

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

In re:

RMA STRATEGIC OPPORTUNITY
FUND, LLC,

Debtor.

CHAPTER 7
CASE NO. 17-13328-FJB

MARK G. DEGIACOMO, CHAPTER 7
TRUSTEE FOR THE ESTATE OF RMA
STRATEGIC OPPORTUNITY
FUND, LLC,

Plaintiff,

v.

18-

RAYMOND K. MONTOYA, ROSS P.
MONTOYA, ALMA U. MONTOYA, RYAN
J. MONTOYA, RESOURCE MANAGED
ASSETS, LLC, RESEARCH MAGNATE
ADVISORS, LLC and RMA GROUP, INC.,

Defendants,

CENTURY BANK AND TRUST COMPANY
and SANTANDER BANK, N.A.

Trustee Process
Defendants.

COMPLAINT

INTRODUCTION

1. An investment in the RMA Strategic Opportunity Fund, LLC (the “Debtor”) was billed to investors as an opportunity to invest in a multi-billion dollar hedge fund that consistently outperformed the S&P 500 Index. In fact, it was nothing

more than a Ponzi scheme that was operated as a slush fund for the benefit of defendant Raymond Montoya (“Raymond”) and his immediate family.

2. To carry out the fraud, Raymond and others utilized a web of entities and bank accounts to move investor money around, repay earlier investors with new investor money, and divert a substantial amount of the invested funds to themselves in the form of direct distributions and payments of their personal expenses to third parties. In all, between January 1, 2014 and the present, approximately \$30 million was received from investors.

3. On August 1, 2017 a Criminal Complaint was filed against Raymond in the United States District Court for the District of Massachusetts alleging that he committed wire fraud and mail fraud in his operation of the Debtor. Of the more than \$30 million received from investors, only a fraction of that amount remained at the time of Raymond’s arrest. This adversary proceeding attempts to recover funds that were diverted from the Debtor to Raymond and certain immediate family members.

THE PARTIES

4. The plaintiff, Mark G. DeGiacomo, the Chapter 7 Trustee (the "Plaintiff" or “Trustee”) of the bankruptcy estate of the Debtor brings this action.

5. Raymond is an individual with a last known and usual address of 26 High Rock Way, Allston, Massachusetts 02134-2415.

6. Alma U. Montoya (“Alma”) is an individual with a last known and usual address of 26 High Rock Way, Allston, Massachusetts 02134-2415. Alma is Raymond’s wife.

7. Ross P. Montoya (“Ross”) is an individual with a last known and usual address of 26 High Rock Way, Allston, Massachusetts 02134-2415. Ross is Raymond and Alma’s son.

8. Ryan J. Montoya (“Ryan”) is an individual with a last known and usual address of 26 High Rock Way, Allston, Massachusetts 02134-2415. Ryan is Raymond and Alma’s son.

9. Resource Managed Assets, LLC (“RM Assets”) is a Delaware limited liability company with a last known principal place of business at 175 Federal Street, Suite 910, Boston, Massachusetts 02110. At all times relevant hereto Ross and Raymond were RM Assets’ managers, and RM Assets was the Debtor’s managing member. Upon information and belief, Ross was RM Assets’ managing director and chief executive officer.

10. Research Magnate Advisors, LLC (“RM Advisors”) is a Delaware limited liability company with a last known principal place of business located at 175 Federal Street, Suite 910, Boston, Massachusetts 02110. At all times relevant hereto Ross and Raymond were RM Advisors’ managers. Upon information and belief, Raymond was RM Advisors’ managing director and chief executive officer.

11. RMA Group, Inc. (“RMA Group”) is a Delaware corporation with a former principal place of business located at 175 Federal Street, Suite 910, Boston, Massachusetts 02110.

12. Upon information and belief, Century Bank and Trust Company is a banking and trust company organized under the laws of the Commonwealth of Massachusetts with a place of business at 400 Mystic Avenue, Medford, Massachusetts.

13. Upon information and belief, Santander Bank, N.A. is a national association with a place of business at 75 State Street, 5th Floor, Boston, Massachusetts.

JURISDICTION, VENUE AND STANDING

14. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

15. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (F), (H) and (O).

16. Venue is proper in the District of Massachusetts pursuant to 28 U.S.C. § 1409.

FACTUAL ALLEGATIONS

I. Case Background

17. On September 5, 2017, three petitioning creditors filed an involuntary petition pursuant to Chapter 11 of the Bankruptcy Code against the Debtor.

18. On October 6, 2017, this Court entered an Order for Relief.

19. On November 15, 2017, the Court entered an order converting the Debtor's case to Chapter 7.

20. On November 15, 2017, the Trustee was appointed as the Chapter 7 Trustee of this bankruptcy estate.

II. The Debtor

21. The Debtor was a pooled investment vehicle that was formed on May 16, 2007 as a Delaware limited liability company with the name RMA Group Galleon Fund, LLC.

22. On March 27, 2009 the Debtor registered to do business in Massachusetts,

at which time Raymond and Ross were its managers.

23. On October 23, 2009 the Debtor's name was changed to RMA Strategic Opportunity Fund, LLC.

24. On November 16, 2009, Raymond filed a Certificate of Amendment with the Office of the Secretary of the Commonwealth, changing the Debtor's managers from himself and Ross, to RM Assets. Following the change of managers, Raymond and Ross continued to manage the Debtor by virtue of their being the managers of the Debtor's sole manager, RM Assets.

25. At all times relevant hereto, Raymond and Ross were the managers of RM Advisors. RM Advisors purported to be the Debtor's "investment advisor."

III. The Debtor and Its Affiliates Were Operated as a Scheme to Defraud Investors

a. The Debtor's Investors Were Continually and Materially Misled

26. Raymond formed the Debtor after a period of self-employment as a "management consultant" for certain members of this family from 2000 to 2007. Raymond conducted his consulting business as RMA Group, Inc.

27. At least by July 2012, and likely much earlier, Raymond and RM Assets distributed materially misleading marketing materials to current and prospective investors.

