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15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17 WESTERN DIVISION

18 BARRY R. LLOYD, Individually and
19 on Behalf of All Others Similarly
Situated,

20 Plaintiff,

21 v.

22 CVB FINANCIAL CORP., et al.,

23 Defendants.

CASE NO. CV 10-06256 MMM (PJWx)

CLASS ACTION

**CONSOLIDATED CLASS
ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

DEMAND FOR JURY TRIAL

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1 The allegations contained herein are based upon information and belief with
2 information obtained through the investigation made by and through Lead Counsel.
3 Lead Counsel's investigation has included, among other things: (i) interviews of
4 former employees of CVB Financial Corp. ("CVB," the "Company," or the
5 "Bank") and certain third-parties with first-hand knowledge of the events alleged
6 herein; (ii) reviews and analyses of CVB's filings with the Securities and
7 Exchange Commission ("SEC"), Company press releases, slide presentations, and
8 other public statements; and (iii) reviews of news, media, web resources, property
9 title searches, tax lien documents, foreclosure records, and analyst research reports.

10 **I. NATURE AND SUMMARY OF THE ACTION**

11 1. This is a securities class action on behalf of common stock purchasers
12 of CVB between October 21, 2009, and August 9, 2010, inclusive (the "Class
13 Period"). Lead Plaintiff asserts claims pursuant to Sections 10(b) and 20(a) of the
14 Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5
15 promulgated thereunder (17 C.F.R. § 240.10b-5), against CVB and its top
16 executive officers, the Bank's President and Chief Executive Officer ("CEO"),
17 Christopher D. Myers ("Myers"), and its former Chief Financial Officer ("CFO")
18 and Executive Vice President, Edward J. Biebrich, Jr. ("Biebrich").¹

19 2. CVB reports to be the largest financial institution headquartered in the
20 Inland Empire region of Southern California. CVB's principal asset is its bank,
21 Citizens Business Bank, a mid-sized lender reporting nearly \$7 billion in assets,
22 which primarily services small and medium-sized California-based businesses.
23 CVB's income is derived primarily from interest earned on the Bank's loans and
24 deposits and is highly dependent upon the underlying credit quality of its loan
25 portfolio. In 2001, when CVB first listed its stock on the NASDAQ National
26

27 ¹ Defendants Myers and Biebrich are referred to herein as the "Individual
28 Defendants."

1 Market Exchange (“NASDAQ”), it had more than \$1 billion in loans; by the end of
2 the third quarter of 2009, loans had grown to more than \$3.5 billion, with more
3 than half of them in commercial real estate.

4 3. The Bank offers commercial real estate, construction, commercial and
5 industrial, agribusiness, mortgage, consumer, lease and other real estate loans in
6 the Inland Empire and Central Valley regions, and Los Angeles and Orange
7 Counties – areas in which plunging real estate prices and a spike in foreclosures
8 have taken a tremendous toll.

9 4. The Bank assured investors throughout the Class Period that its strict
10 underwriting standards had helped it to avoid the fate of many of its peer lenders in
11 California that had been decimated by skyrocketing defaults. Defendants publicly
12 touted that, unlike its peers, CVB had a “*strong credit culture*,” its “*underwriting*
13 *integrity remain[ed] paramount*” and “[t]he overall credit quality of [CVB’s] loan
14 *portfolio is sound*.” This allowed Defendants to maintain CVB’s reported profits
15 during the economic downturn and throughout the Class Period. In addition, the
16 purported strong capital, conservative lending practices, and low loan losses
17 allowed CVB to continue its stated “growth strategy” of transitioning from a
18 community bank to a regional bank through acquisitions of failing banks with
19 favorable loss-sharing agreements with the Federal Deposit Insurance Corporation
20 (“FDIC”).

21 5. Throughout the Class Period, Defendants misrepresented the true state
22 of its loan portfolio and, in particular, millions of dollars of loans to its largest
23 borrower, Paul Garrett and his real estate development firm, The Garrett Group
24 LLC (“Garrett”²). The Garrett loans represented approximately 14% of the Bank’s
25 tangible common equity, a closely watched measure of an institution’s net worth.
26

27
28 ² Herein, unless otherwise indicated, “Garrett” refers to Paul Garrett, The Garrett
Group LLC, and/or all of its related or owned entities.

1 When questioned in December 2009 regarding CVB's loans to Garrett, Defendant
2 Myers assured the market that the Bank's eight loans to Garrett totaling over \$80
3 million were "*fully performing in all respects*" and "*performing as agreed.*"
4 Moreover, Defendant Myers said, the Bank avoided many of the problem loans
5 that had led to large losses and the failures of two other regional lenders,
6 explaining that of the five largest banks headquartered in the region, four have
7 disappeared, "*we are the last man standing.*"

8 6. The Bank's record results and assurances that it was not suffering
9 from the same loan-loss problems plaguing its peers earned CVB accolades from
10 analysts and numerous journals, including Forbes magazine (which named CVB
11 the Nation's sixth-best bank, on the heels of the Bank's reportedly strong 2009
12 financial results), the Bank Director Magazine (which ranked CVB ninth in 2010
13 due to purported "profitability, capital adequacy and asset quality"), and the ABA
14 Banking Journal, which ranked CVB twentieth in the Nation in 2010.

15 7. While publicly claiming that its largest borrower was "fully
16 performing as agreed" and that CVB had managed its purported risks, Defendants
17 Myers and Biebrich sold nearly 100,000 of their own shares at artificially inflated
18 prices, cashing in over \$700,000 during the less than ten-month Class Period. This
19 trading was highly unusual and suspicious. In the full year prior to the beginning
20 of the Class Period, Defendant Myers sold no shares and bought 258,000 shares,
21 and Defendant Biebrich sold only 1,608 shares.

22 8. By August 2010, Defendants could no longer hide the true state of its
23 loan portfolio and the Garrett loans in particular. On August 9, 2010, CVB
24 announced that *two weeks earlier*, on July 26, 2010, the SEC issued a subpoena to
25 the Bank demanding information about how the Bank handles and discloses
26 troubled loans. Specifically, the subpoena questioned the Bank's loan underwriting
27 guidelines, its allowance for credit losses and how CVB calculates its allowance
28 for loan losses. Analysts immediately reacted to the announcement, stating that the

1 SEC probe was notable because it revealed that CVB was not fully disclosing
2 potentially problematic loans and that CVB's largest exposure – Garrett – is backed
3 by collateral whose market value is well below that of the loan amount.

4 9. The market also reacted swiftly to this previously undisclosed truth
5 about the quality of CVB's loan portfolio and financial reporting. Following this
6 disclosure, CVB's stock price plunged 22% in a single day, from \$10.30 to \$8.00,
7 representing a market capitalization loss of approximately \$245 million on
8 extremely high trading volume.

9 10. One month later, on September 9, 2010, CVB finally admitted
10 analysts' and the market's interpretations of the SEC subpoena, namely that CVB's
11 loans to its largest borrower, Garrett, were in trouble. Specifically, on
12 September 9, 2010, CVB disclosed that Garrett defaulted on \$82 million worth of
13 loans, that CVB had negotiated a Forbearance Agreement with Garrett, and that
14 CVB was forced to remove all \$82 million in Garrett loans from its purported
15 "performing" loans, where it had been improperly accruing interest income
16 throughout the Class Period. Forty-eight million dollars of these Garrett loans
17 were deemed "impaired," which required CVB to immediately stop accruing
18 interest income, and to reverse previously reported interest. The remaining \$34
19 million was a total loss and had to be written off completely. In its press release,
20 CVB admitted that its loan loss allowance was inadequate to cover the \$34 million
21 in credit losses on the Garrett loans, forcing CVB to immediately record an
22 additional loss provision of \$9.3 million in third quarter 2010.

23 11. Finally, on January 20, 2011, CVB admitted that Garrett had violated
24 forbearance agreements, and that CVB was considering the sale of certain notes,
25 initiation of foreclosure proceedings and alternative repayment plans.

26 12. Real estate loans do not go bad overnight. Nor does a borrower with
27 \$82 million in outstanding loans – 14% of the Company's portfolio – default
28 overnight. Rather, as numerous confidential witnesses and public documents

1 corroborate, Defendants knew or recklessly disregarded throughout the Class
2 Period that CVB's loan portfolio was not sound and that the Garrett loans were in
3 serious trouble. Indeed, directly contrary to CVB's – and in particular Defendant
4 Myers' – reassurances, Defendants knew at least as early as the beginning of 2009
5 that CVB's loans to its largest borrower, Garrett, were troubled and that CVB kept
6 these loans "current" through its improper "extend and pretend" practices, wherein
7 the Bank extended additional lines of credit or new loans to provide additional
8 capital to keep the borrower current on existing loans.

9 13. CVB's fraudulent accounting practices misrepresented the Bank's
10 financial health, concealed impaired loans secured by souring commercial real
11 estate assets, and failed to adequately reserve for loan losses. As explained herein,
12 CVB failed to record adequate loan loss provisions (expenses), failed to properly
13 account for restructured loans, and failed to properly account for losses in the
14 market value of collateral, all of which overstated income. CVB's allowance for
15 credit losses was much too small to absorb known losses, which materially
16 overstated stockholders' equity and CVB's true loan portfolio value. The
17 allowance was inadequate despite CVB having padded it with fictitious amounts
18 by failing to write off loans that had gone bad. CVB failed to make numerous
19 required disclosures, including disclosures that would have revealed problems with
20 specific loans and specific loan portfolios by early 2009.

21 **II. JURISDICTION AND VENUE**

22 14. This action arises under Sections 10(b) and 20(a) of the Exchange Act,
23 15 U.S.C. §§ 78j(b) and 78t(a), and Rule 10b-5 promulgated thereunder by the
24 SEC, 17 C.F.R. § 240.10b-5.

25 15. This Court has jurisdiction over the subject matter of this action
26 pursuant to 28 U.S.C. § 1331, and § 27 of the Exchange Act, 15 U.S.C. § 78aa.
27 Venue is proper in this District pursuant to Section 27 of the Exchange Act,
28 15 U.S.C. § 78aa, and 28 U.S.C. § 1391(b). Defendant CVB maintains its

1 principal place of business within this District, Defendants conduct and/or
2 conducted business in this District, and many of the acts giving rise to the
3 violations alleged herein, including the preparation and dissemination of materially
4 false and misleading information and omissions, occurred in substantial part in this
5 District.

6 16. In connection with the acts alleged in this Complaint, Defendants,
7 directly or indirectly, used the means and instrumentalities of interstate commerce
8 including, but not limited to, mail, interstate telephone communications, and the
9 facilities of the national securities markets.

10 **III. THE PARTIES**

11 **A. Lead Plaintiff**

12 17. Lead Plaintiff Jacksonville Police & Fire Pension Fund (“Jacksonville
13 P&F” or “Lead Plaintiff”) was created in 1937, and is a single-employer
14 contributing defined benefit pension plan covering all full-time police officers and
15 firefighters of the Consolidated City of Jacksonville. Jacksonville P&F purchased
16 CVB common stock during the Class Period, as set forth in the certification
17 previously filed with the Court, and suffered damages as a result of the federal
18 securities law violations alleged herein. By Order dated January 21, 2011, the
19 Court appointed Jacksonville P&F as the Lead Plaintiff in this action.

20 **B. Defendants**

21 18. Defendant CVB is a California corporation with its principal place of
22 business at 701 North Haven Avenue, Suite 350, Ontario, California 91764.
23 According to the Company’s profile, CVB operates as a bank holding company for
24 Citizens Business Bank, which provides various retail banking and financial
25 services to small and mid-sized businesses, high net-worth individuals, and
26 professionals in the United States. The Bank offers various deposit products,
27 including checking, savings, money market, and time certificates of deposit for
28 business and personal accounts. As of December 31, 2009, CVB operated forty-six

1 business financial centers located in the Inland Empire, Los Angeles County,
2 Orange County, and the Central Valley of California.

3 19. Defendant Myers is, and was throughout the Class Period, the
4 Company's CEO, President and Director of the Company, as well as CEO and
5 President of Citizens Business Bank. During the Class Period, Defendant Myers
6 signed and/or certified the Company's SEC filings and made additional false
7 statements and omissions as set forth herein.

8 20. Because of Defendant Myers' positions with the Bank, and as further
9 detailed below, he had access to the adverse undisclosed information about its
10 business, operations, products, trends, financial statements, markets, and present
11 and future business prospects via access to internal control documents (including
12 but not limited to the Bank's Problem Loan Reports); conversations and
13 connections with other corporate officers, employees, and borrowers; participation
14 at management and Board of Directors ("Board") meetings and committees thereof
15 (including the Bank's monthly Loan Committee meetings), and reports and other
16 information provided to him in connection therewith.

17 21. As an officer, director and controlling person of a publicly held
18 company whose common stock was, and is, registered with the SEC pursuant to
19 the Exchange Act, traded on the NASDAQ, and governed by the provisions of the
20 federal securities laws, Defendant Myers had a duty to promptly disseminate
21 accurate and truthful information with respect to the Bank's financial condition and
22 performance, growth, operations, financial statements, business, products,
23 borrowers, markets, management, earnings, and present and future business
24 prospects, and to correct any previously issued statements that had become
25 materially misleading or untrue, so that the market price of the Bank's publicly
26 traded common stock would be based upon truthful and accurate information.
27 Myers' misrepresentations and omissions during the Class Period violated these
28 specific requirements and obligations.

1 22. Defendant Myers participated in the drafting, preparation, and/or
2 approval of the various public, shareholder, and investor reports and presentations,
3 as well as other communications alleged herein. He was aware of, or deliberately
4 disregarded, the misstatements contained therein and omissions therefrom, and was
5 aware of their materially false and misleading nature.

6 23. Defendant Myers, because of his position of control and authority as
7 President, CEO and Director of the Bank, was able to and did control the content
8 of the various SEC filings, press releases, investor presentations, and other public
9 statements pertaining to the Bank during the Class Period. Defendant Myers was
10 provided with copies of the documents alleged herein to be misleading prior to or
11 shortly after their issuance and/or had the ability and/or opportunity to prevent
12 their issuance or cause them to be corrected. Accordingly, Defendant Myers is
13 responsible for the accuracy of the public reports and releases detailed herein and
14 is therefore primarily liable for the representations contained therein.

15 24. Defendant Myers is liable for making materially false and misleading
16 statements and omissions that operated as a fraud or deceit on purchasers of CVB
17 common stock. Defendant Myers deceived the investing public regarding CVB's
18 business, operations, management, and the intrinsic value of CVB common stock,
19 and enabled CVB insiders to sell their privately held CVB shares while in
20 possession of material, adverse, non-public information about the Bank.

