

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ELIZABETH ROMAIN, HERMAN
JIMINIAN, JEANNETTE FELICIANO,
ALBIN DUCLET, and MARIA MOREIRA,

Plaintiffs,

v.

NORMAN SEABROOK, ELIAS
HUSAMUDEEN, JOSEPH BRACCO,
ELIZABETH CASTRO, MICHAEL
MAIELLO, AMELIA WARNER, THOMAS
FARRELL, KAREN TYSON, BENNY
BOSCIO, KENYATTA JOHNSON, ALBERT
CRAIG, DANIEL PALMIERI, ANGEL
CASTRO, FREDERIC FUSCO, PAULETTE
BERNARD, PLATINUM MANAGEMENT
(NY) LLC, MURRAY HUBERFELD, JONA
RECHNITZ, and KOEHLER & ISAACS,
LLP,

Defendants

and

THE CORRECTIONS OFFICERS
BENEVOLENT ASSOCIATION, INC.,
COBA ANNUITY FUND, and COBA
GENERAL FUND,

Nominal Defendants.

Civil Action No. 1:16-cv-08470 (JPO)

**PLAINTIFFS' VERIFIED AMENDED
DERIVATIVE COMPLAINT**

Plaintiffs Elizabeth Romain, Herman Jiminian, Jeanette Feliciano, Albin Duclet, and Maria Moreira (collectively, “Plaintiffs”), by and through their undersigned counsel, bring this Verified Amended Complaint derivatively, on behalf of the members of the Corrections Officers Benevolent Association, Inc. (“COBA”) for violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1962, *et seq.*, breach of fiduciary duty, aiding and abetting, and unjust enrichment, and directly, for an equitable accounting. Plaintiffs base their allegations on personal knowledge as to their own actions, and on information and belief as to all other allegations based upon due investigation by counsel, including: (a) review of the sealed complaint (“Sealed Complaint”) and indictment (“Indictment”) in *United States v. Seabrook*, 16-CR-00467-ALC (S.D.N.Y. 2016) (“Criminal Action”); (b) review of various COBA materials; (c) review of news articles and COBA communications with its members; (d) review of other publicly available information concerning COBA and other persons; and (e) discussions with other COBA members.

INTRODUCTION

1. In June 2016, Norman Seabrook (“Seabrook”) COBA’s President, and Murray (“Huberfeld”) a principal of Platinum Partners, operator of a New York City based hedge fund, were arrested by the Department of Justice.

2. The Indictment in the Criminal Action charged Seabrook and Huberfeld with honest services fraud and wire fraud under RICO. A copy of the Indictment is attached hereto as Exhibit A.

3. According to the Indictment, Huberfeld, on Platinum Partners’ behalf, bribed Seabrook with \$60,000 in cash, delivered in a Ferragamo bag, to invest funds from the COBA

Annuity Fund and the COBA General Fund in the Platinum Partners Value Arbitrage Fund (“PPVA”).

4. The PPVA investment was a high-stakes venture, of the type which requires that an investor acknowledge that the entire investment may be lost before they are allowed to deposit funds. It was not the type of prudent investment suited to a low-risk benefits fund.

5. COBA’s Constitution and Bylaws, attached hereto as Exhibit B, provide that the Executive Board is charged with overseeing the investments of the COBA Annuity Fund and the COBA General Fund, and with depositing funds only in such banks or other financial institutions “as may be selected or approved by the Executive Board.”

6. Despite this requirement, the Executive Board had no safeguards in place, and Seabrook was able to direct the investment of nearly 20% of the COBA Annuity Fund and 40% of the COBA General Fund in the PPVA without express Executive Board approval.

7. Seabrook was able to invest in the PPVA because he had ensured the Executive Board’s acquiescence through liberal dispensations of gift cards, cars, and plush job assignments away from Rikers Island, which ensured they exercised no due diligence over Seabrook’s activities.

8. Indeed, the Executive Board Defendants’ loyalty to Seabrook continues today. In violation of COBA’s Constitution and Bylaws, as well as longstanding case law, the Executive Board has paid, and continues to pay, Seabrook’s attorneys’ fees in the Criminal Action.

9. Additionally, COBA’s law firm, Koehler & Isaacs LLP (“Koehler & Isaacs”), was more loyal to Seabrook than it was to COBA, the COBA Annuity Fund, and the COBA General Fund. Indeed, Koehler & Isaacs was complicit in Seabrook’s conduct, as the firm knew that Seabrook had made the high-stakes, high-risk investments in the PPVA, yet neither advised nor

warned the Executive Board about the PPVA investment. Instead, Koehler & Isaacs remained silent, so as not to imperil its lucrative alliance with Seabrook, and contract with COBA.

10. Koehler & Isaacs was also instrumental in aiding Seabrook in co-opting the Executive Board by providing its members with GPS devices and other luxury gifts.

11. PPVA was a Ponzi scheme, and has since declared bankruptcy. The COBA Annuity Fund's and the COBA General Fund's investments are virtually worthless.

12. Accordingly, on COBA's behalf, Plaintiffs here seek to hold Seabrook, the COBA Executive Board, Platinum Partners, Koehler & Isaacs, and others responsible for the harm suffered by the COBA Annuity Fund and the COBA General Fund.

13. Plaintiffs also seek an accounting from the Executive Board of the COBA Annuity Fund, the COBA General Fund, the COBA Scholarship Fund, the COBA Widows' and Orphans' Fund, the COBA Security Benefits Fund-Active, and the COBA Security Benefits Fund-Retired (collectively, the "Funds," unless identified individually).

PARTIES

A. Active Duty Plaintiffs

14. Plaintiff Elizabeth Romain ("Romain") is an active-duty corrections officer, and began working as a corrections officer in 1986. Romain is an active member of COBA, and is a beneficiary of the COBA Annuity Fund and the COBA General Fund.

15. Plaintiff Herman Jiminian ("Jiminian") is an active-duty corrections officer, and began working as a corrections officer in 2004. Jiminian is an active member of COBA, and is a beneficiary of the COBA Annuity Fund and the COBA General Fund.

16. Plaintiff Jeannette Feliciano (“Feliciano”) is an active-duty corrections officer, and began working as a corrections officer in 1998. Feliciano is an active member of COBA, and is a beneficiary of the COBA Annuity Fund and the COBA General Fund.

B. Retired Plaintiffs

17. Plaintiff Albin Duclet (“Duclet”) is a retired corrections officer, and worked as a corrections officer from 1990 until 2016. Duclet is an associate member of COBA, and is a beneficiary of the COBA Annuity Fund and the COBA General Fund.

18. Plaintiff Maria Moreira (“Moreira”) is a retired corrections officer, and worked as a corrections officer from 1996 until 2016. Moreira is an associate member of COBA, and is a beneficiary of the COBA Annuity Fund and the COBA General Fund.

