

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE RAIT FINANCIAL TRUST  
SECURITIES LITIGATION

Master File No. 2:07-cv-03148-  
LDD

**JURY TRIAL DEMANDED**

Lead Plaintiff Brahman Capital Corp., on behalf of Brahman Partners II, L.P., Brahman Partners III, L.P., B Y Partners, L.P., Brahman C.P.F. Partners, L.P., and Brahman Partners IV, L.P.; and Additional Named Plaintiff Employees' Retirement System of the State of Rhode Island,

v.

RAIT Financial Trust; Daniel G. Cohen; Betsy Z. Cohen; Jack E. Salmon; Ellen J. DiStefano; Edward S. Brown; Frank A. Farnesi; S. Kristin Kim; Arthur Makadon; Daniel Promislo; John F. Quigley, III; Murray Stempel III; Friedman, Billings, Ramsey Group, Inc.; FBR Capital Markets Corp.; Bear, Stearns & Co. Inc.; UBS Securities LLC; RBC Capital Markets Corporation; KeyBanc Capital Markets; Stifel, Nicolaus & Company, Inc.; BMO Capital Markets Corp.; Piper Jaffray & Co.; RBC Dain Rauscher, Inc.; and Grant Thornton LLP.

**CONSOLIDATED CLASS ACTION COMPLAINT**

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## TABLE OF CONTENTS

	<u>Page</u>
I. NATURE OF THE ACTION.....	1
II. JURISDICTION AND VENUE.....	6
III. PARTIES.....	7
A. Lead Plaintiff.....	7
B. Additional Named Plaintiff.....	8
C. The Securities Act Defendants.....	8
1. The Company.....	8
2. The Officer Defendants.....	8
3. The Trustee Defendants.....	9
4. The Underwriter Defendants.....	11
5. Defendant Grant Thornton.....	16
D. The Exchange Act Defendants.....	16
1. The Company.....	16
2. The Officer Defendants.....	17
IV. CLASS ACTION ALLEGATIONS.....	18
V. FACTUAL ALLEGATIONS RELATING TO THE SECURITIES ACT CLAIMS ....	21
A. The Respective Businesses Of RAIT And Taberna.....	21
B. The RAIT/Taberna Merger.....	24
1. Taberna Cuts Short A Planned IPO To Merge With RAIT.....	24
2. The Story Behind The Merger: The “Web of Conflicts” Intertwining RAIT, Taberna, And Cohen Bros.....	27

C.	As the Crisis In The Real Estate Industry Deepens And Severely Exposes RAIT’s Newly-Acquired TruPS Portfolio, RAIT Sells Hundreds Of Millions Of Dollars In New Securities To Investors.....	29
1.	The January 2007 Stock Offering.....	43
2.	The April 2007 Note Offering.....	46
3.	The July 2007 Preferred Stock Offering.....	47
VI.	DEFENDANTS’ VIOLATIONS OF GAAP AND IMPACT ON FINANCIAL STATEMENTS.....	52
VII.	GRANT THORNTON’S VIOLATIONS OF AUDITING STANDARDS.....	55
VIII.	THE SECURITIES ACT DEFENDANTS’ NEGLIGENCE.....	58
IX.	CLAIMS FOR RELIEF UNDER THE SECURITIES ACT.....	59
	COUNT ONE: For Violations Of Section 11 Of The Securities Act, On Behalf Of Purchasers of RAIT Common Stock In The January 2007 Stock Offering, Against RAIT, The Officer Defendants, The Trustee Defendants, And The Common Stock Underwriter Defendants.....	59
	COUNT TWO: For Violations of Section 12(a)(2) Of The Securities Act, On Behalf Of Purchasers Of RAIT Common Stock In The January 2007 Stock Offering, Against RAIT And The Common Stock Underwriter Defendants .....	63
	COUNT THREE: For Violations Of Section 15 Of The Securities Act, On Behalf Of Purchasers Of RAIT Common Stock In The January 2007 Stock Offering, Based On RAIT’s Section 11 Violations, Against Defendants Daniel Cohen, Betsy Cohen and Salmon .....	65
	COUNT FOUR: For Violations Of Section 11 Of The Securities Act, On Behalf Of Purchasers Of RAIT Preferred Stock In The July 2007 Preferred Stock Offering, Against RAIT, The Officer Defendants, The Trustee Defendants, Defendant Grant Thornton And The Preferred Stock Underwriter Defendants.....	68
	COUNT FIVE: For Violations Of Section 12(a)(2) Of The Securities Act, On Behalf Of Purchasers Of RAIT Preferred Stock In The July 2007 Preferred Stock Offering, Against RAIT And The Preferred Stock Underwriter Defendants.....	73