28. For example, in July 2012, the Administrative Manager and Compliance Officer for RM Assets, and Raymond's current daughter-in-law, e-mailed two prospective investors a number of documents, including a document titled "RMA Overview: 1995 to 2011 (the "RMA Overview").

29. The RMA Overview states, in part, "In 1995, RMA was founded and

raised \$1 billion in private equity by selling 1,000 investment shares at \$1 million each.

By 2011, this \$1 million investment share would be worth almost \$230 million."

30. The Debtor did not exist in 1995.

31. The RMA Overview further states:

From its inception in 1995 through 1999, RMA took advantage of the numerous investment opportunities available during this period now known as the "Internet bubble." Consequently, RMA was able to produce for our investors during these unique and unusual investment times an **average annual return of 113.8%**.

[]

The markets again crashed with a vengeance in 2008, producing one of the worst single year drops in S&P 500 history at -38.5%. However, once again RMA's analytic models warned of fundamental issues allowing RMA to take defensive investment positions during 2008 and still return 10.2% to our investors. As a result, from 2008 through 2011 when the S&P 500's annual returns were -3.8%, RMA's annual returns were 10.7%.

(Emphasis added).

32. The RMA Overview's statements of purported historical returns, including those for years in which the RMA Fund did not exist, were false.

33. In addition, Raymond and RM Assets provided investors statements purportedly showing a summary of the Debtor's investment holdings.

34. A statement provided to investors purportedly showing the Debtor's investment holdings as of December 31, 2014, stated that the Debtor had total investment holdings of \$4,996,692,062, of which \$98,355,562 was held in cash, \$320,834,630 in money market funds, \$1,177,515,321 in bonds, and \$3,399,986,549 in equity holdings.

35. These statements concerning the Debtor's investment holdings are false, and upon information and belief, even at its high water mark, the Debtor had no more than \$15 million in assets at any given time.

36. In another example, in October 2016, Montoya created and caused to be

distributed to investors in the Debtor a document purporting to show the Debtor's Fund's trading performance, net of fees, between January 2012 and October 2016 (the "RMA Returns Summary").

37. The RMA Returns Summary states that the Debtor outperformed the S&P 500 by 134% from January 2008 through October 2016.

38. The Debtor did not outperform the S&P 500 by 134% from January 2008 through October 2016.

39. The RMA Returns Summary states that the Debtor generated a cumulative return of 178.85% through trading gains from January 2008 through October 2016.

40. The Debtor did not generate a cumulative return of 178.85% through trading gains from January 2008 through October 2016.

41. The RMA Returns Summary states that the Debtor generated a positive return from trading results, net of fees, for 55 of the 58 preceding months.

42. In fact, the Debtor did not generate positive trading returns, net of fees, for 55 of the preceding 58 months.

43. In another piece of marketing material, RM Assets indicates that they utilize "distinct, specific, proprietary methods that have proven reliable and profitable during bull and bear market cycles."

44. When asked to identify and explain these methods, Montoya testified under oath on June 2, 2017 at an examination before the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts that the Debtor utilized a proprietary algorithm, which he purchased from a software developer for \$5,000, that can predict the minute-to-minute price movements of individual stocks with 65% accuracy.

45. On information and belief, no such proprietary algorithm exists.

b. Funds Intended for Investment in the Debtor Were Systemically Misappropriated by the Montoya Family

46. After deciding to invest in the Debtor, prospective investors were directed to wire funds to an account at Citizens Bank in the name of RMA Group ending in -3582 (the “-3582 Citizens Account”), or to send a check to the Debtor’s office which was then deposited into the -3582 Citizens Account.

47. Raymond, his wife Alma, and their sons Ryan and Raymond Montoya II (“Raymond Jr.”), were all authorized signatories on the -3582 Citizens Account.

48. Between January 1, 2014 and the present, investors transferred approximately \$30 million to the -3582 Citizens Account that they intended as investments in the Debtor.

49. Over that same time period, a total of less than \$15,830,000 was transferred from the -3582 Citizens Account to one of five (5) brokerage accounts held at E*TRADE Securities LLC (“E*Trade”).

50. The respective E*Trade accounts stood in the names of: (1) the Debtor; (2) RM Advisors; (3) RM Assets; (4) RMA Group Consultants, Inc.; and (5) Raymond and Alma, individually.

51. From January 1, 2014 to the present, approximately \$12,830,000 of Debtor investor funds were transferred from the -3582 Citizens Account to Raymond and Alma’s personal E*Trade account.

52. During that same time period approximately \$1,500,000 of Debtor investor funds were transferred to the Debtor’s E*Trade account, and approximately \$1,500,000 were transferred to the three other E*Trade accounts.

53. From January 1, 2014 to the present, over \$16 million of Debtor investor funds were never transferred from the -3582 Citizens Account to any brokerage account. Instead, these funds were used to pay, among other things, purported capital distributions to the Debtor's investors, purported operational expenses, and personal expenses for Raymond and his family.

54. On June 8, 2017, the Massachusetts Securities Division Enforcement Section filed an Administrative Complaint against Raymond, RM Advisors and RM Assets, alleging that they had violated Massachusetts securities laws by operating the Debtor as "a fraudulent hedge fund" whereby he raised money by misleading investors while using the money for his own personal benefit and that of his immediate family and make Ponzi-like repayments to certain other investors.

55. On August 1, 2017, a Criminal Complaint was filed against Raymond in the United States District Court for the District of Massachusetts alleging that Raymond committed wire and mail fraud by using the Debtor to commit a scheme to defraud investors.

c. Transfers to or for the Benefit of Montoya Family Members

i. Transfers to or For the Benefit of Raymond

56. During the four years prior to the Petition Date, and likely much earlier, Raymond regularly received payments of Debtor funds in the form of distributions, salary and payment of personal expenses on his behalf made directly to third parties.

57. During the four years prior to the Petition Date, Raymond personally received many millions of dollars of Debtor funds that he diverted to his own personal use, including but not limited to more than twelve million transferred to his an E*Trade

account in the name of himself and Alma, individually (the “Raymond Four Year Transfers”).

58. During the two years prior to the Petition Date Raymond received personally at least seven million dollars of investor funds that he diverted to his own personal use (the “Raymond Two Year Transfers”).

