COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE SECRETARY OF THE COMMONWEALTH
SECURITIES DIVISION
ONE ASHBURTON PLACE, 17th FLOOR
BOSTON, MASSACHUSETTS 02108

IN THE MATTER OF: RESERVE MANAGEMENT COMPANY, INC., RESERVE PARTNERS, INC., RESERVE FUNDS TRUST, AND BRUCE BENT II RESPONDENTS.	DOCKET NO. 2008-0079

ADMINISTRATIVE COMPLAINT

I. PRELIMINARY STATEMENT

The Enforcement Section of the Massachusetts Securities Division of the Office of the Secretary of the Commonwealth (respectively, the "Enforcement Section" and the "Division") files this complaint (the "Complaint") in order to commence an adjudicatory proceeding against Reserve Management Company, Inc., Reserve Funds Trust, Reserve Partners, Inc., and Bruce Bent II (collectively, "Respondents") for violating M.G.L. c. 110A, the Massachusetts Uniform Securities Act (the "Act"), and 950 CMR 10.00 *et seq.* (the "Regulations"). The Complaint is based on numerous false and misleading statements made by Respondents to investors in the Primary Fund, and misleading materials distributed by Respondents to investors, in their attempts to dissuade investors from redeeming their shares of the Primary Fund in the days and hours before it "broke the buck" and subsequently became unable to meet numerous investor redemptions.

The Enforcement Section seeks an order (a) requiring Respondents to permanently cease and desist from committing any further violations of the Act and Regulations, (b) requiring Respondents to provide an accounting of all Massachusetts investors in the Primary Fund as of September 15th and September 16th, 2008, (c) requiring restitution to all Massachusetts investors in the Primary Fund in an amount that a Hearing Officer deems appropriate, (d) censuring Reserve Partners, (e) requiring Respondents to each pay an administrative fine in an amount and upon such terms and conditions as a Hearing Officer may determine, and (f) taking any other action that a Hearing Officer may deem appropriate in the public interest and necessary for the protection of Massachusetts investors.

II. SUMMARY

This administrative complaint is based on Respondents' actions during the week of September 15, 2008. On September 14, 2008, Lehman Brothers declared bankruptcy. Reserve's Primary Fund held Lehman paper, which comprised approximately 1.2 percent of the Primary Fund's holdings on September 15, 2008. Beginning on the morning of September 15, anxious investors in the Primary Fund flooded the Reserve Management Company ("Reserve Management") with inquiries about the potential impact of its Lehman holdings on the N.A.V. of the Primary Fund. Throughout the 15th and 16th, nervous investors seeking to exit the Primary Fund began to inundate the Reserve with redemption requests. During those two days, sales personnel of Reserve Management, at the direction of senior management, made numerous statements to investors and distributed materials to investors that were intended to calm those investors and dissuade

them from making redemption requests. Many of those statements contained outright falsities which the principals of Reserve Management knew at the time were not true.

Included in the false statements made to investors, both in written form and through calls from its salesforce, were representations: (1) that Reserve Management would support the N.A.V. of the Primary Fund "to whatever degree is required" and, relatedly, that Reserve Management was entering into a capital support agreement to support the N.A.V. of the Primary Fund and that the paperwork for the capital support agreement had been submitted to the SEC and was just awaiting final sign-off, (2) that Reserve Management (and the trustees of the Primary Fund) were still valuing the Lehman paper held in the Primary Fund at par, even after they had decided to value it at below par and (3) that the reason the redemptions were not occurring was due to an operations issue at State Street (Reserve Management's custodial bank), not because of any liquidity issues with respect to Reserve itself. Despite the fact that these statements were not true at the time they were made, principals of Reserve Management directed the sales force to make them to investors with the hope of stemming the tide of redemptions. In addition, despite the fact that investors were being told that redemptions were being processed on a chronological basis, certain larger favored clients received preference over others.

N.A.V. Support of Primary Fund & Capital Support Agreement

Specifically, On September 15th at 1:19 PM[1]., Bruce Bent II sent an email to John Drahzal (Reserve Management's Managing Director & Global Head of Sales), Eric Lansky (Reserve Management's Managing Director of Marketing) , Catherine Crowley (Reserve Management's General Counsel), Bruce Bent (Reserve Management's

[1] All time references are made in Eastern Standard Time

Chairman), and Arthur Bent (Reserve's Vice Chairman and Chief Operating Officer) with a subject title "Protecting N.A.V. on Primary" and the following text:

> We (Reserve Management Company Inc.) intend to protect the N.A.V. on the Primary fund to whatever degree is required. We have spoken with the SEC and are waiting for their final approval which we expect to have in a few hours. You may communicate this to clients on an as need basis.

This email was widely circulated by the Reserve sales force to clients as proof that the Reserve was, in fact, going to protect the N.A.V. of the Primary Fund. The understanding that Reserve Management was imminently entering into a capital support agreement to protect the NAV of the Primary Fund was widely held by Reserve Management's sales force and widely communicated to the Primary Fund's investor base throughout the afternoon and evening of the September 15th and throughout the day on the 16th. As just one illustrative example, at 1:27 PM on September 15th Brandon Semilof (Reserve Management's Director of Institutional Sales) called a client and stated "you can tell and share with your team and your – the people invested in you, that we are supporting the fund 100 percent. The board literally just passed it. That there's no issue and we are going to support the fund unequivocally."

Unfortunately for all of the investors who were informed of, and relied on, the representations that Reserve Management was going to protect the Primary Fund's N.A.V. through a capital support agreement, there was no capital support agreement. Bruce Bent II testified to the Division that at 1:00 PM on September 15th the Board of Trustees of the Primary Fund authorized certain Reserve Management personnel to inquire with the Securities and Exchange Commission (the "SEC") as to the possibility of Reserve Management entering into a capital support agreement with the fund. At

approximately 1:15 PM that day, Mr. Bent II and other Reserve Management personnel called the SEC to make the inquiry. The call lasted approximately five minutes. The call concluded with the SEC asking the Reserve Management personnel which type of capital support agreement they intended to enter into and the Reserve Management personnel agreeing to think about it an get back to the SEC. Immediately after the call ended, at 1:19 PM, Bruce Bent II sent the email quoted above.

When asked what had been submitted such that Reserve Management was "waiting for [the SEC's] final approval", Mr. Bent II admitted a support agreement had never been submitted to the SEC for approval. Mr. Bent II testified as follows:

> Q. Ok, but at that point when the 1:15 call on the 15th ended, it sounds like The Reserve hadn't decided which type of credit support agreement to enter into; is that correct?
>
> A. That is correct.
>
> . . .
>
> Q. But did Reserve Management submit any type of credit support agreement to the SEC for approval?
>
> A. I don't believe so.
>
> Q. And why not?
>
> A. I believe they hadn't finished the --- we hadn't finished the process of putting together the appropriate paperwork on that day. And then by late that evening, we had concluded that due to the illiquidity, incredible illiquidity in the markets, the continuation of the exceptionally large redemptions, the expectation that the markets may still be frozen the next day and that redemptions would probably continue, and the fact that so far we had no support from the New York Fed, the Boston Fed, no buyer had come through, we had not been able to put in place a reverse repo agreement, that also there was no help from the Investment Company Institute that we concluded the putting the credit

support agreement in place was not something that would be effective or within our wherewithal.

