IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

In re Youtoo Technologies, LLC Debtor.	Case No. 17-14849-JDL Chapter 7

TWITTER, INC.'S REPLY IN SUPPORT OF ITS MOTION FOR ORDER (I) HOLDING THAT THE AUTOMATIC STAY DOES NOT APPLY PURSUANT TO 11 U.S.C. § 362(b)(4), OR ALTERNATIVELY (II) LIFTING THE AUTOMATIC STAY FOR CAUSE UNDER § 362(d)(1) AND WAIVING THE 14-DAY STAY UNDER BANKRUPTCY RULE 4001(a)(3), AND BRIEF IN SUPPORT

Twitter, Inc. ("Twitter"), a party-in-interest in the above referenced bankruptcy case, by and through its undersigned counsel, hereby files its reply in support of its *Motion for Order (I) Holding That the Automatic Stay Does Not Apply Pursuant to 11 U.S.C. § 362(b)(4), or Alternatively, (II) Lifting the Automatic Stay for Cause Under 11 U.S.C. § 362(d)(1) and Waiving the 14-Day Stay Under Bankruptcy Rule 4001(a)(3)* [Docket No. 21] (the "Motion"). This reply will focus only on new issues raised in the *Response and Objection to Twitter, Inc.'s Motion to Lift the Automatic Stay* [Docket No. 25] (the "Response") filed by Youtoo Technologies, LLC (the "Debtor").[1]

[1] Douglas N. Gould, as Trustee for the Debtor's bankruptcy estate, (the "Trustee") also filed an objection to the Motion, incorporating the Debtor's arguments in the Response [Docket No. 27].

1. While Twitter strongly believes that the automatic stay does not apply to the IPR Proceedings, the purpose of this reply is to address the Debtor's affirmative arguments that the bankruptcy estate will be prejudiced by lifting the automatic stay to allow the IPR Proceedings to continue.

2. As an initial matter, the Debtor has limited, if any, standing to complain about the relief sought by Twitter. The Debtor filed this case under Chapter 7, thereby surrendering possession and control over all property of the bankruptcy estate, including the Challenged Patents, to the Trustee. Nevertheless, the Debtor objects to the Motion solely in an effort to protect one subset of constituents in this case – a group of "investors" who are indirect creditors and equity owners in the Debtor. By adopting the Debtor's Response as his own, the Trustee seems to take up this fight for the Debtor's equity owners rather than independently assessing what is in the best interest of the estate and all creditors.

3. The Debtor asserts that a motion for the approval of "an 11 U.S.C. § 363 sale" will be filed soon. However, neither the Trustee nor the Debtor provides any details on this alleged sale, including (a) whether the Challenged Patents will be included in that sale; (b) what consideration, if any, a third party would be willing to provide for the purchase of the Challenged Patents (which will still be subject to the IPR Proceedings as detailed in the Motion); and (c) when the motion to approve such a sale would be filed. As set forth in the Motion, the PTAB instituted the IPR Proceedings based on its determination that Twitter is likely to prevail on the challenges it has raised to the validity of the Challenged Patents. It is unclear to Twitter why a third party would be

willing to provide significant value for patents that are likely to be declared invalid by the PTAB, and have already been found to be invalid by a district court.[2] If the sale of the Challenged Patents is simply a sale to the Debtor's parent, as an insider, in exchange for a credit-bid of their alleged secured claim, there is no real value to the estate and no real reason to further delay the IPR Proceedings. If the anticipated sale is only of the Additional Patents not currently subject to Pending IPR Proceedings, there is no reason to delay the Pending IPR Proceedings while that sale proceeds.

4. Further, the asserted "prejudice" to the Debtor's equity owners was created by those investors themselves. The "Funds" described by the Debtor purchased the majority interest in the Debtor in April of 2016, one month after the Debtor filed suit against Twitter, thus providing the Debtor with the funds necessary to finance the litigation. *See* Exhibit 1 at 14, ¶ 48. Following this purchase, the managing member of the Debtor's parent, Stephen Shafer, became the CEO of the Debtor. *See, e.g.*, Exhibit 2. After the Funds' management was replaced by a new Delaware limited liability company controlled by the Funds' investors, those investors remained in control of Youtoo's operation. Indeed, the Debtor's representative in this bankruptcy proceeding, Marsh Pitman, is the manager of the Funds. *See* Docket No. 1 at 4. The group of investors that Youtoo seeks to protect here are the same investors that funded and controlled the litigation against Twitter for nearly the last two years. It is disingenuous for the Debtor

[2] As noted in the Motion, on November 10, 2016, Judge Godbey in the Northern District of Texas issued an order finding that the '304 Patent and '506 Patent were invalid under 35 U.S.C. § 101 for claiming patent-ineligible subject matter.

and the Trustee to now state that these "investors" will be prejudiced by the continuation of proceedings that are the direct result of their own investments.

5. Finally, prejudice to the Debtor's estate is but one of the factors to consider in determining whether to lift the automatic stay. The Debtor ignores the prejudice caused by allowing an invalid patent monopoly to continue, especially in light of the PTAB's determination that the Challenged Patents are likely invalid. Twitter and other citizens should not be limited in their ability to conduct business and innovate indefinitely while the Debtor tries to organize the sale of the Challenged Patents to a yet unidentified (and likely insider) party, for what may be no more than a reduction in their secured claim.

6. The PTAB is a specialized tribunal established specifically to regulate patent monopolies. This Court should not prevent the PTAB from fulfilling its statutory duties based on the bare assertion that a sale of patents, which have already been found to be invalid, may happen in the future.

For all of the above-stated reasons and the reasons set forth in the Motion, Twitter requests that the Court enter an order (a)(i) holding that pursuant to Bankruptcy Code § 362(b)(4), the automatic stay under § 362(a) does not apply to IPR Proceedings by the PTAB, or alternatively, (ii) lifting the stay for cause under § 362(d)(1) and waiving the stay under Bankruptcy Rule 4001(a)(3), and (b) granting such other and further relief to which Twitter may be entitled.

DATED: February 21, 2018

Respectfully submitted,

By: */s/ Tami J. Hines*

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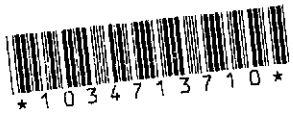
COUNSEL FOR TWITTER, INC.



CJ-16-4937
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IN THE DISTRICT COURT of OKLAHOMA COUNTY
STATE OF OKLAHOMA

ROBERT F. BROWNE FAMILY LLC, ROBERT F. BROWNE REVOCABLE TRUST, KAREN A. BROWNE REVOCABLE TRUST, ROBERT F. BROWNE ROTH IRA, KRISTINE P. BROWNE IRA, CORI E. BROWNE REVOCABLE TRUST, CORI E. BROWNE 401(K), EDWIN D. ABEL REVOCABLE TRUST, EDWIN D. ABEL TRADITIONAL IRA, EDWIN D. ABEL SIMPLE IRA, CAROL ABEL REVOCABLE TRUST, CAROL C. ABEL SEP IRA, T. LUKE ABEL TRUST AND LAURA M. ABEL TRUST, TIMOTHY LUKE ABEL SIMPLE IRA, CONNIE M. BAKER REVOCABLE TRUST, CONNIE M. BAKER IRA, THE EA AND RUTH M. BALDWIN REVOCABLE LIVING TRUST, BEECHER JOINT REVOCABLE TRUST, JANIS L. BINGAMAN TRUST, JOHN E. BINGAMAN, JR. REVOCABLE TRUST, JOHN E. BINGAMAN TRADITIONAL IRA, JANIS L. BINGAMAN TRADITIONAL IRA, JOHN AND JANIS BINGAMAN CHARITABLE REMAINDER TRUST, MORGAN FAMILY TRUST, AMANDA J. BINGAMAN BDA IRA, BARRY C. BLADES LEGACY TRUST, BARRY C. BLADES REVOCABLE TRUST, JANIS K. BLADES REVOCABLE TRUST, BARRY C. BLADES TRADITIONAL IRA, JANIS K. BLADES 401(K) AND PSP, BARRY C. BLADES 401(K) PLAN, JANIS K. BLADES TRADITIONAL IRA, DAVID AND MARCIA CHRISTOFFERSON JOINT TRUST, CHARLOTTE A. EVANS TRADITIONAL IRA, GREGORY R. GUDENBURR, GREGORY R. GUDENBURR IRA, PATRICIA M. HASWELL BDA IRA, PARTICIA M. HASWELL IRA, DAVID W. HORNBEEK IRA, DAVID W. HORNBEEK SIMPLE IRA, DAVID W. HORNBEEK 401(K), SKYE N. HOUSEMAN TRUST, SKYE N.

