

1 MATTHEW L. KINLEY (Bar No. 144046)
E-Mail: mkinley@tldlaw.com
2 MIN N. THAI (Bar No. 232770)
E-Mail: mthai@tldlaw.com
3 TREDWAY, LUMSDAINE & DOYLE LLP
One World Trade Center, Suite 2550
4 Long Beach, California 90831
Telephone: (562) 901-3050
5 Facsimile: (866) 298-9666
6 Attorneys for Plaintiff Robert S. Crowder

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OF ORIGINAL FILED
Superior Court of California
County of Los Angeles
MAR 23 2010
John A. Clarke, Executive Officer/Clerk
By RUCENA LOPEZ Deputy

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10
11 ROBERT S. CROWDER,
12 Plaintiff,

13 vs.

14 LOCKE LORD BISSELL & LIDDELL, LLP,
a limited partnership, and DOES 1 through 10,
15 inclusive,
16 Defendant.

CASE NO. **BC434264**

- COMPLAINT FOR:
- (1) Breach of Employment Contract;
 - (2) Violation of Labor Code §202;
 - (3) Fraud;
 - (4) Negligent Misrepresentation;
 - (5) Conversion;
 - (6) Libel and Slander;
 - (7) Statutory Unfair Business Practices [Bus. & Professions Code §17200]

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19 Plaintiff Robert S. Crowder ("Plaintiff") complains of Defendants and alleges as follows:

20 1. Plaintiff Robert S. Crowder ("Plaintiff") is, and at all times mentioned herein was,
21 an individual residing in the state of California in the County of Los Angeles.

22 2. Defendant Locke Lord Bissell & Liddell, LLP ("LLBL") is a limited partnership of
23 unknown form doing business from its offices located at 300 South Grand Avenue, Los Angeles,
24 California.

25 3. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein
26 as DOES 1 through 10, inclusive, and therefore sues said Defendants by said fictitious names.
27 Plaintiff will amend this Complaint to allege their true names and capacities when ascertained
28 (LLBL and DOES 1 through 10, inclusive, will be collectively referred to from time to time herein

TREDWAY, LUMSDAINE & DOYLE LLP
One World Trade Center, Suite 2550
Long Beach, California 90831
(562) 901-3050

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(562) 901-3050

1 as "Defendants").

2 4. Plaintiff is informed and believes and, based thereon, alleges that each of the
3 fictitiously named defendants was an agent, employee or co-conspirator of one or more of the
4 named defendants, aided and assisted the named defendants in committing the wrongful acts
5 alleged herein, and that Defendants' actions or inactions are the basis for the relief requested by
6 Plaintiff herein.

7 5. Plaintiff is informed and believes and, based thereon, alleges that Defendants, and
8 each of them, conspired and agreed among themselves to do the acts complained of herein and
9 were, in doing the acts complained of herein, acting pursuant to said conspiracy, and that each
10 defendant sued herein is jointly and severally responsible and liable to Plaintiff for the damages
11 alleged herein.

12 6. Plaintiff became an employee of the law firm of Lord, Bissell & Brook ("LB&B")
13 in 1998.

14 7. In or around 2004, Plaintiff was promoted to "Income Partner," a designation used
15 by LB&B to refer to junior level partners in that firm's two-tier partnership system. Income
16 Partners had no equity in LB&B, were not entitled to share in the firm's profits, had no obligation
17 to provide a capital contribution to the firm and were, like any other employees, entitled to all
18 statutory protections and benefits available to employees under the California Labor Code.
19 Partners in the LB&B firm who had equity in the firm, were required to provide a capital
20 contribution and were entitled to share in the firm's profits were designated as "Equity Partners."

21 8. In or around the spring and summer of 2007, LB&B engaged in merger discussions
22 with the Texas-based law firm Locke, Liddell & Sapp ("LLS"). In order to determine the benefits
23 and business case for a potential merger of the two firms, a number of Equity Partners from
24 LB&B had a number of meetings with their counterparts at LLS. Income Partners such as
25 Plaintiff were not included in these meetings.

26 9. In or around August 2007, the Income Partners at LB&B were provided with
27 certain limited information about the potential merger with LLS by the LB&B Equity Partners
28 who had more complete information about that merger. In those discussions the Income Partners

1 were told that the partnership tiers were somewhat different between the two firms and that details
2 as to how the partnership would be structured, if the merger ultimately went through, had not been
3 settled.