COUNT SIX: For Violations Of Section 15 Of The Securities Act, On Behalf Of Purchasers Of RAIT Preferred Stock In The July 2007 Preferred Stock Offering, Based On RAIT’s Section 11 Violations, Against Defendants Daniel Cohen, Betsy Cohen And Salmon.....75

X.	FACTUAL ALLEGATIONS RELEVANT TO CLAIMS UNDER THE EXCHANGE ACT.....	76
A.	The Real Estate Market Continues To Deteriorate Following The January 2007 Stock Offering.....	77
B.	RAIT’s February 22, 2007 Conference Call – Defendant Daniel Cohen Falsely States That RAIT’s Exposure To The Market Meltdown Is “Less Than \$13 Million”.....	81
C.	As Conditions In The Real Estate Industry Continue To Worsen, Defendant FBR Sells Its Own Failing Subprime Unit, While RAIT Continues To Falsely Assure Investors That It Has Minimal Exposure To the Deteriorating Markets.....	83
D.	RAIT Issues (And Touts) Another CDO In The Face Of A Declining Market...	88
E.	The April 2007 Note Offering And Common Stock Buyback.....	91
F.	The May 1, 2007 Conference Call – The Section 10(b) Defendants Again Falsely Reassure Investors Regarding RAIT’s Exposure .....	92
G.	RAIT Continues To Conceal The True Depth of Its Credit Exposure, And Raises An Additional \$40 Million From Investors Through the July 2007 Preferred Stock Offering.....	94
H.	The Truth Begins To Emerge.....	98
XI.	ADDITIONAL ALLEGATIONS REGARDING VIOLATIONS OF GAAP.....	105
XII.	ADDITIONAL ALLEGATIONS OF SCIENTER.....	112
A.	The Section 10(b) Defendants’ Close Involvement With All Aspects of RAIT’s Business Supports A Strong Inference of Scienter.....	112
B.	Defendants Daniel Cohen And Betsy Cohen Arranged The RAIT/Taberna Merger In Order To Rescue Taberna And Thereby Help Themselves At the Expense of Shareholders.....	113

C.	Defendants Daniel Cohen And Betsy Cohen Were Motivated To Make Material Misstatements About RAIT In Order To Perpetuate The Millions of Dollars In Fees Their Related Companies, Including Cohen Bros., Received From Its Acknowledged “Incestuous Relationship” With RAIT.....	114
D.	The Section 10(b) Defendants’ Receipt Of Millions Of Dollars In Dividend Payments Supports A Strong Inference of Scienter.....	115
E.	Defendant Daniel Cohen Was Motivated To Artificially Inflate RAIT’s Stock Price In Order To Obtain Millions of Dollars In Personal Credit.....	117
F.	The Section 10(b) Defendants Were Motivated By A Desire To Receive Millions Of Dollars in Personal Compensation.....	117
XIII.	DEFENDANTS’ ADDITIONAL FALSE AND MISLEADING STATEMENTS.....	119
A.	The June 8, 2006 Form 8-K And June 8, 2006 Press Release.....	119
B.	The June 9, 2006 Conference Call And June 9, 2006 Slide Presentation.....	120
C.	The December 11, 2006 Form 8-K/A.....	121
D.	The February 21, 2007 Press Release And February 21, 2007 Form 8-K.....	122
E.	The February 22, 2007 Conference Call.....	123
F.	The March 31, 2007 Form 10-Q.....	124
G.	The April 13, 2007 Press Release And April 13, 2007 Form 8-K.....	125
H.	The April 30, 2007 Press Release And May 1, 2007 Form 8-K.....	126
I.	The May 1, 2007 Conference Call.....	127
J.	The June 5, 2007 Form 8-K.....	128
K.	The June 25, 2007 Form 8-K.....	129
L.	The July 19, 2007 Press Release And July 19, 2007 Form 8-K.....	131
M.	The August 1, 2007 Press Release And August 2, 2007 Form 8-K.....	132
N.	The August 2, 2007 Conference Call.....	134
XIV.	LOSS CAUSATION.....	135

