

1 JOHN B. BULGOZDY (Cal. Bar No. 219897)  
Email: bulgozdyj@sec.gov  
2 ADRIENNE D. GURLEY  
Email: gurleya@sec.gov

3 Attorneys for Plaintiff  
4 Securities and Exchange Commission  
Michele Wein Layne, Regional Director  
5 Alka N. Patel, Associate Regional Director  
John W. Berry, Associate Regional Director  
6 444 S. Flower Street, Suite 900  
Los Angeles, California 90071  
7 Telephone: (323) 965-3998  
Facsimile: (213) 443-1904

8  
9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 SECURITIES AND EXCHANGE  
12 COMMISSION,

13 Plaintiff,

14 vs.

15 EMILIO FRANCISCO; PDC CAPITAL  
16 GROUP, LLC; CAFFE PRIMO  
INTERNATIONAL, INC.; SAL ASSISTED  
17 LIVING, LP; , SAL CARMICHAEL, LP; SAL  
CITRUS HEIGHTS, LP; SAL KERN  
18 CANYON, LP; SAL PHOENIX, LP; SAL  
WESTGATE, LP; SUMMERPLACE AT  
19 SARASOTA, LP; SUMMERPLACE AT  
20 CLEARWATER, LP; SUMMERPLACE AT  
CORRELL PALMS, LP; TRC TUCSON, LP;  
21 CLEAR CURRENTS WEST, LP; CAFFE  
PRIMO MANAGEMENT, LP;  
22 CAFFE PRIMO MANAGEMENT 102, LP;  
23 CAFFE PRIMO MANAGEMENT 103, LP;  
24 CAFFE PRIMO MANAGEMENT 104, LP;  
25 CAFFE PRIMO MANAGEMENT 105, LP;  
26 CAFFE PRIMO MANAGEMENT 106, LP;  
27 CAFFE PRIMO MANAGEMENT 107, LP; and  
28 CAFFE PRIMO MANAGEMENT 108, LP,

Defendants.

Case No.

**COMPLAINT**

1 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

2 **JURISDICTION AND VENUE**

3 1. The Court has jurisdiction over this action pursuant to Sections 20(b),  
4 20(d)(1) and 22(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§  
5 77t(b), 77t(d)(1) & 77v(a), and Sections 21(d)(1), 21(d)(3)(A), 21(e) and 27(a) of the  
6 Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1),  
7 78u(d)(3)(A), 78u(e) & 78aa(a). Defendants have, directly or indirectly, made use of  
8 the means or instrumentalities of interstate commerce, of the mails, or of the  
9 facilities of a national securities exchange in connection with the transactions, acts,  
10 practices and courses of business alleged in this Complaint.

11 2. Venue is proper in this district pursuant to Section 22(a) of the Securities  
12 Act, 15 U.S.C. § 77v(a), and Section 27(a) of the Exchange Act, 15 U.S.C. §  
13 78aa(a), because certain of the transactions, acts, practices and courses of conduct  
14 constituting violations of the federal securities laws occurred within this district.  
15 Defendant Emilio Francisco resides in this district and defendant PDC Capital  
16 Group, LLC is headquartered in this district.

17 **SUMMARY**

18 3. Defendant Emilio Francisco and his company Defendant PDC Capital  
19 Group, LLC, have engaged in an ongoing fraudulent scheme to defraud at least 131  
20 investors in 19 different offerings out of at least \$9.5 million, beginning in January  
21 2013 and continuing at least through September 2016. Francisco and PDC Capital  
22 made offerings in assisted living facilities, Caffe Primo restaurants, and a packaging  
23 facility, primarily to investors in China, that purportedly qualify under the “EB-5  
24 Immigrant Investor Program” administered by the U.S. Citizenship and Immigration  
25 Service (“USCIS”). Defendants raised approximately \$72.05 million from the 131  
26 investors, consisting of approximately \$65.5 million in capital contributions to  
27 purchase units in limited partnerships, and \$6.55 million in “administration fees” to  
28 pay expenses of the limited partnerships until the projects were built. In several of

1 the offerings, Defendants expressly represented that an investor's entire \$500,000  
2 capital contribution would be used to develop a specific project, and that only  
3 administration fees would be available to pay expenses of the limited partnership  
4 until the project was completed.

5 4. Approximately \$19.2 million of investors' funds was sent directly to  
6 PDC Capital's accounts, which exceeded by about \$12.65 million the total  
7 administration fees paid by investors. Of that \$12.65 million of diverted investor  
8 funds, Defendants PDC Capital and Francisco misappropriated at least \$9.5 million  
9 of investors' capital contributions to support his luxury lifestyle including the  
10 purchase and maintenance of a yacht, and to support his businesses. Francisco and  
11 PDC Capital misrepresented to investors that their capital contributions would be  
12 used for the designated purposes stated in the offering materials. In addition,  
13 Francisco and PDC Capital commingled funds among different projects, contrary to  
14 representations in the offering materials that investors' funds would be used for the  
15 specific project in which they were investing. Further, at least \$1.5 million of  
16 investors' funds deposited into escrow for two offerings were not disbursed to the  
17 bank accounts of the limited partnerships that were to receive the funds.

18 5. Defendants Francisco, PDC Capital Group, and Caffè Primo  
19 International, Inc. – another company Francisco controlled as CEO and part-owner –  
20 committed their fraud through the offerings for the Defendant limited partnerships.  
21 At all relevant times, Defendant Francisco controlled the bank accounts, directly or  
22 indirectly, for all of the Defendants; controlled and approved the terms of the various  
23 offerings; and benefitted personally from the misuse and misappropriation of funds.  
24 Defendants' conduct appears to be ongoing and they raised funds from investors as  
25 recently as September 2016.

