EXHIBIT 8

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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

RIVERSIDE DIVISION

In re: VINEYARD NATIONAL BANCORP, Debtor.	Case No. 6:09-26401-RN Chapter 11
OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF VINEYARD NATIONAL BANCORP, Plaintiff, v. NORMAN A. MORALES, JAMES G. LESIEUR, III, FRANK S. ALVAREZ, CHARLES L. KEAGLE, JOEL H. RAVITZ, DAVID A. BUXBAUM, ROBIN D. QUINCEY, MICHAEL D. CAIN, and DOES 1-10, Defendants.	Adv. Pro. No. **COMPLAINT FOR AVOIDANCE OF FRAUDULENT TRANSFERS, DAMAGES, AND EQUITABLE RELIEF** **JURY TRIAL DEMANDED** (Hearing date to be set by summons)

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Plaintiff, the Official Committee of Unsecured Creditors (the "Committee") of Vineyard National Bancorp, hereby alleges the following against the defendants on information and belief:

I. JURISDICTION

1. The United States Bankruptcy Court for the Central District of California ("Bankruptcy Court" or "Court") has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 1334(b) and (e), and 157 (b) and (c):

(a) All of the claims in this Complaint are related to the Chapter 11 case of In re Vineyard National Bancorp, pending as Case Number 6:09-24601-RN ("the Bankruptcy Case") in the Court, and are therefore within the Court's original jurisdiction under 28 U.S.C. § 1334(b).

(b) Some of the claims in this Complaint address property of the Debtors' estates that is subject to avoidance claims and property of the estates administered in the Bankruptcy Cases and, hence, such claims are within the Bankruptcy Court's exclusive jurisdiction under 28 U.S.C. §§ 1334(e) and 157(b)(1).

(c) The claims in this Complaint arise under 11 U.S.C. §§ 544, 548, and 550 and applicable California state law.

(d) The claims in this Complaint that arise under 28 U.S.C. §§ 544, 548, and 550 are core proceedings within the meaning of 28 U.S.C. § 157(b)(2) because such claims arise under Title 11 of the United States Code.

(e) Some of the claims in this Complaint arise under California state law, and, hence, are non-core claims within the meaning of 28 U.S.C. § 157(c)(1); such claims arise under the same nucleus of operative facts that are set forth in the core claims.

(f) Plaintiff does not consent to the Bankruptcy Court's entry of a final judgment in this case and requests a trial by jury of all issues that are triable to a jury in this case by the District Court.

II. GENERAL ALLEGATIONS

A. The Parties.

(i) Plaintiff.

2. Plaintiff is the duly appointed and authorized Official Committee of Unsecured Creditors (the "Committee") of Vineyard National Bancorp ("the Debtor"), a debtor in a chapter 11 bankruptcy case pending in the United States Bankruptcy Court for the Central District of California, Riverside Division.

3. The Committee has standing to bring this action pursuant to the Bankruptcy Court's October 22, 2009 Order Vesting Official Committee of Unsecured Creditors With Authority and Standing to Investigate, Bring, Maintain and Settle Claims. In that Order, the Court ordered that "[t]he Committee is hereby granted and vested with authority and standing to investigate, bring, maintain and settle to the fullest extent, without further Order of the Court, any and all claims, causes of actions, rights, obligations, offsets, setoffs, and objections held by [Vineyard National Bancorp] and its estate against their respective directors, officers and shareholders,….as a derivative action on behalf of the Debtor and/or the Debtor's estate, for the benefit of the Debtor's creditors, shareholders and other parties in interest." The Committee therefore commenced this action against the Debtor's directors and officers in that capacity.

4. At all times mentioned herein, Vineyard National Bancorp ("Vineyard," the "company," or the "corporation") was, and is, a California corporation. From December 16, 1988 until it filed its Chapter 11 case on July 21, 2009, Vineyard did business as a bank holding company for Vineyard National Bank, National Association ("Vineyard Bank" or the "Bank"), and its other subsidiaries. The Federal Reserve Bank of San Francisco ("FRB") regulated Vineyard as a bank holding company. Vineyard maintained its principal place of business in Rancho Cucamonga, California, until the end of 2005, and in Corona, California thereafter.

5. From September 10, 1981, until July 17, 2009, Vineyard Bank did business as a financial institution that managed deposits and originated loans. The Office of the Comptroller of the Currency ("OCC") regulated the Bank. On July 17, 2009, the OCC appointed the Federal Deposit Insurance Company ("FDIC") as receiver for Vineyard Bank on the ground the Bank was

not adequately capitalized and had been operating in an unsafe and unsound manner. As receiver, the FDIC took over the Bank's operations and sold some or all of the Bank's assets and depository liabilities to a financial institution. While it was in business, the Bank maintained its principal place of business in Rancho Cucamonga, California, until the end of 2005 and in Corona, California, thereafter.

(ii) Inside Director Defendants.

6. Defendant Norman A. Morales ("Morales") is an individual and resident of the State of California. From October 1, 2000, until January 23, 2008, Morales served as a director and President and Chief Executive Officer ("CEO") of both Vineyard and the Bank.

7. As President and Chief Executive Officer of Vineyard, Morales was responsible for implementing the policies of Vineyard and the Bank, as determined by the Board of Directors of Vineyard and the Bank; managing the business and affairs of Vineyard and the Bank; and performing all duties incident to the office of President and Chief Executive Officer and such other duties as were prescribed by the Board of Directors of Vineyard from time to time. Under the direction of and in cooperation with the Board of Directors of Vineyard, Morales had the responsibility to provide direction and guidance of Vineyard's and the Bank's activities to ensure short- and long-range profitability and planned growth for Vineyard and the Bank and Vineyard's other subsidiaries.

8. At various times from at least the first quarter of 2005, Morales was at least a three percent shareholder of Vineyard.

9. Morales was at various times a member of the following committees of Vineyard and the Bank: Disclosure, Nominating and Corporate Governance, Loan, Asset Liability, and Merger and Acquisition.

10. Defendant James G. LeSieur, III ("LeSieur") is an individual and a resident of the State of California. LeSieur served as a director of Vineyard from approximately December 8, 2004, until July 21, 2009. LeSieur served as a director of the Bank from approximately January 26, 2005, until July 21, 2009. LeSieur served as the Chairman of the Board of Directors of Vineyard and the Bank from January 1, 2007, until September 22, 2008, and Vice Chairman of the Board of

Directors of Vineyard and the Bank from September 23, 2008, until July 21, 2009. LeSieur was also employed as Interim Chief Executive Officer of both Vineyard and the Bank from approximately January 23, 2008, to August 4, 2008, and as the Chief Executive Officer of both Vineyard and the Bank from approximately August 5, 2008, until October 15, 2008.

11. At various times from at least the first quarter of 2005, LeSieur was a less than one percent shareholder of Vineyard.

12. LeSieur was at various times a member of the following committees: Disclosure, Loan, Asset Liability, Audit (at various times, Chairman), and Merger and Acquisition.

(iii) Outside Director Defendants.

13. Defendant Frank S. Alvarez ("Alvarez") is an individual and a resident of the State of California. Alvarez served as a director of Vineyard from 1988 until approximately August 10, 2008. Alvarez served as a director of the Bank from 1981 until approximately August 10, 2008. Alvarez served as the Chairman of the Board of Vineyard and the Bank from approximately January 2000, until November 21, 2006. At various times from at least the first quarter of 2005, Alvarez was approximately a two percent shareholder of Vineyard. Alvarez was at various times a member of the following committees: Loan, Nominating and Corporate Governance, Nominating, Audit, and Asset Liability.

14. Defendant Charles L. Keagle ("Keagle") is an individual and a resident of the State of California. Keagle served as a director of Vineyard and the Bank from 1998 until approximately January 20, 2009. Keagle served as the Vice Chairman of the Board of Directors of Vineyard and the Bank from at least as of January 2003 until approximately August 10, 2008. At various times from at least the first quarter of 2005, Keagle was at least a three percent shareholder of Vineyard. Keagle was at various times a member of the following committees: Compensation, Nominating and Corporate Governance, Audit (at various times Chairman), Audit and Compliance, and Loan.

15. Defendant Joel H. Ravitz ("Ravitz") is an individual and a resident of the State of California. Ravitz served as a director of Vineyard from 1988 until approximately August 10, 2008 and as a director of the Bank from 1983 until approximately August 10, 2008. At various

times from at least the first quarter of 2005, Ravitz was over a two percent shareholder of Vineyard. Ravitz was at various times a member of the following committees: Compensation, Nominating and Corporate Governance (at various times Chairman), Nominating (at various times Chairman), Audit, Loan, Asset Liability, and Merger and Acquisition.

16. Defendant David A. Buxbaum ("Buxbaum") is an individual and a resident of the State of California. Buxbaum served as a director of Vineyard and the Bank from approximately September 8, 2004, until at least until July 17, 2009. At various times from at least the first quarter of 2007, Buxbaum was approximately a one percent shareholder of Vineyard. Buxbaum was at various times a member of the following committees: Disclosure, Compensation (at various times Chairman), Nominating and Corporate Governance (at various times Chairman), and Audit and Compliance.

17. Defendant Robin "Robb" D. Quincey ("Quincey") is an individual and a resident of the State of California. Quincey served as a director of Vineyard and the Bank from approximately September 27, 2006 until approximately August 10, 2008. At various times from at least the fourth quarter of 2006, Quincey was a less than one percent shareholder of Vineyard. Quincey was at various times a member of the following committees: Compensation, Nominating, and Merger and Acquisition.

18. The inside and outside director defendants, Morales, LeSieur, Alvarez, Keagle, Ravitz, Buxbaum, and Quincey, are hereinafter sometimes referred to as the "Board" or the "Director Defendants." The terms "Board" and "Director Defendants" applies to Quincey only for the time period extending from approximately September 27, 2006 to August 2008 and to Morales only for the time period extending from approximately October 1, 2000 until January 23, 2008.

(iv) Additional Officer Defendant.

19. Defendant Michael D. Cain ("Cain") is an individual and resident of the State of California. Cain was employed by Vineyard and the Bank between March 12, 2007 and May 12, 2008. Cain served as an officer of Vineyard and the Bank under the title of Executive Vice President, Chief Lending Officer. As the Executive Vice President, Chief Lending Officer, Cain was responsible for the overall management and expansion of Vineyard's and the Bank's real estate

lending operations, including luxury home construction, tract construction, commercial construction, and repositioning and permanent commercial loans, which Vineyard operated through its own operations and the Bank.

20. The officer defendants, Morales and Cain, are hereinafter sometimes referred to as the "Officers Defendants". The term "Officer Defendants" applies to Cain only for the time period extending from approximately March 12, 2007 and May 12, 2008.

21. The Director Defendants and Officer Defendants are hereinafter sometimes collectively referred to as the "Defendants." The collective term "Defendants" applies to Quincey only for the time period extending from approximately September 27, 2006 to August 2008, to Morales only for the time period extending from approximately October 1, 2000 until January 23, 2008, and to Cain only for the time period extending from approximately March 12, 2007 and May 12, 2008.

(v) Does 1 through 10.

22. Plaintiff is informed and believes, and therefore alleges, that Does 1 through 10 (collectively referred to as the "Doe Defendants"), are or were affiliated with Vineyard or the other Defendants, and are or were the directors, officers, agents, attorneys, partners, joint-venturers, owners, principals, successors, and/or predecessors of Vineyard and/or the other Defendants, and are in some manner responsible or legally liable for the events, actions, transaction, and circumstances alleged herein. Plaintiff will seek leave of the Court to amend this Complaint after discovery to state the true names and capacities of these entities or any other Doe Defendants.

B. <u>The Directors' And Officers' Duties.</u>

23. Vineyard was managed by a board of directors and officers who reported to the Board, and operated under the direction and ostensible control of the Board and those officers.

24. In their respective capacities as directors and/or officers of Vineyard, each of the Defendants owed fiduciary duties of care, good faith, and loyalty to the corporation.

25. Consistent with their fiduciary duties, each of the Defendants had a duty to act in good faith, in a manner in which each Defendant reasonably believed was in the best interests of

the corporation and its shareholders, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

26. As a bank holding company, Vineyard had the responsibility to oversee and manage its banking subsidiary in a safe and sound manner, and in a manner that was in the best interests of Vineyard and its shareholders and creditors.

27. Accordingly, as directors and officers of a bank holding company, each of the Defendants had a duty to take reasonable action to oversee and manage the holding company's principal asset, the Bank, in a safe and sound manner, in order to preserve Vineyard's interest in the Bank.

28. Consistent with those duties, Morales and each of the Director Defendants had the following responsibilities:

(a) To exercise adequate due diligence in connection with Vineyard's and the Bank's acquisitions of banking businesses and other assets.

(b) To take reasonable action to ensure that Vineyard's officers did not waste company assets or misuse company accounts and other property.

(c) To adopt and implement safe and sound lending practices at both Vineyard and the Bank.

(d) To hire competent management within Vineyard and the Bank and charge them with the responsibility to manage and administer Vineyard and the Bank's business affairs in a safe and sound manner so that Vineyard's net worth and interest in the Bank would not be impaired or destroyed.

(e) To exercise control over Vineyard Bank by directing the Bank's management to manage and administer the Bank's business affairs in a safe and sound manner so that Vineyard's net worth would not be impaired or destroyed.

(f) To nominate or replace individuals on Vineyard Bank's board of directors with directors who would direct the Bank's management to manage and administer the Bank's business affairs in a safe and sound manner so that Vineyard's net worth would not be impaired or destroyed.

(g) To exercise control over Vineyard Bank and its subsidiaries by directing their respective management, or replacing their respective board of directors with directors who would direct their respective management, to manage and administer the Bank's business affairs in a safe and sound manner so that Vineyard's net worth would not be impaired or destroyed.

(h) To require that Vineyard and the Bank's management provide them adequate information upon which to make decisions, to make such inquiries from time to time as are prudent or necessary, and carefully to review the information actually provided.

(i) To monitor the activities delegated to, and to exercise reasonable control and supervision over, the officers and employees of Vineyard Bank.

(j) To manage, conduct, supervise, and direct the business and affairs of Vineyard Bank in accordance with state and federal laws.

(k) To exercise reasonable care in evaluation of the prudence and soundness of policies and practices proposed to be undertaken by Vineyard Bank.

