

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

DODONA I, LLC, on Behalf of Itself and  
All Others Similarly Situated,

Plaintiff,

v.

10 Civ. 7497 (VM)

GOLDMAN, SACHS & CO., THE  
GOLDMAN SACHS GROUP, INC.,  
HUDSON MEZZANINE FUNDING  
2006-1, LTD., HUDSON MEZZANINE  
FUNDING 2006-1, CORP., HUDSON  
MEZZANINE FUNDING 2006-2, LTD.,  
HUDSON MEZZANINE FUNDING  
2006-2, CORP., PETER L. OSTREM and  
DARRYL K. HERRICK,

Defendants.

**ANSWER AND COUNTERCLAIMS  
OF DEFENDANTS GOLDMAN,  
SACHS & CO. AND THE  
GOLDMAN SACHS GROUP, INC.**

Defendants Goldman, Sachs & Co. (“Goldman Sachs”) and The Goldman Sachs Group, Inc. (“GS Group”) (collectively, “Defendants”), through their undersigned counsel, for their Answer to the Amended Complaint dated February 4, 2011 (the “Amended Complaint”), filed in the above-captioned action (“Action”) by plaintiff Dodona I, LLC (“Plaintiff” or “Dodona”), aver generally that, by the Decision and Order regarding the Defendants’ Motion to Dismiss, dated March 21, 2012 (“March 21 Order”) (Dkt. No. 73), the Court, *inter alia*, dismissed Plaintiff’s claims relating to Defendants’ alleged market manipulation. With respect to the specific allegations in the Amended Complaint, Defendants deny the allegations in the Amended Complaint to the extent that they assert that Defendants made false or misleading statements or otherwise acted improperly with respect to the Hudson Mezzanine 2006-1 (“Hudson 1”) and Hudson Mezzanine 2006-2 (“Hudson 2”) transactions (collectively, the

“Hudson CDOs”), except respectfully refer the Court to the confidential Offering Circulars submitted in conjunction with the Defendants’ Motion to Dismiss (Exhibits A and B to the Declaration of Christopher J. Dunne filed April 5, 2011) (Dkt. Nos. 50-1 & 50-2) pursuant to which notes in the Hudson CDOs were offered (collectively, the “Offering Documents”) for a complete and accurate statement of their terms. Defendants deny any averments in the Table of Contents, headings and subheadings of the Amended Complaint.

In further response to the Amended Complaint, Defendants state as follows:

1. Defendants deny that the allegations in paragraph 1 present a fair and complete description of the matters described therein and respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms, except admit and aver that Plaintiff purports to assert claims as described therein.
2. Defendants deny the allegations in paragraph 2.
3. Defendants deny the allegations in paragraph 3, except admit and aver that Goldman Sachs was the initial purchaser of, offered, and sold to investors securities issued by the Hudson CDOs (the “Hudson CDO Securities”), and that Hudson Mezzanine Funding 2006-1, Ltd., Hudson Mezzanine Funding 2006-1, Corp., Hudson Mezzanine Funding 2006-2, Ltd., and Hudson Mezzanine Funding 2006-2, Corp. (collectively, the “Hudson Entities”) issued the Hudson CDOs, respectively.
4. Defendants deny the allegations in paragraph 4, except admit and aver that Goldman Sachs has been involved in various regulatory and other inquiries relating to mortgage-backed securities, that Goldman Sachs and Fabrice Tourre were named as defendants in a civil enforcement action by the Securities and Exchange Commission (“SEC”) concerning the ABACUS 2007-AC1 transaction, that Goldman Sachs settled the SEC enforcement action on

July 14, 2010, while the case against Mr. Tourre continues, and respectfully refer the Court to the filings in the SEC action and other publicly available material relating to regulatory and governmental investigation and proceedings for a complete and accurate statement of their contents.

5. Defendants aver that paragraph 5 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny such allegations, except admit and aver that Plaintiff purports to bring claims as described therein.

6. Defendants aver that paragraph 6 purports to state legal conclusions as to which no further response is required.

7. Defendants aver that paragraph 7 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny such allegations, except admit and aver that Plaintiff purports to bring claims under the Exchange Act and New York common law.

8. Defendants aver that paragraph 8 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny such allegations, except admit and aver that Goldman Sachs and GS Group have their principal places of business in New York City.

9. Defendants aver that paragraph 9 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 9.

10. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10, except admit and aver that Goldman Sachs transacted on or about January 4, 2007 with Colonial Fund, LLC for the purchase of certain Hudson 1

securities and on or about January 24, 2007 with Plaintiff for the purchase of certain Hudson 2 securities.

11. Defendants deny that the allegations in paragraph 11 present a fair and complete description of the matters described therein, except respectfully refer the Court to GS Group's Form 10-K dated February 16, 2010 for an accurate description of Goldman Sachs' business.

12. Defendants deny that the allegations in paragraph 12 present a fair and complete description of the matters described therein, except respectfully refer the Court to GS Group's Form 10-K dated February 16, 2010 for an accurate description of Goldman Sachs' business and to the Offering Documents for a complete and accurate statement of their terms.

13. Defendants deny that the allegations in paragraph 13 present a fair and complete description of the matters described therein, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms.

14. Defendants deny that the allegations in paragraph 14 present a fair and complete description of the matters described therein, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms, and admit and aver that Hudson Mezzanine Funding 2006-1, Corp. reportedly filed for dissolution.

15. Defendants deny that the allegations in paragraph 15 present a fair and complete description of the matters described therein, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms.

16. Defendants deny that the allegations in paragraph 16 present a fair and complete description of the matters described therein, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms, and admit and aver that Hudson Mezzanine Funding 2006-2, Corp. reportedly filed for dissolution.

17. Defendants deny the allegations in paragraph 17, except admit and aver that Peter L. Ostrem (“Ostrem”) was involved in structuring and marketing the Hudson CDO Securities, that Ostrem was a vice president and later managing director of Goldman Sachs, and that he no longer is employed by Goldman Sachs.

18. Defendants deny the allegations in paragraph 18, except admit and aver that Herrick was involved in structuring and marketing the Hudson CDO Securities, that Darryl K. Herrick (“Herrick”) was a vice president of Goldman Sachs, and that he no longer is employed by Goldman Sachs.

19. Defendants aver that paragraph 19 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny such allegation, except admit and aver that Plaintiff purports to bring a putative class action as described therein.

20. Defendants aver that paragraph 20 purports to state legal conclusions as to which no further response is required.

21. Defendants aver that paragraph 21 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny that Goldman Sachs has records as to all secondary trades in the Hudson CDO Securities.

22. Defendants aver that paragraph 22 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 22.

23. Defendants aver that paragraph 23 purports to state legal conclusions as to which no further response is required.

24. Defendants aver that paragraph 24 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 24.

25. Defendants aver that paragraph 25 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 25.

26. Defendants deny that the allegations in paragraph 26 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

27. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27, except respectfully refer the Court to the testimony referenced in paragraph 27 for a complete and accurate statement of its terms.