Q. So you never submitted one to the approval to the SEC?

A. That's correct.

Mr. Bent II testified that by the end of the day on September 15th, it was clear to Reserve Management's senior management that a capital support agreement was not going to be entered into for the Primary Fund. That fact was never communicated to the sales team or to any of the investors who had been told that the capital support agreement would be forthcoming. The sales team and those investors only learned that there was not going to be a capital support agreement at around 4:15 PM on September 16, when the Primary Fund issued a press release indicating that it had broken the buck. When asked about this press release, Mr. Drahzal testified as follows:

Q. What was your reaction when you received this document?

A. It was like a body blow.

Q. And why was it a body blow for you?

A. Because we told people we were going to protect the N.A.V.

Q. And now you weren't?

A. Yes, sir.

On the afternoon of September 15th, Reserve Management also sent investors and potential investors a document titled Reserve Insights document. The Reserve Insights document states in part:

> The Reserve is committed to a $1.00 N.A.V. for its Primary Fund. Reserve Management Company, Inc., (RMCI) intends to enter into support agreements with the Primary Fund to support the value of Lehman credit held in the Fund...We are submitting appropriate documentation to the SEC today, September 15, 2008.

This document also appeared on Reserve Management's website on the morning of the 16th (despite the fact that the documentation it refers to as being submitted to the SEC on the 15th was never submitted to the SEC). Mr. Drahzel testified to the Division that the Reserve Insights document was sent to the all Reserve Management's sales and marketing personnel to be shared with clients. Mr. Drahzal testified to the Division that it was his understanding on September 15th, after receiving the Reserve Insights document, that the Reserve had actually entered into a support agreement to support the Primary Fund's N.A.V. Ryan Green (Reserve's VP of Institutional Sales) testified to the Division that it was his understanding that an actual support agreement was in place to support the Primary Fund's N.A.V on September 15th. The Reserve Insights document was sent to a number of investors by various Reserve executives on September 15th evidenced by numerous emails. In those emails, the Reserve Insights document was characterized as evidence that a support agreement was being entered into. For example, on September 15th at 6:22 p.m. Mark Rothwell (Reserve's VP Relationship Manager in Sales) sent an email to an investor of the Primary Fund with the Reserve Insights document attached to it. The email reads in part "Please also find attached confirmation of our support of the N.A.V. of Primary Fund."

However, no capital support agreement was ever entered into, nor was any capital support agreement ever close to having been entered into. No documentation regarding such an agreement was ever submitted to the SEC. By the evening of the 15th, it was

clear that there was going to be no capital support agreement and that Reserve Management was not going to support the N.A.V. of the Primary Fund. Those facts were not communicated to any of the investors who had received the Reserve Insights piece until the press release on the afternoon of the 16th indicating that the Primary Fund had broken the buck.

Reserve Management Values Lehman at $.80/Share

Another misrepresentation that Reserve Management personnel made to investors involved the amount at which Reserve Management was valuing the Primary Fund's Lehman holdings. During a meeting of Board of Trustees of the Primary Fund that commenced at 9:30 AM on September 15, Patrick Ledford (Reserve Management's Managing Director & Chief Investment Officer) reported that "there was indicative pricing in the market for the Lehman paper that was in a range of between $0.45 to $0.80 per dollar." By the end of that meeting, at 10:15 AM., the Board of Trustees adopted a resolution changing the value of the Lehman Brothers paper held by the Primary Fund from 100 percent of par value to 80 cents on the dollar.

Despite the fact that the Board of Trustees of the Primary Fund had valued Lehman paper at 80 cents on the dollar at 10:15 AM, talking points were circulated throughout the day on the September 15th which were used by Reserve's salesforce in their conversations with investors and which clearly stated that the Reserve was valuing its Lehman holdings at par value. Similarly, the Reserve Insights document which was circulated to investors and potential investors all day on the September 15th and September 16th stated that Reserve Management was valuing Lehman at par value. Specifically, the Reserve Insights document stated:

> The majority of Lehman Brothers' senior debt will be coming due over the next several weeks. Based on the current valuations of these holdings, we believe that the holdings **will mature at par value**. Due to small exposure as well as **par value maturity**, the NAV is not negatively impacted. (emphasis added)

Reserve made no efforts to correct the misimpressions provided to investors regarding the price at which it was valuing its Lehman paper.

Reserve Management Places Blame on State Street

Reserve Management's sales people even went so far as to say that the reason investor redemptions were not being honored on September 15th was because State Street, Reserve's custodial bank, was having operational issues. Ryan Green testified to the Division that on September 15th Reserve management informed him that redemption wires were not going out because of State Street. Mr. Green further testified that he informed investors that the reason redemption wires were not paid out was because of State Street. Elliot Goldstein (Reserve Team Leader & Institutional Relationship Management) sent an email to an investor on September 15th, 2008 at 2:04 PM which read in part "there is no liquidity issue at The Reserve as we have met all of the redemptions. The problem is on the processing of such redemptions". Mr. Goldstein also sent information to another investor on September 15th which read in part "funds do not have liquidity issue today. The reason for us facing potential redemption failure is that State Street Bank settlement processing issue."

Reserve Management Gives Larger Investors Their Money First

In addition, despite its representations that investors would be redeemed on a first come first serve basis, Reserve Management prioritized certain clients' redemptions over others. When an investor inquired as to how the Reserve was carrying out its

redemptions, Mark Rothwell informed that shareholder on September 16th at approximately 9:52 AM that redemptions were being carried out on a first come first serve basis. Mr. Bent testified to the Division that redemptions were to be made on a first in first out basis. However, Reserve Management deviated dramatically from that paradigm. Reserve Management produced records to the Division indicating the order in which redemption requests were received. Requests were not satisfied in that order. Rather, requests from the larger favored clients were satisfied before requests from smaller clients. At one point, Mr. Rothwell admitted as much to a client. On September 15th at around 5:00 PM Mr. Rothwell informed Time Warner that "it's all about priority and size and everything and we understand that the big ones are the most important ones" and that "we are obviously going to prioritize the large redemptions..."

Investors who were dissuaded from redeeming their shares from the Primary Fund still, to this day, have their money locked up in what they thought was money-market safe and liquid. As of the date of this complaint, Reserve Management has not made a full distribution to all of its investors in the Primary Fund.

The Reserve Insights document circulated on September 15th and 16th stated: "Although these are indeed historic and volatile times, we believe knowing and understanding the facts are always in everyone's best interests." Respondents' actions could not possibly have been less consistent with those words. They manifested a brazen disregard for the truth in their attempts to keep investors from fleeing the Primary Fund. The result was that investors were misinformed as to the health and status of the Primary Fund and were unable to make informed decisions about their investments in the fund. The deliberate misinformation that Respondents provided their investors reflected a

profound disregard for the principles of full, open and honest disclosure that are the foundation of our securities laws.