21 25. Defendant Biebrich was, during the Class Period, the Company's CFO
22 and Principal Accounting Officer ("PAO"), and the CFO and Executive Vice
23 President of Citizens Business Bank. During the Class Period, Defendant Biebrich
24 signed and/or certified the Bank's SEC filings and made additional false statements
25 and omissions as set forth herein. On July 26, 2010 – the same day that CVB
26 received the SEC subpoena – CVB announced Biebrich's projected December 31,
27 2010 "retirement." Shortly thereafter, on August 12, 2010, the Bank reported that
28 Biebrich had "postponed" his retirement, claiming that the timing of his

1 resignation “is strictly a coincidence.” On February 1, 2011, CVB announced that
2 Biebrich was, in fact, retiring effective March 1, 2011.

3 26. Because of Defendant Biebrich’s position with the Bank, and as
4 further detailed below, he had access to the adverse undisclosed information about
5 its business, operations, products, trends, financial statements, markets, and present
6 and future business prospects via access to internal control documents (including
7 but not limited to the Bank’s Problem Loan Reports); conversations and
8 connections with other corporate officers, employees, and borrowers; participation
9 at management and Board meetings and committees thereof (including the Bank’s
10 monthly Loan Committee meetings), and reports and other information provided to
11 him in connection therewith.

12 27. As an officer and controlling person of a publicly held company
13 whose common stock was, and is, registered with the SEC pursuant to the
14 Exchange Act, traded on the NASDAQ, and governed by the provisions of the
15 federal securities laws, Defendant Biebrich had a duty to promptly disseminate
16 accurate and truthful information with respect to the Bank’s financial condition and
17 performance, growth, operations, financial statements, business, products,
18 borrowers, markets, management, earnings, and present and future business
19 prospects, and to correct any previously issued statements that had become
20 materially misleading or untrue, so that the market price of the Bank’s publicly
21 traded common stock would be based upon truthful and accurate information.
22 Biebrich’s misrepresentations and omissions during the Class Period violated these
23 specific requirements and obligations.

24 28. Defendant Biebrich participated in the drafting, preparation, and/or
25 approval of the various public, shareholder, and investor reports and presentations,
26 as well as other communications alleged herein. He was aware of, or deliberately
27 disregarded, the misstatements contained therein and omissions therefrom, and was
28 aware of their materially false and misleading nature.

1 29. Defendant Biebrich, because of his position of control and authority
2 as CFO and PAO of the Bank, was able to and did control the content of the
3 various SEC filings, press releases, investor presentations, and other public
4 statements pertaining to the Bank during the Class Period. Defendant Biebrich was
5 provided with copies of the documents alleged herein to be misleading prior to or
6 shortly after their issuance and/or had the ability and/or opportunity to prevent
7 their issuance or cause them to be corrected. Accordingly, Defendant Biebrich was
8 responsible for the accuracy of the public reports and releases detailed herein and
9 is therefore primarily liable for the representations contained therein.

10 30. Defendant Biebrich is liable for making materially false and
11 misleading statements and omissions that operated as a fraud or deceit on
12 purchasers of CVB common stock. Defendant Biebrich deceived the investing
13 public regarding CVB's business, operations, management, and the intrinsic value
14 of CVB common stock, and enabled CVB insiders to sell their privately held CVB
15 shares while in possession of material, adverse, non-public information about the
16 Bank.

17 **IV. CONFIDENTIAL WITNESSES**

18 31. The allegations herein are supported in part by first-hand accounts of
19 numerous confidential witnesses, including persons who were employed at Garrett
20 or CVB during the Class Period. As set forth below, the confidential witnesses
21 were each in a position to know the information alleged, and many corroborate the
22 allegations of one another. The confidential witnesses have been identified with
23 particularity but without disclosing identities in order to address concerns about
24 retaliation or career injury:

25 (a) Confidential Witness 1 ("CW1") worked for the Bank from March
26 2005 to August 2010. CW1 was a Vice President, Special Assets Manager
27 for the Special Assets Department, a department which handles troubled
28 credits and impaired loans. In March 2009, CW1 became a Portfolio

1 Manager. As a Special Assets Manager, CW1 monitored and handled the
2 delinquencies for every branch to make sure they were not “reportable.” If a
3 loan was delinquent for more than thirty days at quarter-end, then the loan
4 was considered reportable to the Board and publicly. CW1 reported to the
5 Bank’s Executive Vice President and Chief Credit Officer (“CCO”), James
6 Dowd (“Dowd”), who reported to CEO, Defendant Myers.

7 (b) Confidential Witness 2 (“CW2”) worked for the Bank from
8 September 1998 to August 2010. CW2 was a Senior Vice President,
9 Regional Manager for the Inland Empire Region. CW2 reported to Todd
10 Hollander (“Hollander”), who reported to CEO, Defendant Myers.

11 (c) Confidential Witness 3 (“CW3”) worked for the Bank from March
12 2009 to September 2010. CW3 was a Senior Vice President and Special
13 Assets Manager of CVB’s Special Assets Department. In this capacity, CW3
14 was in charge of troubled loans and managed loan workouts. CW3 reported
15 to Executive Vice President and CCO Dowd, who reported to CEO,
16 Defendant Myers.

17 (d) Confidential Witness 4 (“CW4”) worked for the Bank from 1999 to
18 February 2010. From 2002 to 2010, CW4 worked for the Bank’s Agri-
19 Business Department, and was the Executive Administrative Assistant to the
20 Bank’s Vice President of Dairy & Livestock Industries Group, Larry
21 Zivelonghi (“Zivelonghi”), who reported to CEO, Defendant Myers. In this
22 capacity, CW4 was responsible for managing the daily calendar and travel
23 plans, and for receiving the incoming calls of the customers for Zivelonghi.

24 (e) Confidential Witness 5 (“CW5”) worked for the Bank from May 2006
25 to February 2010. CW5 was the Bank’s Executive Vice President,
26 Relationship Manager. In this position, CW5 managed a loan portfolio and
27 was responsible for new business production, credit analysis including loan
28 write-up and presentation for approval. CW5 has 14 years of experience in

1 commercial lending, and has effectively underwritten and managed all types
2 of commercial credits including installment loans, lines of credit, and short-
3 term working capital loans. CW5 reported directly to Branch Manager Neal
4 Newman, who reported to Regional Manager Ted Dondanville. Dondanville
5 reported to Chief Loan Officer Hollander, who reported to CEO, Defendant
6 Myers.

7 (f) Confidential Witness 6 (“CW6”) worked for the Bank from March
8 1997 to May 2010. CW6 was the Deputy Chief Credit Officer for the
9 Bank’s Special Assets Division from June 2006 until March 2009. In this
10 position, CW6 was responsible for the Dairy and Livestock portfolio. From
11 March 2009 until May 2010 he worked within the Credit Administration
12 department. CW6 reported to Frank Basirico, then Ed Mylett, and then CCO
13 Dowd.

14 (g) Confidential Witness 7 (“CW7”) worked for the Bank from the time
15 of the Bank’s acquisition of San Joaquin Bank in October 2009 until
16 February 2010. CW7 was the Note Department Manager, which was the
17 department through which all loans had to pass during orientation and
18 renewals.

19 (g) Confidential Witness 8 (“CW8”) worked for The Garrett Group LLC
20 from January 2004 through February 2009. CW8 was a Vice President of
21 Garrett. In this capacity, CW8 was responsible for oversight of asset and
22 portfolio management, analysis, leasing, construction, property management
23 (both internal and third party), and loan administration.

24 **V. DEFENDANTS’ FALSE AND**
25 **MISLEADING STATEMENTS AND OMISSIONS**

26 32. Prior to and throughout the Class Period, Defendants trumpeted their
27 “growth strategy,” which is to “transition[] from a Community Bank to a Regional
28 Bank,” as stated, for example, in the Bank’s December 2, 2010 private analyst slide

1 presentation. Indeed, the Bank shared its “10 Year Vision” as follows: “Citizens
2 Business Bank will strive to become the dominant financial services company
3 operating throughout the state of California, servicing the comprehensive financial
4 needs of successful small to medium sized businesses and their owners.”

5 33. Defendants hoped to accomplish this dominance primarily through
6 acquisitions of other banks. Historically, CVB had acquired First Coastal Bank in
7 June 2007, which as of September 30, 2010, had assets of nearly \$150 million.
8 Then, on October 16, 2009, CVB announced that it acquired San Joaquin Bank,
9 which had approximately \$732 million in total assets. Under a loss-sharing
10 agreement with the FDIC, the FDIC agreed to absorb 80% of losses up to \$144
11 million and 95% of losses in excess of \$144 million for 5, 8 or 10 years depending
12 on the type of loan. In order to make such acquisitions and continue growth,
13 however, CVB had to maintain the appearance that it had strong capital,
14 conservative lending practices, and experienced very low loan losses.

15 **A. Defendants’ False And Misleading Statements**
16 **And Omissions Regarding CVB’s Third**
Quarter 2009 “Record” Financial Results

17 34. Throughout the Class Period, Defendants emphasized that, despite the
18 “tough economic times,” and the fate of its peers, the Bank’s “overall credit quality
19 remained solid.” Defendants deflected any concerns regarding the Bank’s largest
20 borrower, which analysts confirmed was Garrett. As detailed below, these
21 statements were false and misleading.

22 35. For example, on the first day of the Class Period, October 21, 2009,
23 the Bank proclaimed “Record Results for Third Quarter 2009.” (Emphasis in
24 original.) In a press release, the Bank stated it reported net income of
25 \$19.3 million for the third quarter of 2009, the highest quarterly net income in the
26 history of the Bank. The Bank (and in particular, its CEO, Defendant Myers)
27 assured investors that “[t]he overall credit quality of the loan portfolio is sound.”
28

1 36. The Bank's November 5, 2009 Form-Q, signed by Defendant
2 Biebrich, repeated the Bank's purported record results. It also included a purported
3 "risk factor" that continuing deterioration in the real estate market "could" affect
4 the ability of loan customers, including the Bank's largest borrowing relationships,
5 to service their debt, which "could" result in loan charge-offs and provisions for
6 credit losses "*in the future*."

7 37. Defendants Myers and Biebrich signed Certifications that were
8 included in the Bank's third quarter 2009 Form 10-Q. These Certifications
9 represented, *inter alia*, that: (a) the Form 10-Q fairly represented CVB's financial
10 condition; (b) the Form 10-Q did not contain "any untrue statement of a material
11 fact or omit to state a material fact necessary to make the statements made, in light
12 of the circumstances under which such statements were made, not misleading";
13 (c) the financial statements and other financial information included with the
14 Form 10-Q, fairly presented in all material respects CVB's financial condition,
15 results of operations and cash flows; (d) Defendants were "responsible for
16 establishing and maintaining disclosure controls and procedures"; and
17 (e) Defendants had evaluated the Bank's disclosure controls and procedures prior
18 to the filing of the Form 10-Q. Defendants Myers and Biebrich also signed
19 Certifications pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section
20 906 of the Sarbanes-Oxley Act of 2002, stating that the information in the Form
21 10-Q fairly presents, in all material respects, the financial condition and results of
22 operations of the Bank.

23 38. Analysts and investors reacted to the positive news. The day after the
24 third quarter 2009 earnings release, October 22, 2009, CVB's stock closed up, on
25 heavy trading volume, from \$7.86 per share to \$8.81 per share. And analysts, such
26 as B. Riley & Co., reported that "[a]sset quality at CVBF remains very strong
27 relative to other banks operating in southern California."
28

1 39. The above statements in CVB's October 21, 2009 press release and
2 November 5, 2009 Form 10-Q were false and misleading when made. In truth,
3 Defendants: (a) extended additional lines of credit or new loans to artificially keep
4 loans "current," a practice referred to as "extend and pretend"; (b) used false
5 appraisals to conceal loan losses and the fact that loans were backed by collateral
6 whose market value was well below that of the loan amounts; (c) knew, or
7 recklessly disregarded, that the purported "risk" had already come to fruition;
8 (d) failed to properly account for CVB's loans, including in particular, CVB's loans
9 to its largest borrower, Garrett; (e) failed to reflect impairment in the loans; and
10 (f) did not adequately reserve for loan losses.

11 40. As at least five Confidential Witnesses corroborate, Defendants knew
12 no later than the beginning of 2009 that an increasing number of the Bank's loans
13 were facing delinquency. Indeed, as explained by CW1, because the Bank's senior
14 management knew there was going to be an increasing number of problems with
15 loans, beginning in March 2009, the Bank nearly tripled the number of employees
16 in its Special Assets Department, from four to eleven. CW7 likewise confirmed
17 that CVB added additional Special Assets divisions in 2009, including in the
18 Bank's Rosedale office.

19 41. With respect to CVB's largest borrower, Garrett, five Confidential
20 Witnesses confirm that it was evident internally at the Bank by no later than early
21 2009 that the Garrett loans were troubled. CW5 explained that back in 2008 the
22 Garrett loans were "going sideways," but that Defendants waited to publicly
23 disclose the troubled status of the Garrett loans in hopes that they could build up
24 the Bank's allowance for credit losses (or "Allowance for Loan and Lease Loss
25 Reserve ("ALLL")), and "piggy-back" on top of a profitable quarter so that it did
26 not impact the Bank's profitability as much.

1 42. Garrett's former Vice President, CW8, confirmed that Garrett was
2 having discussions with CVB prior to February 2009 regarding trying to
3 restructure Garrett's debt to CVB.

4 43. CW2 explained that CVB's Construction Loan Department initially
5 handled the Garrett loans, but then by early 2009, the Garrett loans were
6 transferred to Julie Engen in the Credit Department. The Bank's practice was to
7 send a loan to the Credit Department after it was late by thirty days, so that the
8 Credit Department could go after the borrower. CW3 confirmed that when a loan
9 is with the Credit Department, it could mean the loan and/or the borrower's
10 industry is at risk or troubled and thus the loan is more closely monitored because
11 there is some concern.

12 44. CW2 further explained that, while other troubled loans were
13 transferred to the Special Assets Department, the Garrett loans were given special
14 treatment and transferred instead to Julie Engen because she was very familiar with
15 construction loans and she sat next to the Special Assets Department, and thus
16 could seek advice from the Special Assets Department.

17 45. CW1 explained that the Garrett loans were transferred to the Special
18 Assets Department in May 2010. When a loan came into the Special Assets
19 Department, it went into a log sheet that contained information such as the date the
20 file(s) came in, to whom it was assigned, and any communications with the
21 borrower. CW3 confirmed that the Garrett loans were in fact transferred to the
22 Special Assets Department and recorded on a department monthly report in 2009,
23 but that three days later, the Garrett loans were sent back to the Credit Department
24 for further handling.

25 46. CW3 further confirmed that the Credit Department handled and
26 closely monitored the Garrett loans. According to CW3, the reason that the Garrett
27 loans were with the Credit Department, as opposed to the Special Assets
28 Department, was strictly a decision that the executive management made,

1 including CEO Defendant Myers, Executive Vice President and CCO Dowd, and
2 the Board of Directors.

