**Affidavit**

I, the undersigned, Shmuel Wise, US Passport No. 211540853, having been warned that I must state the truth and that I could be subject to the penalties prescribed at law should I fail to do so, de hereby declare in writing as follows:

1. I make this Affidavit of mine in support of the Reply to Mr. Reuven Malek’s (hereinafter: “**Applicant 1**”) and Ms. Sarit Malek’s (hereinafter: “**Applicant 2**”) motion to strike out *in limine* the Counterclaim I filed against them and other defendants in *Civil Action* 34552-07-15.
2. The current legal proceedings between the parties were instigated following an Action filed against me for profits out of the monies of the “Joint Venture” (or in its more accurate name the “**Con Project**”) which I handed over to the Applicant. This Action was filed as a Counterclaim in the setting of the main Action, and concerns monies stolen from the Project.
3. As set forth in detail in the setting of the pleadings I filed against the Applicant, Applicant 1 succeeded, with the aid of a large network of conmen, to deceive me and convince me to deposit in his hands the fantastic sum of 30 million USD, Respondent 1 [*sic*] presenting the misrepresentation that he is a “world expert” in investments, who could generate considerable profits for me. I deposited that sum at the instruction of Applicant 1 in three different bank accounts in Europe, all of which were under the control of Applicant 1 and his associates.
4. At that time, I was not aware that this was nothing more than a sophisticated act of deception perpetrated by an organized network of professional conmen, which sought to rob me of my money.
5. At the abovementioned time, I did not know that Applicant 1 is no “investment expert” as he presented himself, but a fraud, with a rich history of convictions for fraud, who was not in possession of an investment advisor’s licence, as required by law, and whose “professional history” in the field of investments amounts to nothing more than his managing a “failed business for garage equipment” (as Applicant 2 testified in the course of her cross-examination in court on 5th April 2017 – page 28, line 14 of the minutes, and as confirmed by Applicant 1 himself in the course of his cross-examination on 20th June 2017 – page 48, lines 7 – 12 of the minutes). These matters were conveyed to me by my Counsel only recently, after Applicant 1 was cross-examined in the course of several legal proceedings.
6. I have recently discovered that that very “investment guru” who presents himself as a businessman who successfully manages a formidable portfolio of large scale investments, manages his “world beating” business affairs from an account at the Postal Bank, his reports to the Israeli tax authorities are very low, and he is dragging behind a long list of debts and open files at the Bureau of Effectuation of Judgements.

**The Applicant’s income reports from the National Insurance Institute and the list of files at the Bureau of Effectuation of Judgements are enclosed as Appendix A to my Reply**.

1. I was surprised to discover that in Applicant 1’s testimony at the Bureau of Effectuation of Judgements, Applicant 1 confirmed under oath and admitted that: “Sadly, I don’t earn and she [Applicant 2] supports me. She pays all the bills, electricity, *Arnona* [Hebrew – municipal tax], car, petrol, medical care, and everything else. Also food.”

**The relevant page from Applicant 1’s testimony at the Bureau of Effectuation of Judgements is enclosed as Appendix C to my Reply**.

1. Over the years, my Counsel have provided me with information about members of the network, stating that they are well known to the law enforcement authorities in various countries, for other fraud offences they have committed. Thus, for instance, Mr. Erwin Goldstein was convicted in the past in the US for deception, and spent a lengthy time behind bars; Mr. Lotsher was wanted by Interpol for stealing funds from investors by agency of fictitious investments; and Mr. Rabin was incarcerated in the US for Ponzi schemes. This is what I have recently discovered from documents unearthed by my Counsel.

**Evidence of some of Applicant 1’s associates’ interactions with law enforcement authorities are enclosed as Appendix D to my Reply.**

1. For a long time, Applicant 1 and his associates succeeded in deceiving me, and they caused me to believe that my funds were generating high profits. As part of the “stage dress” of the deception, members of the network, including Applicant 1, used to send me fictitious updates regarding the profits in his accounts, which simply never existed.

