



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

WOODMEN OF THE WORLD LIFE
INSURANCE SOCIETY.

Plaintiff,

v.

U.S. BANCORP, a Delaware Corporation;
U.S. BANK NATIONAL ASSOCIATION,
U.S. BANCORP ASSET MANAGEMENT,
INC.; f/k/a FAF ADVISORS, INC. a Delaware
Corporation; BENJAMIN R. FIELD, III
ROGER A. GIBSON; VICTORIA J. HERGET
LEONARD W. KEDROWSKI; RICHARD K.
RIEDERER; JOSEPH D. STRAUSS;
VICTORIA L. STRINGER; JAMES M. WADE;
THOMAS S. SCHREIER, JR.; MARK S.
JORDAHL; JEFFREY M. WILSON;
CHARLES D. GARIBOLDI, JR.; JILL M.
STEVENSON; DAVID H. LIU; KATHLEEN
L. PRUDHOMME; BRETT L. AGNEW;
JAMES R. ARNOLD; RICHARD J. ERTEL;
DOUGLAS G. HESS; JAMES D. ALT;
JOSEPH MADISON ULREY, III;
and CHARLES R. MANZONI, JR.

Defendants.

C.A. No. 6260-CC

**REDACTED PUBLIC VERSION
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VERIFIED COMPLAINT

Plaintiff Woodmen of the World Life Insurance Society, by and through its attorneys, allege against the Defendants U.S. Bancorp, U.S. Bank National Association, U.S. Bancorp Asset Management, Inc. and the individual defendants as follows:

NATURE OF THE ACTION

1. On the surface this case involves complex and cutting-edge securities, transactions and entity structures, but deep down the tale of wrongdoing in this action is as simple and old-fashioned as a frontier stagecoach heist. As will be set forth more fully below,

this action centers around a dual series Delaware statutory trust formed for the purpose of facilitating securities lending by plaintiff and other beneficiaries of the trust; the trust itself invested in asset-backed commercial paper and mortgage-backed securities. Stripped of these fancy monikers, however, what this case is really about is defendants' favoritism of themselves and certain beneficiaries of the trust over other beneficiaries, including plaintiff, in some cases deliberately and for entirely self-interested reasons and in other cases recklessly or negligently. As a direct result of this wrongful favoritism, plaintiff lost approximately \$47 million that it had invested in the trust.

2. Defendants will no doubt seek to blame plaintiff's losses on overall macroeconomic conditions, including the well-known collapse of the commercial paper and mortgaged backed securities markets.

REDACTED

Furthermore, once these investments turned bad, defendants took steps to protect themselves, and to make certain beneficiaries of the trust who suffered significant losses whole, but took no action whatsoever to protect plaintiff and other beneficiaries. Moreover, defendants either withheld information from or deliberately misinformed plaintiff about the nature of and condition of the trust's investments such that plaintiff was unable to make informed decisions for itself that would have permitted it to withdraw its investment and avoid or limit its losses. In short, while the specific facts of this case belong uniquely to this century, they involve classic breaches of fiduciary duties that require redress by a Court of Equity.

THE PARTIES

3. Plaintiff Woodmen of the World Life Insurance Society (“Plaintiff” or “Woodmen”), is a fraternal benefit society organized and existing under the laws of the State of Nebraska with its principal place of business in Omaha, Nebraska. As a fraternal benefit society, the purpose and objectives of Woodmen include fraternalism, the promotion of volunteerism, civic, charitable and patriotic activities, and the issuance of certificates of benefits, including policies of life insurance to its members. Woodmen is vitally affected with the public interest.

4. Non-party Mount Vernon Securities Lending Trust (the “Trust”) is a Delaware Statutory Trust formed by USBNA on or about August 18, 2005 as a securities lending program for certain of USBNA’s clients. See Registration Statement for USBAM Securities Lending Trust dated October 17, 2005 (the “2005 Registration Statement”), at 1.¹ The Trust, formerly known as USBAM Securities Lending Trust, changed its name to the Mount Vernon Securities Lending Trust on or about March 29, 2006. Plaintiff Woodmen is and at all times relevant was a beneficiary of the Trust.

5. Defendant U.S. Bancorp (“U.S. Bancorp”) is a Delaware corporation with its headquarters in Minneapolis, Minnesota. U.S. Bancorp is a diversified financial services holding company, offering regional consumer and business banking and wealth management services, national wholesale and trust services and global payments services to more than 15.8 million customers. U.S. Bancorp, as an entity that controlled and directed the activities of U.S. Bank National Association, U.S. Bancorp Asset Management, Inc., and the Trust, owes Woodmen, as a beneficiary of the Trust, the highest fiduciary duties of loyalty and care. U.S. Bancorp also

¹ A true and correct copy of the Registration Statement is attached hereto as Exhibit A.

owes Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trust beneficiaries impartially.

6. Defendant U.S. Bank National Association (“USBNA”) is a nationally chartered bank headquartered in Minneapolis, Minnesota. USBNA is one of the largest commercial banks in the United States with approximately \$310 billion in assets and \$204 billion in U.S. deposits, as of December 31, 2010. USBNA is a wholly owned subsidiary of USB and is USB’s principal banking subsidiary. USBNA, as an entity that controls and directs the activities of U.S. Bancorp Asset Management, Inc. and the Trust, owes Woodmen, as a beneficiary of the Trust, the highest fiduciary duties of loyalty and care. USBNA also owes Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trust beneficiaries impartially.

7. Defendant U.S. Bancorp Asset Management Inc. is a Delaware corporation with its principal place of business in Minneapolis, Minnesota. After March 2006, U.S. Bancorp Asset Management, Inc. changed its name to FAF Advisors, Inc. Effective January 1, 2011, FAF changed its name back to U.S. Bancorp Asset Management, Inc. U.S. Bancorp Asset Management, Inc. will be referred to herein as “FAF.” At all relevant times, FAF was a wholly owned subsidiary of USBNA. FAF is, and at all relevant time was, the investment advisor to the Trust. In that capacity, FAF owes fiduciary duties of loyalty and care to Woodmen as a beneficiary of the Trust. FAF also owes Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trust beneficiaries impartially.

8. Defendant Benjamin R. Field III (“Field”) is and at all relevant times hereto has been a trustee of the Trust.

9. Defendant Roger A. Gibson (“Gibson”) is and at all relevant times hereto has been a trustee of the Trust.

10. Defendant Victoria J. Herget ("Herget") is and at all relevant times hereto has been a trustee of the Trust.

11. Defendant Leonard W. Kedrowski ("Kedrowski") is and at all relevant times hereto has been a trustee of the Trust.

12. Defendant Richard K. Riederer ("Riederer") is and at all relevant times hereto has been a trustee of the Trust.

13. Defendant Joseph D. Strauss ("Strauss") is and at all relevant times hereto has been a trustee of the Trust.

14. Defendant Victoria L. Stringer ("Stringer") is and at all relevant times hereto has been a trustee of the Trust.

15. Defendant James M. Wade ("Wade") is and at all relevant times hereto has been a trustee of the Trust.

16. As trustees of a Delaware trust, Individual Defendants Field, Gibson, Herget, Kedrowski, Riederer, Strauss, Stringer and Wade (together, the "Trustees"), owe Woodmen, as a beneficiary of the Trust, the highest fiduciary duties of loyalty and care. The Trustees also owe Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trust beneficiaries impartially.