C. Nominal Defendants

19. Nominal Defendant COBA is a labor union organized as a not-for-profit corporation under the laws of New York State. COBA is the largest municipal jail union in the nation and the second largest law enforcement union in New York City.

20. Nominal Defendant COBA General Fund is the operating account for COBA, and is and was managed by the COBA Executive Board Defendants (defined below). The COBA General Fund is financed through dues paid by each active COBA member, collected by the City of New York through payroll, and then turned over to COBA.

21. Nominal Defendant COBA Annuity Fund is an employee retirement benefits fund, which is funded primarily by New York City. The City contributes to the fund approximately \$845 per year per correction officer who has been employed for five years or less, and \$1,411 per year per correction officers employed for more than five years. Upon retirement,

the COBA Annuity Fund provides the retired officer with an annuity benefit based upon certain factors, including length of service and profit or loss based upon investment results and administrative costs. The COBA Annuity Fund was and is managed by a subset of the COBA Executive Board (as defined below), the COBA Annuity Fund Sub-Group Defendants (as defined below).

D. COBA Defendants

22. Defendant Norman Seabrook (“Seabrook”) was the President of COBA from approximately 1995 to June 2016, when he was suspended. Upon information and belief, Seabrook is a citizen of New York.

23. Defendant Elias Husamudeen (“Husamudeen”) is and was, at all pertinent times, the First Vice President of COBA, and now claims to be the Acting President of COBA. Upon information and belief, Husamudeen is a citizen of New York.

24. Defendant Joseph Bracco (“Bracco”) is and was, at all pertinent times hereto, the Second Vice President of COBA, and now claims to be the First Vice President. Upon information and belief, Bracco is a citizen of New York.

25. Defendant Elizabeth Castro (“Castro”) is and was, at all pertinent times hereto, the Third Vice President of COBA and now claims to be the Second Vice President. Upon information and belief, Castro is a citizen of New York.

26. Defendant Michael Maiello (“Maiello”) is and was, at all pertinent times hereto, the Treasurer of COBA. In his capacity as COBA Treasurer, Maiello is responsible for COBA monies, including depositing COBA monies in such bank or investment institution that may be selected or approved by the COBA Board. Upon information and belief, Maiello is a citizen of New York.

27. Defendant Amelia Warner (“Warner”) is and was, at all pertinent times hereto, the Financial Secretary of COBA. Upon information and belief, Warner is a citizen of New York.

28. Defendant Thomas Farrell (“Farrell”) is and was, at all pertinent times hereto, the Legislative Chairman of COBA. Upon information and belief, Farrell is a citizen of New York.

29. Defendant Karen Tyson, f/k/a Karen Belfield (“Tyson”), is and was, at all pertinent times hereto, the Recording Secretary of COBA. Upon information and belief, Tyson is a citizen of New York.

30. Defendant Benny Boscio (“Boscio”) is and was, at all pertinent times hereto, the Sergeant-At-Arms of COBA. Upon information and belief, Boscio is a citizen of New York.

31. Defendant Kenyatta Johnson (“Johnson”) is and was, at all pertinent times hereto, the Corresponding Secretary of COBA. Upon information and belief, Johnson is a citizen of New York.

32. Defendant Albert Craig (“Craig”) is and was, at all pertinent times hereto, either First City Wide Trustee of COBA or the Manhattan Borough Trustee of COBA, a position he formerly held. Upon information and belief, Craig is a citizen of New York.

33. Defendant Daniel Palmieri (“Palmieri”) is and was, at all pertinent times hereto, the Bronx Borough Trustee of COBA. Upon information and belief, Palmieri is a citizen of New York.

34. Defendant Angel Castro (“Castro”) is and was, at all pertinent times hereto, Manhattan Borough Trustee of COBA. Upon information and belief, Castro is a citizen of New York.

35. Defendant Frederic Fusco (“Fusco”) is and was, at all pertinent times hereto, the Queens Borough Trustee of COBA. Upon information and belief, Fusco is a citizen of New York.

36. Defendant Paulette Bernard, f/k/a Paulette Johnson (“Bernard”), is and was, at all pertinent times hereto, the Brooklyn Borough Trustee of COBA. Upon information and belief, Bernard is a citizen of New York.

37. Defendants Seabrook, Husamudeen, Bracco, Castro, Maiello, Warner, Farrell, Tyson, Boscio, Johnson, Craig, Palmieri, Castro, Fusco and Bernard, are or were members of the Executive Board of COBA, and are referred to herein as the “Executive Board Defendants.”

38. Defendants Seabrook, Maiello, along with two other, unknown members of the Executive Board, managed the Annuity Fund, and are referred to herein and the “Annuity Fund Subgroup Defendants.”

39. The Executive Board Defendants are sued herein in their professional and personal capacities.

E. Platinum Partners Defendants

40. Defendant Platinum Management (NY) LLC (“Platinum Partners”) is a New York Limited Liability Company. Platinum Management oversees the management of the Platinum Partners hedge funds, including the PPVA.

41. Defendant Murray Huberfeld (“Huberfeld”) is a co-founder and owner of Platinum Partners. As a principal of Platinum Partners, Huberfeld oversees the investments of the PPVA. Upon information and belief, Huberfeld is a citizen of New York.

F. Other Individual Defendants

42. Defendant Jona Rechnitz (“Rechnitz”) is a businessman who acted as a liaison between Platinum Partners, Seabrook, and Huberfeld. Upon information and belief, Rechnitz is a citizen of New York.

G. Professional Defendants

43. Defendant Koehler & Isaacs, LLP (“Koehler & Isaacs”), is and was, at all pertinent times hereto, the law firm for COBA.

FIDUCIARY DUTIES OF THE EXECUTIVE BOARD DEFENDANTS

44. The Individual Defendants had and have stringent fiduciary obligations to COBA and its members.

45. By reason of their positions on the Executive Board, the Executive Board Defendants owed COBA and its members the fiduciary obligations of loyalty, good faith, due care, oversight, and candor, and are at all times required to use their utmost ability to control and manage COBA in a fair, just, honest, and equitable manner. The Executive Board Defendants were and are required to act in furtherance of the best interest of COBA and its members, so as to benefit all members equally and not in furtherance of their own personal interest or benefits.

46. The Executive Board Defendants, because of their positions of control and authority were able to, and did, directly and/or indirectly, exercise control over the wrongful acts complained of herein.

47. To discharge their duties, the Executive Board Defendants were and are required to exercise reasonable and prudent supervision over the management, policies, practices, and controls of the operational affairs of COBA. By virtue of such duties, the Executive Board Defendants were and are required to, among other things:

- a. Conduct the affairs of the COBA in an efficient, businesslike manner so as to avoid wasting the COBA's assets, and to maximize the value of the funds under the management of the COBA Executive Board;
- b. Ensure that COBA's assets were adequately protected;
- c. Ensure that COBA took steps to mitigate significant and material risks; and
- d. Ensure that COBA was operated in a diligent, honest, and prudent manner.

