



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c.S.5, as amended**

- and -

**IN THE MATTER OF
KEVIN WARREN ZIETSOFF**

**SETTLEMENT AGREEMENT
BETWEEN STAFF OF THE ONTARIO SECURITIES COMMISSION
and KEVIN WARREN ZIETSOFF**

PART I - INTRODUCTION

1. By Notice of Hearing dated August 19, 2013, the Ontario Securities Commission (the “Commission”) announced that it proposed to hold a hearing, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”), to consider whether it is in the public interest to make orders, as specified therein, against Kevin Warren Zietsoff (“Zietsoff” or the “Respondent”). The Notice of Hearing was issued in connection with the allegations set out in the Statement of Allegations of Staff of the Commission (“Staff”) dated August 19, 2013.

2. The Commission will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to section 127 of the Act, it is in the public interest for the Commission to approve this Settlement Agreement and to make certain orders in respect of Zietsoff.

PART II – JOINT SETTLEMENT RECOMMENDATION

3. Staff agree to recommend settlement of the proceeding initiated by the Notice of Hearing dated August 19, 2013, against Zietsoff (the “Proceeding”) in accordance with the terms and conditions set out below. Zietsoff consents to the making of an order in the form attached as Schedule A, based on the Agreed Facts, as defined in this Settlement Agreement.

PART III – BACKGROUND TO THE SETTLEMENT

4. On December 19, 2013, Zietsoff plead guilty to a single count of Fraud Over \$5,000, contrary to section 380(1)(a) of the *Criminal Code*, R.S.C. 1985, C-46 (the “Parallel Criminal Proceeding”), based on the same facts that underlie the allegations in this matter. The sentence hearing is scheduled for January 7, 2014.

PART IV – AGREED FACTS

5. Schedule B to this Settlement Agreement is a document entitled “Summary of Facts for Guilty Plea” that was filed as an exhibit in the Ontario Court of Justice on Zietsoff’s guilty plea.¹ Through counsel, Zietsoff confirmed that the facts set out in Schedule B were accurate, and the facts were accepted by McLeod J. as the basis for a finding of guilt on the charge of fraud over \$5,000. Schedule B is part of this Settlement Agreement and it is specifically intended that the Commission should rely on the whole of the Agreed Facts, including Schedule B, in considering this matter.

¹ The names of the investors have been removed in the copy attached as Schedule B and replaced with numbers.

6. For this Proceeding, and any other regulatory proceeding commenced by securities regulatory authorities in Canada, Zietsoff agrees with the facts as set out in Part IV of this Settlement Agreement, and as set out in more detail in Schedule B to this Settlement Agreement (collectively the “Agreed Facts”). To the extent Zietsoff does not have direct personal knowledge of the Agreed Facts, Zietsoff believes the Agreed Facts to be true and accurate.

Overview of the Agreed Facts

7. Unless specifically stated to the contrary, the Agreed Facts concern events that took place from January 2006 through December 2012 (the “Material Time”).

8. Zietsoff was an Ontario resident during the Material Time.

9. Zietsoff has never been registered with the Ontario Securities Commission in any capacity.

10. During the Material Time, Zietsoff issued promissory notes (the “Promissory Notes”) to a network of 59 acquaintances, family members and other residents of Ontario and the State of Arizona (the “Investors”), as set out more particularly in Schedule B to this Settlement Agreement.

11. Zietsoff received a total of \$15,316,740 from Investors (the “Investor Funds”) in exchange for the Promissory Notes.

12. The Promissory Notes were securities as defined in s. 1(1) of the Act and were not previously issued.

13. Zietsoff has never filed a prospectus or a preliminary prospectus with the Commission in relation to the Promissory Notes or any other security, nor did he receive a receipt for any prospectus or preliminary prospectus.

14. The Promissory Note stipulated an annual interest rate (which was often 12%) and typically required a 12-month notice for redemption of the principal amount. Some Investors

received monthly cash payments for interest. However, if a Promissory Note was called, the payments stopped and were to accumulate to be discharged with the principal at the end of the 12-month notice period. Investors were encouraged to renew their loans at the end of the year and the old Promissory Notes were replaced with new ones that reflected the increase in value resulting from any unpaid interest. Similarly, new Promissory Notes were issued when an investor provided more capital.

15. The Investors paid funds to the Respondent to purchase Promissory Notes on the basis of false representations, including:

- a. that Zietsoff was a successful trader with a proven system,
- b. that the Promissory Notes were low risk or risk free,
- c. that the Investors would accrue interest on the Investor Funds,
- d. that Zietsoff would use the Investor Funds for specific debt, equity or real estate investments; and,
- e. that Zietsoff would use the Investor Funds for futures trading using a specific system that he had developed.

16. In fact, Zietsoff was never a successful investor and had a record of consistent and near total trading losses both before and during the Material Time. Zietsoff regularly made risky investments and the funds he paid to Investors as “interest” or as repayment of principal were frequently derived from monies deposited by other Investors. Further, despite promising to do so, Zietsoff often did not use his futures trading system. When he did apply his system it produced consistent losses. Zietsoff disposed of the majority of the Investor Funds on trading losses.

17. When Zietsoff was unable to meet his ongoing obligations in respect of the Promissory Notes he used Investor Funds he had accepted for investment purposes to make “interest” payments to Investors and to repay the principal to other Investors who had exercised their option to call their Promissory Notes.

18. As Zietsoff incurred greater losses and found it more difficult to meet his interest payment obligations under the terms of the Promissory Notes and found it increasingly difficult

to repay the principal amount of Promissory Notes that had been called, he induced Investors to stay invested in the Promissory Notes by making further false statements to them, including:

- a. that he had Investor Funds invested in the brokerage firm MF Global, which was going through bankruptcy proceedings in 2011;
- b. that Investor Funds would be used to short-sell foreclosed properties in Arizona;
- c. that he was going to invest the Investor Funds in an arbitrage opportunity involving how the Greek debt was being valued on the cash and futures markets.
- d. that he was acting as an intermediary to facilitate loans for businesses operated by his friends using the Investor Funds; and,
- e. that he had access to advantageous rates on hedging US currency that he could use to invest the Investor Funds.

19. In fact, Zietsoff did not have Investor Funds tied up in the MF Global bankruptcy, was not engaged in short-selling Arizona real estate, had not invested in Greek debt, was not facilitating business loans to his friends as he described and was not investing in US Currency. He had simply lost the majority of the Investor Funds and was unable to make the payments required of him by the Promissory Notes.

20. The following chart sets out the total Investor Funds Zietsoff received from the sale of the Promissory Notes from 2006 to 2012 on a year by year basis:

Year	New Clients	Amount
2006	3	\$575,000
2007	3	\$291,500
2008	5	\$1,386,350
2009	13	\$4,174,790
2010	14	\$2,789,500
2011	12	\$3,508,100
2012	9	\$2,591,500
TOTALS	59	\$15,316,740

21. Although for the reasons set out in paragraph 292 of Schedule B, it is not possible to perform an absolutely precise accounting of the investor losses in this matter, it is agreed that the

following is a generally accurate statement of the total amounts of Investor Funds received and disposed of by the Respondent:

- a. Received \$15,316,740 in Investor Funds and traded an additional amount in the online accounts of some Investors;
- b. Used at least \$5,531,764.87 in Investor Funds to pay interest and/or repay principal to the same, or other, Investors;
- c. Suffered trading losses of \$10,682,559;
- d. Lost an additional \$1,197,227 trading in the online accounts of Investors; and,
- e. Caused net losses to his victims in excess of \$10 million.

22. In addition, Zietsoff traded in the online brokerage accounts of some of the Investors and persuaded them to allow him to do so based on the same misrepresentations set out in paragraphs 15 and 18, above. Zietsoff's trading in the Investors' online accounts was occasionally successful, but caused the Investors substantial losses over time, as set out more particularly in Schedule B.

23. The Respondent's acts, solicitations, conduct, or negotiations directly or indirectly in furtherance of the sale or disposition of previously unissued securities were for a business purpose and were undertaken without the benefit of an exemption from either the prospectus or dealer registration requirements under the Act.

PART V - CONDUCT CONTRARY TO THE ACT AND CONTRARY TO THE PUBLIC INTEREST

24. By virtue of the securities-related conduct described in the Agreed Facts, the Respondent admits that:

- (a) Throughout the Material Time, Zietsoff engaged or participated in acts, practices or courses of conduct relating to securities that he knew or reasonably ought to

have known perpetrated a fraud on persons or companies, contrary to section 126.1(b) of the Act;

(b) Throughout the Material Time, Zietsoff engaged in or held himself out as engaging in the business of trading in securities without being registered to do so, in circumstances in which no exemption was available, contrary to s. 25(1)(a) of the Act, as that section existed at the time the conduct commenced, and contrary to s. 25(1) of the Act, as subsequently amended on September 28, 2009; and,

(c) Throughout the Material Time, Zietsoff traded in previously unissued securities without a preliminary prospectus and prospectus having been filed and receipts having been issued for them by the Director, and without an exemption from the prospectus requirement, contrary to section 53(1) of the Act.

25. Zietsoff admits and acknowledges that he acted contrary to the public interest by contravening Ontario securities law as set out in this Settlement Agreement.

PART VI – RESPONDENT’S POSITION

26. Zietsoff requests that the settlement hearing panel consider the following mitigating circumstances:

(a) The Respondent self-reported his breaches of Ontario securities law as set out in the Agreed Facts and in doing so gave an account that was generally consistent with the accounts of the Investors, as well as with the independent investigation of Staff and the RCMP;

(b) On December 19, 2013, the Respondent plead guilty to a single count of fraud over \$5000 in the Parallel Criminal Proceeding.

(c) It is anticipated by both Staff and the Respondent that as part of the Parallel Criminal Proceeding the Respondent will be ordered to pay restitution in the full amount

of the funds he received as a result of his fraud, illegal distribution and unregistered trading of securities.

PART VII - TERMS OF SETTLEMENT

27. Zietsoff agrees to the terms of settlement listed below.
28. The Commission will make an order, pursuant to subsection 127(1) of the Act, that:
 - (a) the Settlement Agreement is approved;
 - (b) pursuant to clause 2 of subsection 127(1) of the Act that trading in any securities by Zietsoff shall cease permanently;
 - (c) pursuant to clause 2.1 of subsection 127(1) of the Act the acquisition of any securities by Zietsoff is permanently prohibited;
 - (d) pursuant to clause 3 of subsection 127(1) of the Act any or all exemptions contained in Ontario securities law do not apply to Zietsoff permanently;
 - (e) pursuant to clause 6 of subsection 127(1) of the Act Zietsoff is reprimanded;
 - (f) pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the Act Zietsoff shall resign all positions he holds as an officer or director of any issuer, of any registrant or of any investment fund manager;
 - (g) pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act Zietsoff is permanently prohibited from becoming or acting as an officer or director of any issuer, of any registrant or of any investment fund manager; and,
 - (h) pursuant to clause 8.5 of subsection 127(1) of the Act Zietsoff is permanently prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter.

29. Zietsoff undertakes to consent to a regulatory Order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in paragraph 28, above.

PART VIII - STAFF COMMITMENT

30. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against Zietsoff in relation to the facts set out in Part IV herein, subject to the provisions of paragraphs 31 and 32, below.

31. If this Settlement Agreement is approved by the Commission, and at any subsequent time Zietsoff fails to comply with any of the terms of the Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against Zietsoff based on, but not limited to, the facts set out in the Agreed Facts, as well as the breach of the Settlement Agreement.

32. The Commission remains entitled to bring any proceedings necessary to recover any amounts Zietsoff is ordered to pay as a result of any order imposed pursuant to this Settlement Agreement.

33. If, at any time following the approval of this Settlement Agreement, Zietsoff initiates an appeal of his conviction or sentence in the Parallel Criminal Proceeding, this Settlement Agreement is null and void and Staff reserve the right to bring proceedings under Ontario securities law against Zietsoff based on, but not limited to, the facts set out in the Agreed Facts, as well as the breach of the Settlement Agreement.

34. If, for any reason, Zietsoff is convicted, but a restitution order is not made in the Parallel Criminal Proceeding, as set out above, at paragraph 26(c), Staff may apply to the Commission for a variance of the order arising from this Settlement Agreement and adding such terms as are necessary to require Zietsoff to disgorge the amounts obtained as a result of his non-compliance with Ontario securities law, which amounts shall be determined by the Commission based on the facts as set out in the Agreed Facts.

35. Zietsoff hereby undertakes to consent to an application to vary the order arising from this Settlement Agreement to add a disgorgement order, as set out in paragraph 34, above.

PART IX - PROCEDURE FOR APPROVAL OF SETTLEMENT

36. Approval of this Settlement Agreement will be sought at a hearing of the Commission scheduled on a date to be determined by the Secretary to the Commission, or such other date as may be agreed to by Staff and Zietsoff for the scheduling of the hearing to consider the Settlement Agreement.

37. Staff and Zietsoff agree that the Agreed Facts, as defined in this Settlement Agreement, will constitute the entirety of the facts to be submitted at the settlement hearing regarding Zietsoff's conduct in this matter, unless the parties agree that further facts should be submitted at the settlement hearing.

38. If this Settlement Agreement is approved by the Commission, Zietsoff agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

39. If this Settlement Agreement is approved by the Commission, neither Staff nor Zietsoff will make any public statement that is inconsistent with this Settlement Agreement or inconsistent with any additional agreed facts submitted at the settlement hearing.

40. Whether or not this Settlement Agreement is approved by the Commission, Zietsoff agrees that he will not, in any proceeding, refer to or rely upon this Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

PART X – DISCLOSURE OF SETTLEMENT AGREEMENT

41. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the order attached as Schedule "A" is not made by the Commission:

- (a) this Settlement Agreement and its terms, including all settlement negotiations between Staff and Zietsoff leading up to its presentation at the settlement hearing, shall be without prejudice to Staff and Zietsoff; and
- (b) Staff and Zietsoff shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement discussions/negotiations.

42. The terms of this Settlement Agreement will be treated as confidential by all parties hereto, but such obligations of confidentiality shall terminate upon commencement of the public hearing. The terms of the Settlement Agreement will be treated as confidential forever if the Settlement Agreement is not approved for any reason whatsoever by the Commission, except with the written consent of Zietsoff and Staff or as may be required by law.

PART XI - EXECUTION OF SETTLEMENT AGREEMENT

43. This Settlement Agreement may be signed in one or more counterparts, which together will constitute a binding agreement.

44. A facsimile copy of any signature will be as effective as an original signature.

Dated this 3rd day of January, 2014.

STAFF OF THE ONTARIO SECURITIES COMMISSION

“Karen Manarin”

Deputy Director, Enforcement Branch
Ontario Securities Commission

Signed in the presence of:

“Scott K. Fenton”

Witness:

“Kevin Zietsoff”

Kevin Warren Zietsoff

Dated this 3rd day of January, 2014.