3 47. As further detailed below in Section VI.A., deed records corroborate
4 that, at least as early as 2008, Defendants kept Garrett's loans appearing "current"
5 only by virtue of CVB extending additional lines of credit or new loans, a practice
6 referred to as "extend and pretend." At least two Confidential Witnesses, as well
7 as multiple property title searches, corroborate Defendants' "extend and pretend"
8 practices in which the Bank provided additional capital to its borrowers, secured
9 only by collateral of little value, in order to get them current, temporarily replenish
10 the loan interest reserves, give the appearance of low delinquencies, and avoid
11 increased capital requirements. In an "extend and pretend" practice, money is
12 "round tripped" and never leaves the Bank, but rather it just adds to the loan
13 balance, while making the borrower appear current. This practice, however,
14 increases the exposure – and ultimately the losses – to the Bank.³

15 48. As further detailed below in Section VI.A., CVB engaged in this
16 practice, in particular, at quarter end and just prior to regulatory review.
17 Specifically with respect to third quarter 2009, CVB extended Garrett \$4.025 in
18 "refinancing" on September 23, 2009, just one week before the end of the third
19 quarter 2009.

20 49. Defendants also used false appraisal values in order to conceal the fact
21 that the market value of the collateral was well below that of the loan amounts and
22 thereby avoid recognizing a loss on the loans. As further detailed below in Section
23 VI.B., CVB used the highest appraisal – the one that was accurate only if the
24 property was fully occupied and without need of maintenance – even when, in
25

26 ³ As used in this Complaint, "extend and pretend" includes the practices also
27 known as "amend and pretend" (in which a bank gives a borrower more time to
28 repay a loan), and "troubled debt restructurings" (in which a bank modifies an
existing loan, *e.g.*, by changing the terms or breaking the loan into pieces).

1 truth, the property was not fully occupied and was in need of maintenance. This
2 practice impacted the Bank's bottom line, in particular the ALLL Reserve, because
3 any difference between the principal loan balance and estimated recovery (current
4 appraised value less cost of sale) had to be written off or reserved off. Using the
5 higher (false) appraisal value made it falsely appear that there was more money
6 that the Bank had a chance of recovering and injecting, and the less the Bank had
7 to show as a loss, or to reserve for.

8 50. Moreover, the "record" financial results were achieved only by
9 overstating the Bank's income and loan quality. As detailed below in Section
10 VI.E., the Bank's failure to report adequate loan loss provisions (expenses), failure
11 to properly account for non-performing and restructured loans, and failure to
12 properly account for losses in the market value of its collateral materially
13 overstated CVB's income, manipulated its insufficient allowance for credit losses
14 (reserves), and inflated CVB's loan values and stockholders' equity.

15 **B. Defendants' False And Misleading Statements**
16 **During November And December 2009 Presentations**

17 51. During a November 9, 2009 investor presentation, Defendants
18 repeated the Bank's "***record***" financial results. They further stressed that the
19 Bank's purported "***strong credit culture and underwriting integrity remain***
20 ***paramount at CVB,***" that "geographic diversification, a focus on relationship
21 banking, and ***a strong credit culture have allowed CVB to mitigate loan losses***
22 ***through this economic downturn,***" that on a peer comparison basis "***CVB's credit***
23 ***metrics are superior,***" and that "***CVB's strong loan underwriting culture has***
24 ***limited its exposure to problem credits.***"

25 52. Shortly thereafter, during a December 2, 2009 private analyst
26 presentation, in response to questions specifically concerning the Garrett loans,
27 Defendant Myers stressed that the assets are "***fully performing in all respects,***"
28

1 “we don’t have specific reserves against that,” and that “[t]hey are paying
2 everything. It’s performing as agreed.” (Emphasis added.)

3 53. Defendant Myers further explained that, of the five largest banks
4 headquartered in the region, four have disappeared, “we are the last man
5 standing,” adding that CVB avoided trouble with loans faced by its peers. Myers
6 claimed that, with respect to credit quality, “we clearly are superior to most of our
7 competition.”

8 54. As further support for his statement that the Bank was not facing the
9 same loan loss problems as its peers, CEO Defendant Myers explained during the
10 presentation that, while ten buildings on the avenue where CVB is headquartered
11 each had a 75% vacancy rate, the Bank had “zero loans against those ten
12 buildings.”

13 55. As detailed herein, the above statements in the November 9, and
14 December 2, 2009 presentations were false and misleading for the following
15 reasons: (a) Defendants kept borrowers, including Garrett, “current” only by virtue
16 of the Bank’s extend and pretend practices; (b) Defendants used false appraisals to
17 conceal loan losses and the fact that loans were backed by collateral whose market
18 value was well below that of the loan amounts; (c) Defendants failed to properly
19 account for CVB’s loans, including in particular, CVB’s loans to its largest
20 borrower, Garrett; (d) Defendants failed to reflect impairment in the loans; and
21 (e) Defendants did not adequately reserve for loan losses. Moreover, directly
22 contrary to Defendant Myers’ statement, the Bank did, in fact, have an interest in
23 an office building on its street which partly secured a \$16 million promissory note
24 issued by CVB and which served as collateral for a \$16.575 million revolving
25 credit line that CVB had extended to Garrett in March 2008.
26
27
28

1 **C. Defendants’ False And Misleading**
2 **Statements And Omissions Regarding CVB’s**
3 **Fiscal Year 2009 “Record” Financial Results**

4 56. On January 21, 2010, CVB announced its fiscal year 2009 results,
5 including “record net interest income.” CEO Defendant Myers commented, “*This*
6 *represents the highest net interest income in the history of the Company,*
7 *demonstrating our ability to continue to grow top-line income.*”

8 57. CVB reported the purported record results in its Form 10-K filed with
9 the SEC on March 4, 2010. Defendants Myers and Biebrich signed the Form
10 10-K, repeated their Sarbanes Oxley Certifications, and further signed
11 Certifications pursuant to Section 111(b) of the Emergency Economic Stabilization
12 Act of 2008 as Amended, in light of CVB’s receipt of TARP funds.

13 58. The Bank’s Form 10-K disclosed as a purported “risk factor” that the
14 Bank “may be required to make additional provisions for credit losses and charge
15 off additional loans *in the future*,” and that the continuing deterioration of the
16 commercial real estate market “could” affect the ability of the Bank’s borrowers,
17 including its largest borrowing relationships, to service their debt, which “could”
18 result in loan charge-offs and provisions for credit losses “*in the future*,” and
19 declining real estate values “could be significantly reduced.”

20 59. Analysts, news commentators and investors were impressed. Indeed,
21 following CVB’s reportedly strong 2009 financial results, Forbes magazine named
22 CVB the Nation’s sixth-best bank. Likewise, thereafter in 2010, the Bank Director
23 Magazine ranked CVB ninth due to purported “profitability, capital adequacy and
24 asset quality,” and the ABA Banking Journal ranked CVB twentieth in the Nation.
25 And *The New York Times* recognized in an April 3, 2010 article entitled “At CVB
26 Financial, Praise and Questions,” that “[a] quick look at the company’s books
27 shows why investors are captivated by CVB: it isn’t suffering from the loan-loss
28 problems plaguing so many of its peers. The trouble is, if Citizens’ loans start to
go south more quickly than they have until now, its reserves are not that robust.”

60. As detailed herein, the above statements in CVB's January 1, 2010 press release and March 4, 2010 Form 10-K were false and misleading for the following reasons: (a) Defendants kept borrowers, including Garrett, "current" only by virtue of the Bank's extend and pretend practices; (b) Defendants used false appraisals to conceal loan losses and the fact that loans were backed by collateral whose market value was well below that of the loan amounts; (c) Defendants knew, or recklessly disregarded, that the purported "risk" had already come to fruition; (d) Defendants failed to properly account for CVB's loans, including in particular, CVB's loans to Garrett; (e) Defendants failed to reflect impairment in the loans; and (f) Defendants did not adequately reserve for loan losses. In particular, as detailed below in Section VI.A., Defendants failed to disclose that the Bank kept Garrett "current" at year end 2009 by extending Garrett a \$38 million "refinance" on December 29, 2009, just two days before year end.

61. Moreover, the numbers that Defendants reported in CVB's 2009 Form 10-K for restructured loans were substantially lower than the numbers Defendants reported to the FDIC for the same time period as stated in the FDIC Uniform Bank Performance Report, as set forth below:

CVB Financial – Restructured Loans Reported as of December 31, 2009			
\$ in millions, rounded	Reported in Form 10-K	Reported to FDIC	Discrepancy
Restructured loans – past due	\$ 2,500	\$16,337	\$13,837
Restructured loans – current	<u>1,017</u>	<u>6,977</u>	<u>5,960</u>
Restructured loans – Total	\$ 3,517	\$23,314	\$19,797

62. Defendants also failed to disclose in the 2009 Form 10-K that \$28.3 million of the 2009 provision for credit losses was for Dairy, Livestock and Agribusiness loans, constituting 35% of CVB's total provision for credit losses of \$80.5 million during the year ended 2009. In addition, Defendants failed to disclose that \$31 million of the Bank's December 31, 2009 allowance for credit

1 losses was for Dairy, Livestock and Agribusiness loans, constituting almost 30% of
2 the total allowance for credit losses of \$109 million as of December 31, 2009.⁴
3 This information about the troubled loans in the Dairy sector was ultimately
4 disclosed in the Bank's 2010 Form 10-K filed with the SEC March 1, 2011,
5 without explanation for why it had not previously been timely disclosed.

6 **D. Defendants' False And Misleading Statements**
7 **And Omissions During March 2010 Presentations**

8 63. On March 2, 2010, CEO Defendant Myers discussed a Bank slide
9 presentation at the Sandler O'Neill West Coast Financial Services Conference.
10 CVB filed copies of the slides, attached to a Form 8-K filed with the SEC the same
11 day. The slides reveal that Defendant Myers again emphasized that "*strong credit*
12 *culture and underwriting integrity remain paramount at CVB,*" that "geographic
13 diversification, a focus on relationship banking, and *a strong credit culture have*
14 *allowed CVB to mitigate loan losses through this economic downturn,*" that
15 "*CVB's strong loan underwriting culture has limited its exposure to problem*
16 *credits,*" and that CVB's "strategic focus" includes "*Capital and strong Loan Loss*
17 *Reserves are paramount,*" and "*[s]trong, disciplined credit underwriting/credit*
18 *culture.*"

19 64. Two weeks later, on March 16, 2010, Defendants Myers and Biebrich
20 participated in a conference call, this one available only to clients of B. Riley and
21 Company, according to an April 3, 2010 *New York Times* article entitled "At CVB
22 Financial, Praise and Questions." Journalist Gretchen Morgenson wrote the
23 following:

24
25
26 ⁴ The *provision* is an income statement item – an expense – so it accumulates over
27 a period of time. The provision for all of 2009 was \$80.5 million. The *allowance*
28 is a balance sheet item – a reserve – so it is reported as of a date. The allowance
for both the year and quarter ended December 31, 2009, are the same: \$109
million.

1 On March 16 [2010], Christopher D. Myers, CVB's president and
2 chief executive, and Edward Biebrich, Jr., its chief financial officer,
3 participated in a conference call available only to clients of B. Riley
4 and Company, a boutique brokerage firm in Los Angeles
5 Unfortunately for investors who weren't so lucky to be on the call,
6 CVB requested that no transcript or recording be made available. But
7 according to people who were on the call, and requested anonymity to
8 preserve their professional relationships, CVB executives spoke
9 broadly about their operation as well as details relating to specific
10 loans.

11 The exclusive nature of this conference call seems contrary to
12 Securities and Exchange Commission rules discouraging selective
13 disclosure of information in which investors would likely have an
14 interest. But Mr. Myers said that what he spoke about in the call was
15 already in the public domain.

16 "It was the same presentation I walked through with investors a week
17 before," he said.

18 As detailed herein, the above statements in CVB's March 2, 2010 investor
19 presentation, and repeated in Defendants' March 16, 2010 exclusive presentation,
20 were false and misleading for the following reasons: (a) Defendants kept
21 borrowers, including Garrett, "current" only by virtue of the Bank's extend and
22 pretend practices, including a \$38 million "refinance" on December 29, 2009;
23 (b) Defendants used false appraisals to conceal loan losses and the fact that loans
24 were backed by collateral whose market value was well below that of the loan
25 amounts; (c) Defendants failed to properly account for CVB's loans, including in
26 particular, CVB's loans to Garrett; (d) Defendants failed to reflect impairment in
27 the loans; and (e) Defendants did not adequately reserve for loan losses.

1 **E. Defendants’ False And Misleading**
2 **Statements And Omissions Regarding**
3 **CVB’s First Quarter 2010 Financial Results**

4 65. After the close of the market on April 21, 2010, CVB announced its
5 first quarter 2010 results, including “increased earnings” which beat consensus
6 estimates. CVB reported the purported increased earnings in its Form 10-Q filed
7 with the SEC on May 10, 2010, signed by Defendant Biebrich. Defendants Myers
8 and Biebrich repeated their Certifications with respect to the Form 10-Q, and the
9 Form 10-Q stated that there are no material changes to the risk factors as
10 previously disclosed in CVB’s Form 10-K for fiscal year 2009.

11 66. Following the announcement, analysts praised the higher than
12 expected earnings and lower than expected loan loss provision. B. Riley & Co.
13 reported that “the primary drivers of the better-than-expected results” included “a
14 lower loan loss provision than projected.” Rodman & Renshaw likewise noted that
15 “overall, credit quality appears to be manageable given the Company’s capital
16 levels and coverage ratios and the economy’s apparent tepid recovery.” Likewise,
17 Credit Suisse reported that CVB “has had the lowest charge-off rate” “among
18 publicly traded California based banks for one reason: it is exceptionally
19 conservative.” Keefe, Bruyette & Woods praised CVB as a “superior credit
20 underwriter” with a “low level of problem assets and the low charge-off ratios
21 recorded,” and stated that “CVBF has demonstrated that underwriting standards
22 can differentiate banks.” Rodman & Renshaw further (correctly) predicted that
23 “[w]e would expect the stock to react favorably to this quarter’s release; however,
24 trading enthusiasm may be tempered by the recent run in CVBF’s stock.”

25 67. Indeed, following the positive earnings announcement, CVB’s stock
26 traded with extremely high volume, up from a close of \$10.76 on April 21, 2010, to
27 close at \$11.13 on April 22, 2010.

28 68. As detailed herein, the above statements in CVB’s April 21, 2010
press release and May 10, 2010 Form 10-Q were false and misleading for the

1 following reasons: (a) Defendants kept borrowers, including Garrett, “current”
2 only by virtue of the Bank’s extend and pretend practices; (b) Defendants used
3 false appraisals to conceal loan losses and the fact that loans were backed by
4 collateral whose market value was well below that of the loan amounts;
5 (c) Defendants knew, or recklessly disregarded, that the purported “risks”
6 incorporated from the 2009 Form 10-K had already come to fruition;
7 (d) Defendants failed to properly account for CVB’s loans, including in particular,
8 CVB’s loans to Garrett; (e) Defendants failed to reflect impairment in the loans;
9 and (f) Defendants did not adequately reserve for loan losses.