(l) To ensure that Vineyard Bank did not engage in unsafe, imprudent or unsound practices and that Vineyard Bank complied with all federal and state laws and regulations.

(m) To become and remain informed as to how Vineyard Bank was, in fact, operating.

(n) To exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies to adequately diversify Vineyard Bank's loan portfolio in order to properly allocate credit risks.

(o) To exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies to maintain adequate capital in Vineyard Bank.

(p) To exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for underwriting policies and procedures.

(q) To exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for financial and cash flow analysis to ensure sponsors' and guarantors' abilities to support credit relationships.

(r) To exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for loan grading policies and procedures.

(s) To exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for problem loan reporting policies and procedures.

(t) To exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for prudent allowances for loan and lease losses.

(u) Upon receiving notice or information of an unsafe, imprudent or unsound practice, to make a reasonable investigation in connection therewith and to take steps to correct that condition or practice.

29. Defendant Cain had the responsibility to take reasonable action to ensure that Vineyard and the Bank engaged in the same acts, except the acts of controlling the Bank's Board of Directors as detailed above.

C. Vineyard Bank Operates As A Local, Community Bank For Twenty Years.

30. Vineyard Bank began in 1981 as a small "community bank."

31. In its early years, Vineyard Bank focused on relationship banking by serving the needs of the local customer. It primarily provided loans to customers who deposited money in the Bank. A large portion of its loan portfolio was derived from low-risk consumer real estate mortgage and individual installment loans rather than commercial and construction loans, which carried greater risk of nonpayment. For example, by the end of 1999, the Bank's loan concentration in community-based individual installment loans was approximately $18.8 million, representing about 22% of the Bank's total loan portfolio, whereas the Bank's loan concentration in construction loans was approximately $6.6 million, representing under 8% of the Bank's total loan portfolio.

32. For eighteen years, from 1981 until the end of 1999, Vineyard Bank grew slowly but soundly based on the core principles of low-risk loans, strong deposits, and face-to-face relationships with customers from the local community.

D. Morales' Risky And Imprudent Lending Plan Creates A Culture Of Unreasonable Growth

33. In 2000, Vineyard hired Morales as its CEO and President and the Bank's CEO and President. Under Morales' leadership, Vineyard and the Bank discarded the low-risk, community-relationship lending plan that had served them for almost twenty years and concentrated on high risk lending in tract and luxury home construction, multi-unit housing, and commercial lending.

34. After becoming President and CEO, Morales told the press "I'm an entrepreneur not a banker." And Morales ran Vineyard and the Bank that way. Morales' refusal to be "a banker" was detrimental to Vineyard's institution of banking.

35. Based on Morales' candid self-assessment, the press accurately commented that Morales ran Vineyard "like an entrepreneur would run an upstart company, aggressively pushing it to grow at every opportunity." This aggressive growth ended up destroying Vineyard and the Bank as viable companies.

36. From the beginning of his tenure as President and CEO in 2000, until the Board terminated him in 2008, Morales directed Vineyard to implement a high-risk lending plan focused on aggressive growth and increased earnings for Vineyard, based on a high concentration of risky lending instead of the traditional lending that had served Vineyard well for two decades.

37. During his eight year tenure, Morales' high-risk lending plan produced substantially inflated earnings for Vineyard that in turn produced a higher than justified stock price, that in turn produced stock profits and dividends for Morales. Morales accomplished the high earnings, stock pay outs, and dividends by directing Vineyard and its Bank to originate and close a large number of construction and other commercial loans that purportedly looked good on the books, by creating the illusion of increased assets, but which in reality were unsafe, unsound and risky loans that ended up losing money when the loans matured and the borrowers could not repay them.

38. At the time of Morales' hiring, Vineyard's stock was trading at approximately $1.50 per share. Morales believed that he could make a considerable amount of money if he could increase the share price and sell his stock after it increased in price. With this knowledge, Morales proposed and obtained a compensation package from Vineyard that provided him with stock options and other consideration from which he could achieve large profits if the stock's trading price increased over time.

39. Morales believed that the best way to increase the stock's trading price was to increase Vineyard's earnings. Morales also believed that the best way to increase the company's earnings would be to grow the Bank with high-risk loans that would pay high interest rates that, in turn, would produce greater profits for the Bank than it had achieved as a small community bank.

40. Morales based his lending plan, in substantial part, upon high concentrations of specialty lending, primarily in real estate and construction, and non-recourse lending. These areas of lending were each extremely sensitive to changes in the real estate market. That fact meant that impairment of the real estate market would adversely impact the borrowers' abilities to repay the loans, and thereby subject Vineyard to losses on the loans.

41. Those facts also meant that Vineyard's concentration of such risky loans at high levels would subject Vineyard and its Bank to insolvency and ruin if the real estate market

collapsed or became impaired. As a result, a prudent holding company director and officer would have limited such risk such that any impairment in the real estate markets would not subject the company and its banking units to insolvency or ruin.

42. Morales decided to grow Vineyard and the Bank, and his corresponding compensation package, in support of his aggressive and risky goals, instead of limiting the lending risk in order to protect Vineyard as a going concern. And the Director Defendants permitted Morales to do so, often with inadequate oversight.

43. During the 2000 through 2005 time period, under Morales' direction and the Director Defendants' approval, Vineyard embarked upon a plan of aggressive growth through an increase in its customers, deposits and real estate and construction lending in the State of California.

44. During this time period, the Bank's commercial real estate and construction loan portfolio increased from approximately $45 million in 2000 to $895 million in December 2005. The increase in high-yield real estate and construction loans produced increased profits for the Bank, which translated into increased earnings for Vineyard. During Morales' tenure at Vineyard, the company's net earnings increased from approximately $620,000 in 2000 to $18.9 million in 2005.

45. Vineyard's earnings growth caused the price of Vineyard's common stock to climb from approximately $1.50 per share in January 2001 to approximately $30 per share in December 2005, an increase of 20 times the 2001 stock price. The company's escalating stock price permitted Morales to exercise his options in the company's stock and to sell the stock in order to make considerable profits on the exercise.

E. 2004 – The Directors And Officers Discover Significant Lending Threats And Other Real Estate Related Warning Signs.

46. Morales formulated his risky and imprudent lending plans each year by directing his staff to prepare an annual Strategic & Business Plan for Vineyard and the Bank. These plans achieved a number of objectives, such as describing Morales' strategies for loan growth over a three-year period and providing the Director Defendants with a summary of the economic condition of the real estate market. The plans also provided numerous warnings and other "red flags" to the

Board that Morales' plans to continue lending based on risky real estate-based loans were harmful to Vineyard.

47. For example, during the last two months of 2004, Morales' staff prepared one of these annual plans for the years 2005, 2006, and 2007 ("the 2005 – 2007 Business Plan"). The 2005 – 2007 Business Plan called for an average increase in aggregate new loan growth of 27% for each year from 2005 to 2007. According to the plan, the net increases in loan outstanding balances would equal $320 million in 2005, $368 million in 2006, and $408 million in 2007. Of this new loan growth, 65% would be focused on commercial real estate, single-family coastal real estate construction, and single-family tract real estate construction lending.

48. In short, Morales' 2005 – 2007 Business Plan called for increased lending in the risky areas of commercial real estate, single family coastal real estate construction, and single-family tract construction lending, all of which were subject to impairment caused by a downturn in the economy in general or California real estate in particular.

49. The 2005 – 2007 Business Plan included a number of economic warnings that the economy and the real estate market were softening, and thus put Morales and the Directors on notice of the threat to Vineyard's able to continue as a going concern if it continued to extend risky financing. For example, the plan warned of "a possible slowing of the regional economy within the next three years…." It also identified that "home categories that kicked off the strong real estate cycle that began about six years ago are now leveling off …." It recognized that "home affordability in Southern California has reached record lows … [and] the supply of homes is increasing [in the Inland Empire]." The report concluded its summary by stating that "certain real estate markets in the coastal counties have cooled …." The plan also noted that "the sensitivity of earnings and capital to strategic risk is moderate to increasing …."

50. The plan concluded by noting that Vineyard and its Bank faced the following future "threats":

(a) "Not fully understanding our markets and adapting to changing trends."

(b) "Loan portfolio deterioration."

(c) "Pressure to relax underwriting standards."

(d) "Runaway growth."

(e) "Economic downturn."

51. Morales and the Director Defendants reviewed the 2005 – 2007 Business Plan on or around November 23, 2004 and approved it on or around December 8, 2004, thereby acknowledging all of the foregoing threats.

52. One month after the Board acknowledged the future threats contained in the 2005 – 2007 Business Plan, Defendant LeSieur and a member of management attended an economic conference at Chapman University. LeSieur relayed some of the key economic indicators that surfaced at the conference to the rest of the Director Defendants and members of management at a January 26, 2005 meeting. LeSieur stated that "some areas may be over-built" and that "much of the job growth in Southern California has been in lower level paying jobs." He believed that "the future of the housing market will depend on what happens with interest rates and affordability of homes."

53. With knowledge of the threats posed by Morales' lending strategies and the initial indications of a deterioration in the real estate market, the Director Defendants approved and Morales implemented his risky and imprudent lending plan during 2005. The result of this implementation was the concentration of 65% of Vineyard Bank's loan portfolio in construction and commercial real estate lending by the end of 2005, and thereby maintaining loan concentration in an inherently risky market that was already evidencing warning threats. The Bank's loan portfolio concentration in coastal, tract, and commercial construction lending amounted to approximately $583 million and commercial real estate lending amounted to approximately $311 million.

F. 2005 – The Directors And Officers Ignore The Increasing Warning Signs Of Economic Collapse And Continue To Implement Morales' Risky And Imprudent Lending Plan.

54. Just as the Bank had done in 2004, as the end of 2005 approached, Morales' management team prepared and the Defendants discussed approval of an updated lending plan, the 2006 – 2008 Business Plan. In order to continue the Bank's aggressive growth plan that fueled the company's earnings growth and stock price appreciation during the 2001-2005 time period, the 2006 – 2008 Business Plan called for an average increase in aggregate new loan growth of 26% for each

year from 2006 to 2008. The plan also called for net increases in loan outstanding balances of $458 million in 2006, $458 million in 2007, and $458 million in 2008.

55. Consistent with Morales' aggressive growth business model, the 2006 – 2008 Business Plan also proposed that the Bank would substantially increase the Bank's loan concentration in commercial real estate and construction lending. Of this new loan growth, over 75% would be focused in commercial real estate, single-family coastal real estate construction, and single-family tract real estate construction lending in 2006.

56. The 2006 – 2008 Business Plan acknowledged the risky nature of such continued and unreasonably aggressive growth by detailing numerous warning signals that the California commercial real estate and residential and commercial construction lending market was on the verge of a meltdown unprecedented in recent history:

(a) The plan notes "the uncertainty of the expanded loan portfolio's performance during a period of seasoning and a possible slowing of the regional economy within the next three years."

(b) "[T]here have been some recent forecasts of slowdowns in real estate conditions and concerns about the effects of rising long term rates."

(c) "The bank continues to closely watch economic indicators and real estate market indicators, particularly given recent forecasts by some 'experts' … the # of home sales has decreased in recent months … In addition, management is monitoring construction cost estimates more closely, as are borrowers, due to rising costs for fuel and other material (concrete, lumber, etc) …."

(d) "Sales of new homes fell by 11% in November …."

(e) " … inventory has been edging upward in most markets across the nation."

(f) "Long term mortgage rates have pushed above 6% and held there for more than two months. As rates rise, it is likely the entry level and first time homebuyers who will be hardest hit by the increase in the cost of financing. Investors

are also likely to be put off by a slower rate of price appreciation and move their capital elsewhere."

(g) "Chapman [University] expects higher interest rates to reduce refinancing activity, and construction spending is expected to slowdown throughout 2006. This will lead to slower job growth in the financial activities, real estate and construction sectors."

(h) "… the State [of California] will continue to cope with its ongoing budget issues. Attention will continue to be focused on the housing sector, as the 'bubble' talk [continues]."

(i) "Southern California continues to experience growth at a slower pace in the 4th quarter."

(j) "According to the California Association of Realtor's housing market forecast for 2006, The rate of home price appreciation will moderate next year … sales in 2006 will decline slightly … Declining affordability will constrain sales in 2006 at a greater rate than before, especially in markets where there are high-costs areas, especially those in the coastal regions."

(k) "Edward Leamer, Director of the UCLA Anderson Forecast, expects the U.S. housing market to start to slow next year and construction and real estate related jobs will decline. UCLA also predicts diesel fuel (which runs equipment) will rise 30%; PVC insulation and roofing materials will rise 50%; brick and glass will rise 10% and concrete will rise 18%."

(l) "The decrease in affordability in the Los Angeles County over the last several quarters is significant. From 31% [in] 2002 to 13% [in] September 2005 and remains desperately low at 11% in November."

(m) "The affordability index for Orange and San Diego Counties continues to hover at an all time low of 11% and 8%."

(n) " … the combined Inland Empire (SB [San Bernardino] + Riverside) affordability index was reported at 18%."

(o) "With current [affordability] levels at near record lows, the lack of ability for entry-level, affordable options can cause problems for the housing market by eliminating the first time homebuyer base."

(p) Regarding the Inland Empire, the plan noted that "[a]t the end of the third quarter of 2005, the volume of existing home sales is down 4.2% from a year ago …"

(q) "Yea[r] to date figures revealed half of the Inland Empire's submarkets are experiencing a decline in sales activity from a year ago."

(r) "Overall sales rates per project [in the Inland Empire] slipped from 7.78 sales per month in the second quarter 2005 to 5.32 sales per month at the end of September 2005."

(s) "[S]upply levels have edged higher from the previous quarter and some submarkets are not selling out phase releases as quickly as in previous quarters."

(t) "The unsold Inventory Index has shown further increases for Manhattan Beach and Hermosa Beach this quarter; and, the number of home[s] sold has declined since June 2005. Inventory levels available reported the highest among the last 4 quarters. … This could be a sign that housing appreciation is cooling off in these areas."

(u) "According to the California Association of Realtors, the housing market outlook for 2006 is as follows: with higher home prices, more households will need to stretch their purchasing power with innovative forms of financing in order to buy a home in 2006."

