

recruited from out of state and were not typically engaged in this type of business prior to their purchase of Defendants' services. The consumers were drawn into the scheme with advertised promises of simple, ready to rent 'turnkey' properties delivering significant return on investment, creating passive income for the consumer. Defendants collectively, and through their agents, were to identify appropriate properties, and provide all of the necessary services for rehabilitation, advertisement, and upkeep of the properties.

Consumers purchasing from the Defendants were promised an easy path to financial freedom. However, in reality, the Defendants were building an untenable façade. Rental properties were dilapidated, cited by local health authorities, and uninhabited. Consumers did not receive any of the services they were led to believe they were purchasing, and many sold the homes at a loss or are currently trying to salvage any remaining value.

2. Notably many other suits have been filed against the Defendants by aggrieved consumers across the country detailing the sham perpetrated by the Defendants. There have been at least twenty-eight cases filed in Indiana (both in federal and state court), including claims such as fraud, breach of contract, promissory estoppel, unjust enrichment, DCSA violations, Home Improvement Contract Act violations, conversion, and negligence, among others.
3. Defendant Clayton Morris is an integral part of this scheme because of his fame and star power as a former TV host. His YouTube channel videos, promising an easy path to passive income, provide a lure to consumers seeking financial advice. Clayton Morris was involved with various entities who were purportedly providing services to increase value for the consumers who purchased them, and was a key closer in conversations with

consumers expressing complaints, concerns, or any doubts about the transaction. He continues to advertise his turnkey rental scheme through his YouTube channel.

4. Defendant Bert Whalen and his related entities and agents worked closely with Clayton Morris to ensure Morris had enough properties to provide to consumers enticed into their deception. Companies that were responsible for upkeep of properties, renovations, rehabilitation, and rental management, failed in their obligations, and continued to deceive consumers who complained.
5. The State of Indiana brings this lawsuit to enjoin any further illegal conduct, to seek restitution, disgorgement of ill-gotten gains, and civil penalties for the harms perpetrated on consumers through this scheme, and to obtain all other just and proper relief.

II. PARTIES

6. Plaintiff, the State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Indiana Code section 24-5-0.5-4.
7. The Attorney General of Indiana is authorized to bring this action and to seek appropriate relief as he is charged with the responsibility of prosecuting all suits instituted by the State. See Ind. Code section 4-6-2-1.
8. Defendant Oceanpoint Investments LLC is a domestic liability company created on May 29, 2012, with a principal office address of 12634 Shoreline Drive, Indianapolis, Indiana with a registered agent listed as Sandra K. Whalen at the same address. This entity has been administratively dissolved. Upon information and belief, Oceanpoint Investments LLC is an alter ego of Bert Whalen and the other Whalen Defendants.
9. Defendant Oceanpointe Investments Limited is a domestic liability company incorporated by Natalie Bastin on February 13, 2015, with a principal address of 11715

Fox Rd, Suite 400-107, Indianapolis, Indiana with a registered agent listed as Bert Whalen at the same address. This entity has been administratively dissolved. Upon information and belief, Oceanpointe Investments Limited is an alter ego of Bert Whalen and the other Whalen Defendants.

10. Defendant JP Anderson Realty Group d/b/a Oceanpoint Property Management is a domestic liability company created on December 11, 2017 with a principal address of 4420 McCoy Street, PO Box 26564, Indianapolis, IN. Its registered agent has resigned and the entity has been administratively dissolved. Upon information and belief, JP Anderson Realty Group d/b/a Oceanpoint Property Management is an alter ego of Bert Whalen and the other Whalen Defendants.

11. Defendant Indy Jax Properties, LLC, is a domestic liability company created on September 4, 2018 with a principal address of 11715 Fox Rd, Suite 400-107, Indianapolis, Indiana with a registered agent listed as Chris Neuser at the same address. This entity is listed as active by the Indiana Secretary of State. Upon information and belief, Indy Jax Properties, LLC is the alter ego of Bert Whalen and the other Whalen Defendants.

12. Defendant Indy Jax Wealth Holdings, LLC, is a domestic liability company created on September 4, 2018 with a principal address of 11715 Fox Rd, Suite 400-107, Indianapolis, Indiana with a registered agent listed as Chris Neuser at the same address. This entity is listed as active. Upon information and belief, Indy Jax Wealth Holdings, LLC is an alter ego of Bert Whalen and the other Whalen Defendants.

13. Upon information and belief, Defendant, Morris Invest, LLC (“Morris Invest”), is a domestic limited liability company in the State of Delaware with registered agent

Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware 19808 and principal office located at 100 Charles Ewing Boulevard, Suite 160, Ewing, New Jersey 08628. Upon information and belief, Morris Invest, LLC is an alter ego of Clayton Morris.