17. Defendant Thomas S. Schreier, Jr. ("Schreier") is and at all relevant times hereto has been the President of the Trust. Schreier was also the President, Chief Executive Officer and a director of FAF at all relevant times.

18. Defendant Mark S. Jordahl ("Jordahl") is and at all relevant times hereto has been a Vice President of the Trust. Jordahl was also the Chief Investment Officer and a director of FAF at all relevant times.

19. Defendant Jeffrey M. Wilson ("Wilson") is and at all relevant times hereto has been a Vice President of the Trust. Wilson is also a Senior Vice President of FAF.

20. Defendant Charles D. Gariboldi, Jr. ("Gariboldi") is and at all relevant times hereto has been the Treasurer of the Trust. Gariboldi is also the Mutual Funds Treasurer of FAF.

21. Defendant Jill M. Stevenson ("Stevenson") is and at all relevant times hereto has been the Assistant Treasurer of the Trust. Stevenson is also the Assistant Mutual Funds Treasurer of FAF.

22. Defendant David H. Liu ("Liu") is and at all relevant times hereto has been the Chief Compliance Officer of the Trust. At all relevant times, Liu was also the Chief Compliance Officer of FAF and, upon information and belief, a director of FAF.

23. Defendant Kathleen L. Prudhomme ("Prudhomme") is and at all relevant times hereto has been the Secretary of the Trust. Prudhomme has been the Deputy General Counsel of FAF since 2004 and, prior to that time, was a partner with Dorsey & Whitney LLP, which, upon information and belief, has performed legal work on behalf of U.S. Bancorp and its affiliates.

24. Defendant Brett L. Agnew ("Agnew") was an Assistant Secretary of the Trust from 2005 through 2008; Agnew also was employed as counsel to FAF during that period.

25. Defendant James R. Arnold ("Arnold") is and at all relevant times hereto has been an Assistant Secretary of the Trust and an officer of U.S. Bancorp Fund Services, LLC.

26. Defendant Richard J. Ertel ("Ertel") is and at all relevant times hereto has been an Assistant Secretary of the Trust and employed as counsel to FAF.

27. Defendant Douglas G. Hess ("Hess") is and at all relevant times hereto has been an Assistant Secretary of the Trust and an officer of U.S. Bancorp Fund Services, LLC.

28. Defendant James D. Alt (“Alt”) is and at all relevant times hereto has been an Assistant Secretary of the Trust. Alt is a partner with Dorsey & Whitney LLP which, upon information and belief, has performed legal work on behalf of U.S. Bancorp and its affiliates.

29. As officers of the Trust, the Individual Defendants named in ¶¶ 17-28 above (together, the “Trust Officers”) owe Woodmen, as a beneficiary of the Trust, the highest fiduciary duties of loyalty and care. The Trust Officers also owe Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trust beneficiaries impartially.

30. Defendant Joseph Madison Ulrey, III (“Ulrey”) was at all relevant times a director and the Chief Financial Officer of FAF.

31. Defendant Charles R. Manzoni, Jr. (“Manzoni”) was at all relevant time a director, the General Counsel and Secretary of FAF.

32. As directors of FAF, Individual Defendants Ulrey, Manzoni, Schreier, Liu and Jordahl (together, the “FAF Directors”) owe Woodmen, as a beneficiary of the Trust, the highest fiduciary duties of loyalty and care. The FAF Directors also owe Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trust beneficiaries impartially. U.S. Bancorp, USBNA, FAF, the Trust Officers (as employees of U.S. Bancorp and/or its affiliates), and the FAF Directors are referred to collectively herein as “USB.”

SUBJECT MATTER JURISDICTION

33. Because the Trust is a Delaware Statutory Trust, and this lawsuit involves the rights of Woodmen, a beneficiary of the Trust, under the Delaware Statutory Trust Act and Delaware statutory and common law relating to trusts, Delaware law governs all or some of the claims brought herein under the Agreement and Declaration of Trust of USBAM Securities

Lending Trust and certain related agreements. This Court has subject matter jurisdiction over the claims pursuant to 12 *Del. C.* § 3804 and 10 *Del. C.* § 341.

SECURITIES LENDING GENERALLY

34. Securities lending is the market practice by which, for a fee, securities are transferred temporarily from one party (the lender), in this case Woodmen, to another party (the borrower), in this case non-parties to this action. Legal title passes on both sides of the transaction so that borrowed securities and collateral can be sold or loaned. The borrower is obligated to return the loaned securities either on demand by the lender or at the end of an agreed term.

35. The borrower is required to provide acceptable assets as collateral to the lender, most often in the form of cash, known in this case as “cash collateral.” Most loaned securities are required by insurance laws and regulations to be “overcollateralized.” That is, the value of the cash collateral exceeds the market value of the loaned securities. The amount of cash collateral needed to secure a securities loan is subject to review and must be increased if the value of the underlying loaned securities increases throughout the duration of the loan.

36. Securities lending programs serve a dual purpose. First, they provide an opportunity for the lender, in this case Woodmen, to earn additional income from its securities. Lenders do so by having the cash collateral invested in conservative, liquid, low risk, short-term investments. These short-term investments are expected to earn more interest income than the lower-than-market interest rates the lender pays to the borrower (commonly referred to as the “rebate” rate) while the lender holds the borrower’s cash collateral.

37. Second, securities lending programs provide a ready source of securities available to those who need to borrow them for a short period of time, such as investment banks and hedge funds.

38. Although the borrower of the securities is legally entitled to any economic benefit derived from its ownership of the loaned securities (*i.e.*, dividends), most securities lending agreements obligate the borrower to make equivalent payments to the lender. Thus, in a typical securities lending transaction, the lender benefits from the income earned on its securities as well as income it earns on its investment of the cash collateral, while the borrower benefits from the payment of interest on its cash collateral and the temporary use of the securities.

39. Securities lenders rely upon the liquidation of their cash collateral investments as the monetary source to repay cash collateral to securities borrowers. For this reason, any cash collateral investments must be adequately liquid and sufficiently conservative and secure so as to safeguard the principal. It is also for this reason that fiduciaries discharge their duties when investing cash collateral with the care, skill, prudence and diligence consistent with the fiduciaries' reported "expertise."

40. If the value of the lenders' cash collateral investments is less than the amount of cash collateral and interest that must be repaid to the borrower, the securities lender is left in a deficit position and must make up the balance from other revenue sources.

FACTS GIVING RISE TO THIS ACTION

USBNA'S SECURITIES LENDING PROGRAM

41. USBNA has served as nominee and custodian for Woodmen's publicly held bonds and stocks since the early 1970's. USBNA received a percentage of the return of the

investment collateral and, in effect, was receiving a return on Woodmen's securities in connection with the Securities Lending Program.

