter forward. Mr. Johnson understands that the Company's "investigation" ultimately found that Mr. Metz had, in fact, engaged in inappropriate conduct, the investigation allegedly concluded that the inappropriate conduct and alleged sexual harassment was ok because nobody "was offended by Mr. Metz' conduct." The Company apparently believed that the alleged conduct was fine, so long as it concludes that others were not "offended." That is a strange way to run a workforce. That conclusion is also odd considering that people *were* offended. That was the very reason complaints were made and forwarded to Company management – because the alleged conduct made them feel uncomfortable. Moreover, certain individuals, including Kevin Johnson, had to seek treatment related to the conduct. For the Company to have concluded that "nobody was offended" simply defies belief.

Moreover, consistent with Mr. Gibson's initial reaction to blame Mr. Johnson for reporting Metz's inappropriate conduct, the "investigation" then found that Mr. Johnson was the at-fault person. The investigator could obviously not go along with Mr. Gibson's attempt to conclude that the report by Mr. Johnson and Mr. Woodbridge and others against Mr. Metz was "retaliation" against Mr. Metz. Instead, the Company caused the investigator to take a different approach and conclude that Mr. Johnson was at fault for allegedly not reporting Metz' improper conduct *quickly* enough. Thus, on the one hand, the Company took the position that Mr. Johnson should not have reported the incidents at all because it was allegedly not offensive conduct, whereas the alleged investigation found the Mr. Johnson did not report the incidents quickly enough and was therefore at fault. Either way, it is obvious the Company held a grudge against Mr. Johnson and set out to find him as the "at-fault" party. It is so unfortunate that in today's current environment that there are still corporate leaders, such as Mr. Scott and Mr. Gibson, that retaliate against those who report alleged sexual harassment or other inappropriate conduct.

Just as the Company was completing its "investigation" into Mr. Metz' alleged inappropriate conduct and falsely concluding that Mr. Johnson was the one who had acted improperly by not reporting it quickly enough, Mr. Scott and others in Company management engaged in a full-throttled effort to remove Mr. Johnson from all Company positions and force him out of the Company.

In early May 2018, Mr. Scott and Paul Migdal telephoned Mr. Johnson to communicate their scheme to force Mr. Johnson off any leadership position within the Company. While the timing was tied in part to the complaints Mr. Johnson had made about the management and the reporting of Mr. Metz's conduct, it was consistent with Mr. Scott's expressed scheme to look for "younger" employees to take over management positions. Scott further retaliated against Mr. Johnson by removing him from the Puerto Rico operations, ordering him to return to California, and replacing him with Masood Khan. While the Company had already retaliated against Mr. Johnson by purportedly stripping him of all authority within the Company, this additional step was intended to "punish" Mr. Johnson by affecting his income and attempting to cut off his commission stream from very valuable commissions he was working to obtain from work. Mr.

Johnson complied with the Company's demands and returned to California to work on insurance issues for the Company.

Mr. Johnson was continuing to have lingering physical problems as a result of a life threatening work related accident he suffered a few years prior in 2012. The Company had previously provided him accommodations, such as not requiring him to climb ladders when his back was flaring up, etc. However, the Company became less and less receptive to providing such accommodations. At the time of the original life threatening injury that had rendered him confined to a hospital bed for a significant amount of time, Company representatives, including Ivo Labor (Company counsel), Gordon Scott (President/CEO), Kim Quackenbush and Paul Migdal, worked to convince Mr. Johnson not to file a workers' compensation claim. Mr. Johnson specifically inquired about a workers' compensation claim, but the Company (including those listed above) conspired to prevent such a claim. In one December 19, 2012 correspondence, the Company noted its plan to convince Mr. Johnson against filing a formal workers' compensation claim. Mr. Labor wrote to Ms. Quackenbush on December 19, 2012 that "Gary could submit a workers comp claim against Greenspan but I don't see why he would do that." Mr. Labor promised to "discuss with Gary about his options moving forward..." The Company convinced the third party that had caused the accident to handle the matter with Mr. Johnson so he would not file a workers' compensation claim. However, in May 2018, Mr. Johnson reached out to the Company and again inquired about a workers' compensation claim considering that he was still having trouble and in light of the Company's disinclination to continue accommodating his injuries. Ultimately, following a back-and-forth with Company representatives, Mr. Johnson filed his California workers' compensation claim on or about June 26, 2018 relating to his prior injuries and ongoing symptoms. In the workers' compensation claim form, Mr. Johnson listed the affected areas/injuries as "Neck, whiplash (severe jerk of the head), 4-5 discs bulging, right knee lacerated, MRSA ensued followed by Pulmonary Embolism."

As a result of the earlier retaliation by the Company, how he was treated with regard to reporting Mr. Metz's sexual harassment, and the interaction with the Company over trying to deal with his physical issues from the accident and the workers' compensation claim, Mr. Johnson suffered significant stress causing him to see a psychiatrist, Dr. Alf Johnson (no relation to Gary Johnson). The Company retaliated against Mr. Johnson further. Mr. Johnson notified the Company that he was taking a few days of vacation from July 1 through July 9 to rest. Around the same time, Dr. Alf Johnson, provided the Company with a June 25, 2018 letter noting that he was treating Mr. Johnson for stress and anxiety. Dr. Alf Johnson noted that he recommended Mr. Johnson schedule a one hour session with him once a week for six months. His letter requested that the Company accommodate Mr. Johnson's need for such occasional therapy treatments during the workweek by affording him time to attend such session. The Company used that request to attend a few therapy sessions as a transparent basis to further retaliate against Mr. Johnson. Instead of merely accommodating his need to attend one hour therapy sessions, on July 3, 2018, the Company ordered Mr. Johnson on a full-time "FMLA leave" until further notice.

When Mr. Johnson told the Company that he wanted to take a paid vacation from July 1 through July 9 and then attend one hour therapy sessions once per week, the Company told him not to

return to work until further notice. Mr. Johnson reminded the Company that he had business meetings planned beginning on July 16 that he needed to attend. The Company's responded with an unprofessional communication from the Mr. Gibson (the COO) that stated: "I am Chief Operations Officer of the Company and as such I am instructing you to NOT return to work until such time as the Company allows you to do so, we are turning off your e-mail account and your cell phone." The Company then followed up with a letter to Mr. Johnson, dated July 3, 2018, stating that based on the information received from his physician, Mr. Johnson was being placed on a "leave of absence for [his] own serious health condition" under the Company's FMLA policy. Of course, that was totally disingenuous and neither Mr. Johnson nor his physician recommended such a forced FMLA leave.