**A letter in which Applicant 1 informs the Respondent about the alleged profits which supposedly his funds were generating, is enclosed as Appendix E to my Reply.**

1. Following Applicant 1’s success in deceitfully laying his hands on my money, I discovered that Applicant 1 stole my money, and stole millions of dollars from me, by making wire transfers from the accounts into which the funds were deposited, to hidden bank accounts all over the world, without my permission of course.
2. Thus, for instance, Applicant 1 transferred, on 13th March 2008, a sum of 970,950 USD of my money to an account in Taiwan under the name of Stellite Vetures [*sic*] Co.; on 20th March 2008, he transferred a sum of 768,000 USD to an account in China under the name of Zhejiang Yueweida Textile Co; on 1st April 2008, he transferred a sum of 1,130,000 USD to an account in China under the name of Zhuji Yuemei Fabric Co. All the transfers were made by Applicant 1 out of my funds, without my consent, by agency of wire transfer requests sent directly to the banks that held the funds.

**Copies of the transfer requests signed by Applicant 1 are enclosed as Appendix F to my Reply**.

1. As my Counsel have informed me, the “Exotic” destinations of all those transfers were carefully chosen by Applicant 1 and his associates, so that after the fact tracing those funds would be difficult, as indeed was the case at the end of the day.
2. When I demanded that Applicant 1 inform me after the fact were the funds were transferred to, Applicant 1 told me that they were various investments that would generate large profits. He repeated that statement several times in our conversations.
3. In addition, Applicant 1 waxed lyrical about a “mysterious” fund, worth 68.7 million USD, to which he is entitled, and succeeded in convincing me to transfer millions of dollars of my money to accounts in various and strange places all over the world, so that he can “release” the monies from the Fund, presenting with me fabricated documents regarding his entitlement to the monies in the Fund, as well as a letter sent by the Postal Bank in which the bank undertakes to transfer some of the monies from the Fund to the Respondent, once they safely arrive at their designation in Applicant 1’s bank account in Israel. I only learnt about the forged documents and the shaky credibility of the information provided to me by Applicant 1, after the fact, and from my Counsel.

**Some of the documents presented to the Respondent concerning Applicant 1’s entitlement to the monies in the “Fund” are enclosed as Appendix G to my Reply**.

1. All in all, I transferred no less than 2.5 million USD of my money for the purpose of “releasing” the monies in the “Fund”, and all pursuant to accurate instructions I received from Applicant 1.

**Copies of the transfer orders Applicant 1 sent the Respondent for release of monies from the “Fund” are enclosed as Appendix H to my Reply**.

1. I waited patiently for the release of the monies from the Fund, however, Applicant 1 informed me that additional sums of money were required to release the monies. At this stage, I began suspecting that I had fallen victim to a con, and asked to meet representatives of the “Fund’s” managing body. However, Applicant 1 informed me that owing to the “Fund’s” discretion, agents acting for the Fund would not meet him, and even conveyed a letter from the Fund to me, in which those things were stated. In the same letter, it said that an additional appeal to the Fund on that matter would result in a loss of the profits. Since, by that stage, I had already transferred millions of dollars of my money to release the funds, I feared losing the monies from the “Fund” and backtracked on my request to meet representatives of the “Managing Body”.

**The letter Applicant 1 gave with concerning the refusal of the Fund’s agents to meet with him is enclosed as Appendix I to my Reply**.

1. Needless to mention, that that Fund has not been released to date, and that millions of dollars of my money have disappeared.
2. I know from previous proceedings I conducted against Applicant 1, that he claimed in the setting of an application for a payment order he filed with the Bureau of Effectuation of Judgements, to counter efforts to collect monies instigated against him, that he has no assets, and lives humbly off a measly invalidity stipend, and therefore was forced to ask to pay off a debt of about 2.7 million NIS with monthly payments of 150 NIS.