“Schedule A”



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**IN THE MATTER OF THE *SECURITIES ACT*
R.S.O. 1990, c.S.5, as amended**

- and -

**IN THE MATTER OF
KEVIN WARREN ZIETSOFF**

ORDER

WHEREAS on August 19, 2013, the Commission issued a Notice of Hearing pursuant to section 127 of the *Securities Act* (the “Act”) in respect of Kevin Warren Zietsoff (“Zietsoff” or the “Respondent”);

AND WHEREAS on August 19, 2013, Staff of the Commission filed a Statement of Allegations;

AND WHEREAS the Respondent entered into a Settlement Agreement dated _____ (the “Settlement Agreement”) in relation to the matters set out in the Statement of Allegations;

AND WHEREAS the Commission issued a Notice of Hearing dated _____ setting out that it proposed to consider the Settlement Agreement;

UPON reviewing the Settlement Agreement, the Notice of Hearing, the Statement of Allegations, and upon considering submissions from the Respondent through their counsel and from Staff of the Commission;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement is hereby approved;
2. Pursuant to clause 2 of subsection 127(1) of the Act that trading in any securities by Zietsoff shall cease permanently;
3. Pursuant to clause 2.1 of subsection 127(1) of the Act the acquisition of any securities by Zietsoff is permanently prohibited;
4. Pursuant to clause 3 of subsection 127(1) of the Act any or all exemptions contained in Ontario securities law do not apply to Zietsoff permanently;
5. Pursuant to clause 6 of subsection 127(1) of the Act Zietsoff is reprimanded;
6. Pursuant to clauses 7, 8.1 and 8.3 of subsection 127(1) of the Act Zietsoff shall resign all positions he holds as an officer or director of any issuer, of any registrant or of any investment fund manager;
7. Pursuant to clauses 8, 8.2 and 8.4 of subsection 127(1) of the Act Zietsoff is permanently prohibited from becoming or acting as an officer or director of any issuer, of any registrant or of any investment fund manager; and,
8. Pursuant to clause 8.5 of subsection 127(1) of the Act Zietsoff is permanently prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter.

DATED at Toronto this _____ day of January, 2014.

“Schedule B”

ONTARIO COURT OF JUSTICE
(Toronto Region)

B E T W E E N :

HER MAJESTY THE QUEEN

- and -

KEVIN WARREN ZIETSOFF

SUMMARY OF FACTS FOR GUILTY PLEA

I. Overview

1. The following facts are presented by the Crown upon the plea of guilty by Kevin Warren Zietsoff to a count of fraud over \$5,000 in relation to a fraudulent investment scheme he operated in Ontario, Arizona, and elsewhere, between 2006 and 2012.
2. The count covers a variety of dishonest conduct engaged in by Zietsoff to gather funds, retain loans/advances, repay investors, conceal losses and, generally, continue his unsuccessful trading activity.
3. Beginning in 2006, Zietsoff began borrowing and investing other peoples' money to trade futures contracts on different futures exchanges around the world through different brokerage firms throughout Canada and the United States of America. Over time, he presented himself as a successful trader with a “no-risk” investment strategy that paid guaranteed returns. In fact, his gains were significantly and consistently overtaken by losses.

4. The funds were advanced to him through his bank accounts in Canada and the United States of America through various means, including cheques, bank drafts, wire transfers and cash, and were usually fashioned as loans secured by promissory notes with guaranteed rates of return. Delivery and confirmation was done either through email, regular mail, priority mail, telephone or in person. Although the investors' money was often soon lost in trading, Zietsoff frequently assured them that their investments were safe and maintained that illusion by making interest or capital payments, often in cash, from other investors' money.

5. In January of 2013, Zietsoff approached the Royal Canadian Mounted Police ("RCMP") and disclosed his illegal activities. Prior to these disclosures, the RCMP were not aware of Zietsoff's activities. Later, Zietsoff extended his cooperation to the Ontario Securities Commission ("OSC"), which he knew had already received complaints regarding his unlicensed trading. It is calculated that over the course of his scheme, Zietsoff defrauded his investors of \$15,316,740, lost over \$10,000,000 trading derivatives, and repaid victims at least \$5,531,764.87. An unascertainable smaller amount of the funds was used for personal living expenses.

II. The Charge of Fraud

6. Zietsoff is charged with one count of fraud over \$5,000 on the public in Canada and the United States of America. The majority of the victims resided in Ontario, and the remaining victims resided in the United States, primarily in Arizona. Although some of the American victims were solicited in the United States, all of Zietsoff's illegal conduct relating to his American-based victims is included in the present charge because Zietsoff orchestrated the illegal scheme from Toronto. This included a variety of acts including meetings in Ontario,

telephone calls from Ontario, emailing from Ontario, sending regular mail or priority mail and transferring funds into and out of Canada, where he conducted his trading, usually by means of his computer while in Ontario.

III. The Zietsoffs

7. This section will provide some background on Kevin Zietsoff, his spouse ([name redacted], from whom he is currently separated) and his parents [names redacted]. Although his wife and parents are not charged with any offences arising from this scheme, it will be seen that they were used by Zietsoff, from time to time, to facilitate his fraudulent activity.

8. Given their common surnames, Kevin Zietsoff will be referred to as “Zietsoff” or “the accused”, while his spouse and parents will be referred to by their relationship to him.

a. Kevin Warren Zietsoff

9. Zietsoff was born in Orangeville, Ontario on February 11, 1972 and is the second son of his parents. His older brother died in a car accident in 1990, the same year that Kevin began university. Zietsoff graduated from the University of Waterloo in 1995 with an Honours Bachelor of Science degree. By then he was involved, part-time, day-trading in junior mining stocks, which he funded with approximately \$2,000 that his parents had invested in his RRSP account.

10. When Zietsoff suffered losses in the Bre-X scandal in 1997, he shifted his attention to futures trading and soon realized substantial profits from the rise in the price of corn following a flood along the Mississippi River. He pursued his interest in day-trading through a series of

courses, including computer science courses at the University of Waterloo, private trading courses in North Carolina, and economics courses at York University. In 1995, he worked on converting raw data regarding stock quotations into charts for the purposes of being able to monitor price patterns. He would later tell some of his victims that he had created a unique “positive expectancy system” which would guarantee him profits when trading in futures contracts.

11. Zietsoff married his wife in 2000. Also in 2000, Zietsoff began to renovate and ‘flip’ homes, which he continued to do for the next ten years in addition to his day-trading. In 2005, he commenced an extra-marital affair with Victim 1, an interior designer who provided contractor contacts on some of his renovations and also became an investor.

12. Zietsoff was not registered with the Ontario Securities Commission (“OSC”) to trade in securities or as an investment advisor, or in any other category of registration.

13. On January 29, 2013, Zietsoff’s counsel approached members of the Integrated Market Enforcement Team (“IMET”) of the RCMP and advised that Zietsoff wished to disclose his fraudulent activity and plead guilty to his offences as soon as practicable. Prior to this time, the RCMP was unaware of the offences and the subject-matter of Zietsoff’s conduct. He subsequently submitted to two voluntary interviews with the RCMP and provided them with a written account of his actions as well as his trading records, which, however, were incomplete and not always compiled contemporaneously. The accused advises that he provided all relevant documents that were available to him to disclose.

b. Zietsoff's Spouse

14. Zietsoff's Spouse has an MBA degree and is employed as an Executive Vice President with an information technology firm where she has worked since 1995. She was interviewed by the RCMP. Her marriage to Kevin Zietsoff was strained by 2005 when she learned of his affair with Victim 1, but she did not feel strong enough to leave him as both her parents had recently died. She separated from Zietsoff shortly after he disclosed his fraudulent activity to the police.

15. Zietsoff's spouse states that Zietsoff handled the finances in their marriage and that, through his trading, he lost \$300,000 that she held in her RRSP when they got married. Despite a significant income from her employment, she declared bankruptcy in May 2013.

c. Zietsoff's Father

16. Zietsoff's father was an airline pilot with Air Canada until he retired in 1992 after 33 years of service. His retirement was prompted by the death of his eldest son. He has long feared losing Zietsoff, who suffers from Crohn's disease. Mr. Zietsoff was interviewed by the RCMP.

17. Zietsoff's father received a \$450,000 cash payout from Air Canada upon his retirement but lost some of that money with two brokers he used in the early 1990s. Although he had little investment knowledge, Zietsoff's father decided to take control of his money and, by 2006, increased his portfolio to \$1.5 million by studying how to invest in the stock market.

18. Zietsoff's father states that Zietsoff had limited employment opportunities because of his illness and was therefore interested in supporting himself through trading in the stock market. He supported Kevin in doing so by initially providing him with \$5,000 in the early 1990s and then additional funds over time. Eventually, Zietsoff's father relinquished control over all of his investments to the accused through the period of 2003-2011.

19. Shortly after the death of his son, Zietsoff's father immersed himself in building a log house in the Parry Sound area. He sold that house some 15 years later and gave the profits (approx. \$500,000) to Zietsoff to invest. Zietsoff's father states that he trusted his son with the money and never looked through the investment statements. Zietsoff paid his parents' bills and provided them with money.

20. Zietsoff's parents sold their log house after they began spending winters in Arizona. Over time they rented houses in Glendale and Scottsdale before purchasing a home in Rio Verde.

21. By the summer of 2012, there were indications that Zietsoff's investments were not doing well. Zietsoff was not able to provide his parents with money when they needed it and he claimed that the funds were tied up in an investment company (MF Global) that was experiencing difficulty (although Zietsoff's father thought his money was in an Interactive Brokers account that he owned but his son controlled). Eventually they abandoned their Rio Verde home because they could not maintain the mortgage payments and they leased a house in the Firerock community in Fountain Hills, Arizona instead. Zietsoff's father also sold his airplane because Zietsoff was not able to meet the loan payments.

22. In July 2012, Zietsoff's parents were no longer able to afford the rent on the Firerock residence so they broke their lease and moved back to Ontario. They have been sued in relation to both the Rio Verde and the Firerock properties.

23. Zietsoff's father denies encouraging his friends in Arizona or Ontario to invest with his son. He estimates that he and his wife lost all of their life savings (approx. \$2.5 million) through their son's investment schemes.

24. In January 2013 Zietsoff's parents were living in a condominium in Orillia when Zietsoff visited to inform them that there was no money left and that he was turning himself in to the RCMP. They were forced to leave the condo and Zietsoff's father is currently pursuing employment to supplement his pension.

d. Zietsoff's Mother

25. Zietsoff's mother did not have a brokerage account and did not manage her own investments. She trusted the management of her money, including an RRSP, to her son. Zietsoff's mother operated a property management business until 2011, but no longer has an income.

IV. A General Description of the Fraud

26. Zietsoff employed a number of fraudulent means to obtain and retain funds from his victims. Those techniques evolved over time and were used individually or in combination with each victim as necessary. In general, however, Zietsoff deceived his victims by:

- i. representing that he was a successful day-trader when he knew that he was not;
- ii. representing that his investment strategy was safe (risk-free) when he knew either that it was not or that he was not following it;
- iii. representing that his investment strategy generated positive returns when, in fact, it regularly produced losses;
- iv. paying “interest” and/or “principal” to investors with money obtained from other investors (*i.e.* a Ponzi scheme); and
- v. advancing specific misrepresentations about the types of investments that he was making, his ability to access investments and the general operation of his business.

27. As his losses and creditors grew, Zietsoff continued to acquire more investors and continued to engage in risky trading in futures contracts in an effort to cover his financial obligations. Predictably, he continued to sustain substantial losses, rather than gains. The following chart summarizes the number of clients and amount of funds he attracted during the period of the fraud (2006-2012). The chart includes only funds received from investors and does not include trades made in separate accounts in which Zietsoff was given permission to trade in futures contracts.

<u>Year</u>	<u>New Clients</u>	<u>Amount Borrowed</u>
2006	3	575,000
2007	3	291,500
2008	5	1,386,350
2009	13	4,174,790
2010	14	2,789,500
2011	12	3,508,100
<u>2012</u>	<u>9</u>	<u>2,591,500</u>
Totals	59	15,316,740

28. In the early years, Zietsoff obtained funds from his family and close friends. As time went on, he either sought out or was approached by other investors, often through his family and friends. Thus, although he did solicit some new clients, each was essentially referred to him in some manner. Some, inspired by hearing word of his success, were anxious to be accepted by him.

29. Zietsoff treated the money he received from investors as a personal loan and typically provided his “creditor” with a promissory note. Each promissory note varied, but each typically stipulated an annual rate of return (often 12%) and required a 12-month notice for redemption. Most investors received monthly cash payments for interest but, if a note was called, then the payments stopped and were to accumulate to be discharged with the principal at the end of the 12-month notice period. The loans were often renewed at the end of the year and the old promissory note was replaced with a new one that reflected the increase in value resulting from any unpaid interest. Similarly, new promissory notes were issued when an investor provided more capital.

30. Eventually, all of the money collected from the investors was either lost in speculative futures/derivatives trading, was paid back to other investors as interest or principal, or was used for living expenses.

31. When the funds were exhausted, Zietsoff approached the RCMP. His disclosures to the RCMP are summarized below.

V. Zietsoff's Admission of Guilt

32. Zietsoff attended for voluntary interviews with the RCMP on February 11 and 20, 2013. He also provided the RCMP with a ten-page document outlining the deliberate misrepresentations he made to his victims as well as an estimate of their losses. He also disclosed a variety of banking and accounting records relevant to his conduct. Although Zietsoff's record-keeping was not complete, he states that not all his trading records could be re-assembled. When the RCMP compared his disclosures against the information from the victims, they concluded that Zietsoff's estimates were roughly accurate.

33. Zietsoff disclosed that he began trading in the stock market in 1990 with money that his parents had placed in an RRSP for him. When he lost his money in the Bre-X scandal, he switched his focus to the futures market. Over the next two decades his trading was funded with money obtained from his parents, his wife (as of 2000) and his victims. At the same time he took economic and investment trading courses at various institutions and helped to support himself by renovating and selling houses, which eventually ended in 2009 or 2010.

34. It was in 2006 that Zietsoff first took money from people outside his immediate family. The number of people from whom he received funds grew over time but they were all connected to him, directly or indirectly, through family, friends or other clients. Zietsoff acknowledged that each investor trusted him because he was known to them, and because he cultivated that trust.

35. He first borrowed money in 2006 to help with a renovation project that was running over budget. He reached out to friends, including Victim 1, for financial help. The line between his

investing and home renovations became blurred and the money he received for each was co-mingled.

