

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER
Lead Corporations Counsel
4 ALEX CALERO (SBN 238389)
Corporations Counsel
5 CALIFORNIA DEPARTMENT OF CORPORATIONS
1350 Front Street, Room 2034
6 San Diego, California 92101
Telephone: (619) 525-4044

7 Attorneys for the People of the State of California

FILED
CIVIL DIVISION OFFICE 17
07 JUL 19 PM 1:37
CLERK OF SUPERIOR COURT
SAN DIEGO COUNTY, CA

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF SAN DIEGO

11 THE PEOPLE OF THE STATE OF
12 CALIFORNIA, by and through the
CALIFORNIA CORPORATIONS
13 COMMISSIONER,

14 Plaintiff,

15 vs.

16 MONUMENTAL FUNDING, L.L.C., a
California limited liability company;
17 MONUMENTAL FUNDING
CORPORATION, a California corporation;
18 JERMAINE D. BOONE, as an individual;
WILLIAM E. BIDDLE III, as an individual;
19 and Does 1 through 10, inclusive,

20 Defendants.

Case No.: 37-2007-00071452-CU-MC-CTL

COMPLAINT FOR INJUNCTIVE RELIEF;
CIVIL PENALTIES; AND ANCILLARY
RELIEF (CORPORATIONS CODE
SECTIONS 25530 & 25535)

VIOLATION OF DESIST AND REFRAIN
ORDER ISSUED BY THE COMMISSIONER

UNQUALIFIED OFFER & SALE OF
SECURITIES (VIOLATIONS OF
CORPORATIONS CODE SECTION 25110)

FRAUD IN THE OFFER AND SALE OF
SECURITIES (VIOLATIONS OF
CORPORATIONS CODE SECTION 25401)

23 THE PEOPLE OF THE STATE OF CALIFORNIA, by and through Preston DuFauchard,
24 California Corporations Commissioner, acting to protect the public from unlawful and fraudulent
25 sales of securities, bring this action in the public interest. The People of the State of California
26 allege:

27 ///

28 ///

VENUE AND JURISDICTION

1
2 1. The California Corporations Commissioner ("Commissioner") brings this action to
3 enjoin the defendants from violating the Corporate Securities Law of 1968 ("CSL") (California
4 Corporations Code section 25000, et seq.) and to request necessary civil penalties and ancillary
5 relief. The Commissioner is authorized to administer and enforce the provisions of the CSL.

6 2. The Commissioner brings this action pursuant to California Corporations Code
7 sections 25530 and Government Code section 11180 et seq., in his capacity as head of the
8 California Department of Corporations ("Department").

9 3. The Defendants have transacted and continue to transact business within San Diego
10 County and throughout the State of California. Defendants have offered securities to at least 23
11 residents of San Diego County. Further, Defendants have sold securities to at least two residents
12 of San Diego County, raising at least \$20,000.00. The violations of law described herein have
13 occurred and will continue to occur within San Diego County and throughout the State of
14 California unless enjoined.

DEFENDANTS

15
16 4. Defendant Monumental Funding, L.L.C. is a California limited liability
17 corporation, formed on September 19, 2006 and maintains a business address at 1800 Century
18 Park East, Suite 607, Los Angeles, CA 90067.

19 5. Defendant Monumental Funding Corporation is a California corporation, formed
20 on November 13, 2006 and maintains a business address at 1800 Century Park East, Suite 607,
21 Los Angeles, CA 90067.

22 6. Defendant Jermaine D. Boone ("Boone") is an individual whose last known
23 residence was at 6218 7th Avenue, Los Angeles, CA 90043 and whose last known business address
24 was at 1800 Century Park East, Suite 607, Los Angeles, CA 90067. Boone is a principal of
25 Monumental Funding, L.L.C. and Monumental Funding Corporation.

26 ///

27 ///

28 ///

1 7. Defendant William E. Biddle III ("Biddle") is an individual whose last known
2 residence was at 6039 W. 6th Street, Los Angeles, CA 90036 and whose last known business
3 address was at 1800 Century Park East, Suite 607, Los Angeles, CA 90067. Biddle is a principal
4 of Monumental Funding, L.L.C. and Monumental Funding Corporation.