14. Defendant Blue Sky Property Management, LLC (“Blue Sky”), is a domestic limited liability company in the State of Indiana with its principal office located at 5868 E 71st Street, Suite E340 Indianapolis IN 46220. Blue Sky was voluntarily dissolved as of May 30, 2018. Upon information and belief, Blue Sky Property Management is an alter ego of Clayton Morris and/or Morris Invest, LLC.
15. Defendant, Clayton Morris (“Clayton Morris”), is an adult male, former resident of the State of New Jersey currently believed to be residing in Portugal, and an authorized agent and/or owner/operator of Morris Invest, LLC and Blue Sky Property Management. Defendants Clayton Morris, Morris Invest, LLC and Blue Sky Property Management will be referred to collectively herein as “Morris Defendants.”
16. Defendant Natalie Bastin, is an adult female, resident of the State of Indiana, and authorized agent and/or representative of Oceanpoint Investments, LLC, Oceanpointe Investments Limited, JP Anderson Realty Group d/b/a Oceanpoint Property Management, Indy Jax Properties, LLC, and Indy Jax Wealth Holdings, LLC.
17. Defendant Bert Whalen, is an adult male, resident of the State of Indiana, and authorized agent and/or owner/operator of Oceanpoint Investments, LLC, Oceanpointe Investments Limited, JP Anderson Realty Group d/b/a Oceanpoint Property Management, Indy Jax Properties, LLC, and Indy Jax Wealth Holdings, LLC. Defendants Bert Whalen, Natalie Bastin, Oceanpoint Investments, LLC, Oceanpointe Investments Limited, JP Anderson

Realty Group d/b/a Oceanpoint Property Management, Indy Jax Properties, LLC, and Indy Jax Wealth Holdings, LLC, will be referred to collectively herein as “Whalen Defendants”.

III. JURISDICTION AND VENUE

18. Since at least 2016, Defendants have been, and upon information and belief continue to be, engaged in business and consumer transactions in Indianapolis, Marion County, Indiana, as defined by Indiana Code section 24-5-0.5-2.
19. The rental properties at issue in this Complaint are located in Indianapolis, Marion County, Indiana.
20. Defendants are subject to the jurisdiction of an Indiana court pursuant to Ind. Trial R. 4.4(A) because Defendants have regularly transacted business in Indiana, purposely directed business activities into Indiana, maintained employees in Indiana, and engaged in unlawful practices in Indiana against Indiana consumers.
21. Venue is proper in this Court pursuant to Ind. Trial R. 75(A). Specifically, venue is proper under Indiana Trial Rule 75(A)(1) because, upon information and belief, Bert Whalen resides in Marion County; Rule 75(A)(2) because this Complaint includes claims relating to real property located in Marion County; and Rule 75(A)(4) because the principal offices for Blue Sky Property Management, LLC, Oceanpoint Investments LLC, Oceanpoint Investments Limited, JP Anderson Realty Group d/b/a Oceanpoint Property Management, Indy Jax Properties, LLC, and Indy Jax Wealth Holdings, LLC are located in Marion County.
22. In addition, this case is brought by the State of Indiana, a governmental entity whose principal offices are located in Marion County, Indiana.

IV. FACTS

A. Defendants lure consumers in with the promise of easy wealth through the services provided by the various companies involved in the scheme.

23. Defendants are engaged in the business of recruiting consumers into purported real estate investments and providing real estate investment opportunities to consumers.
24. Defendants are also engaged in the business of owning, selling, renovating/rehabilitating, marketing and/or managing real estate.
25. From at least May 2016 continuing through to the present, Defendants sold these services to at least 94 consumers related to properties in Indiana. A complete list of the properties at issue known to the State at this time is attached as **Exhibit A** to the complaint (referred to as “subject properties”).
26. At each step of the transaction, Defendants presented information to consumers regarding the quality, timing, habitability, scope, and value of the services being provided that they knew was deceptive. The reality of the transactions experienced by consumers engaging in transactions with Defendants is in stark contrast to the picture painted to lure them into the transaction at the outset.
27. Specifically, Clayton Morris through his company Morris Invest, LLC, markets a real estate investment scheme to consumers to purchase “turnkey” properties in order to collect “passive income” through leasing said properties, in order to help them achieve financial freedom. Clayton promotes this scheme through various marketing outlets and materials, including, but not limited to his websites, podcasts, and YouTube videos. See www.claytonmorris.com, www.morrisinvest.com, www.claytonmorris.com/podcast, <https://www.youtube.com/channel/UCoJhK5kMc4LjBKdiYrDtzlA/>. (last accessed April 28, 2020).