26 6. By engaging in this conduct, the Defendants have violated, and continue  
27 to violate, the antifraud provisions of Section 17(a) of the Securities Act, 15 U.S.C. §  
28 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rules 10b-5

1 thereunder, 17 C.F.R. 240.10b-5. Alternatively, Francisco and PDC Capital Group  
2 aided and abetted the violations by the limited partnership Defendants. Finally,  
3 Francisco is liable as a control person for the violations of each of the corporate  
4 Defendants under Section 20(a) of the Exchange Act, 15 U.S.C. § 78t(a).

### 5 THE DEFENDANTS

6 7. **Emilio Francisco (“Francisco”)** resides in Newport Beach, California.  
7 He graduated from the University of California at Irvine, was awarded a J.D. by  
8 Western State University in 1976, and is an active member of the California Bar.  
9 Francisco is the CEO and Chairman of defendants PDC Capital Group, LLC (“PDC  
10 Capital”) and Caffè Primo International, Inc. (“CPI”). Francisco also controls and/or  
11 serves as the CEO of other entities involved the fraudulent scheme, such as PDC  
12 Partners Management, Inc. (“PMI”) which managed assisted living projects; FDC  
13 Partners Management, Inc. (“FDC”) which also managed assisted living projects;  
14 and Summerplace Management, LLC (“SML”), which is the general partner of  
15 several of the assisted living projects. Francisco was admitted to the California Bar  
16 in 1976, was placed on suspension in 1992, and in 2012 his license was suspended  
17 for nine months for a variety of types of misconduct. Francisco also currently works  
18 as a marketing consultant for The Law Offices of Marilyn Thomassen & Associates  
19 (“MTA”), a California law firm owned by Marilyn Thomassen. MTA and/or  
20 Marilyn Thomassen serve as the escrow agent for PDC Capital’s EB-5 offerings, and  
21 serves as immigration counsel for a number of investors in PDC Capital’s EB-5  
22 offerings.

23 8. **PDC Capital Group, LLC (“PDC Capital”)** is a Delaware limited  
24 liability company, headquartered in Costa Mesa, California. PDC Capital was  
25 formed by Emilio Francisco in 2012 and is controlled by him as CEO. PDC Capital  
26 was formed as a vehicle for managing EB-5 program investments.

27 9. **Caffè Primo International, Inc. (“CPI”)** is a Delaware corporation,  
28 which is owned by PDC Capital and Global Restaurant Partners, Inc. Francisco is

1 the CEO of CPI. CPI is a general partner of the defendant Caffè Primo Management  
2 limited partnerships.

3 10. **SAL Assisted Living, LP (“SAL Assisted Living”)** is a Nevada limited  
4 partnership headquartered in Costa Mesa, California, which was formed to invest in  
5 the construction and operation of an assisted living facility in Lincoln, California,  
6 and invests through the entity Summerplace at Lincoln, LLC. SML is the general  
7 partner of SAL Assisted Living.

8 11. **SAL Carmichael, LP (“SAL Carmichael”)** is a Delaware limited  
9 partnership headquartered in Costa Mesa, California, which was formed to invest in  
10 the construction and operation of an assisted living facility in Carmichael, California,  
11 through the entity SAL Carmichael LLC. SML is the general partner of SAL  
12 Carmichael.

13 12. **SAL Citrus Heights, LP (“SAL Citrus Heights”)** is a Delaware  
14 limited partnership headquartered in Costa Mesa, California, which was formed to  
15 invest in the construction and operation of an assisted living facility in Citrus  
16 Heights, California, through the entity SAL Citrus Heights, LLC. SML is the  
17 general partner of SAL Citrus Heights.

18 13. **SAL Kern Canyon, LP (“SAL Kern Canyon”)** is a California limited  
19 partnership headquartered in Costa Mesa, California, which was formed to invest in  
20 the construction and operation of an assisted living facility in Stockton, California,  
21 through the entity SAL Kern Canyon, LLC. SML is the general partner of SAL  
22 Kern Canyon.

23 14. **SAL Phoenix, LP (“SAL Phoenix”)** is a Delaware limited partnership  
24 headquartered in Salem, Oregon, which was formed to invest in the construction and  
25 operation of an assisted living facility in Glendale, Arizona. Sante GP Zanjero LLC  
26 and SML are the general partners of SAL Phoenix.

27 15. **SAL Westgate, LP (“SAL Westgate”)** is a Delaware limited  
28 partnership headquartered in Costa Mesa, California, which was formed to invest in

1 the construction and operation of an assisted living facility in West Sacramento,  
2 California, through the entity SAL Westgate, LLC. SML is the general partner of  
3 SAL Westgate.

4 16. **Summerplace at Sarasota, LP (“Sarasota”)** is a Delaware limited  
5 partnership formed to invest in the construction and operation of an assisted living  
6 facility in Sarasota, Florida, through the entity Summerplace at Sarasota, LLC. FDC  
7 is the general partner of Sarasota, and Francisco controlled its bank accounts at least  
8 through the end of 2015.

9 17. **Summerplace at Clearwater, LP (“Clearwater”)** is a Delaware  
10 limited partnership formed to invest in the construction and operation of an assisted  
11 living facility in Clearwater, Florida, through the entity Summerplace at Clearwater,  
12 LLC. FDC is the general partner of Clearwater.

13 18. **Summerplace at Correll Palms, LP (“Correll Palms”)** is a Delaware  
14 limited partnership formed to invest in the construction and operation of an assisted  
15 living facility in Titusville, Florida, through the entity Summerplace at Correll  
16 Palms, LLC. FDC is the general partner of Correll Palms.

17 19. **TRC Tucson, LP (“TRC Tucson”)** is a Delaware limited partnership  
18 formed to invest in the construction and operation of an assisted living facility in  
19 Tucson, Arizona, which is owned by SET Real CO, LLC. SML and Sante GP  
20 Tucson are the general partners of TRC Tucson.