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OKLAHOMA COUNTY
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HOUSEMAN SIMPLE IRA, SKYE N. HOUSEMAN IRA, CRESTED BUTTE ELECTRICAL INC., ANNALIESE J. HOUSEMAN SIMPLE IRA, LESTER FAMILY, L.L.C., WARREN G. LOW TRADITIONAL IRA, C. STEPHEN LYNN REVOCABLE TRUST, MILAH P. LYNN REVOCABLE TRUST, JOHN PHILLIP LYNN, NANCY L. DAVIS AND KAREN R. WILLIAMS TRUST, C. STEPHEN LYNN AND MILAH P. LYNN CHARITABLE REMAINDER TRUST, C. STEPHEN LYNN LAGRANGE COLLEGE CHARITABLE REMAINDER TRUST, JANE E. MASSEY REVOCABLE TRUST, JANE E. MASSEY IRA, JOHN MUNKRES TRADITIONAL IRA, SUSAN M. NEWMAN TRUST, SUSAN M. NEWMAN BDA IRA, SUSAN M. NEWMAN ROTH IRA, SUSAN M. NEWMAN TRADITIONAL IRA, KENNETH S. PARKER IRA, LINDA H. PARKER SEP IRA, FRED SCHOENHALS TRADITIONAL IRA, MARY SCHOENHALS TRADITIONAL IRA, JEFF A. AND RANEE SCHOENHALS, JEFFREY A. SCHOENHALS IRA, JOHN F. SCHOENHALS AND CHRISTINA L. SCHOENHALS LIVING TRUST, JACK H. AND BEVERLY SUE VAUGHN JT TRUST, WATSON FAMILY 2002 TRUST, ANDREW E. WATSON IRA, STEVEN J. ZICHICHI, AND STEVEN J. ZICHICHI IRA ROLLOVER, for themselves and derivatively on behalf of COVENANT GLOBAL ALPHA FUND, L.P. f/k/a CFS AGGRESSIVE STRATEGY FUND, L.P., COVENANT GLOBAL ALPHA FUND, LTD. f/k/a COVENANT AGGRESSIVE STRATEGY FUND, LTD., COVENANT OPPORTUNITY CAPITAL FUND, L.P., and COVENANT INCOME APPRECIATION FUND, L.P.,

Plaintiffs,

v.

STEPHEN E. SHAFER, COVENANT FINANCIAL SERVICES, LLC d/b/a

COVENANT GLOBAL INVESTORS, and CARTOGRAPHER LP, Defendants, and COVENANT GLOBAL ALPHA FUND, L.P. f/k/a CFS AGGRESSIVE STRATEGY FUND, L.P., COVENANT GLOBAL ALPHA FUND, LTD. f/k/a COVENANT AGGRESSIVE STRATEGY FUND, LTD., COVENANT OPPORTUNITY CAPITAL FUND, L.P., and COVENANT INCOME APPRECIATION FUND, L.P., Nominal Defendants.	

PETITION

COME NOW the Plaintiffs, Robert F. Browne Family LLC, Robert F. Browne Revocable Trust, Karen A. Browne Revocable Trust, Robert F. Browne Roth IRA, Kristine P. Browne IRA, Cori E. Browne Revocable Trust, Cori E. Browne 401(k), Edwin D. Abel Revocable Trust, Edwin D. Abel Traditional IRA, Edwin D. Abel Simple IRA, Carol Abel Revocable Trust, Carol C. Abel Sep IRA, T. Luke Abel Trust and Laura M. Abel Trust, Timothy Luke Abel Simple IRA, Connie M. Baker Revocable Trust, Connie M. Baker IRA, the EA and Ruth M. Baldwin Revocable Living Trust, Beecher Joint Revocable Trust, Janis L. Bingaman Trust, John E. Bingaman, Jr. Revocable Trust, John E. Bingaman Traditional IRA, Janis L. Bingaman Traditional IRA, John and Janis Bingaman Charitable Remainder Trust, Morgan Family Trust, Amanda J. Bingaman Bda IRA, Barry C. Blades Legacy Trust, Barry C. Blades Revocable Trust, Janis K. Blades Revocable Trust, Barry C. Blades Traditional IRA, Janis K. Blades 401(k) and PSP, Barry C. Blades 401(k) Plan, Janis K. Blades Traditional IRA, David and Marcia Christofferson Joint Trust, Charlotte A. Evans Traditional IRA, Gregory R. Gudenburr, Gregory R. Gudenburr IRA, Patricia M. Haswell BDA

IRA, Particia M. Haswell IRA, David W. Hornbeek IRA, David W. Hornbeek Simple IRA, David W. Hornbeek 401(k), Skye N. Houseman Trust, Skye N. Houseman Simple IRA, Skye N. Houseman IRA, Crested Butte Electrical Inc., Annaliese J. Houseman Simple IRA, Lester Family, L.L.C., Warren G. Low Traditional IRA, C. Stephen Lynn Revocable Trust, Milah P. Lynn Revocable Trust, John Phillip Lynn, Nancy L. Davis and Karen R. Williams Trust, C. Stephen Lynn and Milah P. Lynn Charitable Remainder Trust, C. Stephen Lynn LaGrange College Charitable Remainder Trust, Jane E. Massey Revocable Trust, Jane E. Massey IRA, John Munkres Traditional IRA, Susan M. Newman Trust, Susan M. Newman Bda IRA, Susan M. Newman Roth IRA, Susan M. Newman Traditional IRA, Kenneth S. Parker IRA, Linda H. Parker SEP IRA, Fred Schoenhals Traditional IRA, Mary Schoenhals Traditional IRA, Jeff A. and Ranee Schoenhals, Jeffrey A. Schoenhals IRA, John F. Schoenhals and Christina L. Schoenhals Living Trust, Jack H. and Beverly Sue Vaughn Joint Trust, Watson Family 2002 Trust, Andrew E. Watson IRA, Steven J. Zichichi, and Steven J. Zichichi IRA Rollover, for Themselves and Derivatively on Behalf of Covenant Global Alpha Fund, L.P. f/k/a/ as CFS Aggressive Strategy Fund, L.P., Covenant Global Alpha Ltd. Fund, Covenant Opportunity Capital Fund, L.P., and Covenant Income Appreciation Fund, L.P., (collectively, "Plaintiffs"), on behalf of themselves and the limited partnership funds Covenant Global Alpha Fund, L.P., f/k/a as CFS Aggressive Strategy Fund, L.P., Covenant Opportunity Capital Fund, L.P., and Covenant Income Appreciation Fund, L.P., and the fund Covenant Global Alpha Fund Ltd. f/k/a Covenant Aggressive Strategy Fund, Ltd., (collectively, the "Covenant Funds"), and for their causes of action against Defendants allege and state as follows:

NATURE OF THE ACTION

1. This case is about breaches of fiduciary duty, self-dealing, and gross abuses by CFS, the Covenant Funds' General Partner, as well as Shafer, CFS's Managing Member (together, the "Covenant Defendants").

2. The Covenant Defendants' actions demonstrate that they lied when they told Plaintiffs in January 2015 that the Covenant Funds would be liquidated over the next twelve months—after gating those funds to prohibit any investor withdrawals. Specifically, the following acts lay bare the Covenant Defendants' false statements about immediately liquidating the Covenant Funds' assets:

- selling Covenant Hospitality for an arbitrary price to another fund that Defendant Shafer is trying to launch, and financing the transaction with money borrowed from the Covenant Funds (*i.e.*, cash that could immediately have been distributed to Plaintiffs);
- failing to put the Covenant Funds' illiquid precious gems on the auction market that convenes only several times a year, absent which selling them is essentially impossible;
- spending millions of dollars on doubling the equity stake in YouToo Media and on aspirational litigation, instead of selling that asset and distributing the cash to investors; and
- using the Covenant Funds' luxury homes as personal vacation residences for Defendant Shafer—as well as his family and employees—without even paying for their use, instead of meaningfully trying to sell these assets.