28. Morris Invest promises consumers a simple three stage real estate investment plan. First, the consumer would have a call with Clayton Morris and his team to learn more about their investment and financial goals. Second, Morris Invest would provide the consumer with properties to select from and the consumer would select a property to purchase. Third, Morris Invest and his “expert team take care of the rest” - rehabilitation and/or renovation of the property, secure tenants, and collect the rents to then be paid to the consumer on a monthly basis. See https://morrisinvest.com/?doing_wp_cron=1588092539.5099990367889404296875 (last accessed on April 28, 2020).
29. Morris and Morris Invest market this program as a steady monthly income for unknowing consumers - in perpetuity - as a means of securing their financial freedom and achieving their long term financial goals. The program was targeted to consumers without regard to whether the consumer had experience in real estate investing or was operating a business enterprise. In fact, Defendants encouraged individual consumers to use their 401K retirement plan accounts to fund the scheme.
30. The website boasts “beautiful properties that tenants love,” and assures consumers that “investing in real estate doesn’t have to be so hard”. *Id.*
31. Morris promises that his team can 1) find great properties at steep discounts; 2) do property renovations to increase your equity; 3) build new construction from the ground up; 4) easily secure funding for your project; 4) screen place and manage tenants; and 6) manage the property including fixing toilets and taking 2:00 am phone calls. *Id.*
32. Morris further represents that all you have to do is “the fun stuff” – 1) sit back; 2) watch your wealth grow; and 3) cash your checks. *Id.*

33. The various promises and representations made by Morris demonstrate that he and the other Defendants working with him intentionally targeted their scheme to consumers who were neither knowledgeable about nor experienced in real estate investing, to cause the consumers to believe they could rely on the Defendants to conduct all services necessary to provide the consumers the benefits purportedly offered by the Defendants' scheme.
34. Morris advised consumers to set up a Limited Liability Company to effectuate this process. Further, Defendants advised consumers to identify their agent, Defendant Natalie Bastin, as the registered agent for the consumer's newly formed LLC. This furthered the impression that the services purchased by consumers included everything necessary to effectuate the rental income operation. See attached **Exhibit B**, Morris Invest Guide.

B. Defendants deceived consumers about the services being offered, and in fact, acted in concert to hide their actions from consumers.

35. Defendants' services are in fact a continuing deceptive scheme or artifice to defraud.
36. The Morris Defendants did not handle the rehabilitation and/or renovation of real properties, secure tenants, or collect the rents in relation to properties in the State of Indiana as represented to consumers. Instead, this work was purportedly the responsibility of Morris' Indiana based affiliates – The Whalen Defendants and/or their agents and/or representatives.
37. Further, consumers were reassured through the repeated representation that the Morris Defendants were the preceding owners/sellers of the subject properties.
38. Generally, the Morris Defendants presented themselves to consumers as the owner and or title holder of the properties and the entity responsible for any required renovations and or rehabilitation of the properties.

39. However, at the real estate closing for the subject rental properties purchased by the consumers, generally it was the Whalen Defendants that would convey the properties to the consumer as the purported titleholder via a warranty deed. The Whalen Defendants and/or their agents or representatives would then be responsible for handling the rehabilitation and/or renovation of real properties, secure tenants, and collect the rents. Consumers were not apprised of this change prior to the closing. Indeed, some consumers inquired and were told that the Whalen Defendants' LLCs were either just holding companies, or that the Morris Defendants owned them or that they were a subsidiary company, which was not accurate.
40. Defendants and/or their agents represented to consumers that the purchase price for these rental properties included the cost to renovate and/or rehabilitate the properties to make them habitable and tenant ready in both their marketing materials and through various other means of communications.
41. Defendants and/or their agents also represented to consumers that the required work would generally be completed within 90 days, 10-12 weeks, or within four months of the closing date on each property.
42. Defendants and/or their agents also frequently entered into management agreements with consumer owners which stated that the Defendants were to lease the properties, collect all rents, deposit all gross revenues in a trust account, maintain the properties, and pay all expenses.
43. Defendants and/or their agents frequently failed to comply and perform their obligations under said management agreements.

44. Defendants and/or their agents habitually made misrepresentations regarding their efforts to comply and perform with their obligations under the management agreements.
45. Many of the properties were never renovated or rehabbed as promised.
46. Often when consumers would inquire of Defendants and/or their agents as to the status of the properties Defendants and/or their agents represented that the renovations or rehabilitations were on track or completed when in fact they were not.
47. Defendants and/or their agents also repeatedly failed to maintain the properties as required.
48. As a result of the Defendants' and/or their agents' failure to fully or properly renovate, rehabilitate, and/or maintain the properties, at least 138 violations were assessed to the subject Indiana properties by the Marion County Public Health Department and the City of Indianapolis Business and Neighborhood Services, leaving consumers unable to lease or sell the properties.
49. For example, in 2018, multiple citations were issued related to a consumer's created LLC in care of Bert Whalen, Oceanpointe Investments Limited, at 1775 N. Sherman Drive Suite A, regarding Property 149. The citation alleged certain public health violations such as moldy walls, electrical outlets not functioning, and the kitchen sink not being connected to an appropriate drainage and sewer system.
50. In addition, Defendants frequently failed to account for or remit rental payments to the consumer owners. Consumers would receive rental income for a few months then suddenly stop receiving the funds. Often, no rental income was ever received following the consumer's purchase.