5 8. Defendants sued herein under the fictitious names Does 1 through 10, inclusive, are
6 unknown to plaintiff who therefore sues such defendants by such fictitious names, pursuant to the
7 provisions of Code of Civil Procedure section 474. The Commissioner asks leave of the court to
8 amend the Complaint and allege the true names and capacities of such defendants at such time as
9 the same have been ascertained.

10 **STATEMENT OF FACTS**

11 9. Beginning in at least October 2006 and continuing thereafter, Monumental
12 Funding, L.L.C., Monumental Funding Corporation, Boone, Biddle, their agents, representatives
13 and affiliates (collectively "Defendants") have offered and sold unqualified, non-exempt securities
14 to at least 53 investors residing in California, raising at least \$3,233,223.00.

15 10. These securities included, but are not limited to, promissory notes and investment
16 contracts.

17 11. Defendants offered and sold securities to California residents for the purpose of
18 purchasing deeds of trust secured by real property in and around the Los Angeles area.

19 12. Defendants solicited California residents, to invest in the securities, by way of
20 general solicitations on Defendants' Web site, www.monumentalfunds.com, and advertisements in
21 the Los Angeles Times newspaper and Napa Valley Marketplace Magazine.

22 13. Defendants made material misrepresentations including but not limited to the
23 misrepresentation in the Defendants' advertisements that Defendants maintain "License
24 #0009566." Defendants do not maintain any license with the number 0009566.

25 14. On December 4, 2006, the Commissioner issued a Desist and Refrain Order
26 ("December 2006 Order") against defendants Monumental Funding, L.L.C., Monumental Funding
27 Corporations, Boone and Biddle, for offering and selling unqualified, non-exempt securities, in
28 violation of CSL section 25110. The December 2006 Order orders those defendants to desist and

1 refrain from the further offer or sale of unqualified, non-exempt securities, in the State of
2 California. The December 2006 Order was personally served on said defendants on December 5,
3 2006.

4 15. Defendants did not request an administrative hearing to challenge the allegations
5 and findings in the December 2006 Order. The December 2006 Order is now final.

6 16. Notwithstanding the December 2006 Order, Defendants continued to sell securities
7 to at least 36 investors residing in California, raising at least \$2,565,982.00.

8 17. Notwithstanding the December 2006 Order, Defendants continued to offer
9 securities by way of general solicitations in the form of advertisements in the Napa Valley
10 Marketplace Magazine.

11 18. Further, Defendants have omitted to disclose material facts, including but not
12 limited to the December 2006 Order, to investors and potential investors.

13 **FIRST CAUSE OF ACTION**

14 **OFFER AND SALE OF UNQUALIFIED, NON-EXEMPT SECURITIES**

15 **IN VIOLATION OF CORPORATIONS CODE SECTION**

16 **(AGAINST ALL DEFENDANTS)**

17 19. Plaintiff incorporates by reference paragraphs 1 through 18 of this Complaint as
18 though fully set forth herein.

19 20. CSL section 25110 provides, in pertinent part, as follows:

20 It is unlawful for any person to offer or sell in this state any security in an issuer
21 transaction . . . whether or not by or through underwriters . . . unless such sale has
22 been qualified under Section 25111, 25112 or 25113 . . . or unless such security or
23 transaction is exempted or not subject to qualification under Chapter 1
[commencing with Section 25100] of this part.

24 (Cal. Corp. Code, § 25110.)

25 21. Beginning in at least October 2006 and continuing thereafter, Defendants, and
26 each of them, offered and sold securities to at least 53 investors residing in California, raising
27 at least \$3,233,223.00.

28 22. The investments offered and sold by Defendants are "securities" within the

1 meaning of CSL section 25019. The securities include, but are not necessarily limited to,
2 promissory notes and investment contracts.

3 23. The sales of securities were "issuer transactions" within the meaning of CSL
4 section 25010 and 25011.