3. Moreover, the Covenant Defendants used liquid assets to purchase oil puts to raise cash, despite having absolutely no experience investing in oil, let alone oil options. That reckless move—which the Covenant Defendants hid—invariably resulted in at least a $4.5 million loss. Nor was this so-called attempt to raise cash intended to benefit Plaintiffs as the Covenant Defendants distributed none of the cash to Plaintiffs.

4. During this purported liquidation period, the Covenant Defendants also undertook at least one major self-dealing transaction with Cartographer—which is a competing fund that

Defendant Shafer controls. The mischief here is that the Covenant Defendants transferred Covenant Hospitality to Cartographer at an arbitrary price without ever trying to market that asset, even though there was an interested buyer. That inured to Defendants Shafer's and Cartographer's benefit—particularly because Shafer is attempting to get Cartographer off the ground—while plainly harming Plaintiffs' interests. Defendant Shafer did all this despite Plaintiffs' express instructions to the contrary.

5. What is more, the Covenant Defendants have churned their management fees by gating Plaintiffs' fund redemptions and not expeditiously liquidating all Covenant Funds' assets. Because the Covenant Defendants' management fee is based on the value of the fund assets, they are motivated to hold assets prisoner for as long as possible—Plaintiffs' interests be damned. This is particularly so in failed funds such as here, where there is no longer an opportunity for the managing or general partner to earn any success fees.

6. As with many misdeeds, there was a cover-up here. The Covenant Defendants tried to conceal their actions by not complying with their books-and-records obligations, which is how Plaintiffs can police precisely the sort of misconduct that the Covenant Defendants have undertaken. What bits of information the Covenant Defendants have supplied have been at their own pleasure—and not in response to Plaintiffs' books-and-records demands. And the Covenant Defendants' books-and-records productions have been woefully incomplete in any event.

7. Plaintiffs went out of their way to avoid litigation, meeting with the Covenant Defendants in April 2016 to propose a compromise and reiterate their demand for books and records. But after that meeting, the Covenant Defendants simply made a perfunctory and inadequate production, which omitted information about expenses or investor distributions predating 2015. The Covenant Defendants also made the data available on what appeared to be newly created spreadsheets (rather than in native format), making it impossible to verify the data

and stoking suspicion that they were being deceivingly selective. Moreover, the Covenant Defendants then lied about the self-dealing transactions that they were imminently closing for Covenant Hospitality (a real estate asset).

8. This lawsuit is, in part, a derivative action by Plaintiffs on behalf of themselves and all others similarly situated against the Covenant Defendants, seeking to remedy and recover damages for, among other things, the Covenant Defendants' breaches of contract, breaches of fiduciary duties, and other violations of the law, the Agreements, and the Offering Circulars.

THE PARTIES, JURISDICTION, AND VENUE

9. Plaintiffs are Legacy Limited Partners and Legacy Shareholders as defined in the Agreements described below and investors in one or more of the Covenant Funds. Plaintiffs are either residents of Oklahoma or have investment interests in assets located in and/or managed from Oklahoma.

10. Covenant Global Alpha Fund, L.P., f/k/a as CFS Aggressive Strategy Fund, L.P. ("Covenant Global"), is a Delaware limited partnership that is registered to do business in Oklahoma. Its principal place of business is located in Oklahoma City, Oklahoma. The first of the Covenant Funds, it was formed on February 15, 2008.

11. Covenant Global Alpha Ltd. Fund f/k/a Covenant Aggressive Strategy Fund, Ltd. ("Covenant Global Ltd."), is an investment company formed under the laws of the Cayman Islands. On information and belief, its principal place of business is in Oklahoma City, Oklahoma and it is managed in Oklahoma City.

12. Covenant Opportunity Capital Fund, L.P. ("Covenant Opportunity") is a Delaware limited partnership that is registered to do business in Oklahoma. It was formed on October 27, 2008.

13. Covenant Income Appreciation Fund, L.P. ("Covenant Income") is a Delaware limited partnership that is registered to do business in Oklahoma. It was formed on August 10, 2009.

14. Plaintiffs collectively represent a majority of the interests in the Covenant Funds and will adequately represent the interests of all the investors in the Covenant Funds in enforcing and prosecuting their rights in this action.

15. Defendant Covenant Financial Services, LLC ("CFS"), an Oklahoma limited liability company, is the General Partner of each of the three limited partnership Covenant Funds. CFS is the Investment Adviser and managing officer of Covenant Global Ltd ("Investment Advisor"). Its principal place of business is in Oklahoma City, Oklahoma.

16. Defendant Stephen E. Shafer ("Shafer") is the Managing Member and Chief Investment Officer of CFS. Shafer is a resident of Oklahoma City, Oklahoma.

17. Defendant Cartographer LP ("Cartographer") is a Delaware limited partnership, and its principal place of business is in Oklahoma City, Oklahoma. Shafer is the Managing Member of Cartographer.

18. Certain Plaintiffs with equity in Covenant Global and CFS entered into the Third Amended and Restated Agreement of Limited Partnership of Covenant Global Alpha Fund, L.P. The Plaintiffs with equity in Covenant Opportunity and CFS entered into the First Amended and Restated Agreement of Limited Partnership of Covenant Opportunity Capital Fund, L.P. The Plaintiffs with equity in Covenant Income and CFS entered into the Second Amended and Restated Agreement of Limited Partnership of Covenant Income Appreciation Fund, L.P. Representative versions of the partnership agreements listed above (collectively referred to as the "Partnership Agreements") are attached to this Petition as *Exhibits 1 3*, respectively. The Partnership Agreements are substantively similar except as to the name of the Fund and investor involved.

The Plaintiffs with equity in Covenant Global Ltd. entered into substantively identical agreements regarding the investments in that Fund (hereinafter referred to as the "Ltd. Fund Agreements").

19. Other investors entered into substantively identical Partnership Agreements and Ltd. Fund Agreements (hereinafter collectively referred to as the "Agreements") on different dates.

20. The Partnership Agreements contain forum-selection clauses in which the General Partner and the Limited Partners agree to the exclusive jurisdiction and venue of any state court in the city and county of the partnership's principal place of business at the time the dispute arises, which is Oklahoma City, Oklahoma.

21. This Court has subject matter and personal jurisdiction over this matter pursuant to 12 OKLA. STAT. § 2001.

22. Venue is proper pursuant to the forum-selection clauses and 12 OKLA. STAT. §§ 134 and 137.

FACTUAL ALLEGATIONS

The Covenant Funds exist to invest money for Plaintiffs' benefit

23. The Agreements require the Covenant Defendants to manage the Covenant Funds' various investments for Plaintiffs' benefit.

24. Plaintiffs vary in their business acumen and sophistication. And their investments vary in size. Some Plaintiffs have tied up their retirement money. Others invested money that they earned and had hoped to pass on to their children and grandchildren.

25. In January 2015, as more fully described below, the Covenant Defendants prevented Plaintiffs from redeeming their investments from the Covenant Funds by gating them. The Covenant Defendants then announced that they would liquidate the Covenant Funds' assets to satisfy Plaintiffs' requests for redemption.

On January 1, 2015, the Covenant Defendants gated the Covenant Funds and then claimed that they would start to liquidate the assets to distribute proceeds to Plaintiffs.

26. Under the terms of the Agreements, Legacy Limited Partners/Legacy Shareholders are entitled to withdraw all or part of their investments with 10 days' business notice and their withdrawals take priority over all others, giving the Legacy Limited Partners/Legacy Shareholders substantially greater liquidity than other limited partners/shareholders. The Covenant Defendants have unilaterally and unlawfully vitiated the rights of the Legacy Limited Partners/Legacy Shareholders.

27. In 2013, the Covenant Funds performed poorly. In 2014 the decline became even more precipitous.

28. Instead of distributing cash from the Covenant Hospitality sale and otherwise responding to Plaintiffs' requests, effective January 1, 2015, the Covenant Defendants stopped all withdrawals from the Covenant Funds, notwithstanding the Plaintiffs' bargained-for withdrawal rights. In industry parlance, the Covenant Defendants "gated" the funds.

29. Shortly after they closed the gate, the Covenant Defendants sent a letter to all investors, including Plaintiffs, announcing that they were indefinitely "suspending withdrawals and redemptions for the January withdrawal and redemption date, 1/31/2015, and all subsequent withdrawals and redemptions." That letter (the "Gate Letter") is attached as *Exhibit 4*.