51. Defendants and/or their agents also represented to consumers that the properties were rented when in fact they were not.
52. Defendants and/or their agents would also represent a set rental price to the consumers and then charge tenants a lesser rate resulting in a lower income for the consumers without their consent.
53. Defendants and/or their agents created fraudulent leases which they supplied to consumers to deceive them into believing that their properties were leased and producing income.
54. Defendants and/or their agents also represented on occasion that eviction proceedings had been initiated or were taking place when in fact they had not.
55. The Morris Defendants claimed that they ended their business relationship with Oceanpoint in May of 2018. However, the deceptive scheme Defendants had launched in reference to the subject Indiana properties persists, and Defendants and/or their agents continue to perpetrate deceptive acts and unfair business practices in Marion County. The Whalen Defendants, according to public records, still own more than 200 properties in Marion County, Indiana.
56. In May of 2018, Morris announced the creation of a new management company controlled by him and/or his agents: Blue Sky Property Management, LLC. Blue Sky took over many of the property management obligations formerly belonging to Oceanpoint at the direction of Morris. But the scheme continued.
57. The Morris Defendants and/or their agents represented that they would complete the rehabs, and get cash flowing to consumers. In certain instances, Morris, Blue Sky and

their agents represented that if they were not able to do this that they would buy back the properties.

58. Upon information and belief, as a result of the scheme, consumers now own dilapidated properties that they can no longer afford to rehabilitate to be able to make them habitable for tenants and collect the passive income they believed they would be receiving.

59. Additionally, many consumers have been forced to sell the properties at a significant loss.

60. Upon information and belief, Defendants and/or their agents continue to make misrepresentations regarding these consumer transactions and fraudulently concealing the truth.

61. To date, Morris blames Oceanpoint, and continues to refer consumers to the Whalen Defendants when they reach out to him for information or explanation. For years, Morris Defendants have referred consumers who persistently contacted them with concerns to the Whalen Defendants.

62. To date, Whalen has taken no accountability for his integral role in this deceptive scheme, laying blame with the Morris Defendants, and consistently referring consumers to the Morris Defendants when consumers contacted Whalen or his agents with concerns.

63. Upon information and belief, this continuing scheme has left even the most diligent consumers without the full information and complete truth related to the condition of their properties and without any means of uncovering it.

64. Defendants consistently, actively, and intentionally concealed the true nature of their business and the status of the properties at issue.

65. In repeated phone calls and email correspondence with consumers, Defendants represented that their failures would be remedied, all the while knowing that the services purchased by the consumer were not being provided.
66. The affirmative acts of concealment were calculated to mislead and hinder the consumers from obtaining the truth despite their many inquiries.
67. For example, Defendants would offer unhappy consumers an opportunity to back out of the transaction by stating they would buy back the property. However, this was just an attempt to delay the consumers' discovery of the extent of their scheme, and these buy back transactions were rarely completed.
68. Consumers were kept in the dark and consistently misled by the Defendants despite their due diligence and reasonable care.

C. Defendants' scheme relating to the subject Indiana Properties involved numerous deceptive acts.

69. Consumers who entered into a purchase agreement with Defendants were enticed by the specific representations made that their purchase would provide numerous services: selection of appropriate properties, renovations or constructions to increase the value, secure funding for these services, manage tenants and provide rental income, and manage any issues that might arise for the tenants. Consumers who expressed hesitation would often get a call directly from Clayton Morris to assuage their concerns and provide the final assurance consumers needed to move forward.
70. Defendants knowingly concealed their failure to provide these services through careful communications and false reassurances that tasks were progressing.

71. This scheme was perpetrated on an unknown total of consumers. At a minimum, more than 150 properties were implicated in this scheme, impacting the transactions Defendants entered into with at least 94 consumers.
72. Defendants engaged in multiple misrepresentations, and conduct designed to conceal those misrepresentations from being discovered, beginning in 2016 and continuing to this day. For example:
- a. Property 35 was purchased by a consumer in August 2016. Defendants misrepresented that a tenant had been placed in the property following completed renovations in October 2016. Consumer only received rent payments from October 2017 to March of 2018. Consumer learned in March 2018 that the property had been vacant since October 2017 and was in disrepair. Consumer contacted Morris, and Morris stated he would buy back the property, with the closing to occur on May 31, 2018. This buyback never occurred. As a result the consumer was forced to sell the property at a significant loss.
 - b. Property 150 was purchased in March 2017. Defendants misrepresented that Oceanpoint would be the seller and management company, which was unknown to the consumer. In May 2017 and June 2017, consumer inquired as to the status of the rehabilitation work purchased for the property, and was told that it was coming along nicely and was almost complete. Consumers received a copy of a tenant's lease on August 9, 2017, that had been signed on July 1, 2017. Nonetheless, there were issues collecting the rent in August and September and consumers were not paid. In November of 2017 the consumers received a nuisance fee assessed by Marion County on their tax bill. They contacted Oceanpoint, and were assured that this would be resolved and handled by Oceanpoint. In April of 2018 the consumers received notice that the violation was still pending and Oceanpoint had not done what it promised. Communications with Oceanpoint and Morris then resulted in Morris directing them to his new entity, Blue Sky. On May 16, 2018, Blue Sky informed the consumer that the property needed a complete rehab and that consumers would have to pay for this work. In June of 2018 the consumers received word that Blue Sky was transitioning all its business to Home River Indianapolis Property Management. The consumers hired their own contractor to inspect the property and learned the repairs would cost over \$17,000. They then contacted Whalen on June 15, 2018. He assured consumers the work had been done and requested access to the property. On June 21, 2018 Whalen represented that the property only needed touch up paint, carpet and a few other basic things. Consumers responded by outlining their concerns about the electrical wiring being to code, the furnace requiring replacement, and other specific repairs quoted by the independent contractor. Whalen reported that he had "forgot to mention" some of those repairs. On July 15, 2018 Whalen provided the original scope of work for