48. The conduct of the Executive Board Defendants complained of herein involves a knowing and culpable violation of their obligations to COBA and its members, the absence of good faith on their part, and a reckless disregard for their duties to COBA and its members. The Executive Board Defendants were aware, or should have been aware, that their lack of loyalty, good faith, due care, oversight, and candor posed a risk of serious injury to COBA and its members.

49. In addition to their general fiduciary duties, the Executive Board Defendants have fiduciary duties as described in New York's Labor Law, § 720, *et seq.*

50. New York Labor Law § 722 states that:

No officer or agent of a labor organization shall, directly or indirectly:

1. Have or acquire any pecuniary or personal interest which would conflict with his fiduciary obligation to such organization;
2. Engage in any business or financial transaction which conflicts with his fiduciary obligation; or
3. Act in any way which subordinates the interests of such labor organization to his own pecuniary or personal interests.

N.Y. Lab. Law § 722 (McKinney)

51. Moreover, New York Labor Law § 723(1)(d) states that “it shall constitute a violation of his fiduciary obligation for an officer or agent of a labor organization...[t]o have, directly or indirectly, any financial interest in the business of any person who sells to, buys from, or otherwise deals with his labor organization.” *Id.*

SUBSTANTIVE ALLEGATIONS

A. Background

52. COBA is New York City's largest correctional officers union, and the largest municipal jail union in the United States. COBA represents more than 9,000 officers employed at Rikers Island and other facilities.

53. COBA is ostensibly managed by the ten members of the COBA Executive Board, and five other trustees.

54. COBA is governed by a Constitution and Bylaws, last revised in January of 2013.

55. The COBA Annuity Fund is an employee retirement benefits fund, which is funded primarily by New York City. The City contributes to the fund approximately \$845 per year per correction officer who has been employed for five years or less, and \$1,411 per year per correction officers employed for more than five years. Upon retirement, the COBA Annuity Fund provides the retired officer with an annuity benefit based upon certain factors, including length of service and profit or loss based upon investment results and administrative costs. The COBA Annuity Fund is managed by a subset of the COBA Executive Board (as defined below), the COBA Annuity Fund Sub-Group Defendants (as defined below).

56. Upon information and belief, the COBA Annuity Fund held approximately \$81 million in assets at the end of 2013, including \$72 million invested on the advice of various investment advisors.

57. The COBA Annuity Fund is supposed to be administered by the Executive Board Defendants, but at some unknown point in the past, the Executive Board devolved responsibility for overseeing the Annuity Fund upon the Annuity Fund Sub-Group Defendants.

58. The COBA General Fund is the operating account for COBA, and is managed by the COBA Executive Board. The COBA General Fund is financed through dues paid by each

active COBA member, collected by the City of New York through payroll, and then turned over to COBA.

59. The COBA General Fund is funded through an annual budget process. Upon information and belief, in June 2014, the COBA General Fund contained \$8 million in cash.

60. The COBA General Fund is supposed to be administered by the Executive Board Defendants.

B. The Platinum Partners Investments

61. According to the Sealed Complaint in the Criminal Action, attached hereto as Exhibit C, made under oath by Federal Bureau of Investigation (“FBI”) Special Agent Blaire Toleman (“Agent Toleman”), in late 2013, Seabrook, then the President of COBA, met Rechnitz (identified as CW-1) through Phillip Banks (identified as NYPD Officer),¹ formerly the highest ranking uniformed officer with the New York Police Department. Ex. C at ¶ 15(c).

62. Shortly after meeting Seabrook, Rechnitz took him on two trips to the Dominican Republic, in November and December 2013. Ex. C at ¶ 15(c).

63. The airfare for both trips was paid for by Rechnitz, and not reimbursed by Seabrook. *Id.*

64. During one of these trips, “SEABROOK complained to [Rechnitz] in [Rechnitz]’s hotel room that SEABROOK worked hard to invest COBA’s money and did not get anything personally from it. SEABROOK said it was time that ‘Norman Seabrook got paid.’” Ex. C at ¶15 (f).

¹ Although not disclosed in the Sealed Complaint, newspapers identified Rechnitz as “CW-1” and Banks as the police officer in question.

65. With the connivance of Rechnitz, Huberfeld agreed that if COBA funds were invested with Platinum Partners, Platinum Partners would pay Seabrook a personal kickback in exchange for facilitating the investment. Ex. C at ¶ 15(g-h).

66. Seabrook asked Rechnitz “How much is Norman Seabrook going to get paid?” After checking with Huberfeld, Rechnitz told Seabrook that “it depended on the investment amount and profit, [but] the amount could be between \$100,00 and \$150,000 per year. Ex. C at ¶15 (h).

67. In or around January 2014, Platinum Partners’ representatives met with the Annuity Fund Sub-Group Defendants, to discuss investing in PPVA. Following this presentation, the Annuity Fund Sub-Group Defendants authorized an investment of \$10 million of the COBA Annuity Fund in the PPVA. Ex. C at ¶ 13(b-c).

68. In August 2014, the Annuity Fund Sub-Group Defendants approved the investment of an additional \$5 million in the PPVA. Ex. C at ¶1 3(d).

69. Upon information and belief, the Annuity Fund Sub-Group Defendants did not seek prior approval of the Executive Board Defendants before making these investments.

70. In or around June 2014, an additional \$5 million from the COBA General Fund was invested in the PPVA by Seabrook without the Executive Board Defendant’s knowledge. Ex. C at ¶ 13(f).

71. Maiello, in his role as role as COBA’s treasurer, signed off on the COBA Annuity Fund and the COBA General Fund investments without properly vetting the transaction. Ex. C at ¶ 13(c).

72. COBA’s Annuity Fund investment in PPVA represented an investment of nearly 20% of the monies in the COBA Annuity Fund.

73. The COBA Annuity Fund investments were made via wire transfer.

74. COBA's General Fund investment in PPVA represented an investment of approximately 40% of the monies in COBA's General Fund.

75. The COBA General Fund investment was made via wire transfer.

C. The Platinum Partners Kickback

76. In December 2014, Seabrook began demanding his first kickback payment from Platinum Partners. Huberfeld, on Platinum Partners' behalf, facilitated an initial payment of \$60,000 to Seabrook, using Rechnitz and Rechnitz' associate, non-Defendant Jeremy Reichberg ("Reichberg") as intermediaries. Ex. C at ¶ 15(n).

77. On or about December 11, 2014, Rechnitz arranged to meet Seabrook to pay him the \$60,000 kickback in cash. The money was delivered to Seabrook by Rechnitz in a Ferragamo bag, purchased by Rechnitz especially for that purpose. Ex. C at ¶ 15(p-q).