59. On January 27, 2015, Raymond deposited a check for \$125,000 of Debtor funds in an account held at Santander Bank. Upon information and belief, from time to time Raymond deposited additional Debtor funds into an account at Santander Bank.

ii. Transfers to or For the Benefit of Alma

60. During the four years prior to the Petition Date, and likely much earlier, in addition to transfers to her and Raymond’s personal E*Trade account totaling more than twelve million dollars, Alma regularly received payments of Debtor funds in the form of direct payments, “salary” and payment of personal expenses on her behalf made directly to third parties.

61. As detailed on Exhibit A hereto, the Debtor made payments directly to Alma or for her benefit, of no less than \$686,341.93 within four years of the Petition Date (the “Alma Four Year Transfers”), of which \$426,821.07 was received within two years of the Petition Date (the “Alma Two Year Transfers”), and \$202,615.00 was received within one year of the Petition Date (the “Alma One Year Transfers”).

62. During this time Alma had signing authority for the -3582 Citizens Account and, upon information and belief, regularly caused Debtor investor funds in that account to be transferred to her or for her benefit.

63. Alma knowingly received payments of investor funds purportedly as

salary, even though she never provided services to the Debtor or any of its affiliates.

64. On June 13, 2016, Alma deposited a check for \$200,000 of Debtor funds in an account held at Century Bank.

65. On February 16, 2017, Alma deposited a check for \$200,000 of Debtor funds in an account held at Century Bank. Upon information and belief, from time to time Alma deposited additional Debtor funds into an account at Century Bank.

iii. Transfers to or For the Benefit of Ross

66. During the four years prior to the Petition Date, and likely much earlier, Ross regularly received payments of Debtor funds in the form of direct payments, “salary” and payment of personal expenses on his behalf made directly to third parties.

67. As detailed on Exhibit B hereto, the Debtor made payments directly to Ross or for his benefit, of no less than \$484,653.33 within four years of the Petition Date (the “Ross Four Year Transfers”), of which \$283,572.13 was received within two years of the Petition Date (the “Ross Two Year Transfers”), and \$221,775.00 was received within one year of the Petition Date (the “Ross One Year Transfers”).

iv. Transfers to or for the Benefit of Ryan

68. During the four years prior to the Petition Date, and likely much earlier, Ryan regularly received payments of Debtor funds in the form of direct payments and payment of personal expenses on his behalf made directly to third parties.

69. As detailed on Exhibit C hereto, the Debtor made payments directly to Ryan, or for his benefit, of no less than \$143,393.70 within four years of the Petition Date (the “Ryan Four Year Transfers”), of which \$82,662.32 was received within two years of the Petition Date (the “Ryan Two Year Transfers”), and \$29,816.32 was received within

one year of the Petition Date (the “Ryan One Year Transfers”).

d. The Debtor Was Insolvent At All Times and Perpetrated a Fraud On Existing and Future Creditors

70. At all times relevant hereto the Debtor was insolvent.

71. At all times relevant hereto the Debtor was operated as a scheme to defraud then existing and future creditors.

72. RM Assets, RM Advisors and RMA Group were each used as instrumentalities to further the Debtor’s fraudulent scheme.

73. Neither RM Assets, RM Advisors nor RMA Group had any legitimate business operation, and were operated solely in furtherance of the Debtor’s fraudulent scheme.

COUNT I

Fraudulent Transfer – Constructive
11 U.S.C. §§ 548, 550, 551
Against Raymond, Ross, Alma and Ryan

74. The Trustee reasserts and realleges paragraphs 1 through 73 of this Adversary Complaint as if fully set forth herein.

75. Each of the Raymond Two Year Transfers, the Ross Two Year Transfers, the Alma Two Year Transfers and the Ryan Two Year Transfers (collectively the “Two Year Transfers”) constitute a “transfer” as that term is defined in 11 U.S.C. § 548, of an asset or interest in an asset of the Debtor.

76. Each of the Two Year Transfers was made within two years of the Petition Date.

77. Each of the Two Year Transfers was made while the Debtor was insolvent.

78. Each of the Two Year Transfers was made for less than reasonably

equivalent value.

79. The Two Year Transfers constitute fraudulent transfers avoidable by the Trustee pursuant to § 548(a)(1)(B) of the Bankruptcy Code and recoverable from Raymond, Ross, Alma and Ryan pursuant to §§ 550 and 551 of the Bankruptcy Code.

80. As a result of the forgoing, the Trustee is entitled to a judgment against Raymond, Ross, Alma and Ryan: (a) avoiding and preserving the Two Year Transfers, (b) directing that the Two Year Transfers be set aside, and (c) recovering the Two Year Transfers from Raymond, Ross, Alma and Ryan for the benefit of the Debtor's estate, in amounts to be determined by the Court.

COUNT II

Fraudulent Transfer – Actual Fraud
11 U.S.C. §§ 548, 550, 551
Against Raymond, Ross, Alma and Ryan

81. The Trustee reasserts and realleges paragraphs 1 through 80 of this Adversary Complaint as if fully set forth herein.

82. Each of the Two Year Transfers constitute a “transfer” as that term is defined in 11 U.S.C. § 548, of an asset or interest in an asset of the Debtor.

83. Each of the Two Year Transfers was made within two years of the Petition Date.

84. Each of the Two Year Transfers was made with the actual intent to hinder, delay or defraud the Debtor's then existing and future creditors.

85. The Two Year Transfers constitute fraudulent transfers avoidable by the Trustee pursuant to § 548(a)(1)(A) of the Bankruptcy Code and recoverable from Raymond, Ross and Alma pursuant to §§ 550 and 551 of the Bankruptcy Code.

86. As a result of the forgoing, the Trustee is entitled to a judgment against Raymond, Ross, Alma and Ryan: (a) avoiding and preserving the Two Year Transfers, (b) directing that the Two Year Transfers be set aside, and (c) recovering the Two Year Transfers from Raymond, Ross, Alma and Ryan for the benefit of the Debtor's estate, in amounts to be determined by the Court.