the project. On July 24, 2018, consumers contacted Clayton Morris with their concerns. On July 31, 2018, consumers requested that Clayton Morris purchase the Property back from them, and he responded by directing them to Whalen. Subsequent discussions between Clayton Morris and the consumers resulted in his recommendation for the consumers to file suit against Whalen related to their concerns.

- c. Consumer purchased Properties 15 and 80 in January 2018. The promised renovations were to be completed by Defendants in April of 2018. Consumer was supposed to start receiving rents on May 1, 2018, but never received those rents. Consumer was later forced to sell the properties in August of 2018, having obtained none of the rental, rehabilitation, or management services Defendants had advertised.
- d. Property 148 was purchased on March 8, 2018, with a closing date of March 21, 2018. Defendants misrepresented who would be the seller and management company on the property. Morris signed purchase agreement as seller but Indy Jax was listed on closing statement as seller. Rehabilitation of the property was to be completed by Indy Jax and Whelan. Consumer attempted to contact Defendants through emails and calls, but never received any contact. The rehabilitation was never completed, the property was never rented, and consumer did not receive rent. The property remains in disarray.
- e. Consumer purchased Property 54 in January 2018, and was told the rehabilitation of the property was on track. During February and March 2018, consumer did not receive much communication or updates, so he began inquiring with Defendants. Consumer was told in March 2018 that property was being marketed to tenants. In April 2018, consumer learned that the rehab had not been completed. Consumer spoke to Clayton Morris on April 22, 2018, and expressed his displeasure. Morris insisted on making good, and said he would rehab the property and get cash flowing by May 31, 2018 and if he couldn't he would then facilitate a sale. On May 7, 2018, consumer entered into a new property management contract with Blue Sky. Morris/Blue Sky did not abide by management agreement, did not complete rehab, and did not facilitate a sale. Consumer ended up having to sell the property at a significant loss in June of 2018.
- f. Property 109 was purchased by consumers in December of 2017. While Morris signed the purchase agreement, Oceanpoint was listed on closing documents. Beginning in January of 2018, consumer was dealing with Oceanpoint as property manager pursuant to an introduction by Clayton Morris. In March of 2018, Morris contacted the consumer and represented that a team was there actively working on the project. Consumer requested to terminate property management agreement with Oceanpoint in mid-April 2018 as they were failing to perform, and the property management was switched over to Blue Sky. Blue Sky also failed to perform the promised services. Consumer sent multiple emails to Morris and Oceanpoint in May of 2018 and got no response. Ultimately in June 2018, consumers switched management companies because the property was in extreme disrepair and no rehabilitation was ever completed by Defendants.

- g. Consumer purchased Property 30 from Morris Invest in March of 2018, and Morris Invest signed her up with Blue Sky. However, Whalen's companies Indy Jax/Oceanpoint signed the closing documents. Morris Invest never disclosed that a third party owned the properties or would be managing them. She received one rental payment for May 2018 and no others, then was informed on June 1, 2018 that Blue Sky was out of business and she should sign up with another property management company called Home River. She tried to sign up with Home River but no one would return her call or emails. Consumer then hired another property management on her own called Real Property Management - once they started taking over managing the property she found out that the tenant had paid someone from Oceanpoint for June, July, August, and likely September of 2018. Oceanpoint had charged her \$30,000 for the renovations she ended up having to pay another contractor \$12,000 to finish.
- h. Consumers bought Property 89 in April of 2018. Morris signed purchase agreement, but Indy Jax signed the closing documents. Consumer entered into a management agreement with Blue Sky on April 19, 2018. The purchase price included \$22,000 in renovation costs. Since the purchase the consumer has been trying to contact Morris to no avail. On August 22, 2018 a realtor went to check on property at consumer's request. He found no renovation work had been done and that there are squatters in the home.
- i. Consumer purchased Property 16 through Morris Invest. The home was inspected on January 15, 2018. Consumer was told that they would rehabilitate the property and have it ready to rent within 90 days. Consumer paid \$51,706.00 for the property. Morris signed the purchase agreement but the rehabilitation was supposed to be completed by May 8, 2018, by Blue Sky pursuant to a scope of work created by Indy Jax Wealth Holdings. However, on April 25, 2018, the consumer received an Order to Demolish Notice in the mail from the City of Indianapolis setting a hearing for May 1, 2018. After speaking to the inspector for the City consumer sent Defendants a copy of the notice. Defendants told him they would send a representative to Court on his behalf. The hearing was moved to June 2018. Consumer learned that the property actually had caught on fire on February 3, 2018, before he even owned it – and it still belonged to the Defendants. Defendants had not disclosed this condition to consumer at the time of purchase.
- j. Consumer purchased Properties 32 and 103 through Morris Invest in Dec 2016/January 2017 with the understanding that renovations would be performed and the properties rented. She was given a scope of work and the costs for renovations through Oceanpoint, whom was to manage the properties (Bert Whalen). Renovations were not completed. Tenants were "placed" according to the leases which Defendants reluctantly sent her 04/01/2017 and 06/01/2017 respectively. In March her rent statements indicated that she had a vacant property on one side of a duplex and one side of the other duplex was in collections. Consumer made many attempts to contact Oceanpoint to find out what was going on, and received no response from anyone via email. Defendants' voicemail was continuously full. Consumer drove to Indianapolis towards the end of July to meet her new property management team and to assess the properties.