36. Zietsoff explained that he claimed to have developed a “positive expectancy” trading model that would guarantee profitable trading. Gambling, he explained, is a “negative expectancy” system because the odds are devised so that, even though a bettor will win on occasion, over time the bettor will inevitably lose the entirety of the initial bet and winnings. By contrast, his “positive expectancy” model ensured that most of his trades would be profitable while allowing for some losses. Essential to this system, however, was restraint and the avoidance of overly risky trades.

37. Zietsoff maintained that his investment trading strategy, which he demonstrated when enlisting clients, was sound, but that he did not follow it. As time went on and pressure to pay interest to investors increased, he more regularly abandoned his measured (positive expectancy) approach in favour of riskier trades. In effect, he stated that it was as if he was “gambling”.

38. It appears that there were at least two significant investment trading decisions that foretold the demise of his operation. Zietsoff stated that he never recovered from the losses he incurred by trying to short-sell gold one year. Later, he took highly leveraged positions short-selling in the bond market in the expectation that interest rates would rise. Although leveraged trading presented the possibility of large profits with a marginal investment, such trading also presented the possibility of large losses. Zietsoff was wrong more often than he was right.

39. To many investors, Zietsoff portrayed himself as successful, when he was not. His actual lifestyle was different from what his investors believed. While they saw him flying across North America delivering large interest payments, in reality, he was being supported by his parents and wife. He stated that he did not use the defrauded funds to live a lavish lifestyle.

40. The money Zietsoff took was received as personal loans, and he repaid the principal in the form of a bank deposit, a bank to bank transfer, a bank draft, a bank wire, or cash. Interest was almost always paid in cash. The explanation for doing so varies between Zietsoff and his clients, but Zietsoff stated that his clients preferred this method because they did not want to pay tax on the interest payments. Some clients, however, state that Zietsoff claimed that he had already paid tax on the money and, therefore, they did not have to. In any event, by 2011 he was no longer able to meet his obligations and he stopped advancing money to some of his clients. As well, some financial institutions closed his banking accounts because of his excessive cash withdrawals.

41. At the same time, Zietsoff began to invoke a number of deliberate falsehoods to relieve the pressure being applied by his investors and to extract additional funds in an effort to weather the storm. Those misrepresentations included:

- Telling clients that he had money invested in the brokerage firm MF Global, which was going through bankruptcy proceedings in 2011.
- Deceiving clients into believing that their money would be used to short-sell foreclosed properties in Arizona.
- Falsely advising clients that he was going to invest in an arbitrage opportunity involving the valuation of the Greek debt on the money and futures markets.

- Falsely claiming that he was acting as an intermediary to facilitate loans for businesses operated by his friends.
- Falsely telling clients that he had advantageous rates on hedging US currency.

42. Zietsoff estimated that he used other investors' money to pay interest (approximately \$1,990,000) and repay principal (approximately \$3,550,000) to clients in Canada and the United States. He believes that he lost approximately \$10,000,000 in trading. He has asserted that all the money was either lost in bad trades or used to repay clients, but was not diverted to fund a lavish lifestyle for himself. The results of the RCMP's accounting investigation into the use of the funds are consistent with Zietsoff's estimates and will be set out below.

43. Despite his substantial losses, as late as December 2012, Zietsoff continued to attempt to trade his way out of the problem, and raised over \$2 million in the final year in an effort to do so. However, when his efforts to borrow \$15 million from a friend in Hong Kong failed in late 2012 he ceased trading and contacted the police.

VI. The Victims' Stories

44. Zietsoff's fraud was uniquely tailored to each investor, or group of investors. Although the overall parameters of the scheme remained relatively fixed, each victim or group was told a different combination of falsehoods and/or had his or her money used for various purposes other than what was expected. Accordingly it is necessary to provide a brief summary of each victim's account in a relatively chronological order. The accounts will also be divided by country.

a) The Canadian Victims

- **Victim 1**

45. Victim 1 did not attend for an interview with the RCMP. Her involvement in the fraud is described in Zietsoff's statements and records.

46. Zietsoff explained that he met Victim 1 in 2005 and he commenced an extra-marital affair with her. Victim 1 is an interior designer and she provided Zietsoff with contractor contacts to renovate a house in Port Credit. She loaned Zietsoff \$250,000 in the early years of the fraud and invested more later - a total of \$1,023,900 according to Zietsoff. She was repaid \$425,600 over time, leaving a loss of \$598,300.

47. Victim 1 also introduced Zietsoff to a friend (or relative), Victim 2, who also invested money (\$50,000). When Zietsoff defaulted on the loan, Victim 1 undertook the repayments out of a sense of responsibility.

48. Zietsoff's wife was upset when she discovered that her husband was having an affair. This was exacerbated by the fact that Zietsoff had borrowed money from Victim 1 and lost it. In 2005-2006, Zietsoff's wife agreed to renovate and sell their house in Port Credit and was led to believe that her husband had repaid Victim 1 from the profits and ended their relationship. In December 2012 Zietsoff disclosed to his wife that his affair with Victim 1 was continuing.

- **Victim 2**

49. Victim 2 was not interviewed by the police. Her involvement in the fraud is described in Zietsoff's statements and records. Zietsoff explained that he was introduced to Victim 2 in 2011

through Victim 1. He told her about short-selling properties in Scottsdale and that she could contact her bank to wire transfer money to him, for a total of \$50,000. Although he initially made interest payments to Victim 2, Victim 1 undertook to do so when he defaulted. Zietsoff claims that Victim 2 is “up to date” although it appears that her capital investment has been lost.

- **Victim 3**

50. Victim 3 is a custom home designer who worked on four home renovation projects with Zietsoff commencing with the Port Credit property in 2007. Victim 3 saw Zietsoff trading on his computer and eventually asked Zietsoff to invest approximately \$15,000 for him. Victim 3 later invested additional amounts of \$90,000, \$50,000 (from a line of credit) and \$20,000. Victim 3 withdrew money from his line of credit because Zietsoff convinced him that he could make more money by investing than he would have to pay in interest. The loans were usually secured by promissory notes.

51. At first, Zietsoff indicated that Victim 3 would make 11-12% on his investments, although Zietsoff could not guarantee a return. Later, Zietsoff said he would pay a 13% rate of return because they were friends. According to Victim 3, he and his girlfriend did become friends with Kevin and his wife and they interacted socially. Victim 3 never asked for, or received, interest payments although he did receive some lump sum repayments of capital on occasion, which he estimates to be approximately \$30,000.

52. Victim 3 recalls investing some smaller amounts on occasion - \$7,000 in December 2009 and \$10,000 in December 2010. He contributed a further \$15,000 in December 2012 when

Zietsoff said he was raising money for a friend who owned a paving company. Because this was a private investment the return was to be 25%. This was the first time that Zietsoff had made any specific representations about how he was investing Victim 3's money. Until then, Victim 3 believed Zietsoff was investing in futures.

53. Earlier in 2012, Zietsoff told Victim 3 that his money was tied up in the MF Global bankruptcy proceedings, and Victim 3's internet searches seemed to confirm his friend's story.

54. According to Zietsoff's records, Victim 3 invested a total of \$242,350 and was repaid \$38,100, resulting in a net loss of \$204,250. Victim 3 recounted total loans of \$192,000 (although he did not keep track of the smaller amounts he advanced on occasion) and repayments of \$30,000, resulting in a loss of approximately \$162,000.

55. Victim 3 introduced other investors (i.e. his parents and a friend, Victim 19) to Zietsoff. He has not been able to contact Zietsoff since Christmas 2012.

- **Victim 4 and Victim 5**

56. Victim 4 and Victim 5 invested \$35,000 with Zietsoff in February 2010 on the recommendation of their son, Victim 3. They trusted Zietsoff because their son spoke highly of him and would not have given him money otherwise. Although they had not been looking to change their investments, they did so because Zietsoff promised their money would be safe and generate a "quicker and higher return", which was 12%. They received a promissory note in return and chose to leave their "profits" with Zietsoff instead of withdrawing the interest.

57. In December 2012, Zietsoff offered them an opportunity to invest in his friend's paving company. It was described as a "high risk investment" but it was for only six months and would pay a 50% return. Victim 4 had just received a retirement payout and was convinced to invest that \$30,000 in the project. Victim 3 invested another \$5,000 in the paving venture on their behalf and they reimbursed their son. They did not receive a promissory note for this investment. (In Zietsoff's calculations, this \$5,000 is reflected in Victim 3's losses as Zietsoff calculated victims' losses based on from whom he received the investment.)

58. Victim 4 and Victim 5 did not receive any interest or lump sum payments from Zietsoff and therefore suffered a \$70,000 loss. Zietsoff's records indicate an investment/loss of \$65,000, presumably because he does not account for the \$5,000 Victim 3 invested on behalf of his parents (see previous paragraph).

59. Victim 4 and Victim 5 did not refer anyone to Zietsoff, although he encouraged them to do so and promised a 3% finder's fee.

60. Victim 4 and Victim 5 were "devastated" when Victim 3 advised them that the money was lost but were more concerned about their son, who felt responsible for their loss.

- **Victim 6 (Victim 7 and Victim 8)**

61. Victim 6 met Zietsoff through Zietsoff's wife, with whom he has worked for over twenty years. In 2006, Victim 6 withdrew \$200,000 from the equity in his house to invest in Zietsoff's

home renovation enterprise. He left the money with Zietsoff as they completed three renovation projects, believing that his investment was growing, as evidenced by the ever-increasing promissory notes. He added an additional \$50,000 in 2008, primarily for investing, and when Zietsoff stopped renovating houses all the money was used for trading in the futures market.

62. In 2010, Victim 6 received a small inheritance when his mother passed away and decided to invest \$60,000 of that money with Zietsoff, who assured Victim 6 that his trading method prevented losses of more than 10%. The promissory notes given to secure the investments promised returns of 12% or 14%, although he never received any interest payments on the money. At the end of 2010, upon Zietsoff's urging, Victim 6 redeemed his RRSPs and invested an additional \$160,000. Zietsoff agreed to pay monthly interest and, over the next year, Victim 6 received \$71,588 back, which he needed to pay down his mortgage. He is still paying taxes on the RRSP withdrawal.

63. Victim 6 states that he invested \$13,000 with Zietsoff for each of his children (Victim 7 and Victim 8) - \$26,000 in total – between February 17, 2010 and August 4, 2010. His son, Victim 8, contributed another \$14,500 for himself between April 17, 2011 and January 31, 2012.

64. In March 2012 Victim 6 loaned Zietsoff \$50,000 to invest in a housing scheme in Arizona, on the understanding that he would be repaid \$55,000 in July 2012.

65. In April 2012 Zietsoff approached Victim 6 seeking additional funds to settle a lawsuit in the United States (he, in fact, settled a lawsuit with Victim 75, as described more fully below).

Zietsoff warned that if he lost the lawsuit then he would also lose his ability to trade and his investments would be in jeopardy. Believing that Zietsoff was licensed (which he was not) and that his investment was at risk, Victim 6 advanced a \$175,000 interest-free loan on the understanding that it would be repaid in September 2012. This money came from his wife's RRSPs and from the remaining equity in their home.

66. Around this time, Zietsoff explained that his investments were not accessible because they were tied up in the MF Global bankruptcy, but he "swore on a stack of Bibles" that their money was safe. When Victim 6 later discovered that MF Global was repaying investors 72¢ on the dollar he told Zietsoff that he would accept the 28% loss to get his money back, but it never came.

67. In September 2012 Zietsoff told Victim 6 that he could not repay him. Victim 6 has not heard from Zietsoff since early December 2012.

68. According to Victim 6, he advanced a total of \$720,000 and received back \$71,588, resulting in a loss of \$649,412. Victim 8 invested another \$14,500, all of which was lost. According to Zietsoff's records, he received \$721,000 from Victim 6, \$14,500 on behalf of Victim 8 and \$13,000 on behalf of Victim 7. He repaid \$22,900 to Victim 8, resulting in a total loss of \$712,600.

- **Victim 9 and Victim 10**

69. Victim 9 did concrete work on some of Zietsoff's houses. He invested a total of \$110,000 with Zietsoff in 2009 and 2011 but, according to Zietsoff, was repaid in full, with interest

(\$22,134), within 9 months. He was not interviewed by the police. His involvement in the fraud is described in Zietsoff's statements and records.

- **Victim 11 and Victim 12**

70. Victim 11 and Victim 12 declined to be interviewed by the RCMP. Their involvement in the fraud is described in Zietsoff's statements and records. Zietsoff has known Victim 11 and Victim 12 since the 1980s when he flew model airplanes with their nephew and he considers them to be "surrogate parents". When he attended the University of Waterloo he would have dinner at their house on a regular basis. When Victim 11 retired he decided to invest with Zietsoff.

71. According to Zietsoff's records, Victim 11 and Victim 12 invested a total of \$134,500 and were repaid \$39,029, resulting in a loss of \$95,471. As noted above, Victim 11 and Victim 12 did not submit to an interview but did advise the RCMP that they moved to Mexico and have forgiven Zietsoff.

- **Victim 13 and Victim 14**

72. Victim 13 has been friends with Zietsoff since they went to school together in Orangeville in 1988. He and his wife, Victim 14, did not attend to be interviewed by the RCMP and, accordingly, the circumstances of the fraud come from Zietsoff's statements and records.

73. Victim 13 and Victim 14 began investing with Zietsoff in June 2007 on the understanding that the accused's trading model was safe. In 2011, Zietsoff approached Victim 13 with a plan to

invest in foreclosed properties in Arizona. It appears that Victim 13 made an investment through his company Victim 16 (see below).

74. According to Zietsoff, Victim 13 and Victim 14 invested a total of \$120,000 (excluding the Arizona deal) and were repaid \$106,276, resulting in a loss of \$13,724.

- **Victim 15**

75. Victim 15 is a friend and business partner of Victim 13. Victim 15 declined to be interviewed by the police and, therefore, the circumstances of the fraud come from Zietsoff's statements and records. Victim 15 approached Zietsoff in 2009 to invest money with him, on the understanding that he was a successful trader. He was also solicited to invest in the Arizona property deal and advanced \$100,000 to Zietsoff for that purpose in the Fall of 2011. In fact, the money was never used to invest in foreclosed properties but, instead, was lost on the futures market or was diverted to pay other creditors.

76. According to Zietsoff's records, Victim 15 invested a total of \$649,000 and was repaid \$567,901, resulting in a loss of \$81,099.

- **Victim 16**

77. Victim 16 is the company co-owned by Victim 13 and Victim 15 through which they invested \$50,000 in the Arizona property scheme on March 24, 2011. All of the money was either lost in futures trading or was diverted to pay other creditors.