COUNT III

Fraudulent Transfer – Constructive
11 U.S.C. §§ 544(b), 550, 551 & M.G.L. ch.109A, §§ 5(a)(2) & (8)
Against Raymond, Ross, Alma and Ryan

87. The Trustee reasserts and realleges paragraphs 1 through 86 of this Adversary Complaint as if fully set forth herein.

88. Pursuant to 11 U.S.C. § 544, the Trustee may avoid any transfer of an interest of the Debtor in property, or any obligation incurred by the Debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under § 502.

89. Each of the Raymond Four Year Transfers, Ross Four Year Transfers, Alma Four Year Transfers and Ryan Four Year Transfers (collectively the “Four Year Transfers”) constitute a transfer of the Debtor's property.

90. Each of the Four Year Transfers occurred within four years prior to the Petition Date.

91. The Debtor did not receive reasonably equivalent value in exchange for any of the Four Year Transfers.

92. Each of the Four Year Transfers were made when the Debtor was insolvent.

93. As of the Petition Date, there existed a creditor of the Debtor holding an unsecured claim allowable under 11 U.S.C. § 502 who could avoid the Four Year Transfers under applicable Massachusetts law.

94. Each of the Four Year Transfers Transfer may be avoided by the Trustee as a fraudulent transfer pursuant to the provisions of 11 U.S.C. § 544 and M.G.L. ch.109A, §§ 5(a)(2) & (8), and preserved for the bankruptcy estate pursuant to the provisions of 11 U.S.C. § 550 and 551.

COUNT IV

Fraudulent Transfer – Actual Fraud
11 U.S.C. §§ 544(b), 550, 551 & M.G.L. ch.109A, §§ 5(a)(1) & (8)
Against Raymond, Ross, Alma and Ryan

95. The Trustee reasserts and realleges paragraphs 1 through 94 of this Adversary Complaint as if fully set forth herein.

96. Pursuant to 11 U.S.C. § 544, the Trustee may avoid any transfer of an interest of the Debtor in property, or any obligation incurred by the Debtor that is voidable under applicable law by a creditor holding an unsecured claim that is allowable under § 502.

97. Each of the Four Year Transfers constitute a transfer of the Debtor's property.

98. Each of the Four Year Transfers occurred within four years prior to the Petition Date.

99. Each of the Four Year Transfers was made by the Debtor with actual intent to hinder, delay, or defraud the Debtors' creditors.

100. Each of the Four Year Transfers was to an insider.

101. The Debtor did not receive reasonably equivalent value in consideration for any of the Four Year Transfers.

102. Each of the Four Year Transfers was made at a time when the Debtor was insolvent.

103. As of the Petition Date, there existed a creditor of the Debtor holding an unsecured claims allowable under 11 U.S.C. § 502 who could avoid each of the Four Year Transfers under applicable Massachusetts law.

104. Each of the Four Year Transfers may be avoided by the Trustee as a fraudulent transfer pursuant to the provisions of 11 U.S.C. § 544 and ch.109A, §§ 5(a)(1) & (8), and preserved for the estate pursuant to the provisions of 11 U.S.C. § 550 and 551.

COUNT V

Unjust Enrichment

Against Raymond, Ross, Alma and Ryan

105. The Trustee reasserts and realleges paragraphs 1 through 104 of this Adversary Complaint as if fully set forth herein.

106. Each of Raymond, Ross, Alma and Ryan received a benefit to which they were not entitled in the form of the value of the Four Year Transfers, at the expense of the Debtor's defrauded investors and creditors.

107. It would be unjust for Raymond, Ross, Alma and Ryan to retain the benefit of the Four Year Transfers.

108. The Trustee, on behalf of the Debtor's estate, is entitled to restitution from Raymond, Ross, Alma and Ryan in the amount of the Four Year Transfers.

COUNT VI
Breach of Duty of Care
Against Raymond and Ross

109. The Trustee reasserts and realleges paragraphs 1 through 108 of this Adversary Complaint as if fully set forth herein.

110. Raymond and Ross, as managers of the Debtor, RM Advisors and RM Assets, owed a fiduciary duty to the Debtor.

111. As such, Raymond and Ross had an obligation (i) to exercise due care and diligence in the management and administration of the Debtor and in the use and preservation of the Debtor's property, funds and assets; and (ii) to ensure that the Debtor did not engage in any unsound management and investment practices.

112. Raymond and Ross breached their fiduciary duty of care to the Debtor by, other among things, causing the Debtor to engage in a Ponzi scheme, where operations were funded not principally from the sale of a legitimate product or service but from the contributions of new investors, and misleading potential investors to invest in the Debtor in order to continue the Ponzi scheme for the benefit of themselves and other immediate family members.

113. As a result of Raymond Ross's conduct, the Debtor and its investors incurred more than \$30 million in damages, and the Trustee on behalf of the Debtor's estate is entitled to a judgment against Raymond and Ross in that amount.

COUNT VII
Breach of Duty of Good Faith
Against Raymond and Ross

114. The Trustee reasserts and realleges paragraphs 1 through 113 of this Adversary Complaint as if fully set forth herein.

115. Raymond and Ross, as managers of the Debtor, RM Advisors and RM Assets, owed a fiduciary duty of good faith to the Debtor.

116. As such, Raymond and Ross had an obligation (i) to deal fairly and honestly with the Debtor; (ii) to act in a responsible and lawful manner; with undivided loyalty; and (iii) to ensure that the Debtor did not engage in any unsound management and investment practices.

117. Raymond and Ross breached their fiduciary duty of good faith to the Debtor by, among other things, causing the Debtor to engage in a Ponzi scheme, where operations were funded not principally from the sale of a legitimate product or service but from the contributions of new investors, and misleading potential investors to invest in the Debtor in order to continue the Ponzi scheme for the benefit of themselves and other immediate family members.

118. As a result of Raymond Ross's conduct, the Debtor and its investors incurred more than \$30 million in damages, and the Trustee on behalf of the Debtor's estate is entitled to a judgment against Raymond and Ross in that amount.

COUNT VIII

Declaratory Judgment Substantively Consolidating and/or Piercing the Veil of RM Assets

119. The Trustee reasserts and realleges paragraphs 1 through 118 of this Adversary Complaint as if fully set forth herein.