28. Defendants deny that the allegations in paragraph 28 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

29. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29.

30. Defendants deny that the allegations in paragraph 30 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

31. Defendants deny that the allegations in paragraph 31 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

32. Defendants deny that the allegations in paragraph 32 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

33. Defendants deny that the allegations in paragraph 33 present a fair and complete description of the matters described therein, except admit and aver that Goldman Sachs International (“GSI”) acted as the sole credit protection buyer with respect to the Hudson CDOs, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

34. Defendants deny that the allegations in paragraph 34 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

35. Defendants deny that the allegations in paragraph 35 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

36. Defendants deny the allegations in paragraph 36, except respectfully refer the Court to the report referenced in paragraph 36 for a complete and accurate statement of its terms.

37. Defendants deny that the allegations in paragraph 37 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

38. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38.

39. Defendants deny the allegations in paragraph 39, except respectfully refer the Court to GS Group's public filings for the period referenced for an accurate description of Goldman Sachs' business.

40. Defendants deny that the allegations in paragraph 40 present a fair and complete description of the matters described therein, except deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 concerning mortgage origination by Washington Mutual Inc. and Long Beach Mortgage Co., and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

41. Defendants deny the allegations in paragraph 41, except respectfully refer the Court to GS Group's public filings for the period referenced for an accurate description of Goldman Sachs' business.

42. Defendants deny that the allegations in paragraph 42 present a fair and complete description of the matters described therein, except respectfully refer the Court to the article referenced in paragraph 42 for a complete and accurate statement of its terms and to GS Group's public filings for the period referenced for an accurate description of Goldman Sachs' business.

43. Defendants deny that the allegations in paragraph 43 present a fair and complete description of the matters described therein, except respectfully refer the Court to the article referenced in paragraph 43 for a complete and accurate statement of its terms.

44. Defendants deny the allegations in paragraph 44, except respectfully refer the Court to the articles referenced in paragraph 44 for a complete and accurate statement of their terms.

45. Defendants deny the allegations in paragraph 45, except respectfully refer the Court to the article referenced in paragraph 45 for a complete and accurate statement of its terms.

46. Defendants deny that the allegations in paragraph 46 present a fair and complete description of the matters described therein, and respectfully refer the Court to the Offering Documents for a complete and accurate statement of the securities at issue herein.

47. Defendants deny the allegations in paragraph 47, except admit and aver that Goldman Sachs used Clayton's services from time to time.

48. Defendants deny the allegations in paragraph 48, except respectfully refer the Court to the Goldman Sachs' April 23, 2010 "White Paper" for a complete and accurate statement of its terms.

49. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49, except respectfully refer the Court to the agreement referenced in paragraph 49 for a complete and accurate statement of its terms.

50. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50, except respectfully refer the Court to the articles referenced in paragraph 50 for a complete and accurate statement of their terms.

51. Defendants deny the allegations in paragraph 51, except respectfully refer the Court to the documents and testimony referenced in paragraph 51 for a complete and accurate statement of their terms.

52. Defendants deny the allegations in paragraph 52, except respectfully refer the Court to the report referenced in paragraph 52 for a complete and accurate statement of its terms.

53. Defendants deny the allegations in paragraph 53.

54. Defendants deny that the allegations in paragraph 54 present a fair and complete description of the matters described therein, except respectfully refer the Court to the article referenced in paragraph 54 for a complete and accurate statement of its terms.

55. Defendants deny the allegations in paragraph 55, except respectfully refer the Court to the document referenced in paragraph 55 for a complete and accurate statement of its terms.

56. Defendants deny the allegations in paragraph 56, except respectfully refer the Court to the documents referenced in paragraph 56 for a complete and accurate statement of their terms.

57. Defendants deny the allegations in paragraph 57, except respectfully refer the Court to the document referenced in paragraph 57 for a complete and accurate statement of its terms.

58. Defendants deny the allegations in paragraph 58, except respectfully refer the Court to the document referenced in paragraph 58 for a complete and accurate statement of its terms.

59. Defendants deny the allegations in paragraph 59, except respectfully refer the Court to the document referenced in paragraph 59 for a complete and accurate statement of its terms.

60. Defendants deny the allegations in paragraph 60, except respectfully refer the Court to the document referenced in paragraph 60 for a complete and accurate statement of its terms.

61. Defendants deny the allegations in paragraph 61, except respectfully refer the Court to the documents referenced in paragraph 61 for a complete and accurate statement of their terms.

62. Defendants deny that the allegations in paragraph 62 present a fair and complete description of the matters described therein, except respectfully refer the Court to the documents referenced in paragraph 62 for a complete and accurate statement of their terms.

63. Defendants deny the allegations in paragraph 63, except respectfully refer the Court to the document referenced in paragraph 63 for a complete and accurate statement of its terms.

64. Defendants deny the allegations in paragraph 64, except respectfully refer the Court to the document referenced in paragraph 64 for a complete and accurate statement of its terms.

65. Defendants deny the allegations in paragraph 65, except respectfully refer the Court to the documents referenced in paragraph 65 for a complete and accurate statement of their terms.

66. Defendants deny the allegations in paragraph 66, except respectfully refer the Court to the document referenced in paragraph 66 for a complete and accurate statement of its terms.

67. Defendants deny that the allegations in paragraph 67 present a fair and complete description of the matters described therein, except respectfully refer the Court to the letter referenced in paragraph 67 for a complete and accurate statement of its terms.

68. Defendants deny that the allegations in paragraph 68 present a fair and complete description of the matters described therein, except respectfully refer the Court to the offering materials for ABACUS 2007-AC1 for a complete and accurate description of the transaction.

69. Defendants deny the allegations in paragraph 69, except respectfully refer the Court to the document referenced in paragraph 69 for a complete and accurate statement of its terms.

70. Defendants deny that the allegations in paragraph 70 present a fair and complete description of the matters described therein, except respectfully refer the Court to the documents referenced in paragraph 70 for a complete and accurate statement of their terms.

71. Defendants deny the allegations in paragraph 71, except respectfully refer the Court to the documents referenced in paragraph 71 for a complete and accurate statement of their terms.

72. Defendants deny the allegations in paragraph 72, except respectfully refer the Court to the document referenced in paragraph 72 for a complete and accurate statement of its terms.

73. Defendants deny that the allegations in paragraph 73 present a fair and complete description of the matters described therein, except respectfully refer the Court to the document referenced in paragraph 73 for a complete and accurate statement of its terms.

74. Defendants deny that the allegations in paragraph 74 present a fair and complete description of the matters described therein, except respectfully refer the Court to the document referenced in paragraph 74 for a complete and accurate statement of its terms.

75. Defendants deny the allegations in paragraph 75, except respectfully refer the Court to the document referenced in paragraph 75 for a complete and accurate statement of its terms.