(v) … the unsold inventory index is expected to increase in 2006 …."

(w) "Coastal regions of the state are expected to see weaker price appreciation and sales …."

(x) The 2006 – 2008 Business Plan concluded with the following statement: "The third quarter 2005 performance and indicators suggested the housing

market has cooled off slightly. Many forecasts expect higher interest rates to reduce refinancing activity, and construction spending is expected to slowdown throughout 2006."

57. Referenced throughout the 2006 – 2008 Business Plan is a lethal combination of the two indicators that LeSieur warned in January 2005, would signal an economic collapse: "interest rates and the affordability of homes." The plan states that "current [affordability] levels [are] at *near record lows*" and "declining affordability will constrain sales in 2006 at a greater rate than before" while "[l]ong term mortgage rates have pushed above 6% and held there for more than two months" and "[m]any forecasts expect higher interest rates." (emphasis added) Although Morales and the Defendants knew or had reason to know that Vineyard and its Bank would need to closely monitor these trends, the Defendants failed to do so properly.

58. Throughout 2005, Morales and the Defendants knew of the extreme risk presented in the Bank's portfolio concentrations in light of the impending economic meltdown. The 2005 – 2007 Business Plan had previously warned that "[c]redit risk is one of the highest risks that the Bank currently faces" and the "[d]irection of [r]isk is [i]ncreasing," and cautioned the directors and officers that "runaway growth" and "economic downturn" were threats to the Bank's portfolio. The 2006 – 2008 Business Plan echoed these sentiments, stating that the "the Bank's exposure to credit risk is significant … [and that] [c]redit risk poses the highest level of risk to the Bank."

59. Morales presented the 2006 – 2008 Business Plan to the Director Defendants during two Bank Board meetings in December 2005, on or around December 7 and 21, 2005. Regarding the Bank's lending strategies, LeSieur expressed concern for "a downturn in the economy" throughout the December 7, 2005 Board meeting. He stated that, "in the event the economy slows[,]" Vineyard Bank needed "more safety nets" and should "be more conservative in the longer years."

60. Upon reading the warning signals, reasonable and prudent directors and officers of a bank holding company in California would have stopped or sharply curtailed such risky lending and would have directed the Bank to invest its capital in safe and sound instruments, instead

of in risky loans in California real estate that was experiencing a substantial rise in inventory and decline in affordability.

61. However, with knowledge of the threats posed by Morales' risky and imprudent lending strategies and the mounting red flags and other threats alerting them to the impending collapse in the real estate market, on December 21, 2005, the Director Defendants approved Morales' risky and imprudent plan, including the proposal to increase the risky lending by $458 million of net loans each year over the following three-year period.

62. The Director Defendants and Morales recklessly breached their duties by approving the plan with such knowledge, and exposing Vineyard to these unacceptable risks.

63. Vineyard and the Bank were damaged by such breaches of duties. Pursuant to the plan, and under the direction and control of Morales, and in the absence of appropriate oversight by the Director Defendants, the Bank increased its loan concentrations in construction and commercial real estate lending to dangerous levels. The result of this implementation was the concentration of approximately 69.6% of the Bank's loan portfolio in construction and commercial real estate lending. By the end of 2006, the Bank's loan portfolio concentration in coastal, tract, and commercial construction lending amounted to approximately $822.8 million, an increase of approximately $240 million from 2005, and commercial real estate lending amounted to approximately $524.5 million, an increase of approximately $212.8 million. In 2006, the Bank also entered into a new lending product line, multi-family construction loans, of which it originated another $3.4 million of loans by the end of 2006.

64. As a result of these breaches, Vineyard suffered considerable damage, in amounts to be proven at trial, when Vineyard was forced to write off some of the loans as losses.

G. <u>Morales Capitalizes On His Risky And Imprudent Lending Plan.</u>

65. While the value of the Bank's loan portfolio was deteriorating, Morales capitalized on Vineyard's stock price appreciation by selling large blocks of common stock every six months or so. During the years 2004 and 2005, Morales sold 14,350 shares of stock for $524,882, yielding a half-million dollars of profits over the low price he paid to acquire the stock via his stock options in the company.

H. Morales Improperly Uses Company Funds For His Own Personal Enjoyment.

66. By January 2006, Morales had become obsessed with "earnings," and his concomitant ability to sell his Vineyard stock and make money in order to fuel his expensive habits.

67. Morales also improperly used Company funds to benefit himself personally, in order to pay for his expensive habits, including using company funds to purchase a $200,000 Mercedes and $20,000 of Italian crystal glasses.

68. Morales misused company funds because the Vineyard Board failed to exercise adequate oversight over him, and the Director Defendants breached their duties to Vineyard in the process.

69. According to a Vineyard investigator's report, Morales' improper use of company funds was first discovered by Vineyard's Audit Committee on or around April 2008. Vineyard then engaged in a corporate investigation of Morales' misconduct that cost hundreds of thousands of dollars. To conduct the investigation, the Audit Committee retained the law firm of Munger Tolles & Olsen, LLP ("Munger Tolles"). Munger Tolles then retained Navigant Consulting, Inc. ("Navigant") to assist in its investigation.

70. Navigant wrote a report (the "Navigant Report") detailing its investigation into Morales' improper conduct. Navigant reported that, between 2003 and 2007, Morales used an American Express card, issued to him by Vineyard and its Bank for business-related expenses, for his own personal benefit. Morales used Vineyard and the Bank's cash and assets as his own by engaging in misconduct, including but not limited to the following:

(a) Morales leased a BMW X5 in the Bank's name but for the benefit of his wife;

(b) Morales charged gasoline expenses in excess of the amount approved by his employment agreement;

(c) Morales purchased four pieces of expensive Italian glassware for in excess of $20,000 and kept two for his own personal enjoyment;

(d) Morales charged a deposit on a luxurious residential condominium unit at a Resort in Tamarack, Idaho;

(e) Although Morales was provided a country club membership at Shady Canyon in his employment agreement, he charged over $72,000 for items such as "Swim & Fitness Center;" and

(f) Morales used company funds and goodwill to make contributions to charitable organizations in his and his wife's name.

71. The Navigant Report also noted that Morales did not fully cooperate with and concealed information from the investigators. As a result of Morales' misconduct, Vineyard was forced to engage in a costly corporate investigation that wasted hundreds of thousands of dollars of funds that Vineyard and its Bank could have used to pay its liabilities. The investigation was made even more costly because Morales refused to fully cooperate with and concealed information from the investigators.

I. <u>2006 – The Directors And Officers Acknowledge The Economic Collapse.</u>

72. While Morales was using the company's funds for his own personal benefit, the number and intensity of warning signals regarding the impending economic collapse were escalating at an alarming rate. The "downturn in the economy" that LeSieur discussed in late 2005 was in full steam by early 2006. The California real estate market faltered and its collapse made Vineyard's risky lending even more harmful than it had been before.

73. For example: During 2005 and 2006, sales of California real estate deteriorated and inventory reached unprecedented levels. The appreciation of California real estate stopped, and the value of real estate started to depreciate in some areas, making the real estate that secured the Bank's loans less certain as a source of repayment of the loans. Banks and financial institutions that previously purchased mortgages as investments started paying less for the loans, recognizing the increase in the risk. In order to make up for the lost profits, several lending institutions started to increase their lending in order to generate greater profits, by making riskier and riskier loans to borrowers who had shoddy credit risks. The borrowers started to default on their obligations, producing greater default rates in the California markets, and further eroding the public's confidence in the real estate market. In short, California real estate, as a source of

repayment of real estate construction loans and commercial loans, steadily declined month-by-month throughout late 2005 and 2006.

74. By the end of the first quarter of 2006, there was no doubt in the minds of the Director Defendants that Morales' aggressive "funding strategies, necessary due to rapid loan growth, [were] elevating the risk profile of the Bank" to a dangerous level in light of an impending economic slowdown. On March 8, 2006, LeSieur stated that the Bank's risk profile "is getting to a critical stage, and we will probably see an economic slowdown." Other Board members agreed with Mr. LeSieur's estimation that a downward trend was developing. A member of management "noted that homes [were] not selling as quickly" as they previously had. LeSieur concluded that "we may need to be more selective in lending opportunities."

75. Armed with this knowledge, reasonable and prudent directors and officers of a bank holding company in California would have stopped or sharply curtailed Vineyard's risky lending and would have directed the Bank to invest its capital in safe and sound instruments, instead of in risky loans in California real estate that was experiencing a substantial rise in inventory and decline in affordability.

76. However, Morales, obsessed with making up for the lost profits, continued to press the Director Defendants to approve his risky lending plan for the Bank, a plan that now included risky acquisition activities to compliment the risky lending strategies. The Director Defendants failed to exercise the appropriate oversight of Morales, Vineyard and the Bank that reasonable and prudent directors would employ and continued to approve Morales' risky acquisition and lending strategies with reckless regard for the consequences.

J. 2006 – The Directors And Officers Ignore The Economic Collapse And Approve The Purchase Of Rancho Bank.

77. As early as 2004, Morales had discussed acquiring other banks with Vineyard Bank's "investment brokers" in support of his aggressive growth plan. The "investment brokers," however, told Morales that they "do not recommend [the] purchase of another bank at a high premium." Morales explained the brokers' opinion to the Board on or around November 23, 2004.

78. However, with Vineyard's share price beginning to show signs of weakness by early 2006, Morales proposed that Vineyard Bank acquire Rancho Bank ("Rancho"), a California-chartered commercial bank headquartered in San Dimas, California, at a price that was greater than a "high premium," in contravention of the investment broker's advice.

79. On or around February 8, 2006, Morales recommended Vineyard Bank's Board approve Vineyard's acquisition of Rancho Bank. Morales told the Bank Board that he valued Rancho Bank at $54 million to $60 million and recommended an offering price of $54 million, and that he wanted to proceed with negotiating a purchase of Rancho Bank on that basis. However, Morales did not propose retaining any person to provide an appraisal, valuation, fairness opinion, or other similar due diligence to the Board that would have justified that offering price.

80. Instead, on or around February 8, 2006, Morales presented the Bank Board with a paper that Rancho Bank's consultants, Sandler O'Neill & Partners, L.P. ("Sandler O'Neill"), prepared to assist Rancho Bank in the proposed sale (the "Rancho Bank Paper"). The Rancho Bank Paper stated that Rancho Bank had a tangible book value per share of $13.37. That book value would have equaled a purchase price of approximately $20 million for Rancho Bank.

81. The Rancho Bank Paper did not set forth an opinion of the value of Rancho Bank on any other basis. The Rancho Bank Paper did not appraise the fair market value of Rancho Bank. The Rancho Bank Paper did not state that a purchase price at any particular amount would be fair to Vineyard.

82. The Bank Board never directed Morales or anyone else to obtain an appraisal, valuation, fairness opinion, or similar due diligence that would justify a purchase price at $54 million or any other amount, and the Bank Board did not inquire about such matters.

83. Instead, at the conclusion of Morales' presentation on February 8, 2006, the Bank directors expressed an interest in purchasing Rancho Bank, and permitted Morales to proceed with such negotiations.

84. On the very next day, February 9, 2006, the Bank Board members (Morales, LeSieur, Keagle, Buxbaum, and Ravitz) met as Vineyard's Board to discuss the company's and the Bank's business, including the proposed Rancho Bank acquisition.

85. The Vineyard Board members knew that, in their capacities as Bank directors, they were discussing purchasing Rancho Bank without an appraisal, valuation, fairness opinion, or any other similar due diligence that would support the $54 million purchase price that Morales had proposed, or any other price.

86. With that knowledge, reasonable and prudent directors of a bank holding company would have required Morales and the Bank to obtain sufficient appraisals, valuations, fairness opinions, and other fundamental due diligence that would have supported the Rancho Bank purchase in general, and the purchase price in particular.

87. However, during the February 9, 2006 Vineyard Board meeting, the Vineyard Board members did not require Morales, Vineyard's management, the Bank or the Bank's Board to consider any appraisals, valuations, fairness opinions, or any other similar due diligence that addressed whether the proposed acquisition was in Vineyard's best interests, and did not inquire about such matters, and recklessly breached their duties to Vineyard in the process.

88. Instead, on February 9, 2006, the Vineyard Board members (Morales, LeSieur, Keagle, Buxbaum, and Ravitz) permitted Morales to continue with his negotiations to purchase Rancho Bank for a purchase price of $54 million or more without requiring fundamental due diligence or investigations about the true value of Rancho Bank, and breached their duties to Vineyard in the process.

89. Thereafter, at a Bank Board meeting on February 23, 2006, according to the Bank Board minutes, Morales informed the Bank Board that he would meet with Rancho Bank's Chief Executive Officer to discuss the purchase of Rancho Bank for approximately three times the book value in an all-cash transaction. Morales did not present any appraisals, valuations, fairness opinions, or similar due diligence that supported such a purchase price. At this meeting, Morales said that Vineyard would waive Sandler O'Neill as Vineyard's investment banker so that Sandler O'Neill could represent Rancho Bank.

90. Upon the conclusion of the Bank Board meeting on the same day, February 23, 2006, the same Bank directors (Morales, LeSieur, Keagle, Buxbaum, and Ravitz) then met as the Vineyard Board, to consider their just concluded meeting and decisions as Bank directors.

91. During the February 23, 2006 Vineyard Board meeting, the Vineyard Board members did not require Morales, the Bank or the Bank Board to consider any appraisals, valuations, fairness opinions, or any other similar due diligence in connection with Morales' proposed acquisition of Rancho Bank, and did not inquire about such matters. Instead, the Vineyard Board reviewed and "rubber stamped" the Bank Board's decisions and minutes, including their waiver of Sandler O'Neil's conflict so that it could represent Rancho Bank in the proposed transaction instead of Vineyard and its Bank, and recklessly breached their duties to Vineyard in the process once again.

92. On or around March 8, 2006, the Bank Board met again. During this meeting, LeSieur cautioned the Defendants that the Bank's risk profile "is getting to a critical stage" and warned of "an economic slowdown." Morales' management team explained that the quality of Rancho Bank's loan portfolio was "not up to Vineyard standards." The management team explained to the Bank Board that, after two weeks of due diligence, they found that Rancho Bank's loan write-ups were not very detailed, that regulators had previously expressed concerns with Rancho Bank's inadequate allowances and outdated policies, and that Rancho Bank was highly concentrated in commercial lending, which represented 80% of its portfolio. Such overconcentration of commercial lending also plagued Vineyard's Bank at the same time.

