

ROUGH DRAFT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Plaintiff, CIVIL ACTION
vs. FILE NO. 1:15-cv-
MIDWEST MEMORIAL GROUP, LLC,
KEENAN BEHRLE, GREG BELZBERG,
HY BELZBERG, and WESTMINSTER MEMORIAL GROUP, LLC,
Defendants.

1. Parties

1. Plaintiff, _____ is a burial plot owner in _____ Cemetery, _____ Michigan, and/or the next of kin of deceased person(s) interred in that cemetery, and/or is a pre-need contract holder in that cemetery, and resides in _____, Michigan.
2. Defendant Midwest Memorial Group LLC, (referred to as "MMG" herein) a Delaware Limited Liability Company, was formed on September 10, 2007.
3. Defendant Keenan Behrle, (referred to as "Behrle" herein) resides in Beverly Hills, California.
4. Defendant Greg Belzberg resides in Beverly Hills, California.
5. Defendant Hy Belzberg resides in Beverly Hills, California.
6. Defendant Westminster Memorial Group LLC, (referred to as "WMG" herein) a Delaware Limited Liability Company was formed on January 10, 2008.

2. Jurisdiction

7. Diversity of citizenship subject matter jurisdiction for this Court exists pursuant to 28 U.S.C. Section 1332(a)(1) as a matter in controversy exceeding \$75,000 exclusive of interest and costs, and jurisdiction otherwise exists pursuant to _____.

3. Venue

8. Venue is proper in the United States District Court for the Northern District of Georgia – Atlanta Division pursuant to U.S.C. section _____.

4. Common Allegations

Formation and Governance

9. Detroit Memorial Partners LLC, (referred to as “DMP” herein) a Delaware Limited Liability Company was formed on September 26, 2007.
10. Upon information and belief, Mark Morrow has testified that DMP was just a pass through LLC, supposed to collect ten million (\$10,000,000) dollars and close down.
11. Upon information and belief, Defendant MMG was formed to purchase 28 Michigan cemeteries, in some of which cemeteries plaintiffs are burial plot owners with a property right of sepulture or pre-need contract holders or are next of kin of deceased person(s) interred in those cemeteries, including Woodmere Cemetery, Detroit, Michigan.
12. Upon information and belief, DMP was formed to borrow money to facilitate the purchase of the above described 28 Michigan cemeteries by Defendant MMG.
13. Upon information and belief, at all applicable times Mark Morrow was the managing member of DMP.

14. Upon information and belief, at all applicable times, David J. Shipper was in charge of the operations of DMP from the time it was formed.
15. Upon information and belief, Defendant WMG was formed to invest money to facilitate the purchase and operation of the above described 28 Michigan cemeteries by Defendant MMG.
16. Upon information and belief, at all applicable times Defendant WMG has been the majority member of Defendant MMG.
17. Upon information and belief, at all applicable times DMP has owned 49% of the membership interests of Defendant MMG.
18. Upon information and belief, at all applicable times, David J. Shipper was a director of Defendant MMG, and president of the board of directors of Defendant MMG comprised of Defendant Behrle, Defendant Greg Belzberg, Defendant Hy Belzberg, Angelo A. Alleca, Mark Morrow, and Aaron Shipper.

Trustee

19. At all applicable times Defendant MMG has been in effect a trustee to sell and convey lots for burial purposes in the above described 28 Michigan cemetery properties, and by law unable to create debt upon the faith of the above described 28 Michigan cemetery properties.
20. Upon information and belief, David J. Shipper has testified that the "cemetery business" is a "highly regulated" industry in Michigan.
21. Upon information and belief, during Fall 2007 Mark Morrow stated to David J. Shipper that Angelo A. Alleca didn't have time to raise all the money to purchase the

28 Michigan cemeteries because of all the regulations and the paperwork and all the things that had to be done to raise the money properly.

Debt

22. Upon information and belief, David J. Shipper has testified that during 2007, 2008, 2009, 2010, and 2011, he had dozens of discussions with Defendant Morrow regarding “scheme after scheme after scheme” by Mark Morrow for DMP to raise debt of \$10,100,000 to purchase membership interest in DMP, and to “buy out Belzberg”, to which David J. Shipper said he disagreed.
23. Upon information and belief, DMP created debt upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) as indicated in the Confidential Private Placement Memorandum, dated November 23, 2007, and as indicated in the promissory note form, attached thereto, filed as Document 25-6 in *Securities and Exchange Commission v. Detroit Memorial Partners LLC*, United States District Court Northern District of Georgia – Atlanta Division, Case No. 1:13-cv-01817-WSD, attached as Exhibit 1 herein and incorporated by reference.
24. Upon information and belief, at all applicable times, Angelo A. Alleca and/or Summit Wealth Management Inc., and/or Summit Investment Fund, L.P., and/or Asset Diversification Fund, L.P., and/or Private Credit Opportunities Fund, raised money for DMP by drafting, preparing and otherwise facilitating the promissory note offering(s) that created debt upon the faith of the 28 Michigan cemetery properties indicated in Exhibit 1.

25. Upon information and belief, at all applicable times, subscription agreements for the promissory note offering(s) of DMP were kept by Mark Morrow for DMP in the ordinary course of recordkeeping by Mark Morrow for DMP.
26. Upon information and belief, Defendant MMG purchased the 28 Michigan cemeteries during the summer of 2008, using funds from the Initial Note Offering by DMP described in the preceding paragraphs, and using funds contributed by Defendant WMG.
27. Upon information and belief, at all applicable times, including but not limited to 2008, there was an operating bank account for DMP.
28. Upon information and belief, at all applicable times, the members of DMP, including but not limited to David J. Shipper and Mark Morrow, carefully tracked all of the money coming into DMP.
29. Upon information and belief, at all applicable times, the accounting for Defendant DMP was derived from the audited accounting of Defendant MMG.