5 24. Defendants, and each of them, "offered and sold" the securities "within the
6 state" of California within the meaning of CSL section 25008 and 25017.

7 25. The Commissioner has not issued a permit or other form of qualification
8 authorizing the offer and sale of the securities referred to herein in the State of California.

9 26. The offer and sale of securities referred to herein were not exempt from the
10 requirement of qualification under CSL section 25110.

11 27. Unless enjoined by this Court, Defendants will continue to violate CSL section
12 25110.

13 **SECOND CAUSE OF ACTION**

14 **MISREPRESENTATION OR OMISSION OF MATERIAL FACTS**

15 **IN VIOLATION OF CORPORATIONS CODE SECTION 25401**

16 **(AGAINST ALL DEFENDANTS)**

17 28. Plaintiff incorporates by reference paragraphs 1 through 27 of this Complaint as
18 though fully set forth herein.

19 29. CSL section 25401 states:

20 It is unlawful for any person to offer or sell a security in this state or buy or offer to
21 buy a security in this state by means of any written or oral communication which
22 includes an untrue statement of a material fact or omits to state a material fact
23 necessary in order to make the statements made, in the light of the circumstances
24 under which they were made, not misleading.

(Cal. Corp. Code, § 25401.)

25 30. In offering and selling the securities referred to herein, Defendants, and each of
26 them, made untrue statements of material fact and/or omitted to state material facts to some or all
27 of the investors. The untrue statements and/or omissions include but are not necessarily limited to,
the following:

28 A. Defendants misrepresented, to investors and potential investors, in Defendants'

1 advertisements that Defendants maintain "License #0009566." Defendants do not maintain any
2 license with the number 0009566.

3 B. Defendants omitted to disclose, to investors and potential investors, that
4 Monumental Funding, L.L.C., Monumental Funding Corporations, Boone and Biddle were the
5 subjects of a Desist and Refrain Order issued by the Commissioner on December 4, 2006, ordering
6 those defendants to desist and refrain from the further offer or sale of unqualified, non-exempt
7 securities in the State of California.

8 31. The misstatements and omissions referred to herein were "material facts" within
9 the meaning of CSL section 25401 since they concerned matters that a "reasonable investor"
10 would consider in deciding whether to invest.

11 32. Defendants' offer and sale of securities were by means of misrepresentations and
12 omissions within the meaning of CSL section 25401.

13 33. Some or all of Defendants' misrepresentations and omissions of material fact took
14 place "within the state" of California within the meaning of CSL section 25008.

15 34. Unless enjoined by this Court, Defendants will continue to violate CSL section
16 25401.

17 **THIRD CAUSE OF ACTION**

18 **VIOLATION OF PRIOR DESIST AND REFRAIN ORDER**

19 **ISSUED BY THE COMMISSIONER**

20 **(AGAINST ALL DEFENDANTS)**

21 35. Plaintiff incorporates by reference paragraphs 1 through 34 of this Complaint as
22 though fully set forth herein.

23 36. CSL section 25532 provides, in pertinent part, as follows:

24 (a) If, in the opinion of the commissioner, (1) the sale of a security is subject to
25 qualification under this law and it is being or has been offered or sold without first
26 being qualified, the commissioner may order the issuer or offeror of the security to
27 desist and refrain from the further offer or sale of the security until qualification has
28 been made under this law

(Cal. Corp. Code, § 25532, subd. (a).)

1 37. On December 4, 2006, the Commissioner issued a Desist and Refrain Order
2 ("December 2006 Order") against defendants Monumental Funding, L.L.C., Monumental Funding
3 Corporation, Boone and Biddle, for offering and selling unqualified, non-exempt securities, in
4 violation of CSL section 25110. The December 2006 Order was personally served on said
5 defendants on December 5, 2006.

6 38. Defendants did not request an administrative hearing to challenge the allegations
7 and findings in the December 2006 Order. The December 2006 Order is now final.