**A copy of the application for the payment order Applicant 1 filed is enclosed as Appendix K to my Reply**.

1. By agency of all those transfers described above, Applicant 1 succeeded in deceitfully stealing millions of dollars from me.
2. At one stage, I started to worry about my money, and became suspicious of Applicant 1 and his associates, and asked to withdraw the monies from the account in which they were deposited. But then, members of the network started to threaten me, claiming that withdrawing the monies would result in loss of the investment funds. Thus, for instance, Applicant 1 sent me a letter after I asked to withdraw all the funds deposited in one of the accounts, in which he warned me that withdrawing the funds would generate a loss of about 13.7 million dollars (more than the sum of money initially deposited in the account).
3. In another instance, I tried calling one of the banks in an attempt to find out what happened to my money. Immediately after that, Applicant 1 sent me a threatening letter, in which he warned me that contacting the bank again would lead to the account and the various investments being frozen, and to a loss of his money.

**Copies of the threatening letters Applicant 1 sent to the Respondent are enclosed as Appendices E & L to my Reply**.

1. Applicant 1’s threats, and the fear of losing the money, paralyzed me, and caused a spiritual decline in me. Only a while later, when the funds were not refunded, did I begin to suspect that I had fallen victim to a fraud. It was then that I set in motion considerable efforts to locate the missing funds, and, *inter alia*, retained Counsel and investigators in various countries, who tried to locate the missing funds.
2. *Inter alia*, my representatives tried contacting the various banks to which some of the funds had been transferred, demanding their return; however, they were told that the accounts were cleared by unknown persons a short while after the monies arrived at their destination.
3. After that, Applicant 1 and his associates informed me that my efforts to retrieve the funds I invested in his account, and contacting the banks, “harmed” the various investments, and caused the monies I deposited, and which were transferred by them to the various investments, to go down the drain. I felt that my world had collapsed around me, and I lost all faith in people. The strong sense of betrayal I experienced lead to my barely leaving my home for several months.
4. Owing to the considerable sophistication of the con, despite the efforts of the various experts I retained, I failed to uncover the location of the stolen funds and/or gather strong evidence to prove that this was indeed a fraud, and not a legitimate investment that failed. For that reason, and for lack of other options, I refrained from instigating legal action against Applicant 1 for the longest time.
5. Close in time to the time I filed my Counterclaim, my Counsel obtained new evidence that unequivocally proved the theft in relation to some of the funds unlawfully taken from my account. Following the discovery of that evidence, I filed this Action.
6. The following is my recount of the dates on which I clearly and really knew, supported by evidence, of the acts of theft committed against my monies.
7. At the Applicant’s instruction, I transferred a sum of 30 million USD into various accounts in Europe, to serve as investments. Of that sum, 10 million was deposited in an account with P&P Bank in Switzerland (hereinafter: “**P&P**”) opened in the name of a member of the network of conmen named Peter Lotsher, and which was also managed by him. I note that Mr. Lotsher presented himself to me as an investment manager working for the bank, which presentation transpired after the fact to be a complete lie. I only discovered that at a later stage.