Transfer of Money and Insolvency

30. Upon information and belief, DMP transferred at least \$6,890,210 of the above described DMP promissory note proceeds to Defendant MMG.
31. Upon information and belief, at all applicable times, the operating agreement of Defendant MMG contains a "waterfall" provision - with respect to Defendant MMG distributions of profit - that provide Defendant WMG certain preferences over DMP, including the right of Defendant WMG to recoup 100% of its capital contribution before DMP is entitled to any distributions.
32. Upon information and belief, on or about July 21, 2008 David J. Shipper declared that "the cemeteries continue to operate at a loss, and will not regain profitability unless

competent management invests as much as \$6,000,000 to \$8,000,000 to payoff liabilities and recapitalize the enterprise. Even with this investment, profitability is a year or two away.”

33. Upon information and belief, during 2009, David J. Shipper contributed \$470,000 capital to DMP, and Mark Morrow contributed \$555,260 capital to DMP.

34. Upon information and belief, during 2010 Mark Morrow contributed \$500,000 capital to DMP.

35. Upon information and belief, during 2011 David J. Shipper contributed \$182,330 capital to DMP and Mark Morrow contributed \$200,000 capital to DMP.

36. Upon information and belief, during 2012 David J. Shipper contributed \$160,750 capital to DMP.

Notice of DMP and Alleca Litigation

37. Upon information and belief, during May 2012 David J. Shipper learned about the lawsuit filed by Bruce Toll and Doug Topkis in the Court of Chancery in the State of Delaware, Case No. 7780-VCP, alleging among other things, issuance of promissory notes by DMP, and in which case the pleadings included a copy of the DMP subscription agreement referring to the Confidential Private Placement Memorandum dated September 26, 2007.

38. Upon information and belief, on or about October 15, 2012 David J. Shipper responded to a subpoena directed to the Custodian of Records Detroit Memorial Partners, LLC to produce documents, and information, in a civil action, in United States District Court for the Northern District of Georgia Atlanta Division, Case No. 12-cv-03261-WSD,

Captioned *Securities and Exchange Commission v. Angelo A. Alleca, et al.*, requesting, among other things, production of,

- (a) All documents relating to securities offerings by Detroit Memorial Partners, LLC, including, but not limited to, private placement memoranda, promissory notes, subscription agreements, lists of promissory notes, and account statements issued to investors.
- (b) All documents evidencing the payment of interest and/or the return of principal to holders of promissory notes issued by Detroit Memorial Partners.
- (c) All documents evidencing the receipt, movement, use, and location of funds raised by Detroit Memorial Partners from all of its investors (debt and equity).
- (d) All documents evidencing or otherwise relating to any investment in Detroit Memorial Partners, LLC and/or Mark Morrow in Midwest Memorial Group, LLC.
- (e) Documents sufficient to identify all bank and brokerage accounts of Detroit Memorial Partners, Landmark Investment Group, Inc., and Mark Morrow from August 1, 2007 through the present.
- (f) Monthly account statements for all bank and brokerage accounts in the name of or controlled by Mark Morrow and Detroit Memorial Partners from April 1, 2012 through the present.

39. Upon information and belief, the United States Securities and Exchange Commission sent a *Wells* Notice to DMP and Mark Morrow circa May 2013.

40. Upon information and belief, on August 27, 2013, David J. Shipper testified that at that time partners of DMP will not pay a cash call “under these conditions”, and that revenue

would not be reinvested in DMP, and that the partners of DMP would maybe get a future cash call.

41. Upon information and belief, on August 27, 2013, David J. Shipper testified that if DMP fails to pay capital calls to Defendant MMG then Defendant MMG may reduce the ownership interest of DMP in Defendant MMG.

Miscellaneous Evidence

42. Upon information and belief, Mark Morrow has testified that Angelo A. Alleca received a loan from a trust account of IMG.
43. Upon information and belief, at all applicable times, David J. Shipper signed all the tax returns for DMP.

Unjust Enrichment of DMP

44. At all applicable times, the common law of the State of Michigan prohibited DMP from creating debt upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) described in the preceding paragraphs.
45. Upon information and belief, at all applicable times, the creation of debt upon the faith of the 28 Michigan cemetery properties in the promissory note offering(s) of DMP, conferred a benefit upon DMP, and DMP thereby unjustly and inequitably received and retained that benefit, and it is unconscionable as contrary to Michigan law for Defendant DMP to retain that benefit.
46. The promissory note proceeds from the unlawful debt made upon the faith of the 28 Michigan cemetery properties by DMP thereby results in unjust enrichment of DMP.

Count I
Unjust Enrichment of Defendant MMG

47. Plaintiffs repeat the allegations in the preceding paragraphs as though fully restated herein and incorporate the same by reference.
48. At all applicable times, the common law of the State of Michigan prohibited, DMP from creating debt upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) described in the preceding paragraphs.
49. Upon information and belief, at all applicable times, Defendant MMG permitted DMP to create debt upon the faith of the 28 Michigan cemetery properties in the promissory note offering(s) of DMP described in preceding paragraphs, and otherwise ratified such transaction(s).
50. Upon information and belief, at all applicable times, the proceeds of the debt offering(s) of DMP were used by Defendant MMG to facilitate purchase and operation of the subject 28 Michigan cemeteries by Defendant MMG, which thereby conferred a benefit upon Defendant MMG, and Defendant MMG thereby unjustly and inequitably received and retained that benefit, and it is unconscionable as contrary to Michigan law for Defendant MMG, to retain that benefit.
51. The promissory note proceeds, and the proceeds of those proceeds, from the unlawful debt made upon the faith of the 28 Michigan cemetery properties received and retained by Defendant MMG thereby results in unjust enrichment of Defendant MMG.