A.	RAIT Common Stock.....	136
B.	RAIT Series A Preferred Shares.....	136
C.	RAIT Series B Preferred Shares.....	137
D.	RAIT Series C Preferred Shares.....	137
E.	RAIT Notes.....	137
XV.	INAPPLICABILITY OF THE STATUTORY SAFE HARBOR.....	138
XVI.	DUTY TO UPDATE AND/OR CORRECT MISLEADING STATEMENTS.....	138
XVII.	PRESUMPTION OF RELIANCE.....	139
XVIII.	CLAIMS FOR RELIEF UNDER THE EXCHANGE ACT.....	140
	COUNT SEVEN: For Violations of Section 10(b) of the Exchange Act, Against RAIT, and Officer Defendants Daniel Cohen, Betsy Cohen and Salmon.....	140
	COUNT EIGHT: For Violations of Section 20(a) of the Exchange Act, against Defendants Daniel Cohen, Betsy Cohen, and Salmon.....	142
XIX.	PRAYER FOR RELIEF.....	144
XX.	JURY TRIAL DEMAND.....	144

Court-Appointed Lead Plaintiff, Brahman Capital Corp., on behalf of Brahman Partners II, L.P., Brahman Partners III, L.P., B Y Partners, L.P., Brahman C.P.F. Partners, L.P., and Brahman Partners IV, L.P. (collectively, “Lead Plaintiff” or “Brahman”) brings this federal securities law class action on behalf of itself and all other persons and entities, other than defendants and their affiliates as specified below, who purchased or acquired the securities of RAIT Financial Trust f/k/a RAIT Investment Trust (“RAIT” or the “Company”) between June 8, 2006 and August 3, 2007, inclusive (the “Class Period”), and were damaged by the conduct asserted herein.

## **I. NATURE OF THE ACTION**

1. This case is about a Company (RAIT) that deliberately misled investors regarding its exposure to hundreds of millions of dollars of troubled and impaired debt. RAIT is a real estate investment trust (“REIT”) that provides financing for home builders, mortgage lenders, and other companies involved in the real estate industry. As the real estate market weakened and interest rates increased prior to and during the Class Period, the number of foreclosures and mortgage defaults began to rise. This problem was particularly acute in the “nonprime” sector of the real estate market, and companies involved in the “subprime” and “Alt-A” mortgage and homebuilder markets began to come under severe financial pressure.

2. Throughout the Class Period, RAIT and its senior executives told investors that the Company’s exposure to the worsening conditions in the real estate industry was “de minimis” and “immaterial to [the Company’s] balance sheet overall.” Investors were forced to rely on these assurances because RAIT did not disclose the names of the specific companies to which it was exposed. Instead, Defendants told investors that RAIT “[c]ontinually monitor[ed] [its] assets for potential credit impairment,” and Defendant Daniel Cohen, RAIT’s Chief Executive Officer, assured investors on multiple occasions that RAIT’s total potential exposure was “in the

single basis point” range and was “*less than \$13 million* across the whole entire portfolio.” These statements and others discussed below were materially false and misleading. In reality, as RAIT has since admitted, the Company had over *\$622 million* in impaired assets and remaining exposure to these markets during the Class Period, and at least \$315 million of that debt eventually defaulted. When investors learned much of the truth about RAIT, the Company’s stock price plummeted by more than 61%, from \$16.20 to \$6.32 per share, causing a loss of more than \$600 million in market capitalization, and hundreds of millions of dollars in investor losses.

3. As discussed in more detail below, RAIT provides financing to various mortgage lenders, homebuilders, and other real estate companies by purchasing uncollateralized debt issued by these companies, usually in the form of securities called trust preferred securities, or “TruPS.” RAIT then structures the TruPS or other unsecured debt into private securities called Collateralized Debt Obligations (“CDOs”), which were supposed to become income-generating assets for RAIT. Throughout the Class Period, Defendants made numerous false and misleading statements regarding the extent of the Company’s exposure to troubled real estate companies, and the impact of that exposure on RAIT’s income and business. In addition to the false statements that RAIT’s exposure to these markets was “de minimis” and other similar statements set forth below, Defendants falsely assured investors that RAIT had sophisticated surveillance systems in place that would manage these risks before they resulted in losses. Because RAIT did not disclose the specific companies to which it had exposure, these statements were particularly important because they reassured investors (falsely) that RAIT carefully monitored its credit portfolio and had no meaningful exposure to the crumbling mortgage and homebuilders market.



