

UNITED STATES FEDERAL DISTRICT COURT
IN THE WESTERN DISTRICT OF MICHIGAN

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AMANDA & REECE HEINRICH,)
PHILLY & MICHAEL TAVOLILLA,)
ANTHONY & JILL CASASSA,)
DAVID & TONI FLENNIKEN,)
JON & REGINA LUNDY)
Plaintiffs)

Hon.:

Case No.: 06-

v.)

5:06 CV 168

COMPLAINT FOR VIOLATION

OF: 18 U.S.C. §§ 1341, 1343,

18 U.S.C. § 1962(c)

18 U.S.C. § 1962(d)

FRAUD, CONVERSION,

UNJUST ENRICHMENT

MISREPRESENTATION

WAITING ANGELS ADOPTION)
SERVICES, INC.)
a Michigan For-Profit Corporation)
and)
SIMONE BORAGGINA)
and)
JOSEPH J. BEAUVAIS)
Individuals)
Defendants)

Robert Holmes Bell
Chief, U.S. District Judge

Joni M. Fixel (P56712)
Fixel Law Offices, PLLC
Attorney for Plaintiffs
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East Lansing, MI 48823
(517) 332-3390

Plaintiffs' Amanda and Reece Heinrich, Philly and Michael Tavolilla, Anthony and Jill Casassa, David Kruger and Toni Flenniken and Jon and Regina Lundy, hereby allege and state the following Complaint against Defendants Waiting Angels Adoption Services, Inc., Simone Boraggina and Joseph J. Beauvais (hereinafter referred to collectively as "Defendants").

PARTIES

1. Plaintiffs Amanda and Reece Heinrich are United States citizens residing in the State of Michigan.

2. Plaintiffs Philly and Michael Tavolilla are United States citizens residing in the State of New York.

3. Plaintiffs Anthony and Jill Casassa are United States citizens residing in the State of Minnesota.

4. Plaintiffs David Kruger and Toni Flenniken are United States citizens residing in the State of California.

5. Plaintiffs Jon and Regina Lundy are United States citizens residing in the State of Alabama.

6. Defendant Waiting Angels Adoption Services, Inc. ("WA") is a Michigan For-Profit Corporation with a principal place of business at 50573 Murray Drive, Macomb Michigan. WA holds itself out to the public as a non-profit adoption facilitator specializing in Guatemalan adoptions.

7. Defendant Simone Boraggina is upon information and belief a United States citizen residing in the State of Michigan. Boraggina holds herself out to be the founder of WA, its President and at times its Director. Boraggina works out of the WA Michigan office.

8. Defendant Joseph Beauvais is upon information and belief a United States citizen residing in the State of Michigan. Beauvais holds himself out to be a founder of WA, its Secretary, its Treasurer and at times its Director. Beauvais works out of the WA Michigan office.

JURISDICTION AND VENUE

9. This action is brought under the federal Racketeer Influenced and Corrupt Organization ("RICO") statute, 18 U.S.C. § 1961 et seq., and various other Michigan statutes and common law doctrines. The matter in controversy exceeds the sum or value of Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), exclusive of interest and costs, and is between citizens of different states. Jurisdiction is vested in this Court by virtue of 28 U.S.C. §§ 1331 and 1332.

10. Because claims brought under Michigan law are also so related to Plaintiffs' federal claims, over which the Court has original jurisdiction, that they form part of the same case or controversy under Article III of the United States Constitution, the Court also has jurisdiction over Plaintiffs' Michigan common law and statutory claims pursuant to 28 U.S.C. § 1367.

11. A substantial part of the events and omissions giving rise to the claims stated herein occurred in this District and all defendants are subject to the personal jurisdiction of this judicial district. Venue is proper in this District and Division pursuant to 28 U.S.C. §§ 1391 and to 18 U.S.C. §1965(b).

INTRODUCTORY ALLEGATIONS

12. After years of trying to conceive naturally with no success, Plaintiffs Amanda and Reece Heinrich (Plaintiffs Heinrich) decided to adopt a foreign child through an adoption agency. After researching several agencies, they decided to use Waiting Angels Adoption Services due to the representations Waiting Angels made in the information packets mailed to them from Defendant Boraggina.

13. Plaintiffs Heinrich filled out an application and mailed a check for \$1,000.00 to Defendant WA. WA describes this application and fee as an “agency retainer agreement”.

14. Plaintiffs Heinrich were required to complete a dossier and to have a home study completed at their own expense. After the Plaintiffs Heinrich received the final Immigration approval to complete the dossier (called being “paper ready”), they were ready to sign a final contract with Defendant WA. Defendants WA and Boraggina advertise that once a family or adoptive parent is “paper ready” the adoption is final in 4-6 months. Defendant Boraggina enforced the 4-6 month completion in several telephone conversations and e-mail.

15. On May 2, 2005, during the time of waiting for final certification of the dossier, Defendants WA sent an invoice for unspecified Fed Ex fees, money order fees and USPS fees of \$276.62.

16. On June 13, 2005, Plaintiffs Heinrich chose a baby picture of the many sent through e-mail by Defendant WA to be the son they would adopt. Selvin Anibal Chocooj Bac (9 days old) was the baby placed for adoption by his birth mother. Plaintiffs Heinrich fell in love with this boy and telephoned Defendant WA and told Defendant Boraggina that this was to be their son. Plaintiffs Heinrich asked what they needed to do to place a “hold” on this child and was told that they would have to sign an adoption contract and wire \$12,000.00 as soon as the contract was executed.

17. On or about June 15, 2005, Plaintiffs Heinrich signed an adoption agreement (an illusory contract) with Defendant WA and wired \$12,000.00 for what is called a “referral” or a match. A referral is supposed to alert the adoption agency in Guatemala and all other people that the child has been matched with prospective adoptive parents.

18. On August 12, 2005, Defendants WA and Beauvais sent an invoice to Plaintiffs Heinrich for unspecified Fed Ex fees, money order fees and USPS fees of \$174.97.

19. On August 16 2005, Plaintiffs Heinrich began questioning the Defendants as to the status of their adoption. Defendant Boraggina e-mailed the Plaintiffs:

...I do expect this baby's adoption to be completed more like November instead of October as you anticipated.

20. On September 25, 2005, Defendants WA and Beauvais mailed an invoice to Plaintiffs Heinrich for an initial "escort fee" of \$1,200.00 for escorting the baby home to the Plaintiffs. The invoice included the following information:

This fee is the cost of the escorting only. You will be billed separately for the airline fee as well as the lodging, just prior to pick up time. Those costs will be determined as soon as we know the travel dates...

21. On October 10, 2005, Defendant Boraggina sent an e-mail advising Plaintiffs Heinrich:

The rest of the payment will not be due until the adoption is completed. I would certainly think he will be home for Christmas.

22. On January 30, 2006, Defendant Boraggina advised Plaintiffs Heinrich that the adoption had been kicked out of PGN. PGN is the Guatemalan equivalent of the Family Court in the United States. PGN approval is necessary for adoption completion. Apparently the birth mother's signature was missing from necessary papers. Defendant Boraggina assured the Plaintiffs Heinrich that it shouldn't take too long to "fix this problem".

23. On February 13, 2006, Defendants told the Plaintiffs Heinrich that the Guatemalan attorney had to retrieve the document from PGN, translate it, then resubmit the form to the Guatemalan embassy for approval and then it would once again be sent to PGN.

24. On or about February 25, 2006, Plaintiffs Heinrich had to hire another adoption facilitator to help with the adoption. The cost of the new adoption facilitator, Adoption Supervisors, was \$3,000.00 and another \$1,900 will be due when the adoption is finally approved and out of PGN.