WHEREFORE, Plaintiffs request judgment against Defendant MMG for restitution of the sum of all DMP promissory note proceeds made upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) used by Defendant MMG

to facilitate purchase and operation of the 28 Michigan cemeteries by Defendant MMG, and Plaintiffs request subordination of all claims which have been filed or brought or which may hereafter be filed or brought against Defendant MMG, except the claims of other burial plot owners, next of kin of deceased person(s) interred in those cemeteries, and pre-need contract holders regarding the subject 28 Michigan cemeteries, and Plaintiffs request establishment of a constructive trust over the proceeds of the debt made upon the faith of the 28 Michigan Cemeteries used or held by Defendant MMG as described in preceding paragraphs, and an equitable lien upon the proceeds of those proceeds, and Plaintiffs request such further relief as the Court deems just, proper, and equitable.

Count II
Breach of Fiduciary Duty of Defendant MMG

52. Plaintiffs repeat the allegations in the preceding paragraphs as though fully restated herein and incorporate the same by reference.
53. At all applicable times, the common law of the State of Michigan prohibited DMP from creating debt upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) described in the preceding paragraphs.
54. Upon information and belief, at all applicable times while Defendant MMG was in effect a trustee to sell and convey lots for burial purposes pursuant to Michigan common law, including during the course of performing its due diligence to demonstrate that it was qualified by its propensity to serve the public to control and operate the 28 Michigan cemeteries in a fair, honest, and open manner pursuant to MCL 338.41, Defendant MMG

knew or learned that DMP created debt upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) as described in the preceding paragraphs.

55. Thereafter, Defendant MMG did nothing to refuse to accept or to rescind its retention of the proceeds of the promissory note offerings of DMP made upon the faith of the 28 Michigan cemeteries, or to refuse to accept or to rescind its retention of the proceeds of those proceeds, and thereafter Defendant MMG did nothing to restore to Plaintiffs the sum of the proceeds of the promissory notes of DMP or the proceeds of those proceeds, described in the preceding paragraphs.

56. As a trustee to sell and convey lots for burial purposes pursuant to Michigan common law, at all applicable times Defendant MMG had a fiduciary duty to refuse to accept, and a fiduciary duty to rescind, and a fiduciary duty to disclose, its retention of the proceeds of the promissory note offerings of DMP and the proceeds of those proceeds, and to restore to Plaintiffs the sum of the proceeds of the promissory notes of DMP made upon the faith of the 28 Michigan cemeteries described in the preceding paragraphs, and the proceeds of those proceeds.

57. The failure of Defendant MMG to refuse to accept, and its failure to rescind, and to disclose, its retention of the proceeds of the promissory note offerings of DMP and the proceeds of those proceeds, and the failure of Defendant MMG to restore to Plaintiffs the sum of the proceeds of the promissory notes of DMP described in the preceding paragraphs and the proceeds of those proceeds, is a breach of the fiduciary duty of Defendant MMG as a trustee to sell and convey lots for burial purposes pursuant to Michigan common law, and thereby constitutes gross negligence of Defendant MMG.

58. The promissory note proceeds from the unlawful debt made upon the faith of the 28 Michigan cemetery properties received and retained by Defendant MMG thereby results in unjust enrichment of Defendant MMG.

WHEREFORE, Plaintiffs request judgment for restitution against Defendant MMG for the sum of all DMP promissory note proceeds made upon the faith of the 28 Michigan cemetery properties in the promissory note offering(s) of DMP described in the preceding paragraphs, and Plaintiffs request subordination of all claims which have been filed or brought or which may hereafter be filed or brought against Defendant MMG, except the claims of other burial plot owners, next of kin of deceased person(s) interred in those cemeteries, and pre-need contract holders regarding the subject 28 Michigan cemeteries, and Plaintiffs request establishment of a constructive trust over the proceeds of the debt made upon the faith of the 28 Michigan Cemeteries used or held by Defendant MMG, and an equitable lien upon the proceeds of those proceeds, and Plaintiffs request such further relief as the Court deems just, proper, and equitable.

Count III
Accounting

59. Plaintiff re-alleges and incorporates by reference all the preceding paragraphs as though fully restated herein.

60. The actual amount of DMP promissory note offering(s) proceeds is unknown to Plaintiffs and cannot be ascertained without an account of the receipts and disbursements of the aforementioned transactions.

61. Upon information and belief, Defendant MMG has “exclusive knowledge” of the actual amount of DMP promissory note offering(s) proceeds.

62. The “exclusive knowledge” of Defendant MMG of the actual amount of DMP promissory note offering(s) proceeds makes an equitable accounting an appropriate remedy for Plaintiffs.
63. Upon information and belief, Plaintiffs’ account is complicated because the actual amount of DMP promissory note offering(s) proceeds have not been disclosed to Plaintiff by Defendant MMG.

WHEREFORE, Plaintiffs request a complete accounting by Defendant MMG regarding the actual amount of DMP promissory note offering(s) proceeds, and tracing thereof.