- **Victim 17**

78. Victim 17 is Victim 15's mother. She was not interviewed by the police. Her involvement in the fraud is described in Zietsoff's statements and records. Victim 17 invested a total of \$1,145,000 with Zietsoff commencing on August 10, 2009. She received a series of promissory notes carrying annual interest rates ranging from 0% (August 2009) to 72% (June 2011). The records also indicate that Victim 17 was repaid \$1,096,517 between August 27, 2009 and March 7, 2012, resulting in a loss of \$48,483.

- **Victim 18**

79. Victim 18 was not interviewed by the RCMP. His involvement in the fraud is described in Zietsoff's statements and records. Zietsoff explained that Victim 18 was introduced to him by Victim 15 in the Summer of 2011. Victim 18 decided to invest in the Arizona property scheme which, as explained above, did not exist. Victim 18 lost all of the \$15,000 that he invested with Zietsoff.

- **Victim 19 and Victim 20**

80. Victim 19 is a close friend of Zietsoff who introduced a number of investors to the accused. In his statements, Zietsoff described Victim 19 as being one of his "cheerleaders", but not a partner. Victim 19 declined to be interviewed by the RCMP and, accordingly, the following account is taken from Zietsoff's statements and records.

81. Having been friends since 1988, Victim 19 first approached Zietsoff in 2010 to invest money for him. By then he had already introduced other investors to the accused. Zietsoff solicited additional funds from his friend in 2010 and 2012.

82. Victim 19 attended university and became a school teacher. He invested a total of \$145,000 and never received any repayment of interest or capital. However, he did facilitate the repayment of funds to some investors by allowing Zietsoff to move the money through Victim 19's personal account. Zietsoff has explained that he did this because he did not want to deal with people when they became angry and also that it was done to allow him to repay amounts to Victim 19's sister and brother-in-law who were involved in a bitter divorce. He also states that he used Victim 19's account on one occasion to receive money from a client.

83. Victim 19 introduced the following investors to Zietsoff: Victim 54; Victim 56; Victim 48; Victim 24, Victim 21, Victim 23 and Victim 23; Victim 27; Victim 28; Victim 42 and Victim 43. Victim 43, in turn, introduced Victim 44 and Victim 45 to Zietsoff. Victim 44 introduced his parents to the accused.

- **Victim 21**

84. Victim 21 first met Zietsoff in high school but became re-acquainted with him in 2008 through their mutual friend, Victim 19. She and Victim 24 are the twin daughters of Victim 22 and Victim 23. Victim 21 provided a statement to the police.

85. Upon Victim 19's recommendation, Victim 21 met with Zietsoff at a restaurant in July 2008. Zietsoff assured her that the trading formula he used was safe and, to Victim 21, he

projected an image of success, as evidenced by the Porsche he drove to the meeting. She invested \$50,000 at that time and a further \$120,000 upon the sale of her house a few months later. She was promised interest of 12% *per annum*. She received promissory notes in return as well as monthly interest payments in cash, which varied between \$800 and \$1,100 *per month* over the next three and a half years, although Zietsoff's records suggest the range was between \$700 and \$1,500 each month.

86. Victim 21 asked for a total of \$92,000 back when she purchased her current house but Zietsoff was only able to give her lump sums of \$67,000 and \$10,000 in August 2009.

87. By the Summer of 2009, Victim 21 had introduced Zietsoff to her sister, Victim 24, and her brother-in-law, Victim 25. Earlier, in 2008, she had introduced the accused to her parents, Victim 22 and Victim 23. Their investments are summarized below, and include \$50,000 that was advanced to Zietsoff for the benefit of Victim 21, by her parents, in April 2010. This \$50,000, and an identical amount advanced on behalf of Victim 24, is included in the losses suffered by Victim 22 and Victim 23.

88. In May 2012, Zietsoff approached Victim 21 for a loan. He explained that he was being sued by an investor in the United States and that if she and her parents did not help then all of their money would be lost. Zietsoff also stated that he needed the loans because his money was tied up in the MF Global bankruptcy proceedings. He said he needed money to help pay for the lawsuit and that he would repay everything when MF Global recovered, which he expected would be June of 2013. He promised to pay her 4% interest until he could repay the loan in June

2013. As a result, Victim 21 advanced a total of \$101,000 to Zietsoff; this money was transferred through the accounts of Zietsoff's father (\$70,000) and Zietsoff's spouse (\$25,000 and \$6,000).

89. In September 2012, Zietsoff met with the family at Victim 21's house and assured them that their principal was safe. However, when her parents asked what would happen if they needed money before June 2013 he replied that they were "screwed". Zietsoff denies saying this to the family.

90. In November 2012, Victim 21's parents were contacted by the OSC in relation to its investigation. According to the family, they alerted Zietsoff, who subsequently attended uninvited at Victim 21 and Victim 24's birthday party on December 11, 2012 and instructed them to tell their parents to burn all their documents and to not speak to the OSC. Zietsoff denies ever saying that to the family or anyone else.

91. Victim 21 has not seen Zietsoff since December 16, 2012 when she, her sister and her brother-in-law met with Zietsoff to discuss the state of their investments. At that time, Zietsoff explained that he wanted to repay her parents first and that Victim 21, Victim 24, and Victim 25 were the last people he should reimburse.

92. Victim 21 states that she advanced a total of \$271,000 to Zietsoff and received back a maximum of \$77,000 in principal and interest of perhaps \$42,000 (average of \$1,000 per month for 42 months). Her loss was therefore approximately \$152,000.

93. According to Zietsoff's records, Victim 21 invested a total of \$265,000 and was repaid \$96,734, resulting in a loss of \$168,266.

- **Victim 22 and Victim 23**

94. Victim 22 and Victim 23 paid off their home and were financially secure retirees with an annual fixed income of \$33,000. As a result of their dealings with Zietsoff, they lost all of their savings and equity in their home.

95. Victim 22 and Victim 23 were introduced to Zietsoff in August 2008 by their daughter, Victim 21. They were looking to move their investments from their current broker in the hope of generating better returns that would enable them to take some vacations and leave an inheritance to their daughters. They were attracted by Zietsoff's assurances that he could generate 12% annual returns through a commodities futures trading method that kept their principal safe. The Bernie Madoff scandal was unfolding at the time and Victim 22 specifically asked Zietsoff if he was running a Ponzi scheme. Zietsoff assured him that he was not and that he traded through brokerages in Canada and the United States.

96. Zietsoff spent more and more time with Victim 22 and Victim 23, to the point that Victim 21 and Victim 24 joked that he was "like the son they never had". Victim 22 and Victim 23 came to trust him completely and provided him with the following money, which included inheritances from their parents:

- \$50,000 on September 2, 2008
- \$35,000 on October 30, 2008

- \$35,000 on April 3, 2009
- \$60,000 on April 28, 2009
- \$175,000 on June 25, 2009
- \$37,500 in January, 2010

The April payments included what was left of Victim 23's RRSP, which Zietsoff persuaded her to collapse. The June 25, 2009 payment came from a home equity line of credit that he encouraged them to open and draw down. The advances were secured by promissory notes redeemable on a year's notice.

97. Zietsoff's bank statements reveal the following additional deposits from Victim 22 and Victim 23:

- \$40,000 on March 25, 2009
- \$35,000 on July 28, 2009

Zietsoff made punctual monthly cash interest payments to Victim 22 and Victim 23 from October 1, 2008 through 2012. Often the amount was less than what they were entitled to because they asked him to add the difference to their principal.

98. Victim 22 and Victim 23 gave their daughter, Victim 24, lump sums of \$40,000 and \$30,000 in March and April 2011 to allow her to invest in Zietsoff's Arizona property scheme. (The \$70,000 is included in the losses suffered by Victim 24.) Zietsoff states that the money came from Victim 22 and Victim 23. They invested a further \$40,000 in that venture themselves on August 22, 2011, and another \$45,200 on November 23, 2011, on the understanding that they would receive a 15% return every three months, which would be rolled over with the principal

into the next transaction. The August 22, 2011 funds were wired to Kevin Zietsoff's HSBC account and the November 23, 2011 funds were transferred to Zietsoff's father's TD CanadaTrust account.

99. It was also in November 2011 when Zietsoff came to their home, while Victim 24 was visiting, and claimed that the company he had been dealing with, MF Global, was in bankruptcy proceedings. He stated that he had been through a similar situation in 2002 and had recovered all of his money within four weeks. However, he was now being sued by an American investor (Victim 75) and he needed some money immediately to settle the lawsuit. If he failed to do so then he would have to declare bankruptcy and all their money would be lost.

100. Believing they had no other option, Victim 22 and Victim 23 agreed to place another mortgage on their home to obtain cash for Zietsoff. When their bank would not advance the funds based on their limited pension, Zietsoff found a mortgage broker in Guelph who agreed to the financing provided Zietsoff's wife co-signed the mortgage. Zietsoff's wife did so, albeit reluctantly according to Victim 22 and Victim 23. This generated \$270,000 which they provided to Zietsoff, again through his father's account, in May 2012. The mortgage was for a year and came due in May 2013.

101. In September 2012, they met Zietsoff at Victim 21's house and were informed that he had not recovered his money. When they asked what would happen if they needed money he replied, "You are fucked". (Zietsoff denies saying this).

102. They spoke with Zietsoff for the last time in December 2012 after being contacted by the OSC. He told them that he was going to repay Victim 24 and Victim 25 first but that he would reimburse them in a year's time. He also discouraged them from talking to the OSC and instructed them to burn their promissory notes as they were worthless. (Zietsoff denies saying this).

103. According to Victim 22 and Victim 23, they invested a total of \$822,700 and received back \$85,000, resulting in a loss of \$737,700. Zietsoff's records indicate a slightly lesser investment of \$785,200 and repayments of \$117,720, resulting in a loss of \$667,480.

- **Victim 24, Victim 25, and Victim 26**

104. Zietsoff visited Victim 24 and her husband, Victim 25, at their home to describe his trading system to them. Arriving in his Porsche, Zietsoff appeared to be as successful as he claimed. He explained that he never invested more than 3-4% of his total portfolio and withdrew his funds from the market at the end of each day. This ensured that everyone's money was protected. As well, each investor received a promissory note carrying an annual return of 12%.

105. Victim 24 and Victim 25 invested \$155,000 and \$100,000, respectively, in the Spring and Summer of 2010. In doing so, Victim 24 cashed out her RRSPs because Zietsoff promised a much better return. For the next year, Victim 25 received monthly interest payments of \$1,000 while Victim 24 left her promised interest to accumulate. Victim 24 invested a total of \$70,000 in March and April 2010, which money she received from her parents, in addition to \$10,000 of

her own that she advanced on March 1, 2010. In December 2010 she invested a further \$5,912 on behalf of their daughter, Victim 26.

106. In January 2011, Victim 24 invested a further \$17,500 and Victim 25 a further \$95,000 in Zietsoff's Arizona housing scheme. The accused promised that the money would be repaid in three months with 10% interest. However, when the investments matured, Zietsoff claimed that the project would now take a year but that their interest would roll-over every three months, for a total of 40% per annum. They received new promissory notes to ease their discomfort. Victim 24 also advanced an additional \$51,000 on February 28, 2011.

107. In April 2011, Victim 21, Victim 22, Victim 23, Victim 24, and Victim 25 combined to invest an additional \$56,500 in the Arizona housing scheme upon Zietsoff's promise of a 15% return. He again offered 15% to Victim 24 before she agreed to withdraw \$70,000 from her home equity to invest in the Fall of 2011.

108. They received a panicked call from Zietsoff in April 2012 in which he pleaded for more money to help save his business. He said "something went bad" and he needed hundreds of thousands of dollars. Victim 24 advanced \$10,000 for 30 days but received only \$5,000 back at the end of the month. By the Summer of 2012, Zietsoff was telling them that his money was tied up in the MF Global bankruptcy proceedings.

109. By December 2012 Victim 25 was threatening to go to the police if he was not repaid. Zietsoff responded that he would buy them out on February 1, 2013 but they might receive only 80% of their investment.

110. Victim 24 invested \$319,412 and received \$5,000 back, resulting in a loss of \$314,412. Victim 25 invested \$195,000 and \$56,500 (on behalf of the family) and received monthly interest payments of approximately \$12,000, resulting in a total investment of \$251,500 and a loss of \$239,500.

111. According to Zietsoff's records, Victim 24 advanced a total of \$207,500 and was repaid \$13,188, resulting in a loss of \$194,312. Victim 25 is said to have advanced a total of \$256,600 and was repaid \$31,000, resulting in a loss of \$225,500.

- **Victim 27 and Victim 28**

112. Victim 27 met Zietsoff through Victim 19. At the time, Victim 27 was married to Victim 28, who is the sister of Victim 19's wife. Victim 27 and Victim 28 have since divorced and, as part of their separation, Victim 27 agreed to take the \$200,000 promissory note securing their investment with Zietsoff instead of his half interest in the matrimonial home. That promissory note is now worthless.

113. Victim 27 and Victim 28 were looking to invest some money when they were introduced to Zietsoff in 2008. He was presented to them as a successful investor from a wealthy family, an

image that was consistent with his arrival at their home in a Porsche. He promised them a safe investment in his commodities futures trading venture and offered an annual return of 12%.

114. Victim 27 and Victim 28 invested \$200,000 in October 2008 but separated soon thereafter. In February 2010 it was agreed that Victim 28 would receive the \$2,000 monthly cash interest payments from Zietsoff for child support. Those payments were transferred back to Victim 27 as part of the divorce agreement in June 2012, after which he received four monthly cash payments before Zietsoff defaulted in October. Zietsoff explained that his money was frozen in the MF Global bankruptcy proceedings. Victim 27 received a \$2,000 lump sum in December 2012 but has had no further dealings with Zietsoff since then.

115. According to Zietsoff's records, Victim 27 and Victim 28 received payments of \$89,500, resulting in a loss of \$110,500.

- **Victim 29 (Victim 30)**

116. Victim 29 has worked with Zietsoff's wife since 1991. They became friends and when he learned that her husband was investing for high net-worth clients he asked her for advice on where he should invest his money. Zietsoff's wife suggested Zietsoff, who then met with Victim 29 to explain why his trading system was safe and profitable. He guaranteed a 3% annual return but indicated that he would pay 12% because he was doing so well. Victim 29 agreed to invest \$300,000 in April 2008, but declined Zietsoff's advice to cash in his RRSPs to invest more.

117. Zietsoff made the monthly interest payments for the first two years and repaid \$100,000 of the capital upon request in 2009. However, by 2011 Victim 29 was having difficulty reaching Zietsoff and eventually gave his one-year notice that he wanted to withdraw the remaining \$200,000. Zietsoff assured him that the money was safe and that he would receive the principal and interest in a year.

118. Zietsoff brought his wife to a meeting with Victim 29 in May 2012, although until then he had insisted that his wife not be involved in their communications. He explained to Victim 29 that the brokerage firm where his money was kept had gone bankrupt and that he was in need of money to settle a lawsuit in the United States. These circumstances made it difficult for him to repay his clients but he did return \$50,000 of the principal to Victim 29.