120. At all material and relevant times hereto, RM Assets was the Debtor's affiliate, acted as the Debtor's managing member, and was managed and controlled by Raymond and Ross.

121. At all material and relevant times hereto, Raymond and Ross controlled

and operated RM Assets in furtherance of a scheme to defraud the Debtor's then existing and future investors and creditors, for their own personal benefit without regard to corporate formalities, such that the business of RM Assets and the Debtor were one and the same.

122. Raymond and Ross used RM Assets to perpetrate a fraud upon the Debtor's creditors by, among other things, utilizing accounts in the name of RM Assets to make transfers of the Debtor's property for their own benefit and for the benefit of other family members.

123. The Trustee is entitled to a declaratory judgment piercing RM Assets corporate veil and/or substantively consolidating RM Assets with the Debtor's estate, which is necessary to remedy an injustice and fraud upon the Debtor's creditors.

COUNT IX

Declaratory Judgment Substantively Consolidating and/or Piercing the Veil of RM Advisors

124. The Trustee reasserts and realleges paragraphs 1 through 123 of this Adversary Complaint as if fully set forth herein.

125. At all material and relevant times hereto, RM Advisors was the Debtor's affiliate, purportedly acted as the Debtor's investment advisor, and was managed and controlled by Raymond and Ross.

126. At all material and relevant times hereto, Raymond and Ross controlled and operated RM Advisors in furtherance of a scheme to defraud the Debtor's then existing and future investors and creditors, for their own personal benefit without regard to corporate formalities, such that the business of RM Advisors and the Debtor were one and the same.

127. Raymond and Ross used RM Advisors to perpetrate a fraud upon the Debtor's creditors by, among other things, utilizing accounts in the name of RM Advisors to make transfers of the Debtor's property for their own benefit and for the benefit of other family members.

128. The Trustee is entitled to a declaratory judgment piercing RM Advisors corporate veil and/or substantively consolidating RM Advisors with the Debtor's estate, which is necessary to remedy an injustice and fraud upon the Debtor's creditors.

COUNT X
Declaratory Judgment Substantively Consolidating
and/or Piercing the Veil of RMA Group

129. The Trustee reasserts and realleges paragraphs 1 through 128 of this Adversary Complaint as if fully set forth herein.

130. At all material and relevant times hereto, RMA Group was the Debtor's affiliate and was managed and controlled by Raymond and Ross.

131. At all material and relevant times hereto, Raymond and Ross controlled and operated RMA Group in furtherance of a scheme to defraud the Debtor's then existing and future investors and creditors, for their own personal benefit without regard to corporate formalities, such that the business of RMA Group and the Debtor were one and the same.

132. Raymond and Ross used RMA Group to perpetrate a fraud upon the Debtor's creditors by utilizing accounts in the name of RMA Group to make transfers of the Debtor's property for their own benefit and for the benefit of other family members.

133. The Trustee is entitled to a declaratory judgment piercing RMA Group's corporate veil and/or substantively consolidating RMA Group with the Debtor's estate,

which is necessary to remedy an injustice and fraud upon the Debtor's creditors.

COUNT XI
Trustee Process
Against Century Bank

134. The Trustee reasserts and realleges paragraphs 1 through 133 of this Adversary Complaint as if fully set forth herein.

135. Upon information and belief, Century Bank holds Debtor funds that were converted by Alma and/or Raymond and deposited into a Century Bank account.

136. The Trustee is entitled to attach and recover for the benefit of the estate any funds held by Alma or Raymond at Century Bank.

COUNT XII
Trustee Process
Against Santander Bank

137. The Trustee reasserts and realleges paragraphs 1 through 136 of this Adversary Complaint as if fully set forth herein.

138. Upon information and belief, Santander Bank holds Debtor funds that were converted by Raymond and deposited into a Santander Bank account.

139. The Trustee is entitled to attach and recover for the benefit of the estate any funds held by Alma or Raymond at Santander Bank.

WHEREFORE, Mark G. DeGiacomo, Chapter 7 Trustee respectfully requests that this Court enter an order and judgment as follows:

1. Under **Count I**: (a) avoiding the Two Year Transfers as fraudulent transfers; (b) directing the Two Year Transfers be set aside and (c) recovering such amounts from Raymond, Alma, Ross and Ryan for the benefit of the Debtor's estate;

2. Under **Count II**: (a) avoiding the Two Year Transfers as fraudulent transfers; (b) directing the Two Year Transfers be set aside and (c) recovering such amounts from Raymond, Alma, Ross and Ryan for the benefit of the Debtor's estate;

3. Under **Count III**: (a) avoiding the Four Year Transfers as fraudulent transfers; (b) directing the Four Year Transfers be set aside and (c) recovering such amounts from Raymond, Alma, Ross and Ryan for the benefit of the Debtor's estate;

4. Under **Count IV**: (a) avoiding the Four Year Transfers as fraudulent transfers; (b) directing the Four Year Transfers be set aside and (c) recovering such amounts from Raymond, Alma, Ross and Ryan for the benefit of the Debtor's estate;

5. Under **Count V**, finding that Raymond, Alma, Ross and Ryan were unjustly enriched and awarding damages against them;

6. Under **Count VI**, finding that Raymond and Ross breached their fiduciary duties to the Debtor and awarding damages against them;

7. Under **Count VII**, finding that Raymond and Ross breached their fiduciary duties to the Debtor and awarding damages against them;

8. Under **Count VIII**, for a declaratory judgment piercing the corporate veil of RM Assets and substantively consolidating RM Assets with the Debtor's estate;

9. Under **Count IX**, for a declaratory judgment piercing the corporate veil of RM Advisors and substantively consolidating RM Advisors with the Debtor's estate;

10. Under **Count X**, for a declaratory judgment piercing the corporate veil of RMA Group and substantively consolidating RMA Group with the Debtor's estate;

11. Under **Count XI**, for a trustee process attachment of any funds held by Alma or Raymond at Century Bank; and

12. Under **Count XII**, for a trustee process attachment of any funds held by Alma or Raymond at Santander Bank;

13. Grant such other and further relief this Court deems just and proper.

Respectfully submitted,

MARK G. DEGIACOMO, CHAPTER 7
TRUSTEE OF RMA STRATEGIC
OPPORTUNITY FUND, LLC,

/s/ Jonathan Horne

Mark G. DeGiacomo, Esq.