25. On or about February 27, 2006, Plaintiffs found out from Adoption Supervisors that the embassy approval is not required for completion of the paperwork and to finish the adoption.

26. In March 2006, Plaintiffs Heinrich sent an e-mail to Defendants requesting itemized statements for fees paid. Plaintiffs have never received any itemized statements.

27. Every 2 weeks or even more frequently, Plaintiffs Heinrich send e-mails to Defendants for updates on the adoption. Defendants remain evasive and frequently do not even respond.

28. In August 2006, Defendant Beauvais responded to the Plaintiffs with the following e-mail:

Amanda,

Unfortunately the U.S. Embassy does not have any jurisdiction over this matter. It is a Guatemalan battle of the officials from the different branches.

The attorney assured me when we met last week that he would stay on this until it was resolved, doing whatever they felt was necessary.

I will be going down to Guatemala again in 4-6 weeks, and if it is not resolved by that time, I will suggest to the attorney that possibly they (the officials) may be looking for money as sort of a bribe, and maybe we should suggest this to see if it might help. I know that this is not the most ethical thing to do, but at this point, I'm sure you agree that we need to do whatever we can.

29. Defendants tell their clients that they receive weekly reports from the Guatemalan attorneys working on each adoption. Yet when Plaintiffs Heinrich request the contracted 7-9 week medical updates and other information, they receive nothing from the Defendants. Plaintiffs requested itemized statements but Defendants never responded.

30. Plaintiffs Heinrich accepted a referral to their son when he was 9 days old. It was then that they gave their hopes, dreams and their hearts to this orphaned baby. Defendants have continued to make fraudulent statements and induce the Plaintiffs Heinrich to send additional funds with no supporting proof of the expenditures, with no apparent intent to complete the adoption. Defendants also tried to encourage and induce the Plaintiffs Heinrich to send money to bribe Guatemalan officials.

31. Plaintiffs David Kruger and Toni Flenniken (“Plaintiffs Flenniken”) signed an adoption agreement (illusory contract) with Defendants WA on or about October 25, 2005. Defendant Boraggina told Plaintiffs Flenniken that the adoption would take about 6 months. Plaintiffs Flenniken sent the adoption fees plus an extra \$350 for the foster care of baby Maria Jimena Tobar Barrios. Plaintiffs Flenniken advised Defendant Boraggina that they were not paper ready but would work quickly to complete all that was necessary.

32. On December 21, 2005, Plaintiffs Flenniken sent Defendants all of the dossier paperwork for review prior to sending it to the Guatemalan embassy in Los Angeles, California.

33. Defendant Boraggina sent an e-mail to Plaintiffs Flenniken stating that she had sent the paperwork to the embassy on December 23, 2005.

34. Plaintiffs Flenniken had inquired of the consulate’s office the timing of review and was told that the review typically only takes 24 hours. When Plaintiffs Flenniken hadn’t heard anything by January 3, 2006, they e-mailed Defendants to ask if the paperwork was back. They were told by Defendants that the paperwork hadn’t been returned.

35. On or about January 4, 2006, the Plaintiffs Flenniken called the consulate’s office only to be told that they were not in the consulate’s file. Plaintiffs Flenniken called

several times to the Defendants for a Federal Express tracking number but were not provided one until that evening by Defendant Beauvais. Once armed with the tracking number, Plaintiffs Flenniken were able to determine that the files had only been sent out on January 3, 2006 to the consulate's office. Eleven days after Plaintiffs Flenniken had been told the paperwork was mailed.

36. Plaintiffs Flenniken began asking about receiving the updated photos and medical reports as promised by the adoption contract and were told that the information had been requested of the Guatemalan adoption attorney but he had not provided any new information.

37. In January 2006, Plaintiffs Flenniken received another invoice for foster care fees for baby Maria for \$1050.00.

38. Plaintiffs Flenniken asked for the name of the Guatemalan adoption attorney but Defendants refused to provide the name to the Plaintiffs.

39. In February 2006, Plaintiffs Flenniken were sent an invoice for \$437.97 from Defendants for dossier authentication and Federal Express fees.

40. Plaintiffs Flenniken contacted another Defendant WA client who advised that upon information and belief at that time, Defendants had approximately 40 families in the adoption process and that receiving no information from the Defendants was the Defendant's pattern of behavior.

41. Plaintiffs Flenniken inquired and found that they could live in Guatemala and foster their own baby during the adoption process and advised Defendants Boraggina and Beauvais that they intended to visit their daughter in March 2006. Plaintiffs Flenniken had been frustrated by getting conflicting timelines every time they received e-mails from

Defendants. First Defendant Boraggina told the Plaintiffs that DNA should be complete by early March. Later Defendant Boraggina told them it should be complete by April.

42. Plaintiffs Flenniken were told by Defendant Boraggina that they would not be able to foster their baby Maria until the DNA was completed. Defendant Boraggina lied in an apparent attempt to try to prevent the Plaintiffs Flenniken from going to Guatemala.

43. Continually frustrated by the Defendants, Plaintiffs Flenniken hired Adoption Supervisors to help facilitate their adoption case. Plaintiffs Flenniken had to pay an additional \$5,000 for the service from Adoption Supervisors.

44. Adoption Supervisors were able to provide the Guatemalan attorney's name to the Plaintiffs Flenniken. This allowed the Plaintiffs Flenniken the opportunity to send a request through people other than the Defendants for a visit with Baby Maria when they arrived in Guatemala.

45. Defendant Boraggina repeatedly advised Plaintiffs Flenniken that the attorney handling their adoption in Guatemala would not allow them to visit the baby as it was against the Guatemalan attorney's policy.

46. Plaintiffs Flenniken traveled to Guatemala in mid-March 2006. Once they arrived, they were taken to the orphanage where baby Maria was living. Plaintiffs Flenniken instantly recognized the walls of the orphanage as the background from the pictures sent by Defendants of Maria. At that moment Plaintiffs Flenniken realized that the baby had never lived in foster care but had lived continuously in the orphanage.

47. Baby Maria was ill when Plaintiffs Flenniken arrived and needed doctors care. She was grossly underweight, had ear infections and fevers. Plaintiffs Flenniken took the baby to the doctor for treatment. It was that time that Plaintiffs Flenniken decided that

Toni Flenniken would remain in Guatemala and foster baby Maria herself until the adoption was complete. Plaintiffs Flenniken now had additional expenses of housing, food and living expenses to add to the already exorbitant fees they had paid to Defendants.

48. Plaintiffs Flenniken felt that the only chance they had to ensure that baby Maria had adequate food and health care was to care for her themselves.

49. The Guatemalan attorney had Plaintiffs Flenniken sign an agreement that allowed the Plaintiffs to take the baby and assume responsibility for her until the adoption was complete.

50. Defendant Boraggina got the Plaintiffs Flenniken on the telephone and berated them for being dishonest and deceivers and demanded that they take the baby back to the orphanage.

51. Defendant Beauvais sent the Plaintiffs Flenniken an e-mail demanding the rest of the adoption fees. Plaintiffs Flenniken responded that according to the adoption contract the fees were not due until the case was out of PGN and that their attorney advised them to pay Defendants at that time.

52. Even though Plaintiffs Flenniken had reassured Defendants frequently that they would pay the final adoption fees, the Defendants **requested that the Guatemalan attorney stop the adoption** until they received a certified check.