78. A few days later, Huberfeld arranged for Rechnitz to be reimbursed by Platinum Partners. Rechnitz' company created a fake invoice for 16 Knicks tickets, which were "sold" to Platinum Partners for \$60,000, or \$7,500 per ticket (the Knicks were, at the time of the invoice, 4-20). The invoice was provided to Platinum Partners via e-mail. Ex. C at ¶ 18(a).

D. Platinum Partners was a High-Risk Ponzi Scheme

79. Platinum Partners generally, and PPVA specifically, were part of a Ponzi scheme, and in fact, the COBA investment in PPVA was integral to the scheme's continued survival.

80. PPVA invested in assets in sectors such as energy, mining, and Asia-based arbitrage opportunities.

81. As no market existed for these assets, Platinum Partners initially valued them internally.

82. From 2012 forward, Platinum received far more redemption requests than capital inflows; Platinum Partners met these redemption requests through a combination of high-interest loans and paying investors out of capital inflows from new and existing investors. Ex. C at ¶ 22(a).

83. Municipal investors, such as COBA, were key to keeping the PPVA scheme moving forward, and COBA's ability to contribute large amounts of capital provided a lifeline to PPVA. Ex. C at ¶ 22(a-c).

84. In the same month the COBA Annuity Fund made its initial \$10 million investment in the PPVA, the PPVA faced requests of several million dollars' worth of redemptions. On the same day that the \$10 million was received by PPVA, \$4.5 million in redemption requests were immediately processed. Ex. C at ¶ 22(b).

85. By August 2014, when the COBA Annuity Fund made its final PPVA investment, COBA had become PPVA's largest investor for the time period between 2013 and August 2014, and had provided in excess of half of the PPVA's funding for 2014. Ex. C at ¶ 22(c).

86. Even after the August 2014 investment, Huberfeld continued to solicit investments from COBA, in part to meet \$44 million in looming redemption requests. Ex. C at ¶ 22(g).

87. In late May, 2015, the United States District Attorney's Office for the Southern District of New York served subpoenas on COBA and Platinum Partners. Ex. C at ¶ 22(g).

88. In June 2016, Huberfeld and Seabrook were arrested by the federal government and charged with honest services fraud and wire fraud.

89. In early July 2016, Platinum Partners announced that it would liquidate its funds, including the PPVA.

90. In August 2016, a liquidator was appointed by a Cayman Islands court.

91. On October 19, 2016, PPVA filed for Chapter 15 bankruptcy protection in the United States, citing “severe and substantial liquidity problems.”

E. The Executive Board Defendants Breached Their Fiduciary Duties by Providing No Meaningful Check on Seabrook’s Investment Activities

92. Although required to oversee the investments of the COBA Annuity Fund and the COBA General Fund, the Executive Board completely abnegated its responsibility to do so.

93. Agent Toleman derived the information in the Sealed Complaint from her “review of documents provided by COBA, [her] discussions with various members of the COBA Executive Board, and [her] review of reports written other FBI agent about their discussions with other members of the COBA Executive Board.”

94. Pursuant to COBA’s Constitution and Bylaws, Seabrook was only allowed to deposit COBA funds, including the monies in the General Fund and the Annuity Fund, only in such banks or other financial institutions “as may be selected or approved by the Executive Board.” Ex. B at Art. V, § 3(b).

95. According to the Sealed Complaint, “Despite the existence of an Executive Board, NORMAN SEABROOK the defendant, makes many significant decisions affecting COBA, including financial decisions, unilaterally.” Ex. C at ¶ 10(a).

96. The Sealed Complaint also revealed that “SEABROOK’s control over the financial affairs of COBA extends to the Annuity Fund. SEABROOK decides how to invest the Annuity Fund’s money in conjunction with an investment consultant hired by the Annuity Fund...typically without input from the Annuity Fund Board of the Executive Board.” Ex. C at ¶ 10(b).

97. Had the Executive Board exercised even a modicum of its oversight responsibility by putting in proper safeguards to prevent illegal and improper activity, it would have been impossible for Seabrook to have sole investment authority, let alone the authority to invest 20% of the COBA Annuity Fund and 40% of the COBA General Fund into a high risk, hard-to-value investment vehicle like PPVA.

98. The PPVA investment is now worthless.

F. The Executive Board Defendants Provided no Meaningful Check on Seabrook Because he Gave These Defendants Substantial Benefits to Look the Other Way

99. Each of the members of the Executive Board was personally selected by Seabrook, and their continued service on the Executive Board was due to their personal loyalty to Seabrook.

100. As described by Agent Toleman in the Sealed Complaint, “[m]embers of the Executive Board rarely question Seabrook because Seabrook has the power to make decision that can affect their livelihood, for example, by stripping them of their status as board members (and the accompanying salary), sending them back to work as correction officers at a jail, or altering their hours.”

101. To further cement their personal loyalty to Seabrook, Seabrook made sure Executive Board Defendants received substantial emoluments from COBA’s various vendors, including envelopes stuffed with gift cards, delivery of which was arranged by Seabrook.

102. On one occasion, COBA’s fund administrator, Daniel H. Cook & Associates, provided each of the Executive Board Defendants with between \$500 and \$1000 in cash, and each year provided the Executive Board Defendants with annual Christmas gifts.

103. On another occasion, Koehler & Isaacs provided the Executive Board Defendants with expensive GPS systems. Other substantial emoluments were also provided by Koehler &

Isaacs to the Executive Board Defendants as annual Christmas gifts. Seabrook himself bragged that Koehler & Isaacs provided him with a black no-limit American Express Card.

104. The Executive Board Defendants, in conjunction Seabrook, used COBA funds to purchase for themselves and other invitees, tickets to sporting events and concerts, including, but not limited to, luxury suites at baseball games, and tickets to Justin Timberlake, Jay-Z, the Jingle Bell Concert, and other events at Madison Square Garden.

105. Seabrook made sure that Executive Board Defendants were provided with access to cars, including money for gas, tolls, and maintenance.

106. Seabrook's benefices, liberally bestowed, ensured that the Executive Board Defendants turned a blind eye to any suspicious conduct, and failed to put in place any safeguards to protect the COBA members and their hard earned funds.

107. But for the Executive Board Defendants' dereliction of their fiduciary duties, Seabrook would have been unable to invest in Platinum Partners.

G. Koehler & Isaacs Breached its Fiduciary Duty to COBA by Failing to Inform the Executive Board of Seabrook's High-Risk Investment Activities

108. According to the Sealed Complaint, Koehler & Isaacs conducted due diligence on PPVA. The Sealed Complaint states that Koehler & Isaacs, as a result of that due diligence, "wrote to Platinum in February 2014, and explained that the Annuity Fund, as an employee retirement benefits fund, invests as a 'prudent man acting in like capacity.'" Ex. C at ¶ 13(b).

109. Koehler & Isaacs' letter went on to state "to our knowledge, none of the prudent men in like capacity, that is, similar New York City supplemental retirement funds, have invested in the type of investment you propose. The Annuity Fund, however, is not adverse to being a trendsetter.'" Ex. C at ¶ 13(b).