4 10. Notwithstanding the unsettled nature of the partnership structure in the potential
5 merged firm, LB&B Income Partners were told in or around late August 2007 that they would
6 likely be given an "equity" stake in the new merged firm and would be required to put up capital.
7 In that regard, the managing partner of LB&B's Los Angeles office, Mitchell J. "Mitch" Popham,
8 specifically told Plaintiff that he "should not worry" about this requirement because junior level
9 partners would be permitted to borrow the amount necessary to cover their capital contribution
10 from a financial institution with which LLS had an existing relationship (the "Bank"). Popham
11 also told Plaintiff at this same time that the new merged firm would make interest payments on the
12 borrowed capital for a period of around two years such that the junior partners would not be
13 required to make any such payments.

14 11. All LB&B partners, including Income Partners who, previously, had never been
15 entitled to vote on any partnership issues, were told in or around September 2007 that they would
16 be given a vote, along with the Equity Partners, as to whether the merger should go through.

17 12. Just days before the September 2007 vote, Los Angeles office managing partner
18 Mitch Popham specifically instructed Plaintiff that he needed to cast his vote in favor of the
19 merger. Popham expressed his concern that the merger might not go through and stated that it was
20 extremely important that the Los Angeles office vote unanimously in favor of the merger. He also
21 indicated that if the merger did not go through, LB&B's Los Angeles office, which was going to
22 demonstrate its unanimous support for the merger, might very well split away from LB&B and
23 join LLS as a new Los Angeles office of LLS. Popham also stated that LB&B's Los Angeles
24 office was very important to LLS and one of the driving forces behind the potential merger of the
25 two firms and that, without a successful merger with LLS at this time, LB&B's continued viability
26 was in doubt.

27 13. It was clear from Popham's instructions to Plaintiff that Plaintiff had no real choice
28 but to follow those instructions or face significant negative ramifications for failing to do so. For

1 the entire period of his tenure at LB&B, Popham had made Plaintiff aware that he, Popham, was
2 personally involved in setting compensation for associates and Income Partners (and even Equity
3 Partners) and that Popham could, and often did, have final say in compensation issues. Popham
4 had also shared on numerous occasions his role in orchestrating the departure of those other firm
5 personnel who had fallen from his favor.

6 14. In or around September 2007, Plaintiff did as he had been instructed and cast his
7 vote in favor of the merger. The merger was approved and became effective on October 2, 2007,
8 creating the new firm Locke Lord Bissell & Liddell (“LLBL”). Plaintiff was shortly thereafter
9 required to post capital in the amount of fifty thousand dollars, but was permitted to borrow the
10 capital from the Bank and with the understanding that LLBL would pay all of the interest on the
11 capital during the first two years of his partnership. Upon completing the associated paperwork,
12 the funds constituting Plaintiff’s capital requirement were remitted directly from the Bank to
13 LLBL (*i.e.*, the money never went through Plaintiff’s hands).

14 15. As a result of the merger, Plaintiff was reclassified to “Participating Partner,” a
15 junior level partnership classification. As a result of the reclassification Plaintiff was ostensibly
16 stripped, because of his new “partner” status, of any of the Labor Code protections available to
17 LLBL’s employees. However, Plaintiff was not provided with any of the benefits that are the *sine*
18 *qua non* of actual partnership, in particular any right to share in LLBL’s profits or any meaningful
19 say in the management of LLBL’s affairs.

20 16. At the time the merger was approved, and continuing beyond the date on which it
21 became effective, the actual details regarding the roles and responsibilities of junior partners in the
22 new merged firm (*i.e.*, the “Participating Partners”) had not yet been resolved or, to the extent they
23 had been resolved, had not yet been explained to those that had recently been made Participating
24 Partners. However, the Participating Partners were told that they were not entitled to share in
25 LLBL’s profits and that they would receive “guaranteed compensation” which would be capped at
26 whatever figure firm management determined was appropriate for any Participating Partner. The
27 Participating Partners were also told that they would receive their “guaranteed compensation” as a
28 combination of draws and distributions made throughout the year.