8 39. The Commissioner learned that following the issuance and service of the December
9 2006 Order, discussed in paragraph 37, the Defendants continued to offer securities by way of
10 general solicitations in the form of advertisements in the Napa Valley Marketplace Magazine.

11 40. Further, the Commissioner learned that following the issuance and service of the
12 December 2006 Order the Defendants continued to offer and sell securities to at least 36 investors
13 residing in California, raising at least \$2,565,982.00.

14 41. Unless enjoined, Defendants will continue to violate the 2006 Desist and Refrain
15 Order issued by the Commissioner.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for judgment against Defendants, Monumental Funding,
18 L.L.C., Monumental Funding Corporations, Jermaine D. Boone, William E. Biddle III, and Does 1
19 through 10, inclusively as follows:

20 **I. INJUNCTIVE RELIEF FOR THE VIOLATIONS**

21 For a Temporary Restraining Order, an Order of Preliminary Injunction and, ultimately, a
22 Permanent Injunction, pursuant to California Corporations Code section 25530, restraining and
23 enjoining Defendants from, directly or indirectly:

24 1. Violating California Corporations Code section 25110, by offering to sell, selling,
25 arranging for the sale of, issuing, engaging in the business of selling, negotiating for the sale of
26 any security of any kind, unless such security or transaction is qualified;

27 ///

28 ///

1 2. Violating California Corporations Code section 25401, by offering to sell or selling
2 any security of any kind, including but not limited to, the securities described in this Complaint,
3 by means of any written or oral communication which includes any untrue statement of material
4 fact or omits or fails to state any material fact necessary in order to make the statements made, in
5 the light of the circumstances under which they are made, not misleading;

6 3. Violating the Desist and Refrain Order issued by the California Corporations
7 Commissioner on December 4, 2006, by offering and selling unqualified, non-exempt securities in
8 violation of California Corporations Code section 25110;

9 4. Removing, destroying, mutilating, concealing, altering, transferring, or otherwise
10 disposing of, in any manner, any books, records, computer programs, computer files, computer
11 printouts, correspondence, brochures, manuals, or any other "writing" or "document" of any kind
12 as defined under California Evidence Code section 250, relating to the transactions and course of
13 conduct as alleged in the complaint of this action, unless authorized by this Court; and

14 5. Withdrawing from any bank account or disposing of any real or personal property
15 in their possession, custody or control, without leave of the Court.

16 **II. RESCISSION AND RESTITUTION**

17 1. For a Final Judgment requiring Defendants to rescind each and all of the unlawful
18 transactions alleged in this Complaint, pursuant to California Corporations Code section 25530,
19 subdivision (b), as shall be determined by this Court to have occurred, and further requiring
20 Defendants to pay full restitution to each person determined to have been subject to the
21 Defendant's acts or practices which constitute violations of the Corporate Securities Law of 1968,
22 in an amount of at least \$3,233,223.00, or according to proof. In addition, to pay either the
23 contracted rate of interest or the legal rate of interest in the amount invested by the investors from
24 the date of their investments to the date of judgment herein.

25 2. For a Final Judgment requiring Defendants to disgorge, pursuant to California
26 Corporations Code section 25530, subdivision (b), to all known investors all benefits received,
27 including but not limited to, salaries, commission, fees, profits and any other remuneration,
28 derived directly or indirectly, from the actions or practices which constitute violations of the

1 Corporate Securities Law of 1968.

2 **III. CIVIL PENALTIES**

3 For a Final Judgment requiring Defendants to pay the Department of Corporations
4 \$25,000.00 as a civil penalty for each act in violation of the Corporate Securities Law of 1968,
5 pursuant to California Corporations Code section 25535, in an amount of at least \$4,525,000.00 or
6 according to proof.

7 **IV. OTHER RELIEF**

8 For such other and further relief as this Court may deem necessary and proper.

9
10 Dated: July 19, 2007

11
12 PRESTON DuFAUCHARD
13 California Corporations Commissioner

14 By: _____
15 ~~ALEX CALERO~~
16 Corporations Counsel
17 Attorney for the People of California
18
19
20
21
22
23
24
25
26
27
28