Count IV
Gross Negligence of
Defendant Behrle, Defendant Greg Belzberg,
Defendant Hy Belzberg, and Defendant MMG

64. Plaintiffs repeat the allegations in the preceding paragraphs as though fully restated herein and incorporate the same by reference.
65. At all applicable times, the common law of the State of Michigan prohibited DMP from creating debt upon the faith of the 28 cemetery properties in its promissory note offering(s) described in the preceding paragraphs.
66. Upon information and belief, at all applicable times, David J. Shipper as a director or operating officer of both DMP and Defendant MMG, and Mark Morrow as a director or manager of both DMP and Defendant MMG, knew and disclosed to DMP and to all of the defendants — or should have known by the subscription agreements for the promissory note offering(s) of DMP kept by Mark Morrow in the ordinary course of recordkeeping by Mark Morrow for DMP; and/or from the operating bank account(s) of

DMP; and/or from carefully tracking all of the money coming into DMP; and/or from the audited accounting of DMP and Defendant MMG; and/or from signing the tax returns of DMP; and/or from being the managing member of DMP; and/or from being in charge of the operations of DMP from the time it was formed; - that DMP created debt upon the faith of the 28 Michigan cemeteries, for reasons including but not limited to:

- a) Upon information and belief, David J. Shipper has testified that during 2007, 2008, 2009, 2010, and 2011, he had dozens of discussions with Mark Morrow regarding “scheme after scheme after scheme” by Mark Morrow for DMP to raise debt of \$10,100,000 to purchase membership interest in DMP, and to “buy out Belzberg”, to which David J. Shipper said he disagreed.
- b) Upon information and belief, during Fall 2007 Mark Morrow stated to David J. Shipper that Angelo A. Alleca didn't have time to raise all the money to purchase the 28 Michigan cemeteries because of all the regulations and the paperwork and all the things that had to be done to raise the money properly.
- c) Upon information and belief, at all applicable times, Angelo A. Alleca and/or Summit Wealth Management Inc., and/or Summit Investment Fund, L.P., and/or Asset Diversification Fund, L.P., and/or Private Credit Opportunities Fund, raised money for DMP by drafting, preparing and otherwise facilitating the promissory note offering(s) that created debt upon the faith of the 28 Michigan cemetery properties indicated in Exhibit 1.

- d) Upon information and belief, at all applicable times, subscription agreements for the promissory note offering(s) of DMP were kept by Mark Morrow for DMP in the ordinary course of recordkeeping by Mark Morrow for DMP.
- e) Upon information and belief, during May 2012 David J. Shipper learned about the lawsuit filed by Bruce Toll and Doug Topkis in the Court of Chancery in the State of Delaware, Case No. 7780-VCP alleging among other things, issuance of promissory notes by DMP, and in which case the pleadings included a copy of the DMP subscription agreement referring to the Confidential Private Placement Memorandum dated September 26, 2007.
- f) Upon information and belief, on or about October 15, 2012 David J. Shipper responded to a subpoena directed to the Custodian of Records Detroit Memorial Partners, LLC to produce documents, and information, in a civil action, in United States District Court for the Northern District of Georgia Atlanta Division, Case No. 12-cv-03261-WSD, Captioned *Securities and Exchange Commission v. Angelo A. Alleca, et al*, requesting, among other things, production of,
- o All documents relating to securities offerings by Detroit Memorial Partners, LLC, including, but not limited to, private placement memoranda, promissory notes, subscription agreements, lists of promissory notes, and account statements issued to investors.

- All documents evidencing the payment of interest and/or the return of principal to holders of promissory notes issued by Detroit Memorial Partners.
 - All documents evidencing the receipt, movement, use, and location of funds raised by Detroit Memorial Partners from all of its investors (debt and equity).
 - All documents evidencing or otherwise relating to any investment in Detroit Memorial Partners, LLC and/or Mark Morrow in Midwest Memorial Group, LLC.
 - Documents sufficient to identify all bank and brokerage accounts of Detroit Memorial Partners, Landmark Investment Group, Inc., and Mark Morrow from August 1, 2007 through the present.
 - Monthly account statements for all bank and brokerage accounts in the name of or controlled by Mark Morrow and Detroit Memorial Partners from April 1, 2012 through the present.
- g) Upon information and belief, the United States Securities and Exchange Commission sent a *Wells* Notice to DMP and Mark Morrow circa May 2013.
- h) Upon information and belief, on August 27, 2013, David J. Shipper testified that at that time partners of DMP will not pay a cash call “under

these conditions”, and that revenue would not be reinvested in DMP, and that the partners of DMP would maybe get a future cash call.

67. Upon information and belief, at all applicable times, Defendant MMG as a trustee to sell and convey lots for burial purposes in the above described 28 Michigan cemeteries, and David J. Shipper as a director or as an operating officer of both DMP and Defendant MMG, and Mark Morrow as a director of both DMP and Defendant MMG, along with the rest of the board of directors or managers of Defendant MMG, ignored willfully, or through inattention, the wrongful creation of debt upon the faith of the 28 Michigan cemeteries by DMP.

68. Upon information and belief, at all applicable times, Defendant MMG as a trustee to sell and convey lots for burial purposes in the above described 28 Michigan cemeteries, and David J. Shipper as a director or as an operating officer of DMP and Defendant MMG, along with the rest of the board of directors or managers of Defendant MMG, recklessly reposed confidence in Mark Morrow, because upon information and belief during Fall 2007 Mark Morrow stated to David J. Shipper that Angelo A. Alleca didn't have time to raise all the money to purchase the above described 28 Michigan cemetery properties because of all the regulations and the paperwork and all the things that had to be done to raise the money properly.