42. In or about 1997 Woodmen and USBNA, through USBNA's predecessor First Bank/First Trust, entered into a Securities Lending Agreement, whereby USBNA provided securities lending and collateral investment services to Woodmen.

43. In December 2004, Woodmen submitted a Request for Proposal ("RFP") to various financial institutions providing securities lending, collateral investment, custodial and other banking services.

44. USBNA responded to Woodmen's RFP and made both written and verbal representations to Woodmen with regard to the experience, expertise and "active management" of USBNA's securities lending and collateral investment program (the "Securities Lending Program"). In reliance on USBNA's representations and its purported ability to offer a full range of other banking services, Woodmen granted its business to USBNA.

45. On or about March 31, 2006, Woodmen and USBNA entered into an Amended and Restated Securities Lending Agreement (the "SLA").²

46. Under to the SLA, Woodmen appointed USBNA as Woodmen's agent for the purpose of lending Woodmen's securities and investing collateral, and USBNA agreed to act in such capacity for Woodmen. Woodmen also authorized USBNA to enter into a master borrowing agreement (the "Borrowing Agreement") with each person designated by Woodmen as being eligible to borrow some or all of its securities (the "Borrower").

47. Woodmen's securities lent under the Borrowing Agreement were exchanged for cash or other types of collateral from the Borrower. When the collateral delivered by the

² A true and correct copy of the SLA is attached hereto as Exhibit B. The SLA is governed by Minnesota law. SLA, at § 17

Borrower was cash, the SLA authorized USBNA, as agent for Woodmen, to invest the cash in accordance with specific guidelines set forth in the offering memorandum for two investment funds: the Mount Vernon Securities Lending Prime Portfolio (the “Prime Fund”), a money market fund; and the Mount Vernon Securities Lending Short-Term Bond Portfolio (the “STB Fund”), a non-money market investment fund. (The Prime Fund and the STB Fund are collectively referred to as the “Funds”).

48. In its securities lending marketing materials (the “Marketing Materials”), USBNA represented that the risks associated with the Securities Lending Program were “strictly controlled” through a “conservative approach to risk management and our fiduciary responsibility to you.”³ Marketing Materials, at 3. The Securities Lending Program was touted as one based upon an investment policy establishing “strict quality guidelines for collateral investments.” *Id.*

49. USBNA was compensated for its services to Woodmen in the Securities Lending Program indirectly through a percentage of the income earned on the cash collateral.

FORMATION OF THE MOUNT VERNON SECURITIES LENDING TRUST

50. Formed by USBNA in 2005, the Trust operated as an open-end management investment company under the Investment Advisers Act of 1940 (the “1940 Act”). 2005 Registration Statement, at 1.

51. The Trust offered Woodmen and other investors two series of shares of beneficial interest representing interests in two separate portfolios: the Prime Fund and the STB Fund.

52. According to the Prime Fund’s Private Placement Offering Memorandum (the “Prime Fund PPM”), dated October 18, 2005, the Prime Fund’s principal objectives were to

³ A true and correct copy of USBNA’s Marketing Materials is attached hereto as Exhibit C.

“maximize current income to the extent consistent with the preservation of capital and liquidity; and maintain a stable \$1.00 per share net asset value (“NAV”) by investing in dollar-denominated securities with remaining maturities of 397 calendar days or less.”⁴ See Prime Fund PPM, at 2.

53. The STB Fund similarly sought to “maximize current income to the extent consistent with the preservation of capital and liquidity.” See STB Fund’s Private Placement Offering Memorandum (the “STB Fund PPM”), dated October 18, 2005, at 2.⁵ The STB Fund was not required to maintain a NAV of \$1.00. However, USB represented that FAF “would seek to minimize fluctuations in the value of the [STB Fund]” “[b]y managing the average duration” of the underlying securities.

54. USB further represented to Woodmen that the investments in the STB Fund (which were substantially similar to the Prime Fund’s investments) would be high quality, low-risk, fixed-income securities with short to medium term maturities. STB Fund PPM at 2-3. The STB Fund (like the Prime Fund) was designed specifically to maintain a high level of liquidity to enable STB Fund beneficiaries, such as Woodmen, to repay all cash collateral to borrowers at any point in time. *Id.* at 2. Indeed, the STB Fund PPM expressly stated that the shares in the fund were available for redemption in cash each day on which the Federal Reserve Bank was open for business. STB Fund PPM, at 5-6; see Prime Fund PPM, at 5 (same). In deciding to participate in the Securities Lending Program, Woodmen relied upon USBNA’s representations, including its representation that the STB Fund would remain highly liquid by investing in high quality, low-risk, fixed-income securities with short to medium term maturities..

⁴ A true and correct copy of the Prime Fund PPM is attached hereto as Exhibit D.

⁵ A true and correct copy of the STB Fund PPM is attached hereto as Exhibit E.

55. As of the Spring of 2008, Woodmen was the largest investor in the STB Fund, holding more than 44% of the STB Fund's shares, which represented an investment in excess of \$1 billion.

56. At times, the U.S. Bancorp Pension Fund was also among the top five investors in the STB Fund.

57.

REDACTED

MANAGEMENT OF THE MOUNT VERNON SECURITIES LENDING TRUST

⁶ A true and correct copy of the Securities Lending Agreement between USBNA and First American Investment Funds, Inc. is attached hereto as Exhibit F.

58. Pursuant to the Agreement and Declaration of Trust of USBAM Securities Lending Trust, dated September 21, 2005, as amended (the "Trust Agreement"), the Trustees were responsible for managing the business and affairs of the Trust for the benefit of the Trust beneficiaries, including Woodmen.⁷ See Trust Agreement, at § 3.1. The Trust Agreement does not purport to modify or eliminate the Trustees' fiduciary duties (and to the extent that it attempts to do so, it does not do so effectively). Moreover, the Trust Agreement expressly acknowledges that the Trustees may be held liable to the Trust or its beneficiaries for actions or omissions constituting "bad faith, willful misfeasance, gross negligence or reckless disregard of . . . duties" Trust Agreement, at § 5.2.

59. The Trustees delegated certain of their management duties and authority to USB by entering into three agreements contemporaneously with the adoption of the Trust Agreement. On September 21, 2005, FAF and the Trust entered into the USBAM Securities Lending Trust Investment Advisory Agreement (the "Advisory Agreement"), whereby the Trust retained FAF to provide investment advisory services to the Trust.⁸ See Advisory Agreement, at § 1. As explained in the Trust's Registration Statement:

The Advisor [FAF] has the authority and responsibility to make and execute investment decisions for the Portfolios within the framework of the Portfolio's investment policies, subject to review by the Board of Trustees of the Trust. The Advisor is also responsible for monitoring the performance of the various organizations providing services to the Portfolios, including the Portfolios' custodian and accounting agent, and for periodically reporting to the Trust's Board of Trustees on the performance of such organizations.

See 2005 Registration Statement, at 37.

⁷ A true and correct copy of the Trust Agreement is attached hereto as Exhibit G. Delaware law governs the Trust Agreement. Trust Agreement, at § 11.2.