4. RAIT also misstated its financial statements by reporting artificially low loss reserves that seemingly confirmed its claims of “de minimis” exposure to troubled companies within its portfolio of investments. During the Class Period, as RAIT accumulated a total of \$622 million in exposure to high risk and impaired debt, the Company’s loss reserves ranged from a meager \$2.49 million to \$3.7 million, or merely 0.4% to 0.59% of its true exposure. By maintaining artificially low loss reserves during the Class Period, RAIT avoided charges against income that it should have taken in order to both compensate for its residential mortgage and homebuilder exposure and communicate to investors that such exposure was substantial. Moreover, RAIT repeatedly violated Generally Accepted Accounting Principles (“GAAP”) during the Class Period by failing to take required impairment charges on its troubled investments. These violations resulted in RAIT misstating its net income by a staggering \$247 million, or 1,080%, during the Class Period.

5. Defendants’ false and misleading statements inflated the price of RAIT’s publicly-traded securities and enabled RAIT to raise more than **\$855 million dollars** in capital from unsuspecting investors. On or about January 24, 2007, RAIT offered for sale 11.5 million shares of its common stock at \$34 per share, raising more than \$390 million from investors (the “January 2007 Stock Offering”). On or about April 11, 2007, RAIT closed a private offering of \$425 million of Convertible Notes (the “April 2007 Note Offering”). On July 5, 2007, RAIT closed a public offering of 1.6 million Series C Preferred Shares (the “July 2007 Preferred Stock Offering”) at \$25 per share, for proceeds of more than \$40 million. The July 2007 Preferred Stock Offering was completed **just eighteen business days** before investors learned much of the damaging truth about RAIT.

6. The falsity of RAIT's statements began to come to light on July 31, 2007. On that day, RAIT announced that one of the issuers of its TruPS, a company called American Home Mortgage Investment Corp. ("AHM"), had defaulted on approximately \$95 million of financing RAIT had provided to AHM. In response to this announcement, the price of RAIT's publicly-traded common stock fell \$5.72 per share, or approximately 36%, to close at \$10.36 per share. On August 2, 2007, Defendants held an earnings conference call with investors in which Defendant Daniel Cohen disclosed for the first time that RAIT possessed *\$377 million* in exposure stemming from TruPS and other investments in troubled mortgage and homebuilder companies.

7. These statements were directly contrary to prior statements made by Defendants. In response to Daniel Cohen's assertions that the Company had only recently learned of its potential exposure, one analyst on the call stated, "I guess the first thing that comes to mind for me is the John McEnroe quote, 'You can't be serious, here.'" Following these disclosures, the price of RAIT's common stock declined by another 38% to \$6.32 per share, for a total decline of over 61% in just three days. RAIT has subsequently disclosed that it had to take a \$247 million charge to earnings due to permanent asset impairments "primarily attributable to credit concerns" relating to the collateral underlying its CDOs, and that the Company has a total of at least *\$622 million* in permanently impaired assets and estimated remaining exposure to the subprime, Alt-A, and homebuilding markets.

8. The story behind the fraud at RAIT involves a complex web of family relationships that allowed RAIT's insiders to further their own interests at the expense of unsuspecting investors. Founded in 1997 by Defendant Betsy Cohen, RAIT originally focused on making real estate loans. On June 8, 2006, the first day of the Class Period, RAIT announced

an agreement to merge with Taberna Realty Finance Trust (“Taberna”), a company that specialized in issuing billions of dollars of CDOs. This merger, which closed on December 11, 2006, fundamentally altered RAIT’s business model and risk profile by converting RAIT from a company primarily involved in purchasing real estate loans to one heavily dependent on achieving success in the CDO marketplace.

9. The merger between Taberna and RAIT was not an arms-length combination of two unrelated business entities. Rather, RAIT was controlled by Betsy Cohen, while Taberna’s Chairman and CEO, Defendant Daniel Cohen, is Betsy Cohen’s son. At various points, Jonathan Cohen, also Betsy Cohen’s son (and Daniel’s brother) served as a Trustee of RAIT, and Betsy’s cousin, Jay Cohen, served as its executive vice president. On June 9, 2006, one day after the Taberna/RAIT merger was announced, Betsy Cohen told analysts that, in light of the overlapping family interests, “We were going to call this [combined company] Related Financial Trust but decided against it.”