110. It is axiomatic that a “prudent man” is not a trendsetter. Thus, Koehler & Isaacs knew the investment was inappropriate for the Annuity Fund.

111. Koehler & Isaacs February 2014 letter went on to raise “certain questions and concerns, including the fact that Platinum’s subscription agreement required the Annuity Fund to acknowledge that it had ‘the financial ability to bear the economic risk of listing its entire investment,’ which the Annuity Fund could not acknowledge.” Ex. C at ¶ 13(c).

112. Although Koehler & Isaacs’ fiduciary duty was to COBA as a whole as well as to the COBA Annuity Fund and the COBA General Fund, Koehler & Isaacs took no steps to inform the Executive Board Defendants that the PPVA investment was one that was high risk.

113. Nor did Koehler & Isaacs inform the Board that the PPVA investment represented almost 20% of the entire COBA Annuity Fund.

114. Further, upon information and belief, Koehler & Isaacs knew that the PPVA investment required approval of the Executive Board pursuant to COBA’s Constitution and Bylaws, but failed to inform the Board that Seabrook was investing funds without the Executive Board’s approval.

H. The Executive Board Defendants Spend COBA Funds on Seabrook’s Legal Defense in the Criminal Action

115. The COBA Constitution and Bylaws, provide that “[u]pon approval of the Executive Board any member in good standing shall be entitled to the services of an Association Attorney in accordance with the provisions of the current Benefits Book as it may be amended from time to time.” Ex. B at Art. VII, Sec. III.

116. The Benefits Book, attached hereto as Exhibit D, provides that Koehler & Isaacs is the only Association Attorney, and that Koehler & Isaacs has agreed to represent active members in all off-duty and on-duty criminal cases lodged against them. Ex. D at p. 55, 56.

117. The Benefits Book provides that members may choose another law firm to represent them, at that members' own cost. Ex. D at 57.

118. The payment of attorneys' fees by a union, on behalf of a union leader charged with wrongdoing, is contrary to longstanding case law, which bars the practice. *See e.g. Morrissey v. Segal*, 526 F.2d 121, 128 (2d Cir. 1975) (union leader defendant charged with misconduct can only seek reimbursement of his attorneys fees in the event of his exoneration); *Milone v. English*, 306 F.2d 814, 817 (D.C. Cir. 1962) ("funds of a union are not available to defend officers charged with wrongdoing which, if the charges are true, would be seriously detrimental to the union and its membership.") *United States v. Local 1804-1, Int'l Longshoremen's Ass'n, AFL-CIO*, 732 F. Supp. 434, 437 (S.D.N.Y. 1990) (Union leaders charged with RICO violations cannot have their fees paid by their locals unless exonerated).

119. Despite COBA's Constitution and Bylaws, and longstanding case law, according to an interview with current COBA President Husamudeen in *The Chief Leader*, dated January 20, 2017, and attached hereto as Exhibit E, Seabrook's legal fees in the Criminal Action are being paid for by COBA. Ex. E at p. 4.²

120. Seabrook is not a member in good standing of COBA.

121. In the Criminal Action, Seabrook is represented by Paul Lewis Sheckman and the law firm of Bracewell, LLP ("Bracewell"), not Koehler & Isaacs.

122. Mr. Sheckman is a prominent, sought-after attorney with decades of experience in white collar criminal defense, and his services, and those of his firm, no doubt come at a significant cost.

² The relevant portion of Exhibit E is highlighted.

123. Based up representations of Seabrook's counsel in the Criminal Action to Plaintiffs' counsel, in the event that Seabrook is found guilty in the Criminal Action, he will not have the financial wherewithal to refund COBA for his legal expenses.

124. Plaintiffs are, at the present time, unaware of how the Executive Board Defendants are compensating their own attorneys in this matter. To the extent the Executive Board Defendants are paying their attorneys' fees with COBA funds, this too would constitute a breach of fiduciary duty, and entitle COBA to immediate reimbursement and injunctive relief.

DERIVATIVE ALLEGATIONS

125. Plaintiff brings this action derivatively in the right of and for the benefit of COBA to redress injuries suffered, and to be suffered, by COBA as a direct result of the violations of state and federal law, including RICO, breaches of fiduciary duty and the aiding and abetting of breaches of fiduciary duty.

126. COBA is named as a nominal defendant in this case solely in a derivative capacity. This is not a collusive action to confer jurisdiction on this Court that it would not otherwise have.

127. Plaintiffs were and are members of COBA. Plaintiffs will adequately and fairly represent the interests of COBA and its members in prosecuting and enforcing their rights. Prosecution of this action, independent of the current Executive Board, is in the best interests of the Company.

128. The wrongful acts complained of herein subject, and will continue to subject, COBA to continuing harm because the adverse consequences of the actions are still in effect and ongoing.

DEMAND FUTILITY

A. Demand Futility Under Rule 23.1 and New York Labor Law § 725

129. Derivative actions in federal courts are governed by Federal Rule of Civil Procedure 23.1 (“Rule 23.1”) which requires derivative plaintiffs, such as Plaintiffs here, to either: (a) make a pre-suit demand upon the corporation’s board of directors; or (b) plead with particularity why demand is excused. The latter requirement is referred to as establishing “demand futility.”

130. A similar provision to Rule 23.1 in New York’s Labor Law also applies to derivative actions against labor unions. New York Labor Law § 725 states:

Where an officer or agent of a labor organization has violated or is violating any of his obligations provided in sections seven hundred twenty-two and seven hundred twenty-three, such labor organization and the parent organization of such labor organization shall each have the right to bring an action or proceeding in any court of competent jurisdiction for legal or equitable relief to redress such violation of obligation. Any member of such labor organization shall have the right to bring such action or proceeding if (a) after request by any member that such action or proceeding be brought, such organization shall fail to do so, or (b) such request would be futile, or (c) such organization has failed to prosecute diligently any such action or proceeding which it has brought.

N.Y. Lab. Law § 725 (McKinney)

B. The Executive Board Waived any Affirmative Defense Regarding Demand Futility by Failing to Raise it in their First Responsive Pleading

131. At the outset of a derivative litigation premised on demand futility, board members, such as the Executive Board Defendants here, must make a motion to dismiss pursuant to Rule 23.1 or else waive the right to do so.

132. Unlike a motion under Rule 12(b)(6), a motion pursuant to Rule 23.1 determines whether an individual may assert a claim on the corporation’s behalf in the absence of demand.

133. In their original complaint in this matter, Plaintiffs asserted derivative claims on behalf of COBA’s Annuity Fund and General Fund, and against the Executive Board.

134. The Executive Board's motion to dismiss and memorandum in support thereof [ECF No. 86] did not raise the issue of demand futility under Rule 23.1 or otherwise.