III. JURISDICTION AND AUTHORITY

1. The Massachusetts Securities Division is a Division of the Office of the Secretary of the Commonwealth with jurisdiction over matters relating to securities as provided for by the Act. The Act authorizes the Division to regulate: 1) offers and/or sales of securities; 2) those individuals and businesses offering and/or selling securities within the Commonwealth; and 3) those individuals and businesses transacting business as broker-dealers and investment advisers within the Commonwealth.

2. The Division brings this action pursuant to the enforcement authority conferred upon it by Section 407A of the Act and M.G.L. c. 30A, wherein the Division has the authority to conduct an adjudicatory proceeding to enforce the provisions of the Act and all regulations and rules promulgated thereunder.

3. This proceeding is brought in accordance with Sections 101, 204, and 407A of the Act and its Regulations. Specifically, the acts and practices constituting violations of the Act occurred in the Commonwealth of Massachusetts.[2]

4. The Division specifically reserves the right to amend this Complaint and/or bring additional administrative complaints to reflect information developed during the current ongoing investigation.

[2] Section 414 (c) of the Act states in part "an offer to sell or to buy is made in the Commonwealth, whether or not either party is then present in the commonwealth, when the offer (1) originates from the commonwealth or (2) is directed by the offeror to the commonwealth and received at the place to which it is directed, or at any post office in the commonwealth in the case of a mailed offer."

IV. RESPONDENTS

5. Reserve Management Company, Inc. ("Reserve Management") is the investment advisor to the various Reserve trusts registered with FINRA with a Central Registration Depository ("CRD") number of 107707 and with a principal of business at 1250 Broadway, New York, New York, 10001. Reserve Management has provided investment advice to investment companies within the Reserve family of funds since November 15th, 1971. Reserve Management manages each fund, subject to policies adopted by the trustees of each trust, under the terms of an investment management agreement with each trust. For its services each fund pays Reserve Management a management fee at an annual rate. As of September 2008, Reserve Management had over $125 billion in assets under management.

6. Reserve Partners, Inc. ("Reserve Partners") is a registered broker-dealer, registered and notice filed with Massachusetts, with a Central Registration Depository ("CRD") number of 10273 and with a principal of business at 1250 Broadway, New York, New York, 10001. Reserve Partners is the distributor of the various Reserve funds, including the Primary Fund.

7. Bruce R. Bent II serves as Reserve Management's Vice Chairman and President. Mr. Bent is also a director owner of Reserve Management and Reserve Partners.

8. Reserve Funds Trust ("Reserve Funds Trust") is a trust organized on February 1st, 1970 with a principal of business at 1250 Broadway, New York, New York, 10001 that is an open-end, management investment company, registered with the Securities and Exchange Commission ("SEC") under the Investment Company Act of 1940 containing the following series of funds: the Primary Fund, Primary II Fund, Reserve Liquid

Performance Money Market Fund, Strategist Money-Market Fund, Treasury & Repo Fund, U.S. Government Fund, U.S. Government II Fund, and U.S. Treasury Fund.

V. OTHER INVOLVED AND RELATED PARTIES

9. Bruce Bent: serves as Reserve Management's and Reserve Partner's Chairman and Chief Executive Officer. Mr. Bent is also a direct owner of Reserve Management and Reserve Partners. Bruce Bent is also a trustee of the Reserve Funds Trust.

10. Arthur Bent: serves as Reserve Management's and Reserve Partner's Vice Chairman and Chief Operating Officer.

VI. FACTS & ALLEGATIONS

A. Background of Relevant Entities

1. Reserve Management Company

11. Reserve Management manages numerous funds[3], most of which are money market funds.

12. A money market fund is a type of security that invests in low-risk securities and which attempts to keep its Net Asset Value ("N.A.V.") at a constant $1.00 per share.

[3] Primary Fund, Primary II Fund, Reserve Liquid Performance Money Market Fund, Strategist Money-Market Fund, Treasury & Repo Fund, U.S. Government Fund, U.S. Government II Fund, U.S. Treasury Fund, Arizona Municipal Money-Market Fund, Louisiana Municipal Money-Market Fund, Minnesota Municipal Money-Market Fund, California Municipal Money-Market Fund, Connecticut Municipal Money-Market Fund, Florida Municipal Money-Market Fund, Interstate Tax-Exempt Fund, Massachusetts Municipal Money-Market Fund, Michigan Municipal Money-Market Fund, New Jersey Municipal Money-Market Fund, Ohio Municipal Money-Market Fund, Pennsylvania Municipal Money-Market Fund, Virginia Municipal Money-Market Fund, New York Municipal Money Market Fund, Yield Plus Fund, and Reserve Yield Plus Institutional Fund.

13. Reserve Management holds itself out as being the world's most experienced money fund manager and the largest asset management company dedicated solely to cash and liquidity with over $125 billion in assets under management.

14. According to a marketing document titled "The Reserve Insights" that was circulated to all of the investors in the Primary Fund, and to potential investors, on September 15th, 2008, Reserve Management held itself out as follows:

> Founded in 1970, The Reserve is the world's most experienced money fund managerSM and global cash and liquidity specialist serving the brokerage, banking and institutional market place. In addition to launching the world's first money market fund, The Reserve has developed a full suite of innovative cash management solutions, including the industry's first FDIC-insured money market sweep program, diverse money market fund offerings, unique bank cash sweep services and cutting-edge cash plus products. Today, The Reserve manages more than $100 billion for individuals, banks and institutional clients.

See Exhibit A.

2. **Reserve Primary Fund**

15. The Primary Fund is a money market fund which is contained within the Reserve Funds Trust.

16. The Primary Fund is the largest fund within the Reserve Funds Trust. As of September 12, 2008, the Primary Fund had approximately $63 billion invested with it.

17. At the opening of business on September 15th, 2008, approximately 566 Massachusetts businesses and residents held shares in the Primary Fund totaling approximately $2.13 billion dollars.

18. The Primary Fund is managed by Reserve Management in conjunction with the trustees of the Reserve Funds Trust.

19. Specifically, Reserve Management manages the Primary Fund subject to policies adopted by the trustees of the Reserve Funds Trust, under the terms of an investment management agreement with the Reserve Funds Trust.

20. Reserve Management receives a management fee at an annual rate, based on the average daily net assets of the Primary Fund's shares.

21. The Primary Fund has an investment objective to seek "as high a level of current income as is consistent with the preservation of capital and liquidity."

22. The Primary Fund was designed as an "alternative to the direct investment of temporary cash balances in short-term instruments."

23. The Primary Fund was said to invest only in "short-term securities and seeks to maintain a stable $1.00 share price."

24. Reserve Management was responsible for monitoring a range of economic and financial factors to provide a high yield of return without "violating each Fund's credit quality and maturity policies or jeopardizing the stability of its share price."

25. The Board of Trustees of the Reserve Funds Trust in conjunction with Reserve Management is responsible for the management and supervision of each Fund. The trustees approve all material agreements between the funds and the funds' service providers.