93. As Vineyard Board members, the Director Defendants and Morales possessed the same knowledge and information they possessed as Bank Board members. Based on such knowledge, reasonable directors and officers of a holding company that was evaluating the acquisition of Rancho Bank would have inquired into the matter and requested and obtained a valuation of Rancho Bank's unsafe and unsound loans in an effort to determine how that valuation would impact a fair purchase price for Rancho Bank.

94. On March 8, 2006, the Director Defendants and CEO Morales failed to request or obtain such fundamental due diligence and breached their duties to Vineyard in the process once again.

95. During the March 8, 2006 meeting, Morales informed the Bank Board that "[Rancho Bank] considers their worth to be between $61 million and $63 million." Morales did not present the Bank Board or the Vineyard Board with any appraisal, valuation, fairness opinion, or

other similar due diligence by a professional who was independent of the seller, Rancho Bank, that stated Rancho Bank had such a value. And the Vineyard Board never required such due diligence. Instead, the Director Defendants and Morales simply accepted Rancho Bank's valuation without requiring any independent valuation of Rancho Bank.

96. The Bank Board minutes do not record any Bank Board member questioning Morales' acceptance of Rancho Bank's opinion of its own value, or requesting any valuation, appraisal, or other similar due diligence that would justify such a purchase price. On information and belief, plaintiff alleges that no Bank or Vineyard Board member ever made such fundamental inquiries. The Director Defendants recklessly breached their duties to Vineyard by not making such fundamental inquiries

97. During the March 8, 2006 meeting, director LeSieur stated that "the price is higher than what was initially reported."

98. At the conclusion of March 8, 2006 meeting, the Bank Board approved proceeding with the purchase of Rancho Bank.

99. Thus, on March 8, 2006, the Vineyard Board members (Morales, LeSieur, Keagle, Buxbaum, and Ravitz) knew that Morales was proceeding to negotiate Vineyard's purchase of Rancho Bank for a purchase price that that was not justified by a single appraisal, valuation, fairness opinion, or other similar due diligence prepared by an independent professional to protect Vineyard's and the Bank's interests.

100. Reasonable and prudent directors of a bank holding company would have convened a meeting of the holding company board of directors at that point and insisted that they receive appraisals, valuations, fairness opinions, and other fundamental due diligence that would have supported the purchase in general, and the purchase price in particular, as a condition for proceeding further with the negotiations.

101. The Vineyard directors (Morales, LeSieur, Keagle, Buxbaum, and Ravitz) failed to take such action and recklessly breached their duties to Vineyard in the process once again on March 8, 2006.

102. Morales then prepared a March 15, 2006 Letter of Intent that outlined the purchase of Rancho Bank for a purchase price of $57.5 million. The $57.5 million purchase price was 2.88 times the book value of Rancho Bank that was stated in the Rancho Bank Paper.

103. On March 29, 2006, after learning about the warning signs regarding Rancho Bank's loan portfolio and without an investigation into Rancho Bank's true value, the Defendant Directors and Morales approved Vineyard's and the Bank's purchase of Rancho Bank for $64 million, recklessly breaching their duties to Vineyard once again.

104. In order to fund the purchase price, during the March through May 2006 time period, the Director Defendants and Morales approved Vineyard incurring $18 million of debt financing via an issuance of debentures under an indenture during May of 2006, and did so without disclosing the facts alleged above.

105. Reasonable and prudent directors and officers of a holding company would not have approved their company's payment of $65 million of cash to fund their subsidiary's purchase of a bank without an appraisal, valuation, fairness opinion or similar due diligence that established the purchase price and acquisition were fair and in the best interests of the holding company and its subsidiary.

106. The Director Defendants and Morales recklessly breached their fiduciary duties to Vineyard in connection with their structuring and approval of the Rancho Bank acquisition and Vineyard's payment of $65 million of its cash to fund the acquisition without conducting traditional and fundamental due diligence, and, in particular, without obtaining any appraisal, valuation, fairness opinion or similar due diligence that would have justified the transactions.

107. Vineyard and the Bank's purchase of Rancho Bank closed on July 31, 2006. Vineyard and the Bank paid $66 million for the acquisition. Vineyard provided $65 million of its cash to fund the purchase.

108. On information and belief, plaintiff alleges that Vineyard and the Bank overpaid for their purchase of Rancho Bank. For example, Vineyard booked $40.5 million of the $66 million to "goodwill" on its consolidated financial statements, which Vineyard's auditors later determined had to be written off Vineyard's books.

109. By the fourth quarter of 2007, Vineyard Bank was suffering millions of dollars of losses on the Rancho Bank loans that it acquired through its acquisition of Rancho Bank. And as directed by its auditors, Vineyard wrote off $40 million of the "goodwill" that Vineyard had booked on its records one year earlier in order to account for its Rancho Bank acquisition for a purchase price of $66 million, and eventually lost its entire $65 million investment in Rancho Bank.

110. In the absence of the Defendants' breaches of duty in connection with the Rancho Bank acquisition and funding, Vineyard would never have approved the acquisition or paid $65 million of its cash to fund the acquisition, or lost its $65 million investment.

111. Accordingly, as a proximate result of the Director Defendants' and Morales' breaches of duty, Vineyard lost and suffered damages in the amount of $65 million or more.

K. 2007 To 2008 – The Directors And Officers Ignore The Economic Collapse And Continue To Implement Morales' Risky And Imprudent Lending Plan.

112. During 2006, the California real estate market was collapsing: Real estate depreciation was increasing, borrower defaults were increasing and the viability of continued construction and commercial lending in California was in jeopardy.

113. In this environment, the price of Vineyard's common stock steadily declined, mirroring the decline in the real estate market and the public's lack of confidence in that market, from a high of $29 a share in January 2006, to a low of $20 in December 2006. That was a loss of approximately a third of the stock's value in a single year, serving as a warning that the public recognized Vineyard's financial instability via continuing with "business as usual."

114. Since January 2004, Morales had been steadily selling his stock in Vineyard for huge profits. Faced with over a 30% decline in the stock price during 2006, Morales decided to increase Vineyard's earnings so that he could continue his profit-making from selling his stock in the company.

115. Morales believed that Vineyard and its Bank could increase its earnings on paper if the Bank continued to implement his risky and imprudent lending to construction and real estate borrowers in the hope that the real estate market would rebound. Morales did not have any reasonable basis to believe that the market would rebound, but he opposed curtailing the Bank's

lending and suffering the inevitable loss of earnings and continued decline in the company's stock price, and the Director Defendants did not stop Morales during 2006/.

116. During the last two months of 2006, Morales again instructed his staff to prepare a business plan for the years 2007, 2008, and 2009 ("the 2007 – 2009 Business Plan") based on increased growth in risky real estate lending. Consistent with Morales' direction, the 2007 – 2009 Business Plan called for an average increase in aggregate new loan growth of 9.5% for each year from 2007 to 2009. According to the plan, all of this new loan growth would be committed to the high-risk lending areas of commercial real estate, commercial construction, and multifamily construction loans. Instead of stopping or sharply curtailing such production, the plan proposed the Bank would provide for $200 million of new net loan growth each year for the next three-year period. The 2007 – 2009 Business Plan proposed increasing the Bank's risky real estate loan portfolio from approximately $650 million to over $1.25 billion during the three-year period of time.

117. Like the 2006 – 2008 Business Plan, the 2007 – 2009 Business Plan acknowledged the risky nature of such continued growth by detailing numerous warning signals and red flags that the California real estate and residential and commercial construction lending market had collapsed:

(a) "Management is cognizant of changes in residential real estate conditions in most California markets (i.e., slowing of sales and leveling off/slight decrease in average home sale values)."

(b) "Delinquencies, nonperforming, and classified asset levels … have increased in the past few quarters compared to earlier 2006 and 2005."

(c) " … recent real estate indicators suggest[…] a *general* cooling trend in real estate markets."

(d) Management noted "… rising inventories and slower sales activity that could impact future real estate valuation trends."

(e) "The level of Special Mention loans increased in the 4Q06 due to several downgrades …."

(f) "The number of home sales has decreased in recent months in almost all Southern California counties, and there have been declines in average home sale values in some counties in recent months."

(g) "The Bank noted an increase in inventory in certain coastal communities, and an increase in inventory as well as a slowdown in sales activity in the Inland Empire in the 4Q06."

(h) "Inventory of existing homes have increased from a 4.9 months supply in October 2005 to 7.4 months supply in October 2006. The 7.4 months supply is the most since May 1993 when there was a 7.41 months supply on the market."

(i) " … home sales decreased 28.7% in October compared with the same period a year ago …."

(j) "The median number of days it took to sell a single family home was 57 days in October, compared with 34 days for the same period a year ago."

(k) "… the current real estate slowdown …."

(l) "Home sales in Southern California continued at their slowest pace in nine years as home prices level off …."

(m) "A total of 22,117 new and resale homes sold in Los Angeles, Riverside, San Diego, Ventura, San Bernardino and Orange Counties last month. That was down 22.4% from 28,489 for October a year ago."

(n) "The decrease in affordability in the Los Angeles County over the last several quarters is significant. From 50% 1Q03 to 21% 1Q06 and remains desperately low at 19% 2Q06 and 3Q06."

(o) "With current levels at near record lows, the lack of ability for entry-level, affordable options can cause problems for the housing market by eliminating the first time homebuyer base."

(p) "[T]he Inland Empire is affected by the nationwide slowdown in housing. Pricing has softened over the past two quarters as declining sales activity has resulted in longer marketing periods and increasing inventory."

(q) "Unsold inventory is at 7.2 months, more than double a year ago."

(r) "Total standing inventory [in the Inland Empire] increased nearly 41,969 units from a year ago…."

(s) "Looking to 2007, some economists expect some regions of the state, including Central Valley, San Diego, and Riverside/San Bernardino regions, will experience sales declines greater than the state as a whole … Vineyard's largest portfolio concentration in terms of dollar amount is in the Riverside-Desert area …"

(t) "Home sales [in the Inland Empire] are expected to drop 36% from 2005 …"

(u) "[T]he percentage of capital [in the South Bay Beach Cities] continues to decrease from about 208% at 9/30/04 to about 154% at 6/30/06 and 142% at 11/30/06."

(v) "[T]he October median home price in Hermosa Beach continues to slide down from the highest $1,249 million in June 05 to $849M in October … Redondo Beach has decreased slightly from $776M a year ago to $754M."

(w) "The number of days the typical home spent on the market in the four beach cities continued to increase, standing at 57 days in October compared to 3 days same period last year. The number of homes sold during October was 122 compared to 155 homes sold a year ago. There was 5.9 months' worth of inventory based on closed sales for the month vs. 2.4 months a year earlier."

(x) "The unsold Inventory Index has shown increases for all beach cities since the fourth quarter of 2005; and, the number of home[s] sold has started to decline since September 2005 … [and] unsold homes continued to climb up [in October] with the softening trend in real estate value in the south bay."

(y) "It is noted that market data has indicated that there are more homes on the market than a year ago and it takes longer to sell in recent months."

(z) The 2007 – 2009 Business Plan states that "the retail sector typically follows general economic trends" and notes "some weakness in the retail sector

according to the latest commercial real estate outlook of the National Association of Realtors … [and a] decline in fundamentals."

(aa) With regard to Multifamily/Apartment Loans, "[t]here has been a notable decline in condo conversion activity, with some properties reverting back into rentals."

(bb) The 2007 – 2009 Business Plan concludes by stating that "[a]s California and Southern California move into the end of 2006, there will continue to be lots of worried talk about the economy, [and] the slowdown in the housing sector …"

118. Morales presented the 2007 – 2009 Business Plan to the Director Defendants during two Bank Board meetings in December 2006, on or around December 13 and 20, 2006. Upon reading these warning signals, reasonable and prudent directors and officers of a bank holding company in California would have stopped or sharply curtailed such risky lending and would have directed their primary asset, the Bank, to invest its capital in safe and sound instruments, instead of in risky loans in California real estate that was depreciating in value on an unprecedented scale.

119. Instead, on or around December 20, 2006, and again on or around January 24, 2007, the Director Defendants approved the Plan, including the 2007 – 2009 Business Plan's proposal to increase the risky lending by $200 million of net loans each year over the next three-year period (for a total of a net increase of $600 million loans), and recklessly breached their duties to Vineyard in the process.

120. In doing so, the Defendants admitted the risk involved, and agreed that they would revisit the propriety of continuing with the lending plan in 120 days. However, the Defendants never met and evaluated the wisdom of continuing with the risky Plan, as they had agreed in December 2006 and January 2007, and recklessly breached their duties in the process once again.

121. Morales also directed Vineyard's and the Bank's officers to increase lending and hired a new Chief Lending Officer for Vineyard and the Bank, Michael D. Cain, in March 2007. Morales directed Cain to grow the Bank's construction loan portfolio, even though the real estate

markets were in decline. Within days of Cain's arrival, Morales directed him to increase the margin between fees and rates by 100 basis points in three years or sooner.

122. In order to execute Morales' directive, Cain increased the amount of construction lending as well as large non-recourse loans that were characterized by high loan-to-value ratios and referred by brokers with whom the bank did not have prior experience or analysis. During his tenure as Chief Lending Officer, Cain, under the direction and guidance of Morales and the Director Defendants, originated or approved of the origination of at least 12 loans for over $142 million.

123. By the end of 2007, the Defendants met their 2007 – 2009 Business Plan's stated goal of $200 million in new loan growth for the year 2007. They also exceeded it. The Defendants did this in two ways: First, the Defendants grew their risky commercial construction, commercial real estate and multi-family construction lending areas. Second, the Defendants also grew their tract and coastal construction lending areas, which their plan had identified as prohibitively risky.

124. In short, the Defendants increased lending in several areas that they had just acknowledged they would stop lending in: tract home construction lending and coastal construction lending.

125. The Defendants also continued to lend in high risk construction and commercial real estate lending areas in 2008, which they knew could be harmful to the company. By the end of May 2008, new loan originations in the construction and commercial real estate lending areas totaled approximately $35 million, with approximately $18.85 million worth of new loan originations in construction lending and approximately $16.17 million worth of new loan originations in commercial real estate.