She met with both tenants and both had very different leases than consumer was given from Oceanpoint with different signatures. One tenant stated that he had been living in the property longer than the consumer had owned it and that no renovations had ever been completed. After speaking with both remaining tenants, one of which had not paid since March the consumer was told that they had tried contacting Oceanpoint many times with no response. Apparently their rent included their water payment which had been cut off in April when Mr. Whalen became unavailable. She made numerous calls and emails to Clayton Morris, Bert Whalen, and Natalie Bastin with no response.

- k. Consumer purchased Properties 62 and 151 on March 14, 2018. Oceanpoint signed the closing documents, and executed a quit claim from Oceanpoint to Indy Jax, then Indy Jax to consumer. The relationship between Morris and the Whalen entities involved in consumer's closing was never disclosed. Properties were supposed to be rehabilitated but the improvements were never performed. Consumer relied on Morris' media presence and reputation. It wasn't until consumer was referred to Blue Sky in March of 2018 that he found out there was any issue with the status of the rehabilitation. Consumer received notices from the city regarding violations – unsafe housing, long grass, dumping and was inquiring with Defendants. When Home River Group started managing Properties 62 and 151 in July of 2018, the Properties were in shambles.
- l. Consumer purchased Properties 19 and 63 in 2017, but had been working with Morris Invest since December 2016. In January of 2017 the consumer travelled to Indianapolis to meet with an individual he thought was a representative of Morris. They discussed the operation, how the management worked, return on investment, vacancy rates, and turnover costs then spent the rest of the day looking at potential properties for sale and at various forms of rehab/remodel. His first attempt at a purchase had a closing date of 3/13/2017. However, he ended up backing out at closing because of concerns he identified; there was no contract regarding the renovation to be done on the property - only a work order. Consumer was concerned because a crack in the foundation described in the property inspection was not addressed in the work order. After backing out of the deal he spoke on the phone with several representatives of Morris Invest. Morris Invest reassured him that the work foreman certified all work and any issues that were not addressed in the work order would be addressed. Morris Invest told consumer this was an attempt to avoid raising the price of remodel in the middle of the project and was built into the price. The consumer then asked for a contract stating that Morris Invest would complete the rehab, and the itemized list of the rehab costs as to how the costs were built into the purchase price. At this point, he received a call from Clayton Morris. The consumer expressed his concerns with paying upfront for the rehab and asked for a contract from Morris Invest stating that they would fix any issues that came up after rehab. Morris never stated that he was not selling the property or that he was not providing the rehab. His statements were to the contrary. Morris described the process and that he would personally assure consumer that this contract is not needed and that the process is working well for hundreds of other investors. The consumer was led to believe that Morris Invest was both the company selling the property and the

company doing the rehabilitation work, and both statements were personally guaranteed by Clayton.