Notwithstanding the obvious retaliatory purpose of the Company forcing Mr. Johnson on an indefinite leave and turning off his phone and e-mail, Dr. Alf Johnson made a good faith attempt to clarify his position and correct the Company's feigned confusion. Dr. Alf Johnson submitted his Saturday, July 7, 2018 letter clearly stating that "at the present time, Mr. Johnson is able to return to work with" the Company on Monday, July 9. With regard to the stress and anxiety for which Dr. Alf Johnson was treating Mr. Johnson, Dr. Alf Johnson wrote that he did "**not** believe that Mr. Johnson's current symptoms are of such a debilitating nature that would compromise his effectiveness and efficiency as an employee and, accordingly, impair his ability to function with assigned work responsibilities." (emphasis added). Dr. Alf Johnson sent a similar July 9, 2018 letter again stressing that Mr. Johnson could return to work.

Notwithstanding the repeated and clear statements from Dr. Alf Johnson that the Company was clearly overacting in forcing Mr. Johnson into an indefinite medical leave of absence, the Company doubled down in its retaliation. Instead of allowing Mr. Johnson to return to work, the Company engaged in a charade to keep him from ever returning from work. Realizing that it could no longer force Mr. Johnson on an FMLA leave that Mr. Johnson did not want and that the physician stated was not warranted, the Company sent Mr. Johnson a letter on July 9 changing the FMLA leave to a paid "administrative leave." The Company's letter further stated that "You are instructed to remain away from the office and perform no work during the duration of this leave." The purported basis for such new "administrative leave" was the fabricated allegation that the Company needed "time to evaluate and communicate" with Mr. Johnson's healthcare provider. That specious reason was just another stalling tactic to never let Mr. Johnson work again until it could find a reason to fire him or cause him to quit.

Mr. Johnson wrote to the Company on July 10 to try to amicably work this out. Mr. Johnson emphasized that:

"I believe it was very clear from my physician's most recent correspondence that I am cleared to return to work. I believe Greenspan Adjusters International is presently in violation of the law in its retaliation against me."

It is clear that the Company would not permit Mr. Johnson to remain employed following his reporting alleged sexual harassment and other inappropriate conduct, complaints regarding management's treatment of him and complaints of the Company potentially committing fraud to

the State of California (by hiring a person that it was not permitted to hire), and his retention of an attorney to help him understand his rights.

The Company responded with a July 13, 2018 letter reiterating that Mr. Johnson was on a forced administrative leave so the Company could further consider his physician's statements that he was able to work. The Company again emphasized that it would not allow Mr. Johnson to "perform any work" even though he is able to do so. Notwithstanding his physician's prior communications that he was able to return to work, the Company then demanded that Dr. Alf Johnson complete a "questionnaire" that the Company created asking additional questions. It is obvious that the Company was just using the questionnaire as a further attempt to prevent him from ever returning to work. On or about July 22, the Company received from Dr. Alf Johnson the completed questionnaire, again clearly noting that Mr. Johnson was able to return to work.

Instead of allowing Mr. Johnson to return to work, the Company came up with a *new* reason to use as a pretext to never allow him to work for the Company again. The Company sent Mr. Johnson a July 24, 2018 correspondence claiming that the Company was now investigating unspecified alleged misconduct by Mr. Johnson while on assignment in Puerto Rico in 2017 and early 2018.

The Company then demanded that Mr. Johnson attend an "interview" on July 31, 2018 before the Company made "any final decisions" on the alleged investigation into Mr. Johnson. The Company refused to identify the topics of the interview in advance and refused to allow Mr. Johnson to be accompanied by his attorney. The Company's representative even stated in writing: "The Company will not provide information about the subject matter of the interview in advance." Worst yet, the "interviewers" included Clay Gibson and Gordon Scott – two of the very people at the focus of Mr. Johnson's prior complaints of retaliation. At the "interview," the Company tasked those individuals to specifically grill Mr. Johnson about his claims against them – further retaliating against Mr. Johnson by creating a hostile environment where he was forced to endure a grilling by those who he had complained about. Mr. Johnson believes that the Company's actions are very troubling from an HR perspective and illegal. Normally when a Company conducts an "investigation" into alleged wrongdoing by an employee (even a specious investigation), the Company utilizes someone who at least appears neutral. Here, the Company threw out any semblance of neutrality and used the very persons Mr. Johnson has been complaining about to conduct the interview – obviously intended to intimidate Mr. Johnson further.

Although Mr. Johnson answered all the Company's questions, completed all the medical paperwork the Company demanded, and after the Company could find no other reason to refuse Mr. Johnson's return to work, the Company then just terminated him without any real explanation. On August 15, 2018, the Company's COO, Clay Gibson, sent Mr. Johnson a letter stating that "Our investigation into your conduct revealed numerous violations of Company policies [and this] letter is to inform you that as of today, August 15, 2018, we are terminating your employment with the Company." The Company declined to provide any further explanation for my termination. I believe I was terminated as retaliation for the conduct described above.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Gary Johnson**
3829 Antonin Way
Pleasanton, CA 94566

From: **Oakland Local Office**
1301 Clay Street
Ste. 680-North
Oakland, CA 94612

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
550-2018-01843	Ahlam Abdellatif, Investigator	(510) 956-0005

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


Dana C. Johnson,
Acting Local Director

12/06/19
 (Date Mailed)

Enclosures(s)

cc: **Paul M. Migdal**
Principal
GREENSPAN CO./ADJUSTERS INTERNATIONAL
400 Oyster Point Blvd, Suite 519
South San Francisco, CA 94080

Chris C. Scheithauer, Esq.
MCDERMOTT WILL & EMERY LLP
4 Park Plaza, Suite 1700
Irvine, CA 92614

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
the Genetic Information Nondiscrimination Act (GINA), or the Age
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should keep a record of this date. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed within 90 days of the date this Notice was mailed to you (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred more than 2 years (3 years) before you file suit may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 – not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, please make your review request within 6 months of this Notice. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

NOTICE OF RIGHTS UNDER THE ADA AMENDMENTS ACT OF 2008 (ADAAA): The ADA was amended, effective January 1, 2009, to broaden the definitions of disability to make it easier for individuals to be covered under the ADA/ADAAA. A disability is still defined as (1) a physical or mental impairment that substantially limits one or more major life activities (actual disability); (2) a record of a substantially limiting impairment; or (3) being regarded as having a disability. *However, these terms are redefined, and it is easier to be covered under the new law.*

If you plan to retain an attorney to assist you with your ADA claim, we recommend that you share this information with your attorney and suggest that he or she consult the amended regulations and appendix, and other ADA related publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.