21 20. **Clear Currents West, LP (“Clear Currents LP”)** is a Delaware  
22 limited partnership headquartered in Costa Mesa, California. It was formed for the  
23 purpose of investing in Clear Currents West, LLC, which will renovate a production  
24 facility for Clear Currents environmentally friendly agriculture and cleaning  
25 products. The general partner is Clear Currents West Management, LLC.

26 21. Defendants engaged in eight offerings under the EB-5 program for the  
27 construction and operation of individual “Caffe Primo” restaurants. Each offering  
28 had the same structure: the limited partnership (“LP”) is the issuer of securities, CPI

1 is the general partner, Francisco is an original limited partner, and Primo Hospitality  
2 Group Management, Inc. is a non-voting general partner. Each LP invested in a  
3 corresponding limited liability company (“LLC”) which built and operated the Caffe  
4 Primo restaurants.

5 a. **Caffe Primo Management, LP (“Caffe Primo Management”)**

6 is a California limited partnership formed for the purpose of  
7 investing in Caffe Primo Management 101, LLC.

8 b. **Caffe Primo Management 102, LP** is a Delaware limited  
9 partnership formed for the purpose of investing in Caffe Primo  
10 Management 102, LLC.

11 c. **Caffe Primo Management 103, LP** is a California limited  
12 partnership formed for the purpose of investing in Caffe Primo  
13 Management 102, LLC.

14 d. **Caffe Primo Management 104, LP** is a Delaware limited  
15 partnership formed for the purpose of investing in Caffe Primo  
16 Management 104, LLC.

17 e. **Caffe Primo Management 105, LP** is a Delaware limited  
18 partnership formed for the purpose of investing in Caffe Primo  
19 Management 105, LLC.

20 f. **Caffe Primo Management 106, LP** is a Delaware limited  
21 partnership formed for the purpose of investing in Caffe Primo  
22 Management 106, LLC.

23 g. **Caffe Primo Management 107, LP** is a Delaware limited  
24 partnership formed for the purpose of investing in Caffe Primo  
25 Management 107, LLC.

26 h. **Caffe Primo Management 108, LP** is a Delaware limited  
27 partnership formed for the purpose of investing in Caffe Primo  
28 Management 108, LLC.

1 **THE FRAUDULENT SCHEME**

2 **A. The EB-5 Program**

3 22. The EB-5 Immigrant Investor Program sets aside EB-5 visas for  
4 participants who invest in commercial enterprises in the United States which create  
5 jobs and meet certain other conditions.

6 23. Under the EB-5 Immigrant Investor Program, foreign investors who  
7 invest capital in a “commercial enterprise” in the United States may petition the  
8 USCIS (called an “I-526 Petition”) and receive conditional permanent residency  
9 status for a two-year period. USCIS defines a “commercial enterprise” as any for-  
10 profit activity formed for the ongoing conduct of lawful business.

11 24. The EB-5 Immigrant Investor Program requires a showing that the  
12 foreign investor has placed the required amount of capital at risk for “the purpose of  
13 generating a return” on the capital placed at risk. The foreign investor must invest at  
14 least \$500,000 in a “Targeted Employment Area” and thereby create at least ten full-  
15 time jobs for United States workers. If the foreign investor satisfies these and other  
16 conditions within the two-year period, the foreign investor may apply to have the  
17 conditions removed from his or her visa and live and work in the United States  
18 permanently.

19 **B. The Fraudulent Offerings**

20 25. PDC Capital was formed in 2012 to put together real estate transactions  
21 and develop properties. PDC Capital is described as a marketing company and  
22 solicits investors primarily in China to invest in EB-5 projects.

23 26. From about January 2013 to at least September 2016, Defendants have  
24 raised approximately \$72.05 million from at least 131 investors through offerings in  
25 the Defendant EB-5 project limited partnerships.

26 27. Defendants solicited investors in the offering through PDC Capital’s  
27 website.

28 28. Defendants also solicited investors in China through PDC Capital’s



1 marketing staff in China, who work with Chinese marketing agencies to solicit EB-5  
2 investors. PDC Capital representatives train the sales agents about how to describe  
3 the investments, and the marketing agents receive commissions of varying amounts.

4 29. At times, PDC Capital representatives meet directly with investors at  
5 seminars in China.

6 30. Defendant Francisco approves all marketing and offering materials that  
7 are provided to investors.

8 **1. Offerings in Assisted Living Facilities and Clear Currents LP**

9 31. During the relevant period, Defendants Francisco and PDC Capital  
10 offered and sold securities in the ten limited partnerships that were to finance, build,  
11 and operate assisted living facilities in California, Florida, and Arizona, specifically  
12 Defendants (1) SAL Assisted Living, (2) SAL Carmichael, (3) SAL Citrus Heights,  
13 (4) SAL Kern Canyon, (5) SAL Phoenix, (6) SAL Westgate, (7) Sarasota, (8)  
14 Clearwater, (9) Correll Palms, and (10) TRC Tucson (the “Assisted Living LPs”).

15 32. In addition, Defendants Francisco and PDC Capital also offered  
16 securities in Defendant Clear Currents LP, which was to renovate a production  
17 facility for Clear Currents’ environmentally friendly agriculture and cleaning  
18 products. In all material respects, the offering for the Clear Currents LP followed  
19 the structure and operation of the offerings for the Assisted Living LPs, as alleged  
20 below.

21 33. The Assisted Living LPs used similar mechanisms for the offer and sale  
22 of securities. In exchange for a \$500,000 capital contribution and a \$45,000-\$50,000  
23 administration fee, or a total investment ranging from \$545,000 to \$550,000, an  
24 investor receives an interest in one of the Assisted Living LPs. Investors are  
25 required to deposit their entire investment consisting of both the capital contribution  
26 and the administration fee into special escrow accounts managed by a law firm that  
27 has an ongoing relationship with Defendant Francisco. The Assisted Living LPs  
28 then lent the offering proceeds to a limited liability company created specifically for

1 that EB-5 offering (the “Project LLC”).