76. Defendants deny the allegations in paragraph 76, except respectfully refer the Court to the documents referenced in paragraph 76 for a complete and accurate statement of their terms.

77. Defendants deny that the allegations in paragraph 77 present a fair and complete description of the matters described therein, except respectfully refer the Court to the document referenced in paragraph 77 for a complete and accurate statement of its terms.

78. Defendants deny the allegations in paragraph 78, except respectfully refer the Court to the document referenced in paragraph 78 for a complete and accurate statement of its terms.

79. Defendants deny the allegations in paragraph 79, except respectfully refer the Court to the letter referenced in paragraph 79 for a complete and accurate statement of its terms.

80. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 80, except respectfully refer the Court to the document referenced in paragraph 80 for a complete and accurate statement of its terms.

81. Defendants deny the allegations in paragraph 81, except respectfully refer the Court to the article referenced in paragraph 81 for a complete and accurate statement of its terms.

82. Defendants deny that the allegations in paragraph 82 present a fair and complete description of the matters described therein and deny that Ostrem and Herrick led the Hudson 1 CDO offering, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms.

83. Defendants deny the allegations in paragraph 83, except respectfully refer the Court to the documents referenced in paragraph 83 for a complete and accurate statement of their terms.

84. Defendants deny that the allegations in paragraph 84 present a fair and complete description of the matters described therein, except respectfully refer the Court to the documents referenced in paragraph 84 for a complete and accurate statement of their terms.

85. Defendants deny the allegations in paragraph 85, except respectfully refer the Court to the document referenced in paragraph 85 for a complete and accurate statement of its terms.

86. Defendants deny the allegations in paragraph 86, except respectfully refer the Court to the documents referenced in paragraph 86 for a complete and accurate statement of their terms.

87. Defendants deny the allegations in paragraph 87, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms.

88. Defendants deny the allegations in paragraph 88, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms.

89. Defendants deny the allegations in paragraph 89, except respectfully refer the Court to the documents referenced in paragraph 89 for a complete and accurate statement of their terms.

90. Defendants deny that the allegations in paragraph 90 present a fair and complete description of the matters described therein, except respectfully refer the Court to the document referenced in paragraph 90 for a complete and accurate statement of its terms.

91. Defendants deny the allegations in paragraph 91, except respectfully refer the Court to the Hudson 1 CDO Offering Circular for a complete and accurate statement of its terms.

92. Defendants deny that the allegations in paragraph 92 present a fair and complete description of the matters described therein and deny that Ostrem and Herrick led the Hudson 2

CDO offering, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms.

93. Defendants deny the allegations in paragraph 93, except respectfully refer the Court to the documents referenced in paragraph 93 for a complete and accurate statement of their terms.

94. Defendants deny the allegations in paragraph 94, except respectfully refer the Court to the documents referenced in paragraph 94 for a complete and accurate statement of their terms.

95. Defendants deny the allegations in paragraph 95, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms.

96. Defendants deny the allegations in paragraph 96, except respectfully refer the Court to the Offering Documents for a complete and accurate statement of their terms.

97. Defendants deny the allegations in paragraph 97, except respectfully refer the Court to the documents referenced in paragraph 97 for a complete and accurate statement of their terms.

98. Defendants deny the allegations in paragraph 98, except respectfully refer the Court to the Hudson 1 CDO Offering Circular for a complete and accurate statement of its terms.

99. Defendants aver that paragraph 99 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 99.

100. Defendants aver that paragraph 100 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 100.

101. Defendants deny the allegations in paragraph 101, except respectfully refer the Court to the publicly available ratings for the residential mortgage-backed securities (“RMBS”) referenced in paragraph 101 for a complete and accurate statement of those ratings.

102. Defendants deny the allegations of paragraph 102, except admit and aver that Goldman, Sachs & Co. or its affiliates sponsored or underwrote ACCR 2006-2, FHLT 2005-B, FFML 2006-FF4, GEWMC 2005-1, GSAA 2005-3, GSAA 2005-6, GSAA 2005-8, GSAA 2006-3, GSAA 2006-8, GSAA 2006-12, GSAA 2006-14, GSAA 2006-16, GSAMP 2005-HE4, GSAMP 2006-HE1, GSAMP 2006-HE3, GSAMP 2006-NC2 and WFHET 2006-1 and that tranches from those RMBS were included in the reference portfolios for one or both of the Hudson CDOs.

103. Defendants deny that the allegations in paragraph 103 present a fair and complete description of the matters described therein, except respectfully refer the Court to the publicly available ratings for the RMBS referenced in paragraph 103 for a complete and accurate statement of those ratings and to the complaints in the lawsuits referenced in paragraph 103 for a complete and accurate statement of their terms.

104. Defendants deny the allegations in paragraph 104.

105. Defendants aver that paragraph 105 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations, except respectfully refer the Court to the document referenced in paragraph 105 for a complete and accurate statement of its terms.

106. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 106 regarding credit agencies, and deny the other

allegations, except respectfully refer the Court to the document referenced in paragraph 106 for a complete and accurate statement of its terms.

107. Defendants deny the allegations in paragraph 107, except respectfully refer the Court to the document referenced in paragraph 107 for a complete and accurate statement of its terms.

108. Defendants deny the allegations in paragraph 108, except respectfully refer the Court to the documents referenced in paragraph 108 for a complete and accurate statement of their terms.

109. Defendants deny that the allegations in paragraph 109 present a fair and complete description of the matters described therein, except respectfully refer the Court to the article referenced in paragraph 109 for a complete and accurate statement of its terms.

110. Defendants deny the allegations in paragraph 110, except respectfully refer the Court to the document referenced in paragraph 110 for a complete and accurate statement of its terms.

111. Defendants deny the allegations in paragraph 111, except respectfully refer the Court to the documents referenced in paragraph 111 for a complete and accurate statement of their terms.

112. Defendants deny the allegations in paragraph 112, except respectfully refer the Court to the documents referenced in paragraph 112 for a complete and accurate statement of their terms.

113. Defendants deny that the allegations in paragraph 113 present a fair and complete description of the matters described therein, except respectfully refer the Court to the documents referenced in paragraph 113 for a complete and accurate statement of their terms.

114. Defendants deny the allegations in paragraph 114, except respectfully refer the Court to the publicly available ratings for the Hudson CDO Securities for a complete and accurate statement of those ratings.

115. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 115, except respectfully refer the Court to the document referenced in paragraph 115 for a complete and accurate statement of its terms.

116. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 116, except respectfully refer the Court to the document referenced in paragraph 116 for a complete and accurate statement of its terms.

117. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 117, except respectfully refer the Court to the document referenced in paragraph 117 for a complete and accurate statement of its terms.

118. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 118, except respectfully refer the Court to the document referenced in paragraph 118 for a complete and accurate statement of its terms.