1 17. On January 8, 2008, Plaintiff attended a presentation to new partners via
2 teleconference from the 13th floor conference room of LLBL's Los Angeles office. During that
3 presentation, Participating Partners were invited to ask questions about aspects of how their new
4 status with LLBL would impact them. On information and belief, the meeting was led by Ken
5 Simon, Neil Dickson, Miles Holsworth and Mary Ann Jay, none of whom were physically present
6 in Los Angeles, but all of whom made various portions of the presentation and/or responded to
7 questions via videoconference.

8 18. During the January 8, 2008 presentation, one of the topics of interest to the
9 Participating Partners was the mechanics of how their capital contribution requirement would
10 work. The Participating Partners were told that LLBL's existing credit facility with the Bank (if
11 any partner chose to take advantage of it) would put up capital on behalf of the new partners and
12 that LLBL would make all of the interest payments on that capital during the first two years of
13 partnership. The presenters were specifically asked what would happen if a partner should elect to
14 leave during that initial two-year period. Ms. Jay responded to the effect that LLBL hoped that all
15 partners would stay and have long careers with the firm but, if a partner chose to leave, LLBL
16 would return the capital directly to the Bank if a departing partner's capital had been borrowed
17 from the Bank. None of the other presenters made any statements that contradicted Ms. Jay's
18 answer to this particular question.

19 19. On or about September 15, 2008, Plaintiff resigned from LLBL and notified LLBL
20 of his decision to leave. Although he had been with LLBL for eight and one-half months during
21 2008 (*i.e.*, more than seventy percent of that calendar year), Plaintiff had received only slightly
22 more than one-half of his so-called "guaranteed compensation" as of the time he tendered his
23 resignation to LLBL. In fact, because Plaintiff's draws had been re-set by LLBL's management to
24 a level of less than one-half of the amount of his guaranteed compensation in or around April
25 2008, a significant portion of that compensation would necessarily have to come from
26 distributions. As of the end of August 2008, Plaintiff had not yet received any such distribution
27 income.

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1 20. The day after his resignation from LLBL, Plaintiff received a snide email from
2 Popham and later that day learned that Popham was, on behalf of LLBL, circulating disparaging
3 oral and written remarks to Plaintiff's former colleagues at LLBL as well as to those with whom
4 Plaintiff had worked outside LLBL. At the time these disparaging remarks were made,
5 Defendants knew that information about the circumstances of Plaintiff's departure was being
6 omitted which caused, or was likely to cause, those remarks to be interpreted in a manner that
7 would suggest that Plaintiff had left LLBL in an unprofessional manner. Defendants also knew
8 that, under the circumstances which led Plaintiff to leave the firm, any such disparaging comments
9 were wholly unwarranted. Plaintiff wrote to Defendants to advise them of the inappropriateness
10 of their actions in circulating disparaging remarks and asked Popham in particular to "share this
11 letter with the same audience to whom you have expressed your umbrage" about Plaintiff's
12 alleged lack of professionalism. Plaintiff is informed that Popham never shared the letter to
13 Plaintiff's former colleagues, never corrected the misinformation that he had previously circulated,
14 and instead continued to disparage Plaintiff for his alleged lack of professionalism in leaving
15 LLBL, both within and outside LLBL.

16 21. On December 18, 2008, Plaintiff wrote to the managing partner of LLBL, Jerry
17 Clements, and inquired about that portion of his guaranteed compensation that he had never
18 received. The following day, Plaintiff was told by Robert Johnson, LLBL's Chief Financial
19 Officer, that "I will have someone contact you from our accounting group."

20 22. On or about December 26, 2008, Plaintiff received a bill from the Bank, seeking
21 unpaid interest on the fifty-thousand dollars that Plaintiff had borrowed and which constituted his
22 capital contribution requirement. The bill also reflected that Plaintiff's capital had never been
23 returned to the Bank, and was the first notice that Plaintiff ever received that the capital had not
24 been returned. This came as a complete surprise to Plaintiff, as did the corresponding bill for
25 unpaid interest on that capital, since Plaintiff had relied on LLBL's representation that a departing
26 partner's capital would be returned directly to the Bank.

27 23. On December 29, 2008, Plaintiff advised LLBL's Chief Financial Officer Robert
28 Johnson that although he still hadn't heard from anyone in LLBL's accounting group in response

1 to his December 18, 2008 inquiry, he had just received a bill for interest on borrowed capital
2 which he understood from LLBL's representations should have been returned to the Bank.
3 Plaintiff heard nothing from Johnson until January 6, 2009, at which time Johnson asked for a
4 convenient time to discuss the issues.