Jonathan Horne, Esq.

Murtha Cullina LLP

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Boston, Massachusetts 02110

617-457-4000 Telephone

617-482-3868 Facsimile

jhorne@murthalaw.com

Dated: February 12, 2018

Exhibit A

| Transfers to or for the benefit of Alma Montoya | | | | |
|--|---------------|----------------------------|-----------------------|------------------|
| Date | Amount | Payee | Account Ending | Check No. |
| 1/13/2014 | \$ 870.35 | NSTAR | -3582 | 5360 |
| 1/21/2014 | \$ 284.38 | Sprint | -3582 | 5363 |
| 3/24/2014 | \$ 603.28 | Sprint | -3582 | 5401 |
| 3/24/2014 | \$ 982.66 | NSTAR | -3582 | 5403 |
| 5/15/2014 | \$ 198.40 | NSTAR | -3582 | 5456 |
| 5/19/2014 | \$ 292.04 | Sprint | -3582 | 5450 |
| 5/30/2014 | \$ 37.56 | Bank of America | -3582 | 5472 |
| 5/30/2014 | \$ 4,000.00 | Alma Montoya | -3582 | 5482 |
| 5/30/2014 | \$ 1,108.05 | Alma Montoya | -3582 | 5483 |
| 6/6/2014 | \$ 51,100.02 | MBF Account Services, LLC | -3582 | 5495 |
| 6/23/2014 | \$ 203.03 | NSTAR | -3582 | 5509 |
| 6/23/2014 | \$ 305.91 | Sprint | -3582 | 5510 |
| 7/29/2014 | \$ 321.97 | NSTAR | -3582 | 5558 |
| 7/30/2014 | \$ 293.45 | Sprint | -3582 | 5552 |
| 8/19/2014 | \$ 150.02 | Sprint | -3582 | 5595 |
| 8/20/2014 | \$ 314.94 | NSTAR | -3582 | 5594 |
| 9/15/2014 | \$ 928.68 | Bank of America | -3582 | 5615 |
| 10/17/2014 | \$ 170,000.00 | Alma Montoya | -3582 | 5632 |
| 10/17/2014 | \$ 1,000.00 | Alma Montoya | -3582 | 5633 |
| 10/28/2014 | \$ 4,619.00 | Bunker Hill Home Insurance | -3582 | 5645 |
| 10/30/2014 | \$ 248.99 | Sprint | -3582 | 5642 |
| 10/30/2014 | \$ 213.82 | NSTAR | -3582 | 5646 |
| 12/1/2014 | \$ 204.78 | Sprint | -3582 | 5682 |
| 12/3/2014 | \$ 8,000.00 | Alma Montoya | -3582 | 5690 |
| 12/18/2014 | \$ 500.00 | Alma Montoya | -3582 | 5701 |
| 5/19/2015 | \$ 462.42 | Eversource | -3582 | 5837 |
| 8/3/2015 | \$ 6,149.21 | Alma Montoya | -3241 | 1888 |
| 8/3/2015 | \$ 6,127.90 | Alma Montoya | -3241 | 1932 |
| 11/12/2015 | \$ 6,127.90 | Alma Montoya | -3241 | 2052 |
| 12/9/2015 | \$ 4,388.41 | Bank of America | -3582 | 5978 |
| 12/10/2015 | \$ 6,604.83 | Alma Montoya | -3241 | 2113 |
| 12/14/2015 | \$ 164.66 | Victoria's Secret | -3582 | 5980 |
| 6/13/2016 | \$ 200,000.00 | Alma Montoya | -3582 | 5969 |
| 6/13/2016 | \$ 1,539.26 | Alma Montoya | -3241 | 2413 |
| 9/1/2016 | \$ 1,539.26 | Alma Montoya | -3241 | 2435 |
| 9/1/2016 | \$ 1,536.23 | Alma Montoya | -3241 | 2454 |
| 9/1/2016 | \$ 1,536.24 | Alma Montoya | -3241 | 2476 |
| 9/1/2016 | \$ 769.28 | Alma Montoya | -3241 | 2494 |
| 9/9/2016 | \$ 217.70 | Skincare Physicians, Inc. | -3582 | 6014 |
| 2/9/2017 | \$ 197.44 | Alma Montoya | -3582 | 6110 |
| 2/14/2017 | \$ 618.82 | Alma Montoya | -3241 | 2806 |
| 2/16/2017 | \$ 200,000.00 | Alma Montoya | -3582 | 6034 |
| 3/9/2017 | \$ 454.00 | Alma Montoya | -3582 | 6112 |

| | | | | |
|--------------|----------------------|--------------|-------|------|
| 3/17/2017 | \$ 210.00 | Alma Montoya | -3582 | 6113 |
| 5/5/2017 | \$ 391.56 | Alma Montoya | -3582 | 6123 |
| 5/25/2017 | \$ 525.48 | Alma Montoya | -3582 | 6125 |
| | | | | |
| Total | \$ 686,341.93 | | | |