On the eve of getting sued, the Covenant Defendants tried to create the impression that they are at last doing something.

30. On information and belief, after the Covenant Defendants learned Plaintiffs were about to file this Petition, they purportedly signed agreements to auction three (3) gems through Christies. This meaningless and empty gesture to create the impression that they are at last liquidating the Covenant Funds only shows that the Covenant Defendants are not serious.

31. The Covenant Defendants could and should have put up the gems—all six of them—for auction a year and a half ago when the Covenant Defendants gated the funds and started the promised liquidation. But the Covenant Defendants sat on the gems (collecting management fees for doing nothing), despite Plaintiffs' pleas.

I. DEFENDANTS HAVE LIED TO PLAINTIFFS ABOUT CONDUCTING A LIQUIDATION.

The Covenant Defendants promised to complete the liquidation by the end of 2015.

32. In the Gate Letter, the Covenant Defendants announced to Plaintiffsthat the Covenant Defendants would liquidate the Covenant Funds' assets and would begin distributing the assets to investors "in a multi-month distribution process beginning in February [2015]." They also stated that distributions were expected to occur in February, March, and April of 2015 and that the majority of the Covenant Funds' liquid assets would be sold and the cash proceeds distributed by April 2015.

33. In that same letter the Covenant Defendants acknowledged that they had "fiduciary" obligations to Plaintiffsand that their "priority [was] to protect and optimize [Plaintiffs'] capital." In fact, CFS' letterhead states "A Commitment to Trust."

34. As of January 2015, the Covenant Funds' investments consisted mostly of the following asset classes:

a. cash;

b. bonds;

c. stock in various companies;

d. six rare gemstones appraised in the first quarter of 2015 at an aggregate value of more than $25 million (held in Covenant Real Return Partners LLC);

e. five luxury homes in Florida and Washington States; and

f. equity in operating, non-public companies called YouToo Media, Carry On, and Covenant Hospitality LLC, n/k/a Anthology Collection LLC ("Covenant Hospitality"), which manages the five

luxury homes listed above and earns a positive cash flow of approximately $500,000 per year.

35. As of this lawsuit—more than a year-and-a-half after the announced gating and liquidation—the Covenant Defendants have failed to make any meaningful effort to liquidate the Covenant Funds' assets, have sunk more money into the assets, and have prolonged liquidation indefinitely. In fact, the Covenant Defendants have no concrete or realistic plan to liquidate and distribute the remaining Covenant Fund assets at all, let alone quickly, but instead plan to line their pockets with management and performance fees, and an undisclosed amount of alleged, unverifiable "expense."

36. To date, the Covenant Defendants have not even sold and distributed to Plaintiffs the immediately liquid assets in the Covenant Funds. Indeed, the Covenant Defendants have not distributed all the Covenant Funds' cash yet—the most liquid of all assets. In total, the Covenant Defendants have liquidated and distributed proceeds from less than half of the Covenant Funds' assets.

The Covenant Defendants lied about the Covenant Hospitality transaction, and then lied about its financing.

37. On June 30, 2016, the Covenant Defendants closed the deal to sell Covenant Hospitality to Cartographer, Shafer's competing fund. The Covenant Defendants went ahead with the transaction despite Plaintiffs' express requests on June 21, 24, and 27 of 2016 for information about any Covenant Hospitality sale and instructions to hold off until the Covenant Defendants produced all relevant books and records.

38. Plaintiffs objected to selling Covenant Hospitality to Cartographer because they were concerned about inevitable self-dealing. This is a particularly acute problem for Plaintiffs because, as discussed below, while the Covenant Funds are now in runoff (*i.e.*, being wound down), Cartographer could still have the potential to return positive investment results. Unlike the

Covenant Funds, Shafer could earn significant performance fees from Cartographer, in addition to management fees.

39. To facilitate the Covenant Hospitality transaction, the Covenant Defendants caused the Covenant Funds to issue two notes totaling $836,470. This flatly contradicts the Covenant Defendants' statement that Cartographer would finance the deal with 85% conventional bank lending and the remainder with equity contributions from new Cartographer investors.

40. Rather than distribute any cash from the Covenant Hospitality transaction, the Covenant Defendants used that liquid asset to facilitate an insider transaction at an arbitrary price, which is described below.

41. Plaintiffs remain at risk on the note repayment.

42. The Covenant Defendants have refused to produce any books and records about their plans to distribute the funds related to Covenant Hospitality, although they announced that they are withholding the proceeds to pay for aspirational litigation on behalf of another asset, YouToo Media.

The Covenant Defendants lied about liquidating the Covenant Funds' assets because they have made no meaningful effort to sell six rare gemstones.

43. One of the primary illiquid asset classes in the Covenant Funds consists of six rare gemstones named Yellow Rose, Golconda, Burma Blue, Star Sapphire, Mandalay, and Red Spinel. In the first quarter of 2015, these six stones were appraised at an aggregate value of a little over $25 million.

44. In 2015, there was a strong market demand for rare gemstones such as these. But the Covenant Defendants did not bring these six gems to auction. Instead, the Covenant Defendants inexplicably put cash into the entity that holds the gems.

45. Nor did the Covenant Defendants meaningfully attempted to sell these gems in the over eighteen months since they announced the liquidation. This lack of effort to sell the rare gems flies in the face of the Covenant Defendants' statements that liquidation would be complete or nearly complete by the end of 2015.

46. Even though the Covenant Defendants have made no attempt to sell the gemstones, the Covenant Defendants reported increases in their valuations, which translates into a larger amount of assets on which the Covenant Defendants can charge management fees. On information and belief, these value increases are entirely attributable to activity in a strong gemstone market in which the Covenant Defendants chose not to participate, despite expressly representing to Plaintiffs that they were liquidating all Covenant Fund assets.

The Covenant Defendants lied about liquidating assets because instead of selling YouToo Media, they doubled the equity stake in that asset and are spending millions on aspirational litigation.

47. Throughout 2015, the Covenant Defendants falsely represented to Plaintiffs on several occasions that the sales of the Covenant Funds' investment in YouToo Media and Carry On were nearing completion. To date, the Covenant Defendants have sold no equity in these companies—assets that are owned by three of the four Covenant Funds. To the contrary, the Covenant Defendants have increased the investments in these companies.

48. On April 30, 2016, the Covenant Defendants closed a deal that more than doubled the equity stake in YouToo Media—at a cost of about $8 million to Plaintiffs. More than doubling the Covenant Funds' equity stake is on its face inconsistent with the Covenant Defendants' stated promise to liquidate the funds and distribute the proceeds to the Plaintiffs.

49. To make matters worse, the Covenant Defendants funded the balance of this transaction by taking out mortgages on two of the Covenant Funds' luxury residential properties in Florida. The Covenant Defendants have since announced that as they sell additional assets,

such as real estate or gemstones, they will in the first instance apply proceeds to reduce the existing mortgages on the Florida properties. Encumbering the Florida properties with large mortgages does not facilitate selling them, and is not in the best interests of Plaintiffs.

50. On information and belief, the Covenant Defendants deliberately concealed this YouToo Media transaction from Plaintiffs. This is apparent from the fact that when Shafer met with certain Plaintiffs in April 2016, the Covenant Defendants were on the cusp of closing a deal with YouToo Media the next day—and had already mortgaged the Florida properties—but never breathed a word that they were lending millions from the Covenant Funds to facilitate the transaction. Just the opposite, the Covenant Defendants did not disclose this deal until August 12, 2016—and only then in an email responding to Plaintiffs' specific questions posed two weeks earlier.

51. When Plaintiffs requested to see the books and records reflecting the money being spent on these companies, the Covenant Defendants stalled for months, while failing to mention that they planned to lend cash from the Covenant Funds to these companies.

52. After gating the Covenant Funds, the Covenant Defendants allocated about $3 million of the Covenant Funds' liquid and distributable assets to aspirational litigation involving YouToo Media (over the next two years). Not only is committing to spend so lavishly on litigation incongruent with the Covenant Defendants' promises to liquidate assets, but the cash devoted to this litigation is necessarily not being distributed to Plaintiffs.

The Covenant Defendants lied about liquidating assets because they have not honestly attempted to sell the five luxury home investments, and Shafer personally benefits from retaining them.