**Proof of the transfer to the account is enclosed as Appendix M to my Reply.**

1. From the transfer request one can see that, contrary to the Applicants’ claim, the account with P&P was in Mr. Lotsher’s name, and not in my name; I had no knowledge of what was going on in the account.
2. Several months later, Mr. Lotsher claimed to me that in the course of the “investment” actions undertaken, a sum of 1.2 million dollars was withdrawn from the account, without that action having been approved by me.
3. I was very angry about that transfer, which lacked my approval, and felt a grave betrayal of trust. However, at that time, I still believed that Mr. Lotsher and Applicant 1 were managing legitimate investments on my behalf, and I didn’t think for a moment that the couple were embezzling my funds. However, owing to the betrayal of trust, I asked that Mr. Lotsher refund the monies into the account.
4. After the funds were not returned, I retained Counsel in the US, who contacted Mr. Lotsher and the bank, demanding that the funds be returned. Following which, Mr. Lotsher informed me that my actions led to the investment monies’ loss.
5. Mr. Lotsher added that the sum of 1.2 million dollars withdrawn from my account, was sent to Applicant 1’s account, at the latter’s request. I confronted Applicant 1 with that claim at the time; however, Applicant 1 vehemently denied receiving the funds. He reiterated that I am like a brother to him, and that he would never do something like to me.
6. Needless to say, by that stage, I lacked any faith in Mr. Lotsher, and for that reason had no cause to believe what he said, which, at the time, seemed to me to be an attempt to put the blame for the loss of the money on Applicant 1’s shoulders. In this regard, I wish to note again that I had no access to the account which was opened in Mr. Lotsher’s name, and therefore had no knowledge of what happened to the funds.
7. At this stage, I retained the services of a Swiss firm of lawyers, to try to find the monies from the P&P Account; however, despite considerable efforts, which included an investigation and the arrest of Mr. Lotsher with the aid of Interpol, after he fled to Monte Carlo, only a small portion of the original sum I transferred to the bank was returned to me.
8. At that stage, I didn’t know what happened to the balance of the funds taken out of the account, and certainly had no evidence that some of the funds deposited in the P&P account were stolen by Applicant 1 and transferred to his account, despite the considerable efforts I invested and the large sums of money I spent out of pocket for that purpose. In the absence of real knowledge and/or evidence to prove the theft, I was prevented from having an opportunity of instigating legal proceedings against Applicant 1.
9. As was set forth in detail in the Counterclaim pleadings, in the course of 2016, my Counsel contacted the Central District State Attorney’s Office, requesting to peruse the file of the criminal investigation opened against Applicant 1 in 2009. The reason for that appeal, was to try to find information about Applicant 1’s assets, after he evaded, for a long time, settling a debt he owed me. I note that perusal of the file was only possible at that stage, because the investigation had concluded a short while beforehand.

**A copy of the State Attorney’s Office’s letter, dated 22nd May 2016, granting permission to peruse the investigation file, is enclosed as Appendix N to my Reply**.

1. The investigation file contained hundreds of documents evidencing Applicant 1’s investigations by the Israel Police Force’s fraud division, account printouts, and other exhibits. I know that my Counsel spent many hours analyzing the documents.

**Minutes of Applicant 1’s investigation by the Israel Police Force, are enclosed as Appendix O to my Reply**.

1. As part of the perusal of the file, my Counsel noticed statements from Applicant 1’s bank account with the Israel Postal Bank, which were subpoenaed by court order at the request of the police investigator in the course of 2011. My Counsel were astonished to find out that indeed a sum of 1.2 million dollars was transferred to Applicant 1’s account in that period. My Counsel then informed me of the earth shattering discovery.

**A copy of the bank statement is enclosed as Appendix P to my Reply.**

1. According to the bank statement, the aforementioned sum was not received from Mr. Lotsher’s account with P&P Bank, but from an account in UBS in the name of Alderman Finance.

**Proof of the source of the funds received in Applicant 1’s account, from the Postal Bank, is enclosed as Appendix Q to my Reply**.

1. Moreover, my Counsel noticed that in the minutes of the suspect’s investigation by the Israel Police Force, Applicant 1 confessed that the money belonged to me, and was transferred to him from funds I deposited in the P&P Bank account.