Exhibit B

| Transfers to or for the Benefit of Ross Montoya | | | | |
|--|----------------------|--------------------------------------|----------------|------------------|
| Date | Amount | Payee | Account | Check No. |
| 1/9/2014 | \$ 10,000.00 | Ross Montoya | -3582 | 5358 |
| 1/16/2014 | \$ 5,330.79 | Bank of America | -3582 | 5364 |
| 3/24/2014 | \$ 612.00 | City of Boston | -3582 | 5408 |
| 3/24/2014 | \$ 115.00 | City of Boston | -3582 | 5409 |
| 5/9/2014 | \$ 10,100.00 | Avalon University School of Medicine | -3582 | 5446 |
| 5/23/2014 | \$ 1,139.62 | Bank of America | -3582 | 5469 |
| 6/6/2014 | \$ 5,703.19 | Bank of America | -3582 | 5488 |
| 6/23/2014 | \$ 173.31 | Bank of America | -3582 | 5515 |
| 7/1/2014 | \$ 1,253.00 | Plymouth Rock Assurance | -3582 | 5521 |
| 7/7/2014 | \$ 4,663.48 | Bank of America | -3582 | 5534 |
| 7/28/2014 | \$ 94.95 | Bank of America | -3582 | 5553 |
| 8/6/2014 | \$ 10,387.17 | Bank of America | -3582 | 5571 |
| 8/25/2014 | \$ 30,000.00 | Ross Montoya | -3582 | 5599 |
| 9/17/2014 | \$ 10,096.04 | Bank of America | -3582 | 5611 |
| 10/29/2014 | \$ 94.95 | Bank of America | -3582 | 5647 |
| 12/30/2014 | \$ 1,666.98 | Farmers Insurance Exchange | -3582 | 5707 |
| 2/9/2015 | \$ 25,000.00 | Ross P Montoya | -3582 | 5733 |
| 4/8/2015 | \$ 50,000.00 | Lamborghini Boston | -3582 | 5775 |
| 5/15/2015 | \$ 7,124.02 | Ross Montoya | -3241 | 1851 |
| 7/28/2015 | \$ 9,201.84 | Ross Montoya | -3241 | 1869 |
| 7/28/2015 | \$ 9,168.47 | Ross Montoya | -3241 | 1886 |
| 7/28/2015 | \$ 9,156.39 | Ross Montoya | -3241 | 1930 |
| 9/8/2015 | \$ 9,156.38 | Ross Montoya | -3241 | 1961 |
| 11/5/2015 | \$ 9,871.77 | Ross Montoya | -3241 | 2037 |
| 11/24/2015 | \$ 9,871.77 | Ross Montoya | -3241 | 2054 |
| 11/24/2015 | \$ 9,871.77 | Ross Montoya | -3241 | 2083 |
| 11/24/2015 | \$ 9,871.78 | Ross Montoya | -3241 | 2095 |
| 12/10/2015 | \$ 9,871.77 | Ross Montoya | -3241 | 2116 |
| 7/13/2016 | \$ 3,281.89 | Bank of America | -3582 | 6009 |
| 9/6/2016 | \$ 3,519.00 | Private Client Group | -3582 | 6015 |
| 9/6/2016 | \$ 1,872.24 | Commerce Insurance Group | -3582 | 6017 |
| 10/25/2016 | \$ 2,307.76 | Ross Montoya | -3241 | 2373 |
| 2/3/2017 | \$ 200,000.00 | Ross Montoya | -3582 | 6031 |
| 2/15/2017 | \$ 14,076.00 | Private Client Group | -3582 | 6032 |
| | | | | |
| Total | \$ 484,653.33 | | | |

Exhibit C

| Transfers to or for the benefit of Ryan Montoya | | | | |
|--|----------------------|-------------------------|----------------|------------------|
| Date | Amount | Payee | Account | Check No. |
| 3/24/2014 | \$ 852.50 | Ryan Montoya | -3582 | 5410 |
| 4/25/2014 | \$ 1,275.00 | Plymouth Rock Assurance | -3582 | 5436 |
| 4/28/2014 | \$ 184.41 | National Grid | -3582 | 5439 |
| 7/23/2014 | \$ 50,000.00 | Ryan Montoya | -3582 | 5544 |
| 7/29/2014 | \$ 76.23 | National Grid | -3582 | 5556 |
| 8/19/2014 | \$ 55.94 | National Grid | -3582 | 5593 |
| 10/28/2014 | \$ 608.00 | Plymouth Rock Assurance | -3582 | 5636 |
| 4/27/2015 | \$ 179.30 | Plymouth Rock Assurance | -3582 | 5827 |
| 6/15/2015 | \$ 7,500.00 | Ryan Montoya | -3582 | 5887 |
| 9/8/2015 | \$ 1,000.00 | Ryan Montoya | -3582 | 5862 |
| 11/24/2015 | \$ 19,582.00 | Ryan Montoya | -3582 | 5947 |
| 1/19/2016 | \$ 1,000.00 | Ryan Montoya | -3582 | 5960 |
| 3/25/2016 | \$ 31,264.00 | Ryan Montoya | -3582 | 5874 |
| 12/27/2016 | \$ 10,816.32 | Ryan Montoya | -3582 | 6098 |
| 12/27/2016 | \$ 10,000.00 | Ryan Montoya | -3582 | 6099 |
| 12/27/2016 | \$ 9,000.00 | Ryan Montoya | -3582 | 6100 |
| Total | \$ 143,393.70 | | | |

B1040 (FORM 1040) (12/15)