“Actual” disability or a “record of” a disability (note: if you are pursuing a failure to accommodate claim you must meet the standards for either “actual” or “record of” a disability):

- **The limitations from the impairment no longer have to be severe or significant** for the impairment to be considered substantially limiting.
- In addition to activities such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, concentrating, reading, bending, and communicating (more examples at 29 C.F.R. § 1630.2(i)), **“major life activities” now include the operation of major bodily functions**, such as: functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions; or the operation of an individual organ within a body system.
- **Only one** major life activity need be substantially limited.
- With the exception of ordinary eyeglasses or contact lenses, **the beneficial effects of “mitigating measures”** (e.g., hearing aid, prosthesis, medication, therapy, behavioral modifications) **are not considered** in determining if the impairment substantially limits a major life activity.
- An impairment that is **“episodic”** (e.g., epilepsy, depression, multiple sclerosis) or **“in remission”** (e.g., cancer) is a disability if it **would be substantially limiting when active**.
- An impairment **may be substantially limiting even though** it lasts or is expected to last **fewer than six months**.

“Regarded as” coverage:

- An individual can meet the definition of disability if an **employment action was taken because of an actual or perceived impairment** (e.g., refusal to hire, demotion, placement on involuntary leave, termination, exclusion for failure to meet a qualification standard, harassment, or denial of any other term, condition, or privilege of employment).
- “Regarded as” coverage under the ADAAA no longer requires that an impairment be substantially limiting, or that the employer perceives the impairment to be substantially limiting.
- The employer has a defense against a “regarded as” claim only when the impairment at issue is objectively **BOTH** transitory (lasting or expected to last six months or less) **AND** minor.
- A person is not able to bring a failure to accommodate claim *if* the individual is covered only under the “regarded as” definition of “disability.”

Note: *Although the amended ADA states that the definition of disability “shall be construed broadly” and “should not demand extensive analysis,” some courts require specificity in the complaint explaining how an impairment substantially limits a major life activity or what facts indicate the challenged employment action was because of the impairment. Beyond the initial pleading stage, some courts will require specific evidence to establish disability.* For more information, consult the amended regulations and appendix, as well as explanatory publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.

EXHIBIT 2



**U.S. Equal Employment Opportunity Commission
Oakland Local Office**

1301 Clay Street
Suite 1170 N
Oakland, CA 94612
(510) 637-3230
TDD: 1-800-669-6820
Fax: (510) 637-3235
1-800-669-4000

Respondent: ADJUSTERS INTERNATIONAL PACIFIC NORTHWEST, INC.
EEOC Charge No.: 551-2019-02285
FEPA Charge No.:

June 14, 2019

Gary Johnson
2425 Heritage Oaks Dr.
Alamo, CA 94507

Dear Mr. Johnson:

This is to acknowledge receipt of the above-numbered charge of employment discrimination against the above-named respondent. Please use the "EEOC Charge No." listed above whenever you call us about this charge. The information provided indicates that the charge is subject to:

- Title VII of the Civil Rights Act of 1964 (Title VII)
- The Age Discrimination in Employment Act (ADEA)
- The Americans with Disabilities Act (ADA)
- The Equal Pay Act (EPA)
- The Genetic Information Nondiscrimination Act (GINA)

You need do nothing further at this time. We will contact you when we need more information or assistance. A copy of the charge or notice of the charge will be sent to the respondent within 10 days of our receipt of the charge as required by our procedures.

Please be aware that we will send a copy of the charge to Washington State Human Rights Commission 711 South Capitol Way Suite 402 Olympia, WA 98504 as required by our procedures. If the charge is processed by that agency, it may require the charge to be signed before a notary public or an agency official. Then the agency will investigate and resolve the charge under their statute. If this occurs, section 1601.76 of EEOC's regulations entitles you to ask us to perform a Substantial Weight Review of the agency's final finding. To obtain this review, a written request must be made to this office within 15 days of receipt of the agency's final finding in the case. Otherwise, we will generally adopt the agency's finding as EEOC's.

The quickest and most convenient way to obtain the contact information and the status of your charge is to use EEOC's Online Charge Status System, which is available 24/7. You can access the system via this link (<https://publicportal.eeoc.gov/portal>) or by selecting the "My Charge Status" button on EEOC's Homepage (www.eeoc.gov). To sign in, enter your EEOC charge number, your zip code and the security response. An informational brochure is enclosed that provides more information about this system and its features.

While your charge is pending, please notify us of any change in your address, or where you can be reached if you have any prolonged absence from home. Your cooperation in this matter is essential.

Sincerely,

Bryan G. Hoss
Bryan G. Hoss
Intake Supervisor
OAKLGOV@eeoc.gov

Office Hours: Monday – Friday, 8:00 a.m. - 4:30 p.m.
www.eeoc.gov

Enclosure(s):



WHAT YOU SHOULD DO AFTER YOU HAVE FILED A CHARGE WITH EEOC

➤ KEEP YOUR DOCUMENTS – BOTH PAPER AND ELECTRONIC

Now that you have filed an EEOC charge, you must keep anything that might be evidence related to your charge. This includes *all* documents, communications, and electronic information that are potentially related to your EEOC charge, including the harm caused by the discrimination, and all records of your communications with the EEOC. Even if you are not sure whether the information is relevant to your discrimination claim, please do not throw it away or delete it.

➤ WHAT INFORMATION MUST YOU KEEP?

- **Paper documents**, such as:
 - Employee manuals, pay stubs, work schedules
 - Letters, memos, your notes
 - Pictures, drawings, charts, whether or not they contain words
- **Electronic information**, such as:
 - E-mails, text messages, tweets, and social media posts and pictures
 - Voice messages, video and sound recordings
 - Word processing documents, electronic calendar entries
- **Electronic memory on devices or the devices themselves**, such as:
 - Memory on computers, laptops, tablets, cell phones
 - Computers, laptops, tablets, cell phones
 - Do not delete, replace, alter, “wipe,” or “clear” your computer hard drive, electronic tablet, or cell phone, and do not change or remove Internet posts, without retaining an electronic copy. If you dispose of any old computers, phones or devices, make sure you make and keep an electronic copy of all potentially relevant information on the device.
- These are some examples and not a complete list.
- If you have questions about what you should or should not do, please contact your investigator.

Why must you keep this information? It might be evidence related to your charge. We are required by the courts to ensure that all potentially relevant information is retained. **Please note that failure to keep these records may cause you to lose your case, or to lose the right to recover money lost due to the discrimination.**

What happens to your information? Your investigator will discuss with you what information is needed by the EEOC to investigate your charge. Information that you provide that happens to be private or personal in nature will not be disclosed by the EEOC during its investigation, and if the EEOC files suit on your charge, we will do our best to keep such information out of the court proceedings.

Please see page 2 for additional important information.

➤ **LOOK FOR WORK IF YOU ARE OUT OF WORK**

If you lost your job or were not hired due to discrimination, you may be entitled to the pay or wages you lost. However, you cannot receive lost wages unless you can show that you looked for another job to replace the one you lost or were denied due to discrimination. In order to prove you searched for work, you must keep copies of all letters, emails, or other evidence of your job search. If you succeed in finding a new job but it pays less than the job you lost, you may be entitled to the difference in pay. Therefore, it is necessary to keep all evidence of your job search even if you find another job.