26. The interested trustees of the Reserve Funds Trust are Bruce R. Bent and William E. Viklund.

27. The independent trustees of the Reserve Funds Trust are Edwin Ehlert, Jr., Joseph D. Donnelly, William J. Montgoris, Frank J. Stalzer, Ronald J. Artinian, Santa Albicocco, and Stephen P. Zieniewicz.

28. The officers of the Reserve Funds Trust are Bruce R. Bent, Bruce Bent II, Arthur T. Bent III, Catherine Crowley, Patrick J. Farrell, and Christina Massaro.

29. The Board of Trustees of the Reserve Funds Trust has an Audit Committee, a Nominating Committee, and a Valuation Committee.

30. The Valuation Committee is comprised of Messrs. Bent and Ehlert.

31. According to the prospectus of the Primary Fund:

> The Funds may invest in securities rated in one of the two highest short-term ratings, generally by two of the nationally recognized statistical rating organizations. Securities that are not rated may also be purchased by the Primary Fund and Reserve Liquid Performance Money Market Fund, provided the investment advisor determines them to be of comparable quality pursuant to guidelines established by the trustees.

32. The Primary Fund held on average approximately 62 billion dollars in assets under management as of September 15th, 2008.

3. Reserve Partners

33. Reserve Partners, a registered broker-dealer, is an affiliate to Reserve Management, and acts as the distributor of the Primary Fund.

34. The Primary Fund pays Reserve Partners fees for the sale and distribution of its shares.

35. Bruce Bent, Bruce Bent II, and Arthur Bent collectively own a majority stake in Reserve Partners.

B. Primary Fund's Exposure to Lehman Brothers

36. Lehman Brothers Holdings Inc. ("Lehman") filed for bankruptcy on September 14th, 2008.

37. On September 15th, approximately 1.2 percent of the total holdings of the Primary Fund consisted of Lehman Brothers, Inc. ("Lehman") commercial paper.

38. On September 10th, approximately 2.57 percent of the total holdings of the Yield Plus Fund consisted of Lehman commercial paper.

39. On September 10th, approximately 3.69 percent of the total holdings of the International Offshore Fund consisted of Lehman commercial paper.

40. John Drahzal (Reserve Management's Managing Director and Global Head of Sales) testified to the Division that in the second week of August, Brandon Semilof (Reserve Management's Director of Institutional Sales) informed Mr. Drahzal that some clients were uncomfortable with the fact that the Primary Fund held Lehman commercial paper and that clients might exit the fund because of it.

41. Mr. Drahzal further testified to the Division that "Brandon was consistent in explaining that -- you know, that clients were uncomfortable" with the Lehman exposure.

42. Upon receiving such information from Mr. Semilof, Mr. Drahzal testified to the Division that he immediately asked Mr. Semilof to describe the Lehman situation directly to Bruce Bent II.

43. On September 8th, Patrick Ledford (Reserve Management's Managing Director & Chief Investment Officer) sent an email subject titled "Lehman Exposure" to Bruce Bent II and Bruce Bent, with specific financial information regarding Reserve Management funds and their exposure to Lehman.

44. On September 10th, Patrick Ledford sent an email to Reserve Management's sales personnel, marketing personnel, portfolio personnel, Bruce Bent II, and Bruce Bent, with information regarding Lehman's financial status as of that date.

45. In that same email, Mr. Ledford stated that Lehman's situation "is not a liquidity problem".

46. On September 11th Lehman's publicly traded shares of stock dropped approximately 43.7%.

47. Patrick Ledford testified to the Division that he was aware of the fact that Lehman's shares dropped 43.7% on September 11th.

48. On September 11th, Brandon Semilof informed Eric Lansky (Reserve Management's Managing Director of Marketing), Frank Bonanno (Reserve Management's Director of Marketing), John Drahzal, and Maureen O'Brien (Reserve Management's V.P. of Marketing) through email that Lehman is down another 45% on September 11th, that the markets are "imploding", that the "entire sector is getting crushed", and that he wants to "make clients aware that we do have options besides Primary."

49. Mr. Ledford further testified to the Division that he knew Lehman Brother's, Inc. "stock price had been dropping for the previous six to twelve months".

50. Mr. Ledford testified to the Division that a drop in Lehman's stock could affect the value of Lehman's paper itself: "whenever you have volatility in the stock, it raises the risk premium in the marketplace, which would mean wider credit spreads, which would depress the value of the Lehman paper..."

51. Reserve Management was on notice weeks before September 15th that Lehman was facing financial troubles which might impact the value of its commercial paper within the Primary Fund.

C. Misrepresentations Made by Reserve Management and Reserve Partners Personnel to Primary Fund Investors

1. **Reserve Management Falsely Stated that it Will Support $1.00 N.A.V. of the Primary Fund**

a. Statements that Reserve Management Would Support N.A.V. of Fund and Was Entering into a Capital Support Agreement

i. Bruce Bent II's Email

52. On September 15,th at 1:19 PM, Bruce Bent II sent an email (the "N.A.V. Support Email") to John Drahzal, Eric Lansky, Catherine Crowley, Bruce Bent, and Arthur Bent with a subject title "Protecting N.A.V. on Primary" and the following text:

> We (Reserve Management Company Inc.) intend to protect the N.A.V. on the Primary fund to whatever degree is required. We have spoken with the SEC and are waiting for their final approval which we expect to have in a few hours. You may communicate this to clients on an as need basis.

The N.A.V. Support Email is attached hereto as Exhibit B.

53. The N.A.V. Support Email sent by Mr. Bent II to the Reserve's Head of Sales and Reserve's Head of Marketing clearly allows for its contents to be communicated to clients.

54. The N.A.V. Support Email explicitly states that the Primary Fund's N.A.V. will be protected to "whatever degree is required".

55. John Drahzal testified to the Division that upon receiving this email from Bruce Bent II, he immediately informed his entire sales team that Reserve Management was supporting the Primary Fund's $1.00 N.A.V.

56. Mr. Drahzal testified to the Division that he disclosed the contents of the N.A.V, Support Email to clients.

57. Mr. Drahzal testified to the Division that Bruce Bent II told Mr. Drahzal that he could share the contents of the email to the Reserve's sales personnel.

ii. Reserve Calls With Investors on September 15th

58. Transcript of recorded calls between Reserve personnel and investors clearly show that many were told that the Reserve was unequivocally supporting the N.A.V. of the Primary Fund.

59. For example, around 1:27 PM on September 15th, 2008 Brandon Semilof contacted Investor A to inform that investor that the Reserve is "supporting the fund 100 percent...unequivocally."

60. Investor A was told that the "Board literally just passed it...that there's no issue and we are going to support the fund unequivocally".

61. In another example, at approximately 1:26 PM on September 15th, 2008 Ryan Green (Reserve's VP of Institutional Sales) contacted a potential investor with information that "if for some reason we don't get par for those particular securities and this is coming from our global head of sales, the Reserve would step in and support the N.A.V....as soon as I get something in writing, I'll send it along."

iii. Reserve Insights Document

62. On the afternoon of September 15th, Reserve Management sent investors and potential investors the Reserve Insights document. (See Exhibit A.)