**The relevant page of the police investigation is enclosed as Appendix R to my Reply.**

1. In reliance on the foregoing, I instigated this Action. I found out from my Counsel, that in the course of Applicant 1’s cross-examination in court, the latter denied that he took monies from the bank account at P&P, and that he is somewhat familiar with the Alderman Company.
2. Several weeks ago, my Counsel succeeded, with the help of a Swiss firm, to lay their hands on bank statements from P&P and Alderman, from the relevant dates, and those were conveyed to my Counsel in Israel.
3. Perusing the bank statements solved the mystery, and proved, that contrary to Applicant 1’s statements, a sum of 1.2 million dollars from the complainant’s investment monies, which was deposited in the bank account at P&P, were indeed stolen, and transferred to his bank account with the Israel Postal Bank. The theft was perpetrated in a sophisticated manner, so that traces of the theft would not be discovered.
4. As a first step, a sum of 8.5 million dollars of the investment monies at P&P Bank were transferred to a bank account in the name of Alderman Finance, managed at UBS. About a month later, Applicant 1 ensured that the monies were transferred from that account belonging to the company, to his private bank account in Israel, and within several days he withdrew the money in cash, and handed it over to Applicant 2 to purchase two luxury apartments.

**Copies of the P&P and UBS bank statements proving the theft, are enclosed as Appendix T to my Reply**.

1. The abovementioned bank statements “hermetically” seal the circle of theft, and prove in the clearest possible terms, that a sum of 1.2 million dollars of my money was sophisticatedly stolen by the Applicant, transferred to Applicant 1’s bank account at the Israel Postal Bank, and immediately thereafter used to purchase apartments belonging to Applicant 2.
2. The date on which I had real and absolute knowledge of the theft of the sum of 1.2 million dollars, as well as evidence to prove that theft, is the date on which my Counsel received the police investigation file, in which the incriminating bank statements from the Israel Postal Bank were found, as well as the minutes of the investigation in which Applicant 1 admitted to taking the money.
3. I note that in this regard, the document attached by the Applicants as Appendix 3 to their Defense, prove more than anything that until recently I had no real and subjective knowledge of the theft of that sum. It is a document drafted at my office at the time, which attempted to quantify the extent of the financial losses in the setting of the con perpetrated by Applicant 1 and his associates.
4. In that table, a transfer of the sum of 1.2 million dollars from the bank account at P&P appears, and next to the transfer the following comment is written: According to Peter, R. Malek withdrawed [*sic*] But we are not sure”. It seems that that comment, which was written as an unintended disclosure, leaves no doubt as to the clear lack of knowledge regarding the theft.

**The table attached as Appendix 3 to the Defense, is enclosed as Appendix U to my Reply.**

1. In addition to the sum of 1.2 million dollars stolen from the P&P account, an additional sum of 350,000 dollars was stolen from my account, opened with LLB Bank, in which I also deposited 10 million dollars. This was an account opened in the name of a company I was holding, and which was exclusively managed by Applicant 1 under a power-of-attorney I provided him with.
2. Also in that account, the Applicant was supposed to perform investments with my approval. But, sometime after the funds were transferred to the account, I understood that the Applicant was also using that account as his own, withdrawing millions of dollars, by way of transfers to hidden bank account all over the world, without my knowledge and/or consent (copies of the transfer requests were attached as Appendix F). Amongst those transfers, was a transfer to Applicant 1’s bank account in Israel.