119. Zietsoff went on to explain that he has different circles of investors and that the closest circles would get their money first. The inner circle was his family and close friends. Victim 29 was told that he was in the second circle.

120. Victim 29's last communication with Zietsoff was an email the accused sent him in September 2012 stating that he had no more money to give.

121. According to Zietsoff's records, Victim 29 was repaid \$234,000 in principal and interest, resulting in a loss of \$66,000. Victim 29 acknowledges receiving \$150,000 in principal and an unascertained amount of interest which was paid in cash and bank drafts.

- **Victim 31 (Victim 32) and Parents (Victim 33 and Victim 34)**

122. Victim 31 and Zietsoff met at the University of Waterloo and became friends. Victim 31 was not interviewed by the police but Zietsoff admitted that he borrowed a total of \$240,000 from Victim 31, and his company, Victim 32, beginning in 2009 on the basis of deliberate falsehoods about his trading record. It appears that Victim 31 was repaid \$150,000 of his principal and, according to Zietsoff's ledger, an additional \$12,800 in interest. As a result, Victim 31 lost \$77,200.

- **Victim 35 and Victim 36**

123. Victim 35 is Victim 31's business partner. Victim 36 is his spouse. Victim 35 invested \$230,000 with Zietsoff on December 12, 2009 at 12% *per annum* following Zietsoff's misrepresentations regarding the profitability of his trading. He was not interviewed by the RCMP. His involvement in the fraud is recorded in Zietsoff's documents, which indicate that Victim 35 received interest payments totalling \$32,425 from January 31, 2010 until December 17, 2011, resulting in a loss of \$197,575.

- **Victim 37 and Victim 38**

124. Victim 37 was working as a teenager at the airport in Parry Sound when he first met Zietsoff's father in the 1990s. He became a helicopter pilot but had a crash in 2007 that left him in a wheelchair. He reconnected with Zietsoff's father and mother at a fish fry in his honour in Parry Sound in the Summer of 2009. From his conversations with Zietsoff's parents and other guests at the fundraiser, including the Victim 52 and Victim 53 (see below), Victim 37 got the impression that Zietsoff was doing well investing money. Victim 37 was looking for a means to provide for his family and took Zietsoff's phone number from Zietsoff's father.

125. Victim 37 soon called Zietsoff and arranged a meeting at which the accused explained his futures trading system. He assured Victim 37 that his system was low risk because he invested his entire portfolio for only a brief period of time, aimed to make only .1-.2% on each trade and he won 75-80% of his trades. Zietsoff claimed that most of his clients received a 9-10% annual return but that he would guarantee Victim 37 12%. He would receive an extra 1% for referring each additional investor.

126. Zietsoff advised Victim 37 to take out a line of credit to fund his investment. Victim 37 did so and provided the accused with \$50,000 in October 2009 and an additional \$25,000 in December 2009. He chose to not receive interest payments but to add that money to his principal instead.

127. In July 2011, Victim 37 met with Kevin and his wife and was invited by the accused to invest in a Greek debt scheme that would generate a 22% return. (Zietsoff denies his wife was involved in this conversation.) Zietsoff misled Victim 37 that the investment was a hedge against the default of Greece. According to Victim 37, he was told that the investment was insured so that if Greece went bankrupt then he would be paid his money immediately. Zietsoff warned Victim 37 not to tell others about this opportunity. (Zietsoff denies saying this.) Victim 37 agreed to invest \$40,000 on July 19, 2012 and a further \$75,000 on August 29, 2012, which he drew from his line of credit and from his Worker's Compensation award.

128. When Victim 37 purchased a new vehicle in 2012 he asked Zietsoff to return \$500 each month for the payments. The accused made only three payments, which prompted Victim 37 to call his loan. Zietsoff replied that Victim 37 would now receive only 12% on his investment. Three weeks later, Zietsoff called to say that his money was tied up in the MF Global bankruptcy proceedings and that he was being sued in the United States. Zietsoff then asked Victim 37 to draw money from his credit cards to assist him to settle the lawsuit and did so, according to Victim 37, in a forceful manner. Victim 37 refused to advance more money to the accused and has not received any back.

129. Victim 37 recounts investing a total of \$190,000 and receiving \$1,000-\$1,500 back, resulting in a loss of \$188,500 or \$189,000. Zietsoff's records suggest that he returned only \$1,000 and that Victim 37 therefore lost \$189,000.

- **Victim 39**

130. Victim 39 hired Zietsoff's mother to manage a strip mall she owns in Orangeville. She decided to invest \$270,000 at a 9% per annum rate of return on October 31, 2009. Victim 39 made another investment of \$100,000 on December 7, 2010 and gave Zietsoff a further \$160,000 on August 8, 2011 when he required money to deal with some problems in the United States. Zietsoff promised that her money was safe and provided her with promissory notes.

131. Victim 39 relied on the monthly interest payments she received, which amounted to \$4,056 in 2009, \$24,300 in 2010 and \$36,400 in 2011. Her son, Victim 40, also invested with Zietsoff (see below).

132. In 2011, Victim 39 called her promissory notes but was told that Zietsoff could not pay her back because of the MF Global bankruptcy. He said that she could expect to eventually receive 60% of her capital.

133. On June 28, 2012, Victim 39 drew on her line of credit to provide Zietsoff with another \$50,000 when he was desperate to raise money to deal with an American lawsuit. In December 2012, Zietsoff offered her 50% of her investment if she took the money immediately and 100% if she waited three years instead. She chose to wait.

134. The money she gave to Zietsoff was all of her life savings, except for some RRSPs which she refused to collapse despite the accused's advice to do so.

135. Victim 39 provided a total of \$580,000 to Zietsoff and received back \$64,756, resulting in a loss of \$515,244. Zietsoff's records indicate that he repaid only \$56,575, which would increase the loss to \$523,425.

- **Victim 40 (Victim 41)**

136. Victim 40 was not interviewed by the police. He is Victim 39's son. His involvement in the fraud is described in Zietsoff's statements and records. According to Zietsoff, Victim 40 invested \$50,000 in 2011 based on misrepresentations about the accused's trading. He lost the entirety of his investment.

- **Victim 42 and Victim 43**

137. Victim 42 and Victim 43 are teachers and friends of Victim 19. They learned about Zietsoff at a party Victim 19 hosted. Some guests were talking about how Zietsoff had made a lot of money investing for his parents. This prompted them to meet with Zietsoff at their house and he described how he traded in commodities and futures.

138. Zietsoff explained that he only invested his profits, that he was in and out of his trades quickly, and that while he made only small profits they were significant over time because he was successful in 75-80% of his trades. He promoted his trading method as being relatively safe and not very volatile. He added that he made average returns of 16-20%, which was why he could offer 12% per annum interest rates in his promissory notes.

139. Victim 42 and Victim 43 agreed to invest \$60,000 in the Fall of 2009 followed by an additional \$40,000. Zietsoff delivered the monthly interest payments in person for the first year. In August 2010, Victim 42 and Victim 43 invested another \$60,000 at a rate of 14% per annum, which Zietsoff explained he could afford because he was paying his American investors only 10%.

140. Zietsoff later approached them with an opportunity to invest in a housing venture in Arizona, which would pay a 20% return. In April 2012 they advanced \$40,000 for that project. It then became increasingly difficult to reach the accused.

141. In September 2012, Zietsoff told them that he had been sick and was therefore not accessible. He added that he was being sued in Arizona and that his money was tied up in the MF Global bankruptcy proceedings, from which he expected to receive only 40% of his investment. By October 2012 he called looking for \$100,000 to address the lawsuit in Arizona. Victim 42 and Victim 43 did not provide any more money and never saw the accused again after November 2012.

142. Victim 42 and Victim 43 state that they invested a total of \$200,000 and received back an unascertained amount of interest. According to Zietsoff's records, Victim 42 and Victim 43 invested a total of \$199,800 and received interest payments of \$41,432, resulting in a loss of \$158,368.

- **Victim 44 and Victim 45**

143. Victim 44 met Zietsoff at a party being hosted by their mutual friends, Victim 42 and Victim 43. Victim 44 declined to be interviewed by the police and the following brief summary is taken from Zietsoff's statements and records.

144. Zietsoff advised Victim 44 to invest with him by misrepresenting the profitability of his trading and the Arizona property scheme. He later lied about not being able to repay Victim 44 because his money was frozen in the MF Global bankruptcy proceedings.

145. Victim 44 invested a total of \$320,000 commencing in February 1, 2010. He was repaid \$234,267, resulting in a loss of \$85,733. Zietsoff also traded on Victim 44's online brokerage

account as “[first name of Victim 44 redacted]”, in an attempt to earn back the money that had been lost. Instead, he lost more money, which Zietsoff estimates to be \$500,000 in total. Some of this money may have belonged to Victim 44’s parents.

- **Victim 46**

146. Victim 44 introduced his friend, Victim 46, to Zietsoff in the Summer of 2010. Victim 46 declined to be interviewed by the RCMP and the following brief summary is taken from Zietsoff’s statements and records.

147. Victim 46 contacted Zietsoff and they met at Victim 44’s house. Zietsoff advised Victim 46 to invest \$100,000 based on Zietsoff’s misrepresentations about the profitability of his trading and later falsely claimed that the money could not be repaid because of the MF Global proceedings.

148. According to Zietsoff, Victim 46 was repaid \$20,000, resulting in a loss of \$80,000.

- **Victim 47**

149. Victim 47 was not interviewed by the police. Her involvement in the fraud is described in Zietsoff’s statements and records. She was introduced to Zietsoff in 2011 by her brother-in-law, Victim 44. Zietsoff acknowledges lying to her about the profitability of his trading, the Arizona property scheme and the MF Global proceedings. Victim 47 lost all of the \$90,000 that she invested with Zietsoff.

- **Victim 48**

150. Victim 48 is a waitress and a former professional wrestler living in Midland. Victim 19 was her promoter and travelled with her to wrestling matches. During one trip to Northern Ontario, Victim 48 asked Victim 19, whom she trusted “more than anyone in the world”, for investment advice. Victim 19 suggested that she meet Zietsoff.

151. It took Victim 48 a few months to decide to give money to the accused. He promised her a 12% annual return and used his laptop to show her how he would use her money to trade currencies. He explained that she could bequeath the promissory note in her Will and could recover the investment from his parents if he died. (Zietsoff denies saying this).

152. In May 2010, Victim 48 gave Zietsoff \$100,000, which was her life savings, in exchange for a promissory note with a 12% interest rate. She withdrew an additional \$15,000 from a line of credit to invest at a rate of 15%. The funds were deposited into Zietsoff’s bank account. The promissory note was renewed in May 2011 and Victim 48 invested another \$10,000 from her line of credit on October 5, 2011. The October investment was for the Arizona housing scheme, carried a return of 24% per annum and was a branch to branch transfer at ScotiaBank.

153. Victim 48 misunderstood the nature of the one-year call on the note and was upset to learn that she could not withdraw her money to purchase a house in May 2012. She immediately called the loan for repayment in May 2013. Victim 48 says that she never received any money back from Zietsoff and, instead, left her interest with him to accumulate. Zietsoff has produced a “Payment Receipt” signed by Victim 48 and indicating that she was repaid \$17,500 in May 2011. Victim 48 acknowledges signing the receipt but states that she was told that it was a paper

exercise designed to account for accumulated interest that was added to another promissory note. (Zietsoff denies saying this, and states that cash was paid.)

154. Zietsoff called in October 2012 to solicit additional funds for the Arizona housing project but Victim 48 did not advance any more money.

155. Victim 48 claims to have lost all of the \$125,000 that she invested. According to Zietsoff's records she was repaid \$17,500 and therefore lost \$107,500.

- **Victim 49**

156. Victim 49 was introduced to Zietsoff by Victim 3 in 2010. He was not interviewed by the police but Zietsoff states that he invested \$15,000 and was repaid \$12,664, resulting in a loss of \$2,336. Victim 49 was to advance money on the belief that Zietsoff was a successful trader and/or that Zietsoff was raising money for his friends' businesses.

- **Victim 50 and Victim 51**

157. Victim 50 and his wife, Victim 51, did not attend to be interviewed by the RCMP and, accordingly, the brief description of their involvement in the fraud comes from Zietsoff's statements and records.

158. Zietsoff states that he met Victim 50 in 2009 or 2010 when they were seated beside each other on a flight from Phoenix to Toronto. Victim 50 was being transferred to Toronto for work and the two men became friends. Zietsoff lied to Victim 50 about the profitability of his trading

and, later, about raising funds for private businesses owned by his friends. Victim 50 advanced a total of \$570,000 to the accused, beginning in March 2010, and received back \$200,120, resulting in a loss of \$369,880. Victim 50 was told that the money was frozen in the MF Global bankruptcy proceedings.

- **Victim 52**

159. Victim 52 met Zietsoff's parents when he moved to Parry Sound in 2000. He is an aircraft and nuclear welder who also did contracting work on the houses that the accused was renovating. When he had some money to invest in 2003, Zietsoff's father advised him to open an online trading account and let Zietsoff's father trade in it on his behalf. Victim 52 did so and found the arrangement to be profitable.

160. Eventually, the accused suggested that Victim 52 invest his money with him instead. He promised a 12% annual return and assured Victim 52 that it was risk-free. On July 20, 2010, Victim 52 advanced \$100,000 to the accused but asked for it back shortly thereafter as he was in need of money. Zietsoff replied that the whole amount could not be repaid as it was invested and, instead, ended up returning only \$30,000, resulting in a loss of \$70,000.

161. Zietsoff acknowledges that he deliberately misled Victim 52 about his trading and about not being able to repay him because the money was frozen in the MF Global bankruptcy proceedings. He agrees that he received \$100,000 from Victim 52 and repaid only \$30,000.

- **Victim 53**

162. Victim 53 is married to Victim 11 and 12's nephew (name removed). Like Victim 11 and 12, Victim 53 and her husband have known Zietsoff since he was a child building model airplanes in their home in Parry Sound. Her husband is an aircraft mechanic and knows Zietsoff's father through their mutual interest in aviation.

163. Victim 53 was involved in a car accident for which she received a lump sum insurance settlement. After paying some bills she was left with approximately \$350,000, part of which she used to purchase a cottage. She planned to invest the remaining \$100,000 to provide for her ongoing therapy.