63. The Reserve Insights document states in part:

> The Reserve is committed to a $1.00 N.A.V. for its Primary Fund. Reserve Management Company, Inc., (RMCI)

> intends to enter into support agreements with the Primary Fund to support the value of Lehman credit held in the Fund...We are submitting appropriate documentation to the SEC today, September 15, 2008.

See Exhibit A.

64. In response to a Subpoena sent by the Division to Reserve Management dated October 30th 2008 which asked for "all Documents sent to clients or prospective clients on September 12th -16th, 2008" Reserve Management produced the Reserve Insights document as one of the documents sent to clients on September 15th and September 16th.

65. John Drahzal testified to the Division that the Reserve Insights document was sent to the entire Reserve Management sales and marketing personnel to be shared with clients.

66. Reserve Management sales team informed investors and potential investors that the Reserve Insights document was drafted by Reserve Management's legal department.

67. Mr. Drahzal testified to the Division that it was his understanding that on September 15th, after receiving the Reserve Insights document, that the Reserve had actually entered into a support agreement to support the Primary Fund's N.A.V.

68. Ryan Green testified to the Division that it was his understanding that actual support agreements were in place to support the Primary Fund's N.A.V on September 15th.

69. The Reserve Insights document was sent to a number of investors by various Reserve executives on September 15th evidenced by numerous emails.

70. In the afternoon of September 15th Eric Lansky sent and email with the Reserve Insights document to Reserve Management's directors & managers, sales team, and marketing personnel.

71. In emails sent by many Reserve Management executives and personnel, the Reserve Insights document was characterized as evidence of a support agreement for the N.A.V. of the Primary Fund.

72. For example, on September 15th at 6:22 PM Mark Rothwell (Reserve's VP Relationship Manager in Sales) sent an email to Investor B with the Reserve Insights document attached to it. (A copy of the email is attached hereto as Exhibit C.)

73. The email sent by Mr. Rothwell to Investor B reads in part "Please also find attached confirmation of our support of the N.A.V. of Primary Fund."

74. Additionally, the Reserve Insights document was used by Reserve Management's sales personnel as a tool to keep investors in the Primary Fund on September 15th.

75. For example, on September 15th at 3:41 PM Frank Bonnano (Reserve Management's Director of Marketing) sent an email to Reserve Management's sales and marketing personnel with the Reserve Insights document attached. The email read in part "Attached is the approved version of The Reserve's communication regarding this weekend's events with Lehman/Merrill and the position The Reserve is taking. Please leverage on your calls when fielding any redemption requests." (A copy of the email is attached hereto as Exhibit D.)

76. The contents of the Reserve Insights document was also allowed to be shared with the Wall Street Journal in an email dated September 15th, 4:23 PM between Eric Lansky and Bruce Bent II that reads in part: "ok to share with WSJ –would like source to be a Reserve Spokesperson…if needed the Reserve intends to protect the N.A.V. on the Primary Fund to whatever degree is required, however this protection has not been needed."(A copy of the emails is attached hereto as Exhibit E.)

77. The Reserve Insights document was posted on the Reserve's website either on September 15th or the morning of September 16th, 2008.

78. In an email sent on September 15th, at 9:36 PM Bruce Bent II authorized Eric Lansky to post a statement on the website regarding the N.A.V. intent. (A copy of the email is placed hereto as Exhibit F.)

79. The Reserve Insights document was also discussed with investors and/or potential investors on September 16th.

80. The Reserve Insights document was even sent to cranedata.com, a financial news website, on September 16th 8:21AM by Eric Lansky via email. (A copy of the email is placed hereto as Exhibit G.)

81. In that email Mr. Lansky refers to the Reserve Insights document as a "client communication piece, helping to educate what is happening in markets, the facts around our limited exposure and our intent/commitment to the NAV." (See Exhibit G.)

b. Actual Status of Reserve's Internal Discussion of Whether to Support the N.A.V.

82. The Board of Trustees met several times on September 15th and September 16th to discuss the Primary Fund's Lehman exposure.

83. In each Board of Trustees meeting Bruce Bent, Bruce Bent II, and Arthur Bent were present.

84. On the September 15th morning Board of Trustees meetings Catherine Crowley Christina Massaro (Chief Compliance Officer), Patrick Farrell (Chief Financial Officer) and Patrick Ledford (Chief Investment Officer) of Reserve Management were also present. (A copy of the September 15th Board of Trustees minutes are placed hereto as Exhibit H.)

85. During the September 15th 1:00 PM Board of Trustees meeting, the following resolution was adopted: "that the Board determines that it is in the best interest of the Fund and its shareholders to enter into a Credit Support Agreement with RMCI with respect to the Primary Fund, subject to review and approval of requisite documentation".

86. The minutes from the 1:00 PM Board of Trustees meeting state in part:

> Mr. Bent II told the Trustees that in order to address what appeared to be a run on the Primary Fund, **RMCI would like authorization from the Board to approach the SEC to inquire about putting a credit support arrangement in place for the fund**. Under the terms of the proposal, RMCI would commit to provide capital to the Primary Fund to protect its N.A.V. from falling below $1.00 per share. The Trustees questioned management respecting whether RMCI had sufficient capital to provide credit support to the Primary Fund and Mr. Bent represented that sufficient capital could be made available for this purpose. The Trustees agreed that providing credit support to the Primary Fund would be in the best interests of the shareholders and agreed **that Ms. DimMartino and Mr. Goldberg should contact the staff of the Commission (Securities and Exchange Commission) to inquire about implementing a credit support arrangement for the Primary Fund.** (Emphasis added) (See Exhibit G.)

87. The minutes from the 1:00 PM Board meeting on September 15th indicate that Reserve Management's personnel would contact the SEC to inquire about implementing a credit support arrangement for the Primary Fund.

88. The 1:00 PM. Board meeting, which Bruce Bent II participated in, adjourned at 2:00 pm.

89. At approximately 1:15 PM that day Mr. Bent II and other Reserve Management personnel called the SEC to make the inquiry regarding a capital support agreement. The call lasted approximately five minutes. The call concluded with the SEC asking the Reserve Management personnel which type of capital support agreement they intended to

enter into and the Reserve Management personnel agreeing to think about it and get back to the SEC.

90. Bruce Bent II's N.A.V. Support Email, sent at 1:19 PM (immediately after the call with the SEC terminated) on September 15th stated: "We have spoken with the SEC and are waiting for their final approval which we expect to have in a few hours. You may communicate this to clients on an as need basis." (See Exhibit B.)

91. However, no such request was ever submitted to the SEC by Reserve Management on September 15th or on any other date with regard to a support agreement for the Primary Fund's N.A.V.

92. No support agreement was ever put in place between Reserve Management and the Primary Fund to support its N.A.V.

93. Reserve Management was never waiting for the SEC's final approval of a proposed support agreement at any time on September 15th.