**Proof of the transfer request Applicant 1 sent the bank, is enclosed as Appendix V to my Reply**.

1. When I discovered about the transfers executed from my account, without approval, I contacted Applicant 1, demanding to understand what was going on. Applicant 1 claimed that they were transfers executed to release monies from the 68.7-million-dollar Fund, and for other investments in solar energy, and reiterated that he never took a single penny of my money for himself. Applicant 1 would always say that I was like a brother to him, and that he would never harm me or my money. With regard to the transfer to his account in Israel, Applicant 1 claimed that that also served for those same investments, by way of payments that had to pass through Israel.
2. Sadly, owing to the sophisticated nature of the con, I didn’t have sufficient evidence to prove that the monies withdrawn from the bank account with LLB (in spite of the transfer to the Applicant’s account in Israel) were indeed stolen, and not invested in legitimate investments, as Applicant 1 used to tell me all the time. I note, that also the transfer request Applicant 1 sent the bank, stated that the funds were designated for investment in a project called the “Millennium Project”. For that reason, I remained in doubt, as to the theft, for very long, as was my ability to prove it, and for that reason I could not file a Counterclaim against Applicant 1 for refund of those monies.
3. After receiving the investigation file and the bank statements relating to Applicant 1’s account with the Postal Bank, in 2016, I learnt, with the aid of my Counsel, that the funds transferred to the bank account in Israel were not use for legitimate investments, and were not transferred to banking institutions for the purposes of releasing the Fund, but were rather withdrawn as cash and laundered by way of purchasing apartments in Applicant 2’s name (as will be set forth hereinafter). Only at that time, did I know for certain and in clear terms, supported by evidence, that the monies were stolen, and not used for investment, and for that reason, I only filed the Counterclaim at that point.
4. The best proof of the date of real knowledge, is the fact that even currently, I only petition for the refund of the sum of $350,000, despite the fact that millions of dollars which I deposited in the bank account at LLB were also transferred to various accounts all over the world, and that additional millions were stolen from me in the setting of the Nigerian Con scheme. Sadly, owing to the sophisticated nature of Applicant 1’s actions, I do not have evidence that those funds were stolen, rather than invested in various enterprises, and for that reason I could [*sic*] file a legal action in relation to them.
5. So, there we have it, here too, the date for count of the time limitation barring legal action began in 2016, when I received evidence proving the theft and laundering acts, and knew with certainty about the fraud.
6. Similarly, the components of the Action which support a cause of action to file a suit against Applicant 2, were only discovered by me in the course of 2016. As abovementioned, in Applicant 1’s bank statements, which reached the possession of my Counsel as part of the police investigation file, we learnt that the Applicant withdrew the millions of dollars he stole from the Respondent immediately, and in cash, by way of executing withdraws worth hundreds of thousands of Shekels each time. This was relayed to me only recently by my client [*sic*].

**Copies of the cashier’s certificates executed in the bank account, are enclosed as Appendix W to my Reply**.

1. Amongst those documents, payments to a person named Mr. Joseph Zerger were discovered. From investigations conducted by my Counsel, it transpires that that Mr. Zerger is the entrepreneur from whom Applicant 2 purchased 2 luxury apartments, for the purposes of laundering my stolen money. My Counsel have informed me that Applicant 2 even admitted as much in the setting of an affidavit she submitted to court.

**Copies of the apartments’ purchase agreements as well as Applicant 2’s affidavit, are enclosed as Appendices X and DD to my Reply**.

1. So, there we have it, the date on which I knew with certainty, supported by evidence, about the actions by Applicant 2 to launder the monies stolen from me, was also the date on which the police investigation file arrived in his [*sic*] possession in 2016.
2. In addition, I have been informed by my Counsel, that IBC is a fictitious entity lacking any activities and/or assets whatsoever, and its entire purpose is to assist in the execution of the Applicants’ cons and frauds.
3. As set forth in detail in the setting of the petition for the deposit of a surety which my Counsel filed against IBC, the latter is a law-breaking company, that does not file financial statements, does not pay its fees to the Corporation Authority, does not carry out any activity, and is entirely devoid of assets. Moreover, the company’s bank account has been frozen for a long time, and it is defined as a law-breaking company, having failed to pay the annual registration fee for more than eight years.

**Proof that the company’s bank account is frozen, and that it is defined as a “law-breaking” company, is enclosed as Appendix Z to my Reply**.

1. From all of the foregoing, it transpires in the clearest possible terms, that we are dealing here with an Action concerning criminal fraud, theft, and money laundering, perpetrated by the Applicants.

\_\_\_\_\_[*Signed*]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Shmuel Wise

**Confirmation**

I hereby confirm, that on 2nd October 2017, Mr. Shmuel Wise, whom I am personally familiar with, appeared before me, Adv. Zvi Fine, and after I warned him that he must state the truth and could be subject to the penalties prescribed at law should he fail to do so, he confirmed the veracity of his Affidavit above, and signed it in my presence.

\_\_\_\_\_[*Signed*]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Adv. Zvi Fine, Licence No. 58211