164. Victim 53 felt comfortable investing with the accused because she had known him all his life and she was aware of others, including Zietsoff's parents and Victim 11 and 12, who had placed their money with him and appeared to be doing well. As well, he visited the Victim 53's house and explained that his strategy was safe because he only invested small amounts, thereby ensuring that he never risked losing much. As well, he assured her that if he died his Will would ensure that his parents would distribute back the funds of the investors. Because Zietsoff described the investments as low risk, Victim 53 decided to borrow additional funds from her line of credit to invest. Although she was reluctant to do so, Victim 53 borrowed \$60,000 and invested a total of \$160,000 on September 15, 2010 at a rate of 13% per annum.

165. Zietsoff made the first two interest payments on time but the third was late. In total, she recalls receiving \$30,500 from the accused. She states that some of the payments were made in cash, by either Kevin or Zietsoff's father, and some were deposited directly into her account.

She states that Zietsoff told her that he had paid the taxes on the money. (Zietsoff denies saying this.) Victim 53 also states that Zietsoff's mother claimed to be Kevin's secretary and prepared receipts for her to sign when she received interest payments. Zietsoff's father denies delivering money to Victim 53 and states that Zietsoff's mother was not Kevin's secretary, although she did draft receipts for Victim 53 to sign.

166. Victim 53 called her loan in March 2011 but by the Spring of 2012 she heard from Victim 52 that Zietsoff had gone bankrupt. When she contacted the accused she was told that his money was frozen in the MF Global proceedings and that he could pay her 73% of her investment now, or 90% if she waited longer. She chose to wait. In August 2012 she received a telephone call from Zietsoff warning that it was taking him longer to sort things out but that she would receive her money by January 2013. He did not meet that deadline.

167. Victim 53 states that she lost \$129,500. Zietsoff agrees that she invested \$160,000 but states that she was repaid \$40,300, resulting in a loss of \$119,700.

- **Victim 54 and Victim 55**

168. Victim 54 and Victim 55 are married. They have a young daughter. Victim 55 is a store manager. Victim 54 is a teacher, and a friend and former colleague of Victim 19. Victim 54 met Zietsoff around 1998, when they were both part of Victim 19's wedding party.

169. In late 2010, Victim 19 suggested that Victim 54 consider investing with Zietsoff. Victim 54 knew several of Zietsoff's clients – Victim 19, Victim 13, Victim 42, and Victim 43 - who appeared to be doing well. Victim 54 asked Victim 19 to put him in touch with Zietsoff.

170. In January 2011, Zietsoff visited Victim 54 and Victim 55 at their home. He explained and demonstrated his computerized trading strategy. He guaranteed a 12% return. Victim 55 did not want to invest but eventually acquiesced to Victim 54's desire to do so. On January 20, 2011, they invested \$50,000 with Zietsoff.

171. On May 8, 2011, Zietsoff visited Victim 54 and Victim 55 at their home. He told them about short-selling properties in Arizona. He guaranteed a 40% return. When Victim 55 expressed skepticism, Zietsoff noted that the interest was sufficient to replace her income. Victim 54 and Victim 55 invested \$200,000 in this venture.

172. In February 2012, Zietsoff visited Victim 54 at home. He asked for \$50,000, explaining that he needed the money to avoid losing a home that he was flipping in Arizona. He promised to repay Victim 54 in 90 days, at 90% interest. Victim 54 gave him \$49,000, but called in his investments. Zietsoff said he would repay them by November 2012.

173. Zietsoff missed that deadline. He visited Victim 54 at home and asked for an extension. Around Christmas 2012, Zietsoff told Victim 54 that he could only repay a percentage.

174. Zietsoff made sporadic interest payments, in cash, in varying amounts. Victim 54 and Victim 55 say they received no more than \$25,000. Zietsoff asserts that he paid \$59,000.

175. In summary, Victim 54 and Victim 55 invested \$299,000 with Zietsoff, and received between \$25,000 and \$59,000 in interest payments. Their total loss is between \$240,000 and \$274,000.

- **Victim 56**

176. Victim 56 was not interviewed by the RCMP. His involvement in the fraud is described in Zietsoff's statements and records. Victim 56 and Victim 19 were friends through their mutual interest in mixed martial arts. Zietsoff explained that Victim 19 introduced him to Victim 56 several years ago.

177. In 2011, Victim 56 invested \$50,000 with Zietsoff. Zietsoff guaranteed a 40% return. Victim 56 gave his 12-month notice for redemption on the same day. In the following year, Zietsoff made regular interest payments.

178. Zietsoff did not repay Victim 56 when the note came due. Victim 56 told Zietsoff that he would sue. They negotiated a payment schedule in July 2012. Zietsoff paid Victim 56 in full on October 9, 2012.

179. In summary, Victim 56 invested \$50,000 with Zietsoff. Zietsoff repaid that principal, and paid Victim 56 a further \$20,000 in interest.

- **Victim 57**

180. Victim 57 lived in Parry Sound near Zietsoff's parents. Victim 57 did odd jobs for Zietsoff's father. Victim 57 and his wife knew Victim 52, Victim 64, and Victim 53 and her husband.

181. In September 2011, Victim 57 heard that Zietsoff was investing for Victim 52 and Victim 53 and her husband. Zietsoff's parents were in town visiting Victim 64. Zietsoff's father met with Victim 57 and mentioned that Zietsoff was a successful investor and could guarantee a 12% return. Victim 57 gave \$20,000 to Zietsoff's father for Zietsoff to invest. Victim 57's only interaction with Zietsoff was a phone call in which he confirmed his name and address. The accused acknowledges that he never received the money and, instead, it remained with Zietsoff's father to offset money owed to him by Zietsoff.

182. Victim 57 had mentioned to Zietsoff's father that he had a GIC coming due in 2012. In October 2012, Zietsoff's father was back in town and raised the idea of Victim 57 investing the proceeds from the GIC with Zietsoff. Victim 57 declined.

183. Victim 57 never received any money back from Kevin or Zietsoff's father and has therefore lost his entire investment of \$20,000

- **Victim 58 and Victim 59**

184. Victim 58 and Victim 59 are married. They are Canadian citizens who spent their winters in Arizona. Victim 58 is a retired Air Canada pilot and a former colleague of Victim 69 (see

below, “The American Victims”), with whom he remained good friends. Victim 58 did not know Zietsoff’s father during his time at Air Canada but was introduced to him in Arizona by Victim 69.

185. In 2008, Victim 69 told Victim 58 that he was investing with Zietsoff. Victim 58 was skeptical but his opinion changed when Zietsoff made regular interest payments to Victim 69 despite the economic downturn.

186. In November 2011, Victim 58 met Zietsoff at a party. He approached Zietsoff and expressed interest in investing with him. They spoke at length. Soon thereafter, Zietsoff visited the Victim 58 and Victim 59 at their home. He explained and demonstrated his computerized trading strategy. He guaranteed a 12% return.

187. On December 6 and 7, 2011, Victim 58 and Victim 59 cashed in their investments to advance \$150,000 to Zietsoff.

188. On January 12 and 13, 2012, Victim 58 and Victim 59 invested another \$150,000 with Zietsoff. They cashed in their RRSPs to obtain this money. Zietsoff explained that the interest payments would more than compensate for the associated tax penalty.

189. On January 26, 2012, Victim 58 and Victim 59 invested another \$50,000 with Zietsoff. They drew this money from a line of credit on their home. Zietsoff advised them that they should be using the equity in their home to earn money.

190. Around this time, Zietsoff convinced Victim 58 and Victim 59 that they could now afford to rent a nicer house in Arizona. Accordingly, they agreed to sell their condo and invested the proceeds (\$150,000) with Zietsoff when the sale closed on May 25, 2012. They planned to use the investment income to rent a new home when they returned to Arizona the next Fall.

191. In the meantime, Zietsoff suggested that they get a new appraisal on the home they had been building for more than a decade in the Gravenhurst area. Victim 59 was adamantly opposed to borrowing more money against their home but agreed to the appraisal to learn what the property was worth. While the condo sale was closing in Arizona, Zietsoff was calling Victim 58 and Victim 59 to inquire about the equity in their home in Ontario. He learned that the bank was willing to approve a \$650,000 line of credit on the property.

192. Soon thereafter, Zietsoff attended at their residence and proposed that they draw on their line of credit to increase their investment with him. He brought an interest payment with him. Victim 59 was still opposed to the idea. Zietsoff then told them that he was dropping his small investors and focussing on high net-worth individuals, including a multi-millionaire from Florida. Accordingly, unless they gave him more money he was going to call their promissory note and drop them as clients. Pursuant to the terms of the note, this would mean that they would not receive their principal or interest payments for a full year. Having sold their condo and without the interest income, they would have no place to live in Arizona the coming year. They therefore asked Zietsoff if he was giving them an ultimatum. He replied, "Yes, I guess I am." (Zietsoff denies saying this.)

193. Victim 58 and Victim 59 capitulated and that same day, May 28, 2012, the three of them travelled by boat back to shore and Victim 58 and Victim 59 drove to a bank in Huntsville to wire \$400,000 from the line of credit to Zietsoff's bank account. It then became increasingly difficult to get in touch with the accused.

194. Zietsoff stopped paying interest after delivering a \$9,000 payment on June 28, 2012. In July 2012, Zietsoff told Victim 59 that he had mononucleosis and was too ill to work. In August 2012, Victim 69 and Victim 73 contacted Victim 59. They said they were having problems with Zietsoff. Victim 58 was away and Victim 59 could not reach Zietsoff. She panicked. She drove to his Yorkville address in Toronto, only to learn that he had moved. She called Zietsoff again. This time he answered and agreed to meet at a coffee shop. Zietsoff explained that the Arizona investors' money was tied up by the MF Global bankruptcy. He assured her that their money was elsewhere and safe.

195. Victim 59 relayed this information to Victim 69 and Victim 73, who were still skeptical. At Victim 59's request, Victim 58 returned home. They attended unannounced at Zietsoff and his wife's new residence, where Zietsoff repeated his explanations and assurances.

196. Zietsoff called Victim 59 several times afterwards to reassure her. On August 24, 2012, he sent them \$9,000. He sent two more payments of \$9,000 on November 5 and 9, 2012 and Victim 58 and Victim 59 have not heard from him since.

197. In summary, Victim 58 and Victim 59 invested \$900,000 with Zietsoff. According to his records, Zietsoff paid them approximately \$44,299 in interest, resulting in a loss of \$855,701.

- **Victim 60**

198. Victim 60 met Zietsoff in the late 1990s when the accused was looking for a house in Waterloo. Victim 60 was his real estate agent and they became good friends.

199. Victim 60 and Zietsoff stayed in touch after Zietsoff moved to Toronto. They drifted apart after Victim 60 got married and had children. In 2010, Victim 60 and his wife divorced. In 2011, Zietsoff reconnected with Victim 60, who lamented that the divorce had cost him a lot of money. Zietsoff offered to help and explained that he was investing for his parents and his parents' friends. His portfolio was worth over \$10 million. He was short-selling properties in Arizona and each transaction would close within six months.

200. Victim 60 had set aside \$100,000 to pay his taxes, which were due in April 2012. Zietsoff suggested that Victim 60 invest with him in the interim. He would repay Victim 60 in March 2012. On September 22, 2011, Victim 60 invested \$50,000 with Zietsoff. In early October, he invested another \$50,000.

201. Zietsoff did not repay Victim 60 in March 2012. He made sporadic repayments, which stopped in the summer. When Victim 60 could not reach Zietsoff, he called Zietsoff's wife immediately called Victim 60 and told him not to contact Zietsoff's wife. He said that his

investment brokerage had gone bankrupt but that Victim 60 would be compensated. They settled on a repayment plan, with which Zietsoff did not comply.

202. Victim 60 states that he invested \$100,000 and was repaid \$25,000, resulting in a loss of \$75,000. Zietsoff believes that he repaid only \$15,000, which increases the loss to \$85,000.

- **Victim 61**

203. Victim 61 was not interviewed by police. His involvement in the fraud is described in Zietsoff's statements and records. Zietsoff explained that Victim 61 had a cottage in Parry Sound near Zietsoff's parents. In 2011, Victim 61 invested \$50,000 based on Zietsoff's misrepresentations about his profitable trading. Victim 61 did not suffer a loss as Zietsoff repaid all of the principal and a further \$1,750 in interest.

- **Victim 62**

204. Victim 62 was not interviewed by police. He is an Anglican priest who was friends with Zietsoff and Zietsoff's late brother. The following brief summary is taken from Zietsoff's statements and records.

205. Zietsoff approached Victim 62 in the Summer of 2012. Zietsoff said that he was being sued in Arizona, and that he had lost money in the MF Global bankruptcy. Based on these representations, Victim 62 gave Zietsoff \$50,000 to assist him overcome his difficulties. He has not been repaid.

- **Victim 63**

206. The RCMP did not interview Victim 63 but did review a statement that he provided to the Halton Regional Police Service. In addition, Zietsoff explained that he and Victim 63 raced motorcycles together in the early 1990s. In 2012, Victim 63 invested \$30,000 in the Arizona property scheme. Zietsoff paid him \$1,000 in interest. The total loss is \$29,000.

- **Victim 64 (Victim 65)**

207. Victim 64 was not interviewed by police. His involvement in the fraud is described in Zietsoff's statements and records. Victim 64 was Zietsoff's parents' next-door neighbour in Parry Sound. According to Zietsoff, in 2012, he advised Victim 64 to loan him money on the basis of misrepresentations about his profitable trading. Victim 64 lost the entirety of his \$50,000 investment.

- **Victim 66**

208. Victim 66 declined to be interviewed by police. Her involvement in the fraud is described in Zietsoff's statements and records. Zietsoff explained that Victim 19 arranged a double-date with Victim 66 and Zietsoff in 2011. The accused approached her in 2012 to invest in the Arizona property scheme, and she agreed to do so by forwarding \$18,000 through Victim 19's bank account. Zietsoff repaid \$1,000, resulting in a loss of \$17,000.

- **Victim 67 and Victim 68**

209. Victim 67 is a Canadian citizen who spends his winters in Fountain Hills, Arizona. Victim 67 was working in his driveway in January 2012 when a new neighbour, Zietsoff's father, noticed the Ontario licence plates on Victim 67's car and stopped to introduce himself. The conversation included a discussion about how successful Kevin Zietsoff was as an investor. It was the only time that Victim 67 met Zietsoff's father but within a few weeks Zietsoff attended at Victim 67's residence in Arizona. (Zietsoff denies meeting Victim 67 within a few weeks, but has not indicated when they did first meet.)

210. When Zietsoff first appeared in February 2012, Victim 67 was preparing for his second date with Victim 68, who is an American citizen. The conversation was therefore brief but they met more frequently over the next few months.

211. In March 2012, Victim 67 showed Zietsoff his investment portfolio. Zietsoff claimed that he could do better. He provided Victim 67 with a list of other investors in Arizona as references. In June 2012, Victim 67 agreed to let Zietsoff trade \$10,000 on his behalf for two weeks.