⁸ A true and correct copy of the Advisory Agreement is attached hereto as Exhibit H. Delaware law governs the Advisory Agreement. Advisory Agreement, at § 14.

60. As an investment advisor and fiduciary, FAF (and the FAF Directors) owe fiduciary duties of loyalty and care to Woodmen as a beneficiary of the Trust. FAF also owes Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trust beneficiaries impartially. FAF's fiduciary duties were expressly acknowledged in the 2005 Registration Statement:

As an investment adviser and fiduciary, USBAM [FAF] owes our clients and mutual fund shareholders an undivided duty of loyalty. We recognize that conflicts of interest are inherent in our business and accordingly have developed policies, procedures and disclosures reasonably designed to detect, manage and mitigate the effects of potential conflicts of interest in the area of employee personal trading, managing multiple accounts for multiple clients, including funds (hereinafter "clients"), and allocating investment opportunities. Investment professionals, including portfolio managers and research analysts, are subject to the above-mentioned policies and oversight to help ensure that all clients are treated equitably. As stated in these conflicts-related policies, we place the interests of our clients first and expect all of our employees to maintain our fiduciary duty.

See 2005 Registration Statement, at 40.

61. FAF also assumed the roles of administrator and transfer agent to the Trust, pursuant to an Administration Agreement with the Trust, dated September 21, 2005 (the "Administration Agreement").⁹ Among other administrative services, FAF agreed to provide the following services:

- "prepare communications to shareholders, including the annual and semi-annual reports to shareholders . . .";
- "provide for and coordinate the design, development, and operation of the Trust, including new portfolio investment objectives, policies and structure";
- "provide individuals reasonably acceptable to the Trust's Board of Trustees for nomination, appointment, or election as officers of the Trust, who will be

⁹ A true and correct copy of the Administration Agreement is attached hereto as Exhibit I. The Administration Agreement is governed by Delaware law. Administration Agreement, at § 7.

responsible for the management of certain of the Trust's affairs to be determined by the Trust's Board of Trustees";

- "advise the Trust and the Trust's Board of trustees on matters concerning the Trust and its affairs"; and,
- "furnish advice and recommendations with respect to other aspects of the business and affairs of the [Funds] as the Trust and [FAF] shall determine desirable"

See Administration Agreement, at § 1(a)(i).

62. FAF received a fee, paid monthly on behalf of each fund, equal on annual basis to 0.02% of each Fund's average daily net assets. *Id.* at § 2. The value of the Funds generally exceeded \$1 billion, resulting in an annual income to FAF of approximately \$200,000.00 from each Fund.

63. The Trust also entered into a Custodian Agreement with USBNA, dated September 21, 2005 (the "Custodian Agreement"), whereby the Trust placed all of its securities in USBNA's custody for the account of the Funds, and USBNA agreed to manage the transfer, exchange and redelivery of the securities, among other things.¹⁰ USBNA received compensation from the Trust for these services. *See Custodian Agreement, at Art. 13.*

64. Notwithstanding their delegation of certain management duties and authority to USB, the Trustees (and the Trust Officers) continued owe Woodmen the highest fiduciary duties of loyalty and care. The Trustees (and the Trust Officers) also owe Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trustee beneficiaries impartially.

OPERATION OF THE MOUNT VERNON SECURITIES LENDING TRUST

65. Between July 2006 and August 2007, USB invested a portion of the Funds' assets in commercial paper issued by three different entities: KKR Atlantic Funding Trust

¹⁰ A true and correct copy of the Custodian Agreement is attached hereto as Exhibit J. The Custodian Agreement is governed by Minnesota law. *Custodian Agreement, at Art. 18.*

conducting a separate or independent investigation of the nature and quality of the assets backing the commercial paper issued by the SIVs.

70. The commercial paper into which USB and the Trustees invested the STB Fund's assets was backed in part by Alt-A and subprime mortgage bonds.

71. After USB and the Trustees invested hundreds of millions of dollars of the Funds' assets in commercial paper issued by these SIVs, analysts following these and similar SIVs warned that the lack of liquidity in the credit market and sharp declines in the market value of assets backing many SIVs threatened their viability.

72. The analysts' projections ultimately proved true. The values for subprime and Alt-A mortgage backed securities fell sharply and the SIVs were unable to refinance or pay off their commercial paper borrowings.

REDACTED

USB and the Trustees continued to purchase KKR and Ottimo commercial paper in August 2007..

73. Woodmen had no knowledge that the STB Fund's assets had been invested in commercial paper backed by subprime and Alt-A mortgage backed securities. USB and the Trustees withheld that information from Woodmen until mid-2008, well-after the bottom had fallen out of these SIVs, and well-after the point at which Woodmen could have liquidated its collateral investment portfolio. Had USB and the Trustees properly disclosed this risk, Woodmen would have withdrawn its participation in the Securities Lending Program with USB

¹¹ A true and correct copy of the Exhibit K.

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is attached hereto as

or instructed USBNA to place its cash collateral in a separately managed collateral account. As a result of the Trustee's and USB's misconduct, Woodmen is now stuck in an illiquid, unredeemable trust which is not expected to terminate for as many as 30 years.

KKR AND OTTIMO ARE DOWNGRADED

74. On or about August 14, 2007, Standard & Poor's ("S&P") placed Ottimo on Credit Watch with negative implications. Being the object of a Credit Watch generally indicates the credit quality of an entity's debt has deteriorated and may be downgraded.

75. That same day, S&P also placed KKR on Credit Watch.

76. On or about August 15, 2007, Moody's Investor Services ("Moody's"), reported that it might cut the ratings on certain asset-backed commercial paper programs ("ABCP's"), namely those of KKR and Ottimo.

77. The following day, on or about August 16, 2007, Fitch Ratings ("Fitch"), downgraded the ABCP ratings of KKR Atlantic and KKR Pacific to 'B' from 'F1+' and placed both programs on "Rating Watch Evolving." Rating Watches are used by Fitch Ratings when there is a heightened probability of a rating change and the likely direction of the rate change. A Rating Watch is "Evolving" where the ratings may be raised, lowered or maintained. A short term 'B' rating was defined as "speculative," meaning there was minimal capacity for timely payment of financial commitments, plus vulnerability to near term adverse changes in financial and economic conditions.

78. At the time Fitch downgraded KKR Atlantic and KKR Pacific to a 'B' rating, KKR Financial (the parent of both KKR Atlantic and KKR Pacific) was reporting that both programs had breached their overcollateralization tests and were unlikely to cure these breaches.

79. On or about August 21, 2007, Bloomberg reported that investors had refused to buy Ottimo's \$3 billion of short-term debt due to growing concerns about subprime mortgage bonds. As a result, Ottimo was forced to exercise an option to extend the maturities on its commercial paper, providing it with 30 to 45 more days to find buyers.

80. According to one market analyst, by this time the market for commercial paper was "unwinding" and "no one" wanted to own A1/P1 asset-backed commercial paper.

81. In an investor report dated August 27, 2007, Ottimo reported that it continued to fail its overcollateralization tests. That same day, Fitch revised KKR Atlantic from Credit Watch Evolving to Credit Watch Negative.