In addition to looking for work, you should keep good records of your job search so you can prove that you have tried to find a comparable job. If you are out of work because of discrimination, be sure to save **all** documents and communications, including e-mails, relating to your job search.

➤ **WHAT ARE RECORDS OF YOUR JOB SEARCH?**

The following types of information can prove that you have tried to find work:

- copies of job applications and resumes
- a list of all the companies you contact about jobs by phone, letter or in-person
- copies of e-mails or letters that you send to or receive from companies where you have asked about work or submitted an application
- a list all of the places where you apply and for each one,
 - a. the date of the application;
 - b. the position you were seeking;
 - c. the response you received from your application, such as rejection letters or invitations to interview;
 - d. whether you were interviewed and the date of the interview;
 - e. the results of the interview;
 - f. whether you turned down a job offer, and if you did, why
- notes about what you did to look for work (for example, searching the newspaper or Internet or contacting employment agencies) and the dates that you conduct the search
- copies of your pay stubs or earnings records if you find another job.

If you have questions about what you are required to do, please contact your investigator.

➤ **KEEP US INFORMED**

Once you file a charge with the EEOC, you must tell us if you move or get a new address, telephone number, or e-mail address. We may need to talk to you to get more information. If the EEOC cannot reach you to get necessary information, your charge may be dismissed.

➤ **CALL IF YOU HAVE QUESTIONS**

Your investigator will discuss with you the documents and other evidence we need to investigate your charge. If you have any questions, or for inquiries about the status of your case, please contact your investigator directly or call 1-800-669-4000.

EEOC Online Charge Status System Tip Sheet

Find out about the status of your charge of discrimination any time, day or night, using the EEOC Online Charge Status System. The system is available for charges that were filed on or after September 2, 2015.

- Access the Online Charge Status System via this link <https://publicportal.eeoc.gov/portal/> or select the “My Charge Status” button on www.eeoc.gov.
- Enter your assigned charge number (found in the upper right hand corner on your discrimination charge form) and your zip code (as it appears on your discrimination charge form) to sign in. (If you have provided a new address and zip code to EEOC, use the new zip code.) You will be asked to enter a security code displayed in a box on the sign-in screen that is provided to assure additional security for the system.
- After you have signed into the Online Charge Status System, you will see the screen display pictured below. The numbers on the screen shot refer to the features explained beneath it.*

The screenshot shows the EEOC Online Charge Status System Public Portal. At the top is the EEOC logo and the text "U.S. Equal Employment Opportunity Commission Public Portal". Below this is the "Online Charge Status System" header. A message states: "Below is the current status and information about the charge you have filed with the EEOC. Placing your cursor over any of the status boxes or the individual listed entries, will provide additional information about each item that will display in a text box. Additionally, for an overview of the charge process, select the 'Show Full Process' button below." Below this message is a table with three columns: "Status of the charge is", "Contact Information", and "Office Information". The "Status of the charge is" column shows "INVESTIGATION". The "Contact Information" column shows "Joe Investigator" and "joe.investigator@eeoc.gov". The "Office Information" column shows "EEOC Charlotte District Office", "129 W. Trade Street", "Charlotte, NC", and "28202". Below the table is a process flow diagram with three stages: "INTAKE", "INVESTIGATION", and "NEXT STEP". The "INTAKE" stage has a green box with "[1] 11/20/2015 Charge is filed". The "INVESTIGATION" stage has a blue box with "[2] 11/20/2015 Your charge has been transferred to the investigation division", "[3] 11/20/2015 Your charge has been assigned to an investigator", and "[4] 01/15/2016 EEOC is collecting evidence about your charge." The "NEXT STEP" stage has a yellow box with "Possible next steps on your charge may include the following: -Determination of no reasonable cause may be issued", "-Notice of Right to Sue may be issued upon request and charge may be closed", "-Determination of reasonable cause may be issued", and "-Charge may be withdrawn with benefits secured independent of EEOC and charge may be closed". Below the process flow diagram are two buttons: "Show Full Process" and "Logout". At the bottom of the page is the copyright notice: "Copyright © 2013-2014 Ains Inc. All rights reserved." Eight numbered callouts (1-8) are placed around the screenshot, pointing to specific features: 1 points to the "INVESTIGATION" status box; 2 points to the "Contact Information" column; 3 points to the "Office Information" column; 4 points to the "INTAKE" stage; 5 points to the "INVESTIGATION" stage; 6 points to the "NEXT STEP" stage; 7 points to the "Show Full Process" button; and 8 points to the "Logout" button.

1. A quick view of the stage in the process at which your charge is currently.
2. The name and contact information of the EEOC staff member assigned to your charge or a note that your charge is pending assignment.
3. The EEOC office (and its address) that is handling your charge.
4. The specific actions the EEOC has taken on your charge, numbered sequentially, and the date of each action. (hold cursor over each action to read further details about the task).
5. The general steps in the process, with additional explanations that display when you hold your cursor over a colored box.
6. The range of next steps possible in the investigative process, which pops up when the cursor is held over this box.
7. The flow of the overall investigative process, which comes up when you click on this box.
8. Ends your session on the Online Charge Status System.

**Not every stage of the enforcement process will display for every charge, as each charge follows the process most appropriate to the facts in the charge and the stages of the investigation.*

Keep in mind that the EEOC process takes time, so there will be gaps between entries about your charge in the Online Charge Status System. Even when you do not see any change in the status of your charge, EEOC staff are hard at work.

Sworn Statement Of Additional Background Facts for EEOC Charge # # **551-2019-02285**:

GARY JOHNSON V. ADJUSTERS INTERNATIONAL PACIFIC NORTHWEST
EEOC Charge # **551-2019-02285**

This sworn statement relates to Gary Johnson's ("Mr. Johnson") EEOC Charge #551-2019-02285, which is a companion case to EEOC Charge #555-2018-01843.