212. Victim 67 opened an Interactive Brokers account on June 29, 2012 and deposited \$10,000 with the intention of letting Zietsoff trade in the account on his behalf. Interactive Brokers called Victim 67 a few days later to ask if he had trading knowledge. When Victim 67 said that Zietsoff was trading his account Interactive Brokers closed the account and returned the \$10,000 to Victim 67. Zietsoff had earned \$900 dollars and Victim 67 received a cheque from Interactive Brokers for that amount in early 2013.

213. Victim 67 and Victim 68 had become friends with Zietsoff and his wife. The couples spent the July 4th long weekend together at Victim 67's home in Carrying Place, Ontario. On July 6, 2012, with the four of them around a table, Zietsoff explained his computerized investment strategy in detail. Zietsoff assured Victim 67 and Victim 68 that he invested only a small portion of the portfolio and cashed out at the end of each day. His goal was to make only 1-2% each day and there was little risk. Kevin assured them that they were not going to run off with the money like Bernie Madoff. Victim 67 and Victim 68 were to split the profits.

214. Sometime after that conversation, Zietsoff and Victim 67 went to the bank. Victim 67 withdrew his savings of \$909,000 and tried to transfer the money to a TransAct Futures trading account in Chicago. However, the funds were returned on Friday, July 20, 2012 because TransAct could not find the destination account. Victim 67 became afraid and told Zietsoff that he had changed his mind. Zietsoff immediately drove from Toronto to Carrying Place and implored Victim 67 to follow through with the investment. Victim 67 acquiesced and accompanied Zietsoff to the bank where, on Zietsoff's instructions, the \$909,000 was converted to \$896,184.56 US and wired to the brokerage, AMP Trading account in Victim 67's name in Chicago, Illinois. It was still Friday.

215. On Monday, July 23, 2012, AMP phoned Victim 67 to ask if he understood the risks of making leveraged trades of such magnitude. Victim 67 was not aware of the details of the trades and said that Zietsoff was trading in the account pursuant to a power of attorney. When Victim 67 could not reach Zietsoff by telephone he closed the account on AMP's recommendation.

Zietsoff had lost \$795,917.45 US and AMP returned the remaining \$100,267.11 US to Victim 67.

216. Victim 67 confronted Zietsoff, who accepted responsibility for the losses. Zietsoff claimed that his mother had suffered a mild heart attack and he had inadvertently left the account open. He would repay Victim 67, so long as Victim 67 re-invested the remaining \$100,000. Zietsoff gave Victim 67 a promissory note dated July 27, 2012, apparently co-signed by Zietsoff's wife. Zietsoff asserts that he forged his wife's signature. Relying on this note, Victim 67 sent Zietsoff the \$100,000.

217. The note was for \$1,250,000, which was comprised of the original \$909,000 plus \$91,000 as a bonus and 25% interest. As it was due on January 15, 2013, Victim 67 stood to receive a 37.5% gain on his initial investment within six months.

218. In October 2012, Zietsoff contacted Victim 67 and Victim 68 about a Greek debt hedging opportunity. He guaranteed a 24% return on a \$100,000 investment, repayable in March 2013. Victim 67 was not interested but Victim 68 was. On October 29, 2012, Victim 68 gave Zietsoff \$10,000 and Victim 67 loaned Victim 68 \$33,000, which she gave to Zietsoff on November 8, 2012. (Zietsoff recalls receiving the \$33,000 US through a wire transfer into his Bank of Montreal account from Victim 67 on November 8, 2012.) On November 5, 2012, Victim 67 sent Zietsoff \$57,000 to bridge Victim 68's investment until December 15, 2012. Victim 68 repaid Victim 67 the \$33,000 when she cashed in her investments on November 13, 2012. Zietsoff was

to return the \$57,000 to Victim 67 on December 15, 2012, after which Zietsoff would bridge the loan until Victim 68 received the proceeds from the sale of her home in New Mexico.

219. Zietsoff did not return the \$57,000 to Victim 67 on December 15, 2012 and Victim 68 has undertaken to reimburse that amount to her boyfriend. On December 19, 2012, Victim 67 called Zietsoff's references, including Victim 69, and learned of the difficulties they were having with Zietsoff.

220. Nevertheless, Zietsoff, Victim 67 and Victim 68 met in Toronto on January 9, 2013 and the accused assured them that their money was safe. Six days later, Zietsoff defaulted on the \$1,250,000 promissory note payable to Victim 67 and similarly failed to honour the \$124,000 promissory note payable to Victim 68 on March 15, 2013.

221. In summary, Victim 67 says that his total loss was \$895,917 US, which is essentially the conversion of the \$909,000 CDN he transferred to the AMP Trading account. Zietsoff asserts that they agreed to split the losses and profits, such that he owes Victim 67 only \$190,000. (Zietsoff maintains that he is not aware of how the RCMP calculated the \$190,000, but acknowledges receiving \$100,000 US on July 27, 2012, \$57,000 US on November 5, 2012 and \$33,000 on November 8, 2012.)

222. Victim 68 says that she lost \$100,000. Zietsoff asserts that he owes Victim 68 \$10,000. This discrepancy is due to Zietsoff attributing the \$33,000 and \$57,000 payments to Victim 67.

b. The American Victims**• Victim 69 and Victim 70**

223. Victim 69 is a 76-year-old retired Air Canada pilot and his wife, Victim 70, is a 65-year-old retired Air Canada flight attendant. Victim 69 met Zietsoff's father in 1961, when they were cadets at the Royal Canadian Air Force Officer Candidate School. They both joined Air Canada after completing a tour of duty. Victim 70 met Zietsoff's father in 1969 and flew with him regularly.

224. Victim 69 and Victim 70 moved to Arizona after they retired. In 2004, Zietsoff's father called Victim 69 and stated that he and Zietsoff's mother had decided to spend their winters in Arizona. Zietsoff's father sought Victim 69's advice on where to live and the two families became close friends after Zietsoff's parents moved to the area.

225. To Victim 69 and Victim 70, Zietsoff's parents enjoyed a lifestyle that bespoke wealth. Zietsoff's father had a single engine aircraft which he and Victim 69 regularly flew together. Zietsoff's parents encouraged Victim 69 and Victim 70 to invest with Zietsoff, who they described as a successful investor. They said that Zietsoff required a minimum \$500,000 investment, but might make an exception for Victim 69 and Victim 70. Zietsoff denies that Zietsoff's parents encouraged them to invest or that a minimum was required. Zietsoff's father similarly states that he did not encourage Victim 69 and Victim 70 to invest with his son (although he did mention that the accused managed his money and could get 12% returns on investments for them) and, instead, asserts that Victim 69 learned about Zietsoff's trading because they (Victim 69 and Kevin) spent time together when the accused was in Arizona.

226. By 2006, Zietsoff's parents had introduced Zietsoff to Victim 69 and Victim 70. Zietsoff visited their home and demonstrated his computerized trading strategy. He said that he had a portfolio worth about \$14 million and that he could do his "own thing" because he was not registered with the OSC. (Zietsoff denies ever saying this.) On February 9, 2006, Zietsoff received \$150,000 in his TD Canada Trust account on behalf of Victim 69 and Victim 70. This initial investment was advanced in the form of a loan to Zietsoff's father and is recorded as such in a promissory note signed by Victim 69 and Victim 70 and Zietsoff's father on February 8, 2006. That note was renewed on February 9, 2007 and again on March 17, 2008, with Zietsoff's father again signing as the "borrower". Zietsoff's father indicates that his son wanted to proceed in this manner because it would be easiest for Victim 69 to pay Zietsoff's father and then have the accused transfer the money to his account. On May 26, 2009, Victim 69 and Victim 70 invested another \$100,000 US. At this point, the initial "loan" to Zietsoff's father was voided and all the investments were then subsumed in promissory notes issued by the accused.

227. On March 26, 2010, Victim 69 and Victim 70 invested a further \$250,000 with Zietsoff. They were reluctant to part with these funds but did so because Zietsoff offered his home on the Kingsway as collateral, although Zietsoff sold that home a few months later.

228. On June 22, 2011, Zietsoff asked Victim 69 to loan him \$100,000 for 6 weeks. He offered \$7,500 interest. Zietsoff said he needed the money to purchase a maturing Greek bond. Zietsoff persisted and Victim 69 and Victim 70 eventually relented.

229. In the Spring of 2012, Victim 69 requested the return of \$250,000. Zietsoff said that he could not repay Victim 69 at that time, claiming that the money was tied up in the MF Global bankruptcy. He admitted that he had lost money but assured Victim 69 and Victim 70 that their investment was safe.

230. Zietsoff did not pay interest in the first year. Zietsoff asserts all interest for year one was paid on March 10, 2009 in the form of a TD CanadaTrust draft for \$20,790 US and deposited to Victim 69 and Victim 70's Royal Bank of Canada account. He told Victim 69 that this was an oversight and made regular interest payments from 2007 until early 2012. In mid-2012, Victim 69 gave Zietsoff notice that he wished to redeem his investments.

231. Zietsoff offered Victim 69 a 2% commission for referrals. Victim 69 declined but did introduce Zietsoff to Victim 73 and Victim 74. Zietsoff also used Victim 69's name as a reference for prospective clients, such as Victim 67.

232. In summary, Victim 69 and Victim 70 invested \$600,000 with Zietsoff. They received \$208,165 in interest. Their total loss was \$391,835. Zietsoff agrees that Victim 69 and Victim 70 invested \$600,000 but recalls repaying only \$190,165 in interest, resulting in a loss of \$409,835.

- **Victim 71 (Victim 72)**

233. Victim 71 is an elderly gentleman who lives in Rio Verde, Arizona. In 2006, Zietsoff's parents moved into a home across the street. Victim 71 considered Zietsoff's father to be his best friend. Sometime in 2008, Zietsoff's father introduced his son to Victim 71.

234. Victim 71 had retired after 40 years with Detroit Edison (“DTE”), a utility company. His retirement savings consisted of a DTE savings and stock ownership plan. In 2008, DTE stock was performing poorly. Zietsoff’s father told Victim 71 that Zietsoff was a successful investor.

235. Zietsoff visited Victim 71 at his home. He gave a general explanation of his investment strategy, of which Victim 71 understood very little. When Zietsoff assured him that there was no risk, Victim 71 cashed in his DTE stock and invested the proceeds with Zietsoff, with a guaranteed 9% return. There was a two-year notice period for redemption.

236. In approximately 2011, Victim 71 loaned Zietsoff \$50,000 to go to Las Vegas. Zietsoff promised to repay him upon his return. He later persuaded Victim 71 to combine that money with his existing investments. (Zietsoff denies borrowing money to go to Las Vegas.) Victim 71 recalls investing a total of about \$1,200,000. Zietsoff says that Victim 71 invested a total of \$1,220,000.

237. Victim 71 stated that in 2012, Zietsoff’s parents often visited Victim 71 while he was undergoing chemotherapy treatment for colon cancer. They asked him to cash out his bonds and stocks and invest the money with Zietsoff. They said that Victim 71 would lose all of his investments if he did not do so. Zietsoff made similar pleas. He stated that Zietsoff cried in front of Victim 71. Zietsoff told Victim 71 that the person with whom he invested had embezzled his money. (Zietsoff denies the facts in this paragraph.)

238. Victim 71 felt pressured, but did not provide further funds. He told (name removed), his neighbour and caregiver, about these interactions. He brought Victim 71 to an attorney, Chester Yon, who filed a complaint with the Arizona Corporations Commission (“ACC”) on Victim 71’s behalf. The accused and his father received letters, dated April 17, 2012, from Mr. Yon expressing concern that Zietsoff had defrauded Victim 71 of \$1.2 million and demanding payment immediately.

239. Throughout the years, Zietsoff made regular interest payments to Victim 71, which were often paid in cash by Zietsoff’s father or Zietsoff. The accused recalls making sporadic cash payments to Victim 71 himself when he was visiting Arizona and acknowledges that six other payments were made to Victim 71 through a joint bank account at Johnson Bank with Zietsoff’s father. Zietsoff asserts that he repaid \$255,280 in interest. In June 2012, Zietsoff sent Victim 71 two \$25,000 bank drafts. Victim 71 estimates that Zietsoff paid him approximately \$200,000 in total.

240. In summary, Victim 71 asserts that he invested \$1,200,000, and was repaid approximately \$200,000, for a total loss of \$1,000,000. Zietsoff asserts that Victim 71 invested \$1,220,000, and that he repaid \$305,280, for a total loss of \$914,720.

- **Victim 73 and Victim 74**

241. Victim 73 and Victim 74 are married. They are close friends with Victim 69 and Victim 70. Victim 73 is a retired school teacher and Victim 74 is a nurse.

242. In 2008, Victim 74 was coming out of active army duty. They were living in Hawaii but moved to Arizona. They had excess funds from the sale of their Hawaii home and Victim 73 suggested that they invest it with Zietsoff.

243. Victim 69 introduced Victim 73 to Zietsoff's father, who connected him with the accused. Victim 73 and the accused had several telephone conversations before they eventually met at the Victim 69 and Victim 70's home. Zietsoff denies being introduced to Victim 73 and Victim 74 through Zietsoff's father, who also denies making the introduction. Zietsoff recalls that the introductions were done through Victim 69. Zietsoff asserts he never spoke with either Victim 73 or Victim 74, until the meeting that Victim 69 set up at his home in Fountain Hills. Zietsoff explained his computerized trading strategy. He said that his minimum investment was \$500,000, but that he would make an exception for them. Victim 73 considered Zietsoff to be a friend and they spent time together when Zietsoff was in town. Victim 73 and Victim 74 recall that during one visit, Zietsoff's wife told them that she and Zietsoff were philanthropists who invested other people's money to help them out. (Zietsoff denies this statement about his wife.)

244. In 2009, Victim 73 liquidated his Individual Retirement Account. In January they invested \$50,000 with Zietsoff, repayable in 90 days, with a guaranteed 12% annual return. In March 2009, they invested \$250,000 and then a further \$40,000 in April 2009. The latter money was drawn from a line of credit against their home. Victim 74 was reluctant to invest this money but Zietsoff explained that the 12% return he guaranteed would amply offset the 3% interest on the line of credit. In May 2009, they invested a further \$50,000.

245. In May 2011, Zietsoff offered a substantial return on an investment in a Toronto paving company. Victim 73 declined but he later invested \$20,000 in a mixed martial arts venture that promised a 35% annual return.

246. In October 2011, Zietsoff told Victim 73 that his money was tied up in the MF Global bankruptcy proceedings. At the start of 2012, Victim 73 asked Zietsoff for monthly payments of \$2,000, to offset interest on the line of credit. Zietsoff gave Victim 73 \$4,000 in February 2012, but almost immediately persuaded him to re-invest that money.