10 **F. Defendants’ False And**
11 **Misleading Statements And Omissions**
12 **During CVB’s May 2010 Presentation**

13 69. On May 12, 2010, CEO Defendant Myers discussed a Bank slide
14 presentation at the Davidson Companies 12th Annual Financial Services
15 Conference. CVB filed copies of essentially the same slide presentation, attached
16 to a Form 8-K filed with the SEC the same day. Myers again emphasized that
17 “*strong credit culture and underwriting integrity remain paramount at CVB,*”
18 “*geographic diversification, a focus on relationship banking, and a strong credit*
19 *culture have allowed CVB to mitigate loan losses through this economic*
20 *downturn,*” that “*CVB’s strong loan underwriting culture has limited its*
21 *exposure to problem credits,*” and that CVB’s “strategic focus” includes “*Capital*
22 *and strong Loan Loss Reserves are paramount,*” and “*strong, disciplined credit*
underwriting/credit culture.”

23 70. As detailed herein, the above statements were false and misleading for
24 the following reasons: (a) Defendants kept borrowers, including Garrett, “current”
25 only by virtue of the Bank’s extend and pretend practices; (b) Defendants used
26 false appraisals to conceal loan losses and the fact that loans were backed by
27 collateral whose market value was well below that of the loan amounts;
28 (c) Defendants failed to properly account for CVB’s loans, including in particular,

CVB's loans to Garrett; (d) Defendants failed to reflect impairment in the loans; and (e) Defendants did not adequately reserve for loan losses.

G. Defendants' False And Misleading Statements And Omissions Regarding CVB's Second Quarter 2010 "Record" Financial Results

71. After the close of the market on July 21, 2010, and on July 22, 2010, CVB issued a press release and supplemental press release, respectively, announcing "record earnings" for second quarter 2010. Specifically, the Bank announced reported net income of \$19.0 million for the second quarter of 2010, the highest second quarter earnings in the history of the Bank. The Bank reported that its second quarter 2010 loan loss provision was \$11 million, down 9.8% from the \$12.2 million posted in the prior quarter, and which was lower than analysts expected.

72. In connection with its second quarter 2010 results, also on July 21, 2010, CVB filed a slide presentation with the SEC which again emphasized CVB's "*strong credit culture and underwriting integrity remain paramount at CVB*"; that "geographic diversification, a focus on relationship banking, and *a strong credit culture have allowed CVB to mitigate loan losses through this economic downturn*"; that CVB's purported "credit metrics" were "superior" to its peers, including with respect to Non-Performing Assets and Non-Performing Loans, loan loss reserves, and net charge-offs; and that "*CVB's strong loan underwriting culture has limited its exposure to problem credits.*" According to Macquarie (USA) Equities Research ("Macquarie"), "management noted that its \$84 million exposure to the Garrett Group continues to perform as expected."

73. The market and analysts responded positively. Credit Suisse reported that "[o]ur outperform thesis largely rests in our credit analysis, which leads us to believe that CVBF is well reserved and should see meaningful credit improvement in 2011." B. Riley & Co. reported that "the primary drivers of the better-than

1 expected results” included “a lower loan loss provision than projected.”
2 Macquarie also noted that the better than expected second quarter 2010 results
3 CVB reported was “driven by lower [loan loss] provision.” Cantor Fitzgerald
4 likewise reported that the results “reflected stable credit quality.”

5 74. The day after the earnings release, July 22, 2010, the stock price
6 traded with heavy volume, closing up to \$10.28, from the prior close of \$9.50. The
7 trend continued the next few trading days, with the stock price closing at \$10.61 on
8 July 26, 2010.

9 75. As detailed herein, the above statements in CVB’s July 21, and
10 July 22, 2010 press releases, and July 21, 2010 investor presentation were false and
11 misleading for the following reasons: (a) Defendants kept borrowers, including
12 Garrett, “current” only by virtue of the Bank’s extend and pretend practices;
13 (b) Defendants used false appraisals to conceal loan losses and the fact that loans
14 were backed by collateral whose market value was well below that of the loan
15 amounts; (c) Defendants failed to properly account for CVB’s loans, including in
16 particular, CVB’s loans to Garrett; (d) Defendants failed to reflect impairment in
17 the loans; and (e) Defendants did not adequately reserve for loan losses.

18 **VI. SCIENTER ALLEGATIONS**

19 **A. Defendants’ “Extend And Pretend” Practices**

20 76. As detailed below and corroborated by CW1, CW4, and title records,
21 despite knowing that CVB’s borrowers, including Garrett, were troubled,
22 Defendants kept borrowers, including Garrett, “current” by extending another line
23 of credit, refinancing, or increasing the customer’s credit limit, in attempts to
24 maintain the appearance that CVB’s loan portfolio remained “sound.”

25 77. For example, deed and title records reveal that CVB extended new
26 monies, refinanced, or entered into modified mortgage agreements at quarter-end
27 on numerous occasions for Garrett, including as follows:
28

- End of First Quarter 2008: On March 25, 2008, just days before the close of the first quarter, the Bank provided Garrett a \$50 million revolving line of credit;
- End of Third Quarter 2008: On August 23, 2008, the Bank provided \$16 million in “refinancing” to Garrett; and
- End of First Quarter 2009: In late March 2009, including the very last day of the quarter, March 31, 2009, the Bank provided Garrett with \$53,325,284 in “refinancing” which consisted of \$44 million in a “stand-alone second,” and \$9,325,284 in “non-purchase money.” The Bank used at least eleven parcels as collateral for the over \$53 million refinancing.⁵ Liens for unpaid county property taxes had previously been issued on April 25, 2008, on at least two of the properties serving as collateral. The deeds of trust reveal that the loans were directly handled by the Company’s Deputy Chief Credit Officer.

78. These transactions occurred right before the FDIC review commenced in April 2009. After the review, the FDIC ordered the Bank to pay a penalty for failing to obtain adequate insurance on designated loans, failing to maintain sufficient coverage during the term of the designated loans, failing to make timely flood notifications to borrowers regarding designated loans, and failing to maintain a record of receipt of the notices by borrowers on designated loans.

79. The same practice of extending monies and restructuring loans continued at quarters end throughout 2009, including as follows:

⁵ The Assessor’s Parcel Numbers (“APN”) for the parcels serving as collateral for the \$53,325,284 refinance include the following: 445-150-001, 426-420-008, 308-140-007, 439-180-015, 438-040-008, 302-030-002, 919-350-020, 919-350-019, 919-350-018, 919-350-017, 438-040-009.

- End of Third Quarter 2009: On September 23, 2009, just one week before quarter-end, the Bank provided Garrett \$4,025,000 in “refinancing”; and
- End of Fourth Quarter 2009: On December 29, 2009, just two days before the end of the quarter and fiscal year, the Bank provided Garrett nearly \$38 million in “refinancing.”

80. CW4 – who had worked for CVB a total of eleven years in various Bank departments including Credit, Finance, and Loan Documentation Departments – confirmed that CVB’s attempts to conceal that loans were in default were not limited to the Garrett loans. CW4 explained that CVB extended additional lines of credit, or increased existing lines of credit, to customers who already had troubled loans, in order to pay down the late or delinquent accounts. One such troubled account was the account of Vintage Dairy (“Vintage”), which consisted of credit lines for feed and hay. When Vintage did not make payments, the Bank took an advance off Vintage’s line of credit to make the payments so that it appeared as though Vintage made a payment and was not behind. According to CW4, CW4’s boss – the Head of the Bank’s Agri-Business Department, Zivelonghi, who reported directly to Defendant Myers – told CW4 directly that on occasion, when Vintage was maxed out on its line of credit and nothing was available, the Bank borrowed from the credit line of a related entity to pay down the line of credit in order to make the payment. In addition, Zivelonghi held internal staff meetings in which he openly discussed the practice of granting additional funds in order to conceal delinquencies.

81. Moreover, Garrett (and CVB) allowed the Garrett properties that served as collateral for the CVB loans to become delinquent on property taxes. According to the Riverside County Office of the Treasurer-Tax Collector, Garrett was delinquent on its property taxes for at least tax years 2008, 2009, and 2010 (first installment), on at least thirty-two properties that CVB financed. As a result,

1 the County of Riverside assessed substantial penalties against Garrett, which
2 directly reduced Garrett's available funds to repay CVB loans. Indeed, after the
3 Class Period, in its September 9, 2010 press release (discussed below), the Bank
4 admitted that one of the Garrett properties was sold for \$2.5 million, and that \$0.5
5 million of the proceeds was used in part to pay "*past due property taxes.*"

6 82. While CVB kept its investors in the dark, other lenders timely
7 disclosed that their loans to Garrett had gone delinquent. Specifically, in late 2009,
8 two other lenders – Kansas City, Missouri-based Bank Midwest and life insurer
9 Jefferson-Pilot, part of Lincoln Financial Group – foreclosed on loans to Garrett in
10 the amounts of \$25.7 million and \$15.3 million, respectively, for a total of more
11 than \$40 million, according to foreclosure records that are (and were, during the
12 Class Period) readily available to the public (including to Defendants).

13 **B. Defendants' Use Of False Appraisals**

14 83. The Bank also used false appraisal values in order to conceal the fact
15 that the market value of the collateral was well below that of the loan amounts and
16 thereby avoid recognizing a loss on the loans. CW1 explained that CVB obtains
17 two different appraisal values for properties serving as collateral for loans: (i) a
18 higher value if the property is "stabilized with market rent," meaning no deferred
19 maintenance was required and the property was fully occupied and leased up at
20 market rent; and (ii) a lower value for the property in the "as-is" condition, that had
21 deferred maintenance. Due in part to the implied continuity of income from a fully
22 occupied property, there is a large difference between the two values. A Senior
23 Vice President and Special Assets Manager ordered CW1 to use the higher of the
24 two appraisals, even if there was deferred maintenance and zero occupancy. This
25 practice impacted the Bank's bottom line, in particular the ALLL Reserve, because
26 any difference between the principal loan balance and estimated recovery (current
27 appraised value less cost of sale) had to be written off or reserved off. Using the
28 higher (false) appraisal value made it falsely appear that there was more money

1 that the Bank had a chance of recovering and injecting, and the less the Bank had
2 to show as a loss, or to reserve for.

3 84. One specific example of the Bank's false appraisal practice occurred
4 in March 2010, and related to the collateral for a commercial loan for borrower
5 American World Investment. The property, located at 9500 Haven, Rancho
6 Cucamonga, California, was a vacant, one tenant, two-story office building and in
7 need of maintenance. At the time, the loan's outstanding principal balance was
8 over \$2.77 million. In early March 2010, CW1 informed a Senior Vice President
9 and Special Assets Manager that the "as-is" appraisal value was \$1.9 million, and
10 thus, the Bank would need to take a \$1 million charge-off. The Senior Vice
11 President and Special Assets Manager then ordered CW1 to use an appraisal value
12 of \$2.5 million, instead of the \$1.9 as-is appraisal value, despite the fact that the
13 property was in need of maintenance and vacant. The American World Investment
14 account was taken away from CW1 a month later, and reassigned to another
15 employee.

16 85. CW4 also explained that if a Bank employee made a mistake in
17 drafting a particular loan document, the employee traced a signature from a
18 previously executed document onto the new corrected document, rather than obtain
19 a signature on the corrected document. Similarly, Executive Vice President
20 Zivelonghi backdated account documents in order to make it appear that there were
21 not overdrafts in bank accounts.

22 **C. Defendants Knew Or Recklessly**
23 **Disregarded The Status Of the Bank's Loans**

24 86. Defendants repeatedly declared to investors that they actively
25 monitored CVB's commercial real estate portfolio and were able to remain the
26 "last man standing" because of CVB's conservative underwriting and their
27 purported acumen in assessing credit risk. Indeed, CVB's SEC filings (including,
28 for example, in its Form 10-Q for first quarter 2010) reported that its management

1 and Board of Directors review and analyze on a quarterly basis loans, including the
2 character of the loan portfolio, current economic conditions, past credit loss
3 experience, and such other factors that deserved current recognition in estimating
4 inherent credit losses.

5 87. CVB's CEO Defendant Myers himself, when asked about particular
6 troubled loans, admitted that "[w]e certainly are aggressively looking at this stuff
7 all the time," according to an April 3, 2010 *New York Times* article.

8 88. Moreover, at least three Confidential Witnesses – all of whom were
9 CVB employees during the Class Period – confirmed that the Bank's senior
10 management remained well informed of the status of troubled loans, including the
11 Garrett loans. For example, CW1 confirmed that President and CEO Defendant
12 Myers, held a "Loan Committee" meeting monthly, typically the third Wednesday
13 of each month (except for the month when the shareholder meeting took place, in
14 which case the Loan Committee meeting took place the Monday before the
15 shareholder meeting). Other participants regularly included the CFO Defendant
16 Biebrich, Chairman of the Board and founder George Borba, Vice Chairman of the
17 Board D. Linn Wiley, Board members who were on the Loan Committee including
18 San Vaccaro (who is also a full-time attorney), Credit Administration members, the
19 CCO, and the Special Assets Managers. Defendant Myers called the meetings to
20 order, then the participants held discussions of the loans approved the prior month
21 and loans "of interest" (*e.g.*, large amounts or large customers), including the
22 Garrett loans. Then the participants went through the Bank's branches'
23 information including the credits that were booked during the month and the
24 delinquencies. And finally, the participants discussed merchant card information.

25 89. The regular monthly Loan Committee meetings took place in the
26 Bank headquarter's third-floor Directors' conference room and lasted between 1
27 and 1½ hours, from approximately 11:30 a.m.-1:00 p.m., with the meetings
28 running longer when they were going over quarter-end information. These

1 meetings were held in conjunction with other Bank meetings that CEO Myers and
2 CFO Biebrich held the same day.

3 90. In connection with each Loan Committee meeting, each participant
4 was given a 1-inch packet of materials, including CEO Myers' 1-page agenda. The
5 packet included, in approximately five to ten pages, a detailed list of all loans
6 approved during the prior month, how much the loan was for, what the collateral
7 was, the date of the loan, who approved it, who sustained, and information
8 regarding any existing loans the borrower previously had. The packet also covered
9 new loans, renewals, second and third liens, loan modifications and restructured
10 loans. The Bank's Board members were given this packet as part of a larger
11 "Board packet" – a 3-inch thick binder, with the Loan Committee section as one of
12 the first sections. The Problem Loan Report ("PLR") was also included. The PLR
13 detailed the Bank's loans that were classified as substandard, watch, or doubtful,
14 and included information about the borrower, the borrower's financials, the
15 quantity of the loan, the reason for the downgrade, and the collateral (including the
16 appraised value, and any delinquent taxes and insurance payments).