10. Taberna’s merger with RAIT was essentially a fall-back plan for Taberna following the collapse of its planned initial public offering (“IPO”) in April 2006. In November 2005, with Defendant Friedmans, Billings, Ramsey Group, Inc. (“FBR”) acting as lead underwriter, Taberna filed a Form S-11 with the SEC seeking to register securities for an IPO. The IPO was critical to Taberna because Taberna needed large amounts of capital in order to originate and issue new CDOs. As Defendants knew, without access to the large pools of capital available to public companies (*i.e.*, investors’ money), Taberna would become a stagnant pool of fixed-income assets without any possibility for growth.

11. By April 26, 2006, however, the IPO had collapsed due to lack of investor interest. In desperate need of additional capital, Taberna tried to merge with a publicly-traded

company. But the *only* entity that would merge with Daniel Cohen's company (Taberna) was his mother's company, RAIT. Thus, the merger allowed Betsy Cohen to rescue her son's company (Taberna) from stagnation and a failed IPO, while allowing it to leverage RAIT's access to the capital markets in order to raise hundreds of millions of dollars from investors. As discussed in more detail below, this was not the first time, nor would it be the last, that the Cohens would use RAIT and Taberna as vehicles to convert their family interests into a slew of related-party business transactions designed to further their own interests.

12. In this Complaint, Lead Plaintiff asserts two different sets of claims. In the first set of claims (Counts One through Six), Lead Plaintiff asserts strict liability and negligence claims based on the Securities Act of 1933 (the "Securities Act"). These claims are asserted against those Defendants who are statutorily responsible for material misstatements of facts and omissions in the prospectuses and registration statements pursuant to which RAIT common stock and Series C Preferred Shares were offered to the public in January 2007 and July 2007, respectively (the "Offerings"). Lead Plaintiff specifically disclaims any allegations of fraud in connection with these non-fraud claims, including any such allegations appearing in this introduction. In the second set of claims (Counts Seven and Eight), Lead Plaintiff asserts fraud-based claims under the Securities Exchange Act of 1934 (the "Exchange Act") against those Defendants who are alleged to have directly participated in a fraudulent scheme and made materially misleading statements and omissions throughout the Class Period, and who acted with knowledge or deliberate reckless disregard of the true facts.

## **II. JURISDICTION AND VENUE**

13. Certain non-fraud related claims asserted herein arise under Sections 11, 12(a)(2) and 15 of the Securities Act, 15 U.S.C. §§ 77k, 77l(a)(2) and 77o. Certain other claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78t(a),

and the rules and regulations promulgated thereunder, including SEC Rule 10b-5, 17 C.F.R. § 240.10b-5 (“Rule 10b-5”).

14. This Court has jurisdiction over the subject matter of this action pursuant to Section 22 of the Securities Act, 15 U.S.C. § 77v, Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1331, because this is a civil action arising under the laws of the United States.

15. Venue is proper in this district pursuant to Section 22 of the Securities Act, 15 U.S.C. § 77v, Section 27 of the Exchange Act, 15 U.S.C. § 78aa, and 28 U.S.C. § 1391(b), (c) and (d). Many of the acts and transactions that constitute violations of law complained of herein, including the dissemination to the public of untrue statements of material facts, occurred in this district. During the Class Period, RAIT’s headquarters were located at 1818 Market Street, 28th Floor, Philadelphia, PA 19103, and were relocated to 2929 Arch Street, 17th Floor, Philadelphia, PA 19104.

16. In connection with the acts alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including, but not limited to, the United States mails, interstate telephone communications and the facilities of national securities exchanges.

### **III. PARTIES**

#### **A. Lead Plaintiff**

17. Lead Plaintiff Brahman Capital Corp., on behalf of Brahman Partners II, L.P., Brahman Partners III, L.P., B Y Partners, L.P., Brahman C.P.F. Partners, L.P., and Brahman Partners IV, L.P., for which it has discretion and authority to manage investments and bring litigation, is an investment advisor located in New York City. During the Class Period, Brahman Capital purchased stock in RAIT and suffered substantial damages as a result of the violations of

securities laws alleged herein. On October 25, 2007, the Court appointed Brahman Capital to serve as Lead Plaintiff in this consolidated class action.

**B. Additional Named Plaintiff**

18. Plaintiff Employees' Retirement System of the State of Rhode Island ("Rhode Island") is a public pension fund that provides retirement, disability, survivor, and death benefits to state employees, public school teachers, and municipal employees throughout Rhode Island. During the Class Period, Rhode Island purchased stock in RAIT and suffered damages as a result of the violations of securities laws alleged herein. Rhode Island joins in this action as a named plaintiff.