69. Upon information and belief, at all applicable times, Defendant MMG as a trustee to sell and convey lots for burial purposes in the above described 28 Michigan cemeteries, and David J. Shipper as a director, manager, or as an operating officer of DMP and Defendant MMG, along with Defendant Behrle, Defendant Greg Belzberg, Defendant Hy Belzberg, Mark Morrow, and Angelo A. Alleca, as directors or managers of Defendant MMG, by

their sustained and systematic failure to exercise oversight of DMP, David J. Shipper, Mark Morrow, Angelo A. Alleca, Summit Wealth Management Inc., and/or Summit Investment Fund, L.P., and/or Asset Diversification Fund, L.P., and/or Private Credit Opportunities Fund, including but not limited to the utter failure to attempt or assure that a reasonable information and reporting system exists, failed to exercise good faith in their respective offices as Trustee to sell and convey lots for burial purposes in the above described 28 Michigan cemeteries, and individually as director(s) or manager(s), or operating officer(s) of Defendant MMG, and therefore by their respective unconsidered inaction Defendant MMG, Defendant Behrle, Defendant Greg Belzberg, Defendant Hy Belzberg, David J. Shipper, Mark Morrow, and Angelo A. Alleca, are each grossly negligent and liable to Plaintiffs.

WHEREFORE, Plaintiffs request judgment against Defendant MMG, Defendant Behrle, Defendant Greg Belzberg, and Defendant Hy Belzberg, for restitution of the sum of all DMP promissory note proceeds made upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) described in the preceding paragraphs, and Plaintiffs request subordination of all claims which have been filed or brought or which may hereafter be filed or brought against Defendant MMG, Defendant Behrle, Defendant Greg Belzberg, and Defendant Hy Belzberg, except the claims of other burial plot owners, next of kin of deceased person(s), interred those cemeteries, and pre-need contract holders regarding the subject 28 Michigan cemeteries, and Plaintiffs request establishment of a constructive trust over the debt made upon the 28 Michigan cemeteries, and an equitable lien upon the proceeds of those proceeds, and Plaintiffs request such further relief as the Court deems just, proper, and equitable.

Count V
Uniform Fraudulent Transfer Act – MCL 566.34 Et. Seq. – Defendant MMG

70. Plaintiffs repeat the allegations in the preceding paragraphs as though fully restated herein and incorporate the same by reference.
71. Each Plaintiff is a creditor of debtor DMP by his or her claim(s) against DMP for unjust enrichment as described in previous paragraphs of this Complaint, and as defined in MCL 566.31(c),(d), (e), and (f).
72. Upon information and belief, at all applicable times, the sum of debtor DMP's debts is greater than all of its assets at a fair valuation, including but not limited to the fact that at all applicable times the above described promissory note proceeds made upon the faith of the 28 cemetery properties prohibited by law were transferred, concealed, or removed from debtor DMP with intent to hinder, delay, or defraud Plaintiff, or were transferred in a manner making the transfer voidable under the Michigan Uniform Fraudulent Transfer Act MCL 566.31 et seq., and including but not limited to the fact that DMP disburses money to its members from time to time who subsequently contribute capital only when they desire, and debtor DMP is therefore insolvent as defined by MCL 566.32(1).
73. Upon information and belief, at all applicable times, DMP has owned 49% of the membership interest in Defendant MMG and therefore Defendant MMG was an affiliate of DMP as defined by MCL 566.31(a)(ii), and therefore Defendant MMG was an insider of DMP as defined by MCL 566.31(g)(iv).
74. Upon information and belief, at all applicable times, DMP transferred at least \$6,890,210 of the proceeds of the promissory note offering(s) made upon the faith of the 28

Michigan cemetery properties, described in previous paragraphs of this Complaint, to Defendant MMG as an insider, with actual intent to hinder, delay, or defraud Plaintiffs, or transferred it in a manner making the transfer voidable under the Michigan Uniform Fraudulent Transfer Act MCL 566.31 et seq., — as burial plot holders, or next of kin of deceased person(s) interred in those cemeteries, or as pre-need contract holders, and the promisees of such promissory notes made upon the faith of the 28 Michigan cemetery properties with actual intent to hinder, delay, or defraud Plaintiffs, or transferred it in a manner making the transfer voidable under the Michigan Uniform Fraudulent Transfer Act MCL 566.31 et seq. , and that such transfer was concealed from Plaintiff burial plot holders, or next of kin of deceased person(s) interred in those cemeteries, or as pre-need contract holders, by DMP and/or Defendant MMG.

WHEREFORE, Plaintiffs request (1) that the transfer of the DMP promissory note proceeds made upon the faith of the 28 Michigan cemetery properties by DMP to the Defendant MMG be declared null and void; (2) that Defendant MMG be required to transfer and deliver to Plaintiffs such promissory note proceeds; (3) that, if the Defendant MMG has disposed of such promissory note proceeds that it be required to account to Plaintiffs for the proceeds; (4) Plaintiffs request subordination of all claims which have been filed or brought or which may hereafter be filed or brought against Defendant MMG, Defendant Behrle, Defendant Greg Belzberg, and Defendant Hy Belzberg, except the claims of other burial plot owners, next of kin of deceased person(s), interred those cemeteries, and pre-need contract holders regarding the subject 28 Michigan cemeteries, and (5) that Plaintiffs have judgment against Defendant MMG for the sum of such promissory note proceeds and other further relief as is just.