119. Defendants deny the allegations in paragraph 119, except respectfully refer the Court to the document referenced in paragraph 119 for a complete and accurate statement of its terms.

120. Defendants deny the allegations in paragraph 120, except respectfully refer the Court to the document referenced in paragraph 120 for a complete and accurate statement of its terms.

121. Defendants deny the allegations in paragraph 121, except respectfully refer the Court to the document referenced in paragraph 121 for a complete and accurate statement of its terms.

122. Defendants deny the allegations in paragraph 122, except respectfully refer the Court to the testimony referenced in paragraph 122 for a complete and accurate statement of its terms.

123. Defendants deny the allegations in paragraph 123, except respectfully refer the Court to the document referenced in paragraph 123 for a complete and accurate statement of its terms.

124. Defendants deny the allegations in paragraph 124, except respectfully refer the Court to the documents referenced in paragraph 124 for a complete and accurate statement of their terms.

125. Defendants deny the allegations in paragraph 125, except respectfully refer the Court to the documents referenced in paragraph 125 for a complete and accurate statement of their terms.

126. Defendants deny that the allegations in paragraph 126 present a fair and complete description of the matters described therein, except respectfully refer the Court to the publicly available ratings for the RMBS referenced in paragraph 126 for a complete and accurate statement of those ratings and to the document referenced in paragraph 126 for a complete and accurate statement of its terms.

127. Defendants deny that the allegations in paragraph 127 present a fair and complete description of the matters described therein, except respectfully refer the Court to the documents referenced in paragraph 127 for a complete and accurate statement of their terms.

128. Defendants deny the allegations in paragraph 128, except respectfully refer the Court to the document referenced in paragraph 128 for a complete and accurate statement of its terms.

129. Defendants deny the allegations in paragraph 129, except respectfully refer the Court to the document referenced in paragraph 129 for a complete and accurate statement of its terms.

130. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 130 regarding credit agencies, and deny the other allegations, except respectfully refer the Court to the documents referenced in paragraph 130 for a complete and accurate statement of their terms.

131. Defendants deny the allegations in paragraph 131, except respectfully refer the Court to the documents referenced in paragraph 131 for a complete and accurate statement of their terms.

132. Defendants deny that the allegations in paragraph 132 present a fair and complete description of the matters described therein, except respectfully refer the Court to the documents referenced in paragraph 132 for a complete and accurate statement of their terms.

133. Defendants deny the allegations in paragraph 133, except respectfully refer the Court to GS Group's Form 8-K dated December 18, 2007 for a complete and accurate statement of its terms.

134. Defendants deny the allegations in paragraph 134, except admit and aver that Goldman Sachs, on behalf of itself and its affiliates, Goldman Sachs Mortgage Company and GS Mortgage Securities Corp., entered into a settlement agreement with the Massachusetts Attorney

General, and respectfully refer the Court to that settlement agreement for a complete and accurate statement of its terms.

135. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 135, except respectfully refer the Court to the article referenced in paragraph 135 for a complete and accurate statement of its terms.

136. Defendants deny the allegations in paragraph 136, except admit and aver that Goldman Sachs and Fabrice Tourre were named as defendants in a civil enforcement action by the SEC concerning the ABACUS 2007-AC1 transaction and respectfully refer the Court to the pleadings in that action for a complete and accurate statement of their terms.

137. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 137, except respectfully refer the Court to the “report” referenced in paragraph 137 for a complete and accurate statement of its terms.

138. Defendants deny the allegations in paragraph 138, except admit and aver that the U.S. Senate Permanent Subcommittee on Investigations (the “Senate Subcommittee”) undertook an investigation and respectfully refer the Court to the press releases referenced in paragraph 138 for a complete and accurate statement of their terms.

139. Defendants deny that the allegations in paragraph 139 present a fair and complete description of the matters described therein, except admit and aver that the Senate Subcommittee undertook an investigation and respectfully refer the Court to the hearing records referenced in paragraph 139 for a complete and accurate statement of their terms.

140. Defendants deny the allegations in paragraph 140, except respectfully refer the Court to the documents and testimony referenced in paragraph 140 for a complete and accurate statement of their terms.

141. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 141, except respectfully refer the Court to the reports referenced in paragraph 141 for a complete and accurate statement of their terms.

142. Defendants deny that the allegations in paragraph 142 present a fair and complete description of the matters described therein, except admit and aver that the Financial Crisis Inquiry Commission (“FCIC”) undertook an inquiry and respectfully refer the Court to the documents referenced in paragraph 142 for a complete and accurate statement of their terms.

143. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 143, except respectfully refer the Court to the documents referenced in paragraph 143 for a complete and accurate statement of their terms.

144. Defendants deny that the allegations in paragraph 144 present a fair and complete description of the matters described therein, except admit and aver that Goldman Sachs, on behalf of itself and its affiliates, entered into a settlement agreement with the SEC and respectfully refer the Court to that settlement agreement and related documents for a complete and accurate statement of its terms.

145. Defendants deny that the allegations in paragraph 145 present a fair and complete description of the matters described therein, except admit and aver that Fabrice Tourre is not a party to the settlement agreement described in paragraph 145, that the SEC’s action against him is ongoing, and that he filed an answer to the SEC’s complaint on July 19, 2010, and respectfully refer the Court to Fabrice Tourre’s answer for a complete and accurate statement of its terms.

146. Defendants deny the allegations in paragraph 146, except respectfully refer the Court to GS Group’s Form 10-Q dated August 6, 2010 for a complete and accurate statement of its terms.

147. Defendants deny the allegations in paragraph 147, except admit and aver that the U.K. Financial Services Authority imposed a fine of 17.5 million pounds in connection with GSI's disclosure of the SEC's investigation relating to the ABACUS 2007-AC1 CDO and respectfully refer the Court to the documents announcing the resolution of the FSA's inquiry for a complete and accurate statement of their terms.

148. Defendants deny that the allegations in paragraph 148 present a fair and complete description of the matters described therein, except respectfully refer the Court to the documents referenced in paragraph 148 for a complete and accurate statement of their terms.

149. Defendants deny the allegations in paragraph 149, except admit and aver that the Financial Industry Regulatory Authority ("FINRA") imposed a fine of \$650,000 in connection with Goldman Sachs' disclosure of the SEC's investigation relating to the ABACUS 2007-AC1 CDO and respectfully refer the Court to the documents announcing the resolution of the FINRA inquiry for a complete and accurate statement of their terms.

150. Defendants aver that paragraph 150 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 150.

151. Defendants aver that paragraph 151 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 151.

152. Defendants aver that paragraph 152 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 152.

153. Defendants aver that paragraph 153 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 153.

154. Defendants aver that paragraph 154 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 154.

155. Defendants aver that paragraph 155 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 155.

156. Defendants deny the allegations in paragraph 156, except respectfully refer the Court to the memorandum referenced in paragraph 156 for a complete and accurate statement of its terms.