82. On or about August 30, 2007, S&P downgraded Ottimo from 'A-1+' to 'A-2' and kept it on Credit Watch with negative implications.

83. On or about October 2, 2007, Fitch downgraded KKR Pacific's rating from 'B' to 'D.' The cut was intended to reflect KKR Pacific's default on debt that had not been repaid under original terms.

84. On or about October 3, 2007, S&P lowered its rating on ABCP notes issued by Ottimo from 'A-2' to 'B' and kept it on Credit Watch with negative implications.

85. On or about October 8, 2007, Fitch downgraded the short-term rating on the secured liquidity notes ("SLNs" or "notes") issued by KKR Atlantic to 'D.' The downgrade reflected KKR Atlantic's nonpayment of the SLNs in accordance with the original terms of the SLNs.

86. On or about October 29, 2007, Moody's downgraded KKR Atlantic to Not Prime, or "junk."

87. On or about October 31, 2007, Ottimo was forced to sell nearly \$3 billion of mortgage-backed securities as a result of its inability to refinance its short-term debt.

88. On or about November 9, 2007, S&P cut Ottimo's rating from 'C' to 'D.'

89. Not only did the Trustees and USB fail to act reasonably and prudently in response to this information by redeeming Woodmen's and the other beneficiaries' investments in the KKR and Ottimo commercial paper, but they withheld material information from Woodmen. They never disclosed that the KKR and Ottimo commercial paper held by the STB Fund were backed by subprime and Alt-A mortgage backed securities or that the KKR and Ottimo commercial paper was in serious trouble, until it was too late for Woodmen to act on the information. Instead, they held those assets until it was too late for Woodmen to obtain cash redemption of its investment in the STB Fund.

**THE TRUSTEES ACCEDE TO USB'S BAILOUT OF THE PRIME FUND
WITHOUT ANY CONSIDERATION OF THE STB FUND**

90. In a teleconference on August 10, 2007,

REDACTED

91. The Prime Obligations Fund is not a series within the Mount Vernon Securities Lending Trust. Rather, it is a separate money market fund formed and operated by USB, and overseen by the same Trustees through an unrelated portfolio; FAF is likewise the investment advisor for Prime Obligation.

92. On August 13, 2007, the Trustees

REDACTED

STB Fund also held such commercial paper,

REDACTED

Thus, no later

than August 13, the Trustees and FAF

REDACTED

93. Notwithstanding the fact that the STB Fund also held KKR and Ottimo commercial paper,

REDACTED

94. Less than one month later, the Trustees

REDACTED

REDACTED

95. Once again, notwithstanding the fact that the STB Fund also held KKR and Ottimo commercial paper, the Trustees and FAF

REDACTED

96.

REDACTED

97. In November 2007, the Trust entered into a capital support agreement (the “Capital Support Agreement”) with U.S. Bancorp, whereby U.S. Bancorp purchased substantially all of the Prime Fund’s illiquid securities. The Trust’s Form N-Q, dated November 29, 2007, states that “as of November 26, 2007, the [Prime Fund] no longer holds KKR Atlantic Funding Trust, KKR Pacific Funding Trust, Ottimo Funding, and Axon Financial.”

REDACTED

98.

99. After bailing out the Prime Fund, U.S. Bancorp began marketing the Prime Fund to new investors as a stable money market fund that did not contain illiquid securities.

100. U.S. Bancorp had no contractual or legal obligation to the Trust to enter into the Capital Support Agreement. Rather, U.S. Bancorp entered into the agreement for its own benefit and that of its affiliates, USBNA, FAF and **REDACTED**. Indeed, had the Prime Fund’s NAV fallen below \$1.00, known as “breaking the buck,” USB faced severe business consequences, including a substantial loss in value of **REDACTED**, reputational taint, and a “run” on the bank by investors rushing to move their assets into more stable investments, possibly at other banks or financial institutions.

REDACTED

REDACTED

101. The Trustees and USB then failed to disclose the conflicts inherent in the negotiation and execution of the Capital Support Agreement and the Prime Fund bailout to Woodmen, further violating their fiduciary duties to Woodmen. With no independent means of discovering this information, Woodmen was reliant on the Trustees and USB to disclose this material information in accordance with their fiduciary and other duties to Woodmen.

THE TRUSTEES AND USB CONTINUE TO WITHHOLD MATERIAL INFORMATION FROM WOODMEN

102. By late January 2008, the STB Fund's **REDACTED**
REDACTED However, the Trustees and USB continued to withhold from Woodmen the fact that the STB Fund held KKR and Ottimo commercial paper backed by subprime and Alt-A mortgage backed securities, and that the value of these investments was deteriorating rapidly.

103. By early February 2008, the STB Fund was experiencing difficulty maintaining a \$1.00 NAV. **REDACTED** the STB Fund appeared to "break the buck" for the first time. FAF disclosed to Woodmen that the market value in the STB Fund were distressed. However, neither FAF nor the Trustees advised Woodmen that the STB Fund's NAV had fallen below \$1.00. Nor did they disclose to Woodmen that the drop in the NAV resulted from the STB Fund's holdings of illiquid securities, *i.e.*, the KKR and Ottimo commercial paper.

104. Had Woodmen been told about the illiquid securities, it could have exercised its contractual right to cash redemption of its investment in the STB Fund. As the largest investor in

the STB Fund at the time, with more than \$1 billion in cash collateral holdings, Woodmen's exercise of its cash redemption right would have caused the STB Fund's NAV to fall below \$1.00, and may have triggered other STB Fund beneficiaries to request cash redemptions, which would have further depressed the NAV. As one of the top five investors in the STB Fund through the U.S. Bancorp pension fund, USB was acutely aware of the risk posed to U.S. Bancorp (and its pension fund) if Woodmen exercised its cash redemption right, and this no doubt influenced how much information USB chose to share with Woodmen.

105.

REDACTED

106.

REDACTED

REDACTED

and was less heavily invested in the STB Fund (through the USB Pension Fund). By contrast, Woodmen, as the largest investor in the STB Fund by far, was heavily invested in that Fund's success. USB's interests with respect to the were therefore not equivalent, and moreover, its divergent interests would not be served in the same manner. Thus, unlike the situation with the Prime Fund, where USB would benefit most directly from a bailout, its lesser interest in the STB Fund made bailing out that Fund less economically attractive. Instead, USB's goal with respect to the STB Fund was to limit the flow of information to the

beneficiaries so they would not withdraw from the Fund and thereby imperil the value of the USB Pension Fund's interest in the STB Fund.

107. On February 8,

REDACTED

Neither USB nor the Trustees informed Woodmen of this change to its redemption rights. That disclosure would have caused Woodmen to inquire about the stability of the STB Fund, particularly after the disclosure just two days earlier that the Fund's market value were distressed.

108. Throughout the remainder of February and March, KKR and Ottimo continued to experience problems. Although the Trustees and USB knew first-hand that KKR and Ottimo were experiencing financial difficulty and were in default, the Trustees and USB did not communicate these facts to Woodmen. Instead, the Trustees and USB continued to hold these illiquid securities.