5 24. After a series of discussions and communications with Johnson and others and after
6 Plaintiff was instructed to provide specific information as to what he had been told, when, and by
7 whom about these issues, and after he had, in fact, provided that detailed and specific information
8 to LLBL, Plaintiff was told by LLBL in late February 2009 that "no one said that LLBL would be
9 making capital loan principal or interest payments to the Bank on behalf of partners." In the
10 meantime, Plaintiff was also told that LLBL would not return his borrowed capital to the Bank and
11 that any obligations concerning those borrowed funds were between Plaintiff and the Bank. LLBL
12 advised Plaintiff that, notwithstanding the fact that he had worked for eight and one-half months
13 and only been paid just over one-half of his "guaranteed compensation" for the year, Plaintiff
14 somehow owed LLBL several thousand dollars because, at the time of his departure, he had a
15 negative balance in his "operating account."

16 25. Plaintiff actually could not have had a negative balance in his "operating account"
17 at the time he left LLBL because he had previously been told that he would not receive any
18 distributions until he had a positive balance in his operating account, which was the stated reason
19 that he received no such distribution income in conjunction with distributions to partners prior to
20 September 15, 2008. Plaintiff actually received a distribution of around five thousand dollars
21 from LLBL on or about September 15, 2008, the date of his resignation from LLBL, and the
22 distribution would not have been made if there was a negative balance in the account at that time.

23 26. When Plaintiff pointed out to LLBL that he could not have had a negative balance
24 in his operating account as evidenced by the fact that he received a distribution that same day,
25 LLBL responded that it had calculated his operating account balance as it existed at the end of the
26 month before he resigned from LLBL.

27 27. Despite Plaintiff's request that LLBL return his borrowed capital to the Bank (as
28 LLBL had specifically told Plaintiff, and others similarly situated, that it would do), LLBL

1 insisted on sending the “undisputed portion” of that capital directly to Plaintiff and leaving any
2 disputes over the amount returned, and any interest thereon, between Plaintiff and the Bank.
3 LLBL deducted approximately seven thousand (\$7,000.00) dollars from the amount borrowed
4 and, as a result of LLBL’s also having stopped paying interest several months before the capital
5 was ever returned, Plaintiff was required to remit an additional amount of approximately twenty-
6 four hundred (\$2,400.00) dollars to cover that interest and avoid impairing his credit any further
7 than it may have already been impaired due to the delay in returning the capital to the Bank.

8 **FIRST CAUSE OF ACTION**

9 (Breach of Employment Contract - Against All Defendants)

10 28. Plaintiff incorporates herein by reference each allegation of paragraphs 1 through
11 27 above as though set forth here in full.

12 29. Under the terms of Plaintiff’s Statutory Employment Contract pursuant to Labor
13 Code § 202 with LLBL, Plaintiff was entitled to all statutory protections and benefits available to
14 employees under the California Labor Code, including the *pro rata* portion of his guaranteed
15 compensation amounting to eight and one-half/twelfths of that compensation as a result of his
16 having worked for eight and one-half twelfths of a calendar year prior to departing LLBL.

17 30. Plaintiff has duly performed all of his obligations under his Employment with
18 Defendants, except those whose performance has been prevented, waived or legally excused.

19 31. Defendants breached the agreement by stripping Plaintiff of all statutory
20 protections and benefits available to employees under the California Labor Code under the pretext
21 of reclassifying him to “partner” status while depriving Plaintiff of the benefits that are the *sine*
22 *qua non* of actual partnership, in particular any right to share in LLBL’s profits or any meaningful
23 say in the management of LLBL’s affairs and by failing to deliver the remainder of Plaintiff’s
24 “guaranteed compensation” due and owing for the period in which Plaintiff worked as a *de facto*
25 employee of LLBL.

26 32. As a result of Defendants’ breach, Plaintiff has been damaged in an amount to be
27 proven at trial, which sum exceeds that necessary to establish unlimited jurisdiction before this
28 Court.

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One World Trade Center, Suite 2550
Long Beach, California 90831
(562) 901-3050

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One World Trade Center, Suite 2550
Long Beach, California 90831
(562) 901-3050

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SECOND CAUSE OF ACTION

(Violation of Labor Code § 202)

33. Plaintiff incorporates herein by reference each allegation of paragraphs 1 through 32 above as though set forth here in full.