157. Defendants deny the allegations in paragraph 157, except respectfully refer the Court to the testimony referenced in paragraph 157 for a complete and accurate statement of its terms.

158. Defendants aver that paragraph 158 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 158.

159. Defendants aver that paragraph 159 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 159.

160. Defendants aver that paragraph 160 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 160.

161. Defendants aver that paragraph 161 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 161.

162. Defendants aver that paragraph 162 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 162.

163. Defendants repeat and reassert their responses to the allegations of paragraphs 1 through 162 of the Amended Complaint as if fully set forth herein, except deny that the allegations in paragraph 163 constitute a claim to which any response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 163.

164. Defendants aver that paragraph 164 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 164, except admit and aver that Plaintiff purports to bring claims as described therein.

165. Defendants aver that paragraph 165 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 165.

166. Defendants aver that paragraph 166 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 166.

167. Defendants aver that paragraph 167 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 167.

168. Defendants aver that paragraph 168 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 168.

169. Defendants aver that paragraph 169 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 169.

170. Defendants aver that paragraph 170 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 170.

171. Defendants aver that paragraph 171 purports to state legal conclusions as to which no further response is required.

172. Defendants repeat and reassert their responses to the allegations of paragraphs 1 through 171 of the Amended Complaint as if fully set forth herein, except deny that the allegations in paragraph 172 constitute a claim to which any response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 172.

173. Defendants aver that paragraph 173 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 173, except admit and aver that Plaintiff purports to bring claims as described therein.

174. Defendants aver that paragraph 174 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 174.

175. Defendants deny the allegations in paragraph 175.

176. Defendants aver that paragraph 176 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 176.

177. Defendants aver that paragraph 177 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 177.

178. Defendants aver that paragraph 178 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 178.

179. Defendants aver that paragraph 179 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 179.

180. Defendants aver that paragraph 180 purports to state legal conclusions as to which no further response is required.

181. Defendants repeat and reassert their responses to the allegations of paragraphs 1 through 180 of the Amended Complaint as if fully set forth herein, except deny that the allegations in paragraph 181 constitute a claim to which any response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 181.

182. Defendants aver that paragraph 182 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants admit and aver that Plaintiff purports to bring claims as described therein.

183. Defendants aver that paragraph 183 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 183.

184. Defendants aver that paragraph 184 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 184.

185. Defendants aver that paragraph 185 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 185.

186. Defendants aver that paragraph 186 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 186.

187. Defendants aver that paragraph 187 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 187.

188. Defendants aver that paragraph 188 purports to state legal conclusions as to which no further response is required.

189. Defendants repeat and reassert their responses to the allegations of paragraphs 1 through 188 of the Amended Complaint as if fully set forth herein, except deny that the

allegations in paragraph 189 constitute a claim to which any response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 189.

190. Defendants aver that paragraph 190 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants admit and aver that Plaintiff purports to bring claims as described therein.

191. Defendants aver that paragraph 191 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 191.

192. Defendants aver that paragraph 192 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 192.

193. Defendants aver that paragraph 193 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 193.

194. Defendants aver that paragraph 194 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 194.

195. Defendants aver that paragraph 195 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 195.

196. Defendants aver that paragraph 196 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 196.

197. Defendants aver that paragraph 197 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 197.

198. Defendants aver that paragraph 198 purports to state legal conclusions as to which no further response is required.

199. Defendants aver that paragraph 199 purports to state legal conclusions as to which no further response is required.

200. Defendants repeat and reassert their responses to the allegations of paragraphs 1 through 199 of the Amended Complaint as if fully set forth herein, except deny that the allegations in paragraph 200 constitute a claim to which any response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 200.

201. Defendants aver that paragraph 201 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants admit and aver that Plaintiff purports to bring claims as described therein.

202. Defendants aver that paragraph 202 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 202.

203. Defendants aver that paragraph 203 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 203.

204. Defendants aver that paragraph 204 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 204.

205. Defendants aver that paragraph 205 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 205.

206. Defendants aver that paragraph 206 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 206.

207. Defendants aver that paragraph 207 purports to state legal conclusions as to which no further response is required.

208. Defendants repeat and reassert their responses to the allegations of paragraphs 1 through 207 of the Amended Complaint as if fully set forth herein, except deny that the allegations in paragraph 208 constitute a claim to which any response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 208.

209. Defendants aver that paragraph 209 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants admit and aver that Plaintiff purports to bring claims as described therein.

210. Defendants aver that paragraph 210 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 210.

211. Defendants aver that paragraph 211 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 211.

212. Defendants deny the allegations in paragraph 212.

213. Defendants aver that paragraph 213 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 213.

214. Defendants aver that paragraph 214 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 214.

215. Defendants aver that paragraph 215 purports to state legal conclusions as to which no further response is required.

216. Defendants repeat and reassert their responses to the allegations of paragraphs 1 through 215 of the Amended Complaint as if fully set forth herein, except deny that the allegations in paragraph 216 constitute a claim to which any response is required. To the extent that a response is required, Defendants deny the allegations in paragraph 216.

217. Defendants aver that paragraph 217 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants admit and aver that Plaintiff purports to bring claims as described therein.

218. Defendants aver that paragraph 218 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 218.

219. Defendants aver that paragraph 219 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 219.

220. Defendants aver that paragraph 220 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 220.

221. Defendants aver that paragraph 221 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 221.

222. Defendants aver that paragraph 222 purports to state legal conclusions as to which no further response is required.

223. Defendants aver that paragraph 223 purports to state legal conclusions as to which no further response is required. To the extent a response is required, Defendants deny the allegations in paragraph 223.

#### **DEFENSES**

Defendants assert the following defenses without assuming the burden of proof or any other burden if such burdens would otherwise be on Plaintiff:

##### First Defense

The claims asserted against Defendants fail to allege facts sufficient to state a claim upon which relief may be granted.

##### Second Defense

The Amended Complaint fails to plead fraud with particularity.

##### Third Defense

Defendants are informed and believe, and on that basis assert, that if and to the extent the Offering Documents and materials incorporated therein are found to have false or misleading statements (which Defendants deny), the actual facts which Plaintiff alleges to have been misrepresented or omitted were in fact known to and entered the securities market through

credible sources. Defendants are further informed and believe, and on that basis allege, that Plaintiff is not entitled to any recovery from Defendants because the substance of the allegedly material information that Plaintiff alleges to have been omitted or misrepresented was in fact publicly available and/or widely known to the market and to the investing community.

Fourth Defense

Defendants are informed and believe, and on that basis assert, that Defendants are not liable to Plaintiff because (i) the Offering Documents did not contain any false or misleading statements of material fact or omissions of material fact, (ii) the Offering Documents bespoke caution about the risks of investing in the Hudson CDOs, and (iii) Defendants are not responsible in law or fact for any alleged false or misleading statement or omission of material fact by others or for any statements not contained in the Offering Documents.