53. Plaintiffs Flenniken were held by emotional terrorism to pay the Defendants by constant fears that the adoption of baby Maria would be stopped by the Defendants. Defendants' actions were purposely used to extort money from Plaintiffs Flenniken by causing the extreme fear that the adoption would be stopped and they would not be allowed to bring the baby home.

54. Plaintiffs Flenniken were made to pay fraudulent fees and foster care fees when the baby never was in foster care. Plaintiffs Flenniken were forced to hire an additional adoption facilitator to complete the adoption because of the constant lies and fraudulent information provided by the Defendants.

55. On or about January 28, 2006, Plaintiffs Anthony and Jill Casassa (“Plaintiffs Casassa”) were matched with Guatemalan twins by the Defendants. After signing the adoption referral form and the adoption agreement (illusory contract) with the Defendants, Plaintiffs Casassa wired \$22,700.00 for the adoption fees and foster fees. The foster fees were to pay for the twins continued care in a foster home in Guatemala.

56. On or about May 24, 2006, the Defendants e-mailed the Plaintiffs Casassa and advised that the twins, Joselyn Fabiola Jimenez Samayoa and Jerson Geovani Jimenez Samayoa were reclaimed by their birth mother. This e-mail occurred just when the Defendants were responsible for getting the DNA completed for the twins.

57. During the four months of the match of these twins, Defendants did not send photos or medical information to the Plaintiffs Casassa. Defendants told Plaintiffs Casassa that the “attorney” would forward more referrals for the Plaintiffs Casassa to choose new orphans for adoption.

58. On or about May 25, 2006 Plaintiffs Casassa e-mailed the U.S. Guatemalan Embassy to determine whether their names had been entered with a case number. The U.S. Guatemalan Embassy responded that nothing in their database showed a pending case in the Plaintiffs name.

59. On or about June 26, 2006, Plaintiffs Casassa contacted the Defendants for an update and advised the Defendants that they were aware of many new baby and toddler

photos being offered for adoption on the Defendant WA website. Defendants advised Plaintiffs Casassa that they weren't sent any referrals because the children pictured on the website had a different Guatemalan attorney than the attorney handling the twins adoption. Later they were told that the Defendants couldn't get birth certificates for the babies that they were displaying on the website.

60. Despite multiple telephone calls and e-mails demanding proof that the Plaintiff Casassa's money had been sent to Guatemala, Defendants have not responded.

61. On July 20, 2006 Plaintiffs Casassa send a letter to Defendants demanding the total amount paid to Defendants by that date, \$23, 726.96. Defendants have refused to return the money.

62. On or about August 2, 2006, Plaintiffs Casassa were able to determine through other means that the twins that they had been matched with by Defendants had not been reclaimed by the birth mother. In fact, the twins were already matched with another adoptive family through a different adoption agency and Defendant Boraggina had knowledge of that fact by the end of January or beginning of February 2006.

63. Defendants fraudulently induced the Plaintiffs Casassa into beginning an adoption while intentionally misrepresenting the information about the twins offered for adoption on the website. Defendants induced the Plaintiffs Casassa into wiring funds for an adoption that would never complete and refuse to return the money.

64. Defendants fraudulently charged Plaintiffs Casassa for administrative costs for an adoption that was never started and for foster care fees for the twin babies who had already been matched through another adoption agency. In fact, the DNA had been ordered for these twins by the other agency.

65. On or about May 2006, Plaintiffs Michael and Philly Tavalilla (“Plaintiffs Tavalilla”) had been considering adopting a baby from the Defendants and when the Defendants sent the medical information on baby Marvin Enrique Botello Perez. Plaintiffs Tavalilla immediately took the information to their pediatrician for review.

66. When the Plaintiffs Tavalilla seemed unsure of whether to begin the adoption process, Defendant Boraggina telephoned the Plaintiffs Tavalilla and said that they needed to wire the money to Defendants **immediately** for baby Marvin because **HE’S GONNA GO, HE’S GONNA GO, HE’S GONNA GO!!!!**

67. On May 25, 2006, Plaintiffs Tavalilla wired \$16,000.00 to the Defendants to begin the adoption process of Marvin Enrique Botello Perez.

68. Two hours after wiring the money to the Defendants, Plaintiffs Tavalilla received a call from the pediatrician who advised that the baby was extremely underweight and quite probably would have congenital disabilities and that the Plaintiffs Tavalilla should not consider adopting this child.

69. Plaintiffs Tavalilla immediately sent e-mails to the Defendants advising that they could not proceed with the adoption of Marvin. Plaintiffs Tavalilla asked for their money to be returned as they had been reassured by Defendant Boraggina that if a child was not healthy the money would be returned.

70. Defendant Boraggina responded to the Plaintiffs Tavalilla by advising that Defendant Beauvais handled all contractual and financial questions and he would be unavailable for a few days. She also said that she thought the money had already been wired to the attorney in Guatemala.

71. Plaintiffs Tivolilla decided to consider another child who was offered on the Defendant WA website named Jorge Mario. When the Plaintiffs Tivolilla inquired about Jorge, Defendant Boraggina advised that he had just been relinquished by his birth mother. The website listed his birth as November 2005.

72. Although Defendant Boraggina repeatedly misrepresented when Jorge Mario was available for adoption, the Defendant WA website had many pictures of him as a new baby. Defendant Boraggina also represented that he was in private foster care since he was 3 days old.

73. On or about June 19, 2006, Plaintiffs Tivolilla telephoned Defendants and accepted the referral of Jorge Mario at approximately 1:15 pm. At approximately 4:15 pm, Defendant Beauvais wrote Plaintiffs Tivolilla an e-mail advising that Jorge Mario had *just been placed with another agency 15 minutes before the Plaintiff's called Defendants.*

74. The Plaintiffs Tivolilla were devastated by this news of losing another baby that they had given their hearts to and offered to pay an additional \$7,000.00 to the attorney in Guatemala to reverse Jorge Mario's current placement and make him available for Defendants.

75. By July 2006, e-mails and telephone calls from the Plaintiffs Tivolilla went virtually unanswered by the Defendants. Defendants claimed that the attorney who held the Plaintiffs' money was searching for a new referral for the Plaintiffs.

76. On July 18, 2006 at approximately 7:30 p.m., Defendant Boraggina called Plaintiffs Tivolilla to say that she was going to send photos of a 9 month old baby boy. Defendant Boraggina stated that he was represented by a different attorney than the one who held the Plaintiffs' money. Plaintiffs Tivolilla asked if that meant that they couldn't apply

the previous payment to this child if they wanted to adopt him and they were told that if they didn't accept this child (and the implication was to pay more money) she would have to post the child on line. The Plaintiffs Tavolilla told her to "do what she needed to do!" and hung up the phone.

77. Despite several requests for the return of the \$16,000.00 and their dossier, Plaintiffs Tavolilla have not received either from the Defendants. Plaintiffs Tavolilla will have to start new to pay for a new dossier because the Defendants feel the need to hold on to the Plaintiffs Tavolilla personal property.

78. Upon information from third parties, the Plaintiffs Tavolilla have found out that the attorney who was in charge of the first baby, Marvin's adoption, the attorney never received the Plaintiffs Tavolilla dossier or money.

79. Defendants knew that Plaintiffs Tavolilla desperately want to become parents. Using this knowledge, they extorted money by causing a sense of urgency and fear within the Plaintiffs Tavolilla to wire the money or the baby the Plaintiffs Tavolilla were considering to adopt would be "gone".

80. Defendants knew that Plaintiffs Tavolilla continued to want to adopt and were clearly so emotionally tied to baby Jorge Mario that they would offer additional money to try to have the opportunity to adopt the child. Yet, when Jorge Mario was no longer available, Defendants tried to extort additional funds by offering another "child" who had a different attorney in Guatemala. It is obvious that Defendants hoped that the emotional desire to be parents would cause the Plaintiffs Tavolilla to wire more money to the Defendants.