2 34. The PPMs state that units in the limited partnerships being offered for  
3 sale are “securities” and reference provisions of the federal securities laws. The  
4 offerings solicit minimum investments of \$500,000 as a capital contribution for one  
5 limited partnership unit. The PPMs state that investors’ capital contributions are  
6 pooled for the purposes of the particular project. The PPMs also provide that the  
7 limited partnership would be run “exclusively” by the General Partners who have  
8 “broad powers” over the day-to-day management of the partnerships’ affairs, and  
9 that the investors (the limited partners) generally have no power to participate in the  
10 management of the limited partnership. The PPMs also represent that success of the  
11 limited partnership is substantially dependent on the performance of the General  
12 Partners and management.

13 35. Defendant PDC Capital, through its sales agents, provides investors with  
14 offering materials which include a private placement memorandum (“PPM”), an  
15 investor questionnaire, a limited partnership agreement (“LP Agreement”), a spousal  
16 consent form, a subscription agreement, an escrow agreement, a term sheet, and in  
17 some cases, a sample promissory note (between the Assisted Living Offering LP and  
18 the Project LLC).

19 36. Each of PDC Capital’s investors signed an escrow agreement, which  
20 governs how the investor’s funds will be released. Typically, the escrow agreement  
21 allows for the release of all investor funds to the limited partnership once an investor  
22 was accepted and approved by the partnership. One exception is the SAL  
23 Carmichael offering, which states that 80% of an investor’s subscription proceeds  
24 would be released upon approval of the first investors I-526 petition, with the  
25 remaining 20% released when the last investor’s I-526 petition was approved.

26 37. The Assisted Living LPs vary somewhat from offering to offering in  
27 terms of the scope of the project. The PPMs state that the Project LLC will either  
28 “develop, construct, lease and operate (and eventually sell),” or “build out and

1 renovate,” a memory care or assisted living facility. The PPMs or accompanying  
2 term sheets also describe the number of jobs that each project is expected to generate  
3 based on the number of partnership units offered. For example the SAL Kern  
4 Canyon offering was for 10 partnership units, and the term sheet represents that the  
5 project will create 130 direct jobs.

6 38. The PPMs represent how the investors’ funds were to be used.  
7 Typically, the offering documents state that the proceeds from the offering “except  
8 for all administration fees, will be loaned to the Project LLC to fund the purchase of  
9 the land as well as some of the components of the Development.” Each PPM also  
10 states that the EB-5 investor funds would constitute a portion of the project’s  
11 funding, with owner contributions and/or construction loans providing the rest of the  
12 funding.

13 39. The Assisted Living LP PPMs also contain disclosures concerning  
14 compensation to the General Partners. In general, any remuneration paid by the  
15 limited partnership to the General Partners is to be paid out of administration fees,  
16 loan interest proceeds, or through dividends paid from the project company to the  
17 limited partnership as its parents, so as to comply with USCIS requirements.

18 40. The PPMs state that investors would receive an accrued distribution on  
19 their investment with a rate of return of 1.5% to 2%, and after five years, repayment  
20 of their \$500,000 investment with any accrued interest.

21 41. Defendant Francisco and one of his associates provided the information  
22 that was included in the PPMs and other offering documents for each of the Assisted  
23 Living LPs, and Clear Currents LP. Defendant Francisco was responsible for  
24 determining what information from the PPMs would be highlighted in PowerPoint  
25 presentations to investors.

26 42. Defendant Francisco controlled the bank accounts of the Assisted Living  
27 LPs and Clear Currents LP, directly or indirectly through PDC Capital.  
28

1                   **2. Caffe Primo Offerings**

2           43. During the relevant period, Defendants Francisco and PDC Capital  
3 offered and sold securities in eight limited partnerships that were to finance, build,  
4 and operate Caffe Primo restaurants, specifically Defendants (1) Caffe Primo  
5 Management, LP; (2) Caffe Primo Management 102, LP; (3) Caffe Primo  
6 Management 103, LP; (4) Caffe Primo Management 104, LP; (5) Caffe Primo  
7 Management 105, LP; (6) Caffe Primo Management 106, LP; (7) Caffe Primo  
8 Management 107, LP; and (8) Caffe Primo Management 108, LP (the “Caffe Primo  
9 LPs”).

10           44. As with the offerings of the Assisted Living LPs, the Caffe Primo LPs  
11 offered securities in the form of limited partnership units in exchange for a \$500,000  
12 capital contribution and a \$45,000-\$50,000 administration fee, or a total investment  
13 ranging from \$545,000 to \$550,000. The Caffe Primo LPs were then to lend funds  
14 to an associated limited liability company (“Caffe Primo LLCs”) for that particular  
15 offering and restaurant. For example, Caffe Primo Management 108, LP was to lend  
16 money to Caffe Primo 108, LLC, for the construction and operation of the  
17 restaurants associated with that offering.

18           45. Defendants PDC Capital and Francisco, directly or indirectly, provided  
19 the following offering documents to investors in the offerings of the Caffe Primo  
20 LPs: a private placement memorandum (“PPM”), an investor questionnaire, a  
21 limited partnership agreement, a spousal consent form, a subscription agreement, an  
22 escrow agreement, a joinder agreement, and a promissory note.

23           46. The PPMs for the Caffe Primo LPs offer investors the opportunity to  
24 purchase limited partnership units in a particular Caffe Primo LP. The PPMs refer to  
25 the limited partnership units as “securities” and refer to provisions of the federal  
26 securities laws. Each unit requires the investment of at least \$500,000 for a capital  
27 contribution. The investors’ funds are pooled, and used to develop the particular  
28 Caffe Primo in which they were investing. The PPMs state that the General Partners

1 will conduct the day-to-day management of the limited partnership, as fiduciaries.