17 91. CW2 corroborated that CVB's executives and the Board of Directors
18 knew about the status of troubled loans. CW2 explained that they managed the
19 loans on a monthly and quarterly basis, that the number of delinquencies was
20 always a priority concern for top executives, and they were frequently looking out
21 for those numbers, including daily if they wanted to. CW2 further elaborated that
22 each office tracked its own loans and once a loan was late by thirty days, someone
23 from the office called and sent the loan to the Bank's Credit Department. The
24 Credit Department also furnished reports that were sent to the executives. Every
25 region and office tracked its loans monthly on a standard banking report that looks
26 at all delinquencies and all reserves. In addition to regions and individual offices
27 creating monthly reports, one master report was made by the Bank each quarter.
28

1 92. CW6 further confirmed that the Bank created PLRs, some of which
2 CW6 reviewed, and that the information was provided to the Board of Directors on
3 a quarterly basis. CW6 confirmed that banks are required to do an impairment
4 analysis every quarter in which the bank evaluates and makes value changes to any
5 impaired loan.

6 93. Moreover, Defendants Myers and Biebrich made disclosures to certain
7 select investors regarding specific loans, including during a March 16, 2010
8 investor presentation, according to an April 3, 2010 *New York Times* article, as
9 discussed above. Such specific discussions about individual loans further
10 demonstrate the Defendants' actual knowledge of the status of problem loans.

11 **D. Garrett Was The Bank's Largest Borrowing Relationship**

12 94. As discussed above, throughout the Class Period, Defendants stressed
13 that the Bank's "largest borrowing relationship" was "fully performing" and
14 "performing as agreed." CVB's long-time largest borrowing relationship was with
15 Paul Garrett and his real estate development firm headquartered in Temecula,
16 California, The Garrett Group. During the Class Period, Garrett had over \$80
17 million in eight CVB loans outstanding. By comparison, CVB's next largest
18 borrower had less than \$38 million in CVB loans. Defendant Myers stated during
19 a December 2, 2009 private analyst presentation that Garrett "*is by two-fold, the*
20 *largest loan relationship in the bank.*"

21 95. CW8, Garrett's former Vice President, explained that Paul Garrett,
22 along with Garrett CEO Kirk Wright ("Wright"), and CFO William Whinna,
23 directly negotiated loans with CVB.

24 96. Garrett and CVB – and, in particular, Defendant Myers – had a close
25 familiar relationship. According to an e-mail from Wright to Myers filed in the
26 real estate transaction litigation between Garrett, Stratford, and homebuilder
27 Artisan Communities ("Artisan"), encaptioned *Stratford Ranch Partners, LLC v.*
28 *Paul Garrett*, Case No. RIC 513524 (Riverside Super. Ct.), when a third-party,

1 Stratford Ranch Partners (“Stratford”), requested Garrett’s personal financial
2 statements before it entered into a transaction with him, Garrett’s CEO, Wright,
3 proposed that Stratford instead speak directly with Defendant Myers “regarding
4 Paul, his performance over the years, and his financial status.”⁶

5 97. CW1 confirmed that in light of the size of the borrowing relationship,
6 as well as Garrett’s large deposit relationship with the Bank, the Bank’s top
7 executives paid particular attention to Garrett, including regularly discussing
8 Garrett during the Loan Committee meetings. Indeed, at least as early as 2008,
9 during a monthly Loan Committee meeting, CVB’s founder and Chairman of the
10 Board, George Borba, asked questions regarding one or more loans to Garrett that
11 were approved the prior month. The Chairman’s questioning of the relationship
12 with Garrett prompted CW1 to check the Bank’s records for the source of the funds
13 that were deposited into Garrett’s checking account. CW1 discovered that the
14 Bank round-tripped the cash, *i.e., it transferred advances from Garrett’s line of*
15 *credit into Garrett’s checking account so that it appeared that Garrett had a large*
16 *deposit*. The cash balance then looked good in write-ups and during reviews of the
17 loans.

18 **E. Defendants’ GAAP Violations**

19 98. Generally Accepted Accounting Principles (“GAAP”) are the
20 authoritative standards, interpretations, rules and underlying concepts established
21

22 ⁶ Stratford filed the case against Paul Garrett on November 21, 2008, related to a
23 loan Garrett received from Temecula Valley Bank (which has since failed) for
24 \$10.6 million in April 2008. In May 2007, Paul Garrett personally guaranteed a
25 payment of \$5 million to Stratford in return for part of a piece of land it was
26 selling. Another portion of the land from the deal was transferred from a unit of
27 Artisan to Garrett through a quitclaim deed in late May 2007. The property was
28 then pledged as part of collateral for the \$10.6 million loan from Temecula Valley
Bank. Stratford obtained an Order for a Writ of Attachment against Garrett on
May 29, 2009, and an Order for an additional Writ of Attachment against Garrett
on November 10, 2009, in the amount of \$5.95 million.

1 and relied on in the United States as the best and most reliable financial reporting
2 and accounting practices. Regulation S-X, to which the Bank is subject as a
3 registrant under the Exchange Act, provides that annual and interim financial
4 statements filed with the SEC which are not prepared in compliance with GAAP
5 are presumed to be misleading and inaccurate, regardless of accompanying
6 disclosures. *See* 17 C.F.R. § 210.4-01(a)(1) and § 210.10-01(a), as to annual and
7 interim financial statements, respectively. The SEC recognizes the financial
8 reporting and accounting standards of the Financial Accounting Standards Board
9 (“FASB”) as GAAP. *See* SEC Release Nos. 33-8221; 34-47743; FR-70.⁷ SEC
10 Rule 12b-20 requires that periodic reports contain such further information as is
11 necessary to make the required statements, in light of the circumstances under
12 which they are made, not misleading.⁸

13 99. Management is solely responsible for preparing financial statements
14 that comply with GAAP. Public Company Accounting Oversight Board
15 (“PCAOB”) Auditing Standard No. 1, AU § 110.03, *Distinction between*
16 *Responsibilities of Auditor and Management*; *see also* Sarbanes-Oxley Act of
17 2002, §§ 302, 401 and 404.

18 100. As detailed herein, CVB’s public financial statements and related
19 earnings releases during the Class Period were materially misstated and in
20 violation of GAAP. Defendants materially overstated CVB’s net interest income,
21

22
23 ⁷ Effective July 1, 2009, FASB replaced existing GAAP with its Accounting
24 Standards Codification (“ASC”). Accordingly, the SEC recognizes ASC as GAAP.
25 17 C.F.R. §§ 211, 231 and 241; Release Nos. 33-9062A; 34-60519A; FR-80A.
26 CVB’s GAAP violations in periods ended before July 1, 2009, violated the same or
27 similar GAAP provisions under the prior taxonomy.

28 ⁸ CVB and its operating bank subsidiaries are also required by federal and state
regulators including the Federal Reserve Bank (“FRB”), FDIC and Federal Home
Loan Bank (“FHLB”) to comply with banking regulations and accounting rules set
forth herein.

1 net earnings, earnings per share, stockholders' equity and loan values by
2 improperly accounting for its loans and committing other GAAP violations. More
3 specifically, on a quarterly basis, CVB failed to record an adequate loan loss
4 provision (expenses), failed to properly account for restructured loans and failed to
5 properly account for losses in the market value of its collateral, all of which
6 overstated income. CVB's allowance for credit losses (reserves) was much too
7 small to absorb expected losses, which overstated CVB's loan values and
8 stockholders' equity. Further, CVB omitted several GAAP and SEC required
9 disclosures concerning its loans, operating results and management's discussion
10 and analysis ("MD&A"), including disclosures that would have revealed problems
11 with specific loans and specific loan portfolios by first quarter 2009 instead of third
12 quarter 2010.

13 101. CVB's accounting errors totaled tens of millions of dollars and
14 affected the most important accounts to investors and analysts of bank holding
15 companies. On the income statement: interest income, interest expenses, net
16 income, loan loss provisions; on the balance sheet: loan loss reserves, net asset
17 values and shareholders' equity, along with associated rates of return and loss. If
18 Defendants had complied with GAAP, the Bank's reported Class Period financial
19 results would have been materially different.

20 **1. CVB Intentionally Misreported**
21 **Loan Statistics To Conceal Its Fraud**

22 102. CVB concealed its inadequate loan loss provisions and allowances for
23 credit losses, *inter alia*, by providing only one number for its loan loss provisions,
24 rather than disclosing the loss amount in each of its eight loan portfolios. During
25 the interim quarters, even the allowance for credit losses was only provided as a
26 single number. Without a breakdown of provisions and allowances at the loan
27 portfolio level, portfolio analysis of loan quality was not possible. CVB
28 compounded this problem by assigning a different set of labels to its categories of

1 non-performing and delinquent loans, preventing investors from matching the
2 problem loans to their corresponding loan portfolio, and blinding investors to the
3 fact that CVB's largest loan portfolios were comprised of its worst performing
4 loans.

5 103. CVB also concealed its fraud in other ways. For example, it padded
6 the allowance account by failing to write off loans that had already gone bad. As a
7 result, much of CVB's reported allowance for credit losses was illusory, because it
8 had actually been absorbed by past losses but improperly left on the books.
9 Further, CVB failed to accurately report its impaired loans and troubled debt
10 restructurings, making the allowance for credit losses appear sufficient. This made
11 CVB and its loan portfolios appear much healthier than its peers.

12 **2. CVB Failed To Accurately Report Its**
13 **Past Due, Restructured, Non-Performing**
And OREO Assets And Its Realized Losses

14 104. The vast majority of loans "perform" from inception until maturity
15 and their accounting treatment does not change. Loans which do not perform
16 become delinquent, signaling in advance that some or all of the principle and
17 interest will not be collected when due, or ever. Such loans – especially real estate
18 loans – take a long time to work through various accounting "buckets" which
19 indicate relative risk to investors. When a loan begins to show signs of distress by
20 becoming delinquent, GAAP requires changes in accounting for and reporting the
21 loan. Loan distress worsens as time passes and accordingly, the loan moves
22 through a series of categories reporting the loan and its related allowance for credit
23 losses, which continues to change (increase), from: (i) past due under 30-59 days,
24 to (ii) past due 60-89 days, to (iii) past due 90 or more, to (iv) non-performing and
25 non-accrual status (*i.e.*, in default). At this point, interest income is no longer
26 recognized and the last 90 days of interest is reversed. With most problem loans,
27 distress intensifies and, typically around six months past due, the loan is either
28 (i) restructured, (ii) foreclosed on and repossessed (becoming "OREO," or other

1 real estate owned), and/or (iii) written off, each one of which require an earnings
2 charge to reflect a loss in loan principle value. This causes troubled loans to be
3 strictly reported in different “buckets,” depending on where in the
4 default/foreclosure/write-off timeline it is in. *See, e.g., SEC Industry Guide 3,*
5 *Statistical Disclosure by Bank Holding Companies*, Item III.⁹

6 105. During the Class Period, however, CVB provided its investors
7 inaccurate (understated) figures for its delinquent and non-performing loans. A
8 chronological review of the Bank’s largest borrowing relationship in particular
9 reveals CVB’s failure to comply with a host of GAAP and SEC accounting and
10 disclosure requirements. CVB’s accounting errors and disclosure violations from
11 this one relationship were sufficient to materially misstate its financial statements
12 throughout the Class Period.

13 **3. Defendants Failed To**
14 **Record Timely Loan Loss**
Provisions As Losses Were Incurred

15 106. Under GAAP, accounting for losses on lending activities are governed
16 by ASC 450, *Contingencies* and ASC 310, *Receivables*, and related literature.

17 107. A loss contingency is an existing condition, situation or set of
18 circumstances involving uncertainty as to possible loss. FASB ASC, *Master*
19 *Glossary*. “The assets of an enterprise may include receivables that arose from
20 credit sales, loans, or other transactions. The conditions under which receivables
21 exist usually involve some degree of uncertainty about their collectibility, in which
22

23 ⁹ The SEC amended Guide 3 with Financial Reporting Release No. 13, adding a
24 new disclosure section, *Risk Elements*, which states: “A significant change in the
25 amended guidelines for disclosure of nonaccrual, past due and restructured loans is
26 the exclusion of certain instructions present in the current Guide which allowed for
27 the use of different criteria, and permitted exclusion of certain loans. ***This change***
28 ***has the effect of enhancing comparability of disclosures among registrants.***
Users of this information, particularly financial statement analysts, have stressed
the importance of comparability in this area.” *See* FRR.T.401.08a, *Risk Elements*
Involved in Lending Activities.

1 case a contingency exists.” See ASC 310-10-35-7, *Losses From Uncollectible*
2 *Receivables*. GAAP requires that estimated losses from loss contingencies be
3 accrued by a charge against income when a loss is both probable and reasonably
4 estimable. ASC 450-20-25-2. Loans are explicitly subject to ASC 450. *Id.*

5 108. For public companies like CVB, among the most important related
6 literature is FRR.T.401.09, *Accounting for Loan Losses by Registrants Engaged in*
7 *Lending Activities*, as set forth in SEC Financial Reporting Release No. 28 (“FRR
8 28”), *Accounting for Loan Losses by Registrants Engaged in Lending Activities*.
9 FRR 28 goes well beyond the GAAP literature, prescribing a detailed and
10 systematic reserve-setting methodology, along with policies and procedures that
11 SEC registrants must abide by when assessing and recording expected loan losses.

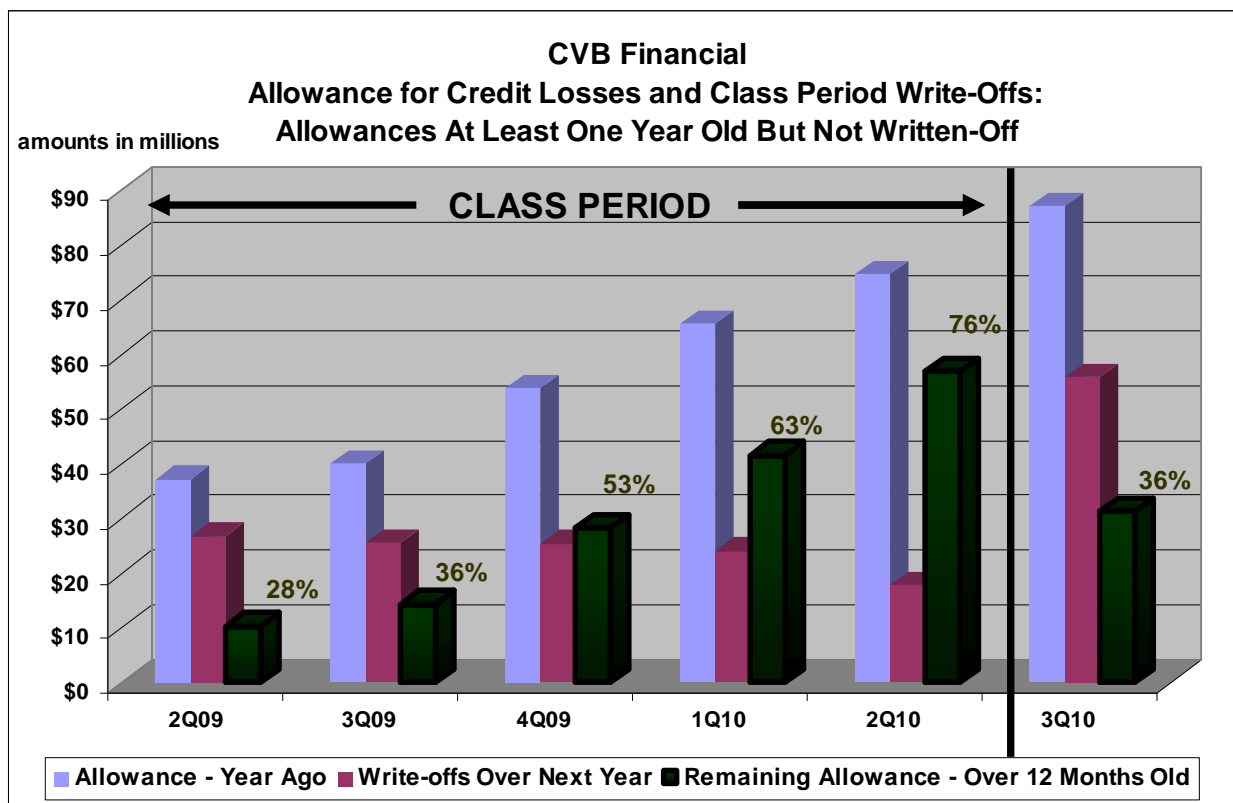
12 109. FRR 28 sets expectations and provides numerous directives intended
13 to achieve a consistent, reliable and comparable methodology for loss estimates.
14 As discussed herein, CVB dramatically slowed its write-offs of bad loans during
15 the Class Period. Writing off loans when they go bad removes the bad loan and the
16 related allowance for credit losses from CVB’s balance sheet. In failing to write
17 off bad loans during the Class Period, CVB inflated its allowance so it improperly
18 reflected the existence of reserves that were not available for other loans that
19 would go bad.