53. The Covenant Funds own five luxury homes in Florida and Washington States. In the first quarter of 2015, the Covenant Defendants purported to appraise all five properties. But the Covenant Defendants inexplicably did not list the homes for sale until after April 2016. None

of the properties have been sold to date, and it is not even clear that the properties have been shown to any prospective buyers, much less aggressively marketed.

54. Not only have the Covenant Defendants lied about expeditiously liquidating these assets, but on information and belief, Shafer uses these luxury homes for his own personal benefit without compensating the Covenant Funds. He has even vacationed with his family at some of these properties. Shafer also has offered these homes to former key employees of Defendant CFS.

55. Shafer never sought or obtained Plaintiffs' permission to use these luxury homes—which belong to the Covenant Funds—for his own personal benefit. Because Shafer has never complied with Plaintiffs' books-and-records requests, there is no way to be certain when he stopped using these homes for his personal benefit (if he stopped at all).

II. DEFENDANTS HAVE PROLONGED LIQUIDATING INVESTMENTS IN THE COVENANT FUNDS TO CHURN MANAGEMENT FEES.

The Covenant Defendants are delaying selling the Covenant Funds' assets to churn management fees.

56. On information and belief, the Covenant Defendants have not liquidated the Covenant Fund assets in an effort to enrich themselves by continuing to collect management fees. Under Section 11.1 of the Partnership Agreements, the Covenant Defendants' management fee is based on the value of assets in the funds. Under the Ltd. Fund Agreements, the Covenant Defendants' management fee is based on the net asset value of each class and series account.

57. Under Section 10.6 of the Partnership Agreements, the Capital Account Balance is "the value of the Partnership's assets and liabilities," which the General Partner "shall determine . . . in good faith." Defendants thus collect quarterly management fees that are based on the value of partnership assets (net of liabilities), which the Covenant Defendants themselves determine. Without producing books and records, Plaintiffs have nothing but the Covenant Defendants' say-so on these issues.

Since the purported liquidation started, the Covenant Defendants have sunk more Covenant Funds' cash into certain investments while not even attempting to sell other investments.

58. The Covenant Funds own equity in operating companies called Carry On and YouToo Media. Despite being in liquidation and committing to sell all remaining assets to distribute the proceeds to Plaintiffs, the Covenant Defendants have placed more Covenant Fund money into Carry On and YouToo Media since January 1, 2015.

59. While assuring Plaintiffs several times throughout 2015 that "deals" to sell the Covenant Funds' equity in YouToo Media and Carry On were nearing completion, the Covenant Defendants have to date sold no equity in these companies. On the contrary, the Covenant Defendants have doubled down the investments in these companies and allocated money to aspirational patent litigation.

60. On information and belief, the Covenant Defendants have not attempted to sell any of the six gemstones or the five luxury houses, all of which churn management fees for the Covenant Defendants.

III. THE COVENANT DEFENDANTS HAVE NOT MADE AVAILABLE THE COVENANT FUNDS' BOOKS AND RECORDS.

The Agreements and applicable law require the Covenant Defendants to maintain all accounts, books, and records, and produce them on demand.

61. Sections 13.5 and 13.6 of the Partnership Agreements require the General Partner to maintain all accounts, books, records, and other relevant Partnership documents, and produce them on request. On information and belief, the Ltd. Fund Agreements require the Covenant Defendants to maintain all accounts, books, records, and other relevant entity documents, and produce them on request. These obligations also exist under the applicable governing law.

62. By refusing, delaying, and otherwise blocking the access of Plaintiffsto the Covenant Funds' books and records, the Covenant Defendants have prevented Plaintiffs from (a)

verifying the management fees collected and expenses incurred, and (b) examining what efforts they have made to liquidate the Covenant Funds.

63. The Covenant Defendants have deliberately tried to conceal their actions and misconduct by not complying with their books-and-records obligations. The limited productions they have made have been woefully incomplete and inadequate.

The Covenant Defendants have effectively ignored Plaintiffs' many requests for accountings and records.

64. Concerned about the Covenant Defendants' conduct, Plaintiffs began requesting accountings, books, records, and various information about the remaining assets in the Covenant Funds to better understand the stalled liquidation efforts. Plaintiffs requested information on at least the following dates:

- April 28, 2015
- April 30, 2015
- May 1, 2015
- May 10, 2015
- May 17, 2015
- May 19, 2015
- May 20, 2015
- May 22, 2015
- May 24, 2015
- June 9, 2015
- October 23, 2015
- December 3, 2015
- January 13, 2016
- February 1, 2016
- February 3, 2016
- February 9, 2016
- February 12, 2016
- March 2, 2016
- March 3, 2016
- March 4, 2016
- March 6, 2016
- March 10, 2016
- April 5, 2016
- May 6, 2016
- May 9, 2016
- June 21, 2016
- June 24, 2016
- June 27, 2016

65. To most of these requests for information, the Covenant Defendants did not respond for days, sometimes eventually stating that Shafer was "traveling" or "in constant meetings." When the Covenant Defendants would at last answer, they refused to provide even basic information about the assets that remain in the Covenant Funds, including plans to liquidate remaining assets, information about operating expenses, details about cash balances, meaningful

valuations, and basic corporate governance structures of the assets. No one else from the Covenant Defendants provided that information.

66. The Covenant Defendants refused to provide any information about their plans to hold back proceeds of the few assets that they did liquidate or about their plans to borrow cash from the Covenant Funds for Cartographer to purchase assets and to expand investments in YouToo Media.

67. On information and belief, the cross-trades between the Covenant Funds and Cartographer have not benefitted Plaintiffs and have, and in fact, have been detrimental to them. The Covenant Defendants' refusal to provide sufficient information and access to the Covenant Funds' books and records has prevented Plaintiffs from evaluating whether the consideration for those cross-trades is fair.

68. When Plaintiffs continued to push for access to accounts, books, and records, Shafer became defensive and angry, and made it clear that books-and-records requests—or any questions at all about the Covenant Funds' business—were unwelcome. In other words, Plaintiffs were told any efforts by them would be futile.

69. The Covenant Defendants' stonewalling only heightened Plaintiffs' concerns. To make its demand clear, Plaintiffs' counsel sent a demand letter to the Covenant Defendants on March 28, 2016, requesting the following:

a. a full accounting of the Covenant Defendants' liquidation efforts to date, including information to show that reasonable market prices were obtained for the assets already sold;

b. books, records, and any other documents sufficient to establish what assets remain in the Covenant Funds and how they are valued;

c. books, records, and any other documents relevant to all transfers and sales of assets from the Covenant Funds to Cartographer, including information sufficient to establish that the sale prices were fair and reasonable;

d. an accounting of operating expenses since the start of the liquidation; and

e. all financial statements and balance sheets related to the underlying assets, including the operating businesses (YouToo Media, Carry On, and Covenant Hospitality); and

f. a standstill of all insider trades or cross-trades.

70. Instead of complying with their obligations to send documents, the Covenant Defendants complained about the volume of the requested information and claimed that they needed time to respond, even though certain Plaintiffs made most of these requests months earlier.

71. When the Covenant Defendants eventually responded—three months later—they sent unverifiable documents with no backup data. These documents were also limited in scope to 2015 forward and were thus meaningless. This confirmed that Plaintiffs' efforts to get the liquidation on track would be futile.

IV. JUST BEFORE GATING THE COVENANT FUNDS SHAFER CREATED CARTOGRAPHER.

Defendant Shafer is cherry-picking Covenant Funds' assets for Cartographer in self-dealing transactions and charging expenses to Plaintiffs.

72. On information and belief shortly before gating the Covenant Funds, Defendant Shafer created and became General Partner of a new fund called Cartographer. Cartographer is not part of the Covenant Funds' group of investment funds.

73. Defendant Shafer has a far greater management and performance fee compensation potential in Cartographer. Unlike the Covenant Funds (which have essentially failed), the new fund still has potential to return positive investment results, which could earn Defendant Shafer, in addition to management fees, an incentive performance fee, which under the partnership agreement for Cartographer is calculated at 20% of the profits.

74. Defendant Shafer thus has an incentive to cherry-pick assets from Covenant Funds for Cartographer, without first marketing these assets to third parties or looking to sell at least at

market prices, to realize greater gain, and consequently greater performance fees, in addition to management fees.