135. Failure to move pursuant to Rule 23.1 operates as a tacit admission that demand is indeed futile, and that Plaintiffs are entitled to pursue derivative claims. *See Burghar v. Landau*, 821 F.Supp. 173, 179 (S.D.N.Y. 1993) ("a rule 23.1 defense is usually pleaded or waived like a rule 12(b)(6) defense").

136. Based on the foregoing, Plaintiffs submit that the Defendants conceded that demand was, and is, futile.

C. Demand By Plaintiffs Upon the Executive Board Would be Futile

137. Even assuming the Executive Board Defendants did not effectively waive demand, Plaintiffs submit that such would have been futile in any event and therefore made no demand on the Executive Board prior to instituting this action.

138. Where, as here, it would not be reasonably expected that a board would take action against itself due to lack of independence, demand is deemed futile and the requirement is excused.

139. The members of the Executive Board face substantial likelihood of liability, as described herein, for their failure to oversee Seabrook, in violation of their fiduciary duties under New York's Labor Law.

140. The members of the Executive Board face substantial likelihood of liability, as described herein, for their failure to oversee Seabrook, in violation of COBA's Constitution and Bylaws.

141. The members of the Executive Board face substantial likelihood of liability for agreeing to pay, on COBA's behalf and with COBA's funds, Seabrook's legal fees in the

Criminal Action, in violation of COBA's Constitution and Bylaws, and longstanding federal case law.

142. Thus, and as detailed herein, the members of the Executive Board were directly involved in the misconduct challenged in this action, by virtue of their active roles in the misconduct and by virtue of their respective positions on the Board. Therefore, they would be "interested" in (and therefore conflicted from and unable to fairly consider) demand because they face a substantial likelihood of personal liability.

143. Moreover, demand upon the Executive Board Defendants that they take action against Seabrook would be futile. The Executive Board Defendants have, for years, been completely beholden to Seabrook.

144. Evidencing the Board's devotion to Seabrook, his total compensation as COBA's President was \$300,000, as approved by the Executive Board. This figure is far in excess of the salary received by the presidents of other, larger, New York City public-sector unions.³

145. As described herein, the Executive Board Defendants provided no meaningful check on Seabrook's activities as COBA President, and Seabrook was given full authority to conduct COBA's affairs in whatever manner he saw fit.

146. Under Rule 23.1 and New York Labor Law § 725, demand upon the Executive Board is excused.

³ For instance, in 2010, the Presidents of the Patrolmen's Benevolent Association, the Uniformed Firefighters' Association, and the Uniformed Fire Officers' Association each received \$130,000 to \$140,000 in compensation. Indeed, the President of the corrections officers union for the entire state of California, the 30,000 active member California Correctional Peace Officers' Association, receives a salary of \$133,000.

COUNT I

(Breach of Fiduciary Duty Claim by all Plaintiffs on Behalf of COBA, the COBA Annuity Fund, and the COBA General Fund against Defendant Seabrook)

147. Plaintiffs incorporate by reference and re-allege each and every allegation contained in ¶¶1-146, as though fully set forth herein.

148. By reason of his fiduciary relationship with COBA and his position, Seabrook owed a COBA the highest obligation of loyalty, good faith, due care, oversight, and candor.

149. In derogation of these duties, Seabrook did, in exchange for substantial remuneration from Platinum Partners, invest approximately \$20 million in COBA funds from the COBA Annuity Fund and the COBA General Fund, in the PPVA.

150. This investment was not, and could not have been, a valid exercise of business judgment.

151. As a result of Seabrook's breach of fiduciary duty, COBA, the COBA Annuity Fund, and the COBA General Fund have sustained significant damages, as alleged herein.

152. Seabrook is liable to COBA, the COBA Annuity Fund, and the COBA General Fund for the damages sustained.

153. Plaintiffs, on behalf of COBA, the COBA Annuity Fund, and the COBA General Fund, have no adequate remedy at law.

COUNT II

(Breach of Fiduciary Duty Claim by all Plaintiffs on Behalf of COBA against the Executive Board Defendants)

154. Plaintiffs incorporate by reference and re-allege each and every allegation contained in ¶¶1-146, as though fully set forth herein.

155. By reason of their fiduciary relationship with COBA and their positions on the Executive Board, the Executive Board Defendants owed and owe COBA the highest obligation of loyalty, good faith, due care, oversight, and candor.

156. In derogation of these duties, the Executive Board Defendants failed to implement safeguards that would have prevented the conduct alleged herein, including Seabrook's waste of the assets of COBA, the COBA Annuity Fund and the COBA General Fund.

157. Moreover, the Executive Board Defendants have expended, and continue to expend, considerable COBA resources paying Seabrook's attorney's fees in the Criminal Action, in violation of COBA's Constitution and Bylaws, as well as longstanding case law.

158. As a result of the Executive Board Defendants' breaches of fiduciary duty, COBA, the COBA Annuity Fund and the COBA General Fund have sustained significant damages, as alleged herein.

159. The Executive Board Defendants are liable to COBA, the COBA Annuity Fund and the COBA General Fund for the misconduct alleged herein.

160. Plaintiffs, on behalf of COBA, the COBA Annuity Fund and the COBA General Fund, have no adequate remedy at law.

COUNT III

(Breach of Fiduciary Duty Claim by all Plaintiffs on behalf of the COBA, the COBA Annuity Fund, and the COBA General Fund against Koehler & Isaacs)

161. Plaintiffs incorporate by reference and re-allege each and every allegation contained in ¶¶1-146, as though fully set forth herein.

162. By reason of their fiduciary relationship with COBA, Koehler & Isaacs owed and owe the COBA the highest obligation of loyalty, good faith, due care, and candor.

163. In derogation of these duties, and despite knowing that the Platinum Partners investment was imprudent, and that the Annuity Fund was unable to sign the acknowledgement that it had “the financial ability to bear the economic risk of losing its entire [PPVA] investment,” Koehler & Isaacs did not inform the Executive Board that Annuity Fund had invested \$15 million in the PPVA.

164. Koehler & Isaacs did not do so, because their primary loyalty was to Seabrook, not to their clients: COBA and the COBA Annuity Fund.

165. Koehler & Isaacs knew, or in the reasonable exercise of basic prudence should have known, that Seabrook had no independent investment authority under the COBA Constitution and Bylaws.

166. As a result of Koehler & Isaacs’ breach of fiduciary duty, COBA, the COBA Annuity Fund and the COBA General Fund have sustained significant damages, as alleged herein.

167. Koehler & Isaacs are liable to COBA for the damages sustained.

168. Plaintiffs, on behalf of COBA, the COBA Annuity Fund, and the COBA General Fund, have no adequate remedy at law.

COUNT IV

(Aiding and Abetting Breaches of Fiduciary Duty Claim by all Plaintiffs on Behalf of the COBA, the COBA Annuity Fund and the COBA General Fund against Koehler & Isaacs)

169. Plaintiffs incorporate by reference and re-allege each and every allegation contained in ¶¶1-146, as though fully set forth herein.