81. On or about May 2005, Plaintiffs Jon and Regina Lundy (“Plaintiffs Lundy”) began the process of adopting a baby boy, Victor. They sent \$13,500.00 for the retainer fee and the adoption payment. An adoption agreement (illusory contract) was faxed **after the Defendants received the money**. The Plaintiffs Lundy based their decision to use the Defendants for their adoption partly on the “non-profit” status of Waiting Angels as is posted on the website.

82. Despite repeated requests for medical information, the Plaintiffs Lundy had to ask again and again to get any updates for Victor.

83. In November 2005, Plaintiffs Lundy visited Victor in Guatemala and were looking forward to becoming the parents of Victor as soon as the adoption was approved by PGN.

84. In January 2006, Plaintiffs Lundy decided to adopt a girl to be Victor’s sister. Once they had contacted the Defendants to verify that the girl was still available for adoption, they wired \$12,350.00 for the adoption of the child “Nancy”. **No agreement was faxed for this adoption**. Later Plaintiffs were charged another \$700 for foster fees.

85. On February 10, 2006, Plaintiffs Lundy e-mailed Defendants and asked for the adoption agreement for Nancy but they never received an answer.

86. While reviewing the dossier for baby Nancy, Defendant Boraggina noticed that the paperwork for the Plaintiffs Lundy was soon to expire on the adoption of Victor. Plaintiffs Lundy had to scramble to get a new approval so the adoption of Victor could proceed.

87. Defendants as facilitators did nothing to alert the Plaintiffs that this could occur and were unconcerned if the adoption of Victor were completed.

88. Between January and May 2006, Plaintiffs Lundy never knew if when the adoption of Victor may be completed as the communication from Defendants was very infrequent and inconsistent. Plaintiffs Lundy repeatedly requested medical information and photos of baby Nancy via e-mail. Defendants told Plaintiffs that they would “look into it” and never got back to the Plaintiffs with updates.

89. In May 2006, Plaintiffs Lundy went to Guatemala to finalize the adoption of Victor. Despite several attempts to telephone the Defendants with questions about the process, the Defendants did not return any calls. Defendants did not support the Plaintiffs during this final stage of the adoption but did send a couple of e-mails. Plaintiffs Lundy had to pick these e-mails up from a heavily used, shared computer at the hotel.

90. Defendants are fully aware that the only way their clients can communicate is through the shared hotel computer. Defendants intentionally communicate via e-mail with the clients in Guatemala knowing that the messages may not be retrieved in a timely manner.

91. On May 9, 2006, while in Guatemala, Plaintiffs Lundy were supposed to meet baby Nancy. This was coordinated by Defendant Boraggina. Baby Nancy was supposed to visit with the Plaintiffs Lundy from 10:00 am to late afternoon. Plaintiffs waited hours for baby Nancy to show up with the escort but the visit never happened.

92. Plaintiffs Lundy placed several calls to the Defendants on both cell and office numbers but no one answered.

93. After waiting approximately 5 -6 hours, Defendant Boraggina sent an e-mail, which was retrieved on the shared hotel computer. It was sent at approximately 3:13 PM in Guatemala. Defendant Boraggina’s email was as follows:

Regina/Jon –

I am not in my office. I am using another company's computer. We are at the INS office (Detroit) but the attorney did respond.

The attorney has told me that the birthmother is now considering keeping the child once she found out that the family was there to see her. I do not have a confirmation if she took back the baby.

Joe will be speaking to the attorney tomorrow at lunch time in depth. Sorry about this, but unfortunately, we have no control with the birthmothers although this very rarely happens....

94. On or about May 18, 2006, Plaintiffs Lundy were told by Defendants that the birth mother was leaning towards keeping the girl.

95. On or about May 24, 2006, Plaintiffs Lundy were told by Defendants that the birth mother was going to keep baby Nancy.

96. Plaintiffs Lundy asked the Defendants several times if the foster fees of \$1050, paid for Nancy's care would be refunded, but the Defendants never responded. All communications were now through the e-mail as the Defendants would not answer telephone calls.

97. Plaintiffs Lundy saw several baby girls available for adoption on the Defendants website. When they inquired why they could not receive a referral for one of these children, the Defendants told them that these children were not with the same attorney as Nancy's attorney so they were not available for the Plaintiffs to adopt. According to the Defendants, the Plaintiffs Lundy were required to use the same Guatemalan adoption attorney.

98. On June 1, 2006, Plaintiffs Lundy were e-mailed by Defendants that they would have a referral for them by the following week.

99. On June 18, 2006, Plaintiffs Lundy were e-mailed by Defendants that the “attorney” was having trouble getting all the final paperwork for a referral, but they would get one “soon.”

100. On June 28, 2006, Plaintiffs Lundy were e-mailed that Defendants were once again looking for referrals for the Plaintiffs.

101. On or about July 13, 2006, Plaintiffs Lundy e-mailed the Defendants to inquire about another baby girl that was featured on the Defendants website but once again the e-mail from the Defendants said she was “unavailable to them because she was with a different attorney”.

102. On or about July 22, 2006, Plaintiffs Lundy were e-mailed by the Defendants to advise that they should have a referral towards the end of the week. A referral was never sent.

103. On or about August 20, 2006, Plaintiffs Lundy were e-mailed by the Defendants were traveling to Guatemala and that they would be seeing new babies.

104. On or about August 26, 2006, Defendants e-mailed photos of a baby girl to Plaintiffs Lundy. No information accompanied these photos, no name, medical information or birth weight.

105. On or about August 27, 2006, Plaintiffs Lundy received an e-mail from Defendants stating that the missing information would be provided on Monday, August 28, 2006.

106. On or about September 5, 2006, Plaintiffs Lundy received an e-mail from Defendants advising that the missing medical information would be faxed “this week”.

107. On or about September 18, 2006, Plaintiffs Lundy were e-mailed that Defendants were still waiting for documents from the attorney but that the floods in San Marcos was preventing the delivery of the documents, but that they would have the documents by Wednesday, September 20, 2006.

108. On or about October 2, 2006, Plaintiffs Lundy received an e-mail from Defendants advising that the Defendants were upset with the attorney for not providing the baby's information.

109. On or about October 9, 2006, Plaintiffs Lundy were told by Defendants that they would try to get their money back from the Guatemalan attorney or find another adoption for the Plaintiffs. Defendants told Plaintiffs Lundy **“that they would try to find another couple that was finalizing an adoption with this attorney and take the money out of that couple's adoption and use that money to find the Plaintiffs a referral with another attorney.”** Plaintiffs told the Defendants that they wanted a full refund as they did not trust the Defendants to finish the adoption.

110. On or about October 16, 2006, Defendants advised the Plaintiffs Lundy that they had every intention of completing the adoption and that the attorney had the money, not the Defendants. Plaintiffs Lundy asked for a receipt of the wire transfer of the money to the attorney but Defendants did not respond.

111. Plaintiffs Lundy have had their money taken by the Defendants for an adoption that will never be completed. They have repeatedly requested information and verification for money spent in Victor's adoption. Defendants knew that this information was vital to an employer sponsored credit for the Plaintiff Jon Lundy but never produced

any verification. Defendants continue to fraudulently take money from prospective parents for adoptions that will never be completed.

DEFENDANT WAITING ANGELS SCHEME TO DEFRAUD

112. Defendant WA has engaged in a scheme to defraud people seeking to become parents. The Defendant WA's conduct this scheme to defraud through a system of offering children to the new parents and demanding a signed illusory contract and a wire of thousands of dollars.