126. Pursuant to the Plan, and under the direction and control of Morales and Cain, and in the absence of appropriate oversight by the Vineyard Board, the Bank made and funded over $200 million of unsafe and unsound real estate and construction loans during the 2007 and 2008 period of time, which the Bank was forced to write off as losses in late 2008 and 2009. Such write-offs and losses contributed to the Bank's and Vineyard's written agreements with the OCC and the

FRB, the Bank's failure and seizure by the OCC, the OCC's appointment of the FDIC as receiver for the Bank, and Vineyard's loss of its equity in the Bank, which was in excess of $100 million before the Defendants embarked on their imprudent plans.

127. The Defendants breached their duties to Vineyard in the process. Such breaches were a substantial factor that contributed to Vineyard's losses and damages in amounts to be proven at trial.

L. Morales Again Capitalizes On His Risky And Imprudent Lending Plan.

128. As the loan portfolio of Vineyard's principal asset, the Bank, was collapsing, Morales increased the frequency and volume of his sales of Vineyard stock. Prior to 2006, Morales executed five sales of his company stock. After learning of the impending economic meltdown and Vineyard's precarious risk profile by at least the end of the 2005, Morales executed sixteen stock sales, ten in 2006 and six in 2007. During these two years, Morales sold 67,200 shares of Vineyard stock for over $1.6 million. In short, Morales capitalized on his plans while Vineyard suffered losses.

M. The Directors And Officers Improperly Approve Dividend Payments.

129. By at least the end of 2005, the Director Defendants knew or had reason to know that Vineyard would likely be unable to pay its liabilities because of Morales' risky and imprudent lending plan and the warning signals of the impending economic collapse.

130. The Director Defendants also knew or had reason to know that Vineyard's consolidated balance sheet was inflated: that its future liabilities would rapidly outpace its assets because of its primary asset's, the Bank's, high-risk exposure to construction and commercial real estate loans that were sensitive to economic downturn.

131. By the first quarter of 2006, Vineyard's balance sheet was inflated and the company did not have sufficient cash to pay its indebtedness as it became due in the ordinary course of business over the foreseeable future.

132. Vineyard and the Bank lacked sufficient cash and capital to pay its liabilities for several reasons, including but not limited to the following: Vineyard was a holding company that accounted for its assets, liabilities, and operations on a consolidated basis; the holding

company's primary asset, the Bank, was being operated in such a way that its lending strategies were unsafe and unsound; the Director Defendants knew or had reason to know that the Bank's lending strategies were unsafe and unsound and highly sensitive to economic downturn by the end of 2005; the Director Defendants knew or had reason to know that the California real estate market was entering an unprecedented economic downturn by the end of 2005; and the Director Defendants knew or had reason to know that Vineyard would likely be unable to pay its liabilities if its primary asset, the Bank, continued its unsafe and unsound lending plan during a period of economic downturn.

133. However, the Director Defendants failed to consider or ignored the likely inability of the company to pay its liabilities if Vineyard and the Bank continued their unsafe and unsound lending plan and Vineyard's Board allowed the Bank to continue its unsafe and unsound lending plan. Vineyard and the Bank eventually began to suffer extensive losses due to their unsafe and unsound lending plan. Because of these losses, Vineyard's liabilities eventually exceeded the value of its assets; and the company was unable to meet its liabilities in the ordinary course of business. Hence, on information and belief, plaintiff alleges that Vineyard's dividend payments beginning in the first quarter of 2006, or shortly thereafter, were not permissible under California law, including California Corporations Code sections 500 to 511.

134. On information and belief, plaintiff alleges that the Director Defendants approved the company's payment of the following dividends without reviewing the company's ability to meet its liabilities, taking into account the facts alleged above, and the company thereafter paid the following dividends to its shareholders, without such review, on or around the respectively stated dates: $756,000 on March 24, 2006; $848,000 on June 9, 2006; $849,000 on September 8, 2006; $741,000 on December 15, 2006; $851,000 on March 16, 2007; $855,000 on June 15, 2007; $885,000 on September 7, 2007; $785,000 on December 14, 2007; and $812,000 on March 14, 2008.

135. The Director Defendants authorized the payments without sufficient inquiry into their primary assets, the Bank's ability to continue to meet its liabilities. The Director Defendants authorized the payments when they knew or had reason to know that their primary asset, the Bank, was likely unable to continue to meet its liabilities.

136. The Director Defendants each owned shares of Vineyard and therefore received a portion of the dividends. The Director Defendants thus had a financial interest in the dividend decisions and that conflict of interest affected and motivated their misconduct to some degree and should be taken into account in determining the fairness of the dividends, whether those dividend decisions breached their duties, and whether such Defendants made their dividend decisions honestly and fairly.

137. As a result of the Director Defendant's improper conduct, Vineyard paid over $7.0 million in improper dividends.

N. The Directors And Officers Approve The Purchase Of The 1031 Exchange Companies.

138. By the third quarter of 2007, Vineyard Bank was having difficulties maintaining sufficient liquidity ratios required by federal regulators, and the Director Defendants decided to increase its deposits in order to show the regulators that Vineyard had adequate liquidity in the form of increased deposits.

139. As a part of this strategy, on September 26, 2007, Morales recommended to the Vineyard Board that Vineyard acquire two companies, 1031 Exchange Advantage, Inc., and 1031 Funding & Reverse Corporation (the "Exchange Companies"), which controlled approximately $30 million of deposits.

140. Morales' proposed acquisition was in "a new business line to the Bank, for which there [was] limited knowledge of among existing Bank officers." At an October 24, 2007 Bank Board meeting, after noting that the acquisition would be established within the holding company, Alvarez expressed concern regarding "the potential slow down of this type of business as a result of the current economy." In addition, a November 6, 2007 "Project Impact Report" prepared by Morales and his management team and reviewed by Defendants Alvarez, Buxbaum, Ravitz, and Keagle warned that Vineyard could lose approximately $1.1 million over 5 years if the Exchange Companies acquisition did not produce any deposit growth.

141. On or around November 9 and 28, 2007, the Vineyard Board approved and ratified the purchase for a price that that was not justified by a single appraisal, valuation, fairness

opinion or other similar due diligence prepared to protect Vineyard's and the Bank's interests and did not inquire into such matters. The Vineyard Board also did not conduct reasonable due diligence about the directors' expressed concerns about the acquisition.

142. Reasonable and prudent directors of a bank holding company would have insisted that they receive appraisals, valuations, fairness opinions, and other fundamental due diligence that would have supported the purchase in general, and the purchase price in particular, and would have engaged in other reasonable due diligence and inquiring to ensure that the acquisition likely would benefit Vineyard.

143. The Director Defendants failed to take such fundamental action and breached their duties to Vineyard in the process.

144. On or around December 5, 2007, in accordance with the Vineyard Board approval, Vineyard acquired the Exchange Companies for approximately $1.4 million. This amount consisted of an initial payment by Vineyard of approximately $630,000 under a stock purchase agreement, Vineyard's assumption of approximately $155,000 worth of the Exchange Companies current debt obligations, a pro-rated salary of approximately $108,000 for Greenberger under an employment agreement, and a $507,000 loan extended by Vineyard to the Exchange Companies to cover their operating costs.

145. Within four months after Vineyard acquired the Exchange Companies, the Vineyard Board acknowledged that "the Exchange Companies are operating at a loss and have negative cash flow." Vineyard subsequently loaned the Exchange Companies $200,000 to cover their operating costs. Less than eight months after the acquisition, the Vineyard Board noted that an officer of the Exchange Companies removed all of the Exchange Companies' clients' deposits from Vineyard Bank.

146. By August 2008, a newly constituted Vineyard Board decided to separate and settle with the Exchange Companies and Greenberger. In exchange for the termination and release of Vineyard's obligations under its agreements with the Exchange Companies, Vineyard paid the Exchange Companies over $600,000 worth of cash and debt forgiveness.

147. As a result, Vineyard lost its entire investment of at least $1.4 million in the Exchange Companies acquisition, and incurred other additional losses.

148. Vineyard was damaged by the Director Defendants' breaches of duty in connection with the due diligence, negotiations and purchase of the Exchange Companies in amounts to be proven at trial.

O. The Vineyard Board Awards Morales For His Risky And Imprudent Lending Plan.

149. On or around January 23, 2008, the Vineyard Board finally terminated Morales as an officer of Vineyard and the Bank, and forced Morales' resignation as a director of Vineyard and the Bank. Reasonable and prudent directors would have taken such action years earlier, and the Director Defendants breached their duties to Vineyard by not terminating Morales earlier.

150. The Board's 2008 termination of Morales came too late to save the company and its banking subsidiary. By the time the Vineyard Board fired Morales, Morales' risky and imprudent lending plan had exacted a heavy toll on both Vineyard and its Bank. Vineyard's Bank booked a net loss of $15.1 million in 2007. Vineyard recorded a net earnings loss of $24.4 million for 2007. The recorded losses continued in 2008, where the consolidated losses for the nine months ending September 30, 2008, were over $109 million.

151. These were merely the recorded losses by September of 2008. Vineyard's actual losses exceeded $200 million, but Vineyard did not completely record the additional losses until 2009.

152. With knowledge of these facts, the representatives of the Vineyard Board, LeSieur and Buxbaum, negotiated a separation agreement with Morales on or around January 23, 2008. With the approval of Vineyard's Board, LeSieur and Buxbaum negotiated a separation agreement with Morales that required: (a) Vineyard to pay Morales $1.15 million; (b) Vineyard and the Bank to transfer their interest in the equity membership at the Shady Canyon Country Club to Morales; (c) Vineyard to transfer title to a 2007 Mercedes S65, valued at over $200,000, to Morales; and (d) Vineyard to provide other financial consideration to Morales.

153. Reasonable and prudent directors of a bank holding company would not have paid a company officer such compensation and gifts after that officer had implemented incompetent lending strategies and engaged in misconduct that adversely affected Vineyard, such as what Morales had wrought at the company; and the Director Defendants breached their duties to Vineyard by approving the Morales separation agreement and the related payments and gifts.

154. As a result of the foregoing, the Director Defendants caused Vineyard to transfer to Morales over $1.3 million of cash and property during a time period in which the company was losing more than $24 million a year in net earnings because of Morales' imprudent and risky lending plan and misconduct and damaged Vineyard in the process.

155. Vineyard was damaged by the Director Defendants' breaches of duty in connection with the improper and imprudent separation payments and gifts to Morales in amounts to be proven at trial.

P. The Federal Bank Examiners Determine Vineyard And The Bank Are In "Troubled Condition" Because Of Their Unsafe and Unsound Loan Practices

156. During the Spring of 2008, the FRB's and OCC's federal bank examiners reviewed Vineyard's and the Bank's records, including their loan files. At the time, Vineyard's and the Bank's records indicated that Vineyard's and the Bank's Boards and management had been deficient in their oversight of the Bank and had permitted the Bank and its management to engage in unsafe and unsound lending on a systematic and pervasive basis that threatened Vineyard's and the Bank's continued viability.

157. The FRB and the OCC reported the results of their examinations and conclusions in formal examination reports. The contents of the examination reports are subject to statutory restrictions on disclosure such that, subject to their terms, neither Vineyard nor the Committee may disclose the contents of the reports without regulatory consent, or Court permission. The Committee has requested such consent and will amend this complaint to allege the content of portions of such examination reports if the Committee obtains such consent, or permission of the Court.

158. Based on these examination reports: (a) In letters dated May 5, 2008, and May 20, 2008, the OCC and the FRB informed the Bank and Vineyard, respectively, that the Bank and Vineyard were in "troubled condition" under applicable federal banking laws; and (b) on July 22, 2008, the OCC and the Bank entered into a consent order, and on September 23, 2008, the FRB and Vineyard to enter into a written agreement, both of which restricted the Bank's and Vineyard's operations.

159. These related events in turn led to Vineyard writing off over $200 million of bad loans that the Bank had funded as a result of Morales' risky and imprudent lending plans, Vineyard's loss of the Bank via the OCC's July 2009 appointment of the FDIC as receiver for the Bank, Vineyard's loss of over $100 million of net worth, Vineyard's filing of its bankruptcy case in order to liquidate itself for the benefit of its credits, and the claims in this lawsuit.

Q. <u>The Defendants' Breaches Of Duties.</u>

160. At various times, Vineyard's Board and the Bank's Board operated as a collective entity through periodic meetings held either in person, telephonically, or through some other sort of electronic media. At these meetings, the combined Board discussed matters affecting Vineyard's and the Bank's business and reached collective and consensual decisions as to what action to take. The Director Defendants received similar, if not identical, information relating to the Company's business. Such information was in the form of oral or written reports and communications from Vineyard employees and officers. It included internal, periodic financial statements, official data, and reports. Such information was distributed to Board members in advance of, at, and subsequent to, Board meetings. The Board acted collectively to issue annual Form 10-K reports, Vineyard's annual reports to shareholders and its quarterly reports to shareholders and the SEC. Vineyard's Board acted as a unit. It is appropriate to treat the members of the Board, both inside and outside directors, as a unit for pleading purposes.

161. The Director Defendants and Morales breached their duties to Vineyard, and were grossly and/or recklessly negligent by their conduct, including, but not limited to, those acts and omissions alleged in this Complaint, and the following acts and omissions of the Director Defendants and Morales:

(a) They failed to exercise Vineyard's shareholder control over Vineyard Bank's business activities in a way that would protect its' net worth from further erosion.

(b) They failed to timely replace the Bank's directors with new directors who would act in the best interests of the Bank under circumstances where they knew or had reason to know that they had an obligation to do so.

(c) They failed to exercise Vineyard's shareholder control over its subsidiaries' business activities in a way that would protect Vineyard's net worth from erosion.

(d) They failed to investigate the Bank's business operations and take appropriate corrective action.

(e) They permitted the Bank to continue making risky real estate, construction and commercial loans after learning in 2005, 2006 and 2007 about the numerous threats, red flags and warning signals that such lending was overly risky and imprudent.

(f) They caused or permitted Vineyard to conduct its business in an unsafe, unsound, imprudent, and dangerous manner by pursuing unsound practices including, without limitation, those specified herein.