Count VI
Uniform Fraudulent Transfer Act – MCL 566.34 Et. Seq. Defendant WMG

75. Plaintiffs repeat the allegations in the preceding paragraphs as though fully restated herein and incorporate the same by reference.
76. Each Plaintiff is a creditor of debtor Defendant MMG by his or her claim(s) against Defendant MMG for fraudulent transfer as described in Count V of this Complaint, as defined in MCL 566.31(c),(d), (e), and (f).
77. Upon information and belief, at all applicable times, the sum of debtor Defendant MMG's debts is greater than all of its assets at a fair valuation, because upon information and belief, on or about July 21, 2008 David J. Shipper declared that "the cemeteries continue to operate at a loss, and will not regain profitability unless competent management invests as much as \$6,000,000 to \$8,000,000 to payoff liabilities and recapitalize the enterprise. Even with this investment, profitability is a year or two away," and upon information and belief, on or about August 27, 2013, David J. Shipper testified that it's very difficult to put a value on a company that is not really making money, and that Defendant MMG received an offer for ten to thirteen million dollars eighteen months before that. Therefore debtor Defendant MMG is insolvent as defined by MCL 566.32(1).
78. Upon information and belief, at all applicable times, Defendant WMG has owned 51% of the membership interest in Defendant MMG and therefore Defendant WMG has been an affiliate of Defendant MMG as defined by MCL 566.31(a)(ii) and therefore Defendant WMG has been an insider of Defendant MMG as defined by MCL 566.31(g)(iv).
79. Upon information and belief, at all applicable times, Defendant MMG transferred at least \$6,890,210 of the proceeds of the promissory note offering(s) made by

DMP upon the faith of the 28 Michigan cemetery properties, described in previous paragraphs of this Complaint, to Defendant WMG as an insider, with actual intent to hinder, delay, or defraud Plaintiffs as a burial plot holder, or as a next of kin of deceased person(s) interred in those cemeteries, or as a pre-need contract holder, and the promisees of such promissory notes made upon the faith of the 28 Michigan cemetery properties, or transferred such proceeds of the proceeds of the promissory note offering(s) made by DMP upon the faith of the 28 Michigan cemetery properties, described in previous paragraphs of this Complaint, in a manner making the transfer voidable under the Michigan Uniform Fraudulent Transfer Act MCL 566.31 et seq., and that such transfer was concealed from Plaintiffs as a burial plot holder, or as a next of kin of deceased person(s) interred in those cemeteries, or as a pre-need contract holder, by debtor Defendant MMG and/or Defendant WMG.

WHEREFORE, Plaintiffs request (1) that the transfer of the proceeds of the DMP promissory note proceeds made upon the faith of the 28 Michigan cemetery properties, by Defendant MMG to the Defendant WMG be declared null and void; (2) that Defendant WMG be required to transfer and deliver to Plaintiffs such promissory note proceeds, and/or proceeds of the subject promissory note proceeds; (3) that, if the Defendant WMG has disposed of such promissory note proceeds or the proceeds thereof, that it be required to account to Plaintiffs for such proceeds; (4) Plaintiffs request subordination of all claims which have been filed or brought or which may hereafter be filed or brought against Defendant MMG, Defendant Behrle, Defendant Greg Belzberg, and Defendant Hy Belzberg, except the claims of other burial plot owners, next of kin of deceased person(s), interred those cemeteries, and pre-need contract holders regarding the

subject 28 Michigan cemeteries; and (5) that Plaintiffs have judgment against Defendant WMG for the sum of all such promissory note proceeds and/or the proceeds thereof, and other further relief as is just.

Count VII

Uniform Fraudulent Transfer Act – MCL 566.35 Et. Seq. – Defendant MMG

80. Plaintiffs repeat the allegations in the preceding paragraphs as though fully restated herein and incorporate the same by reference.
81. Each Plaintiff is a creditor of debtor DMP by his or her claim(s) against DMP for unjust enrichment as described in previous paragraphs of this Complaint, and as defined in MCL §66.31(c),(d), (e), and (f).
82. Upon information and belief, at all applicable times, DMP has owned 49% of the membership interest in Defendant MMG and therefore Defendant MMG was an affiliate of DMP as defined by MCL 566.31(a)(ii) ,and therefore Defendant MMG was an insider of DMP as defined by MCL 566.31(g)(iv).
83. Each Plaintiff is a creditor of debtor DMP by his or her claim(s) against DMP for unjust enrichment as described in previous paragraphs of this Complaint, as defined in MCL 566.31(c),(d), (e), and (f).
84. Upon information and belief, at all applicable times, DMP transferred at least \$6,890,210 of the proceeds of the promissory note offering(s) made upon the faith of the 28 Michigan cemetery properties, described in previous paragraphs of this Complaint to Defendant MMG as an insider.

85. Upon information and belief, at all applicable times, DMP made such transfer to Defendant MMG for an antecedent debt while DMP was insolvent at that time.
86. Upon information and belief, at all applicable times, DMP made such transfer to Defendant MMG while Defendant MMG had reasonable cause to believe that DMP was insolvent for reasons including but not limited to:
- a) Because DMP created debt upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) as described in previous paragraphs of this Complaint, as indicated in Exhibit 1 attached and incorporated by reference.
 - b) Because Mark Morrow has testified that DMP was just a pass through LLC, supposed to collect ten million (\$10,000,000) dollars and close down.
 - c) Because on August 27, 2013, David J. Shipper testified that if DMP fails to pay capital calls to Defendant MMG then Defendant MMG may reduce the ownership interest of DMP in Defendant MMG.
 - d) Because at all applicable times, the operating agreement of Defendant MMG contains a "waterfall" provision - with respect to Defendant MMG distributions of profit - that provide Defendant WMG certain preferences over DMP, including the right of Defendant WMG to recoup 100% of its capital contribution before DMP is entitled to any distributions.
 - e) Because during 2009, David J. Shipper contributed \$470,000 capital to DMP, and Mark Morrow contributed \$555,260 capital to DMP.
 - f) Because during 2010 Mark Morrow contributed \$500,000 capital to DMP.