109. As a result of the devaluation of the subprime and Alt-A mortgage backed securities, USB granted several loan extensions to KKR and Ottimo. USB did so without the knowledge or consent of Woodmen.

110. Shortly thereafter, a representative of Woodmen contacted USB regarding the security of Woodmen's cash collateral investments. During that conversation, USB never advised Woodmen that the STB Fund had invested in subprime and Alt-A mortgage-backed securities; that the STB Fund had invested in non-agency, mortgage backed securities; that KKR and Ottimo had defaulted on the notes; that USB had extended the KKR and Ottimo notes and was considering restructuring the notes; or that the STB Fund was having difficulty holding its shares to a \$1.00 NAV as a result of its holding illiquid securities. Instead, USB represented to

Woodmen that Woodmen's cash collateral investments were sound, even though USB knew otherwise.

111. During this same period, Emil C. Busse, Jr. ("Busse"), the managing director of the STB Fund, engaged in a massive fraud designed to mask the collapse of the STB Fund.

112. In an effort to dilute the impact of the illiquid securities on the STB Fund's NAV and to maintain the NAV as close to \$1.00 as possible, Busse reallocated approximately \$900 million in new loans from investors in the Prime Fund to investors in the STB Fund between February 5 and March 4, 2008. This reallocation exposed STB Fund beneficiaries to losses approaching \$6 million.

113. On or about March 25, 2008, FAF discovered Busse's malfeasance

REDACTED

114.

REDACTED

115. Neither the Trustees nor USB disclosed any information to Woodmen about Busse's misconduct or the effect of his wrongdoing on the STB Fund. With no independent means of discovering this information, Woodmen was reliant on the Trustees and USB to disclose this material information in accordance with their fiduciary and other duties to Woodmen.

USBNA "KILLS" THE STB FUND

REDACTED

116.

On April 29,

2008, the Trust officially closed the STB Fund to new participants.

REDACTED

At the time, Woodmen was not told that the STB Fund had been closed to new participants (officially or unofficially), that USBNA intended to kill the fund, or that new customers were being funneled into the Prime Fund.

117. By June 2008, KKR and Ottimo had hit rock bottom. On or about June 13, 2008, Ken Delecki ("Delecki") of USBNA telephoned Bob Maher ("Maher") at Woodmen to advise him that the shares of the STB Fund were presently valued at \$0.9957, but that USBNA was going to mark the shares at \$0.99. Delecki told Maher that, as a result of the mark-down, redeeming beneficiaries would lose the difference between the Fund's present share value of \$0.9957 and the mark-down share value of \$0.99, or \$0.0057 per share; this "loss" in value upon redemption would inure to the STB Fund's non-redeeming beneficiaries. Delecki further advised Maher that this loss in share value was temporary and that Woodmen would benefit by remaining in the Fund.

118. Less than two weeks later, without the approval of Woodmen or the other STB Fund beneficiaries, the Trustees and USB liquidated the STB Fund effective June 24, 2008 and restructured the Fund's assets, and thereby cut-off Woodmen's ability to redeem its shares whether in-cash or in-kind.

119. On or about June 25, 2008, FAF sent a notice ("Notice") to Woodmen advising Woodmen of the after-the-fact liquidation and restructuring, and disclosing to Woodmen, for the first time, that "[o]ver the course of the past year, each of the [SIVs] has experienced at least one

default or deferral in payment of principal and/or interest” The Notice does not disclose that the Trustees

REDACTED

120. The most poorly performing holdings – those of KKR and Ottimo (now known as “New Entity, LLC”) – are presently being held in an illiquid, unredeemable trust. As a result, Woodmen has lost the ability to withdraw or redeem Woodmen’s investment in these holdings, thereby causing Woodmen damages. Presently, the deficit between the market value of the cash collateral and the amount Woodmen owes to Woodmen’s securities borrowers is approximately \$47 million.

121. Woodmen has no adequate remedy at law.

COUNT I
Breach of Fiduciary Duties (Trustees)

122. Woodmen incorporates the foregoing allegations herein by reference.

123. As Trustees, Field, Gibson, Herget, Kedrowski, Riederer, Strauss, Stringer and Wade owed Woodmen and the other Trust beneficiaries the highest fiduciary duties of loyalty and care. The Trustees also owed Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all of the Trust beneficiaries impartially.

124. The Trustees breached their fiduciary and other duties by, among other things:

a. Agreeing to enter into the Capital Support Agreement and subsequently accepting capital support from U.S. Bancorp for the benefit of U.S. Bancorp, USBNA, FAF and **REDACTED**, to the exclusion and at the expense of, the STB Fund, Woodmen and the other beneficiaries of the STB Fund;

b. Preferring the interests of the Prime Fund beneficiaries over the interests of Woodmen and the other STB Fund beneficiaries;

c. Preferring their own interests and the interests of U.S. Bancorp, USBNA, FAF and **REDACTED** over the interests of Woodmen and the other STB Fund beneficiaries;

d. Failing to consider or investigate alternative courses of action for the benefit of all of the Trust beneficiaries, including negotiating with U.S. Bancorp for capital support for both the Prime Fund and the STB Fund;

e. Failing to consider or take action to minimize the risk of financial harm to the STB Fund posed by its holding the KKR and Ottimo commercial paper, which were backed by subprime and Alt-A mortgage backed securities ;

f. Revoking the STB Fund's cash redemption rights for the purpose of benefitting U.S. Bancorp and its affiliates;

g. Failing to disclose that the STB Fund was invested in, and continuously held, commercial paper backed by subprime and Alt-A mortgage backed securities;

h. Failing to disclose the devaluation and illiquidity of the Ottimo and KKR commercial paper, and the effect thereof on the STB Fund;

i. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund;

j. Revoking the STB Fund's cash redemption right without first disclosing to the STB Fund beneficiaries that the STB Fund held commercial paper backed by subprime and Alt-A mortgage backed securities, and that the STB Fund's NAV had been fluctuating below \$1.00 as a result of the devaluation and illiquidity of the KKR and Ottimo commercial paper; and,

k. Failing to investigate and/or conduct adequate due diligence prior to investing Woodmen's funds in troubled assets and failing to conduct ongoing due diligence once those investments were made

125. The foregoing conduct constituted bad faith, willful misfeasance, gross negligence and/or reckless disregard of duties on the part of the Trustees.

COUNT II

Breach of Fiduciary Duties (FAF and the FAF Directors)

126. Woodmen incorporates the foregoing allegations herein by reference.

127. As investment advisors and agents of the Trust tasked with exercising control over the Trust and its property pursuant to the Advisory Agreement, the Administration Agreement and Custodian Agreement, FAF and the FAF Directors owed Woodmen and the other Trust beneficiaries undivided fiduciary duties of loyalty and care. FAF and the FAF Directors also owed Woodmen and the other Trust beneficiaries a duty of disclosure and a duty to treat all Trust beneficiaries impartially.