- i. The consumer subsequently purchased his first property on May 31, 2017. Morris signed the purchase agreement. At closing the consumer noticed Morris was not listed as the seller and asked a representative of Morris Invest about the separate LLC's signing for the seller at closing – Oceanpoint and/or Indy Jax. The Morris representative told him that the LLC's selling the properties were just holding companies from their purchase. On August 16, 2017 he was notified by a representative of Morris Invest that the renovation of his property was complete and that the property was ready to rent. Both Oceanpoint and Morris Invest assured him at that time that the rehabilitation was finished and the proof of workmanship was that it was rented for the quoted amount. After a few months of receiving the promised rent, the consumer decided to contact Morris Invest about purchasing another property.
- ii. He purchased the second property on January 19, 2018. Morris sent a welcome package and the instructions that renovation/rehabilitation would be done in ninety days, and a tenant should be placed shortly after. This was confirmed by Oceanpoint. At the midway point of the rehabilitation on the second property, the consumer started contacting Morris Invest to get status updates. They told him they would look into it and get back to him. At the 90-day deadline after closing, he started insisting answers from Morris and Oceanpoint. At this point, the Defendants stopped returning emails or phone calls so the consumer hired a property inspector to go by both properties. It was only then that he learned that the rehabilitation was never started on the second property and his first property was unlocked and appeared to have squatters living inside. Based upon what he observed, the property inspector did not believe that the furnace or water heater was ever installed, or that they ever had paying tenants in the first property. The consumer then had a full property inspection on the first property to document all the issues with the home after the alleged rehabilitation. The inspector provided a video walkthrough of Property 19 to show that the rehabilitation was never started. The consumer then canceled his property management contract with Oceanpoint and retained BHB Investments as a property manager. The consumer made requests to Defendants to perform on their agreements and was assured that Morris wanted to make things right. After discussions did not resolve the consumer's concerns, the consumer sold the properties in late 2018 at a loss of nearly \$90,000.

73. As shown in these examples, at all times relevant to the allegations in this Complaint, the Defendants or their agents have acted in concert to intentionally defraud or mislead consumers, through a deceptive scheme or artifice to defraud. The Defendants have

conducted, and continue to conduct, their deceptive scheme through the following acts in violation of Indiana law:

- a. Solicitations to consumers through communications from the Morris Defendants and the Whalen Defendants misrepresenting the ease of purchasing this passive income scheme;
- b. Providing documents and communications to consumers that contained misrepresentations about the ownership of the properties, and the condition of the properties at the time of the real estate transaction;
- c. Concealing their scheme by providing communications and documentation to consumers that contained misrepresentations about the scope, status, and quality of the Defendants' promised rehabilitations efforts;
- d. Communications and payments designed to conceal the lack of tenants for the properties owned by the aggrieved consumers, containing misrepresentations about the lease terms, rental payments, and status of any tenants; and
- e. Deceptive acts relating to the condition of the property, including ignoring and concealing multiple notices of public health violations assess by the City of Indianapolis.

74. Defendants failed to perform the services purchased by the consumers relating to these transactions, raking in money for services that were never performed. The pattern of conduct described in the Complaint applies to all consumers to whom the Defendants offered or sold their scheme, differing only by particular real property at issue and the particulars of the deception.

75. Defendants continue to advertise these services and seek to induce new consumers into the scheme.

76. Defendants know or reasonably should know that their representations to consumers are false.

V. CAUSES OF ACTION

COUNT I: VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

77. The State realleges and incorporates by reference each of the allegations contained in this Complaint as though fully alleged herein.

78. The Defendants' transactions as described above are "consumer transactions" within the meaning of Ind. Code section 24-5-0.5-2-(a)(1).

79. The Defendants are "suppliers" within the meaning of Ind. Code section 24-5-0.5-2(a)(3).

80. The Defendants have violated Ind. Code section 24-5-0.5-3(a) by committing the following unfair, abusive, or deceptive acts, omissions or practices:

- a. Defendants intentionally and materially misrepresented to consumers the nature of the program they offered and the state of the investment products sold to consumers;
- b. Defendants led consumers to believe that they were purchasing "turnkey" investment properties along with Defendants' services in rehabilitating the properties, screening and securing tenants, and management of the property.
- c. Defendants misled consumers as to the entities involved and the responsibilities and obligations they carried;
- d. Defendants misled consumers that certain services were being performed when they in fact were not;

- e. Defendants misled consumers that the properties were rented when they in fact were not;
- f. Defendants misrepresented the status of services to be provided;
- g. Defendants misled consumers regarding their involvement in said services;
- h. Defendants misled consumers that they would be receiving passive income monthly for so long as they owned the properties;
- i. Defendants misrepresented to consumers that this program would lead to financial freedom and achievement of their investment goals; and
- j. Defendants misrepresented the values and earning potential of the real properties at issue.

81. Defendants have violated Ind. Code section 24-5-0.5-3(b)(1), by representing that the subject properties had characteristics, uses, or benefits the properties did not have, which Defendants knew or should reasonably have known the properties did not have.

82. Defendants have violated Ind. Code section 24-5-0.5-3(b)(10), by representing that the Defendants were able to deliver or complete the promised services related to the subject properties within a stated period of time, when the Defendants knew or reasonably should have known they could not. Further, Defendants violated Ind. Code section 24-5-0.5-3(b)(10) by representing that Defendants would complete the promised services related to the subject properties, and failing to complete the promised services within a reasonable time.

83. The acts, practices, misrepresentations and omissions by Defendants described above constitute a deceptive scheme or artifice to defraud which spans the course of several years and remains ongoing.