| | | |
|--|--|--|
| ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse) | | ADVERSARY PROCEEDING NUMBER (Court Use Only) |
| PLAINTIFFS Mark G. DeGiacomo, Chapter 7 Trustee of the Estate of RMA Strategic Opportunity Fund, LLC | DEFENDANTS Please see attachment | |
| ATTORNEYS (Firm Name, Address, and Telephone No.) Murtha Cullina LLP 99 High Street, 20th Floor Boston, MA 02110 | ATTORNEYS (If Known) | |
| PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input type="checkbox"/> Other <input checked="" type="checkbox"/> Trustee | PARTY (Check One Box Only) <input type="checkbox"/> Debtor <input type="checkbox"/> U.S. Trustee/Bankruptcy Admin <input type="checkbox"/> Creditor <input checked="" type="checkbox"/> Other <input type="checkbox"/> Trustee | |
| CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED) Please see attachment | | |
| NATURE OF SUIT (Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.) | | |
| FRBP 7001(1) – Recovery of Money/Property <input type="checkbox"/> 11-Recovery of money/property - §542 turnover of property <input type="checkbox"/> 12-Recovery of money/property - §547 preference <input checked="" type="checkbox"/> 13-Recovery of money/property - §548 fraudulent transfer <input checked="" type="checkbox"/> 14-Recovery of money/property - other FRBP 7001(2) – Validity, Priority or Extent of Lien <input type="checkbox"/> 21-Validity, priority or extent of lien or other interest in property FRBP 7001(3) – Approval of Sale of Property <input type="checkbox"/> 31-Approval of sale of property of estate and of a co-owner - §363(h) FRBP 7001(4) – Objection/Revocation of Discharge <input type="checkbox"/> 41-Objection / revocation of discharge - §727(c),(d),(e) FRBP 7001(5) – Revocation of Confirmation <input type="checkbox"/> 51-Revocation of confirmation FRBP 7001(6) – Dischargeability <input type="checkbox"/> 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims <input type="checkbox"/> 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud <input type="checkbox"/> 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny (continued next column) | FRBP 7001(6) – Dischargeability (continued) <input type="checkbox"/> 61-Dischargeability - §523(a)(5), domestic support <input type="checkbox"/> 68-Dischargeability - §523(a)(6), willful and malicious injury <input type="checkbox"/> 63-Dischargeability - §523(a)(8), student loan <input type="checkbox"/> 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support) <input type="checkbox"/> 65-Dischargeability - other FRBP 7001(7) – Injunctive Relief <input type="checkbox"/> 71-Injunctive relief – imposition of stay <input type="checkbox"/> 72-Injunctive relief – other FRBP 7001(8) Subordination of Claim or Interest <input type="checkbox"/> 81-Subordination of claim or interest FRBP 7001(9) Declaratory Judgment <input checked="" type="checkbox"/> 91-Declaratory judgment FRBP 7001(10) Determination of Removed Action <input type="checkbox"/> 01-Determination of removed claim or cause Other <input type="checkbox"/> SS-SIPA Case – 15 U.S.C. §§78aaa <i>et seq.</i> <input checked="" type="checkbox"/> 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case) | |
| <input type="checkbox"/> Check if this case involves a substantive issue of state law | <input type="checkbox"/> Check if this is asserted to be a class action under FRCP 23 | |
| <input type="checkbox"/> Check if a jury trial is demanded in complaint | Demand \$ | |
| Other Relief Sought | | |

B1040 (FORM 1040) (12/15)

| BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES | | |
|---|---------------------------------------|----------------------------------|
| NAME OF DEBTOR RMA Strategic Opportunity Fund, LLC | | BANKRUPTCY CASE NO. 17-13328-FJB |
| DISTRICT IN WHICH CASE IS PENDING Massachusetts | DIVISION OFFICE Eastern | NAME OF JUDGE Bailey |
| RELATED ADVERSARY PROCEEDING (IF ANY) | | |
| PLAINTIFF | DEFENDANT | ADVERSARY PROCEEDING NO. |
| DISTRICT IN WHICH ADVERSARY IS PENDING | DIVISION OFFICE | NAME OF JUDGE |
| SIGNATURE OF ATTORNEY (OR PLAINTIFF) | | |
| /s/ Jonathan M. Horne | | |
| DATE | PRINT NAME OF ATTORNEY (OR PLAINTIFF) | |
| 02/09/2018 | Jonathan M. Horne | |

INSTRUCTIONS

The filing of a bankruptcy case creates an “estate” under the jurisdiction of the bankruptcy court which consists of all of the property of the debtor, wherever that property is located. Because the bankruptcy estate is so extensive and the jurisdiction of the court so broad, there may be lawsuits over the property or property rights of the estate. There also may be lawsuits concerning the debtor’s discharge. If such a lawsuit is filed in a bankruptcy court, it is called an adversary proceeding.

A party filing an adversary proceeding must also must complete and file Form 1040, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court’s Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 1040 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

The cover sheet and the information contained on it do not replace or supplement the filing and service of pleadings or other papers as required by law, the Bankruptcy Rules, or the local rules of court. The cover sheet, which is largely self-explanatory, must be completed by the plaintiff’s attorney (or by the plaintiff if the plaintiff is not represented by an attorney). A separate cover sheet must be submitted to the clerk for each complaint filed.

Plaintiffs and Defendants. Give the names of the plaintiffs and defendants exactly as they appear on the complaint.

Attorneys. Give the names and addresses of the attorneys, if known.

Party. Check the most appropriate box in the first column for the plaintiffs and the second column for the defendants.

Demand. Enter the dollar amount being demanded in the complaint.

Signature. This cover sheet must be signed by the attorney of record in the box on the second page of the form. If the plaintiff is represented by a law firm, a member of the firm must sign. If the plaintiff is pro se, that is, not represented by an attorney, the plaintiff must sign.

DEFENDANTS ATTACHMENT

DEFENDANTS

RAYMOND K. MONTOYA
ROSS P. MONTOYA
ALMA U. MONTOYA
RYAN J. MONTOYA
RESOURCE MANAGED ASSETS, LLC
RESEARCH MAGNATE ADVISORS, LLC
RMA GROUP, INC.

TRUSTEE PROCESS DEFENDANTS

CENTURY BANK AND TRUST COMPANY
SANTANDER BANK, N.A.

CAUSE OF ACTION

COUNT I: Fraudulent Transfer – Constructive, 11 U.S.C. §§ 548, 550, 551

COUNT II: Fraudulent Transfer – Actual Fraud, 11 U.S.C. §§ 548, 550, 551

COUNT III: Fraudulent Transfer – Constructive, 11 U.S.C. §§ 544(b), 550, 551 & M.G.L. ch.109A, §§ 5(a)(2) & (8)

COUNT IV: Fraudulent Transfer – Actual Fraud, 11 U.S.C. §§ 544(b), 550, 551 & M.G.L. ch.109A, §§ 5(a)(1) & (8)

COUNT V: Unjust Enrichment Against Raymond, Ross, Alma and Ryan

COUNT VI: Breach of Duty of Care – Raymond and Ross

COUNT VII: Breach of Duty of Good Faith – Raymond and Ross

COUNT VIII: For Declaratory Judgment Substantively Consolidating and/or Piercing the Veil of RM Assets

COUNT IX: For Declaratory Judgment Substantively Consolidating and/or Piercing the Veil of RM Advisors

COUNT X: For Declaratory Judgment Substantively Consolidating and/or Piercing the Veil of RMA Group

COUNT XI: Trustee Process Against Century Bank

COUNT XII: Trustee Process Against Santander Bank