170. Seabrook was able, through the use of sporting and concert tickets purchased with COBA funds, as well as COBA credit cards, gas allowances, car leases, and the like, to maintain his control over the Executive Board Defendants, and to ensure that they did not inquire into his

conduct and machinations. In addition, COBA vendors such as Koehler & Isaacs were encouraged to, and did, provide gifts such as GPS devices and cash to the COBA Board.

171. Koehler & Isaacs knew that Seabrook was using these gifts, and promises of continued access to them, to maintain his control over the Executive Board Defendants, and to ensure that they did not inquire into his conduct and machinations.

172. Accordingly, Koehler & Isaacs, aided and abetted Seabrook in his breaches of fiduciary duty to COBA, the COBA Annuity Fund, and the COBA General Fund.

173. Moreover, Koehler & Isaacs, as the COBA Annuity Fund and the COBA General Fund lawyers, knew of Seabrook's breaches of fiduciary duty, including Seabrook's imprudent investments that were made in violation of COBA's Constitution and Bylaws, but did not take any steps to inform the Executive Board.

174. Plaintiffs, on behalf of COBA, the COBA Annuity Fund, and the COBA General Fund, have no adequate remedy at law.

COUNT V

(Civil Violations of RICO by all Plaintiffs on Behalf of the COBA, the COBA Annuity Fund and the COBA General Fund Against Defendants Seabrook, Platinum Partners, Rechnitz, and Huberfeld)

175. Plaintiffs incorporate by reference and re-allege each and every allegation contained in ¶¶1-146, as though fully set forth herein.

176. The COBA General Fund and COBA Annuity Fund are "person(s)" within the meaning of 18 U.S.C. § 1967(c).

177. At all times relevant hereto, the COBA General Fund and COBA Annuity Fund and each Member of the Enterprise were "persons" within the meaning of 18 U.S.C. § 1961(3).

The RICO Enterprise

178. An enterprise need not be a specific legal entity but rather may be “any union or group of individuals associated in fact although not a legal entity.”

179. The enterprise at issue in this case, for purposes of 18 U.S.C. § 1961(3) and 1962(a), 1962(b), 1962(c) and 1962(d) is an association-in-fact collectively referred to herein as “the Enterprise.”

180. The Enterprise consists of Defendants Seabrook, Platinum Partners, Huberfeld, and Rechnitz (“RICO Defendants”).

181. The RICO Defendants maintained an interest in and control of the Enterprise and also conducted or participated, to a lesser or greater extent, in the conduct of the Enterprise’s affairs through a pattern of racketeering activity.

182. The RICO Defendants also have an existence separate and distinct from the Enterprise.

183. The RICO Defendants’ control and participation in the Enterprise were necessary for the successful operation of Defendants’ scheme.

184. The Enterprise had an ascertainable structure separate and apart from the pattern of racketeering activity in which the RICO Defendants engaged.

185. The number of wrongdoers in the Enterprise fluctuated depending on the number of co-conspirators that were colluding on each particular predicate crime.

186. The members of the Enterprise shared money, costs, information, resources and the fruits of its predicate acts. The association-in-fact Enterprise functioned as a continuing unit, pursuing a course of conduct as set forth herein, with a common and shared purpose with a continuity of structure and personnel.

187. The RICO Defendants and all those employed by or associated with the Enterprise, which engaged in interstate commerce, have conducted the affairs of the Enterprise through a pattern of racketeering activity in violation of 18 U.S.C. § 1962 (a)(b)(c) & (d) by pursuing or facilitating kickbacks, bribes, breaches of fiduciary duties, and acts of fraud against COBA, the COBA Annuity Fund and the COBA General Fund.

188. The RICO Defendants have violated 18 U.S.C. § 1962 by knowingly, intentionally, and unlawfully, aiding and abetting each other and the Enterprise by participating, directly or indirectly, in the conduct of the affairs of the Enterprise, through the pattern of racketeering activity described herein.

189. The particulars of the scheme as set forth above were achieved through the use of the mails and/or wires.

Predicate Acts

190. With respect to the activities alleged herein, the Enterprise acted at all time with malice towards COBA, the COBA Annuity Fund and the COBA General Fund, with the intent to engage in the conduct complained of for the monetary benefit of RICO Defendants and other members of the Enterprise. Such conduct was done with actionable wantonness and reckless disregard for the rights of COBA, the COBA Annuity Fund and the COBA General Fund.

191. The RICO Defendants, as members of the Enterprise, conspired with other co-conspirators to violate 18 U.S.C § 1962, by soliciting kickbacks and bribes in violation of State and Federal law, and by converting and/or misappropriating funds belonging to COBA, the COBA Annuity Fund and the COBA General Fund for their personal use through racketeering activity.

192. The Enterprise's schemes have resulted in severe financial losses to COBA, the COBA Annuity Fund, and the COBA General Fund. Moreover, as a result of the Enterprise's racketeering activity, COBA, the COBA Annuity Fund, and the COBA General Fund have suffered extensive monetary damages, in the tens of millions of dollars.

193. COBA, the COBA Annuity Fund, and the COBA General Fund, have been directly harmed by Defendants, due to depletion of their assets.

194. 18 U.S.C. § 1961(1) provides that "racketeering activity means any act indictable under any of the following provisions of Title 18, United States Code:" § 1343 (relating to wire fraud)... § 1346 (relating to scheme or artifice to defraud).

195. On June 8, 2016, Seabrook and Huberfeld were indicted by a grand jury in the Southern District of New York for RICO violations.

196. The indictment and complaint by the United States Attorney documented multiple acts of honest services fraud and wire fraud, as all part of a scheme by the RICO Defendants to deprive and defraud the COBA, the COBA Annuity Fund, and the COBA General Fund.

197. Huberfeld agreed to pay Seabrook an ongoing and continuous kickback of a portion of future annual profits of the investment in the high-stakes PPVA that Huberfeld estimated could be between \$100,000 and \$150,000 per year, which would further defraud Plaintiffs and union members of their funds and their intangible right to the honest services of the Executive Board Defendants.

198. Both Huberfeld and Seabrook intended that kickbacks would continue for a number of years.

199. Defendants' criminal actions by their nature project into the future with a threat of repetition and thereby satisfy the "pattern" requirement of 18 U.S.C. § 1962 (c) engaging in acts

and threats involving bribery, theft, and embezzlement, chargeable under State law and punishable by imprisonment for more than one year.

Effect on Interstate Commerce

200. The Enterprise described above has engaged in and has effected interstate commerce by acts including the transmission of monies across state lines, including to the Cayman Islands by wire, by transmission of correspondence, emails, and letters across state lines, by operating the business of the members of the Enterprise through activities across state lines, including travel across state lines and internationally, and by conducting economic activity affecting large national industries and multiple states.