(g) They failed to establish, implement, and enforce guidelines or policies to prevent the acquisition of loans and other assets which did not meet accepted banking standards, and failed to establish internal controls sufficient to maintain asset quality.

(h) They failed to exercise adequate due diligence in connection with Vineyard's and the Bank's acquisitions of banking businesses and other assets.

(i) They failed to take reasonable action to ensure that Vineyard's officers did not waste company assets or misuse company accounts and other property.

(j) They failed to adopt and implement safe and sound lending practices at both Vineyard and the Bank.

(k) They failed to hire competent management within Vineyard and the Bank and charge them with the responsibility to manage and administer Vineyard and the Bank's business affairs in a safe and sound manner so that Vineyard's net worth and interest in the Bank would not be impaired or destroyed.

(l) They failed to exercise control over Vineyard Bank by directing the Bank's management to manage and administer the Bank's business affairs in a safe and sound manner so that Vineyard's net worth would not be impaired or destroyed.

(m) They failed to nominate or replace individuals on Vineyard Bank's board of directors with directors who would direct the Bank's management to manage and administer the Bank's business affairs in a safe and sound manner so that Vineyard's net worth would not be impaired or destroyed.

(n) They failed to exercise control over Vineyard Bank and its subsidiaries by directing their respective management, or replacing their respective board of directors with directors who would direct their respective management, to manage and administer the Bank's business affairs in a safe and sound manner so that Vineyard's net worth would not be impaired or destroyed.

(o) They failed to require that Vineyard Bank's management provide them adequate information upon which to make decisions, to make such inquiries from time to time as are prudent or necessary, and carefully to review the information actually provided.

(p) They failed to monitor the activities delegated to, and to exercise reasonable control and supervision over, the officers and employees of Vineyard Bank.

(q) They failed to manage, conduct, supervise, and direct the business and affairs of Vineyard Bank in accordance with state and federal laws.

(r) They failed to terminate or substantially modify compensation programs which encouraged officers to generate loan and investment volume without sufficient regard for quality and stability.

(s) They failed to exercise reasonable care in evaluation of the prudence and soundness of policies and practices proposed to be undertaken by Vineyard Bank.

(t) They failed to ensure that Vineyard Bank did not engage in unsafe, imprudent or unsound practices and that Vineyard Bank complied with all federal and state laws and regulations.

(u) They failed to become and remain informed as to how Vineyard Bank was, in fact, operating.

(v) They failed to exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies to adequately diversify Vineyard Bank's loan portfolio in order to properly allocate credit risks.

(w) They failed to exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies to maintain adequate capital in Vineyard Bank.

(x) They failed to exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for underwriting policies and procedures.

(y) They failed to exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for financial and cash flow analysis to ensure sponsors' and guarantors' abilities to support credit relationships.

(z) They failed to exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement,

and enforce guidelines and policies adequately governing Vineyard Bank's standards for loan grading policies and procedures.

(aa) They failed to exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for problem loan reporting policies and procedures.

(bb) They failed to exercise control over Vineyard Bank by overseeing and directing their respective management and board of directors to establish, implement, and enforce guidelines and policies adequately governing Vineyard Bank's standards for prudent allowances for loan and lease losses.

(cc) Upon receiving notice or information of an unsafe, imprudent or unsound practice, they failed to make a reasonable investigation in connection therewith and to take steps to correct that condition or practice.

(dd) The improperly and imprudently paid separation payments to an officer whose imprudent lending strategy and misconduct had adversely affected Vineyard and its Bank.

(ee) They failed to exercise control or adequate oversight over Morales in order to discover and stop his wrongful conduct.

(ff) They subjected Vineyard to this litigation and thereby caused or permitted the Company to incur and pay attorneys' fees.

(gg) They failed to make adequate inquiry and rely upon appropriate consultants and experts in taking the foregoing actions.

162. Defendant Cain breached his duties to take reasonable action to ensure that Vineyard and the Bank engaged in the same acts, except the acts of controlling the Bank's Board of Directors detailed above.

163. These breaches of duties were a substantial factor in the destruction of Vineyard's principal asset, the Bank, and Vineyard's loss of over $100 million in net worth.

164. The Defendants also caused or permitted Vineyard to maintain an inadequate system of internal oversight controls such that Vineyard's assets were not reasonably safeguarded against loss. Such conduct permitted these defendants, among other things, to cause Vineyard to publicly report apparent profitable growth due to allegedly excellent controls and good management while, in fact, the Vineyard defendants were squandering Vineyard's funds on hundreds of millions of dollars in bad loans on which Vineyard has suffered huge losses.

165. As a result of the Defendants' wrongful actions, Vineyard has suffered considerable damage.

R. <u>The Resulting Damages.</u>

166. As a result of the Defendants' actions, Vineyard and the Bank closed unsafe and unsound loans on an unprecedented scale that constituted a material weakness in the company's operations and were a substantial factor in over $200 million worth of loan losses, Vineyard's loss of over $100 million in net worth.

167. Morales and the Director Defendants approved Vineyard's acquisition of companies for a price that exceeded the value of the companies, without conducting sufficient due diligence into their actual value and these acquisitions, and such actions were a substantial factor in over $65 million worth of losses and other damages that Vineyard suffered.

168. The Director Defendants and Morales imprudently authorized Vineyard to pay dividends when they knew or had reason to know that Vineyard and its Bank likely would not be able to meet their liabilities as they became due; and these dividend payments were a substantial factor in over $7 million worth of losses Vineyard suffered and Vineyard's loss of over $100 million.

169. The Director Defendants improperly approved Vineyard's payment of over a million dollars in separation payments and gifts to Morales, when they could have paid him nothing and these separation payments and gifts damaged Vineyard in an amount in excess of $1.3 million.

170. Defendant Morales improperly used company funds for personal enjoyment and caused the directors of Vineyard to authorize Vineyard's payment of a costly investigation into

his misconduct and the cost of this investigation was a substantial factor in the hundreds of thousands of dollars worth of losses Vineyard suffered and Vineyard's loss of over $100 million.

171. The Director Defendants negligently and/or recklessly conducted inadequate oversight over Morales' improper use of company funds for personal enjoyment, which caused the company to incur a costly investigation, damaging Vineyard in the process.

172. In summary, some or all of the Defendants' actions were substantial contributing factors to: Vineyard's losses associated with the acquisitions, dividends and Morales' misconduct; Vineyard's loss of the Bank as an operating business; Vineyard's eventual bankruptcy filing; the filing of creditor claims against Vineyard; and Vineyard's inability to pay its creditors in full.

FIRST CLAIM FOR RELIEF

By Plaintiff Against Defendants Morales, Cain, LeSieur, Alvarez, Keagle, Ravitz, Buxbaum, And Quincey For Breach Of Fiduciary Duty – Defendants' Creation And Implementation Of Deficient, Unsafe, And Unsound Lending And Underwriting Policies And Practices

173. Plaintiff realleges paragraphs 1 through 172 of this Complaint.

174. At all times alleged herein, the Director Defendants owed fiduciary duties of care, loyalty, and good faith to Vineyard as directors of the company. At all times alleged herein, the Officer Defendants also owed fiduciary duties of care, loyalty, and good faith to Vineyard as officers of Vineyard.

175. Consistent with their duties of due care and loyalty, each Defendant had a duty to act in good faith, in a manner which he or she reasonably believed to be in the best interests of each corporation he or she served, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

176. After December 31, 2004, Director Defendants Morales, LeSieur, Alvarez, Keagle, Ravitz, and Buxbaum managed and oversaw Vineyard and the Bank's operations. Director Defendant Quincey managed and oversaw Vineyard and the Bank's operations beginning after or around September 27, 2006. Officer Defendant Morales managed and oversaw Vineyard's and the Bank's operations on all levels at all times alleged herein until he was fired. Officer Defendant Cain

managed and oversaw Vineyard and the Bank's lending operations beginning on or around March 2007. Acting in their respective capacities as directors and officers of Vineyard, those Defendants owed a duty to Vineyard to exercise due care, including reasonable inquiry and oversight over Vineyard's and the Bank's lending and underwriting operations.

177. Defendants breached their fiduciary duties of due care, loyalty, and good faith to Vineyard.

178. Defendants' conduct damaged Vineyard in amounts to be proven at trial, and were substantial factors in the destruction of its net worth and the losses and damages that Vineyard incurred.

179. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

SECOND CLAIM FOR RELIEF

By Plaintiff Against Defendants Morales, LeSieur, Alvarez, Keagle, Ravitz, And Buxbaum For Breach Of Fiduciary Duty And Corporate Waste – Defendants' Imprudent And Unreasonable Acquisition Of Rancho Bank

180. Plaintiff realleges paragraphs 1 through 179 of this Complaint.

181. At all times alleged herein, Director Defendants Morales, LeSieur, Alvarez, Keagle, Ravitz, and Buxbaum and Morales as an Officer Defendant owed fiduciary duties of care, loyalty, and good faith to Vineyard as directors and officers of the company.

182. Consistent with their duties of due care and loyalty, each Director Defendant and Morales had a duty to act in good faith, in a manner which he or she reasonably believed to be in the best interests of each corporation he or she served, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

183. The Director Defendants and Morales breached their fiduciary duties of due care, loyalty, and good faith to Vineyard in connection with the Rancho Bank acquisition and Vineyard's funding of the acquisition.

184. The Director Defendants' and Morales' conduct damaged Vineyard in amounts to be proven at trial, and were substantial factors in the destruction of its net worth and damages.

185. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

THIRD CLAIM FOR RELIEF

By Plaintiff Against Defendants Morales, LeSieur, Alvarez, Keagle, Ravitz, Buxbaum, And Quincey For Breach Of Fiduciary Duty And Corporate Waste –Defendants' Imprudent And Unreasonable Acquisition Of The Exchange Companies

186. Plaintiff realleges paragraphs 1 through 185 of this Complaint.

187. At all times alleged herein, Director Defendants Morales, LeSieur, Alvarez, Keagle, Ravitz, Buxbaum, and Quincey and Morales as an Officer Defendant owed fiduciary duties of care, loyalty, and good faith to Vineyard as directors of the company.

188. Consistent with their duties of due care and loyalty, each Director Defendant and Morales had a duty to act in good faith, in a manner which he or she reasonably believed to be in the best interests of each corporation he or she served, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

189. The Director Defendants and Morales breached their fiduciary duties of due care, loyalty, and good faith to Vineyard in connection with the Exchange Companies acquisition.

190. The Director Defendants' and Morales' conduct damaged Vineyard in amounts to be proven at trial, and were substantial factors in the destruction of its net worth and damages.

191. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

FOURTH CLAIM FOR RELIEF

By Plaintiff Against Defendants Morales, LeSieur, Alvarez, Keagle, Ravitz, Buxbaum, And Quincey For Breach Of Fiduciary Duty - Improper Dividend Distributions Under California Law

192. Plaintiff realleges paragraphs 1 through 191 of this Complaint.

193. At all times herein, Director Defendants LeSieur, Alvarez, Keagle, Ravitz, and Buxbaum owed fiduciary duties of care, loyalty, and good faith to Vineyard as directors of the company. Director Defendant Quincey owed fiduciary duties of care, loyalty, and good faith to Vineyard as a director of Vineyard between approximately September 27, 2006 to August 2008. Director Defendant Morales owed fiduciary duties of care, loyalty, and good faith to Vineyard as a director and officer of Vineyard until approximately January 23, 2008. Consistent with his duties of care and loyalty, each Director Defendant had a duty to act in good faith, in a manager which he reasonably believed to be in the best interests of Vineyard, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

194. As directors, Defendants owed a fiduciary and statutory duty to the Company not to approve Vineyard's payments of dividends to the Company's shareholders except as expressly permitted by the applicable provisions of the California Corporations Code. Section 501 of the California Corporations Code prohibits the payment of dividends if the corporation is or as a result would likely be unable to meet its liabilities as they mature.

195. By the end of 2005, the Director Defendants knew or had reason to know that, under California law, the Vineyard Board was required to consider Vineyard's ability to make dividend payments and pay its indebtedness in the ordinary course of business.

196. By at least the end of 2005, the Director Defendants knew or had reason to know that Vineyard would likely be unable to pay its liabilities because of Morales' risky and imprudent lending plan and the warning signals of the impending economic collapse.

197. The Director Defendants approved Vineyard's payment of dividends without adequately reviewing the Company's ability to meet its liabilities, and Vineyard thereafter paid dividends between the first quarter of 2006 and the first quarter of 2008.

198. As a result of such payments, the Company was unable to pay its debts as they matured in the ordinary course of business in the foreseeable future.

199. The Director Defendants breached their fiduciary duties of due care, loyalty, and good faith to Vineyard.

200. The Director Defendants' conduct damaged Vineyard in amounts to be proven at trial, and were substantial factors in the destruction of its net worth and damages.

201. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

FIFTH CLAIM FOR RELIEF

By Plaintiff Against Defendants Morales, LeSieur, Alvarez, Keagle, Ravitz, Buxbaum, And Quincey For Recovery Of Dividend Payments Under Bankruptcy Code Sections 544 And 548 And California Law

202. Plaintiff realleges paragraphs 1 through 201 of this Complaint.

203. Defendants Morales, LeSieur, Alvarez, Ravitz, Buxbaum and Quincey received dividends from Vineyard during 2006, 2007 and 2008 in amounts according to proof.

204. Vineyard did not receive adequate consideration for the dividend payments.

205. On the dates that Vineyard made the dividend payments, or as the result of such payments, Vineyard's remaining capital and assets were unreasonably small for its business and/or the company believed (or should have reasonably believed) that it would incur debts beyond its ability to pay as they matured.

206. Vineyard made the payments with the intent to hinder, delay and defraud creditors.

207. The dividend payments were constructively fraudulent under the employment contract provisions of 11 U.S.C. section 548: Vineyard made the payments and transfers to or for the benefit of insiders, Morales and the Director Defendants, or incurred such obligation to or for the

benefit of insiders, Morales and the Director Defendants, under employment contracts, and not in the ordinary course of business.

208. Defendants'` receipts of the improper dividend payments are subject to avoidance and recovery under Bankruptcy Code Sections 544 and 548 and the applicable provisions of California Civil Code Sections 3439.01 through 3439.12 concerning fraudulent or otherwise void or voidable obligations, conveyances, and transfers.