128. FAF and the FAF Directors breached their fiduciary and other duties by, among other things:

a. Preferring their own interests and the interests of U.S. Bancorp, USBNA and t **REDACTED** over the interests of Woodmen and the other STB Fund beneficiaries;

b. Preferring the interests of the Prime Fund beneficiaries over the interests of Woodmen and the other STB Fund beneficiaries;

c. Obtaining, recommending and administering the Capital Support Agreement for the benefit of the Prime Fund, U.S. Bancorp, USBNA, FAF and the
; and to the detriment of Woodmen and the STB Fund;

REDACTED

d. Failing to consider or investigate alternative courses of action for the benefit of all of the Trust beneficiaries, including negotiating with U.S. Bancorp for capital support for both the Prime Fund and the STB Fund;

e. Failing to consider or take action to minimize the risk of financial harm to the STB Fund posed by its holding the KKR and Ottimo commercial paper, which were backed by subprime and Alt-A mortgage backed securities;

f. Failing to disclose that the STB Fund was invested in, and continuously held, commercial paper backed by subprime and Alt-A mortgage backed securities;

g. Failing to disclose the devaluation and illiquidity of the Ottimo and KKR commercial paper, and the effect thereof on the STB Fund;

h. Recommending to the Trustees that they alter the STB Fund's cash redemption right for the benefit of U.S. Bancorp and its affiliates;

i. Failing to investigate and/or conduct adequate due diligence prior to investing Woodmen's funds in troubled assets and failing to conduct ongoing due diligence once those investments were made;

j. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund to the Trustees in a timely manner; and,

k. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund to Woodmen.

COUNT III
Breach of Fiduciary Duty (Trust Officers)

129. Woodmen incorporates the foregoing allegations herein by reference.

130. As Officers of the Trust, Schreier, Jordahl, Wilson, Gariboldi, Stevenson, Liu, Prudhomme, Agnew, Arnold, Ertel, Hess and Alt owed Woodmen and the other Trust beneficiaries the highest fiduciary duties of loyalty, care and candor as well as the duty to treat all of the Trust beneficiaries impartially.

131. The Trust Officers breached their fiduciary and other duties by, among other things:

a. Preferring the interests of U.S. Bancorp, USBNA, FAF and the
REDACTED over the interests of Woodmen and the other STB Fund beneficiaries;

b. Preferring the interests of the Prime Fund beneficiaries over the interests of Woodmen and the other STB Fund beneficiaries;

c. Obtaining, recommending and administering the Capital Support Agreement for the benefit of the Prime Fund, U.S. Bancorp, USBNA, FAF and the **REDACTED**

, and to the detriment of Woodmen and the STB Fund;

d. Failing to consider or investigate alternative courses of action for the benefit of all of the Trust beneficiaries, including negotiating with U.S. Bancorp for capital support for both the Prime Fund and the STB Fund;

e. Failing to consider or take action to minimize the risk of financial harm to the STB Fund posed by its holding the KKR and Ottimo commercial paper, which were backed by subprime and Alt-A mortgage backed securities;

- f. Failing to disclose that the STB Fund was invested in, and continuously held, commercial paper backed by subprime and Alt-A mortgage backed securities;
- g. Failing to disclose the devaluation and illiquidity of the Ottimo and KKR commercial paper, and the effect thereof on the STB Fund;
- h. Recommending to the Trustees that they alter the STB Fund's cash redemption right for the benefit of U.S. Bancorp and its affiliates;
- i. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund to the Trustees in a timely manner; and,
- j. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund to Woodmen.

COUNT IV
Breach of Fiduciary Duties (USBNA)

132. Woodmen incorporates the foregoing allegations herein by reference.

133. As set forth above, at all relevant times FAF was a wholly owned subsidiary of USBNA. Because USBNA controlled FAF, and through it controlled the FAF Directors, and the Trust officers, who are employees of FAF and/or employees of USBNA affiliates, the fiduciary duties of loyalty and care as well as the duties of disclosure and to treat all Trust beneficiaries impartially owed by FAF, the FAF Directors, and the Trust Officers to Woodmen and the other Trust beneficiaries extend to USBNA. USBNA thus holds a position of trust and confidence with respect to the Trust and its beneficiaries, including Woodmen, and owes a fiduciary duty to act in the highest good faith to them. In exercising control over FAF, the FAF Directors, and the Trust Officers, USBNA is obligated not to obtain an advantage in the Trust's affairs by the slightest misconduct, misrepresentation, concealment, threat, or adverse pressure of any kind and had a duty to not knowingly mislead the Trust or its beneficiaries, including Woodmen. USBNA

also directly owed Woodmen fiduciary duties of loyalty and care as its securities lending agent under the SLA.

134. USBNA breached its fiduciary and other duties by, among other things:

- a. Preferring the interests of itself, U.S. Bancorp, FAF and the **REDACTED** over the interests of Woodmen and the other STB Fund beneficiaries;
- b. Preferring the interests of the Prime Fund beneficiaries over the interests of Woodmen and the other STB Fund beneficiaries;
- c. Causing FAF, the FAF Directors and the Trust Officers to negotiate, recommend and administer the Capital Support Agreement solely for the benefit of the Prime Fund, U.S. Bancorp, USBNA, FAF and the **REDACTED** and to the detriment of Woodmen and the STB Fund;
- d. Failing to consider or investigate alternative courses of action for the benefit of all of the Trust beneficiaries, including negotiating with U.S. Bancorp for capital support for both the Prime Fund and the STB Fund;
- e. Failing to consider or take action to minimize the risk of financial harm to the STB Fund posed by its holding the KKR and Ottimo commercial paper, which were backed by subprime and Alt-A mortgage backed securities;
- f. Failing to disclose that the STB Fund was invested in, and continuously held, commercial paper backed by subprime and Alt-A mortgage backed securities;
- g. Failing to disclose the devaluation and illiquidity of the Ottimo and KKR commercial paper, and the effect thereof on the STB Fund;
- h. Recommending to the Trustees that they alter the STB Fund's cash redemption right for the benefit of U.S. Bancorp and its affiliates;

i. Failing to investigate and/or conduct adequate due diligence prior to investing Woodmen's funds in troubled assets and failing to conduct ongoing due diligence once those investments were made;

j. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund to the Trustees in a timely manner; and,

k. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund to Woodmen.

COUNT V
Breach of Fiduciary Duties (U.S. Bancorp)

135. Woodmen incorporates the foregoing allegations herein by reference.

136. As set forth above, USBNA is a wholly owned subsidiary of U.S. Bancorp. Because U.S. Bancorp controlled USBNA, and through USBNA controlled FAF, the FAF Directors, and the Trust officers, who are employees of FAF and/or employees of U.S. Bancorp subsidiaries, the fiduciary duties of loyalty and care as well as the duties of disclosure and to treat all Trust beneficiaries impartially owed by USBNA, FAF, the FAF Directors, and the Trust Officers to Woodmen and the other Trust beneficiaries extend to U.S. Bancorp. U.S. Bancorp thus holds a position of trust and confidence with respect to the Trust and its beneficiaries, including Woodmen, and owes a fiduciary duty to act in the highest good faith to them. In exercising control over USBNA, FAF, the FAF Directors, and the Trust Officers, U.S. Bancorp is obligated not to obtain an advantage in the Trust's affairs by the slightest misconduct, misrepresentation, concealment, threat, or adverse pressure of any kind and had a duty to not knowingly mislead the Trust or its beneficiaries, including Woodmen.