201. Plaintiffs are entitled to treble damages under RICO.

COUNT VI

(Unjust Enrichment Claim by all Plaintiffs on Behalf of COBA, the COBA Annuity Fund and the COBA General Fund against the Executive Board Defendants)

202. Plaintiffs incorporate by reference and re-allege each and every allegation contained in ¶¶1-146, as though fully set forth herein.

203. By their wrongful acts and omissions, the Executive Board Defendants were unjustly enriched at the expense of and to the detriment of COBA, the COBA Annuity Fund and the COBA General Fund.

204. The Executive Board Defendants were unjustly enriched as a result of the excessive compensation, remuneration, and gifts they received while breaching fiduciary duties owed to COBA.

205. Plaintiffs seek restitution from these defendants, and each of them, and seek an order of this Court disgorging all profits, benefits, gifts, and compensation obtained by these defendants, and each of them, from their wrongful conduct and fiduciary breaches.

206. Plaintiffs, on behalf of COBA, the COBA Annuity Fund, and the COBA General Fund, have no adequate remedy at law.

COUNT VII

(Claim by All Plaintiffs on behalf of COBA against the Executive Board Defendants and Seabrook for Injunctive Relief)

207. Plaintiffs incorporate by reference and re-allege each and every allegation contained in ¶¶1-146, as though fully set forth herein.

208. At the direction of the Executive Board, COBA has paid, and continues to pay, Seabrook's legal fees in the Criminal Action.

209. The payment of Seabrook's legal fees is in violation of the COBA Constitution and Bylaws, as well as longstanding case law.

210. Plaintiffs, on behalf of COBA, seek injunctive relief in the form of an order barring the Executive Board from paying Seabrook's attorneys' fees in the Criminal Action.

211. Plaintiffs, on behalf of COBA, seek injunctive relief in the form of an order requiring Seabrook to refund to COBA any attorneys' fees paid by COBA on his behalf to date.

COUNT VIII

(Claim by all Plaintiffs Directly against the Executive Board Defendants For an Equitable Accounting)

212. Plaintiffs incorporate by reference and re-allege each and every allegation contained in ¶¶1-146, as though fully set forth herein

213. The Executive Board Defendants, as the day to day operators of COBA Annuity Fund, the COBA General Fund, the COBA Widows' and Children's Benefit Fund, the COBA Scholarship Fund, the COBA Security Benefits Fund-Active, and the COBA Security Benefits Fund-Retired, owed and owe a fiduciary duty to the Plaintiffs to use the monies received in the

best interests of the Funds, and to do so in the utmost good faith, honestly, diligently, and without preference to their own interests

214. As to the COBA Annuity Fund and the COBA General Fund, the Executive Board Defendants have breached their fiduciary duty,

215. Moreover, the Executive Board Defendants oversee the COBA Widows' and Children's' Benefits Fund, the COBA Scholarship Fund, the COBA Security Benefits Fund-Active, and the COBA Security Benefits Fund-Retired, and the Executive Board Defendants' conduct with respect to the Funds is suspect.

216. Plaintiffs are entitled to an equitable accounting of the business, finances, and affairs of each of the Funds.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment as follows:

- a. Against all of the RICO Defendants and in favor of COBA, COBA Annuity Fund and the COBA General Fund for the amount of damages sustained by them as a result of the RICO Defendants' conspiracy;
- b. Against all of the Executive Board Defendants, Seabrook, and Koehler & Isaacs and in favor of COBA, the COBA Annuity Fund and the COBA General Fund for the amount of damages sustained by them as a result of their breaches of fiduciary duties;
- c. An order directing the removal of each the Executive Board Defendants, and their replacement by new Executive Board members, elected by the active members of COBA;
- d. An order directing an accounting of the Funds;

- e. Awarding to Plaintiff the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses pursuant to New York Labor Law § 725;
- f. Preliminary and permanent injunctive relief barring the Executive Board Defendants from continuing to pay Seabrook's attorneys' fees in the Criminal Action;
- g. Preliminary and permanent injunctive relief in the form of an order, requiring Seabrook to repay to COBA attorneys' fees expended by COBA on his behalf to date;
- h. And such other relief as this Court deems just and proper.

Dated: New York, New York
May 16, 2017

Respectfully,

NEWMAN FERRARA LLP

By: s/ Jeffrey M. Norton

Jeffrey M. Norton
Roger A Sachar Jr.
1250 Broadway, 27th Floor
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(212) 619-5400

SEELIG LAW OFFICES, LLC

By: s/ Philip H. Seelig

Philip H. Seelig
299 Broadway, Suite 1600
New York, NY 10007
(212) 766-0600

VERIFICATION

I, Elizabeth Romain, hereby verify that I am familiar with the allegations in the **First Amended Derivative Complaint for RICO Violations, Breach of Fiduciary Duty, Unjust Enrichment, Aiding and Abetting Breaches of Fiduciary Duty, and for an Equitable Accounting** ("Amended Complaint"), and that I have authorized the filing of the Amended Complaint and that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 16 day of May, 2017.

By:


Elizabeth Romain

VERIFICATION

I, Herman Jiminian, hereby verify that I am familiar with the allegations in the First Amended Derivative Complaint for RICO Violations, Breach of Fiduciary Duty, Unjust Enrichment, Aiding and Abetting Breaches of Fiduciary Duty, and for an Equitable Accounting (“Amended Complaint”), and that I have authorized the filing of the Amended Complaint and that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 15 day of May, 2017.

By: Herman Jiminian, Rep.
Herman Jiminian

VERIFICATION

I, Jeannette Feliciano, hereby verify that I am familiar with the allegations in the First Amended Derivative Complaint for RICO Violations, Breach of Fiduciary Duty, Unjust Enrichment, Aiding and Abetting Breaches of Fiduciary Duty, and for an Equitable Accounting ("Amended Complaint"), and that I have authorized the filing of the Amended Complaint and that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 15 day of May, 2017.

By:


Jeannette Feliciano

VERIFICATION

I, Albin Duclet, hereby verify that I am familiar with the allegations in the First Amended Derivative Complaint for RICO Violations, Breach of Fiduciary Duty, Unjust Enrichment, Aiding and Abetting Breaches of Fiduciary Duty, and for an Equitable Accounting ("Amended Complaint"), and that I have authorized the filing of the Amended Complaint and that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 15 day of May, 2017.


By: 
Albin Duclet

VERIFICATION

I, Maria Moreira, hereby verify that I am familiar with the allegations in the First Amended Derivative Complaint for RICO Violations, Breach of Fiduciary Duty, Unjust Enrichment, Aiding and Abetting Breaches of Fiduciary Duty, and for an Equitable Accounting ("Amended Complaint"), and that I have authorized the filing of the Amended Complaint and that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 15 day of May, 2017.

By:



Maria Moreira