Fifth Defense

Plaintiff is not entitled to any recovery from Defendants because the allegedly untrue statements of material fact, and/or omissions of material fact, in the Offering Documents were not material to the investment decisions of a reasonable investor.

Sixth Defense

Plaintiff is not entitled to any recovery from Defendants because Defendants acted at all times in good faith, and neither had knowledge, nor were reckless in not knowing, that any alleged statement or omission was false or misleading.

Seventh Defense

Plaintiff is not entitled to any recovery from Defendants because Defendants did not know, and in the exercise of reasonable care could not have known, of the alleged misstatements or omissions of fact in the Offering Documents.

Eighth Defense

Plaintiff is not entitled to any recovery from Defendants because, at all relevant times, Defendants conducted a reasonable investigation, and had reasonable grounds to believe and did believe, at the time the Offering Documents became effective, that the statements therein were true and that there was no omitted material fact required to be stated therein or necessary to make the statements therein not misleading.

Ninth Defense

Plaintiff's claims against Defendants are barred, in whole or in part, because Defendants neither owed nor breached any duty to Plaintiff to disclose information allegedly omitted from the Offering Documents, and had no duty to verify, opine upon, audit, review or correct such information disclosed in the Offering Documents.

Tenth Defense

Plaintiff's claims against Defendants are barred, in whole or in part, because Defendants did not make any of the alleged misstatements or omissions in the Offering Documents.

Eleventh Defense

Defendants are informed and believe, and on that basis assert, that the purported damages or injuries suffered by Plaintiff were not legally caused by any act or omission on the part of Defendants.

Twelfth Defense

Defendants are informed and believe, and on that basis assert, that the purported damages or injuries suffered by Plaintiff were the result of intervening events outside the control of Defendants.

Thirteenth Defense

Defendants are informed and believe, and on that basis assert, that Plaintiff is not entitled to any recovery from Defendants because the purported damages alleged represent something other than the depreciation in value of the offered securities resulting from any part of the Offering Documents that Plaintiff alleges was untrue, or omitted a material fact required to be stated therein or necessary to make the statements therein not misleading.

Fourteenth Defense

Defendants are informed and believe, and on that basis assert, that, if any liability should arise in the Action (and none should), Defendants would not be liable in excess of an amount permitted by applicable law.

Fifteenth Defense

Defendants are informed and believe, and on that basis assert, that any damages or injuries suffered by Plaintiff are the proximate result, either in whole or in part, of actions or omissions of persons or entities other than Defendants.

Sixteenth Defense

Defendants are informed and believe, and on that basis assert, that Plaintiff's claims against Defendants are barred in whole or in part because of the contribution of, or the comparative fault and contributory negligence of, Plaintiff or other entities or persons.

Seventeenth Defense

Plaintiff's claims against Defendants are barred, in whole or in part, because any damages or injuries incurred by Plaintiff were caused solely by the acts or omissions of Plaintiff or others, over which Defendants had no control and/or of which Defendants were not aware.

Eighteenth Defense

Plaintiff, at all relevant times, had a duty to take reasonable action to minimize any damages allegedly sustained as a result of the facts alleged in the Amended Complaint. Defendants are informed and believe, and on that basis assert, that Plaintiff failed to comply with that duty and is therefore barred from recovering any damages that might reasonably have been avoided.

Nineteenth Defense

Defendants are informed and believe, and on that basis assert, that Plaintiff is not entitled to any recovery from Defendants because Plaintiff did not reasonably rely on any alleged untrue or misleading statement of material fact when purchasing Hudson CDO Securities.

Twentieth Defense

Defendants are informed and believe, and on that basis assert, that, if and to the extent that the Offering Documents and materials incorporated therein are determined to have contained false or misleading statements or to have omitted a material fact required to be stated therein or necessary to make the statements therein not misleading (which Defendants deny), Plaintiff either knew or should have known about the allegedly false statements and other matters alleged in the Amended Complaint.

Twenty-First Defense

Plaintiff's claims against Defendants for aiding and abetting fraud are barred because Plaintiff cannot establish the existence of a fraud.

Twenty-Second Defense

Plaintiff's claims against Defendants for aiding and abetting fraud are barred because Plaintiff cannot establish that Defendants had actual knowledge of any fraud.

Twenty-Third Defense

Plaintiff's claims against Defendants for aiding and abetting fraud are barred because Plaintiff cannot establish that Defendants substantially assisted in advancing the commission of any fraud.

Twenty-Fourth Defense

Plaintiff's own negligence or other fault proximately contributed to the injuries allegedly suffered by it (if any) from the purchase and sale of the offered securities, and bars any recovery to the extent thereof.

Twenty-Fifth Defense

Defendants are informed and believe, and on that basis assert, that Plaintiff is not entitled to any recovery from Defendants because Plaintiff purchased the Hudson CDO Securities with actual or constructive knowledge of the risks involved, and thus assumed the risk that the value of the securities would decline if such risks materialized.

Twenty-Sixth Defense

Defendants are informed and believe, and on that basis assert, that Plaintiff's claims against Defendants are barred in whole or in part by laches, equitable estoppel, waiver or other related equitable doctrines.

Twenty-Seventh Defense

Defendants are informed and believe, and on that basis assert, that Plaintiff's claims against Defendants are barred, in whole or in part, because of inequitable conduct and unclean hands.

Twenty-Eighth Defense

Plaintiff is not entitled to any recovery from Defendants because Plaintiff ratified the alleged wrongful acts and omissions alleged in the Amended Complaint.

Twenty-Ninth Defense

Defendants are informed and believe, and on that basis allege, that Plaintiff's claims against Defendants are barred, in whole or in part, by its own actions, omissions and/or negligence.

Thirtieth Defense

To the extent that Plaintiff purchased Hudson CDO Securities in the secondary market, or by any means other than directly in connection with the offering of those notes, it is not entitled to any recovery from Defendants.

Thirty-First Defense

Defendants are entitled to recover contribution from others for any liability it incurs as a result of any of the alleged misrepresentations, omissions, and conduct alleged against Defendants.

Thirty-Second Defense

Defendants are absolved from any and all liability for the wrongs alleged in the Amended Complaint by reason of their full compliance with all statutes, regulations or other laws in effect at the time of the conduct alleged in the Amended Complaint.

Thirty-Third Defense

Other parties not named in the Amended Complaint may be indispensable parties to this action.

Thirty-Fourth Defense

The purported claims against Defendants and the allegations upon which they are based are improperly vague, ambiguous and confusing. Defendants reserve the right to request a more definite statement.

Thirty-Fifth Defense

Plaintiff's claims fail to the extent Defendants did not offer or sell the subject securities to Plaintiff and/or did not successfully solicit Plaintiff's purchase of the subject securities.

Thirty-Sixth Defense

Plaintiff's claims are barred, in whole or in part, because the alleged misstatements or omissions are nonactionable expressions of opinion that Plaintiff cannot prove were not truly held at the time they were made.