75. The Covenant Defendants have refused to provide sufficient information to enable Plaintiffs to evaluate whether the consideration for those cross-trades among and between the Covenant Funds and Cartographer is fair to Plaintiffs. On information and belief, those cross-trades have not benefited Plaintiffs.

76. Nor have the Covenant Defendants produced books and records to show that they are not comingling expenses for the Covenant Funds and Cartographer. On information and belief, that is precisely what is happening while Shafer manages the Covenant Funds and Cartographer from the same office space. On information and belief, Shafer used the Covenant Funds' assets to lease nearly 7,000 square feet (for a total of two people) of expensive real estate in downtown Oklahoma City at the Oklahoma Tower. The Covenant Defendants' refusal to provide sufficient information and access to the Covenant Funds' books and records has prevented Plaintiffs from evaluating this and other expenses.

The Covenant Defendants sold Covenant Hospitality to Cartographer in what plainly is an insider transaction.

77. Covenant Hospitality is an entity that, among other things, manages the five luxury homes owned by the Covenant Funds. According to the limited financial statements Plaintiffs have received from the Covenant Defendants, the positive cash flow is approximately $500,000 per year. However, the Covenant Defendants have not distributed any of that money to Plaintiffs.

78. After Shafer said in March 2016 that he intended to have his new Cartographer fund purchase Covenant Hospitality, Plaintiffs objected repeatedly. In particular, on at least each of the following dates Plaintiffs requested in writing that the Covenant Defendants maintain the *status quo* and not engage in any transactions with (or otherwise transfer value to) Cartographer or any other funds that Defendant Shafer manages:

- March 10, 2016
- April 5, 2016
- May 6, 2016
- May 9, 2016
- June 21, 2016
- June 24, 2016
- June 27, 2016

79. Despite many requests from Plaintiffs—and despite the existence of a third-party offer for this asset—the Covenant Defendants provided no information and proceeded with the insider transaction.

Plaintiffs demanded that the Covenant Defendants liquidate the Covenant Funds' assets immediately.

80. As described in Paragraph 64 above, Plaintiffs wrote many times to request that the Covenant Defendants produce books and records (including basic information about the purported liquidation). Plaintiffs also requested that the Covenant Defendants immediately liquidate the Covenant Fund assets. The Covenant Defendants did not comply with any of these requests.

81. On information and belief, after the Covenant Defendants refused to comply with these requests, Shafer threatened to run the Covenant Funds into the ground if Plaintiffs commenced this lawsuit.

82. In any event, if these demands are deemed inadequate, doing anything more would be pointless, and would simply give the Covenant Defendants more time to self-deal, commit fraud, and churn management fees. Any additional demand would be futile.

CLAIMS FOR RELIEF

COUNT I — REMOVAL OF THE GENERAL PARTNER/INVESTMENT ADVISER (against CFS)

83. Plaintiffs repeat and incorporate by reference each and every allegation above.

84. Section 16.1(c) of the Partnership Agreements requires removing CFS as General Partner sixty (60) days after a claim has been filed against the General Partner seeking, in part, "liquidation, dissolution or similar relief under any statute, law or regulation."

85. This Petition seeks the liquidation of the Covenant Funds and satisfies the removal requirements of the Partnership Agreements.

86. Section 16.1(c) of the Partnership Agreements also requires removing CFS as General Partner sixty (60) days after the appointment of a trustee, receiver, or liquidator, should such person be appointed by the Court.

87. Under the agreements governing Covenant Global Ltd., Plaintiffs, on behalf of Covenant Global Ltd, are entitled to terminate CFS as Investment Adviser at the end of any month on 61 days' written notice. Based on the foregoing facts and circumstances, CFS should be removed as, as Investment Adviser of Covenant Global Ltd. at the end of the month counting 61 days from the filing of this Petition. should be removed immediately.

COUNT II — BREACH OF FIDUCIARY DUTY

(against the Covenant Defendants)

88. Plaintiffs repeat and incorporate by reference each and every allegation above.

89. CFS, as General Partner, and Shafer, as the Chief Investment Officer and Managing Member of CFS, have a fiduciary duty to the Covenant Funds, their creditors, and Plaintiffs, including duties of care, loyalty, and good faith, and the obligation to comply with the terms of the Agreements, the Offering Circulars, any governing corporate documents, and applicable law.

90. The Covenant Defendants, acting individually and together, knowingly and/or willfully breached their contractual, statutory, and common law fiduciary duties to Plaintiffs by, among other things, refusing and failing to perform their obligations under the Agreements, failing to put the interests of the Covenant Funds and Plaintiffs above their own personal interests,

engaging in self-dealing, using the Covenant Funds' assets for their personal benefit, failing to manage the Covenant Funds in good faith and for the benefit of the Covenant Funds and Plaintiffs, lying to Plaintiffs about the status of the Covenant Funds' assets, and attempting to conceal their misconduct by blocking Plaintiffs' rightful access to books and records.

91. The Covenant Defendants knew such actions and/or inactions were not in the best interest of the Covenant Funds and/or Plaintiffs and were not consistent with the Covenant Funds' financial objectives.

92. By placing their personal interests above those of the Covenant Funds and Plaintiffs and by engaging in the conduct alleged in this Petition, the Covenant Defendants have breached their duties of care, loyalty, and good faith.

93. As a direct result of the Covenant Defendants' knowing and willful breach of their fiduciary duties, Plaintiffs have suffered economic harm—to the benefit of the Covenant Defendants.

COUNT III — BREACH OF CONTRACT
(against the Covenant Defendants)

94. Plaintiffs repeat and incorporate by reference each and every allegation above.

95. The Covenant Defendants willfully breached the Agreements by, among other things, the following conduct:

a. misusing the Covenant Funds' assets for their own personal benefit;

b. engaging in self-dealing;

c. lying to Plaintiffs about the status of the assets and the liquidation process;

d. failing to produce on request accounts, books, records, and other relevant Covenant Funds documents to Plaintiffs;

e. failing and refusing to account for the Covenant Funds' assets;

f. indefinitely suspending withdrawals from the Covenant Funds while failing to make good faith efforts to liquidate the Covenant Funds' assets;

g. vitiating the Legacy Limited Partners'/Legacy Shareholders' rights to withdraw with ten-days' notice and their entitlement to greater liquidity by failing to lift the suspension on withdrawals as soon as was reasonably practicable; and

h. failing to wind down and dissolve the Covenant Funds, liquidate the Covenant Funds' assets to the benefit of Plaintiffs, and distribute those assets to Plaintiffs.

96. All conditions precedent have been met by Plaintiffs on their breach of contract claim.

97. As a result of the willful breaches of contract, Plaintiffs have been injured and are entitled to recover damages

98. Accordingly, Plaintiffs are entitled to punitive damages from the Covenant Defendants in an amount that the Court determines is fair.

99. Plaintiffs also are entitled to specific performance whereby the Covenant Defendants are ordered to produce all requested accounts, books, records, and other relevant Covenant Funds documents in their entirety, to account for all of the Covenant Funds' assets, and to expeditiously liquidate the Covenant Funds' assets.

COUNT IV — ULTRA VIRES
(against the Covenant Defendants)

100. Plaintiffs repeat and incorporate by reference each and every allegation above.

101. By engaging in the acts alleged above, the Covenant Defendants acted outside their authority under the Agreements, the Offering Circulars, any governing corporate documents, and the applicable law.

102. As a result of the Covenant Defendants' *ultra vires* acts, Plaintiffs have been harmed and are entitled to recover damages in an amount that will compensate Plaintiffs for any injuries resulting from the Covenant Defendants' *ultra vires* acts.

COUNT V — CONVERSION
(against the Covenant and Cartographer Defendants)

103. Plaintiffs repeat and incorporate by reference each and every allegation above.

104. Plaintiffs own equity in and have the right to possess the Covenant Funds' assets.

105. The Covenant Defendants have intentionally prevented Plaintiffs from accessing and/or retaking possession of their investments in the Covenant Funds in order to continue collecting a larger amount of management fees.

106. The Covenant Defendants have engaged in *ultra vires* acts and have wrongfully transferred the Covenant Funds' assets to Cartographer for the personal benefit of the Covenant Defendants.

107. Plaintiffs did not consent to the Covenant Defendants' wrongful property transfers, churning of fees, lies, breaches of fiduciary duties, and misuse of the Covenant Funds' assets.