209. By reason of the foregoing, the Plaintiff is entitled to recover the transfers, or the value of such transfers, if the Court so orders, pursuant to 11 U.S.C. Section 550 and California Corporations Code Section 506.

210. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

SIXTH CLAIM FOR RELIEF

By Plaintiff Against Defendants LeSieur, Alvarez, Keagle, Ravitz, Buxbaum, And Quincey For Breach Of Fiduciary Duty And Corporate Waste - Improper Separation Payments To Morales

211. Plaintiff realleges paragraphs 1 through 210 of this Complaint.

212. At all times herein, the Director Defendants owed fiduciary duties of care, loyalty, and good faith to Vineyard as directors of the company. Consistent with their duties of care and loyalty, each Defendants had a duty to act in good faith, in a manner which they reasonably believed to be in the best interests of Vineyard, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

213. The Director Defendants breached their fiduciary duties of due care, loyalty, and good faith to Vineyard in connection with their approval of the Morales separation agreement and the payments and transfers made in connection therewith.

214. The Director Defendants' conduct damaged Vineyard in amounts to be proven at trial.

SEVENTH CLAIM FOR RELIEF

By Plaintiff Against Defendant Morales For Breach Of Fiduciary Duty - Improper Separation Agreement Payments To Morales

215. Plaintiff realleges paragraphs 1 through 214 of this Complaint.

216. At all times herein, Defendant Morales owed fiduciary duties of care, loyalty, and good faith to Vineyard as an officer and director of the company. Consistent with his duties of care and loyalty, Defendant Morales had a duty to act in good faith, in a manner which they reasonably believed to be in the best interests of Vineyard, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

217. Defendant Morales breached his fiduciary duties of due care, loyalty, and good faith to Vineyard in connection with the Morales separation agreement and the payments and transfers made in connection therewith.

218. Defendant Morales' conduct damaged Vineyard in amounts to be proven at trial.

219. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

EIGHTH CLAIM FOR RELIEF

By Plaintiff Against Defendant Morales For Recovery Of Improper Separation Agreement Payments Under Bankruptcy Code Sections 544 And 548 And California Law

220. Plaintiff realleges paragraphs 1 through 219 of this Complaint.

221. Vineyard did not receive adequate consideration for the separation payments.

222. On the dates that Vineyard made the separation payments, or as the result of such payments, Vineyard's remaining capital and assets were unreasonably small for its business and/or the company believed (or should have reasonably believed) that it would incur debts beyond its ability to pay as they matured.

223. Vineyard made the payments with the intent to hinder, delay and defraud creditors.

224. The separation payments were constructively fraudulent under the employment contract provisions of 11 U.S.C. section 548: Vineyard made the payments and transfers to or for the benefit of an insider, Morales, or incurred such obligation to or for the benefit of an insider, Morales, under an employment contract, and not in the ordinary course of business.

225. Defendant Morales' receipts of the improper separation payments are subject to avoidance and recovery under Bankruptcy Code Sections 544 and 548 and the applicable provisions of California Civil Code Sections 3439.01 through 3439.12 concerning fraudulent or otherwise void or voidable obligations, conveyances, and transfers.

226. By reason of the foregoing, the Plaintiff is entitled to recover the transfers, or the value of such transfers, if the Court so orders, pursuant to 11 U.S.C. Section 550 and applicable state law.

227. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

NINTH CLAIM FOR RELIEF

By Plaintiff Against Defendant Morales for Breach of Fiduciary Duty And Corporate Waste -- Morales' Improper Reimbursement Expenditures And The Costly Investigation Of These Expenditures

228. Plaintiff realleges paragraphs 1 through 227 of this Complaint.

229. At all times herein, Defendant Morales owed fiduciary duties of care, loyalty, and good faith to Vineyard as an officer and director of the company. Consistent with his duties of care and loyalty, Defendant Morales had a duty to act in good faith, in a manner which he reasonably believed to be in the best interests of Vineyard, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

230. Defendant Morales breached his fiduciary duties of due care, loyalty, and good faith to Vineyard in connection with his use of Vineyard's assets and funds for personal use and other improper purposes, including but not limited to those identified in this complaint.

231. Defendant Morales' conduct damaged Vineyard in amounts to be proven at trial, which amounts include but are not limited to all costs that Vineyard incurred in the investigation of Morales.

232. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

TENTH CLAIM FOR RELIEF

By Plaintiffs Against Defendants LeSieur, Alvarez, Keagle, Ravitz, Buxbaum, And Quincey For Breach of Fiduciary Duty And Corporate Waste – Oversight of Morales' Use of Company Assets For Personal Purposes

233. Plaintiff realleges paragraphs 1 through 232 of this Complaint.

234. At all times herein, the Director Defendants owed fiduciary duties of care, loyalty, and good faith to Vineyard as directors of the company. Consistent with their duties of care and loyalty, the Director Defendants had a duty to act in good faith, in a manner which they reasonably believed to be in the best interests of Vineyard, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

235. The Director Defendant s breached their fiduciary duties of due care, loyalty, and good faith to Vineyard in connection with their oversight of Morales' use of Vineyard's assets and funds for personal use and other improper purposes, including but not limited to those identified in this complaint.

236. The Director Defendants' conduct damaged Vineyard in amounts to be proven at trial.

ELEVENTH CLAIM FOR RELIEF

By The Plaintiff Against Defendant Morales For Restitution In Order To Prevent Unjust Enrichment – Morales' Stock Profits

237. Plaintiff realleges paragraphs 1 through 236 of this Complaint.

238. As a director and officer of Vineyard and the Bank, Morales obtained a compensation package that provided him with stock options and other consideration from which he

could achieve large profits if the stock's trading price increased. In return, Morales was tasked with the responsibility to manage and oversee the business and affairs of Vineyard and the Bank in such a way as to ensure both short- and long-range profitability and stable growth for Vineyard and the Bank and Vineyard's other subsidiaries.

239. After December 2005, Morales implemented and directed Vineyard and the Bank to engage in risky and imprudent lending and acquisition plans and Morales engaged in other wrongful conduct that exposed Vineyard and the Bank to substantial losses and damages.

240. Morales' wrongful conduct inflated Vineyard's stock price so that Morales could then sell the stock for a substantial profit. Morales received over $1.6 million from his sale of Vineyard's stock in the years 2006 and 2007.

241. Morales wrongful conduct was a substantial contributing factor in Vineyard's and the Bank's substantial losses and other damages, Vineyard's loss of over $100 million of net worth, Vineyard filing of its bankruptcy case in order to liquidate itself for the benefit of its credits, and this lawsuit.

242. In the absence of Morales' wrongful conduct, Vineyard would have had over $1.6 million, plus interest, available for its creditors upon Vineyard's bankruptcy filing.

243. Morales would be unjustly enriched from his retention of the proceeds of his Vineyard stock sales to the detriment of Vineyard and its creditors.

244. For the foregoing reasons, Morales has an obligation under principles of equity and good conscience to pay the money to Vineyard for the payment of Vineyard's creditors.

245. Defendant Morales engaged in oppression, fraud or malice, and an award of punitive damages against him is therefore appropriate.

TWELFTH CLAIM FOR RELIEF

By The Plaintiff Against The Doe Defendants For Breach Of Fiduciary Duty And/Or Aiding And Abetting Breach of Fiduciary Duty

246. Plaintiff realleges paragraphs 1 through 245 of this Complaint.

247. At all times alleged herein, the Doe Defendants owed fiduciary and other duties of care, loyalty, and good faith to Vineyard as directors, officers, agents, attorneys, partners,

joint-venturers, owners, principals, successors, and/or predecessors of Vineyard. Consistent with their duties of care and loyalty, the Doe Defendants had a duty to act in good faith, in a manner which they reasonably believed to be in the best interests of Vineyard, and to act with such care, including reasonable preparation and inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

248. The Doe Defendants breached their fiduciary duties to Vineyard and/or substantially assisted the other Defendants in breach of their duties, with knowledge that the other Defendants were breaching their duties.

249. Vineyard was damaged by the Doe Defendants' breaches of duties in amounts to be established by proof at trial.

250. The Doe Defendants' actions were substantial factors in contributing to the losses and damages suffered by Vineyard.

WHEREFORE, Plaintiff requests judgment as to the Defendants as follows:

1. For compensatory damages in an amount according to proof.

2. For consequential and special damages in an amount according to proof.

3. For punitive damages in amounts that are fair and just.

4. Restitution of all of Defendant Morales' stock profits, that are the subject of this Complaint, and other restitution as appropriate.

5. Avoidance of all transfers of dividends, compensation, and other payments by Vineyard to all Defendants, that are subject of this Complaint, and a return of all such transfers to Vineyard.

6. Interest on all awards in the maximum amount allowed by law;

7. Attorneys' fees and costs of suit to the extent permitted by law.

8. Any additional relief that Plaintiff requests in amended pleadings or at trial, or as the Court may determine is just or appropriate.

Dated: December 21, 2009

WINSTON & STRAWN LLP

By: */s/ Henkie F. Barron*
Henkie F. Barron (SBN: 245085)
Robert A. Julian (SBN: 88469)
Benjamin J. Kimberley (SBN: 259800)
Counsel for Plaintiff Official Committee of Unsecured Creditors of Vineyard National Bancorp

JURY TRIAL DEMAND

Plaintiff requests a trial by jury of all issues that are triable to a jury in this case.

Dated: December 21, 2009

WINSTON & STRAWN LLP

By: */s/ Henkie F. Barron*
Henkie F. Barron (SBN: 245085)
Robert A. Julian (SBN: 88469)
Benjamin J. Kimberley (SBN: 259800)
Counsel for Plaintiff Official Committee of Unsecured Creditors of Vineyard National Bancorp

B104 (FORM 104) (08/07)

ADVERSARY PROCEEDING COVER SHEET (Instructions on Reverse)	**ADVERSARY PROCEEDING NUMBER** (Court Use Only)

PLAINTIFFS	**DEFENDANTS**
OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF VINEYARD NATIONAL BANCORP	NORMAN A. MORALES, JAMES G. LESIEUR, III, FRANK S. ALVAREZ, CHARLES L. KEAGLE, JOEL H. RAVITZ, DAVID A. BUXBAUM, ROBIN D. QUINCEY, MICHAEL D. CAIN, and DOES 1-10
ATTORNEYS (Firm Name, Address, and Telephone No.) Henkie F. Barron/Robert A. Julian/Todd J. Dressell Winston & Strawn 101 California Street San Francisco, CA 94111 Telephone: (415) 591-1000	**ATTORNEYS** (If Known)
PARTY (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☒ Creditor ☐ Other ☐ Trustee	**PARTY** (Check One Box Only) ☐ Debtor ☐ U.S. Trustee/Bankruptcy Admin ☐ Creditor ☒ Other ☐ Trustee

CAUSE OF ACTION (WRITE A BRIEF STATEMENT OF CAUSE OF ACTION, INCLUDING ALL U.S. STATUTES INVOLVED)
The Plaintiff seeks to hold the Debtors' former directors and officers liable for their actions that contributed to the Debtor's losses, the Debtor's loss of its banking subsidiary as an operating business, the Debtor's eventual bankruptcy filing, the filing of creditor claims against the Debtor, and the Debtor's inability to pay its creditors in full. Against one or more of the former directors or officers, the Plaintiff brings claims that involve U.S. statutes, 11 U.S.C. §§ 544, 548, and 550, and applicable California state law.

NATURE OF SUIT

(Number up to five (5) boxes starting with lead cause of action as 1, first alternative cause as 2, second alternative cause as 3, etc.)

FRBP 7001(1) – Recovery of Money/Property
- ☐ 11-Recovery of money/property - §542 turnover of property
- ☐ 12-Recovery of money/property - §547 preference
- ☒ 13-Recovery of money/property - §548 fraudulent transfer
- ☒ 14-Recovery of money/property - other

FRBP 7001(2) – Validity, Priority or Extent of Lien
- ☐ 21-Validity, priority or extent of lien or other interest in property

FRBP 7001(3) – Approval of Sale of Property
- ☐ 31-Approval of sale of property of estate and of a co-owner - §363(h)

FRBP 7001(4) – Objection/Revocation of Discharge
- ☐ 41-Objection / revocation of discharge - §727(c),(d),(e)

FRBP 7001(5) – Revocation of Confirmation
- ☐ 51-Revocation of confirmation

FRBP 7001(6) – Dischargeability
- ☐ 66-Dischargeability - §523(a)(1),(14),(14A) priority tax claims
- ☐ 62-Dischargeability - §523(a)(2), false pretenses, false representation, actual fraud
- ☐ 67-Dischargeability - §523(a)(4), fraud as fiduciary, embezzlement, larceny

(continued next column)

FRBP 7001(6) – Dischargeability (continued)
- ☐ 61-Dischargeability - §523(a)(5), domestic support
- ☐ 68-Dischargeability - §523(a)(6), willful and malicious injury
- ☐ 63-Dischargeability - §523(a)(8), student loan
- ☐ 64-Dischargeability - §523(a)(15), divorce or separation obligation (other than domestic support)
- ☐ 65-Dischargeability - other

FRBP 7001(7) – Injunctive Relief
- ☐ 71-Injunctive relief – imposition of stay
- ☐ 72-Injunctive relief – other

FRBP 7001(8) Subordination of Claim or Interest
- ☐ 81-Subordination of claim or interest

FRBP 7001(9) Declaratory Judgment
- ☐ 91-Declaratory judgment

FRBP 7001(10) Determination of Removed Action
- ☐ 01-Determination of removed claim or cause

Other
- ☐ SS-SIPA Case – 15 U.S.C. §§78aaa *et.seq*
- ☒ 02-Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy case)

☒ Check if this case involves a substantive issue of state law	☐ Check if this is asserted to be a class action under FRCP 23
☒ Check if a jury trial is demanded in complaint	Demand $ tbd at trial

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B104 (FORM 104) (08/07)

Other Relief Sought
Relief under 11 U.S.C. §§ 544, 548, 550 and applicable California state law; compensatory, special, consequential, and punitive damages; restitution; interest; attorneys' fees; costs; and any additional relief the plaintiff requests in amended pleadings or at trial, or as the court may deem just and appropriate.