This charge is against Adjusters International Pacific Northwest, Inc. ("AIPNW"). Mr. Johnson previously filed EEOC Charge # 50-2018-01843 against a related company, Greenspan Adjusters International, Inc. ("Greenspan"), in connection with the treatment he received, including ultimate termination of employment. Greenspan is a 49% shareholder in AIPNW, which has its primary place of business in Seattle. Greenspan effectively controls AIPNW. Mr. Johnson was an employee of both AIPNW and Greenspan. Mr. Johnson received a monthly salary for work he did for AIPNW and also served on the Board. Shortly after Greenspan terminated Mr. Johnson (August 15, 2018), AIPNW also stopped paying Mr. Johnson his monthly salary and terminated him at the request of Greenspan. Thus, AIPNW terminated Mr. Johnson in retaliation for the same issues he complained about involving Greenspan. The President of AIPNW, Mr. Drew Lucurell, told Mr. Johnson sometime in late August 2018 that AIPNW had to follow Greenspan's lead in terminating him. One of Greenspan's CEO, Gordon Scott ("Mr. Scott"), is also on the Board at AIPNW and appears to have instructed Mr. Lucurell to fire Mr. Johnson. Thus, the conduct and termination appears to be at the request of Greenspan and as part of the pattern of discrimination and retaliation against Mr. Johnson by Greenspan and AIPNW. AIPNW gave Mr. Johnson no reason for the termination other than AIPNW was firing him at the request of Mr. Scott for the same reasons that Greenspan terminated Mr. Johnson.

The remainder of this narrative goes through the background of the discrimination and retaliation that Mr. Johnson suffered at Greenspan, which then also led to the discrimination and retaliation at AIPNW because many of the same principals exist at Greenspan and AIPNW. For example, Mr. Scott effectively controls both Greenspan and AIPNW and his decisions ultimately led to Mr. Johnson being terminated at both Greenspan and AIPNW.

Mr. Johnson was born in 1954 and is approximately 65 years old. Mr. Johnson was previously employed by Greenspan where he was subjected to (a) age discrimination; (b) disability discrimination; (c) filing a workers' compensation claim; and (d) retaliation for making complaints to management, including reporting sexual harassment/discrimination involving other employees. As explained above and below, because Greenspan and AIPNW are closely aligned companies with many of the same principals controlling the two companies, Mr. Johnson suffered discrimination and retaliation at both companies, which culminated in him being terminated from both companies around the same time in August 2018.

AIPNW is located at 4300 36th Ave. W, Magnolia, Washington, 98199. The phone number for AIPNW is 800-426-0677. The President of the AIPNW is Drew Lucurell. Principals at AIPNW who also key members of Greenspan are including Gordon Scott, III, Paul Migdal, and Steven Severaid, among others.

Mr. Johnson resides at 2425 Heritage Oaks Dr., Alamo, Ca., 94507

The final act of discrimination/retaliation occurred by AIPNW in late August 2018 when Mr. Johnson was terminated from employment. Mr. Johnson's last salary that he received from AIPNW was for the period ending August 31, 2018.

AIPNW and Greenspan are both independent public insurance adjusting companies. Mr. Johnson previously was employed with the both AIPNW and Greenspan as a public adjuster.

A. **Greenspan's CEO Became Incensed When Mr. Johnson Began Objecting To Greenspan Engaging In What Mr. Johnson Believes Is Illegal Activities**

In late 2016 and 2017, Mr. Johnson raised concern that one of the persons taking a larger role in Greenspan management (Mark Fratkin) had felony convictions for embezzlement and was statutorily banned from certain roles in the insurance industry. Those issues are also the subject of a 2018 complaint Mr. Johnson and others have made to the California Department of Insurance.

Mr. Scott, Greenspan's CEO and one of the principals of AIPNW, became incensed about Mr. Johnson's complaining to him about Mr. Fratkin and told Mr. Johnson to mind his own business and that Mr. Johnson was "just an employee." Following Hurricane Maria in Puerto Rico, Mr. Scott told Mr. Johnson that he was being sent away on assignment to Puerto Rico and to start behaving. When Mr. Johnson objected to being shipped off to Puerto Rico because of his "complaining," Mr. Scott provided Mr. Johnson a revised written commission structure ("Stand Alone Agreement"). Mr. Johnson arrived in Puerto Rico in late October 2017 as ordered.

B. **Mr. Johnson Was Retaliated Against Because Of Reporting Inappropriate Sexual Conduct By Eric Metz And Purportedly Because Of Mr. Johnson's Age**

Mr. Johnson believes he was "removed from his assignment in Puerto Rico" as an act of further retaliation by Mr. Scott and to preclude Mr. Johnson from reaping the rewards of large commissions that he would have obtained in Puerto Rico.

In November 2017, while in Puerto Rico, Mr. Johnson notified Greenspan management (*i.e.*, Gordon Scott, the CEO) that he had received complaints from other employees, including Andy Woodbridge, that they were subjected to potential sexual harassment and related inappropriate conduct occurring in Puerto Rico by Eric Metz. Mr. Scott asked Mr. Johnson to gather additional information and to request that Mr. Woodbridge make a formal report to the company. At Mr. Scott's request, Mr. Johnson followed up with Mr. Woodbridge to solicit a written statement that was ultimately forwarded to management, including Clay Gibson (the company's COO). Other employees refused to work with Mr. Metz because Mr. Metz's conduct allegedly caused severe emotional trauma. Indeed, Mr. Johnson's own relationship with Mr. Metz was strained as a result of the emotional trauma that Mr. Metz's alleged conduct caused on Mr. Johnson's son, Kevin Johnson, who was also working with Mr. Metz in Puerto Rico at the time.

Unfortunately, the complaint was against Eric Metz, one of Greenspan's rising stars. That infuriated the Mr. Scott and Mr. Gibson. Mr. Scott and Mr. Gibson then engaged in blatant retaliation against Mr. Johnson for not protecting Mr. Metz and for being "rude" to him. Indeed,

Greenspan's COO, Mr. Gibson, complained in writing that Mr. Johnson's report of alleged sexual harassment by Mr. Metz was somehow improper and that Mr. Johnson bringing the serious issue to the attention of management was merely "retaliation" by Mr. Johnson against Mr. Metz. Mr. Gibson expected Mr. Johnson to sweep the allegations under the rug as opposed to reporting them. The fact that Mr. Gibson immediately blamed Mr. Johnson for even daring to report Mr. Metz' inappropriate conduct speaks volumes. Greenspan purported to conduct an "investigation" into the conduct of Mr. Metz. However, over the course of the alleged "investigation" it is evident that Greenspan sought to retaliate against Mr. Johnson for daring to bring the matter forward. Mr. Johnson understands that Greenspan's "investigation" ultimately found that Mr. Metz had, in fact, engaged in inappropriate conduct, the investigation allegedly concluded that the inappropriate conduct and alleged sexual harassment was ok because nobody "was offended by Mr. Metz' conduct." Greenspan apparently believed that the alleged conduct was fine, so long as it concludes that others were not "offended." That is a strange way to run a workforce. That conclusion is also odd considering that people *were* offended. That was the very reason complaints were made and forwarded to Greenspan management – because the alleged conduct made them feel uncomfortable. Moreover, certain individuals, including Kevin Johnson, had to seek treatment related to the conduct. For Greenspan to have concluded that "nobody was offended" simply defies belief.