2 47. The offering materials state that investors would receive a preferred rate  
3 of return of 1.5% per year, with any remaining distributions to the General Partner.  
4 After 5 years, investors will receive distributions until their capital contribution is  
5 returned. In addition, once the capital contribution is returned, investors may  
6 continue to share in a percentage of any remaining distributions.

7 48. The PPMs for the Caffe Primo LPs typically state that the investors'  
8 funds will be used to build and operate a Caffe Primo restaurant in California. The  
9 offering documents state that the funds will be used to "build out and launch," and  
10 for "legal and fees," "corporation operations and administrations," and for "ongoing  
11 support and professional services," which includes, among other items, travel,  
12 marketing, and supplies for the particular limited partnership. The PPMs also  
13 disclose that investors' proceeds can be used for finder's fees and commissions, and  
14 that PDC Capital will contribute \$300,000 to the project.

15 49. Defendant Francisco is the signatory on the subscription agreements for  
16 the Caffe Primo LPs, and the bank accounts for the Caffe Primo LPs are controlled  
17 by PDC Capital.

### 18 **3. Defendants' Misrepresentation and Misuse of Investor Funds**

19 50. Investors sent their capital contributions of \$500,000 and administration  
20 fees of \$45,000-\$50,000 to the lawyers' escrow account. An investor's entire capital  
21 contribution of \$500,000 was to be provided to the limited partnership making the  
22 offering to be used to develop the specific EB-5 project described in the particular  
23 offering's PPM. The capital contribution could not be used to support PDC  
24 Capital's operations.

25 51. Only the administration fee could be used for other expenses, including  
26 those of PDC Capital. Defendant Francisco admitted that PDC Capital was not  
27 entitled to use any of the capital contributions to support PDC Capital's operations  
28 and was limited to using administration fees.

1           52. Defendant Francisco has sole responsibility for how PDC Capital, the  
2 Assisted Living LPs, the Project LLCs, Clear Currents LP, and the Caffe Primo LPs  
3 spent money. Defendant Francisco was aware of all of the movement of money, no  
4 disbursements or transfers took places without his knowledge, and he had approval  
5 authority along with one other PDC Capital employee for all the accounts of PDC  
6 Capital, the Assisted Living LPs, the Project LLCs, Clear Currents LP, and the Caffe  
7 Primo LPs.

8           53. Once a project is built and operating, PDC Capital and the investors,  
9 depending on the offering, may earn continuing income associated with the project  
10 under the terms of the offering documents. To date, none of the facilities associated  
11 with the Assisted Living LPs are completed and operating. As of November 2016,  
12 construction may have started on one of the facilities. Some of the Caffe Primo  
13 restaurants are in operation, however, Defendant CPI's 2015 tax return showed it  
14 had total income of \$1,583 for that year.

15           54. Approximately 131 investors paid into escrow about \$6.55 million in  
16 administration fees for the Assisted Living LPs offerings, Clear Currents LP, and the  
17 Caffe Primo LPs offerings.

18           55. Approximately \$19.2 million of investors' funds was sent directly to  
19 PDC Capital's accounts from the lawyers' escrow accounts. Thus, at least \$12.65  
20 million of investors' capital contributions were improperly diverted to PDC Capital.

21           56. Of that \$12.65 million, Defendants PDC Capital and Francisco  
22 misappropriated at least \$9.5 million to finance Francisco's luxury lifestyle,  
23 including the purchase and maintenance of a yacht, and to support his businesses.

24           57. In addition, Defendants Francisco and PDC Capital diverted investors'  
25 funds from one project to another on multiple occasions. Defendant Francisco  
26 admitted that he was not permitted to move investors' funds from one project to  
27 another because doing so would run afoul of the USCIS requirements for the EB-5  
28 program. The PPMs also represented that investors' funds would be pooled and

1 used for the particular project that was the subject of the offering. Nonetheless,  
2 Francisco and PDC Capital frequently moved investors' funds among various  
3 projects.

4 58. For example, an investor in TRC Tucson wired a \$500,000 capital  
5 contribution to the lawyer's escrow account on November 3, 2015. The funds were  
6 transferred among two other accounts controlled by the lawyer, before the entire  
7 capital contribution was disbursed on November 12, 2015 and November 13, 2015,  
8 to seven other recipients including PDC Capital. None of the funds from the TRC  
9 Tucson investor were disbursed to bank accounts of TRC Tucson.

10 59. In addition, for at least two Caffe Primo offerings, the total amount of  
11 the investors' capital contributions were not transferred to the associated limited  
12 partnership bank account. Caffe Primo Management 107, LP raised a total of \$1.65  
13 million from three investors, but only \$1 million was transferred from the lawyer's  
14 escrow accounts to the Caffe Primo 107 bank account. Caffe Primo Management  
15 108, LP raised a total of \$1.65 million from three investors, but only \$500,000 was  
16 transferred from the lawyer's escrow accounts to the Caffe Primo 108 bank account.  
17 At least \$1.5 million of the investors' funds were diverted from the Caffe Primo  
18 offerings.

19 60. By misappropriating a substantial portion of the investors' capital  
20 contributions, Defendants materially misled investors that the entire capital  
21 contribution would be used to fund the specific projects, provide the promised  
22 returns, and create the requisite ten jobs.

23 61. By diverting funds to different offerings or projects, Defendants  
24 materially misled investors that their entire capital contributions would be used to  
25 fund the specific projects, provide the promised returns, and create the requisite jobs.

#### 26 **4. Defendants' Ongoing Conduct and Explanation**

27 62. Defendant Francisco admitted that as of May 16, 2016, no construction  
28 had started on any of the projects associated with the Assisted Living LPs.