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BANKRUPTCY CASE IN WHICH THIS ADVERSARY PROCEEDING ARISES		
NAME OF DEBTOR Vineyard National Bancorp	BANKRUPTCY CASE NO. 6:09-26401-RN	
DISTRICT IN WHICH CASE IS PENDING Central District	DIVISION OFFICE Riverside	NAME OF JUDGE Judge Richard M. Neiter
RELATED ADVERSARY PROCEEDING (IF ANY)		
PLAINTIFF	DEFENDANT	ADVERSARY PROCEEDING NO.
DISTRICT IN WHICH ADVERSARY IS PENDING	DIVISION OFFICE	NAME OF JUDGE
SIGNATURE OF ATTORNEY (OR PLAINTIFF) /s/ Henkie F. Barron		
DATE December 21, 2009	PRINT NAME OF ATTORNEY (OR PLAINTIFF) Henkie F. Barron Robert A. Julian	

INSTRUCTIONS

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

A party filing an adversary proceeding must also must complete and file Form 104, the Adversary Proceeding Cover Sheet, unless the party files the adversary proceeding electronically through the court's Case Management/Electronic Case Filing system (CM/ECF). (CM/ECF captures the information on Form 104 as part of the filing process.) When completed, the cover sheet summarizes basic information on the adversary proceeding. The clerk of court needs the information to process the adversary proceeding and prepare required statistical reports on court activity.

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

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

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

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

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

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

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Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Numbers	FOR COURT USE ONLY
Robert A. Julian (.S.B. 88469 Todd J. Dressel (S.B. 220812 Winston & Strawn LLP 101 California Street San Francisco, CA 94111 Telephone: (415) 591-1000 Facsimile: (415) 591-1400 *Attorney for Plaintiff* Official Committee of Unsecured Creditors Committee	
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: VINEYARD NATIONAL BANCORP, Debtor.	CHAPTER 11 CASE NUMBER 6:09-26401-RN ADVERSARY NUMBER
OFFICIAL COMMITTEE OF UNSECURED CREDITORS COMMITTEE OF VINEYARD NATIONAL BANCORP, Plaintiff(s), vs. NORMAN A. MORALES, JAMES G. LESIEUR, III, FRANK S. ALVAREZ, CHARLES L. KEAGLE, JOEL H. RAVITZ, DAVID A. BUXBAUM, ROBIN D. QUINCEY, MICHAEL D. CAIN, and DOES 1-10 Defendant(s).	*(The Boxes and Blank Lines below are for the Court's Use Only) (Do Not Fill Them In)* **SUMMONS AND NOTICE OF STATUS CONFERENCE**

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend yourself, you must file with the Court a written pleading, in duplicate, in response to the Complaint. You must also send a copy of your written response to the party shown in the upper left-hand corner of this page. Unless you have filed in duplicate and served a responsive pleading by _____, the Court may enter a judgment by default against you for the relief demanded in the Complaint.

A Status Conference on the proceeding commenced by the Complaint has been set for:

Hearing Date:	**Time:**	**Courtroom:**	**Floor:**

☐ **255 East Temple Street, Los Angeles** ☐ **411 West Fourth Street, Santa Ana**

☐ **21041 Burbank Boulevard, Woodland Hills** ☐ **1415 State Street, Santa Barbara**

☒ **3420 Twelfth Street, Riverside**

PLEASE TAKE NOTICE that if the trial of the proceeding is anticipated to take less than two (2) hours, the parties may stipulate to conduct the trial of the case on the date specified, instead of holding a Status Conference. Such a stipulation must be lodged with the Court at least two (2) Court days before the date set forth above and is subject to Court approval. The Court may continue the trial to another date if necessary to accommodate the anticipated length of the trial.

Date of Issuance: _____

JON D. CERETTO
Clerk of the Bankruptcy Court

By: _____
Deputy Clerk

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

January 2009 (COA-SA)

F 7004-1

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In re (SHORT TITLE) VINEYARD NATIONAL BANCORP./ COMMITTEE V. MORALES, ET AL., Debtor(s).	CASE NO.: 6:09-26401-RN

NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on a CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: Winston & Strawn, 101 California Street, San Francisco, CA 94111

A true and correct copy of the foregoing document described as SUMMONS AND NOTICE OF STATUS CONFERENCE _____ will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d), and **(b)** in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On _____ I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addressed indicated below:

☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):
On _____ I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follow. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date	*Type Name*	*Signature*

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

January 2009 (COA-SA) **F 7004-1**

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In re (SHORT TITLE) VINEYARD NATIONAL BANCORP./ COMMITTEE V. MORALES, ET AL., Debtor(s).	CASE NO.: 6:09-26401-RN

ADDITIONAL SERVICE INFORMATION (if needed):

II. SERVED BY U.S. MAIL

James G. LeSieur, III
5 Ironwood Dr.
Newport Beach, CA 92660

Norman A. Morales
34 Black Hawk
Irvine, CA 92603

Frank S. Alvarez
1080 West 22 St.
Upland, CA 91784

David A. Buxbaum
567 West 8th St.
Claremont, CA 91711

Charles L. Keagle
2533 Vista Drive
Upland, CA 91784

Robin D. Quincey
2117 North Euclid Avenue
Upland, CA 91784

Joel H. Ravitz
15638 Woodfield Pl.
Sherman Oaks, CA 91403

Michael D. Cain
221 3rd St.
Manhattan Beach, CA 90266

Jon L. Dalberg, Esq.
Rodger M. Landau, Esq.
Landau & Berger LLP
1801 Century Park East, Suite 1460
Los Angeles CA 90067
(As counsel for Debtor)

U.S. Trustee
United States Trustee (RS)
3685 Main Street, Suite 300
Riverside, CA 92501
Attn. Timothy J. Farris

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Numbers	FOR COURT USE ONLY
Robert A. Julian (.S.B. 88469 Todd J. Dressel (S.B. 220812 Winston & Strawn LLP 101 California Street San Francisco, CA 94111 Telephone: (415) 591-1000 Facsimile: (415) 591-1400 *Attorney for Plaintiff* Official Committee of Unsecured Creditors Committee	
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In re: VINEYARD NATIONAL BANCORP, Debtor.	CHAPTER 11 CASE NUMBER 6:09-26401-RN ADVERSARY NUMBER AOO. 09-01747
OFFICIAL COMMITTEE OF UNSECURED CREDITORS COMMITTEE OF VINEYARD NATIONAL BANCORP, Plaintiff(s), vs. NORMAN A. MORALES, JAMES G. LESIEUR, III, FRANK S. ALVAREZ, CHARLES L. KEAGLE, JOEL H. RAVITZ, DAVID A. BUXBAUM, ROBIN D. QUINCEY, MICHAEL D. CAIN, and DOES 1-10 Defendant(s).	*(The Boxes and Blank Lines below are for the Court's Use Only) (Do Not Fill Them In)* **SUMMONS AND NOTICE OF STATUS CONFERENCE**

TO THE DEFENDANT: A Complaint has been filed by the Plaintiff against you. If you wish to defend yourself, you must file with the Court a written pleading, in duplicate, in response to the Complaint. You must also send a copy of your written response to the party shown in the upper left-hand corner of this page. Unless you have filed in duplicate and served a responsive pleading by JAN 2 0 2010, the Court may enter a judgment by default against you for the relief demanded in the Complaint.

A Status Conference on the proceeding commenced by the Complaint has been set for:

Hearing Date: FEB 18 2010 Time: 9:00 A.M. Courtroom: 301 Floor: 3RD

- ☐ **255 East Temple Street, Los Angeles**
- ☐ **411 West Fourth Street, Santa Ana**
- ☐ **21041 Burbank Boulevard, Woodland Hills**
- ☐ **1415 State Street, Santa Barbara**
- ☒ **3420 Twelfth Street, Riverside**

PLEASE TAKE NOTICE that if the trial of the proceeding is anticipated to take less than two (2) hours, the parties may stipulate to conduct the trial of the case on the date specified, instead of holding a Status Conference. Such a stipulation must be lodged with the Court at least two (2) Court days before the date set forth above and is subject to Court approval. The Court may continue the trial to another date if necessary to accommodate the anticipated length of the trial.

Date of Issuance: DEC 21 2009

JON D. CERETTO
Clerk of the Bankruptcy Court

By: _____
Deputy Clerk

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

January 2009 (COA-SA)

F 7004-1

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 F 7004-1

In re (SHORT TITLE)	CASE NO.:
VINEYARD NATIONAL BANCORP./ COMMITTEE V. MORALES, ET AL., Debtor(s).	6:09-26401-RN

NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on a CM/ECF docket.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: Winston & Strawn, 101 California Street, San Francisco, CA 94111

A true and correct copy of the foregoing document described as SUMMONS AND NOTICE OF STATUS CONFERENCE, STATUS CONFERENCE INSTRUCTIONS AND COMPLAINT FOR AVOIDANCE, ETC. will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d), and **(b)** in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") - Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On _____ I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email addressed indicated below:

☐ Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):
On December 22, 2009 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follow. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Hon. Richard M. Neiter
United States Bankruptcy Court
255 East Temple St., Suite 1652
Los Angeles, CA 90012
VIA FEDERAL EXPRESS

Intake Office
3420 Twelfth St., Room 125
Riverside, CA 92501-3819

VIA FEDERAL EXPRESS

☒ Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method) by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

December 22, 2009	Heidi Hammon	
Date	*Type Name*	*Signature*

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

January 2009 (COA-SA) **F 7004-1**

American LegalNet, Inc.
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In re (SHORT TITLE) VINEYARD NATIONAL BANCORP./ COMMITTEE V. MORALES, ET AL., Debtor(s).	CASE NO.: 6:09-26401-RN

ADDITIONAL SERVICE INFORMATION (if needed):

II. SERVED BY U.S. MAIL

James G. LeSieur, III
5 Ironwood Dr.
Newport Beach, CA 92660

Norman A. Morales
34 Black Hawk
Irvine, CA 92603

Frank S. Alvarez
1080 West 22 St.
Upland, CA 91784

David A. Buxbaum
567 West 8th St.
Claremont, CA 91711

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STATUS CONFERENCE INSTRUCTIONS OF
BANKRUPTCY JUDGE RICHARD M. NEITER
Courtroom 1645

1. A copy of these instructions must be attached to the copy of the complaint served upon each party, and the proof of service must state that these instructions, as well as a copy of the summons and complaint, was served.

2. If the proceeding involves money or property exceeding $10,000 or if the plaintiff believes trial time will be four (4) hours or more, plaintiff must serve, with the summons and complaint, a notice in compliance with Local Bankruptcy Rule 7026-1. Plaintiff must also file proof of service of the notice with proof of service of the summons and complaint.

3. If Local Bankruptcy Rule 7026-1 applies, counsel for the parties **MUST TIMELY MEET TO DISCUSS SETTLEMENT AND TO EXCHANGE DOCUMENTS, OTHER EVIDENCE AND LISTS OF WITNESSES AND PRELIMINARY DISCOVERY SCHEDULES AS PROVIDED IN THE RULE.**

4. Pursuant to Local Bankruptcy Rule 7016-1(a)(2), all parties must file a Joint Status Report at least fourteen (14) days before the date set for each status conference. The initial Joint Status Report should be in a form attached hereto as Exhibit A, *i.e.*, Local Form 7016-1.1. Failure to file such a Joint Status Report may result in the imposition of monetary sanctions and/or the status conference being continued and parties being ordered to redo the status report to conform to Exhibit A. If cooperation in the filing of a Joint Status Report cannot reasonably be obtained, each appearing party must file a Unilateral Status Report and Declaration which complies with Local Bankruptcy Rule 7016-1(a)(2) and is filed within ten (10) days of the date set for each conference.

5. If a response to the complaint is not timely filed:

   A. The plaintiff should promptly file a request for entry of default by the clerk. The plaintiff should also move for an entry of a default judgment by filing and serving (if necessary) an appropriate motion; see Fed. R. Bankr. P. 7055 and Local Bankruptcy Rule 9021-1(d);

   AND

   B. No later than ten (10) days prior to the status conference, each appearing party must also file a Unilateral Status Report (completing Sections A-E of Exhibit A attached hereto) as required by Local Bankruptcy Rule 7016-1(a)(2).

6. If the parties dispute whether the adversary proceeding is "core" within the meaning of 28 U.S.C. § 157(b), they must file points and authorities in support of their positions. Any party who contends that the proceeding is "non-core" must file and serve a memorandum of points and authorities and evidence in support of his/her/its position no less than fourteen (14) days before the status conference. Any response must be filed at least seven (7) days before the status conference. **If a party does not timely file and serve his/her/its papers, that failure may be deemed a consent to whatever determination the Court makes.**

7. Any party claiming a right to trial by jury must make a timely demand as set forth in Local Bankruptcy Rule 9015-2. If the parties dispute whether a party has a right to a jury trial, they must file points and authorities in support of their positions. Any party who contends that he/she/it has a right to a jury trial must file and serve a memorandum of points and authorities and evidence in support of his/her/its position no less than fourteen (14) days before the status conference . Any response must be filed at least seven (7) days before the status conference. **If a party does not timely file and serve his/her/its pleadings, that failure may be deemed a consent to whatever determination the Court makes.**

8. **Counsel for each party and any party who does not have counsel must appear in person at the first status conference.** With respect to subsequent status conferences, counsel for each party and any party who does not have counsel may appear by telephone if they make timely arrangements to do so in accordance with the Court's telephonic appearance procedures, which can be accessed by clicking "Information" on the upper left-hand corner of the Court's website at www.cacb.uscourts.gov. If a party has questions about these procedures or cannot locate them on the Court's website, the party may contact Phyllis Jones, the judge's Courtroom Deputy, at (213) 894-5860.

9. Unless otherwise ordered by the Court, within seven (7) court days after the initial status conference, the plaintiff must submit a Scheduling Order which complies with Local Bankruptcy Rule 7016-1(a)(3).

10. Failure to comply with these instructions may subject the responsible party to sanctions as may be warranted under the circumstances or allowed under Local Bankruptcy Rule 7016-1(f).

11. Failure of counsel for any party to appear at a status conference may be considered an abandonment or failure to prosecute or defend diligently and may result in dismissal of the proceeding or judgment entered against the defaulting party without further hearing, or such other sanctions as may be warranted under the circumstances or allowed under Local Bankruptcy Rule 7016-1(g).

(Released March 5, 2007)