94. A proposed support agreement was not even submitted to the SEC on September 15th or on any other date.

95. Mr. Bent II admitted that a support agreement had never been submitted to the SEC for approval. On January 9th, 2009 Mr. Bent II testified as follows:

> Q. Ok, but at that point when the 1:15 call on the 15th ended, it sounds like The Reserve hadn't decided which type of credit support agreement to enter into; is that correct?
>
> A. That is correct.
>
> . . .
>
> Q. But did Reserve Management submit any type of credit support agreement to the SEC for approval?

A. I don't believe so.

Q. And why not?

A. I believe they hadn't finished the --- we hadn't finished the process of putting together the appropriate paperwork on that day. And then by late that evening, we had concluded that due to the illiquidity, incredible illiquidity in the markets, the continuation of the exceptionally large redemptions, the expectation that the markets may still be frozen the next day and that redemptions would probably continue, and the fact that so far we had no support from the New York Fed, the Boston Fed, no buyer had come through, we had not been able to put in place a reverse repo agreement, that also there was no help from the Investment Company Institute that we concluded the putting the credit support agreement in place was not something that would be effective or within our wherewithal.

Q. So you never submitted one to the approval to the SEC?

A. That's correct.

96. Minutes from the September 16th Board of Trustees meeting clearly show that Reserve Management only contacted the SEC on the afternoon of September 15th to discuss "the possibility of issuing a no-action letter that would allow a credit support agreement to be entered into between RMCI and the Primary Fund." (A copy of the September 16th Board of Trustees minutes are placed hereto as Exhibit I.)

97. Bruce Bent II further testified to the Division that by late that evening of September 15th Reserve Management concluded that putting a credit support agreement in place was not a feasible solution for the Primary Fund.

98. In fact, in a Board of Trustees meeting on September 16th at 10:00 AM "Mr. Bent II told the Trustees that by Monday night, it had become apparent to management of RMCI that the effect of those redemptions requests...made it unlikely that RMCI could

provide the level of credit support necessary to support a Fund N.A.V. of $1.00 per share, should the N.A.V. of the Primary Fund fall below that value." (Exhibit I.)

99. The fact that Reserve Management was not going to enter into a capital support agreement was not communicated to investors who had been told that a capital support agreement was in place or imminently would be.

100. Those investors were not informed of this fact until 4:15 PM on September 16th, when the Board of Trustees of the Primary Fund released a press release ("September 16th Press Release") stating that Lehman's paper held by the Primary Fund would be valued at zero effective as of 4:00 PM and that the Primary Fund's N.A.V. would be $0.97 per share. (See Exhibit I. and September 16th Press Release which is hereto placed as Exhibit J.)

101. When asked about the September 16th Press Release, Mr. Drahzal testified that:

> Q. What was your reaction when you received this document?
>
> A. It was like a body blow.
>
> Q. And why was it a body blow for you?
>
> A. Because we told people we were going to protect the N.A.V..
>
> Q. And now you weren't?
>
> A. Yes, sir.

2. Lehman's Paper Was Priced At $.80 Early September 15th But Investors Were Subsequently Told that It Was Being Valued at Par

a. Reserve Values Lehman's Paper at $.80 / share

102. During the September 15th, 9:30 AM Board of Trustees meeting, Mr. Ledford reported that "there was indicative pricing in the market for the Lehman paper that was in a range of between $0.45 to $0.80 per dollar." (See Exhibit H.)

103. By the end of that meeting at 10:15 AM three resolutions were passed by the Board of Trustees: 1- the accounting method for the Primary Fund was changed to the fair value method, 2- **the valuation of the Lehman debt securities held by the Primary Fund was changed from par value to $.80 per each dollar of face value** (emphasis added), 3- the disposition of Lehman debt securities is determined not to be in the best interest of the fund and its shareholders. (See Exhibit H.)

b. Reserve Management Subsequently Informs Investors that Lehman is Priced at Par Value

104. Mr. Drahzal informed the Division that on September 14th, 2008 he requested talking points from Bruce Bent II and Eric Lanskey to equip his sales team to answer questions regarding the exposure to Lehman.

105. Mr. Drahzal and Mr. Ledford both testified to the Division that they participated in a call at approximately 7:00am on September 15th to discuss the exposure that certain Reserve funds had to Lehman. Mr. Drahzal, Frank Barnando, Ming Hatch (Reserve's Communications & Public Relations Manager), and Eric Lanskey were on the call.

106. Mr. Ledford further testified that Bruce Bent II might have also joined in on the September 15th morning call.

107. Mr. Drahzal testified to the Division that the resolution from the September 15th conference call was that marketing was going to produce talking points for the sales team.

108. Mr. Drahzal testified that the contents of these talking points were allowed to be shared with clients.

109. On September 15th, at 10:05 AM Frank Bonanno sent an email to the Reserve sales and marketing personnel, with a subject title of "Lehman Communication to Clients..." with the talking points ("Talking Points") document attached. (The email and Talking Points document is attached hereto as Exhibit K.)

110. The Talking Points document states in part:

> Leman Brothers Holdings Inc. has filed a Chapter 11 bankruptcy petition...Additionally, Bank of America Corp., the nation's largest U.S. consumer bank, agreed to acquire Merrill Lynch and Company for approximately $50 billion in stock.
> How does this affect the Reserve's money market and Yield Plus funds?
> We do not expect these events to pose any threat to the Funds' N.A.V.. The majority of Lehman Brother's senior debt will be coming due over the next several weeks. **Based on the current valuations of these holdings, we believe that the holdings will mature at par value.** (emphasis added) Due to the small exposure **as well as par value at maturity**, the N.A.V. is not negatively impacted. We are confident that there will be no shareholder impact as the portfolios are structured to ensure principal protection and provide liquidity. (emphasis added)

See Exhibit K.

111. On September 15th and September 16th, Reserve Management also sent investors and potential investors the Reserve Insights document.

112. The Reserve Insights document sates in part:

> **What happens to the Lehman and Merrill positions, and why don't they have material impact on the portfolios?**

> The majority of the Lehman Brothers' senior debt will be coming due over the next several weeks. Based on the current valuations of these holdings, we believe that the holdings will **mature at par value**. Due to the small exposure **as well as par value at maturity**, the N.A.V. is not negatively impacted. (emphasis added)

See Exhibit A.

113. The Reserve Insights was sent to investors on September 15th.

114. The Reserve Insights was also sent to investors on September 16th.

115. The 10:15 AM resolutions were passed hours before the Reserve Insights document was approved and sent to investors.

116. Despite the fact that the Board of Trustees of the Primary Fund had valued Lehman paper at $.80 per dollar at 10:15 AM, the Talking Points document which was used to address questions by shareholders to Reserve sales personnel throughout the day on September 15th clearly states that the Reserve was valuing its Lehman holdings at par value.

117. Similarly, the Reserve Insights document which was circulated to investors and potential investors all day on the September 15th and September 16th clearly states that the Reserve was valuing Lehman at par value.

118. Patrick Ledford testified to the Division that the statement that Lehman will mature at par value "is not an accurate statement" on the day of his testimony (November 24th, 2008) or on September 15th when the Talking Points and Reserve Insights documents were disclosed to investors.