- g) Because during 2011 David J. Shipper contributed \$182,330 capital to DMP and Mark Morrow contributed \$200,000 capital to DMP.
- h) Because during 2012 David J. Shipper contributed \$160,750 capital to DMP.
- i) Because the United States Securities and Exchange Commission sent a *Wells* Notice to DMP and Mark Morrow circa May 2013, or earlier.
- j) Because on August 27, 2013, David J. Shipper testified that at that time partners of DMP will not pay a cash call “under these conditions”, and that revenue would not be reinvested in DMP, and that the partners of DMP would maybe get a future cash call.

WHEREFORE, Plaintiffs request (1) that the transfer of the DMP promissory note proceeds made upon the faith of the 28 Michigan cemetery properties by DMP to the Defendant MMG be declared null and void; (2) that Defendant MMG be required to transfer and deliver to Plaintiffs such promissory note proceeds; (3) that, if the Defendant MMG has disposed of such promissory note proceeds that it be required to account to Plaintiffs for the proceeds; (4) Plaintiffs request subordination of all claims which have been filed or brought or which may hereafter be filed or brought against Defendant MMG, Defendant Behrle, Defendant Greg Belzberg, and Defendant Hy Belzberg, except the claims of other burial plot owners, next of kin of deceased person(s), interred those cemeteries, and pre-need contract holders regarding the subject 28 Michigan cemeteries; and (5) that Plaintiffs have judgment against Defendant MMG for the sum of such promissory note proceeds and other further relief as is just.

Count VIII

Uniform Fraudulent Transfer Act – MCL 566.35 Et. Seq. Defendant WMG

87. Plaintiffs repeat the allegations in the preceding paragraphs as though fully restated herein and incorporate the same by reference.
88. Each Plaintiff is a creditor of debtor Defendant MMG by his or her claim(s) against Defendant MMG for unjust enrichment, gross negligence, and for breach of fiduciary duty, as described in previous paragraphs of this Complaint, as defined in MCL 566.31(c),(d), (e), and (f).
89. Upon information and belief, at all applicable times, Defendant WMG has owned 51% of the membership interest in debtor Defendant MMG and therefore Defendant WMG has been an affiliate of debtor Defendant MMG, as defined by MCL 566.31(a)(ii), and therefore Defendant WMG has been an insider of debtor Defendant MMG, as defined by MCL 566.31(g)(iv).
90. Upon information and belief, at all applicable times, debtor Defendant MMG transferred at least \$6,890,210 of the proceeds of the promissory note offering(s) made upon the faith of the 28 Michigan cemetery properties, described in previous paragraphs of this Complaint, to Defendant WMG as an insider.
91. Upon information and belief, at all applicable times, debtor Defendant MMG made such transfer to Defendant WMG for an antecedent debt while debtor Defendant MMG was insolvent at that time.

92. Upon information and belief, at all applicable times, debtor Defendant MMG made such transfer to Defendant WMG while Defendant WMG had reasonable cause to believe that debtor Defendant MMG was insolvent for reasons including but not limited to:

- a) Because DMP created debt upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) as described in previous paragraphs of this Complaint, as indicated in Exhibit 1 attached and incorporated by reference.
- b) Because debtor Defendant MMG permitted DMP to create debt upon the faith of the 28 Michigan cemetery properties in its promissory note offering(s) as described in previous paragraphs of this Complaint, as indicated in Exhibit 1 attached and incorporated by reference, or ratified such transaction(s).
- c) Because debtor Defendant MMG purchased the 28 Michigan cemeteries during the summer of 2008, using funds from the Initial Note Offering by DMP described in the preceding paragraphs, and using funds contributed by Defendant WMG.
- d) Because David J. Shipper has testified that, at all applicable times, he was a director of debtor Defendant MMG, and that he was the president of the board of directors of debtor Defendant MMG comprised of director Defendant Behrle, director Defendant Greg Belzberg, director Defendant

Hy Belzberg, director Aaron Shipper, director Angelo A. Alleca, and director Mark Morrow.

- e) Because at all applicable times, David J. Shipper as a director or operating officer of both DMP and Defendant MMG, and Mark Morrow as a director or manager of both DMP and Defendant MMG, knew and disclosed to DMP and to all of the defendants — or should have known by the subscription agreements for the promissory note offering(s) of DMP kept by Mark Morrow in the ordinary course of recordkeeping by Mark Morrow for DMP; and/or from the operating bank account(s) of DMP; and/or from carefully tracking all of the money coming into DMP; and/or from the audited accounting of DMP and Defendant MMG; and/or from signing the tax returns of DMP; and/or from being the managing member of DMP; and/or from being in charge of the operations of DMP from the time it was formed -- that DMP created debt upon the faith of the 28 Michigan cemeteries, for reasons including but not limited to:

Upon information and belief, David J. Shipper has testified that during 2007, 2008, 2009, 2010, and 2011, he had dozens of discussions with Mark Morrow regarding “scheme after scheme after scheme” by Mark Morrow for DMP to raise debt of \$10,100,000 to purchase membership interest in DMP, and to “buy out Belzberg”, to which David J. Shipper said he disagreed.