Moreover, consistent with Mr. Gibson's initial reaction to blame Mr. Johnson for reporting Metz's inappropriate conduct, the "investigation" then found that Mr. Johnson was the at-fault person. The investigator could obviously not go along with Mr. Gibson's attempt to conclude that the report by Mr. Johnson and Mr. Woodbridge and others against Mr. Metz was "retaliation" against Mr. Metz. Instead, Mr. Johnson understands that Greenspan caused the investigator to take a different approach and conclude that Mr. Johnson was at fault for allegedly not reporting Metz' improper conduct *quickly* enough. Thus, on the one hand, Greenspan took the position that Mr. Johnson should not have reported the incidents at all because it was allegedly not offensive conduct, whereas the alleged investigation found the Mr. Johnson did not report the incidents quickly enough and was therefore at fault. Either way, it is obvious Greenspan held a grudge against Mr. Johnson and set out to find him as the "at-fault" party.

Just as the company was completing its "investigation" into Mr. Metz' alleged inappropriate conduct and falsely concluding that Mr. Johnson was the one who had acted improperly by not reporting it quickly enough, Mr. Scott and others in management engaged in a full-throttled effort to remove Mr. Johnson from all positions at Greenspan and AIPNW and force him out of the two companies.

In early May 2018, Mr. Scott and Paul Migdal telephoned Mr. Johnson to communicate their scheme to force Mr. Johnson off any leadership position. While the timing was tied in part to the complaints Mr. Johnson had made about the management and the reporting of Mr. Metz's conduct, it was consistent with Mr. Scott's expressed scheme to look for "younger" employees to take over management positions.

Mr. Scott further retaliated against Mr. Johnson by removing him from the Puerto Rico operations, ordering him to return to California, and replacing him with Masood Khan. While Greenspan had already retaliated against Mr. Johnson by purportedly stripping him of all authority within the Company, this additional step was intended to "punish" Mr. Johnson by

affecting his income and attempting to cut off his commission stream from very valuable commissions he was working to obtain from work. Making matters worse, when Mr. Johnson attempted to ascertain the amount of commissions he was still owed, the management threatened him with litigation, claiming that the information was “confidential.” Mr. Johnson complied with the demands and returned to California to work on other matters that did not provide commissions.

C. Greenspan Further Retaliated Against Mr. Johnson By Placing Him On A Forced Leave Of Absence And Commencing A Bogus “Investigation” Designed To Harass Him And Which Was Ultimately Used As A Manufactured Reason To Terminated Him From Greenspan And AIPNW

Mr. Johnson was continuing to have lingering physical problems as a result of a life threatening work related accident he suffered a few years prior in 2012. Greenspan and AIPNW had previously provided him accommodations, such as not requiring him to climb ladders when his back was flaring up, etc. However, the two companies became less and less receptive to providing such accommodations. At the time of the original life threatening injury that had rendered him confined to a hospital bed for a significant amount of time, company representatives, including Ivo Labor (company counsel), Mr. Scott (President/CEO), Kim Quackenbush and Mr. Migdal, worked to convince Mr. Johnson not to file a workers’ compensation claim. Mr. Johnson specifically inquired about a workers’ compensation claim, but management (including those listed above) conspired to prevent such a claim. In one December 19, 2012 correspondence, Greenspan noted its plan to convince Mr. Johnson against filing a formal workers’ compensation claim. Mr. Labor wrote to Ms. Quackenbush on December 19, 2012 that “Gary could submit a workers comp claim against Greenspan but I don’t see why he would do that.” Mr. Labor promised to “discuss with Gary about his options moving forward...” The Company convinced the third party that had caused the accident to handle the matter with Mr. Johnson so he would not file a workers’ compensation claim. However, in May 2018, Mr. Johnson reached out to management and again inquired about a workers’ compensation claim considering that he was still having trouble and in light of Greenspan’s disinclination to continue accommodating his injuries. Ultimately, following a back-and-forth with company representatives, Mr. Johnson filed his California workers’ compensation claim on or about June 26, 2018 relating to his prior injuries and ongoing symptoms. In the workers’ compensation claim form, Mr. Johnson listed the affected areas/injuries as “Neck, whiplash (severe jerk of the head), 4-5 discs buldging, right knee lacerated, MRSA ensued followed by Pulmonary Embalsim.”

As a result of the earlier retaliation by the Company, how he was treated with regard to reporting Mr. Metz’s sexual harassment, and the interaction with Greenspan over trying to deal with his physical issues from the accident and the workers’ compensation claim, Mr. Johnson suffered significant stress causing him to see a psychiatrist, Dr. Alf Johnson (no relation to Gary Johnson). That caused Mr. Scott to ramp up his retaliation against Mr. Johnson. Mr. Johnson notified Greenspan that he was taking a few days of vacation from July 1 through July 9 to rest. Around the same time, Dr. Alf Johnson, provided Greenspan with a June 25, 2018 letter noting that he was treating Mr. Johnson for stress and anxiety. Dr. Alf Johnson noted that he recommended Mr. Johnson schedule a one hour session with him once a week for six months. His letter requested that the his employer accommodate Mr. Johnson’s need for such occasional

therapy treatments during the workweek by affording him time to attend such session. Mr. Scott and others at the company used that request to attend a few therapy sessions as a transparent basis to further retaliate against Mr. Johnson. Instead of merely accommodating his need to attend one hour therapy sessions, on July 3, 2018, Greenspan ordered Mr. Johnson on a full-time “FMLA leave” until further notice.

When Mr. Johnson complained that he wanted to take a paid vacation from July 1 through July 9 and then attend one hour therapy sessions once per week, Greenspan told him not to return to work until further notice. Mr. Johnson reminded Greenspan that he had business meetings planned beginning on July 16 that he needed to attend. Mr. Gibson responded with an unprofessional communication that stated: “I am Chief Operations Officer of the Company and as such I am instructing you to NOT return to work until such time as the Company allows you to do so, we are turning off your e-mail account and your cell phone.” Greenspan then followed up with a letter to Mr. Johnson, dated July 3, 2018, stating that based on the information received from his physician, Mr. Johnson was being placed on a “leave of absence for [his] own serious health condition” under the Company’s FMLA policy. Of course, that was totally disingenuous and neither Mr. Johnson nor his physician recommended such a forced FMLA leave.

Notwithstanding the obvious retaliatory purpose of forcing Mr. Johnson on an indefinite leave and turning off his phone and e-mail, Dr. Alf Johnson made a good faith attempt to clarify his position and correct the Company’s feigned confusion. Dr. Alf Johnson submitted a Saturday, July 7, 2018 letter clearly stating that “at the present time, Mr. Johnson is able to return to work with” the Company on Monday, July 9. With regard to the stress and anxiety for which Dr. Alf Johnson was treating Mr. Johnson, Dr. Alf Johnson wrote that he did “**not** believe that Mr. Johnson’s current symptoms are of such a debilitating nature that would compromise his effectiveness and efficiency as an employee and, accordingly, impair his ability to function with assigned work responsibilities.” (emphasis added). Dr. Alf Johnson sent a similar July 9, 2018 letter again stressing that Mr. Johnson could return to work.