119. Further, minutes from the Board of Trustees meeting on September 16th at 10:00 AM clearly contemplate that Lehman's debt securities value might pay out at between $0.45 and $0.60 cents on the dollar.

120. Not only did the Reserve misrepresent to investors the valuation of its Lehman paper on September 15th and September 16th, but it also did so while it contemplated reducing the value even further to $0.45 and $0.60 on the dollar.

121. Bruce Bent II was present in the Board of Trustees September 15th meeting which resulted in a devaluing of the Lehman paper to $.80 to the dollar.

122. Bruce Bent II was also involved in reviewing both the contents of the Talking Points and Reserve Insights documents that misinformed investors that Lehman paper was valued at par value on September 15th and September 16th.

123. The Division has found no evidence that any investors were ever informed on September 15th or September 16th that the Board of Trustees had devalued Lehman's paper to $0.80 per share.

3. Redemption Priorities Were Given To Some Investors Over Others

124. On September 15th, 2008 Reserve Management received redemption requests for the Primary Fund in an amount that exceeded $22 billion.

125. State Street acted as Reserve Management's custodial bank, by processing redemptions and wiring out funds on behalf of Reserve Management.

126. Reserve Management had a day light overdraft with State Street of roughly $7 billion.

127. Mr. Ledford testified to the Division that $22 billion dollars in redemptions is not the ordinary, usual amount of redemptions that the Primary Fund carries out in one day.

128. Mr. Ledford testified to the Division that the high amount of redemption requests on September 15th was due to the Lehman exposure.

129. On September 15th, 2008 Omar Shareef (Reserve Management's Institutional Service Representative) sent an email to David Gareis (Reserve's Managing Director of Operations), Brandon Semilof, Elliott Goldstein, and at least two State Street employees at 8:33 AM with information that the Reserve had $5.2 billion dollars in redemption requests by 8:30 AM of that day, and with a table attached to the email ("Redemption Table 1") listing each redemption request from 7:51am to 8:30am. (A copy of the email is attached hereto as Exhibit L.)

130. The first redemption request that was placed on September 15th was from an investor which placed its redemption request at 7:51 AM. (See Exhibit L.)

131. The second redemption request that was placed on September 15th was from another investor which placed its redemption request at 7:52 AM. (See Exhibit L.)

132. The email that was sent by Mr. Shareef to State Street, Mr. Semilof, Mr. Gareis, and Mr. Goldstein read in part:

> This is a preliminary list for the 8:30 Strike
>
> The OD daylight is already at 5.2 Billion so the redemptions will take time.
>
> Bear Stearns has first priority with a redemption of 1,000,000,000.00.
> Farmer Mac has 2nd priority of 50,000,000.000
> Pershing with a 3rd priority of 800,000,000.00 and 405mm and 27mm

See Exhibit L.

133. Based on the Redemption Table 1, Bear Stearns placed its redemption request last at 8:30 AM. (See Exhibit L.)

134. Based on the Redemption Table 1, Farmer Mac placed its redemption at 8:19 AM, which makes it the 13th shareholder to place a redemption on that day. (See Exhibit L.)

135. Based on the Redemption Table 1, Pershing LLC placed its first redemption request at 8:25 AM, which makes it the 19th shareholder to place a redemption on that day. (See Exhibit L.)

136. In another email sent at 10:13AM on September 15th from Omar Shareef to David Gareis, Brandon Semilof, Eliot Goldstein and State Street titled "Reserve Redemption Wires 10:00 Strike" reads in part:

> This is the preliminary list of the 10:00 Strike
> The Daylight OD is around 11.1 Billion
>
> Bear Stearns for 1,000,000,000.00 Has gone Out (emphasis added)
> Farmer Mac for 50,000,000.00 is Next Priority
> Pershing for 1.4 Billion has Third Priority

A copy of the email is placed hereto as Exhibit M.

137. Bear Stearns who was the last to place its redemption on Table 1 at the 8:00 AM strike received its wire ahead of others that placed earlier. (See Exhibit M.)

138. When an investor inquired as to how Reserve Management was carrying out its redemptions, Mark Rothwell informed that shareholder on September 16th around 9:52 AM that redemptions were carried out on a first come first serve basis.

139. Bruce Bent II informed the Division that redemptions of the Primary Fund are carried out on a "first in, first out" basis.

140. In contradiction to the statements outlined in the preceding two paragraphs, on September 15th at around 5:00 PM Mr. Rothwell informed Time Warner that "it's all about priority and size and everything and we understand that the big ones are the most important ones" and that "we are obviously going to prioritize the large redemptions..."

141. State Street stopped carrying redemptions out to Primary Fund investors after the day light over draft of about $10 billion dollars was reached.

142. Many investors who were not able to receive their funds before the $10 billion mark are still left without their funds even until the date of this complaint.

143. Therefore investors who were given priority over others in the redemption process received an immense benefit of having access to their funds, while others are still suffering the loss.

144. Priority in carrying out redemption requests was given to certain investors, despite the fact that other investors had submitted their requests earlier.

145. The Reserve gave false information to investors that redemptions were being processed on fist come first serve basis, when in reality certain investors that redeemed later in time were being processed ahead of other investors who redeemed earlier in time.

4. False Statements Attributing Liquidity Issues to State Street

146. On September 15th, the Primary Fund had about $24.6 billion dollars in redemption requests.

147. Based on testimony provided to the Division by Mr. Drahzal, the Reserve had a day light overdraft of about $7 - $10 billion dollars.

148. Of this $24.6 billion, only about $10.7 billion of the redemption requests were actually paid out to shareholders.

149. Throughout the day on September 15th, members of the Reserve Management's sales team disclosed to investors that the Primary Fund does not have liquidity issues and that State Street was the reason why redemptions were not going out, when in fact Board of Trustees meetings on that day show that the Primary Fund had liquidity issues.

150. Ryan Green testified to the Division that on September 15th, Reserve Management's management informed him that the reason for redemption wires not going out was due to State Street.

151. Mr. Green further testified that he informed investors that the reason redemption wires were not paid out was due to State Street.

152. In another example, Elliot Goldstein emailed an investor on September 15th, 2008 at 2:04 PM which reads in part "there is no liquidity issue at The Reserve as we have met all of the redemptions. The problem is on the processing of such redemptions". (A copy of the email is placed hereto as Exhibit N.)

153. Elliot Goldstein also sent information to another investor on September 15th which reads in part "fund do not have liquidity issue today. The reason for us facing potential redemption failure is that State Street Bank settlement processing issue."

154. In another example, Brandon Semilof told an investor around 1:27 PM on September 15th, 2008 that "there's no issues at all in terms of liquidity aspect" with the Primary Fund.

155. Additionally, a transcript of a phone conversation on September 15th, 2008 around 1:49PM between Pat Farrell, Mike Luciano, John Drahzal, and Patrick Ledford clearly establishes that Reserve Management knew that State Street would not wire out any more money beyond the $10 billion day light overdraft sent out and that there were liquidity issues in the Primary Fund.