113. Through this scheme, the Defendant WA gathers money and send invoices for additional unspecified fees with the threat that if these fees aren't paid, the adoption will cease.

114. Throughout the course of the process, the Defendant WA engaged in a series of fraudulent representations designed to induce the continued interest and to gain additional money from the parents.

115. The Defendant WA is willing to engage in such brazenly criminal activity given the hyper-sensitive and vulnerable state of people who desperately want to be parents.

116. Moreover, the Defendant WA faces little to no threat of civil action by the parents because of the constant threat of the Defendant WA stopping any adoption that is currently in the system. In fact, it is suspected that there are hundreds of families like the Plaintiffs in this case who are so scared of the Defendant WA that they cannot come forward for fear of losing their adoption.

117. Once the Defendant WA has obtained the money from the prospective parents, the Defendant WA abruptly stops communicating and informs the prospective

parents that “they are too impatient” when they ask too many questions regarding the adoption process.

118. Upon information and belief, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy were victimized by the Defendant WA’s scheme to defraud to the extent they relied upon the Defendant WA’s fraudulent factual representations regarding the adoptions, foster care of the children, the attorneys involved in the adoptions and the status of the adoptions.

119. Since January 2005, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have been the victim of the Defendant WA’s scheme to defraud to the extent that they incurred substantial expense pursuing an adoption that would not come to fruition unless they succumbed to the Defendant WA’s scheme to defraud and to the extent Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy relied on the Defendant WA’s fraudulent representations that these adoptions would take place. The Defendant WA has refused to return money and personal property and continue to use these for its own illegitimate benefit. To this day, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy continue to be so victimized by the Defendant WA’s scheme to defraud. *See supra* ¶¶ 12 – 111.

120. Upon information and belief, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy allege that other unknown prospective parents have sustained and continue to sustain similar injuries by reason of the Defendant WA’s scheme to defraud.

**BORAGGINA'S AND BEAUVAIS' SCHEMES TO SOLICIT BRIBES, EXTORT,
AND DEFRAUD**

121. Boraggina and Beauvais have engaged in schemes to solicit bribes and extort money and property from prospective parents seeking to adopt children from Guatemala. Boraggina and Beauvais have conducted their scheme of bribe solicitation and extortion through enterprises consisting of their corporate entity and/or an association-in-fact enterprise consisting of the Corporate Defendant Waiting Angels.

122. Through their patterns of bribe solicitation and extortion, Boraggina and Beauvais seek to wrongfully obtain money from prospective parents who are desperate to adopt a child.

123. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy were victimized by the schemes of bribe solicitation and extortion of Boraggina and Beauvais in that, Boraggina and Beauvais caused the Plaintiffs to send money for adoptions that have not been completed, may not ever be completed or adoptions that were already completed and the money was sent due to the fear of Boraggina and Beauvais preventing its completion. Boraggina and Beauvais repeated invoicing caused Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy to incur substantial expenses pursuing a dream of being parents that would never come to fruition unless Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy succumbed to the patterns of bribe solicitation, extortion or fraud.

124. Upon information and belief, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy allege that other unknown prospective parents have sustained and continue to sustain similar injuries by reason of Boraggina's and Beauvais' schemes of bribe solicitation, extortion and mail/wire fraud.

**ACTS VIOLATING THE MAIL AND WIRE FRAUD STATUTES
18 U.S.C. §§ 1341, 1343**

125. Pursuant to the events described in paragraphs 112-124, *supra*, the Defendants WA, Boraggina and Beauvais knowingly devised or knowingly participated in the schemes or artifices to defraud Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy or to obtain the money or property of Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy by means of false or fraudulent pretenses, representations, or promises.

126. Pursuant to the events described in paragraphs 112–124, *supra*, the Defendants WA, Boraggina and Beauvais could foresee that the mails would be used “for the purpose of” advancing, furthering, executing, concealing, conducting, participating in or carrying out the schemes, within the meaning of 18 U.S.C. §§ 1341 and 1343. In particular, Defendants could foresee that the mails would be used to receive and/or deliver, *inter alia*, money and false or fraudulent representations regarding the adoptions facilitators and the agreement among the parties; the status of ongoing adoptions and the remedies for problems with adoptions. Defendants WA, Boraggina and Beauvais continued possession of Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy money and private information; gained through Defendants WA, Boraggina and Beauvais bribe solicitation and extortionist demands.

127. Defendants WA, Boraggina and Beauvais acting singly and in concert, personally or through their agents, as co-conspirators, or as aiders and abettors, used the mails or caused the mails to be used “for the purpose of” advancing, furthering, executing, concealing, conducting, participating in, or carrying out the schemes, within the meaning of 18 U.S.C. §§ 1341 and 1343.

128. In advancing, furthering, executing, concealing, conducting, participating in, or carrying out the schemes, the Defendants WA, Boraggina and Beauvais specifically used the wires/ mails or caused the wires/mails to be used to receive or deliver, *inter alia*, every email, facsimile, letter or telecommunication described in paragraphs 12 – 111, *supra*.

129. In advancing, furthering, executing, concealing, conducting, participating in, or carrying out the schemes, the Defendants WA, Boraggina and Beauvais also specifically used the wires/mails or caused the wires/mails to be used to receive or deliver, *inter alia*, the emails, facsimiles, letters or telecommunications with the Plaintiffs regarding all adoption matters.

130. Each and every use of the mails and wires described above was committed by the Defendants WA, Boraggina and Beauvais with the specific intent to defraud Plaintiffs Heinrich, Casassa, Flenniken, Tavorilla and Lundy or for obtaining the money or property of Plaintiffs Heinrich, Casassa, Flenniken, Tavorilla and Lundy by means of false or fraudulent pretenses, representations, or promises.

131. Defendants' acts of mail and wire fraud are in violation of 18 U.S.C. §§ 1341 and 1343 and constitute racketeering activity as defined by 18 U.S.C. § 1961(1)(B).

COUNT ONE
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT
18 U.S.C. § 1962(c)
(Defendant Waiting Angels)

132. Plaintiffs Heinrich, Casassa, Flenniken, Tavorilla and Lundy reallege and restate paragraphs 1 through 131.

133. At all relevant times, some or all of the following individuals constituted an “enterprise,” within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), in that they were “a group of individuals associated in fact”: Waiting Angels, Simone Boraggina and Joseph Beauvais.