Upon information and belief, during Fall 2007 Mark Morrow stated to David J. Shipper that Angelo A. Alleca didn't have time to raise all the money to

purchase the 28 Michigan cemeteries because of all the regulations and the paperwork and all the things that had to be done to raise the money properly.

Upon information and belief, at all applicable times, Angelo A. Alleca and/or Summit Wealth Management Inc., and/or Summit Investment Fund, L.P., and/or Asset Diversification Fund, L.P., and/or Private Credit Opportunities Fund, raised money for DMP by drafting, preparing and otherwise facilitating the promissory note offering(s) that created debt upon the faith of the 28 Michigan cemetery properties indicated in Exhibit 1.

Upon information and belief, at all applicable times, subscription agreements for the promissory note offering(s) of DMP were kept by Mark Morrow for DMP in the ordinary course of recordkeeping by Mark Morrow for DMP.

Upon information and belief, during May 2012 David J. Shipper learned about the lawsuit filed by Bruce Toll and Doug Topkis in the Court of Chancery in the State of Delaware, Case No. 7780-VCP alleging among other things, issuance of promissory notes by DMP, and in which case the pleadings included a copy of the DMP subscription agreement referring to the Confidential Private Placement Memorandum dated September 26, 2007.

Upon information and belief, on or about October 15, 2012 David J. Shipper responded to a subpoena directed to the Custodian of Records Detroit Memorial Partners, LLC to produce documents, and information, in a civil action, in United States District Court for the Northern District of Georgia Atlanta Division, Case No. 12-cv-03261-WSD, Captioned *Securities and Exchange Commission v. Angelo A. Alleca, et al*, requesting, among other things, production of,

All documents relating to securities offerings by Detroit Memorial Partners, LLC, including, but not limited to, private placement memoranda,

promissory notes, subscription agreements, lists of promissory notes, and account statements issued to investors.

- All documents evidencing the payment of interest and/or the return of principal to holders of promissory notes issued by Detroit Memorial Partners.
- All documents evidencing the receipt, movement, use, and location of funds raised by Detroit Memorial Partners from all of its investors (debt and equity).
- All documents evidencing or otherwise relating to any investment in Detroit Memorial Partners, LLC and/or Mark Morrow in Midwest Memorial Group, LLC.
- Documents sufficient to identify all bank and brokerage accounts of Detroit Memorial Partners, Landmark Investment Group, Inc., and Mark Morrow from August 1, 2007 through the present.
- Monthly account statements for all bank and brokerage accounts in the name of or controlled by Mark Morrow and Detroit Memorial Partners from April 1, 2012 through the present.

Upon information and belief, the United States Securities and Exchange Commission sent a *Wells* Notice to DMP and Mark Morrow circa May 2013.

Upon information and belief, on August 27, 2013, David J. Shipper testified that at that time partners of DMP will not pay a cash call “under these conditions”, and that revenue would not be reinvested in DMP, and that the partners of DMP would maybe get a future cash call.

- f) Because on or about July 21, 2008 David J. Shipper declared that “the cemeteries continue to operate at a loss, and will not regain profitability unless competent management invests as much as \$6,000,000 to \$8,000,000 to payoff liabilities and recapitalize the enterprise. Even with this investment, profitability is a year or two away.”
- g) Because at all applicable times, the operating agreement of Defendant MMG contains a “waterfall” provision - with respect to Defendant MMG distributions of profit - that provide Defendant WMG certain preferences over DMP, including the right of Defendant WMG to recoup 100% of its capital contribution before DMP is entitled to any distributions.
- h) Because on August 27, 2013 David J. Shipper testified that it’s very difficult to put a value on a company that is not really making money, and that Defendant MMG had received an offer for ten to thirteen million dollars eighteen months before that.

93. Therefore Defendant WMG had reasonable cause to know that debtor Defendant MMG was insolvent, at all applicable times.

WHEREFORE Plaintiffs request (1) that the transfer of the proceeds of the DMP promissory note proceeds made upon the faith of the 28 Michigan cemetery properties, by Defendant MMG to the Defendant WMG be declared null and void; (2) that Defendant WMG be

required to transfer and deliver to Plaintiffs such promissory note proceeds, and/or proceeds of the subject promissory note proceeds; (3) that, if the Defendant WMG has disposed of such promissory note proceeds or the proceeds thereof, that it be required to account to Plaintiffs for such proceeds; (4) Plaintiffs request subordination of all claims which have been filed or brought or which may hereafter be filed or brought against Defendant MMG, Defendant Behrle, Defendant Greg Belzberg, and Defendant Hy Belzberg, except the claims of other burial plot owners, next of kin of deceased person(s), interred those cemeteries, and pre-need contract holders regarding the subject 28 Michigan cemeteries; and (5) that Plaintiffs have judgment against Defendant WMG for the sum of all such promissory note proceeds and/or the proceeds thereof, and other further relief as is just.

Dated: November __, 2015

Respectfully Submitted,

Michael E. Norman
Attorney for Plaintiffs
23855 Northwestern Hwy
Southfield MI 48075
(248) 948-9696

JURY DEMAND

Plaintiffs, by their attorney Michael E. Norman, hereby request a trial by jury of all issues so triable.

Dated: November __, 2015

Respectfully Submitted,

Michael E. Norman _____
Attorney for Plaintiffs
23855 Northwestern Hwy
Southfield MI 48075
(248) 948-9696