Thirty-Seventh Defense

Plaintiff's claims are barred, in whole or in part, because any damages recoverable by Plaintiff must be reduced by the amount of payments received and to be received in the future by Plaintiff under the terms of the notes it purchased.

Thirty-Eighth Defense

Plaintiff's claims against Defendants are barred, in whole or in part, because at all relevant times, Defendants relied in good faith on the representations, reports, expert opinions and advice of others.

Thirty-Ninth Defense

Plaintiff's claims against Defendants for negligent misrepresentation are barred because Plaintiff's alleged reliance was unreasonable, given the absence of any special relationship of confidence or trust between Defendants and Plaintiff.

Fortieth Defense

Defendants reserve the right to raise any additional defenses, cross-claims, and third-party claims not asserted herein of which it may become aware through discovery or other investigation, as may be appropriate at a later time.

**COUNTERCLAIMS FOR BREACH OF CONTRACT AND, IN THE ALTERNATIVE,  
FRAUDULENT INDUCEMENT**

224. Goldman Sachs files these counterclaims against Dodona I, LLC, and alleges:

**PARTIES**

225. Plaintiff-Counterclaim Defendant Dodona is a limited liability company organized under the laws of Delaware. It was reportedly formed on or about December 28, 2006. Dodona's last-known principal place of business is 1370 Avenue of the Americas, 20th Floor, New York, New York 10019.

226. Goldman Sachs is a limited partnership organized under the laws of New York with its principal executive offices located at 200 West Street, New York, New York 10282.

**JURISDICTION AND VENUE**

227. This court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1367.

228. Venue is proper in this District pursuant to 28 U.S.C. § 1391. Substantial acts in furtherance of Dodona's wrongful conduct, and their effects, occurred in this District, and Dodona has its principal place of business in this District.

**SUBSTANTIVE ALLEGATIONS**

229. Plaintiff-Counterclaim Defendant Dodona is a hedge fund founded by Alan Brody ("Brody") "for the purpose of acquiring mortgage-backed securities known as [CDOs] underwritten by large multinational banks." (Compl. ¶¶ 2, 3, 22, *Epirus Capital Mgmt., LLC v. Citigroup Inc.*, No. 09-CV-2594 (SHS), doc. #1 (S.D.N.Y. Mar. 20, 2009) (the "*Epirus* Complaint"). As described in its offering memorandum, Dodona's strategy was to "invest[] primarily in the equity of [CDOs] . . . while seeking to selectively isolate and hedge undesirable individual risks with credit default swaps."

230. Brody epitomizes the sophisticated investor. He formerly was “employed as the head trader of [Salomon Brothers]’ Asset-Backed Securities Desk,” and was a member of its Mortgage Trading Division until 2000. (*Epirus* Compl. ¶ 24.) At the time of Dodona’s investment in the Hudson CDO Securities, Brody “ha[d] over 17 years of asset-backed securities and fixed income investment and portfolio management experience.” (Dodona Offering Memorandum). At Salomon Brothers Inc., Brody had “overall responsibility for all ABS trading and risk management, managed more than \$1 billion of the firm’s capital,” and “traded over \$40 billion annually in nominal ABS across all asset classes.”

231. In Brody’s own words, his “opportunity to invest . . . in the highly sophisticated, high-finance world of CDOs was unique to those investors who had the background and connection to the managers and salesm[en] on the CDO trading desk” at global financial institutions. (Dodona Offering Memorandum). Not surprisingly, this Court has described Brody as “a sophisticated investor who has substantial expertise in asset-backed securities.” *Epirus*, 2010 WL 1779348, at \*1.

232. Brody’s hedge fund, Dodona, was also the prototypical sophisticated institutional investor. In its marketing materials created for the purpose of attracting investors, Dodona listed the “many attractive features of an investment in mortgage-related CDO Equity and structured credit products,” including that “structural complexity and high barriers to entry results in incremental yield.”

233. Dodona also stated that “[d]ue to [Brody’s] extensive experience with these investment products, the Fund is uniquely qualified to make informed and sound investment and hedging decisions” and that “[Brody’s] qualifications include *the ability to effectively evaluate the underlying collateral in the transaction . . .* and assess whether the forward looking market

cycle will be favorable for this asset class.” (emphasis added). Dodona understood and acknowledged the risks of investing in CDOs such as the Hudson CDO Securities, and characterized the “divergence of opinions in the market regarding home price appreciation and corresponding loan performance” as creating an “unprecedented opportunity on both the long and short side of the market place.”

234. In connection with Goldman Sachs’ sale of the Hudson CDO Securities to Dodona or its affiliated entities, Dodona signed an “Investor Representation Letter” acknowledging that Dodona had “received and reviewed” the Offering Documents, “had the opportunity to ask questions of, and receive answers from the Issuer concerning the [Hudson CDO Securities] and all matters relating thereto,” and “undert[ook] its own independent analysis of the investment in the [Hudson CDO Securities].” The Hudson CDO Securities were sold solely to sophisticated institutional investors in a private placement pursuant to SEC Rule 144A and Regulation S.

235. In connection with Goldman Sachs’ sale of the Hudson CDO Securities to Dodona or its affiliated entities, Dodona also entered into a “New Account Executing Broker Agreement,” acknowledging that Goldman Sachs would act “in the capacity of [Dodona’s] broker in connection with any transaction for or with [Dodona’s] Account and not as a financial adviser or a fiduciary and no advice provided by [Goldman Sachs] has formed or shall form a primary basis for any investment decision by or on behalf of [Dodona].” Dodona further represented that Goldman Sachs would have no liability for any losses, including legal expenses and attorneys’ fees, in connection with, or relating to, the account from any actual or alleged misrepresentation, act or omission of Dodona, and expressly agreed to indemnify and hold Goldman Sachs harmless from any such losses.

236. Dodona purchased the Hudson CDO Securities after having been expressly and specifically advised in the Offering Documents that “an investment in the Notes involves certain risks, including the risk of loss of [the] entire investment in the Notes under certain circumstances.”

237. Through its investments in the Hudson CDO Securities, Dodona was deemed to have acknowledged explicitly that it is a sophisticated investor and had made independent, informed investment decisions, with assistance and advice from whichever of its own advisors it specifically consulted for that purpose and without any reliance on Goldman Sachs. The Offering Documents contained express disclaimers of reliance on statements outside the offering materials, including that Dodona “had access to such financial and other information concerning the Issuers and the Notes as it deemed necessary or appropriate” and that Goldman Sachs was not acting as its fiduciary or investment advisor.

238. The Offering Documents included express acknowledgments and consents that, as a precondition to Dodona’s participation in the sale of the Hudson CDOs, it understood that Goldman Sachs “[would] rely on the accuracy and truth of the foregoing representations.”

239. Dodona’s and Brody’s experience in evaluating investments in CDOs and their underlying collateral rendered them particularly qualified to make each of these representations and provided a reasonable basis for Goldman Sachs to rely on them.