1           63. In May 2016, Defendant Francisco explained that any loans between  
2 Project LLCs consisted of his own funds, and that he had up to \$1 million of his  
3 personal funds invested with PDC Capital. Francisco claimed that any funds that  
4 moved between projects were his own money, and not the investors' capital  
5 contributions. In fact, bank records show that Francisco had contributed at most  
6 about \$115,000 to PDC Capital.

7           64. In May 2016, after Defendant Francisco provided testimony to the SEC,  
8 PDC Capital closed all of its existing bank accounts, and opened new bank accounts  
9 at a different bank.

10          65. As of at least September 2016, Defendants continued to raise money  
11 from investors.

12          66. Defendants' offerings and sales of limited partnership interests were  
13 made using means and instrumentalities of interstate commerce. Investor funds were  
14 wired to the escrow accounts, and wired from the escrow accounts to PDC Capital's  
15 accounts, as well as accounts of the projects. In addition, projects were located in  
16 Arizona and Florida, and several of the Defendants are Delaware limited  
17 partnerships. Defendants also used means and instrumentalities of interstate  
18 commerce to transmit offering documents and other materials to sales agents and  
19 prospective investors in China, and used instrumentalities such as email to  
20 communicate with investors.

21          67. At all relevant times, Defendant Francisco acted with scienter.  
22 Francisco's state of mind is imputed to the companies he controls, including  
23 Defendants PDC Capital, CPI, the Assisted Living LPs, Clear Currents LP, and the  
24 Caffe Primo LPs.

25          68. Alternatively, at all relevant times, Defendant Francisco was negligent.

26 ///

27 ///

28 ///



**FIRST CLAIM FOR RELIEF**

**Fraud in the Offer or Sale of Securities**

**Violations of Section 17(a) of the Securities Act**

**(against all Defendants)**

69. The SEC realleges and incorporates by reference paragraphs 1 through 68 above.

70. As alleged above, Defendants engaged in a scheme to defraud investors by making false statements concerning the limitation on use of proceeds, as well as the manner in which proceeds would be used, including engaging in transactions designed to obscure the diversion of funds, to enrich themselves at the expense of investors.

71. As alleged above, Defendants obtained money by means of untrue statements of material fact concerning the use of proceeds of the Assisted Living LPs, Clear Currents LP and Caffe Primo LPs offering.

72. As alleged above, Defendants engaged in transactions and a course of business obtained money from investors by means of false statements in the PPMs about the use of investor proceeds and limitations on the use of investors' capital contributions.

73. At all relevant times, Defendant Francisco acted with scienter to enrich himself at the expense of the defrauded investors. In the alternative, Defendant Francisco was negligent. Defendant Francisco's state of mind is imputed to the entities he controlled, including PDC Capital, CPI, and the Assisted Living LPs, Clear Currents LP and Caffe Primo LPs.

74. By engaging in the conduct described above, Defendants Francisco and PDC Capital, with regard to the Assisted Living LPs and Clear Currents LP, directly or indirectly, in the offer or sale of securities, and by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails directly or indirectly: (a) employed devices, schemes, or artifices to defraud; (b)

1 obtained money or property by means of untrue statements of a material fact or by  
2 omitting to state a material fact necessary in order to make the statements made, in  
3 light of the circumstances under which they were made, not misleading; and (c)  
4 engaged in transactions, practices, or courses of business which operated or would  
5 operate as a fraud or deceit upon the purchaser.

6 75. By engaging in the conduct described above, Defendants Francisco and  
7 PDC Capital, and CPI, with regard to the Caffè Primo LPs, directly or indirectly, in  
8 the offer or sale of securities, and by the use of means or instruments of transportation  
9 or communication in interstate commerce or by use of the mails directly or indirectly:

10 (a) employed devices, schemes, or artifices to defraud; (b) obtained money or  
11 property by means of untrue statements of a material fact or by omitting to state a  
12 material fact necessary in order to make the statements made, in light of the  
13 circumstances under which they were made, not misleading; and (c) engaged in  
14 transactions, practices, or courses of business which operated or would operate as a  
15 fraud or deceit upon the purchaser.

16 76. Each of the Defendants knew, or was reckless in not knowing, that he or  
17 it employed devices, schemes and artifices to defraud. Each of the Defendants knew,  
18 or was reckless or negligent in not knowing, that he or it obtained money or property  
19 by means of untrue statements of a material fact or by omitting to state a material fact  
20 necessary in order to make the statements made, in light of the circumstances under  
21 which they were made, not misleading; and engaged in transactions, practices, or  
22 courses of business which operated or would operate as a fraud or deceit upon the  
23 purchaser.

24 77. By engaging in the conduct described above, each of the Defendants  
25 violated, and unless restrained and enjoined will continue to violate, Sections  
26 17(a)(1), 17(a)(2), and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77q(a)(1),  
27 77q(a)(2), & 77q(a)(3).

28 ///

**SECOND CLAIM FOR RELIEF**

**Fraud in Connection with the Purchase or Sale of Securities**

**Violations of Section 10(b) of the Exchange Act**

**and Rules 10b-5(a) and 10b-5(c) Thereunder**

**(against all Defendants as primary violators, and,**

**alternatively, against Francisco as a control person**

**under Section 20(a) of the Exchange Act)**

78. The SEC realleges and incorporates by reference paragraphs 1 through 68 above.

79. As alleged above, Defendants engaged in a scheme to defraud investors by making false statements concerning the limitation on use of proceeds, as well as the manner in which proceeds would be used, including engaging in transactions designed to obscure the diversion of funds, to enrich themselves at the expense of investors.

80. As alleged above, Defendants engaged in transactions and a course of business obtained money from investors by means of false statements in the PPMs about the use of investor proceeds and limitations on the use of investors' capital contributions.