84. The acts, practices, misrepresentations and omissions by Defendants described above, occurring in the course of conduct involving trade or commerce, were not made in good faith and constitute unfair or deceptive acts or practices within the meaning of the Indiana Deceptive Consumer Sales Act.
85. Defendants' acts and practices misled, deceived or damaged consumers in connection with the sale and purchase of real property and services related thereto.
86. Defendants' conduct also constituted the use or employment of deception, fraud, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting material fact with intent that others rely upon the concealment, suppression or omission in connection with the sale of real property and the provision of services related to those properties.

COUNT II: VIOLATIONS OF THE DCSA: VIOLATIONS OF THE BUSINESS
OPPORTUNITY TRANSACTIONS ACT

87. The State realleges and incorporates by reference each of the allegations contained in this Complaint as though fully alleged herein.
88. In the alternative, and to the extent certain consumer purchases were business opportunities as defined by Ind. Code section 24-5-8-1, Defendants' actions constitute a violation of Ind. Code section 24-5-8-4, 24-5-8-5, 24-5-8-6, and 24-5-8-13.
89. Pursuant to Ind. Code section 24-5-8-20, these are deceptive acts enforceable by the Attorney General pursuant to the DCSA.

COUNT III: KNOWING VIOLATION OF THE DCSA

90. The State realleges and incorporates by reference each of the allegations contained in this Complaint as though fully alleged herein.

91. Defendants committed the deceptive acts asserted above with knowledge of their unfair and deceptive acts.

COUNT IV: INCURABLE DECEPTIVE ACTS UNDER THE DCSA

92. The State realleges and incorporates by reference each of the allegations contained in this Complaint as though fully alleged herein.

93. Defendants committed the deceptive acts asserted above as part of scheme, artifice, or device with intent to defraud or mislead, and do committed incurable deceptive acts.

COUNT V: VIOLATIONS OF THE HOME LOAN PRACTICES ACT

94. The State realleges and incorporates by reference each of the allegations contained in this Complaint as though fully alleged herein.

95. The real properties sold to consumers by the defendants were classified as residential properties.

96. At the time said properties were bought by the consumers there was either an existing dwelling on the property or one was to be constructed in accordance with the agreements they entered into with the Defendants.

97. The purchase of real property by consumers through Defendant's deceptive scheme detailed above constitutes a "real estate transaction" within the meaning of Ind. Code section 24-9-3-7.

98. At the time of these real estate transactions, in violation of Ind. Code section 24-9-3-7(c)(3), Defendants deceived consumers by representing that:

- a. Clayton Morris found the subject property;
- b. The subject property was a "turnkey" property;
- c. Clayton Morris was the owner or seller of the subject property;

- d. Clayton Morris and/or Morris Invest would be responsible for any and all property renovations;
- e. Clayton Morris and/or Morris Invest would be responsible for new construction builds;
- f. Clayton Morris and/or Morris Invest would be responsible for screening, placing and managing tenants; and
- g. Clayton Morris and/or Morris Invest would be responsible for managing the property - including but not limited to fixing toilets and taking 2:00 am phone calls.

99. These material misrepresentations were knowingly and intentionally made by the Defendants in connection with the real estate transactions at issue.

VI. RELIEF REQUESTED

WHEREFORE, Plaintiff State of Indiana respectfully requests the Court enter judgment against the Defendants:

- (a) Awarding judgment in the State's favor and against Defendants on each cause of action asserted in the Complaint;
- (b) Awarding all applicable civil penalties under Indiana Code section 24-5-0.5-4(g), on Count II of this Complaint, for Defendants knowing violations of Ind. Code section 24-5-0.5-3(a) and Ind. Code section 24-5-0.5-10, in an amount to be determined at trial, payable to the State of Indiana and under Indiana Code section 24-5-0.5-8 on Count III of this Complaint, in an amount to be determined at trial, payable to the State of Indiana.
- (c) Issuing any and all appropriate injunctive relief including but not limited to enjoining Defendants and its agents, representatives, employees, successors, and assigns from

committing any unfair, abusive, or deceptive act, omission, or practice in connection with a consumer transaction in violation of Indiana Code section 24-5-0.5-3(a);

(d) Ordering Defendants to pay consumer restitution in an amount to be determined at trial;

(e) Requiring Defendants to pay the costs of the suit, including attorneys' fees pursuant to Indiana Code section 24-5-0.5-4(c)(4);

(f) Disgorgement of ill-gotten gains, and

(g) Awarding such other, further, and different relief as this Court may deem just.

VII. JURY TRIAL DEMAND

The State of Indiana demands a trial by jury on all issues properly so tried.

Dated: May 1, 2020

Respectfully Submitted,

CURTIS T. HILL, JR.
INDIANA ATTORNEY GENERAL
Attorney Number 1399-20

By: /s/ Vanessa L. Voigt Gould
Vanessa L. Voigt Gould
Deputy Attorney General
Attorney No. 26719-49

By: /s/ Corinne Gilchrist
Corinne Gilchrist
Deputy Attorney General
Attorney No. 27115-53

Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington St., 5th Floor
Indianapolis, IN 46204