240. Despite its awareness and explicit acknowledgement of the risks inherent in products like the Hudson CDO Securities, Dodona did not take heed of its own observation regarding the “unprecedented opportunity” on “the . . . short side” of the mortgage market. Rather, having suffered losses in the unprecedented market collapse, Dodona has pursued a

cynical “heads, I win, tails, I sue” strategy—whereby it seeks *retroactively* to short its own investment in the Hudson CDOs through meritless litigation.

**FIRST COUNTERCLAIM**

**BREACH OF CONTRACT**

241. Goldman Sachs repeats and realleges the responses and averments in paragraphs 1 through 240.

242. As alleged above, in order to purchase the Hudson CDO Securities, Dodona entered into a New Account Executing Broker Agreement with Goldman Sachs, in which Dodona disclaimed any reliance on Goldman Sachs and expressly acknowledged that Goldman Sachs was not acting as a financial advisor or fiduciary to Dodona. Dodona further represented that Goldman Sachs would have no liability for any losses, including legal expenses and attorneys’ fees, that resulted in connection with, or relating to, the account from any actual or alleged misrepresentation, act or omission of Dodona, and expressly agreed to indemnify and hold Goldman Sachs harmless from any such losses.

243. Contrary to these express representations and in blatant disregard of its contractual commitments in the relevant account documentation and its express acknowledgments in connection with its purchases of the Hudson CDO Securities, Dodona commenced this action seeking to recover its alleged investment losses on the basis of its asserted reliance on Defendants in deciding to purchase those securities. Dodona’s claims are premised on the very theories and assertions that it specifically disclaimed when it purchased the Hudson CDO Securities and, thus, constitute an unabashed, unjustified breach of contract. (*See, e.g.,* Am. Compl. ¶ 193) (alleging that “Plaintiff . . . reasonably relied on defendants’ course of conduct . . . when deciding to purchase the Hudson CDOs.”)

244. By bringing this meritless action, premised on theories of liability, reliance and damages that it contractually disclaimed, Dodona has improperly and unjustifiably caused Goldman Sachs to incur legal fees and other costs—including, but not limited to, external legal costs, the costs of complying with discovery obligations, and reputational damage to Goldman Sachs resulting in potential competitive disadvantages in the marketplace.

245. Goldman Sachs hereby counterclaims against Dodona to enforce Dodona's contractual obligation to indemnify and compensate Goldman Sachs for its legal expenses and reasonable attorneys' fees expended in connection with this matter.

**SECOND COUNTERCLAIM**  
**FRAUDULENT INDUCEMENT**

246. Goldman Sachs repeats and realleges the responses and averments in paragraphs 1 through 245.

247. The Hudson CDO Offering Documents contained the express representations described above, including disclaimers of reliance on statements outside the offering materials and assurances that Dodona "had access to such financial and other information concerning the Issuers and the Notes as it deemed necessary or appropriate" and that Goldman Sachs was not acting as its fiduciary or investment advisor.

248. These disclaimers were materially false when made because, contrary to Dodona's statements that it was not relying on Goldman Sachs and had conducted its own independent analysis of the risks of its investment in the Hudson CDO Securities, Dodona's Amended Complaint alleges that Dodona was unaware of the risks inherent in the Hudson CDO Securities (*See, e.g.*, Am. Compl. ¶ 155), and that Dodona relied on Goldman Sachs in deciding to invest in the Hudson CDO Securities (*See, e.g.*, Am. Compl. ¶ 193.)

249. By falsely acknowledging that it had conducted an independent investment analysis with complete access to all information and advice from sources other than Goldman Sachs that Dodona deemed necessary and appropriate for that purpose, Dodona fraudulently induced Goldman Sachs to sell the Hudson CDO Securities, with full knowledge and with the intent that Goldman Sachs would rely on Dodona's misrepresentation of material facts.

250. Dodona's allegations in this action that it relied on Defendants in deciding to purchase the Hudson CDO Securities directly contravene its express acknowledgements and contractual representations, and manifest that Dodona knew those representations were materially false and/or misleading at the time they were made. Dodona made the misleading statements as part of a fraudulent scheme to create a risk-free option pursuant to which it sought to benefit from any gain in the value of its investment, but to sue Defendants in the event of any decline and to fraudulently induce Goldman Sachs to sell the Hudson CDO Securities.

251. At the time Dodona purchased the Hudson CDO Securities, Goldman Sachs did not know the truth concerning Dodona's misrepresentations.

252. Goldman Sachs did not learn of the existence of Dodona's misrepresentations—or of its calculated strategy of seeking to avoid responsibility for its own investment decisions—until Dodona filed suit in this action.

253. By filing suit in this action, Dodona has asked the Court to condone and reward “[its] own fraud” in misrepresenting its true investment intention—exactly what the Appellate Division of the New York Supreme Court, First Department, cautioned against in *HSH Nordbank AG v. UBS AG et al.*, No. 600562/08, 2012 WL 997166 at \*8 (1st Dep't Mar. 27, 2012).

254. Goldman Sachs reasonably and expressly relied on Dodona's representations in selling the Hudson CDO Securities and thereby was induced to its detriment to enter transactions in furtherance of Dodona's fraudulent option scheme. Indeed, Dodona is deemed to have acknowledged specifically that Goldman Sachs would rely on Dodona's representations. Goldman Sachs further reasonably relied on Dodona's representation in its account agreement that it would "indemnify and hold [Goldman Sachs] harmless from all Losses that result in connection with or related to the Account . . . from (a) [Dodona's] misrepresentation, act or omission or alleged misrepresentation, act or omission . . . ."

255. Had Goldman Sachs known that Dodona intended to disregard these express representations and to claim reliance on Goldman Sachs in deciding to purchase the Hudson CDO Securities and nullify its express obligations to indemnify and hold Goldman Sachs harmless for Dodona's losses, Goldman Sachs would not have sold the Hudson CDO Securities to Dodona.

256. As a direct and proximate result of Dodona's fraudulent inducement, and its self-serving "heads, I win, tails, I sue" investment strategy, Goldman Sachs has suffered and continues to suffer damages in connection with Dodona's purchases of the Hudson CDO Securities and this meritless action.

257. Given Dodona's egregious misstatements and fraudulent conduct, Goldman Sachs also is entitled to recover punitive damages in an amount to be proved at trial in connection with this Count to the full extent permitted by the laws of New York.

#### **PRAYER FOR RELIEF**

Based upon the foregoing, Defendants pray that this Court deny any relief or request for judgment on behalf of Plaintiff or the putative class members (if any), and dismiss

this Action against Defendants in its entirety, with prejudice and without further leave to amend.

Defendants also pray for such other and further relief as may be appropriate or that the Court deems just and proper.

Dated: New York, New York  
May 21, 2012

Respectfully submitted,

SULLIVAN & CROMWELL LLP

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