34. Where an employee not having a written contract for a definite period quits his or her employment, his or her wages become due and payable not later than 72 hours thereafter absent certain exceptions which do not apply here pursuant to Labor Code § 202.

35. Plaintiff did not have a written contract for a definite period and, despite having left his employment on or about September 15, 2008, has significant wages amounting to tens of thousands of dollars which remain unpaid.

36. As a result of Defendants' violation of Labor Code § 202, Plaintiff has been damaged in an amount to be proven at trial, which sum exceeds that necessary to establish unlimited jurisdiction before this Court.

THIRD CAUSE OF ACTION

(Fraud - Against All Defendants)

37. Plaintiff incorporates herein by reference each allegation of paragraphs 1 through 36 above as though set forth here in full.

38. Defendants made a false promise by promising that they would return Plaintiff's borrowed capital to the Bank even though Defendants knew that they had no intention of returning the borrowed capital to the Bank.

39. Had Defendants not falsely promised to return Plaintiff's borrowed capital, Plaintiff would not have acted as he did in borrowing those funds and relying on Defendants to return them.

40. Defendants were aware that their promise to return Plaintiff's borrowed capital was false at the time they promised to return the borrowed capital.

41. In promising to return borrowed capital, Defendants intended to cause Plaintiff to agree to accept borrowed capital posted on his behalf in the amount of fifty-thousand (\$50,000.00) dollars.

1 42. Plaintiff was justified in relying on Defendants' promise to return the borrowed
2 capital after the purpose for which the money had been borrowed had been achieved.

3 43. As a result of Defendants' false promise, Plaintiff has been damaged in an amount
4 to be proven at trial, which sum exceeds that necessary to establish unlimited jurisdiction before
5 this Court.

6 44. Defendants' actions were malicious, oppressive and fraudulent, justifying an award
7 of punitive or exemplary damages as authorized under California law.

8 **FOURTH CAUSE OF ACTION**

9 (Negligent Misrepresentation - Against All Defendants)

10 45. Plaintiff incorporates herein by reference each allegation of paragraphs 1 through
11 44 above as though set forth here in full.

12 46. Defendants made an actual assertion that they would return Plaintiff's borrowed
13 capital to the Bank upon his departure from LLBL if he elected to withdraw from the partnership
14 during the first two years after his designation in the new merged firm as Participating Partner.

15 47. In asserting that Plaintiff's borrowed capital would be returned to the Bank,
16 Defendants had no reasonable ground for believing that the funds would, in fact, be returned to the
17 Bank if Plaintiff chose to depart from LLBL within two years.

18 48. Defendants intended that Plaintiff would rely on their promise to return the
19 borrowed capital to the Bank when they asserted that the borrowed capital would be returned to
20 the Bank.

21 49. Plaintiff was justified in relying on Defendants' promise and did in fact rely on that
22 promise when he tendered his resignation to LLBL with the understanding that the borrowed
23 capital would be returned to the Bank.

24 50. As a result of having relied on Defendants' promise, Plaintiff has been damaged in
25 an amount to be proven at trial, which sum exceeds that necessary to establish unlimited
26 jurisdiction before this Court.

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TREDWAY, LUMSDAINE & DOYLE LLP
One World Trade Center, Suite 2550
Long Beach, California 90831
(562) 901-3050

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One World Trade Center, Suite 2550
Long Beach, California 90831
(562) 901-3050

FIFTH CAUSE OF ACTION

(Conversion - Against All Defendants)

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51. Plaintiff incorporates herein by reference each allegation of paragraphs 1 through 50 above as though set forth here in full.

52. The borrowed capital provided by the Bank to Defendants was actually owned by Plaintiff, and Plaintiff retained the right to possession of the borrowed capital after the period contemplated for the return by Defendants to the Bank of his rightful property in the form of the borrowed capital had passed.

53. Defendants assumed ownership and control over Plaintiff's borrowed capital by applying the borrowed capital to Defendants' own use and not returning them to Plaintiff.

54. As a result of Defendants' application of Plaintiff's funds to Defendants' own use, Plaintiff has been damaged in an amount to be proven at trial, which sum exceeds that necessary to establish unlimited jurisdiction before this Court.

55. Defendants' actions were malicious, oppressive and fraudulent, justifying an award of punitive or exemplary damages as authorized under California law.