- (a) Waiting Angels Adoption Services, Inc (the “Defendant WA”) is individually a “person,” within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c), who associated with and/or participated in the conduct of said enterprise’s affairs.
- (b) From at least January 2005 and continuing through the present, the Defendant WA, personally or through their agent or agents, conducted, participated in, engaged in, conspired to engage in, or aided and abetted, the conduct of the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c). The Defendant WA’s pattern of racketeering activity consisted of:
 - (i) a scheme to defraud (*see supra* ¶¶ 112-124) that was knowingly and intentionally devised by the Defendant WA to obtain Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy’s money or property by means of false or fraudulent pretenses, representations, or promises; and, for the purpose of executing such scheme, the Defendants placed or caused to be placed in a post office, or authorized depository for mail, matter that furthered the scheme to defraud (including but not limited to the communications described in ¶¶ 112-124); each Defendant committed mail fraud, in violation of 18 U.S.C § 1341, each time it used or caused the mails to

be used to distribute the materials described in paragraphs 12-111 and elsewhere;

- (ii) a scheme to defraud (*see supra* ¶¶ 112-124) that was knowingly and intentionally devised by Defendant WA to obtain Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's money or property by means of false or fraudulent pretenses, representations, or promises; and, for the purpose of executing such scheme, the Defendant WA's transmitted or caused to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce matter that furthered the scheme to defraud (including but not limited to the communications described in ¶¶ 12-111 and 112-124); each Defendant committed wire fraud, in violation of 18 U.S.C. § 1343, each time it used or caused interstate wires to be used to distribute the materials described in paragraphs 12-111 and elsewhere;
- (iv) receiving and/or possessing Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property, in violation of 18 U.S.C. § 2315, valued at \$5,000 or more, which crossed a state or international boundary after the Defendant WA stole, unlawfully converted, or took Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property and which the Defendants knew was stolen, unlawfully converted, or taken (including but not limited to the events described in paragraphs 12-111 and elsewhere);
- (v) transporting, transmitting, or transferring in interstate commerce any goods, wares, merchandise of the value of \$5,000 or more, knowing the same to have been stolen converted or taken by fraud, each and every time that the Defendant WA caused Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy to transmit property across state or international boundaries and each time that the Defendant WA transmitted Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property to third-parties across state or international boundaries as (including but not limited to the events described in paragraphs 12-111), in violation of 18 U.S.C. § 2314.

These acts all occurred after the effective date of RICO and more than two such acts occurred within ten years of one another.

134. At all relevant times, the enterprise alleged in paragraphs 12-111 was engaged in, and its activities affected, interstate commerce and foreign commerce.

135. All of the predicate acts described above were related so as to establish a pattern of racketeering activity, within the meaning of 18 U.S.C. § 1962(c), in that their common purpose was to defraud Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy or other similar prospective adoptive parents of property or money; their common result was to defraud Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy or other similar prospective adoptive parents of property or money; the Defendant WA, through their agent or agents, directly or indirectly, participated in all of the acts and employed the same or similar methods of commission; Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy or other similar prospective adoptive parents were the victims of the fraudulent acts; and/or the acts were otherwise interrelated by distinguishing characteristics and were not isolated events.

136. All of the predicate acts described above were continuous so as to form a pattern of racketeering activity in that:

- a) The Defendant WA engaged in the predicate acts described above over a substantial period of time (from at least January 2005 through the present); or
- b) The pattern of racketeering activity engaged in by the Defendant WA continues or threatens to continue because it

has become a regular way of conducting the Defendant WA's on-going business activities.

137. As a direct and result of, and by reason of, the activities of the Defendant WA, and their conduct in violation of 18 U.S.C. §§ 1962(c), Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have been injured in their business or property, within the meaning of 18 U.S.C. § 1964(c). Among other things, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have suffered damages to the extent they invested time and resources in pursuing what they thought and were led to believe was a legitimate international adoption, to the extent their ability to adopt was delayed by the Defendant WA's wrongful actions, and to the extent their property has been misappropriated. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy are, therefore, entitled to recover threefold the damages that they have sustained together with the cost of the suit, including reasonable attorneys' and experts' fees.

COUNT TWO
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT
18 U.S.C. § 1962(d)
(Defendant Waiting Angels)

138. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy reallege and restate paragraphs 1 through 137.

139. Defendant Waiting Angels conspired with Defendants Boraggina and Beauvais to conduct or participate, directly or indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity (as described in paragraphs 12-111) in violation of 18 U.S.C. § 1962(d). In particular, Defendant Waiting Angels intended to

further an endeavor of Boraggina and Beauvais which, if completed, would satisfy all of the elements of a substantive RICO criminal offense and adopted the goal of furthering or facilitating the criminal endeavor.

140. As a direct and proximate result of, and by reason of, the activities of the Defendant Waiting Angels, and their conduct in violation of 18 U.S.C. §§ 1962(d), Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have been injured in their business or property, within the meaning of 18 U.S.C. § 1964(c). Among other things, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have suffered damages to the extent they have invested time and resources in pursuing what they thought and was led to believe was a legitimate international adoption opportunity with Defendant Waiting Angels, to the extent their ability to complete the adoptions were delayed by the Defendant Waiting Angel's wrongful actions, and to the extent their property has been misappropriated. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy are, therefore, entitled to recover threefold the damages that they have sustained together with the cost of the suit, including reasonable attorneys' and experts' fees.

COUNT THREE
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT
18 U.S.C. § 1962(c)
(Boraggina/Beauvais)

141. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy reallege and restate paragraphs 1 through 140.

142. At all relevant times, Waiting Angels constituted an "enterprise," within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), in that it was a corporation.

- (a) Boraggina and Beauvais are an individual “persons,” within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c), who associated with and/or participated in the conduct of said enterprise’s affairs.
- (b) For an unknown and indefinite period of time, Boraggina and/or Beauvais has conducted, participated in, engaged in, conspired to engage in, or aided and abetted, the conduct of the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c). Boraggina’s pattern of racketeering activity consisted of:
 - (i) bribe solicitation (*see supra* ¶¶ 28) that was designed to extract direct or indirect personal rewards from Plaintiffs Heinrich in exchange for Waiting Angel’s recommendation to the Guatemalan officials that they assist in Plaintiff Heinrich or other prospective adoptive parents’ adoptions;
 - (ii) extortion (*see supra* ¶¶ 12-111) that was designed to extract direct or indirect personal rewards from Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy ; if Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy or another prospective adoptive refused to succumb to Boraggina and/or Beauvais demands for money or foster and administrative fees, they would stop the adoption or adoption activities and prevent the Plaintiffs from moving forward in the adoption, for personal gain; all or some said acts of extortion were in violation of 18 U.S.C. § 1951;
 - (iii) a scheme to defraud (*see supra* ¶¶ 12-111) that was knowingly and intentionally devised by Boraggina and/or Beauvais to obtain Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy’s money or property by means of false or fraudulent pretenses,

representations, or promises; and, for the purpose of executing such scheme, Boraggina and/or Beauvais placed or caused to be placed in a post office, or authorized depository for mail, matter that furthered the scheme to defraud (including but not limited to the communications described in ¶¶ 12-111); Boraggina and/or Beauvais committed mail fraud, in violation of 18 U.S.C § 1341, each time they used or caused the mails to be used to distribute the materials described in paragraphs 11-111 and elsewhere.

- (iv) a scheme to defraud (*see supra* ¶¶ 12-111) that was knowingly and intentionally devised by Boraggina and/or Beauvais to obtain Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's money or property by means of false or fraudulent pretenses, representations, or promises; and, for the purpose of executing such scheme, Boraggina and/or Beauvais transmitted or caused to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce matter that furthered the scheme to defraud (including but not limited to the communications described in ¶¶ 12-111); Boraggina and/or Beauvais committed wire fraud, in violation of 18 U.S.C § 1343, each time it used or caused interstate wires to be used to distribute the materials described in paragraphs 12-111 and elsewhere;
- (v) receiving and/or possessing Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property, in violation of 18 U.S.C. § 2315, valued at \$5,000 or more, which crossed a state or international boundary after Boraggina and/or Beauvais stole, unlawfully converted, or took Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property and which Boraggina and/or Beauvais knew was stolen, unlawfully converted, or taken (including but not limited to the events described in paragraphs 12-111 and elsewhere);
- (vi) transporting, transmitting, or transferring in interstate commerce any goods, wares, merchandise of the value of \$5,000 or more, knowing the same to have been stolen converted or taken by fraud, each and every time that Boraggina and/or Beauvais caused Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and

Lundy to transmit property across state or international boundaries and each time that Boraggina and/or Beauvais transmitted Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property to third-parties across state or international boundaries as (including but not limited to the events described in paragraphs 12-111), in violation of 18 U.S.C. § 2314;

- (viii) traveling in interstate and foreign commerce or using the mail or any facility in interstate or foreign commerce with intent to distribute the proceeds of extortion or otherwise promote, manage, establish, or carry on a scheme to extort and thereafter performed or attempted to perform said acts, in violation of 18 U.S.C. § 1952.