Notwithstanding the repeated and clear statements from Dr. Alf Johnson that Greenspan was clearly overacting in forcing Mr. Johnson into an indefinite medical leave of absence, Greenspan doubled down in its retaliation. Instead of allowing Mr. Johnson to return to work, Greenspan engaged in a charade to keep him from ever returning from work. Realizing that it could no longer force Mr. Johnson on an FMLA leave that Mr. Johnson did not want and that the physician stated was not warranted, Greenspan sent Mr. Johnson a letter on July 9 changing the FMLA leave to a paid “administrative leave.” Greenspan’s letter further stated that “You are instructed to remain away from the office and perform no work during the duration of this leave.” The purported basis for such new “administrative leave” was the fabricated allegation that Greenspan needed “time to evaluate and communicate” with Mr. Johnson’s healthcare provider. That specious reason was just another stalling tactic to never let Mr. Johnson work again until it could find a reason to fire him or cause him to quit.

Mr. Johnson wrote to the Company on July 10, 2018 to try to amicably work this out. Mr. Johnson emphasized that:

“I believe it was very clear from my physician’s most recent correspondence that I am cleared to return to work. I believe Greenspan Adjusters International is presently in violation of the law in its retaliation against me.”

It is clear that Greenspan would not permit Mr. Johnson to remain employed following his reporting alleged sexual harassment and other inappropriate conduct, complaints regarding management’s treatment of him and complaints of Greenspan potentially committing fraud to the State of California (by hiring a person that it was not permitted to hire), and his retention of an attorney to help him understand his rights.

Greenspan responded with a July 13, 2018 letter reiterating that Mr. Johnson was on a forced administrative leave so Greenspan could further consider his physician’s statements that he was able to work. Greenspan again emphasized that it would not allow Mr. Johnson to “perform any work” even though he is able to do so. Notwithstanding his physician’s prior communications that he was able to return to work, Greenspan then demanded that Dr. Alf Johnson complete a “questionnaire” that Greenspan created asking additional questions. It is obvious that Greenspan was just using the questionnaire as a further attempt to prevent him from ever returning to work. On or about July 22, Greenspan received from Dr. Alf Johnson the completed questionnaire, again clearly noting that Mr. Johnson was able to return to work.

Instead of allowing Mr. Johnson to return to work, Greenspan came up with a *new reason* to use as a pretext to never allow him to work for Greenspan or AIPNW again. Greenspan sent Mr. Johnson a July 24, 2018 correspondence claiming that Greenspan was now investigating unspecified alleged misconduct by Mr. Johnson while on assignment in Puerto Rico in 2017 and early 2018.

Greenspan demanded that Mr. Johnson attend an “interview” on July 31, 2018 before Greenspan made “any final decisions” on the alleged investigation into Mr. Johnson. Greenspan refused to identify the topics of the interview in advance and refused to allow Mr. Johnson to be accompanied by his attorney. Greenspan’s representative even stated in writing: “The Company will not provide information about the subject matter of the interview in advance.” Worst yet, the “interviewers” included Clay Gibson and Gordon Scott – two of the very people at the focus of Mr. Johnson’s prior complaints of retaliation. At the “interview,” Greenspan tasked those individuals to specifically grill Mr. Johnson about his claims against them – further retaliating against Mr. Johnson by creating a hostile environment where he was forced to endure a grilling by those who he had complained about. Mr. Johnson believes that Greenspan’s actions are very troubling from an HR perspective and illegal. Normally when a company conducts an “investigation” into alleged wrongdoing by an employee (even a specious investigation), the company utilizes someone who at least appears neutral. Here, Greenspan threw out any semblance of neutrality and used the very persons Mr. Johnson has been complaining about to conduct the interview – obviously intended to intimidate Mr. Johnson further.

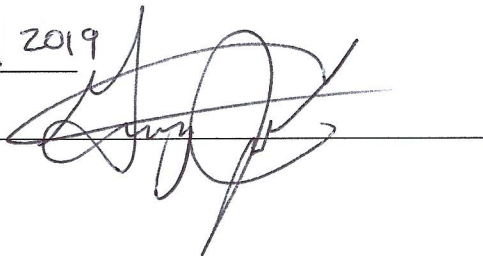
Although Mr. Johnson answered all Greenspan’s questions, completed all the medical paperwork Greenspan demanded, and after the Greenspan could find no other reason to refuse Mr. Johnson’s return to work, Greenspan then just terminated him without any real explanation. On August 15, 2018, Greenspan’s COO, Mr. Gibson, sent Mr. Johnson a letter stating that “Our

investigation into your conduct revealed numerous violations of Company policies [and this] letter is to inform you that as of today, August 15, 2018, we are terminating your employment with the Company.” Greenspan declined to provide any further explanation for Mr. Johnson’s termination.

Shortly after Greenspan terminated Mr. Johnson, AIPNW stopped paying Mr. Johnson also. When Mr. Johnson questioned AIPNW’s President, Drew Lucurell, about his status. Mr. Lucurell stated that he was required to follow Greenspan’s lead and also terminate Mr. Johnson. Greenspan and AIPNW are related companies and Mr. Scott (CEO of Greenspan) is one of the principals of AIPNW. Mr. Johnson understands that Mr. Scott instructed Mr. Lucurell to fire Mr. Johnson based on the same facts above. AIPNW never gave Mr. Johnson any other explanation for AIPNW terminating him and Mr. Johnson does not recall even receiving a written termination notice. But Mr. Johnson received his last monthly salary from AIPNW effective August 2018.

Statement Under Oath By Gary Johnson:

I affirm under penalty of perjury that I have read the information and statements above and the above is true and correct to the best of my knowledge, information and belief and the records which I have retained.