81. At all relevant times, Defendant Francisco acted with scienter to enrich himself at the expense of the defrauded investors. Defendant Francisco's state of mind is imputed to the entities he controlled, including PDC Capital, CPI, and the Assisted Living LPs, Clear Currents LP and Caffe Primo LPs.

82. By engaging in the conduct described above, Defendants Francisco and PDC Capital, with regard to the Assisted Living LPs and Clear Currents LP, directly or indirectly, in the offer or sale of securities, and by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails directly or indirectly: (a) employed devices, schemes, or artifices to defraud; and (b) engaged in transactions, practices, or courses of business which operated or would

1 operate as a fraud or deceit upon the purchaser.

2 83. By engaging in the conduct described above, Defendants Francisco and  
3 PDC Capital, and CPI, with regard to the Caffè Primo LPs, directly or indirectly, in  
4 the offer or sale of securities, and by the use of means or instruments of transportation  
5 or communication in interstate commerce or by use of the mails directly or indirectly:  
6 (a) employed devices, schemes, or artifices to defraud; and (b) engaged in  
7 transactions, practices, or courses of business which operated or would operate as a  
8 fraud or deceit upon the purchaser.

9 84. Each of the defendants knew, or was reckless in not knowing, that he or  
10 it employed devices, schemes and artifices to defraud; and engaged in acts, practices  
11 or courses of conduct that operated as a fraud on the investing public by the conduct  
12 described in detail above.

13 85. By engaging in the conduct described above, each of the defendants  
14 violated, and unless restrained and enjoined will continue to violate, Section 10(b) of  
15 the Exchange Act, 15 U.S.C. § 78j(b), and Rules 10b-5 thereunder, 17 C.F.R. §§  
16 240.10b-5(a) & 240.10b-5(c).

17 86. Defendant Francisco was a control person of Defendants PDC Capital  
18 and CPI because he possessed, directly or indirectly, the power to direct or cause the  
19 direction of the management and policies of each of these entities. Accordingly,  
20 pursuant to Section 20(a) of the Exchange Act, 15 U.S.C. § 78t(a), defendant  
21 Francisco is liable to same extent as each of these Defendants for those Defendants'  
22 violations of Section 10(b) and Rules 10b-5(a) and (c) thereunder.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

**THIRD CLAIM FOR RELIEF**

**Fraud in Connection with the Purchase or Sale of Securities**

**Violations of Section 10(b) of the Exchange Act**

**and Rule 10b-5(b) Thereunder**

**(against Defendants Francisco, PDC Capital, the Assisted Living LPs (SAL Assisted Living, SAL Carmichael, SAL Citrus Heights, SAL Kern Canyon, SAL Phoenix, SAL Westgate, Sarasota, Clearwater, Correll Palms, TRC Tucson). Clear Currents LP, and the Caffe Primo LPs (Caffe Primo Management, and Caffe Primo Management 102-108) as primary violators, and, alternatively, against Francisco as a control person under Section 20(a) of the Exchange Act)**

87. The SEC realleges and incorporates by reference paragraphs 1 through 68 above.

88. As alleged above, Defendants obtained money by means of untrue statements of material fact concerning the use of proceeds of the Assisted Living LPs and Caffe Primo LPs offering.

89. At all relevant times, Defendant Francisco acted with scienter to enrich himself at the expense of the defrauded investors. Defendant Francisco's state of mind is imputed to the entities he controlled, including PDC Capital, and the Assisted Living LPs, Clear Currents LP, and Caffe Primo LPs.

90. Defendants Francisco, PDC Capital, SAL Assisted Living, SAL Carmichael, SAL Citrus Heights, SAL Kern Canyon, SAL Phoenix, SAL Westgate, Sarasota, Clearwater, Correll Palms, TRC Tucson, Clear Currents LP, Caffe Primo Management, Caffe Primo Management 102, Caffe Primo Management 103, Caffe Primo Management 104, Caffe Primo Management 105, Caffe Primo Management 106, Caffe Primo Management 107, and Caffe Primo Management 108, and each of them, directly or indirectly, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, made untrue statements of a material fact

1 or omitted to state a material fact necessary in order to make the statements made, in  
2 the light of the circumstances under which they were made, not misleading.

3 91. Defendants Francisco, PDC Capital, SAL Assisted Living, SAL  
4 Carmichael, SAL Citrus Heights, SAL Kern Canyon, SAL Phoenix, SAL Westgate,  
5 Sarasota, Clearwater, Correll Palms, TRC Tucson, Clear Currents LP, Caffe Primo  
6 Management, Caffe Primo Management 102, Caffe Primo Management 103, Caffe  
7 Primo Management 104, Caffe Primo Management 105, Caffe Primo Management  
8 106, Caffe Primo Management 107, and Caffe Primo Management 108, and each of  
9 them, knew, or was reckless in not knowing, that he or it made untrue statements of a  
10 material fact or omitted to state a material fact necessary in order to make the  
11 statements made, in the light of the circumstances under which they were made, not  
12 misleading.

13 92. By engaging in the conduct described above, defendants Francisco, PDC  
14 Capital, SAL Assisted Living, SAL Carmichael, SAL Citrus Heights, SAL Kern  
15 Canyon, SAL Phoenix, SAL Westgate, Sarasota, Clearwater, Correll Palms, TRC  
16 Tucson, Clear Currents LP, Caffe Primo Management, Caffe Primo Management  
17 102, Caffe Primo Management 103, Caffe Primo Management 104, Caffe Primo  
18 Management 105, Caffe Primo Management 106, Caffe Primo Management 107, and  
19 Caffe Primo Management 108 violated, and unless restrained and enjoined will  
20 continue to violate, Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rules  
21 10b-5(b) thereunder, 17 C.F.R. § 240.10b-5(b).