These acts all occurred after the effective date of RICO and more than two such acts occurred within ten years of one another.

143. In the alternative to paragraph 142, at all relevant times, some or all of the following individuals constituted an "enterprise," within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), in that they were "a group of individuals associated in fact": Waiting Angels Adoption Services, Simone Boraggina, and Joseph Beauvais.

- (a) Boraggina and Beauvais are each individual "persons," within the meaning of 18 U.S.C. §§ 1961(3) and 1962(c), who associated with and/or participated in the conduct of said enterprise's affairs.
- (b) For an unknown and indefinite period of time, Boraggina and Beauvais have conducted, participated in, engaged in, conspired to engage in, or aided and abetted, the conduct of the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5)

and 1962(c). Boraggina's and Beauvais' patterns of racketeering activity consisted of:

- (i) bribe solicitation (*see supra* ¶¶ 28) that was designed to extract direct or indirect personal rewards from Plaintiffs Heinrich in exchange for Waiting Angel's recommendation to the Guatemalan officials that they assist in Plaintiff Heinrich or other prospective adoptive parents' adoptions;
- (ii) extortion (*see supra* ¶¶ 12-111) that was designed to extract direct or indirect personal rewards from Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy ; if Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy or another prospective adoptive refused to succumb to Boraggina and/or Beauvais demands for money or foster and administrative fees, they would stop the adoption or adoption activities and prevent the Plaintiffs from moving forward in the adoption, for personal gain; all or some said acts of extortion were in violation of 18 U.S.C. § 1951;
- (iii) a scheme to defraud (*see supra* ¶¶ 12-111) that was knowingly and intentionally devised by Boraggina and/or Beauvais to obtain Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy's money or property by means of false or fraudulent pretenses, representations, or promises; and, for the purpose of executing such scheme, Boraggina and/or Beauvais placed or caused to be placed in a post office, or authorized depository for mail, matter that furthered the scheme to defraud (including but not limited to the communications described in ¶¶ 12-111); Boraggina and/or Beauvais committed mail fraud, in violation of 18 U.S.C § 1341, each time they used or caused the mails to be used to distribute the materials described in paragraphs 12-111 and elsewhere.
- (iv) a scheme to defraud (*see supra* ¶¶ 12-111) that was knowingly and intentionally devised by Boraggina and/or Beauvais to obtain Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy's money or property by means of false or fraudulent pretenses, representations, or promises; and, for the purpose of executing such scheme, Boraggina and/or Beauvais

transmitted or caused to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce matter that furthered the scheme to defraud (including but not limited to the communications described in ¶¶ 12-111); Boraggina and/or Beauvais committed wire fraud, in violation of 18 U.S.C. § 1343, each time it used or caused interstate wires to be used to distribute the materials described in paragraphs 11-99 and elsewhere;

- (v) receiving and/or possessing Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property, in violation of 18 U.S.C. § 2315, valued at \$5,000 or more, which crossed a state or international boundary after Boraggina and/or Beauvais stole, unlawfully converted, or took Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property and which Boraggina and/or Beauvais knew was stolen, unlawfully converted, or taken (including but not limited to the events described in paragraphs 12-111 and elsewhere);
- (vi) transporting, transmitting, or transferring in interstate commerce any goods, wares, merchandise of the value of \$5,000 or more, knowing the same to have been stolen converted or taken by fraud, each and every time that Boraggina and/or Beauvais caused Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy to transmit property across state or international boundaries and each time that Boraggina and/or Beauvais transmitted Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property to third-parties across state or international boundaries as (including but not limited to the events described in paragraphs 12-111), in violation of 18 U.S.C. § 2314;
- (viii) traveling in interstate and foreign commerce or using the mail or any facility in interstate or foreign commerce with intent to distribute the proceeds of extortion or otherwise promote, manage, establish, or carry on a scheme to extort and thereafter performed or attempted to perform said acts, in violation of 18 U.S.C. § 1952.

These acts all occurred after the effective date of RICO and more than two such acts occurred within ten years of one another.

144. At all relevant times, the enterprises alleged in paragraphs 142-143 were engaged in, and their activities affected, interstate commerce and foreign commerce.

145. All of the predicate acts described above were related so as to establish a pattern of racketeering activity, within the meaning of 18 U.S.C. § 1962(c), in that their common purpose was to solicit bribes, extort and defraud Plaintiffs Heinrich, Casassa, Flenniken, Tavorilla and Lundy or other similar prospective adoptive parents of money or property; Boraggina and/or Beauvais, each personally or through their agents or agents, directly or indirectly, participated in all of the acts and employed the same or similar methods of commission; Plaintiffs Heinrich, Casassa, Flenniken, Tavorilla and Lundy, other similar prospective adoptive parents, were the victims of the fraudulent acts; and/or the acts were otherwise interrelated by distinguishing characteristics and were not isolated events.

146. All of the predicate acts described above were continuous so as to form patterns of racketeering activity in that:

- a) Boraggina and/or Beauvais engaged in the predicate acts described above over a substantial period of time; or
- b) The patterns of racketeering activity engaged in by the Boraggina and/or Beauvais continue or threaten to continue because the patterns have become a regular way of conducting Boraggina's and/or Beauvais' on-going business activities (*see, e.g.*, ¶ 19, 20, 21, 28, 37, 53, 55, 56, 59, 66, 69, 73, 81, 84, 93, 98, 99-108).

147. As a direct and result of, and by reason of, the activities of Boraggina and/or Beauvais, and their conduct in violation of 18 U.S.C. §§ 1962(c), Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy have been injured in its business or property, within the meaning of 18 U.S.C. § 1964(c). Among other things, Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy have suffered damages to the extent it invested time and resources in pursuing what they thought and were led to believe was a legitimate adoption opportunity with Waiting Angels Adoption Services, to the extent its ability to complete adoptions and or facilitate Guatemalan adoptions was delayed by Boraggina and Beauvais wrongful actions, and to the extent its property has been misappropriated. Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy are, therefore, entitled to recover threefold the damages they sustained together with the cost of the suit, including reasonable attorneys' and experts' fees.

COUNT FOUR
RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT
18 U.S.C. § 1962(d)
(Boraggina, Beauvais and Waiting Angels)

148. Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy reallege and restate paragraphs 1 through 147.

149. Boraggina conspired with Beauvais to conduct or participate, directly or indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity (as described in paragraphs 142-143) in violation of 18 U.S.C. § 1962(d). In particular, Boraggina intended to further an endeavor of Beauvais which, if completed, would satisfy all of the elements of a substantive RICO criminal offense and adopted the goal of furthering or facilitating the criminal endeavor.

150. Beauvais conspired with Boraggina to conduct or participate, directly or indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity (as described in paragraphs 142-143) in violation of 18 U.S.C. § 1962(d). In particular, Beauvais intended to further an endeavor of Boraggina which, if completed, would satisfy all of the elements of a substantive RICO criminal offense and adopted the goal of furthering or facilitating the criminal endeavor.

151. Waiting Angels conspired with Boraggina or Beauvais to conduct or participate, directly or indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity (as described in paragraphs 142-143) in violation of 18 U.S.C. § 1962(d). In particular, Waiting Angels intended to further an endeavor of Boraggina or Beauvais which, if completed, would satisfy all of the elements of a substantive RICO criminal offense and adopted the goal of furthering or facilitating the criminal endeavor. (*See supra, e.g.* ¶ 28.)