108. Plaintiffs have been, and continue to be, harmed as a result of the Covenant Defendants' wrongful conversion of the Covenant Funds' assets, and are entitled to damages in an amount that will compensate Plaintiffs for any injuries resulting from such wrongful conversion.

COUNT VI — COMMON LAW FRAUD
(against the Covenant Defendants)

109. Plaintiffs repeat and incorporate by reference each and every allegation above.

110. The Covenant Defendants knowingly misrepresented that they would complete liquidating the Covenant Funds' assets by the end of 2015.

111. The Covenant Defendants knowingly misrepresented that they would sell a majority of the Covenant Funds' assets and distribute the cash by April 2015.

112. The Covenant Defendants knowingly misrepresented the value and liquidity of assets in the Covenant Funds or were recklessly indifferent to those issues.

113. The Covenant Defendants' conduct reflects that they knew these statements were false when made or were recklessly indifferent about stating the truth.

114. To date, the Covenant Defendants have failed to make meaningful and good faith efforts to liquidate the Covenant Funds' assets, misused assets, which should have been liquidated and distributed to Plaintiffs, for the Covenant Defendants' own personal benefit, and prolonged liquidation indefinitely.

115. The Covenant Defendants have intentionally delayed liquidating the Covenant Funds' assets so as to continue collecting management fees based on a higher Capital Account Balance, incurring expenses and charging the Covenant Funds for such and other personal benefits resulting from the wrongful conduct alleged here.

116. The Covenant Defendants knowingly misrepresented to Plaintiffs that the sales of the Covenant Funds' equity in YouToo Media and Carry On were nearing completion. On information and belief, the Covenant Defendants made these representations to conceal the fact that Covenant Defendants were wrongfully increasing the investments in these companies with assets that should have been distributed to Plaintiffs.

117. To date, the Covenant Defendants have sold no equity in these companies.

118. The Covenant Defendants knowingly misrepresented to Plaintiffs that Cartographer would finance the sale of Covenant Hospitality with conventional bank lending and equity contributions from new Cartographer investors.

119. Instead, the Covenant Defendants used the Covenant Funds' assets to finance the sale by loaning the Covenant Funds' assets to Cartographer to the detriment of Plaintiffs and to the benefit of Covenant Defendants.

120. Plaintiffs relied on the Covenant Defendants' misrepresentations to their detriment and have suffered injuries and incurred damages.

COUNT VII—TORTIOUS INTERFERENCE
(against Cartographer Defendant)

121. Plaintiffs repeat and incorporate by reference each and every allegation above.

122. Plaintiffs and the Covenant Defendants had contractual relationships requiring the Covenant Defendants to, among other things, act as a fiduciary with respect to Plaintiffs and the assets invested in the Covenant Funds. Defendant Cartographer was aware of those contractual relationship.

123. Defendant Cartographer intentionally interfered with the contractual relationships through unfair and improper means.

124. Plaintiffs have suffered damages as a direct result of Defendant Cartographer's actions.

COUNT VIII — CIVIL CONSPIRACY TO BREACH CONTRACT
(against the Covenant and Cartographer Defendants)

125. Plaintiffs repeat and incorporate by reference each and every allegation above.

126. Shafer, CFS, and Cartographer form a confederation of two or more people or entities.

127. On information and belief, all Defendants together facilitated and furthered, and continue to facilitate and further, the transfer of desirable assets from the Covenant Funds to Cartographer, which is a breach of the Covenant Defendants' fiduciary duty.

128. Defendants' misconduct and facilitation of the transfer of the Covenant Funds' assets caused, and continues to cause, Plaintiffs actual harm for which they are entitled to recover damages.

COUNT IX — AIDING AND ABETTING BREACH OF CONTRACT
(against Cartographer Defendant)

129. Plaintiffs repeat and incorporate by reference each and every allegation above.

130. The Covenant Defendants breached their fiduciary duties under the Agreements, governing corporate documents, and applicable law.

131. Defendant Cartographer accepted valuable assets and from the Covenant Funds for an arbitrary price that was chosen without the assets being marketed to third parties. Defendant

Cartographer accepted management services at the expense of Plaintiffs. Cartographer accepted and benefitted from these assets at the expense of the Covenant Funds and Plaintiffs.

132. Defendant Cartographer knew the assets and management services it received were the Covenant Funds' property by contract and knew the Covenant Defendants' self-interested transfer of those assets and services constituted a contractual breach of Covenant Defendants' fiduciary and other duties.

133. Defendant Cartographer knowingly participated in the foregoing improper transactions by directly or indirectly aiding, abetting, and/or causing the Covenant Defendants to transfer Covenant Fund assets to Cartographer in a grossly unfair process.

134. Plaintiffs have suffered economic harm as a result, while Defendant Cartographer has benefitted, and continues to benefit, from these desirable assets and management services.

135. Accordingly, Plaintiffs are entitled to disgorgement and damages from Defendant Cartographer in an amount to be determined at trial.

COUNT X — UNJUST ENRICHMENT
(against the Covenant and Cartographer Defendants)

136. Plaintiffs repeat and incorporate by reference each and every allegation above.

137. On information and belief, the Covenant Defendants have delayed liquidating the remaining assets and have not distributed proceeds from liquid assets in the Covenant Funds so as to continue collecting management fees based on a higher Capital Account Balance.

138. On information and belief, the Covenant Defendants have transferred desirable assets from the Covenant Funds to Cartographer without attempting to sell the assets in arm's-length transactions to maximize Cartographer's Capital Account Balance and thus collect greater performance fees from Cartographer.

139. The Covenant Defendants' conduct relating to the transfer of assets described above was unjustified. Cartographer was unjustified in accepting assets it knew to be improperly transferred.

140. On information and belief, by transferring desirable assets from the Covenant Funds to Cartographer without attempting to sell the assets in arm's-length transactions, the Covenant Defendants have unjustly enriched themselves through their ownership and other economic interests in Cartographer. Cartographer has unjustly enriched itself by gaining valuable assets from the Covenant Funds below market value.

141. On information and belief, the Covenant Defendants have misused the Covenant Funds' assets for their personal benefit by, among other things, recklessly investing money in oil puts so as to gain quick access to cash, fraudulently using the Covenant Funds' assets to pay for travel to search for new investors when the Covenant Defendants should have been dissolving and liquidating the Covenant Funds, and improperly using the Covenant Funds' to lease expensive and unnecessarily large office space that Cartographer also uses. Additionally, Defendant Shafer has misused the Covenant Funds' assets by vacationing with his family at the Covenant Funds' luxury homes and allowing friends and employees to use the luxury homes without consent and without compensating the Covenant Funds.

142. The Covenant Defendants have unjustly enriched themselves by misusing the Covenant Funds' assets. Cartographer has unjustly enriched itself by knowingly using office space purchased with the Covenant Funds' assets without providing reasonable compensation.

143. As a result of the acts and omissions of the Covenant Defendants and Cartographer, Plaintiffs have been, and continue to be, harmed while the Covenant Defendants and Cartographer have and will benefit unjustly.

COUNT XI — DISGORGEMENT
(against the Covenant and Cartographer Defendants)

144. Plaintiffs repeat and incorporate by reference each and every allegation above.

145. Through their actions and omissions, including delaying liquidation, self-dealing, and other misuses of Covenant Fund assets, the Covenant Defendants and Cartographer have received benefits to which they are not entitled and to the detriment of Plaintiffs.

146. As a result, Plaintiffs suffered and continue to suffer economic harm.

147. The Covenant Defendants and Cartographer should be required to disgorge all improperly received and ill-gotten profits and benefits.

COUNT XII — RESCISSION OF COVENANT HOSPITALITY SALE
(against the Covenant and Cartographer Defendants)

148. Plaintiffs repeat and incorporate by reference each and every allegation above.

149. The Covenant Defendants made misrepresentations and/or refused to disclose to Plaintiffs material aspects of the Covenant Hospitality sale to Cartographer prior to closing of the sale.

150. The Covenant Defendants knowingly misrepresented to Plaintiffs that Cartographer would finance the sale of Covenant Hospitality with conventional bank lending and equity contributions from new Cartographer investors.

151. Instead, the Covenant Defendants used the Covenant Funds' assets to finance the sale by loaning Covenant Fund assets to Cartographer to the benefit of Covenant Defendants and to the detriment of Plaintiffs.