SIXTH CAUSE OF ACTION

(Libel and Slander - Against All Defendants)

56. Plaintiff incorporates herein by reference each allegation of paragraphs 1 through 55 above as though set forth here in full.

57. At the time Popham, on behalf of Defendants, made statements to Plaintiff's former colleagues both within and outside LLBL to the effect that Plaintiff had acted unprofessionally in leaving LLBL, Popham and LLBL knew that he was omitting critical information about the circumstances of Plaintiff's departure which would cause those hearing the statements to conclude that Plaintiff had acted unprofessionally in leaving LLBL.

58. Those to whom Defendants' statements were made reasonably understood that the statements related to Plaintiff.

59. Defendants failed to use reasonable care in making statements from which critical information had been omitted such that those to whom the statements were made would conclude

1 from the omitted information that Plaintiff had acted unprofessionally in leaving LLBL.

2 60. The statements tended to injure Plaintiff in his occupation because the reputation of
3 an attorney is critical to his ability to obtain and retain clients.

4 61. Plaintiff was injured in his occupation as a result of Defendants' statements, which
5 were a substantial factor in causing injury to Plaintiff's occupation.

6 62. As a result of Defendants' actions in making the statements, Plaintiff has been
7 damaged in an amount to be proven at trial, which sum exceeds that necessary to establish
8 unlimited jurisdiction before this Court.

9 63. Defendants' actions were malicious, oppressive and fraudulent, justifying an award
10 of punitive or exemplary damages as authorized under California law.

11 **SEVENTH CAUSE OF ACTION**

12 (Statutory Unfair Business Practices- Against All Defendants)

13 64. Plaintiff incorporates herein by reference each allegation of paragraphs 1 through
14 63 above as though set forth here in full.

15 65. Business and Professions Code § 17200 prevents, among other things, any
16 unlawful, unfair or fraudulent business act or practice.

17 66. In doing the things alleged, Defendants, and each of them, unlawfully, unfairly and
18 fraudulently by, among other things: (1) failing to pay Plaintiff wages by reclassifying him to
19 alleged partnership status but without providing him the benefits that are the *sine qua non* of
20 actual partnership such as the right to share in LLBL's profits or to meaningfully participate in the
21 management of its affairs; (2) wrongfully appropriating Plaintiff's capital contribution to their
22 own use and failing to return borrowed capital to the Bank in accordance with Defendants'
23 representations; and, (3) defaming Plaintiff's character by making statements to Plaintiff's former
24 colleagues, both within and outside LLBL, which gave the false impression that Plaintiff had left
25 LLBL in an unprofessional manner so that potential clients would favor LLBL rather than Plaintiff
26 after his departure from LLBL.

27 67. Defendants have a pattern and practice of engaging in unlawful, unfair or
28 fraudulent business acts or practices such as those perpetrated on Plaintiff by Defendants.

1 68. Members of the public were likely to be deceived by Defendants' statements about
2 the circumstances of Plaintiff's departure, and Plaintiff is entitled to recoup as a restitutionary
3 remedy the amount(s) to which he likely would have received but for the harm to his professional
4 occupation resulting directly from Defendants' statements.

5 69. Business and Professions Code § 17200 authorizes the recovery of unlawfully
6 withheld wages as a restitutionary remedy.

7 70. As a result of Defendants' unlawful, unfair and fraudulent conduct, Plaintiff has
8 been damaged in an amount to be proven at trial, which sum exceeds that necessary to establish
9 unlimited jurisdiction before this Court, which entitles Plaintiff to an award of restitution plus
10 reasonable attorney's fees as authorized by the Business and Professions Code.

11 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
12 follows:

- 13 1. For damages and/or restitution according to proof;
- 14 2. For interest thereon;
- 15 3. For a constructive trust;
- 16 4. For statutory penalties;
- 17 5. For an award of exemplary and punitive damages for the sake of example and by
18 way of punishing Defendants;
- 19 6. For costs of suit incurred herein;
- 20 7. For attorney's fees; and,
- 21 8. For such other and further relief as the Court may deem just and proper.

22 DATED: March 22, 2010

TREDWAY, LUMSDAINE & DOYLE LLP
MATTHEW L. KINLEY
MIN N. THAI

25 By: 

26 MIN N. THAI
27 Attorneys for Plaintiff Robert S. Crowder
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