20 110. By third quarter 2010, CVB’s available allowance was both (i) grossly
21 inadequate from inadequate loan provisioning and (ii) materially inflated from bad
22 loans that had not been written off. Further, it was time to write-off a large portion
23 of its loans to Garrett, and thus CVB could no longer conceal its knowledge that
24 Garrett was in dire financial straights and its loans were impaired. However, since
25 CVB had not taken sufficient Garrett loss provisions in prior periods, and because
26 much of the reported allowance for credit losses was needed for prior losses that
27 had not been written off, CVB’s allowance at the time was insufficient to both
28 write off a portion of Garrett and still appear credible and sufficient to account for

1 future expected losses. Thus, in third quarter 2010, CVB had to record an
2 additional provision to set up an allowance for Garrett, so they could write off a
3 portion of Garrett – in the same period. CVB knew investors would require an
4 explanation, and issued its September 10, 2010 press release.

5 111. CVB claimed in the press release that it only learned about Garrett's
6 financial troubles in August 2010, when Garrett called and told them. This was not
7 true; CVB was aware of Garrett's financial problems since at least March 2009,
8 seventeen months earlier, when CVB restructured the largest Garrett loan, and even
9 earlier according to confidential witnesses and title records as discussed above. In
10 fact, as a bank holding company, CVB routinely monitors the financial condition of
11 its largest borrowers in the ordinary course of business.

12 112. The chart below shows that CVB slowed its write-offs of bad loans
13 during the Class Period. As of June 30, 2009, immediately preceding the Class
14 Period, CVB had written off 72% of the June 30, 2008 allowance during the year,
15 so just 28% of the June 30, 2008 allowance remained on its books as of
16 June 30, 2009. During the next year, however, CVB only wrote off 24% of its
17 June 30, 2009 allowance. Thus, as of June 30, 2010, 76% of CVB's allowance was
18 at least one year old. After the Class Period, Defendants immediately accelerated
19 write-offs of bad loans:
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113. In calculating CVB’s loan losses, Defendants were required to consider the declining value of the collateral underlying its loans. CVB’s management should have reviewed nonperforming loans prior to foreclosure and evaluated the current market values of the underlying collateral to arrive at estimated impairment losses. FASB Emerging Issues Task Force, in EITF Topic No. D-80, states that “[a]n institution should *ensure that an appraisal of collateral reflects a realistic estimate of fair value*, which takes into consideration the time it will take the institution to realize the value of the collateral and *current market conditions for selling the collateral*.”

114. Given that values of the collateral underlying CVB’s non-performing loans were dropping rapidly, market conditions required that Defendants record additional loan loss provisions to reflect the default loss risks. Defendants,

1 however, failed to timely and sufficiently adjust CVB's ALLL Reserves or reassess
2 the value of the Bank's collateral assets.

3 **4. Defendants' Failure To Write-Off**
4 **Loan Losses As They Occurred**
5 **Inflated CVB's Understated Reserves**

6 115. Defendants failed to write-off loan losses as they occurred. This
7 caused CVB to overstate its allowance for credit losses, and provided the illusion
8 that CVB much stronger reserves than it actually had. When loan losses are not
9 written off, the result is that gross loans and allowance for credit losses are
10 overstated by the same amount. However, because gross loans were 35-40 times
11 the allowance, CVB's practice of not writing off loan losses had 35-40 times the
12 proportional impact on the allowance account. Consequently, throughout the Class
13 Period, CVB's reported allowance for credit losses was materially greater than the
14 amount reportable under GAAP and SEC rules. Thus, CVB's understated
15 allowance was concurrently inflated. This helped conceal the inadequacy by
16 providing the illusion that CVB had much stronger reserves than were actually
17 available.

18 **5. CVB's Omitted Financial Statement**
19 **Disclosures In Violation Of GAAP**

20 116. To help conceal their financial statement fraud, Defendants violated
21 numerous SEC and GAAP disclosure requirements by making false and misleading
22 disclosures and omitting to make required disclosures in the Bank's financial
23 statement footnotes and MD&A.¹⁰ According to SEC rules and GAAP, such
24 disclosures were necessary to prevent CVB's financial statements from being
25 misleading. *See, e.g.,* SEC Regulation S-K, Item 303 and Accounting Principles
26 Bulletin Opinion No. 22, *Disclosure of Accounting Policies*.

27 ¹⁰ "The term 'financial statements' as used in this regulation shall be deemed to
28 include all notes to the statements and all related schedules." *See* SEC Regulation
S-X, Article 1, Rule 1-01(b), *Application of Regulation S-X*.

1 117. Even if CVB had not materially overstated its income, earnings per
2 share, stockholders' equity and loan values, its financial statements would be false
3 and misleading as a result of the omissions set forth below. These omissions
4 included the following specific disclosures required by the SEC:

5 Concentration Of Credit Risk

6 118. CVB failed to comply with the requirements that it present the SEC
7 and GAAP detailed information about CVB's material loss exposure specific to
8 Garrett, including disclosures of loan provisions, allowances, restructuring and
9 write-offs throughout 2008, 2009 and 2010. See SEC Regulation S-X, Rule 9-03,
10 ¶7(a)(7), *Assets*.

11 Risk Elements Involved In Lending Activities

12 119. CVB failed to comply with SEC Financial Reporting Release No. 13,
13 requiring it to disclose details about lending risks. See FRR.T.401, *Banks and*
14 *Bank Holding Companies*, § 401.08, *Risk Elements Involved in Lending Activities*.
15 Furthermore, according to GAAP, "[an] entity shall disclose all significant
16 concentrations of credit risk arising from all financial instruments, whether from an
17 individual counterparty or groups of counterparties." See ASC 825-10-50-20,
18 *Concentrations of Credit Risk of All Financial Instruments*. CVB's omitted
19 disclosures include the \$85 million maximum loss – assuming a complete failure to
20 perform by Garrett and collateral with no value – and a description of Garrett's
21 collateral. *Id.* 825-10-50-21. CVB failed to make the required disclosures about
22 its concentration of risk associated with Garrett.

23 Management's Discussion And Analysis

24 120. CVB failed to comply with SEC Regulation S-K, Item 303(a)(3),
25 *Management's Discussion and Analysis of Financial Condition and Results of*
26 *Operations*, requiring CVB to disclose any unusual or infrequent transactions that
27 materially affected its income from continuing operations. Regulation S-K, Item
28 303(b) *Interim Periods*, also requires that registrants include a management's

1 discussion and analysis in all interim period financial statements filed with the
2 SEC, “so as to enable the reader to assess material changes in financial condition
3 and results of operations” for the most recent quarter and year-to-date periods of
4 both the current and prior year. This required CVB to discuss Garrett’s financial
5 status in each reporting period. Accordingly, the SEC also required CVB to
6 disclose changes in Garrett loss estimates and their impact on CVB’s financial
7 statements.

8 Critical Accounting Estimates

9 121. SEC Release 33-8040, *Cautionary Advice Regarding Disclosure*
10 *about Critical Accounting Policies* (codified as FRR.T.501.14) instructs registrants
11 to comply with Regulation S-K, Item 303(a), *Management’s Discussion and*
12 *Analysis of Financial Condition and Results of Operations*. When estimates are
13 susceptible to material change, the company must discuss not just the possibility
14 that its estimates may turn out differently, but also (i) the factors that may cause
15 different outcomes, and (ii) the potential amount of variability in its significant
16 estimates: “Companies should provide quantitative as well as qualitative
17 disclosure when quantitative information is reasonably available and will provide
18 material information for investors.” See SEC Release 33-8040. With respect to the
19 Garrett loans, throughout the Class Period, CVB was in violation of SEC
20 Regulation S-K, Item 303(a).

21 122. CVB failed to disclose to its investors the fact that its loan loss
22 provisions were estimated using a method that was either heavily dependent on
23 favorable historical period(s) with respect to the actual losses, not readily adaptive
24 to changing circumstances, or both. During the Class Period, CVB failed to update
25 its reserves or reserve setting methodologies based on changes in market
26 conditions that had taken place throughout 2007 and 2008. CVB should have told
27 investors that its loan loss estimates were based on assumptions that the market
28

1 downturn was temporary and would reverse, and that the impact on its financial
2 statements would be disastrous if the market downturn failed to reverse.

3 **6. Following Commencement Of**
4 **The SEC Investigation, CVB Has**
5 **Now Changed Its Disclosure Practices**

6 123. After the Class Period, and faced with the continuing SEC
7 investigation, on March 1, 2011, the Bank effectively admitted in its 2010 Form
8 10-K that its prior disclosures about its loan portfolios and delinquent and non-
9 performing loans were improper and deficient by providing, for the first time,
10 certain loan details alleged herein to be required disclosures throughout the Class
11 Period. Information that CVB provided for the first time in its 2010 Form 10-K
12 included as follows:

- 13 • CVB combined information about its real estate loans as a whole,
14 including nine categories of real estate underlying the loans and other
15 information not previously provided.
- 16 • A new disclosure that included a “rollforward” of the allowance for
17 credit losses for each individual portfolio. A rollforward is an activity
18 statement that shows beginning and ending balances and all components of
19 change that took place during the period. The table was called, Allowance
20 for Credit Losses and Recorded Investment in Financing Receivables and
21 reflected all eight loan portfolios, with individual provisions, charge-offs,
22 recoveries and the beginning and ending allowance for credit losses for each
23 portfolio. Previously, the Bank had reported the rollforward information in a
24 single table, with just one beginning and ending balance.
- 25 • A table called Non-Covered Impaired Loans showing for each of the
26 eight loan portfolios, the original loan amount, the unpaid loan balance, the
27 allowance and the average recorded investment. This information was split
28 between two groups – loans with no related allowance recorded and loans

1 with a related allowance recorded. During the Class Period, this information
2 was not only omitted at the portfolio level, it was not provided at all.

3 • A new TABLE 6, Non-Performing Assets, Non-Covered, which
4 properly combined all non-accrual loans, restructured loans and other real
5 estate owned (“OREO”) assets in a single table.

6 • A new TABLE 8, Summary of Credit Loss Experience, which
7 provided the provisions, charge-offs and recoveries for each loan portfolio.
8 CVB had not previously presented this critical information in the proper
9 format, or with the required information.

10 • A new TABLE 9, Allocation of Allowance for Credit Losses, showing
11 all eight loan portfolios, their beginning and ending individual allowances
12 for credit losses, and the percentage of the total which each portfolio
13 comprised.

14 • A table entitled Non-Covered Past Due and Non-Accrual Loans,
15 showing five “buckets” of payment status for all loans. Previously, the Bank
16 provided only three categories for payment status. The loans were grouped
17 into ten categories, and included important information not provided
18 previously, such as “Construction – Speculative,” and “Construction – Non-
19 Speculative.”

20 • Credit Quality Indicators, which included Credit Risk Profile by
21 Internally Assigned Grade. It showed the same ten categories as Non-
22 Covered Past Due and Non-Accrual Loans, and the amount of loans labeled
23 “Pass,” “Watch List,” “Special Mention,” “Substandard,” or “Doubtful” for
24 each of the ten. During the Class Period, this information was not only
25 omitted at the portfolio level, it was not provided at all.

26 **F. Insider Trading**

27 124. Defendants Myers and Biebrich reaped substantial proceeds from
28 insider sales at artificially inflated prices during the Class Period. At the same

1 time, Defendants were emphasizing that the “interests of senior management and
2 board of directors [are] aligned with those of shareholders” (November 4, 2009
3 slide presentation), the “strong board ownership” in the Bank by the directors, and
4 how “we have really taken a longer-term intermediate term perspective on what we
5 do.”

6 We are not as interested in our results in the next quarter, as we are
7 what [sic] we’re building for the future We have strong board
8 ownership position 16%, so we make decisions for the long run.
9 (December 2, 2009 private analyst presentation transcript).

10 125. Notwithstanding Defendants’ statements about their “longer-term”
11 perspective, during the Class Period, Defendants started selling off their shares.
12 Specifically, during the Class Period, CFO Defendant Biebrich sold 57,680 shares
13 for a total of \$565,618. During the entire year prior to the beginning of the Class
14 Period, Biebrich had only one transaction, selling 1,608 shares for a total of
15 \$16,080. During the Class Period, Defendant Biebrich sold approximately half of
16 the 110,929 shares he held at the start of the Class Period. Specifically, Defendant
17 Biebrich sold 10,000 shares on November 16, 2009, at \$8.39 per share; sold
18 another 20,000 shares on January 25, 2010, at \$9.37 per share; sold another 10,000
19 shares 4 days later on January 29, 2010, at \$9.95 per share; sold another 3,000
20 shares on March 24, 2010, at \$10.53 per share; sold another 10,000 shares on April
21 26, 2010, at \$11.51 per share; and sold another 4,680 shares on March 27, 2010, at
22 \$10.29 per share.

23 126. During the entire year prior to the beginning of the Class Period,
24 Defendant Myers did not sell any shares, but purchased 258,000 shares. Then,
25 after the beginning of the Class Period, on February 24, 2010, Defendant Myers
26 sold 13,000 shares. Shortly thereafter, on June 15, 2010 (just five weeks before
27 receipt of the SEC subpoena), Myers instituted a 10b5-1 trading plan (the “Plan”),
28 with the reported purpose of allowing Myers “to pay the income taxes related to

1 the vesting of his restricted stock grants.” Then, on August 2, 2010, Myers sold an
2 additional 5,500 shares pursuant to the Plan. In total, during the Class Period,
3 Defendant Myers purchased no shares, but sold 18,500 shares, for proceeds of
4 \$180,889.