152. As a direct and proximate result of, and by reason of, the activities of Boraggina, Beauvais and/or Waiting Angels, and their conduct in violation of 18 U.S.C. §§ 1962(d), Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have been injured in their business or property, within the meaning of 18 U.S.C. § 1964(c). Among other things, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy has suffered damages to the extent they invested time and resources in pursuing what they thought and were led to believe was a legitimate adoption opportunity with Waiting Angels Adoption Services, to the extent the ability to complete adoptions and or facilitate Guatemalan adoptions was delayed by Boraggina and Beauvais wrongful actions, and to the extent their property has been misappropriated. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy are,

therefore, entitled to recover threefold the damages that they have sustained together with the cost of the suit, including reasonable attorneys' and experts' fees.

COUNT FIVE
UNJUST ENRICHMENT
(Boraggina, Beauvais and Waiting Angels)

153. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy reallege and restate paragraphs 1 through 152.

154. Waiting Angels, Boraggina or Beauvais have, directly or indirectly, wrongfully received all or part of Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property and money related to the adoptions.

155. Despite Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's repeated requests, Waiting Angels, Boraggina or Beauvais have refused to fully compensate Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's for the value of the property and money related to the adoptions received.

156. As a result, Waiting Angels, Boraggina or Beauvais have been unjustly enriched.

157. By reason of the foregoing, and as a direct and proximate result, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy are entitled to a judgment in an amount to be determined by the Court, but which is in excess of seventy-five thousand (\$75,000).

COUNT SIX
CONVERSION
(Boraggina, Beauvais and Waiting Angels)

158. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's reallege and restate paragraphs 1 through 157.

159. Waiting Angels, Boraggina or Beauvais and have converted to their own use and benefit Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's property and money related to the adoptions.

160. As a direct and proximate result of Waiting Angels, Boraggina and/or Beauvais conversion of Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's assets, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have incurred and/or will continue to incur substantial damages in an amount to be determined by the Court, but which is in excess of seventy-five thousand (\$75,000).

COUNT SEVEN
CIVIL CONSPIRACY
(Boraggina and Beauvais)

161. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy reallege and restate paragraphs 1 through 160.

162. Defendants Boraggina and Beauvais illegally, maliciously, and wrongfully conspired with one another with the intent to and for the illegal purpose of committing fraudulent invoices, an adoption scheme that offered illusory promises and conversion of the money and property of the Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy.

163. Defendants Boraggina and Beauvais, in combination, conspired to obtain money through their fraudulent adoption schemes.

164. This conspiracy resulted in the illegal, unlawful, or tortious activity of fraud and violations of the Racketeer Influenced and Corrupt Organizations Act.

165. As a result of the conspiracy and Defendant Boraggina and Beauvais' illegal, wrongful, or tortious acts, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and

Lundy sustained the following damages: loss of money for adoptions, administrative fees, foster care fees, travel fees, lodging costs, fees for hiring adoption facilitators, emotional damages and other damages that may have yet to be determined.

166. As a direct and proximate result of Waiting Angels, Boraggina and/or Beauvais conspiracy to obtain Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy's assets, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have incurred and/or will continue to incur substantial damages in an amount to be determined by the Court, but which is in excess of seventy-five thousand (\$75,000).

COUNT EIGHT
CONCERT OF ACTION
(Boraggina, Beauvais and Waiting Angels)

167. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy reallege and restate paragraphs 1 through 166.

168. At all relevant times, several or all Defendants engaged in concerted activities described in paragraphs 1 through 152 by express or implied agreement.

169. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy may not be able to identify all of the activities of Defendants Waiting Angels, Boraggina and/or Beauvais due to the generic similarity of such activities as promoted by these Defendants.

170. As a direct and proximate result of Defendants' concerted activities, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have sustained and will continue to sustain severe injuries and damages as more specifically alleged in paragraph 165.

171. Due to the concert of action among all of the various Defendants, each is liable to Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy for these injuries and damages even if there was no direct relation to the activity conducted by that particular Defendant.

172. As a direct and proximate result of Waiting Angels, Boraggina and/or Beauvais concert of action, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have incurred and/or will continue to incur substantial damages in an amount to be determined by the Court, but which is in excess of seventy-five thousand (\$75,000).

COUNT NINE
FRAUDULENT MISREPRESENTATION
(Boraggina, Beauvais and Waiting Angels)

173. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy reallege and restate paragraphs 1 through 172.

174. Defendants Waiting Angels, Boraggina and/or Beauvais intentionally made false representations of material facts to Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy regarding the success of the adoptions, the non-profit status of Waiting Angels, the relationship with Guatemalan attorneys, the cost of services, the availability of children available to adopt, as set forth in the preceding paragraphs.

175. Defendants Waiting Angels, Boraggina and/or Beauvais representations were false when they were made.

176. Defendants Waiting Angels, Boraggina and/or Beauvais knew that the representations were false when they were made or made them recklessly, without knowing whether they were true.

177. Defendants Waiting Angels, Boraggina and/or Beauvais intended that Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy rely on the representations.

178. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy relied on Defendant's false representations by signing an illusory Adoption Contract in the hopes of adopting a child.

179. As a direct and proximate result of Waiting Angels, Boraggina and/or Beauvais fraudulent misrepresentation, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have incurred and/or will continue to incur substantial damages in an amount to be determined by the Court, but which is in excess of seventy-five thousand (\$75,000).

COUNT TEN
INNOCENT MISREPRESENTATION
(Boraggina, Beauvais and Waiting Angels)

180. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy reallege and restate paragraphs 1 through 179.

181. Defendants Waiting Angels, Boraggina and/or Beauvais representations, as set forth in the preceding paragraphs, were made in connection with the making of a contract between Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy and Defendants Waiting Angels, Boraggina and/or Beauvais.

182. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy would not have entered into the contract to adopt a Guatemalan child if Defendants Waiting Angels, Boraggina and/or Beauvais had not made the representations.

183. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy suffered substantial economic losses as a result of entering into the contract, and these losses benefited Defendants Waiting Angels, Boraggina and/or Beauvais.

COUNT ELEVEN
EXEMPLARY DAMAGES
(Boraggina, Beauvais and Waiting Angels)

184. Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy reallege and restate paragraphs 1 through 183.

185. Defendants Waiting Angels, Boraggina and/or Beauvais representations were made intentionally and maliciously and have caused Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy to suffer humiliation, outrage, indignation, sleepless nights, and emotional distress.

WHEREFORE, Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy demands judgment from the Court as follows:

1. To award damages against Defendants Waiting Angels, Boraggina and/or Beauvais, jointly and severally, for a sum of money equal to the amount of damages and/or losses Plaintiffs Heinrich, Casassa, Flenniken, Tavolilla and Lundy have sustained or will sustain;
2. To treble the amount of said damages pursuant to 18 U.S.C. § 1964(c) and/or M.C.L. 600.2919(a);

3. To award prejudgment interest on the amount of damages and/or losses that Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy have sustained;
4. To award all costs of litigation incurred by Plaintiffs Heinrich, Casassa, Flenniken, Tavalilla and Lundy, including their reasonable attorneys' fees and experts' fees, pursuant to 18 U.S.C. § 1964(c), ; and
5. To award exemplary damages in an amount in excess of \$75,000 resulting from Defendant's intentional and malicious actions;
6. And to award such other and further relief as the Court deems just and equitable.

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October 24, 2006



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Jury Demand

Plaintiffs demand a Jury Trial.

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