156. Reserve sales personnel were informing investors that it was a State Street issue, and that the Reserve had no liquidity issue, while Board of Trustees minutes from

September 15th and September 16th clearly show that there were liquidity issues and that State Street was not the reason for the wires not going out.

5. Reserve Sales Personnel Used False Information to Convince Investors to Cancel Redemptions

157. On September 15th Reserve Management sales personnel contacted investors who had redeemed out of the Primary Fund to persuade them to cancel their redemptions.

158. Mr. Ledford testified to the Division that some institutional "sales guys were reaching out to clients to wait either a day or two to redeem" to cancel their redemptions.

159. When asked if calling shareholders to cancel their redemptions was a "radical idea" Mr. Ledford responded "You're a money fund. You provide immediate liquidity and immediate cash, so yes, it's out of the ordinary."

160. Additionally, Ryan Green testified to the Division that Reserve Management's management instructed him to offer other funds at the Reserve if clients called to redeem their shares.

161. Transcript of recorded calls between Ryan Green and an investor on September 15th around 5:00 PM clearly show that Reserve personnel were trying to persuade investors to cancel their redemptions by informing them that Reserve Management is supporting the N.A.V. of the Primary Fund.

162. For example, around 5:00 PM on September 15th, 2008 Ryan Green told Investor C who had placed a redemption and not received the wire that "you have essentially two options...you can cancel the trade, the redemption, earn interest on the money and...call tomorrow and redeem or we can leave it as is."

163. Investor C was then told "And I'm telling you based on word back from management and a letter I have from marketing that if for some reason whatever Lehman

paper we had in the portfolio that were to run into an issue, we would support the fund and we're not going to jeopardize a triple A credit rating."

164. Mr. Green even went on to inform Investor C that "We already spoke with the SEC and saying hey, we filed for money support. And if the N.A.V., I'm not saying it has, I'm just saying if it did, we would step in and support it."

165. Investor C was not told that Leman's paper was devalued to $.80 on the dollar, that there was no support agreement in place to support the Primary Fund, and that there were liquidity issues with the Lehman paper on September 15th.

166. Instead, Investor C was given false information in an attempt to have him cancel the redemption.

VII. VIOLATIONS OF SECURITIES LAWS

A. COUNT I – VIOLATIONS OF §101 BY RESERVE PARTNERS, RESERVE MANAGEMENT, RESERVE FUNDS TRUST & BRUCE BENT II.

167. Section 101 of the Act provides in pertinent part:

> It is unlawful for any person, in connection with the offer, sale, or purchase of any security, directly or indirectly:
>
> (1) to employ any device, scheme or artifice to defraud,
>
> (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or
>
> (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

168. The Division herein re-alleges and restates the allegations and facts set forth in paragraphs 1 through 166 above.

169. The conduct of Reserve Partners, Reserve Management and Bruce Bent II, as described above, constitutes violations of M.G.L. c. 110A, § 101.

B. COUNT II – VIOLATIONS OF § 204 (a) (2) (B) BY RESERVE PARTNERS.

170. Section 204 (a)(2)(B) of the Act provides in pertinent part:

> (a) The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:–
>
> (B) has willfully violated or willfully failed to comply with any provision of this chapter . . . .

171. The Division herein re-alleges and restates the allegations and facts set forth in paragraphs 1 through 166 above.

172. The conduct of Reserve Partners as described above constitute violations of M.G.L. c. 110A, § 204 (a)(2)(B).

C. COUNT III – VIOLATIONS OF § 204 (a)(2)(G) BY RESERVE PARTNERS.

173. Section 204 (a)(2)(G) of the Act provides in pertinent part:

> (a) The secretary may by order impose an administrative fine or censure or deny, suspend, or revoke any registration or take any other appropriate action if he finds (1) that the order is in the public interest and (2) that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:–

(G) has engaged in any unethical or dishonest conduct or practices in the securities, commodities or insurance business.

174. The Division herein re-alleges and restates the allegations and facts set forth in paragraphs 1 through 166 above.

175. The conduct of Reserve Partners as described above constitute violations of M.G.L. c. 110A, § 204 (a)(2)(G).

176. Without limiting the generality of the foregoing, the conduct of Reserve Partners as set forth above constitutes violations of the following provisions of the Regulations:

950 CMR Section 12.204 (1)(a):

...(15) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance...

(18) Making any advertising or sales presentation, either in written or oral form, in such a fashion as to be deceptive or misleading...

(28) Failing to comply with any applicable provision of the NASD rules of Fair Practice or any applicable fair practice or ethical standard promulgated by the SEC or by a self-regulatory organization approved by the SEC.

177. Without limiting the generality of the foregoing, applicable NASD rules include the following:

IM-2310-2. Fair Dealing with Customers

(a)(1) Implicit in all member and registered representative relationships with customers and others is the fundamental responsibility for fair dealing. Sales efforts must therefore be undertaken only on a basis that can be judged as being within the ethical standards of the

Association's Rules, with particular emphasis on the requirement to deal fairly with the public...

2110. Standards of Commercial Honor and Principles of Trade

A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.

2120. Use of Manipulative, Deceptive or Other Fraudulent Devices

No member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.

2210. Communications with the Public

(d) Content Standards
(1) Standards Applicable to All Communications with the Public

(A) All member communications with the public shall be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry, or service. No member may omit any material fact or qualification if the omission, in the light of the context of the material presented, would cause the communications to be misleading.

(B) No member may make any false, exaggerated, unwarranted or misleading statement or claim in any communication with the public. No member may publish, circulate or distribute any public communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading. . . .

D. COUNT IV – VIOLATIONS OF § 204 (a)(2)(J) BY RESEVE PARTNERS

178. Section 204 (a)(2)(J) of the Act provides in pertinent part:

> The secretary may by order deny, suspend, or revoke any registration if he finds (1) that the order is in the public interest and (2) that the applicant or registrant (J) has failed reasonably to supervise agents, investment adviser representatives or other employees to assure compliance with this chapter.

179. The Division herein re-alleges and restates the allegations and facts set forth in paragraphs 1 through 166 above.

180. The conduct of Reserve Partners, as described above, constitutes violations of M.G.L. c. 110A, § 204 (a)(2)(J).

VIII. STATUTORY BASIS FOR RELIEF

Violations, Cease and Desist Orders and Costs

181. Section 407A(a) of the Act provides in pertinent part that:

> (a) If the secretary determines, after notice and opportunity for a hearing, that any person has engaged in or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order issued thereunder, he may order such person to cease and desist from such unlawful act or practice and may take affirmative action, including the imposition of an administrative fine, the issuance of an order for accounting, disgorgement or rescission or any other relief as in his judgment may be necessary to carry out the purposes of [the Act].

182. The Division herein re-alleges and restates the allegations and facts set forth in paragraphs 1 through 166 above.

183. Respondents directly and indirectly engaged in the acts, practices, and courses of business as set forth in this Complaint above, and it is the Division's belief that Respondents will continue to engage in acts and practices similar in subject and purpose, which constitute violations if not ordered to cease and desist.