5 127. Defendants Myers and Biebrich received these proceeds while they
6 were in possession of material, non-public information concerning CVB, namely,
7 as explained above, that:

- 8 (a) Defendants failed to properly account for CVB’s commercial
9 real estate loans and failed to reflect impairment in the loans;
- 10 (b) CVB had not adequately reserved for loan losses such that its
11 financial statements were presented in violation of GAAP;
- 12 (c) Defendants knew or recklessly disregarded that CVB’s largest
13 borrower, Garrett, had defaulted and was about to be foreclosed
14 on; that the loans were backed by collateral whose market value
15 was well below that of the loan amounts, and were kept
16 “current” only by virtue of its “extend and pretend” practice of
17 extending new monies to help borrowers pay existing loans;
18 and
- 19 (d) Defendants knew or recklessly disregarded that there was not a
20 mere “risk” that continuing deterioration in the real estate
21 market “could” affect the ability of CVB’s loan customers,
22 including its largest borrowing relationships, to service their
23 debt; rather, Defendants knew or recklessly disregarded that this
24 “risk” had already come to fruition.

25 **VII. THE TRUTH EMERGES**

26 128. After the close of the market on August 9, 2010, CVB shocked the
27 market when it announced that, two weeks earlier, on July 26, 2010, the Bank had
28 received a subpoena from the SEC demanding information about how the Bank

1 handles and discloses troubled loans. Specifically, the subpoena questioned the
2 Bank's loan underwriting guidelines, its allowance for credit losses and how CVB
3 calculates its allowance for loan losses. Analysts immediately reacted to the
4 announcement, stating that the SEC probe was notable because it revealed that
5 CVB was not fully disclosing potentially problematic loans and that CVB's largest
6 exposure – Garrett – is backed by collateral whose market value is well below that
7 of the loan amount – concerns the Bank had previously denied. Specifically, CVB
8 announced:

9 The subpoena requests information regarding our loan underwriting
10 guidelines, our allowance for credit losses and our allowance for loan
11 loss calculation methodology, our methodology for grading loans and
12 the process for making provisions for loan losses, and our provision
13 for credit losses. In addition, the subpoena requests information
14 regarding presentations we have given or conferences we have
15 attended with analysts, brokers, investors or prospective investors.

16 129. The Bank provided no explanation for why it had waited two weeks to
17 disclose the subpoena it had received on July 26, 2010 – the same day the Bank
18 had, instead, announced that CFO Defendant Biebrich was “retiring.”

19 130. The market reacted quickly and negatively. Immediately following
20 the news of the SEC probe and analysts reports confirming that the subpoena
21 revealed that CVB was not fully disclosing potentially problematic loans, CVB's
22 stock fell \$2.30 per share to close at \$8.00 per share on August 10, 2010 – a one-
23 day decline of over 22% on extremely high volume of 4.26 million shares,
24 representing a market capitalization loss of approximately \$245 million.

25 131. The announcement of the SEC investigation validated what until then
26 Defendants had publicly denied – namely, whether the Bank was (i) fully
27 disclosing potentially problematic loans, in particular, loans to its largest customer,
28 Garrett; (ii) whether the market value of the collateral was below the loan amounts;

1 and (iii) whether CVB extended new loans to borrowers to keep their existing
2 loans current. For example, after the announcement, on August 10, 2010, Dow
3 Jones published an article with the headline “HEARD ON THE STREET: CVB
4 Financial’s Can of Worms,” which stated in part:

5 A Securities and Exchange Commission probe of a midsized
6 California bank may open more than one can of worms.

7 CVB Financial, of Ontario, Calif., announced Monday that on July 26
8 it received a subpoena from the SEC, seeking information about,
9 among other things, bad loan reserves. Its stock plunged 22%
10 Tuesday.

11 The investigation is notable for two reasons. *First, it could determine*
12 *whether CVB Financial’s critics are right in thinking that the bank*
13 *isn’t fully disclosing potentially problematic loans, an accusation*
14 *the bank rejects.* Second, the subpoena was received after the Federal
15 Deposit Insurance Corp. in May had concluded an annual examination
16 of the bank.

17 * * *

18 *Discussion of CVB Financial centers on its largest exposure, loans*
19 *to a property company called the Garrett Group. Skeptics believe*
20 *this exposure is backed by collateral whose market value is well*
21 *below that of the loan amount. Some also question whether CVB*
22 *extended a new loan to Garrett to help it pay existing loans,*
23 *something Myers denies. He said the Garrett Group was current on*
24 *its loans at the end of the second quarter, but the bank had reserves*
25 *against the exposure.*

26 132. Similarly, Macquarie reported on August 10, 2010, that the SEC
27 investigation indicated that the adequacy or consistency of CVB’s disclosures
28 could be at issue, and that it expected the investigation to remain a material

1 overhang on the stock, *“particularly given lingering concerns in the investment*
2 *community around the company’s asset quality and financial reporting.”*

3 133. CVB admitted the “extraordinary market activity in the Company’s
4 stock volume and price today.” The next day, on August 10, 2010, in an apparent
5 attempt to stop the stock price from continuing its downhill slide, CVB announced
6 a repurchase plan:

7 “We believe the decline in stock price presents an opportunity for us
8 to repurchase CVBF stock to enhance shareholder value. We are
9 taking advantage of this opportunity,” said Chris Myers, President and
10 CEO.

11 The Bank’s regulators recently completed their annual safety and
12 soundness examination of Citizens Business Bank. “While the results
13 of this examination are confidential, the fact that there was no
14 negative disclosure on the FDIC website should speak for itself,” said
15 Myers. Annual regulatory examinations involve a comprehensive
16 review of the Company’s loan portfolio, underwriting practices, and
17 the adequacy of its loan loss reserves and methodology.

18 In addition to the annual safety and soundness examinations, we
19 regularly have our loan portfolio reviewed by outside consultants.

20 CVB Financial Corp. has reported over 130 consecutive quarterly
21 profits. On July 21, 2010, the Company reported record earnings for
22 the second quarter of 2010.

23 134. Also on August 10, 2010, Credit Suisse reported that the SEC
24 investigation revealed two issues, regarding: (i) the adequacy of CVB’s reserves,
25 including specifically with respect to the Bank’s largest loans (Garrett); and (ii) the
26 adequacy of CVB’s disclosures.

27 135. On August 11, 2010, FIG Partners explained as follows:
28

1 *It appears the SEC is looking into whether CVBF misled the Street*
2 *by hiding the true performance of loans the company said were*
3 *performing. In doing so, the SEC is also implying that company*
4 *management hid the true nature of the loan portfolio from the FDIC*
5 *and California Department of Financial Institutions (the bank's*
6 *primary regulators) The information sought [in the SEC*
7 *subpoena] is very similar to stories in the press recently that the*
8 *company was overstating credit quality.* (Emphasis added.)

9 136. The report further explained that “[i]n response to the 22% decline in
10 the stock price yesterday, management issued a rare public statement after market
11 close.” The Bank defended its internal credit monitoring process, reminded
12 investors it is on good terms with banking regulators and executed, for the first
13 time, on an existing 10 million share repurchase program.

14 137. On September 9, 2010, just one month after the Bank announced its
15 receipt of the SEC subpoena questioning the Bank’s loan underwriting guidelines
16 and loan loss reserves, CVB finally disclosed that Garrett was not in fact “fully
17 performing” or “current” on its debt. Rather, *CVB had suddenly charged-off \$34*
18 *million in debt owed by Garrett, and placed the remaining \$48 million in the*
19 *Bank’s non-performing and impaired loan category. The Bank also admitted*
20 *that the reserves it had previously allocated for the Garrett loans were*
21 *insufficient, at only \$24.7 million (or 30% of the loan amount),* and because of its
22 inadequate Garrett reserves, it had to record an additional provision of \$9.3 million
23 in third quarter 2010.

24 138. Specifically, the Bank’s announcements in its September 2010 press
25 release and conference call slides filed with the SEC stated that in August, the
26 Bank’s largest borrower (Garrett) informed the Bank that they were not able to
27 make principal and interest payments on their loans as scheduled and wanted to
28 negotiate an alternative repayment schedule:

1 The borrowing relationship is comprised of seven loans and totals
2 approximately \$82 million in outstanding debt. This is the largest
3 borrowing relationship in the Bank.

4 In response to the information from our largest borrower, we have
5 taken the following actions:

- 6 • On September 2, 2010 all of the loans were put on non-
7 accrual (\$48 million in loans after charging off \$34 million).
- 8 • We charged-off \$34 million in loans versus our June 30,
9 2010 reserve of \$24.7 million. Based on our charge-off of
10 \$34 million, we are recording an additional \$9.3 million
11 provision for credit losses in the third quarter.
- 12 • The \$34 million charge-off figure was determined as
13 follows: we currently hold first trust deed liens on 25
14 different properties with an aggregate appraised value of
15 \$52.1 million. Each of the 25 properties has been appraised
16 by MAI certified third party appraisers with the exception of
17 two properties which were appraised by a third-party State
18 Certified Real Estate appraiser. The combined value of the
19 two non-MAI appraised properties is \$5.7 million. All of
20 the 25 property appraisals were updated in 2010 with the
21 exception of one property which was appraised in November
22 2009 and was valued at \$3.0 million at that time. The
23 remaining \$48 million in non-accrual loan balance
24 represents 92% of the \$52.1 million in aggregate appraised
25 values
- 26 • The Borrower sold a 26th property recently for \$2.5 million.
27 The majority of the proceeds of this sale (\$2 million) are
28 held as payment collateral for our loans, which collateral is

1 to be used to make all principal and interest payments
2 scheduled through December 15, 2010. The remaining \$0.5
3 million in proceeds were used to pay past due property
4 taxes, sales commissions and borrower cost reimbursements.
5 This is part of a Forbearance Agreement with the subject
6 borrower. The Agreement expires December 15, 2010.

7 139. With respect to the largest of the seven Garrett loans, with a \$42.5
8 million loan balance, the Bank disclosed that it had no direct liens on the properties
9 that were purportedly serving as collateral for the loan, and that the Bank was now
10 suddenly reducing the value of the Bank's UCC-1 filings on the properties to *zero*.
11 The Bank disclosed as follows:

12 This loan is further supported by UCC-1 filings on the borrower's
13 equity interests in 15 income producing properties, aggregating nearly
14 two million square feet of office and industrial space. All of the 15
15 properties have existing first trust deeds recorded by other lenders, so
16 we have no direct lien on the properties. The excess cash flow
17 realized on these properties (after paying the mortgage payments) has
18 been utilized to assist our Borrower in paying CBB loan obligations.
19 Of the 15 properties, all properties are income producing (nine are
20 industrial properties and six are office buildings). However, in recent
21 months, cash flow has declined significantly due to vacancies and
22 reduced rents. Due to our weakened equity-based collateral position
23 on these properties, we have discounted the value of our UCC-1
24 filings on the subject properties to zero

25 140. Overall, the Bank reported that it expected its non-performing loans
26 ("NPLs") will increase \$59 million for the third quarter going from \$83 million to
27 \$142 million; of this increase, \$48 million represents the balance of the loans to
28 Garrett, after the \$34 million charge-off, and the remaining \$11 million in increase

1 is primarily attributed to two dairy borrowers, who recently were reclassified to
2 non-performing status. The Bank reported that charge-offs for the third quarter are
3 projected to total approximately \$38 million; of this amount, \$34 million
4 represents the charge-off on Garrett, and the remaining \$4 million is for smaller,
5 unrelated loans to other borrowers. The Bank further reported that in order to
6 partially absorb the sharp increase in Net Charge-Offs, CVB recognized \$28
7 million in sales of securities.

8 141. Following the Bank's disclosure after the close of the market on
9 September 9, 2010, the price of CVB stock dropped from \$7.05 to a low of \$6.88,
10 a drop of 2.41%, before closing at \$6.99, on volume of 4,379,983, more than five
11 times the volume traded on the previous day. Moreover, the decline was
12 particularly significant in light of the fact that, the same day, the Standard and
13 Poors 500 ("S&P 500") *increased*, from 1104.18 to 1109.55, and the index of all
14 state banks also increased.

15 142. On September 10, 2010, Credit Suisse, reported in part:

16 More importantly, in our view, CVBF announced that it was placing
17 its largest (and most controversial) loan on non-performing status, and
18 writing it down to its recent appraisal value (less assumed OREO
19 costs).

20 While the SEC subpoena remains outstanding, we believe the
21 announcement removes a major component of uncertainty in regards
22 to problem loans; for which the subpoena also seeks to address (to a
23 certain extent).

24 143. On September 13, 2010, Howe Barnes Hoefer & Arnett explained as
25 follows:

26 The company's share price plummeted by ~22% to \$8.00 on
27 August 10, which was the day after it disclosed the SEC investigation.
28 Since then, the share price has drifted down by an additional ~13% to

1 \$6.99 on September 10. There was only a modest decline of ~1%
2 following the earnings preannouncement as further deterioration in
3 credit quality and uncertainty surrounding the SEC investigation are
4 already reflected in the share price.

5 144. Shortly thereafter, on January 20, 2011, CVB further disclosed that
6 Garrett had failed to comply with forbearance agreements (which CVB had
7 previously disclosed on September 9, 2010, was “a Forbearance Agreement,”
8 (singular), but which CVB now reported was multiple “forbearance agreements”).
9 The Bank explained:

10 As a result, we are continuing to explore all of our rights and remedies
11 on a loan-by-loan basis, including without limitation the sale of
12 certain notes, initiation of foreclosure proceedings against certain
13 collateral and alternative repayment plans. There can be no assurance
14 as to the outcome of such efforts, which the borrower may oppose.
15 The current aggregate balance after prior payments and charge-offs is
16 \$45.2 million. Further charge-offs may need to be taken based on
17 loan developments, borrower actions and/or reappraisals of collateral.

18 145. Eventually, CVB recorded numerous Notices of Default on Garrett,
19 including at least the following: (1) on January 24, 2011, for \$8,711,151.55; (2) on
20 January 26, 2011, for \$4,920,283.08; (3) on January 27, 2011, for \$2,725,162.94;
21 and (4) on February 15, 2011, for \$42,361,705.24.