137. U.S. Bancorp breached its duties by, among other things:

- REDACTED**
- a. Preferring the interests of itself, USBNA, FAF and the over the interests of Woodmen and the other STB Fund beneficiaries;
 - b. Preferring the interests of the Prime Fund beneficiaries over the interests of Woodmen and the other STB Fund beneficiaries;
 - c. Entering into the Capital Support Agreement for the benefit of the Prime Fund, U.S. Bancorp, USBNA, FAF and the **REDACTED**, and to the detriment of Woodmen and the other STB Fund beneficiaries;
 - d. Failing to consider or investigate alternative courses of action for the benefit of all of the Trust beneficiaries, including agreeing to provide capital support for both the Prime Fund and the STB Fund;
 - e. Failing to consider or take action to minimize the risk of financial harm to the STB Fund posed by its holding the KKR and Ottimo commercial paper, which were backed by subprime and Alt-A mortgage backed securities;
 - f. Failing to disclose that the STB Fund was invested in, and continuously held, commercial paper backed by subprime and Alt-A mortgage backed securities;
 - g. Failing to disclose the devaluation and illiquidity of the Ottimo and KKR commercial paper, and the effect thereof on the STB Fund;
 - h. Recommending to the Trustees that they alter the STB Fund's cash redemption right for the benefit of U.S. Bancorp and its affiliates;
 - i. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund to the Trustees in a timely manner; and,
 - j. Failing to disclose Emil Busse's malfeasance and the effect of his wrongdoing on the STB Fund to Woodmen.

COUNT VI
Aiding and Abetting Breach of Fiduciary Duty (USBNA)

138. Woodmen incorporates the foregoing allegations herein by reference.

139. USBNA knowingly and substantially participated in breaches of fiduciary duty by FAF, the FAF Directors, the Trustees and the Trust Officers by, among other things:

a. Acting in concert with FAF, the FAF Directors, the Trustees and the Trust Officers to cause the Trust to enter into a conflicted transaction involving the Capital Support Agreement solely for the benefit of the Prime Fund, U.S. Bancorp, USBNA, FAF and the

REDACTED

, and to the detriment of Woodmen and the other STB Fund beneficiaries;

b. Causing FAF, the FAF Directors, the Trustees and the Trust Officers to prefer the interests of the Prime Fund and its beneficiaries, U.S. Bancorp, USBNA, FAF and the

REDACTED

over the interests of the STB Fund, Woodmen and the other STB Fund beneficiaries; and

c. Causing FAF, the FAF Directors, the Trustees and the Trust Officers to withhold material information from Woodmen, thereby preventing Woodmen from exercising its rights as an STB Fund beneficiary in a timely and informed manner; and,

COUNT VII
Aiding and Abetting Breach of Fiduciary Duty (U.S. Bancorp)

140. Woodmen incorporates the foregoing allegations herein by reference.

141. U.S. Bancorp knowingly and substantially participated in breaches of fiduciary duty by USBNA, FAF, the FAF Directors, the Trustees and the Trust Officers by, among other things: things:

a. Acting in concert with USBNA, FAF, the FAF Directors, the Trustees and the Trust Officers to cause the Trust to enter into a conflicted transaction involving the Capital

Support Agreement solely for the benefit of the Prime Fund, U.S. Bancorp, USBNA, FAF and

REDACTED

, and to the detriment of Woodmen and the other STB Fund beneficiaries;

b. Causing USBAN, FAF, the FAF Directors, the Trustees and the Trust Officers to prefer the interests of the Prime Fund and its beneficiaries, U.S. Bancorp, USBNA, FAF and **REDACTED** over the interests of the STB Fund, Woodmen and the other STB Fund beneficiaries; and

c. Causing USBNA, FAF, the FAF Directors, the Trustees and the Trust Officers to withhold material information from Woodmen, thereby preventing Woodmen from exercising its rights as an STB Fund beneficiary in a timely and informed manner; and,

COUNT VIII

Aiding and Abetting Breach of Fiduciary Duty (FAF)

142. Woodmen incorporates the foregoing allegations herein by reference.

143. FAF knowingly and substantially participated in breaches of fiduciary duty by the Trustees by, among other things: things:

a. Acting in concert with U.S. Bancorp, USBNA, the FAF Directors, the Trustees and the Trust Officers to cause the Trust to enter into a conflicted transaction involving the Capital Support Agreement solely for the benefit of the Prime Fund, U.S. Bancorp, USBNA, FAF and the **REDACTED** and to the detriment of Woodmen and the other STB Fund beneficiaries;

b. Acting in concert with U.S. Bancorp, USBNA, the FAF Directors, the Trustees and the Trust Officers to prefer the interests of the Prime Fund and its beneficiaries, U.S. Bancorp, USBNA, FAF and the **REDACTED** over the interests of the STB Fund, Woodmen and the other STB Fund beneficiaries; and

c. Acting in concert with U.S. Bancorp, USBNA, the FAF Directors, the Trustees and the Trust Officers to withhold material information from Woodmen, thereby preventing Woodmen from exercising its rights as an STB Fund beneficiary in a timely and informed manner; and,

d. Acting in concert with U.S. Bancorp, USBNA, the FAF Directors, and the Trust Officers to withhold material information from the Trustees.

COUNT IX

Aiding and Abetting Breach of Fiduciary Duty (FAF Directors)

144. Woodmen incorporates the foregoing allegations herein by reference.

145. The FAF Directors knowingly and substantially participated in breaches of fiduciary duty by the Trustees by, among other things: things:

a. Acting in concert with U.S. Bancorp, USBNA, FAF, the Trustees and the Trust Officers to cause the Trust to enter into a conflicted transaction involving the Capital Support Agreement solely for the benefit of the Prime Fund, U.S. Bancorp, USBNA, FAF and the **REDACTED** to the detriment of Woodmen and the other STB Fund beneficiaries;

b. Acting in concert with U.S. Bancorp, USBNA, FAF, the Trustees and the Trust Officers to prefer the interests of the Prime Fund and its beneficiaries, U.S. Bancorp, USBNA, FAF and **REDACTED** over the interests of the STB Fund, Woodmen and the other STB Fund beneficiaries; and

c. Acting in concert with U.S. Bancorp, USBNA, FAF, the Trustees and the Trust Officers to withhold material information from Woodmen, thereby preventing Woodmen from exercising its rights as an STB Fund beneficiary in a timely and informed manner; and,

d. Acting in concert with U.S. Bancorp, USBNA, FAF, and the Trust Officers to withhold material information from the Trustees.

WHEREFORE, plaintiff prays for judgment and relief as follows:

- A. Awarding Woodmen damages for the wrongs complained of herein;
- B. Awarding Woodmen its attorneys' fees and costs in this action; and
- C. Awarding Woodmen such other and further relief as this Court may deem just and

proper.

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