Dated: 5/23/2019
Gary Johnson 

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Gary Johnson
2425 Heritage Oaks Dr.
Alamo, CA 94507

From: Oakland Local Office
1301 Clay Street
Ste. 680-North
Oakland, CA 94612

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
551-2019-02285	Ahlam Abdellatif, Investigator	(510) 956-0005

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

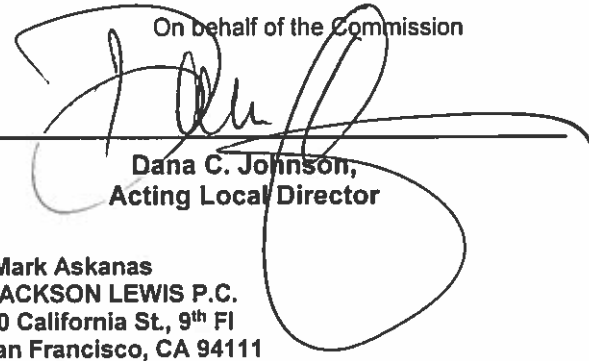
Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission


Dana C. Johnson,
Acting Local Director

12/09/19
(Date Mailed)

Enclosures(s)

cc: Drew Lucurell, Esq.
President
ADJUSTERS INTERNATIONAL
4300 36th Ave. W
Magnolia, WA 98199

Mark Askanas
JACKSON LEWIS P.C.
50 California St., 9th Fl
San Francisco, CA 94111

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** – not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

NOTICE OF RIGHTS UNDER THE ADA AMENDMENTS ACT OF 2008 (ADAAA): The ADA was amended, effective January 1, 2009, to broaden the definitions of disability to make it easier for individuals to be covered under the ADA/ADAAA. A disability is still defined as (1) a physical or mental impairment that substantially limits one or more major life activities (actual disability); (2) a record of a substantially limiting impairment; or (3) being regarded as having a disability. *However, these terms are redefined, and it is easier to be covered under the new law.*

If you plan to retain an attorney to assist you with your ADA claim, we recommend that you share this information with your attorney and suggest that he or she consult the amended regulations and appendix, and other ADA related publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.

“Actual” disability or a “record of” a disability (note: if you are pursuing a failure to accommodate claim you must meet the standards for either “actual” or “record of” a disability):

- **The limitations from the impairment no longer have to be severe or significant for the impairment to be considered substantially limiting.**
- **In addition to activities such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, concentrating, reading, bending, and communicating (more examples at 29 C.F.R. § 1630.2(i)), “major life activities” now include the operation of major bodily functions, such as: functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions; or the operation of an individual organ within a body system.**
- **Only one major life activity need be substantially limited.**
- **With the exception of ordinary eyeglasses or contact lenses, the beneficial effects of “mitigating measures” (e.g., hearing aid, prosthesis, medication, therapy, behavioral modifications) are not considered in determining if the impairment substantially limits a major life activity.**
- **An impairment that is “episodic” (e.g., epilepsy, depression, multiple sclerosis) or “in remission” (e.g., cancer) is a disability if it would be substantially limiting when active.**
- **An impairment may be substantially limiting even though it lasts or is expected to last fewer than six months.**

“Regarded as” coverage:

- **An individual can meet the definition of disability if an employment action was taken because of an actual or perceived impairment (e.g., refusal to hire, demotion, placement on involuntary leave, termination, exclusion for failure to meet a qualification standard, harassment, or denial of any other term, condition, or privilege of employment).**
- **“Regarded as” coverage under the ADAAA no longer requires that an impairment be substantially limiting, or that the employer perceives the impairment to be substantially limiting.**
- **The employer has a defense against a “regarded as” claim only when the impairment at issue is objectively BOTH transitory (lasting or expected to last six months or less) AND minor.**
- **A person is not able to bring a failure to accommodate claim if the individual is covered only under the “regarded as” definition of “disability.”**

Note: *Although the amended ADA states that the definition of disability “shall be construed broadly” and “should not demand extensive analysis,” some courts require specificity in the complaint explaining how an impairment substantially limits a major life activity or what facts indicate the challenged employment action was because of the impairment. Beyond the initial pleading stage, some courts will require specific evidence to establish disability.* For more information, consult the amended regulations and appendix, as well as explanatory publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.

EXHIBIT 3

Stand Alone Agreement

From: Gary W. Johnson SPPA
To: Gordon A. Scott III SPPA
Date: October 12, 2017

Gordon,

This document, namely, Stand Alone Agreement, follows and otherwise confirms our discussions and agreements reached today, moving forward as follows:

Operation Puerto Rico;

1. **Adjusting Commissions**, I will be paid ten percent (10%) of the Gross Fee on every loss I work on in Puerto Rico, simply stated, **no** reduction(s) by the introduction of others, such as (a) accountants, (b) inventory specialists, (c) estimators and (d) co-adjusters.
 - (b) **Sales Commissions**, I will be paid five percent (5%) of the Gross Fee on every loss I refer to sales and/or participate in any manner in the solicitation.
 - (c) **Adjusting and Sales Commissions** will **not** be reduced by any off-set for costs of the operation.
 - (d) **Commissions** will be paid when fees are received

2. *Items (e) through (g) must be discussed and agreed upon by/between Gordon A. Scott III and Gary W. Johnson before implementing.*

- (e) Operation Puerto Rico will pay all travel expenses for my family to visit in lieu of Gary W. Johnson traveling home and back should circumstances force Gary W. Johnson to have to stay in Puerto Rico in order to service the needs of our clients.
- (f) Gary W. Johnson will submit/discuss with Gordon A. Scott III thoughts and plans to add staff to Operation Puerto Rico before doing so.
- (g) Gary W. Johnson will use his best efforts to service the needs of his existing clients. In the event Gary W. Johnson is compelled to call upon Kenny Taylor or other members of TGC/AI Staff to assist him, he may do so.

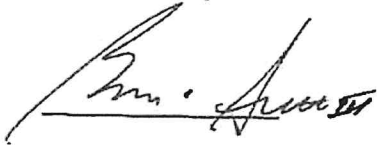
All Operations;

1. Mark Fratkin will create a Master Matrix, covering all operations, namely, Texas, Florida, Puerto Rico and Northern California which lists;
 - (a) Losses signed per region, per day and cumulative
 - (b) Adjuster Assignments, per day and cumulative
 - (c) Inventory Assignments, per day and cumulative

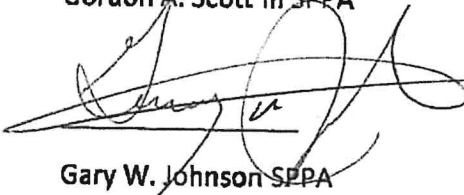
- (d) Estimator Assignments, per day and cumulative
- (e) Projects assigned to others from other companies.

The Master Matrix will be distributed weekly.

Signed and Agreed,

 10/12/2017

Gordon A. Scott III SPPA

 10/12/17

Gary W. Johnson SPPA

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VERIFICATION OF PLEADING (Code Civ. Proc. § 446)

Case No. CGC-20-583239

I, GARY JOHNSON, declare:

I am the Plaintiff in the above-entitled matter. I have read the foregoing PLAINTIFF'S FIRST AMENDED COMPLAINT AND JURY DEMAND and know its contents;

The same is true of my own personal knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 6/26/2020 in Alamo, CALIFORNIA.

DocuSigned by:
Gary Johnson
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GARY JOHNSON