22 **VIII. APPLICABILITY OF PRESUMPTION OF**
23 **RELIANCE: FRAUD ON THE MARKET DOCTRINE**

24 146. At all relevant times, the market for CVB’s publicly traded common
25 stock was an efficient market for the following reasons, among others:

26 (a) The Bank’s common stock met the requirements for public listing and
27 was listed and actively traded on the NASDAQ, a highly efficient market.
28 The average daily volume of CVB’s common stock during the Class Period

1 was 1,058,754 shares based on information from the Yahoo Finance website.
2 Further, approximately 60% of the stock was owned by institutional
3 investors;

4 (b) As a regulated issuer, CVB made public filings, including its Forms
5 10-K, Forms 10-Q and related press releases, with the SEC;

6 (c) CVB was followed by analysts from major brokerages including,
7 among others, Cantor Fitzgerald, Sandler O'Neill & Partners, LP, Stifel
8 Nicolaus, Wunderlich Securities, Macquarie, Keefe, Bruette & Woods,
9 Credit Suisse, and B. Rile & Company, Inc. The reports of these analysts
10 were redistributed to the brokerages' sales force, their customers, and the
11 public at large;

12 (d) CVB regularly communicated with public investors via established
13 market communication mechanisms, including the Bank's website, regular
14 disseminations of press releases on the major news wire services, and other
15 wide-ranging public disclosures, such as communications with the financial
16 press and other similar reporting services;

17 (e) The material misrepresentations and omissions alleged herein would
18 tend to induce a reasonable investor to misjudge the value of CVB's
19 common stock; and

20 (f) Without knowledge of the misrepresented or omitted material facts,
21 Lead Plaintiff and the other members of the Class purchased or otherwise
22 acquired CVB common stock between the time Defendants made the
23 material misrepresentations and omissions and the time the truth was
24 disclosed, during which time the price of CVB common stock was inflated
25 by Defendants' misrepresentations and omissions.

26 147. As a result, the market for CVB's publicly traded common stock
27 promptly digested current information with respect to CVB from all publicly
28 available sources and reflected such information in the price of the Bank's

1 common stock. Under these circumstances, all purchasers of CVB's common
2 stock during the Class Period suffered similar injury through their purchase of the
3 stock at artificially inflated prices, and a presumption of reliance applies.

4 **IX. NO SAFE HARBOR**

5 148. The statutory safe harbor provided for forward-looking statements
6 under certain circumstances does not apply to any of the allegedly false statements
7 pleaded in this Complaint. The statements alleged to be false and misleading
8 herein all relate to facts and conditions existing at the time the statements were
9 made. No statutory safe harbor applies to any of Defendants' material false or
10 misleading statement.

11 149. Moreover, the statutory safe harbor is inapplicable with respect to the
12 false and misleading statements included in CVB's financial statements, which
13 purported to be prepared in accordance with GAAP.

14 150. Many of the specific statements pleaded herein were not identified as
15 "forward-looking statements" when made. To the extent there were any forward-
16 looking statements, there were no meaningful cautionary statements identifying
17 important factors that could cause actual results to differ materially from those in
18 the purportedly forward-looking statements. Alternatively, to the extent that the
19 statutory safe harbor does apply to any forward-looking statements pleaded herein,
20 Defendants are liable for those false forward-looking statements because at the
21 time each of those forward-looking statements was made, the particular speaker
22 knew that the particular forward-looking statement was false and/or the forward-
23 looking statement was authorized and/or approved by an executive officer of CVB
24 who knew that those statements were false when made.

25 **X. CLASS ACTION ALLEGATIONS**

26 151. Lead Plaintiff brings this action as a class action pursuant to Rule 23
27 of the Federal Rules of Civil Procedure on behalf of all persons who purchased or
28 otherwise acquired CVB common stock between October 21, 2009, and

1 August 9, 2010, inclusive, and who were damaged thereby (the “Class”).
2 Excluded from the Class are the Individual Defendants, the officers and directors
3 of CVB and Citizens Bank Corp. at all relevant times, members of their immediate
4 families and their legal representatives, heirs, successors, or assigns and any entity
5 in which Defendants have or had a controlling interest.

6 152. The members of the Class are so numerous that joinder of all
7 members is impracticable. Throughout the Class Period, CVB common shares
8 were actively traded on the NASDAQ. CVB has over 106 million shares of CVB
9 common stock issued and outstanding. While the exact number of Class members
10 is unknown to Lead Plaintiff at this time and can only be ascertained through
11 appropriate discovery, Lead Plaintiff believes that there are hundreds or thousands
12 of members in the Class. Record owners and other members of the Class may be
13 identified from records maintained by CVB or its transfer agent and may be
14 notified of the pendency of this action by mail, using the form of notice similar to
15 that customarily used in securities class actions.

16 153. There is a well-defined community of interest in the questions of law
17 and fact involved in this case. Questions of law and fact common to the members
18 of the Class which predominate over questions which may affect individual Class
19 members include:

- 20 (a) Whether Defendants violated the Exchange Act;
- 21 (b) Whether Defendants omitted or misrepresented material facts;
- 22 (c) Whether Defendants’ statements omitted material facts
23 necessary to make the statements made, in light of the circumstances under which
24 they were made, not misleading;
- 25 (d) Whether Defendants knew or deliberately disregarded that their
26 statements were materially false and misleading when made;
- 27 (e) Whether the price of CVB common stock was artificially
28 inflated; and

1 (f) The extent of damage sustained by Class members and the
2 appropriate measure of damages.

3 154. Lead Plaintiff's claims are typical of those of the Class because Lead
4 Plaintiff and the Class sustained damages from Defendants' wrongful conduct in
5 violation of federal law that is complained of herein.

6 155. Lead Plaintiff will adequately protect the interests of the Class and has
7 retained counsel who are experienced in class action securities litigation. Lead
8 Plaintiff has no interests which conflict with those of the Class.

9 156. A class action is superior to other available methods for the fair and
10 efficient adjudication of this controversy since joinder of all members of the Class
11 is impracticable. Furthermore, as the damages suffered by individual Class
12 members may be relatively small, the expense and burden of individual litigation
13 make it impossible for members of the Class to individually redress the wrongs
14 done to them. There will be no difficulty in the management of this action as a
15 class action.

16 **XI. CLAIMS FOR RELIEF**

17 **COUNT I**

18 **For Violation Of § 10(b) Of The Exchange**
19 **Act And Rule 10b-5 Against CVB, Myers And Biebrich**

20 157. Lead Plaintiff incorporates by reference each and every allegation
21 contained above, as if set forth herein.

22 158. This claim is brought pursuant to Section 10(b) of the Exchange Act
23 and Rule 10b-5 promulgated thereunder, on behalf of Lead Plaintiff and members
24 of the Class against Defendants CVB, Myers, and Biebrich.

25 159. During the Class Period, Defendants made materially false and
26 misleading statements and omissions that were intended to and, throughout the
27 Class Period, did deceive the investing public regarding CVB's business and
28 operations, including but not limited to its underwriting and credit quality, and the

1 intrinsic value of CVB common stock; and enable CVB insiders to sell shares of
2 their privately held CVB stock while in possession of material adverse non-public
3 information about the Bank. Defendants, jointly and individually (and each of
4 them), took the actions set forth herein.

5 160. Defendants CVB, Myers, and Biebrich: (a) employed devices,
6 schemes, and artifices to defraud; (b) made untrue statements of material fact or
7 omitted to state material facts necessary to make the statements not misleading;
8 and (c) engaged in acts, practices, and a course of business which operated as a
9 fraud and deceit upon the purchasers of the Bank's common stock in an effort to
10 maintain artificially high market prices for CVB's common stock in violation of
11 Section 10(b) of the Exchange Act and Rule 10b-5. All Defendants are legally
12 responsible as primary participants in the wrongful and illegal conduct charged
13 herein, and the Individual Defendants are also legally responsible as controlling
14 persons as set forth in Count II below.

15 161. Defendants CVB, Myers, and Biebrich, individually and in concert,
16 directly and indirectly, by the use, means, or instrumentalities of interstate
17 commerce and/or mail, engaged and participated in a continuous course of conduct
18 to conceal adverse material information about the business, operations and future
19 prospects of CVB as specified herein.

20 162. Defendants employed devices, schemes, and artifices to defraud,
21 while in possession of material adverse non-public information and engaged in
22 acts, practices, and a course of conduct as alleged herein in an effort to assure
23 investors of CVB's value and performance, and continued credit risk management,
24 which included the making of, or the participation in the making of, untrue
25 statements of material facts and omitting to state material facts necessary in order
26 to make the statements made about CVB, in the light of the circumstances under
27 which they were made, not misleading, as set forth more particularly herein, and
28 engaged in transactions, practices, and a course of business which operated as a

1 fraud and deceit upon the purchasers of CVB common stock during the Class
2 Period.

3 163. The Defendants had actual knowledge of the misrepresentations and
4 omissions of material facts set forth herein, or recklessly disregarded the truth in
5 that they failed to ascertain and to disclose such facts. Such Defendants' material
6 misrepresentations and omissions were done knowingly or with deliberate
7 disregard for the purpose and effect of concealing CVB's financial results and
8 deteriorating credit quality from the investing public and supporting the artificially
9 inflated price of its common stock. As demonstrated by Defendants'
10 overstatements and misstatements of the Bank's business, operations, and earnings
11 throughout the Class Period, Defendants, if they did not have actual knowledge of
12 the misrepresentations and omissions alleged, were reckless in failing to obtain such
13 knowledge by recklessly refraining from taking those steps necessary to discover
14 whether those statements were false or misleading.

15 164. As a result of the dissemination of the materially false and misleading
16 information and failure to disclose material facts, as set forth above, the market
17 price of CVB common stock was artificially inflated during the Class Period. In
18 ignorance of the fact that market prices of CVB's publicly traded common stock
19 were artificially inflated, and relying directly or indirectly on the false and
20 misleading statements made by Defendants, or upon the integrity of the market in
21 which the securities trade, and/or on the absence of material adverse information
22 that was known to or recklessly disregarded by Defendants but not disclosed in
23 public statements by Defendants during the Class Period, Lead Plaintiff and the
24 other members of the Class acquired CVB common stock during the Class Period
25 at artificially high prices and were damaged thereby.

26 165. At the time of said misrepresentations and omissions, Lead Plaintiff
27 and other members of the Class were ignorant of their falsity, and believed them to
28 be true. Had Lead Plaintiff and the other members of the Class and the

1 marketplace known the truth regarding CVB, which was not disclosed by
2 Defendants, Lead Plaintiff and other members of the Class would not have
3 purchased or otherwise acquired their CVB common stock, or, if they had acquired
4 such common stock during the Class Period, they would not have done so at the
5 artificially inflated prices which they paid.

6 166. By virtue of the foregoing, Defendants have violated Section 10(b) of
7 the Exchange Act, and Rule 10b-5 promulgated thereunder.

8 167. As a direct and proximate result of Defendants' wrongful conduct,
9 Lead Plaintiff and the other members of the Class suffered damages in connection
10 with their respective purchases and sales of the Bank's common stock during the
11 Class Period.

12 **COUNT II**

13 **For Violation Of § 20(a) Of The** 14 **Exchange Act Against Myers And Biebrich**

15 168. Lead Plaintiff repeats and re-alleges each and every allegation
16 contained above as if fully set forth herein.

17 169. Defendants Myers and Biebrich acted as controlling persons of CVB
18 within the meaning of Section 20(a) of the Exchange Act as alleged herein. By
19 virtue of their high-level positions, their ownership and contractual rights,
20 participation in and awareness of the Bank's operations, and intimate knowledge of
21 the fraudulent scheme and the false financial statements filed by the Bank with the
22 SEC and disseminated to the investing public, the Individual Defendants had the
23 power to influence and control, and did influence and control, directly or indirectly,
24 the decision-making of the Bank, including the content and dissemination of the
25 various statements which Lead Plaintiff contends are false and misleading.
26 Defendants Myers and Biebrich were provided with, or had unlimited access to,
27 copies of the Bank's reports, press releases, public filings, and other statements
28 alleged by Lead Plaintiff to be misleading prior to and shortly after these

1 statements were issued and had the ability to prevent the issuance of the statements
2 or cause the statements to be corrected.

3 170. In particular, each of these Individual Defendants had direct and
4 supervisory involvement in the day-to-day operations of the Bank and, therefore, is
5 presumed to have had the power to control or influence the particular transactions
6 giving rise to the securities violations as alleged herein, and exercised the same.
7 For example, the Individual Defendants were able to and did control the content of
8 the various SEC filings, press releases, investor presentations, and other public
9 statements pertaining to the Bank during the Class Period. The Individual
10 Defendants had access to the adverse undisclosed information about CVB's
11 business, operations, products, trends, financial statements, markets, and present
12 and future business prospects via access to internal control documents (including
13 but not limited to the Bank's Problem Loan Reports); conversations and
14 connections with other corporate officers, employees, and borrowers; participation
15 at management and Board of Directors meetings and committees thereof (including
16 the Bank's monthly Loan Committee meetings), and reports and other information
17 provided to them in connection therewith.

18 171. The Individual Defendants both participated in the drafting,
19 preparation, and/or approval of the various public, shareholder, and investor reports
20 and presentations, as well as other communications alleged herein. CVB's SEC
21 filings document the Individual Defendants' direct involvement in the Bank's day-
22 to-day operations. For example, in its Form 10-Q for first quarter 2010, CVB
23 reported that the Individual Defendants reviewed and analyzed loans on a quarterly
24 basis, including the character of the loan portfolio, current economic conditions,
25 past credit loss experience, and such other factors that deserved current recognition
26 in estimating inherent credit losses. Indeed, CW1 confirmed that the Individual
27 Defendants both regularly participated in monthly Loan Committee meetings.
28 During these meetings, they discussed branch information, loans approved the

1 prior month, “loans of interest” (including the Garrett loans), delinquencies, and
2 merchant card information. CW2 also corroborated that the Individual Defendants
3 knew about the status of troubled loans. In addition, CW1 confirmed that
4 Defendant Myers closely monitored the Garrett loans, and an April 3, 2010 New
5 York Times article reported that he “aggressively” monitored troubled loans “all
6 the time.” Defendants Myers and Biebrich also regularly monitored the Credit
7 Department in general.

8 172. As set forth above, CVB and the Individual Defendants each violated
9 Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this
10 Complaint. By virtue of their positions as controlling persons, the Individual
11 Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct
12 and proximate result of Defendants’ wrongful conduct, Lead Plaintiff and other
13 members of the Class suffered damages in connection with their purchases of the
14 Bank’s common stock during the Class Period.

15 **XII. PRAYER FOR RELIEF**

16 WHEREFORE, Lead Plaintiff prays for judgment as follows:

17 A. Determining that this action is a proper class action pursuant to Rule
18 23 of the Federal Rules of Civil Procedure and certifying Lead Plaintiff as class
19 representative and Lead Counsel as Class Counsel;

20 B. Awarding compensatory damages in favor of Lead Plaintiff and the
21 other Class members against all Defendants, jointly and severally, for all damages
22 sustained as a result of Defendants’ wrongdoing, in an amount to be proven at trial,
23 including interest thereon;

24 C. Awarding Lead Plaintiff and the Class their reasonable costs and
25 expenses incurred in this action, including counsel fees and expert fees; and

26 D. Awarding such other and further relief as the Court may deem just and
27 proper.
28

1 **XIII. JURY DEMAND**

2 Lead Plaintiff demands a trial by jury.

3
4 Dated: March 7, 2011

Respectfully submitted,

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