247. In March 2012, Zietsoff told Victim 73 about the potential Victim 75 and Victim 76 lawsuit (described below). He called Victim 73 and Victim 74 and blamed them for his troubles as they had introduced Victim 75 to him. He pleaded with them to cash in Victim 74's retirement savings, sell their vehicle, and invest that money. He said, "If I'm fucked, you're fucked." (Zietsoff denies saying this to Victim 73 and Victim 74). They did not acquiesce to this request.

248. In August 2012, Victim 73 and Victim 74 called their loans. Zietsoff agreed to repay them in installments. In the Fall of 2012, Victim 73 asked Zietsoff for \$10,000. Zietsoff sent Victim 73 a cashier's cheque for \$2,500 in November 2012.

249. Zietsoff had offered Victim 73 a commission for referrals. Victim 73 declined the commission but did introduce the accused to Victim 82 and to Victim 75 and Victim 76.

250. In summary, Victim 73 and Victim 74 gave Zietsoff \$414,000. They say that Zietsoff paid less than \$30,000 in interest, resulting in a loss of \$384,000. Zietsoff asserts that he paid them \$64,620 in interest, for a total loss of \$349,380.

- **Victim 75 and Victim 76**

251. Victim 75 and Victim 76 live in Fargo, North Dakota. They requested, through the ACC, that they not be interviewed by the police. Victim 75 is a retired painter. Zietsoff explained that Victim 75 and Victim 73 are lifelong friends. Victim 73 introduced Zietsoff to Victim 75 via a Skype call made from Victim 73 and Victim 74's home in Arizona.

252. Victim 75 decided to invest with Zietsoff. Zietsoff visited Victim 75 and Victim 76 at their home, and reviewed their investment portfolios and assets. Victim 75 liquidated his Individual Retirement Account to invest with Zietsoff. Zietsoff promised a 20% return to compensate for the associated tax penalty. Victim 75 was not a sophisticated investor and did not ask a lot of questions before investing \$410,000 with Zietsoff.

253. Two weeks before Victim 75 had to make a tax payment, he asked Zietsoff to return about \$82,000. The funds were not immediately accessible to Zietsoff. Victim 75 was dissatisfied, retained counsel and, in a letter to Zietsoff, threatened to sue Zietsoff civilly. The matter was settled out of court without any lawsuit being commenced. Zietsoff claims that he paid Victim 75 in full, both principal and interest, in May 2012.

254. In summary, Victim 75 invested \$410,000 with Zietsoff. Zietsoff repaid that principal, and a further \$74,903 in interest.

- **Victim 77**

255. Victim 77 was not interviewed by the police. His involvement in the fraud is described in Zietsoff's statements and records. Zietsoff explained that Victim 77 was Victim 73's business partner. In 2009, Victim 77 invested \$45,990 and received interest payments of \$6,800, resulting in a loss of \$39,190.

- **Victim 78 and Victim 79**

256. Neither Victim 78 nor his partner, Victim 79, were interviewed by the RCMP. Their involvement in the fraud is described in Zietsoff's statements and records. Zietsoff explained that Victim 78 and Victim 77 were friends. According to Zietsoff's records, Victim 78 invested \$150,000 in 2009 and was repaid \$49,917 in interest, resulting in a loss to Victim 78 and Victim 79 of \$100,083.

- **Victim 80**

257. Victim 80 was not able to meet with the RCMP. Her involvement in the fraud is described in Zietsoff's statements and records. Zietsoff explained that she was friends with Victim 50's wife, Victim 51. According to Zietsoff's records, Victim 80 invested \$53,500 in September 2010 and was repaid \$2,500 in interest, resulting in a loss of \$51,000.

- **Victim 81**

258. Victim 81 is also a friend of Victim 51. They had been neighbours in Arizona. When Victim 81 came to visit in June 2012, Victim 51 told her about the great returns they were getting from Zietsoff. At Victim 81's request, Victim 51 introduced her to Zietsoff.

259. Zietsoff came to Victim 50 and Victim 51's apartment and then they went to Zietsoff's Yorkville condominium, where he demonstrated his computerized trading system. Victim 81 showed Zietsoff her investment portfolio. Zietsoff claimed that he could do better and guaranteed a 12% annual return. He told her to fire her broker, liquidate her investments and let him trade on her behalf. According to Victim 81, Zietsoff said that he would pay her monthly interest in cash so that she would not have to pay taxes, but she insisted that she wanted to pay the taxes. (Zietsoff denies saying she would not have to pay taxes.)

260. Zietsoff persuaded Victim 81 to transfer her Individual Retirement Account to Interactive Brokers so he could trade for her. Interactive Brokers would not accept the transfer because of the nature of some of the investments, which were worth \$750,000.

261. However, Victim 81 agreed to transfer \$100,000 directly into Zietsoff's Chase Bank chequing account as a personal loan to allow Zietsoff to trade online on her behalf. They spoke on the phone on Monday morning and she asked for her money back. He told her that he had already invested the money, but could repay her in 90 days. It appears that, in fact, Zietsoff had not invested all of Victim 81's money.

262. Zietsoff did not forward the first interest payment that was due on July 9, 2012. In response to her messages, Zietsoff left a voicemail message claiming that he had mononucleosis and could not work. He did forward \$1,000 on July 13, 2012.

263. On August 9, 2012, he transferred \$1,030 into Victim 81's chequing account. She reminded him by text message that the balance was due on September 9, 2012. On October 12, 2012, Victim 81 followed up by e-mail to Zietsoff, copying his wife and Zietsoff's father. In November 2012, Zietsoff transferred \$3,015 into her account.

264. In summary, Victim 81 invested \$100,000 with Zietsoff. She claims that she lost \$95,015 while Zietsoff states that the loss is slightly less, \$94,955. The difference may be attributable to banking fees associated with the wire transfers.

- **Victim 82 and Victim 83**

265. Victim 82 and Victim 83 are married and live in Brentwood, Tennessee. Victim 82 met Zietsoff through his friend, Victim 73. Victim 82 was a record label executive at Walt Disney and received a significant payout when the label closed in 2010. Victim 73 suggested that Victim 82 consider investing with Zietsoff.

266. In the Summer of 2010, Zietsoff visited Herring at his home in Tennessee. He demonstrated his computerized trading strategy and assured Victim 82 that he invested only a small amount of his portfolio at a time and cashed out at the end of every day. Victim 82 was intrigued, but did not invest at that time. After further discussions, Victim 82 invested \$200,000 with Zietsoff on

September 27, 2010 and a further \$200,000 in November 2010. The promissory notes carried 12% per annum returns.

267. On March 1, 2011, Zietsoff offered Victim 82 a 10% return on an investment in a Toronto paving company. Victim 82 invested \$100,000, repayable in 90 days. Zietsoff paid Victim 82 the interest on the due date. Zietsoff offered him the option of combining the principal with his existing investments, with a guaranteed return of 14.4% per annum. Victim 82 accepted.

268. Zietsoff and Victim 82 became friends but by February 2012 Zietsoff was difficult to reach. Victim 82 understood that Zietsoff was ill. Eventually, Zietsoff told Victim 82 that his money was tied up in the MF Global bankruptcy. They agreed on a repayment plan, with which Zietsoff did not comply.

269. Zietsoff made interest payments for the first couple months. Victim 82 says he received between \$70,000 and \$72,000 in interest.

270. Zietsoff offered Victim 82 a commission if he would help him recruit new clients. Victim 82 declined.

271. In summary, Victim 82 and Victim 83 invested \$500,000 with Zietsoff and believe that they received between \$70,000 and \$72,000 in interest, resulting in a loss between \$428,000 and

\$430,000. According to Zietsoff's statements and documents, he paid \$72,000 in interest, for a total loss to Victim 82 and Victim 83 of \$428,000.

- **Victim 84 and Victim 85**

272. Victim 84 and Victim 85 are married and live in Scottsdale, Arizona. Victim 84 met Zietsoff's father in 2011 at the Deer Valley Airport where they both had hangars.

273. They became friends and Zietsoff's father told Victim 84 that he invested all his money with his son, who he described as a successful investor. Zietsoff's father introduced Victim 84 to Zietsoff in the Summer of 2011. Victim 84 and Zietsoff met a few times over the following months and Victim 84 was intrigued by the computerized trading strategy that the accused showed him. However, he did not invest at that time.

274. Zietsoff eventually told Victim 84 that he wanted to buy his father a high-performance aircraft as a birthday gift. Victim 84 went with Zietsoff to see the aircraft. Zietsoff proposed that Victim 84 partner in the purchase. Victim 84 declined because the airplane was too expensive but he recommended Zietsoff to Victim 86.

275. Victim 84 and Victim 85 ultimately invested \$150,000 with Zietsoff on November 23, 2011 at an annual rate of 24%. Zietsoff brought them four interest payments of \$3,000 in cash. He continued to ask Victim 84 for more money but Victim 84 declined.

276. In summary, Victim 84 and Victim 85 invested \$150,000 with Zietsoff and received \$12,000 in interest payments, resulting in a loss to them of \$138,000.

- **Victim 86 and Victim 87**

277. Victim 86 and Victim 87 are married and live in Scottsdale, Arizona. Victim 86 is an investment banker specializing in mergers and acquisitions. Zietsoff was recommended to him by his good friend and neighbour, Victim 84.

278. In March 2012, Victim 86 spoke to Zietsoff on the phone. Zietsoff said he needed \$150,000 to purchase an aircraft for his father's 70th birthday. Victim 86 loaned him \$125,000 at 25% per annum, payable in 90 days. He demanded that Zietsoff's wife co-sign the promissory note. Zietsoff asserts that he forged his wife's signature.

279. Zietsoff visited Victim 86 multiple times at the beginning of April 2012. He explained and demonstrated his computerized trading strategy and claimed that his portfolio was worth over \$10 million. He discussed several of his clients, including Victim 73. Victim 86 gradually disclosed to Zietsoff the extent of his liquid assets. Zietsoff asked Victim 86 to invest \$450,000, with a guaranteed annual return of 20% but Victim 86 declined.

280. Zietsoff then proposed that Victim 86 invest \$225,000 for a guaranteed 19.2% return, put the other \$225,000 into his Interactive Brokers account, and permit Zietsoff to trade in that account. Zietsoff assured Victim 86 that he would adhere to the trading strategy they had discussed. Victim 86 agreed to this arrangement. He gave Zietsoff another \$100,000 to

supplement the original \$125,000. He put \$225,000 into his Interactive Brokers account and gave Zietsoff access.

281. Soon thereafter, Victim 86 learned that Zietsoff was taking a highly leveraged position in the online account. Zietsoff had lost \$80,000 over two days and the total loss was \$119,000. Victim 86 froze the account. Zietsoff promised to repay the \$119,000 by July 1, 2012, which he did. Zietsoff also made interest payments to Victim 86 from Zietsoff's wife's bank account, and signed an agreement stipulating the manner in which he would trade in the future.

282. Zietsoff asked for permission to trade in the online account again and assured Victim 86 that he had taken a high-risk position only once. Victim 86 relented, unfroze the account, and again gave Zietsoff access. Zietsoff proceeded to lose all the money in the account. In August 2012, Victim 86 sued both Zietsoff and Zietsoff's wife. In September 2012, Victim 86 and Zietsoff agreed on a repayment plan, with which Zietsoff did not comply. His last payment was in December 2012.

283. Victim 86 says that he invested \$450,000 with Zietsoff and was repaid \$239,849, resulting in a loss of \$210,151. Zietsoff claims that he and Victim 86 had an agreement about the trading losses in the Interactive Brokers account, such that he owed Victim 86 only \$225,000. Zietsoff asserts that he repaid that principal, and a further \$14,604 in interest.

- **Victim 88**

284. Victim 88 is a swimming pool contractor. He did work for Zietsoff's father in January 2012 when Zietsoff's parents were living in the Firerock community in Fountain Hills, Arizona.

285. Victim 88 noticed multiple computers on Zietsoff's desk. He asked about Zietsoff's father's occupation. Zietsoff's father explained that the computers belonged to Zietsoff, and that Zietsoff was a successful investor. Zietsoff's father said that all his money was invested with his son.

286. Victim 88 returned to the house on a later date to install a heating pump. He met Zietsoff, who explained his computerized trading strategy and mentioned that Victim 69 was one of his clients. Victim 88 contacted Victim 69 through a mutual friend and was told that Victim 69 had been investing with Zietsoff for years without any problems.

287. Victim 88 felt confident enough to give Zietsoff \$100,000, repayable in 90 days, with a guaranteed 24% annual return. Zietsoff also offered Victim 88 a 36% return on a Greek bond. Zietsoff explained that another client, who was going through a divorce, needed someone to buy out his interest. Victim 88 gave Zietsoff another \$100,000 for that venture.

288. By the end of May 2012, Zietsoff had paid Victim 88 \$10,000 interest. Zietsoff then became difficult to reach and explained that he had Crohn's disease and was too ill to work. Victim 88 asked for his principal back. He was willing to forfeit the interest. In August 2012 Zietsoff assured Victim 88 that he would be repaid. He was not.

289. Victim 88 invested \$200,000 and was repaid \$10,000, resulting in a loss of \$190,000.

- **Other Potential Victims**

290. Zietsoff asserts that he traded in the online accounts of Potential Victim 89 (Naples, Florida) and Potential Victim 90 (Denver, Colorado) and may have lost approximately \$24,000 and \$15,000, respectively, through high-risk trading. The accused will ask the court to take these circumstances into consideration pursuant to s. 725(1)(c) of the *Criminal Code*. The Crown will consider any additional details offered by the accused and provide the court with its position at the sentencing hearing.

VII. Summary

291. The investigation by the RCMP and the OSC disclosed that Zietsoff obtained funds from over 50 individuals and couples, domiciled in both Canada and the United States, through his fraudulent activities. The overwhelming majority of Zietsoff's victims lost money, while a few received back their money and a smaller number received back more money than they advanced to the accused.

292. Given the passage of time, the unavailability of complete and accurate trading and banking records for all transactions, the refusal of some victims to speak to the RCMP, or the RCMP's inability to interview them, in some instances conflicting and fragile memories and, in other instances, disagreement over how to calculate investments and losses, it is not possible to calculate the net losses to the victims with absolute precision. However, the RCMP's review of

the most reliable records and recollections, together with the statements of the victims and Zietsoff's voluntary disclosures reveals that, during the duration of the fraud, Zietsoff:

- i. received \$15,316,740 from his investors/victims and traded an additional amount in the online accounts of some of them;
- ii. used \$5,506,765 in investors' money to pay interest and/or repay principal to the same, or other, investors;
- iii. suffered trading losses of \$10,682,559;
- iv. lost an additional \$1,197,227 trading in the online accounts of investors;
and
- v. caused net losses to his victims in excess of \$10 million.