22 93. Defendant Francisco was a control person of defendants, PDC Capital,  
23 SAL Assisted Living, SAL Carmichael, SAL Citrus Heights, SAL Kern Canyon,  
24 SAL Phoenix, SAL Westgate, Sarasota, Clearwater, Correll Palms, TRC Tucson,  
25 Clear Currents LP, Caffe Primo Management, Caffe Primo Management 102, Caffe  
26 Primo Management 103, Caffe Primo Management 104, Caffe Primo Management  
27 105, Caffe Primo Management 106, Caffe Primo Management 107, and Caffe Primo  
28 Management 108 because he possessed, directly or indirectly, the power to direct or

1 cause the direction of the management and policies of each of these entities.  
2 Accordingly, pursuant to Section 20(a) of the Exchange Act, 15 U.S.C. § 78t(a),  
3 defendant Francisco is liable to same extent as each of the entity Defendants for those  
4 Defendants' violations of Section 10(b) and Rule 10b-5(b) thereunder.

5 **FOURTH CLAIM FOR RELIEF**

6 **Aiding and Abetting Violations of Section 10(b) of the**  
7 **Exchange Act and Rule 10b-5(b)**  
8 **(Defendants Francisco and PDC Capital)**

9 94. The SEC realleges and incorporates by reference paragraphs 1 through  
10 68 above.

11 95. Defendants Francisco and PDC Capital provided substantial assistance  
12 to the Assisted Living LPs, the Caffè Primo LPs, and Clear Current in their violations  
13 of Section 10(b) of the Exchange Act and Rule 10b-5(b) thereunder in connection  
14 with the securities offerings of the Assisted Living LPs, the Caffè Primo LPs, and  
15 Clear Currents LP.

16 96. Be engaging in the conduct described above, Defendants Francisco and  
17 PDC Capital aided and abetted, and unless enjoined will continue to aid and abet  
18 violations of Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5  
19 thereunder, 17 C.F.R. § 240.10b-5(b), pursuant to Section 20(e) of the Exchange Act,  
20 15 U.S.C. § 78t(e).

21 **PRAYER FOR RELIEF**

22 WHEREFORE, the SEC respectfully requests that the Court:

23 **I.**

24 Issue findings of fact and conclusions of law that Defendants committed the  
25 alleged violations.

26 **II.**

27 Issue orders, in forms consistent with Rule 65(d) of the Federal Rules of Civil  
28 Procedure, temporarily, preliminarily and permanently enjoining Defendants

1 Francisco, PDC Capital, CPI, SAL Assisted Living, SAL Carmichael, SAL Citrus  
2 Heights, SAL Kern Canyon, SAL Phoenix, SAL Westgate, Sarasota, Clearwater,  
3 Correll Palms, TRC Tucson, Clear Currents, Caffe Primo Management, Caffe Primo  
4 Management 102, Caffe Primo Management 103, Caffe Primo Management 104,  
5 Caffe Primo Management 105, Caffe Primo Management 106, Caffe Primo  
6 Management 107, and Caffe Primo Management 108, and their officers, agents,  
7 servants, employees, and attorneys, and those persons in active concert or  
8 participation with any of them, who receive actual notice of the orders by personal  
9 service or otherwise, and each of them, from violating Section 17(a) of the Securities  
10 Act, 15 U.S.C. §77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. §§ 78j(b),  
11 and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

12 **III.**

13 Issue orders, in forms consistent with Rule 65(d) of the Federal Rules of Civil  
14 Procedure, temporarily, preliminarily and permanently enjoining Defendants  
15 Francisco, PDC Capital, CPI, SAL Carmichael, SAL Citrus Heights, SAL Kern  
16 Canyon, SAL Assisted Living, SAL Westgate, SAL Phoenix, TRC Tucson, Sarasota,  
17 Clearwater, Correll Palms, Clear Currents LP, Caffe Primo Management, LP, Caffe  
18 Primo Management 102, LP, Caffe Primo Management 103, LP, Caffe Primo  
19 Management 104, LP, Caffe Primo Management 105, LP, Caffe Primo Management  
20 106, LP, Caffe Primo Management 107, LP, Caffe Primo Management 108, LP, and  
21 their officers, agents, servants, employees, attorneys, subsidiaries and affiliates, and  
22 those persons in active concert or participation with any of them, from, directly or  
23 indirectly, participating in the offer or sale of any security which constitutes an  
24 investment in a “commercial enterprise” under the United States Government EB-5  
25 visa program administered by the United States Citizenship and Immigration Service  
26 (“USCIS”).

27 **IV.**

28 Issue in a form consistent with Fed. R. Civ. P. 65, a temporary restraining order



1 and a preliminary injunction freezing the funds and assets of Defendants; ordering  
2 repatriation of any funds or assets transferred overseas; prohibiting each of the  
3 Defendants from destroying documents; permitting expedited discovery, ordering  
4 accountings by each of the Defendants, and appointing a receiver over the Defendant  
5 entities.

6 **V.**

7 Order Defendants to disgorge all funds received from their illegal conduct,  
8 together with prejudgment interest thereon, and to repatriate any funds or assets they  
9 caused to be sent overseas.

10 **VI.**

11 Order Defendants to pay civil penalties under Section 20(d) of the Securities  
12 Act, 15 U.S.C. § 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. §  
13 78u(d)(3).

14 **VII.**

15 Retain jurisdiction of this action in accordance with the principles of equity and  
16 the Federal Rules of Civil Procedure in order to implement and carry out the terms of  
17 all orders and decrees that may be entered, or to entertain any suitable application or  
18 motion for additional relief within the jurisdiction of this Court.

19 **VIII.**

20 Grant such other and further relief as this Court may determine to be just and  
21 necessary.

22  
23 Dated: December 27, 2016

24 /s/ John B. Bulgozdy  
25 John B. Bulgozdy  
26 Adrienne D. Gurley  
27 Attorneys for Plaintiff  
28 Securities and Exchange Commission