152. The Covenant Defendants transferred Covenant Hospitality to Cartographer at an arbitrary price without ever trying to market that asset, even though there was an interested buyer. That inured to Shafer's and Cartographer's benefit—particularly because Shafer is attempting to get Cartographer off the ground—while plainly harming Plaintiffs' interests. Defendant Shafer closed the sale despite Plaintiffs' express instructions to the contrary.

153. Defendant Cartographer knew the assets it received were the Covenant Funds' property by contract and knew the Covenant Defendants' self-interested transfer of those assets constituted a contractual breach of Covenant Defendants' fiduciary and other duties.

154. Because of the lies involved in the Covenant Hospitality sale (and Defendant Cartographer's knowledge of those lies), rescinding the sale will assist in placing all parties in the same position they were in before the sale.

155. The Covenant Defendants' misconduct and facilitation of the transfer of Covenant Funds' assets caused, and continues to cause, Plaintiffs actual harm for which they are entitled to rescission of the sale in addition to damages.

COUNT XIII — INSPECTION OF BOOKS AND RECORDS
(against the Covenant Defendants)

156. Plaintiffs repeat and incorporate by reference each and every allegation above.

157. The Covenant Defendants are obligated to maintain all accounts, books, records, and other relevant documents under the Agreements for each of the Covenant Funds.

158. Pursuant to the Agreements, the Covenant Defendants are obligated, on Plaintiffs' request, to produce all accounts, books, records, and other relevant documents that the Covenant Defendants are obligated to maintain under the Agreements.

159. Plaintiffs have requested all accounts, books, records, and other relevant documents sufficient to investigate, among other things, (a) what assets remain in the Covenant Funds; (b) whether assets have been sold at fair market value; (c) the Covenant Defendants' efforts to maximize value for Plaintiffs; (d) the Covenant Defendants' plans to complete liquidation; and (e) whether fund expenses have been properly allocated.

160. These requests are reasonable and necessary not only because Plaintiffs have an absolute right to such documents but also to review the Covenant Defendants' liquidation efforts to date and their lack of effort to liquidate the remaining assets in the Covenant Funds. The

requests also are necessary to review the Covenant Defendants' expenses and any commingling of expenses for Cartographer and the Covenant Funds.

161. Plaintiffs, including through counsel, have demanded accounts, books, and records on many occasions.

162. The Covenant Defendants have produced or made available only some very limited and non-responsive accounts, books, and records responsive to Plaintiffs' books-and-records demands. Judicial intervention is necessary and requested to enforce Plaintiffs' rights under the Agreements and to ensure that assets in the Covenant Funds are being liquidated properly.

COUNT XIV — ACCOUNTING
(against the Covenant Defendants)

163. Plaintiffs repeat and incorporate by reference each and every allegation above.

164. The Covenant Defendants, as fiduciaries, have an obligation to account to Plaintiffs for their management of the Covenant Funds and, in addition, the Agreements require the Covenant Defendants to maintain complete and accurate accounts of all transactions on behalf of the Covenant Funds and Plaintiffs.

165. Despite demands for a full accounting of the Covenant Defendants' liquidation efforts to date, including information to confirm that reasonable market prices were obtained for the assets sold to date and an accounting of operating expenses since liquidation started, the Covenant Defendants have failed and refused to provide an accounting.

166. Because the Covenant Defendants' have refused to provide an accounting, Plaintiffs are unable to adequately monitor the Covenant Defendants' conduct. This has caused Plaintiffs harm for which the request relief.

167. The Court should order the Covenant Defendants to make the books, records, and other documents necessary for a full accounting of the Covenant Funds' assets available to Plaintiffs to examine, inspect, audit, and copy.

COUNT XV — DECLARATORY JUDGMENT
(against the Covenant Defendants)

168. Plaintiffs repeat and incorporate by reference each and every allegation above.

169. Under the Agreements, the General Partner/Investment Adviser is only entitled to indemnification for actions or inactions not constituting a breach of any fiduciary duty, and only if it undertakes to repay any legal fees in the event of an adverse outcome in litigation.

170. The Covenant Defendants' actions and omissions as stated in this Petition constitute a breach of their fiduciary duties to the Covenant Funds and Plaintiffs.

171. The Covenant Defendants knew when they committed the acts and omissions, that those acts and omissions were not in the best interests of the Covenant Funds and Plaintiffs. The Covenant Defendants could not, in good faith, have believed otherwise.

172. The Covenant Funds and Plaintiffs are entitled to an Order declaring that the Covenant Funds are not required to indemnify the Covenant Defendants for any litigation fees and expenses incurred in connection with this litigation.

COUNT XVI — APPOINTMENT OF LIQUIDATING RECEIVER
(against the Covenant Funds and the Covenant Defendants)

173. Plaintiffs repeat and incorporate by reference each and every allegation above.

174. Due to the Covenant Defendants' actions and omissions as set forth in this Petition, including misrepresentation, fraud, self-dealing, and gross mismanagement of the Covenant Funds, a receiver should be appointed over the Covenant Funds in the place and stead of the Covenant Defendants.

175. Pursuant to 12 OKLA. STAT. §1551, *et seq.*, this Court has the power to appoint a receiver over the assets of the Covenant Funds for the purpose of protecting the Covenant Funds' assets and Plaintiffs' rights, accounting for the assets, and distributing the assets to Plaintiffs in accordance with Partnership Agreements, governing corporate documents, applicable law, and equity.

176. As a result of the foregoing, the Court should appoint a receiver of the assets of the Covenant Funds.

WHEREFORE, Plaintiffs request as follows:

a. an Order removing CFS as the General Partner/Investment Adviser of the Covenant Funds;

b. an Order compelling the Covenant Defendants to comply with its obligations to produce all accounts, books, records, and other Covenant Funds' documents;

c. an Order compelling Covenant Defendants to account fully for their liquidation efforts to date, including information confirming that they obtained reasonable market prices for assets sold to date and related to all operating expenses;

d. an Order requiring the Covenant Defendants to disgorge all profits that they unjustly gained as a result of their delay in liquidating the Covenant Funds' assets, their transfer of assets to Cartographer without attempting to market those assets, and their misuse of Covenant Fund assets;

e. an Order requiring the Covenant Defendants to disgorge all management fees they collected as a result of their failure to liquidate the Covenant Funds, self-dealing, other misuses of the Covenant Funds' assets for personal benefit, and the comingling of the Covenant Funds' and Cartographer's expenses;

f. an Order requiring all Defendants to pay compensatory damages subject to proof at trial in an amount exceeding $10,000 along with punitive damages;

g. an Order requiring all Defendants to disgorge all ill-gotten gains;

h. an Order rescinding the sale of Covenant Hospitality;

i. an Order appointing a liquidating receiver over the Covenant Funds' assets;

j. an Order declaring that the Covenant Funds are not required to indemnify the Covenant Defendants for any litigation fees and expenses incurred in connection with this litigation;

k. an Order requiring all Defendants to pay pre- and post-judgment interest as applicable;

l. an Order requiring all Defendants to pay reasonable attorney's fees and costs of prosecuting this action; and

m. such other and further relief that this Court may deem just and equitable under the facts and circumstances.

Dated: Oklahoma City, Oklahoma
September 27, 2016

Respectfully submitted,

By: _____

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ATTORNEYS FOR PLAINTIFFS

Dated: Oklahoma City, Oklahoma
September 27, 2016

Respectfully submitted,

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWITTER INC., Petitioner,

v.

YOUTOO
TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2017-01131
U.S. Patent No. 8,464,304

PATENT OWNER'S POWER OF ATTORNEY

Pursuant to 37 C.F.R. § 42.10(b), Youtoo Technologies, LLC, the Patent Owner, hereby appoints the following backup counsel in the United States Patent and Trademark Office associated with the above-captioned Petition for *Inter Partes* Review of U.S. Patent No. 8,464,304:

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The individual signing below has the authority to execute this document on behalf of Youtoo Technologies, LLC.

YOUTOO TECHNOLOGIES, LLC

By: _____
Name: Stephen E. Shafer
Title: CEO / MANAGER
Date: April 21, 2017

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served on the counsel for Petitioner a true and correct copy of the foregoing "Patent Owner's Power of Attorney" by electronic means on April 21, 2017 at the following email addresses of record:

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Dated: April 21, 2017

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