**C. The Securities Act Defendants**

**1. The Company**

19. Defendant RAIT was incorporated in August 1997 in the state of Maryland. Throughout the Class Period, RAIT operated as a self-managed and self-advised REIT that provided a set of debt financing options for the real estate industry. RAIT finances its investment portfolio in large part by securitizing its investments through CDOs, and selling those securities to qualified institutional buyers through private offerings. RAIT is located in Philadelphia, PA.

**2. The Officer Defendants**

20. Defendant Daniel G. Cohen ("Daniel Cohen") has served as RAIT's Chief Executive Officer and Trustee since RAIT acquired Taberna on December 11, 2006. Daniel Cohen signed the Company's registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company's Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering.

21. Betsy Z. Cohen (“Betsy Cohen”) is Daniel Cohen’s mother. She has served as Chairwoman and Trustee of RAIT since she founded it in August 1997, and she was RAIT’s Chief Executive Officer from August 1997 to December 2006. Betsy Cohen signed the Company’s registration statement on form S-3ASR in connection with the January Stock 2007 Offering and the Company’s Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering.

22. Defendant Jack E. Salmon (“Salmon”) has served as Chief Financial Officer and Treasurer of RAIT since December 2006. Salmon signed the Company’s registration statement on form S-3ASR in connection with the January Stock 2007 Offering as well as the registration statement on form 8-A in connection with the July 2007 Preferred Stock Offering and the Company’s Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering.

23. Defendant Ellen J. DiStefano (“DiStefano”) served as the Company’s Chief Accounting Officer since the RAIT/Taberna merger in December 2006 until her departure from RAIT in November 2007; served as Chief Financial Officer from October 1997 to December 2006; served as Executive Vice President from December 1998 to December 2006; and served as Vice President from October 1997 until December 1998. DiStefano signed the Company’s registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company’s Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering.

### **3. The Trustee Defendants**

24. Defendant Edward S. Brown (“Brown”) has served as a trustee of RAIT since June 1999. Brown signed the Company’s registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company’s Prospectus dated January 10, 2007 in

connection with the July 2007 Preferred Stock Offering. Brown also signed the Company's Form 10-K for Fiscal Year 2006.

25. Defendant Frank A. Farnesi ("Farnesi") has served as a trustee of RAIT since December 2006 when he joined the board of trustees in connection with the RAIT/Taberna merger. He was a member of Taberna's board of trustees from April 2005 until the RAIT/Taberna merger in December 2006. Farnesi signed the Company's registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company's Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering. Farnesi also signed the Company's Form 10-K for Fiscal Year 2006.

26. Defendant S. Kristin Kim ("Kim") has served as a trustee of RAIT since October 2003. Kim signed the Company's registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company's Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering. Kim also signed the Company's Form 10-K for Fiscal Year 2006.

27. Defendant Arthur Makadon ("Makadon") has served as trustee of RAIT since July 2002. Makadon signed the Company's registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company's Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering. Makadon also signed the Company's Form 10-K for Fiscal Year 2006.

28. Defendant Daniel Promislo ("Promislo") has served as a trustee of RAIT since its founding in August 1997. Promislo signed the Company's registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company's Prospectus dated



January 10, 2007 in connection with the July 2007 Preferred Stock Offering. Promislo also signed the Company's Form 10-K for Fiscal Year 2006.

29. Defendant John F. Quigley, III ("Quigley") has served as a trustee of RAIT since December 2006 when he joined the board of trustees in connection with the RAIT/Taberna merger. He was a member of Taberna's board of trustees from April 2005 until the RAIT/Taberna merger in December 2006. Quigley signed the Company's registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company's Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering. Quigley also signed the Company's Form 10-K for Fiscal Year 2006.

30. Defendant Murray Stempel III ("Stempel") has served as a trustee of RAIT since December 2006 when he joined the board of trustees in connection with the RAIT/Taberna merger. He was a member of Taberna's board of trustees from April 2005 until the RAIT/Taberna merger in December 2006. Stempel signed the Company's registration statement on form S-3ASR in connection with the January 2007 Stock Offering and the Company's Prospectus dated January 10, 2007 in connection with the July 2007 Preferred Stock Offering. Stempel also signed the Company's Form 10-K for Fiscal Year 2006.

31. Defendants Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel are sometimes referred to herein collectively as the "Trustee Defendants." The Trustee Defendants and the Officer Defendants are sometimes referred to herein as the "Individual Defendants."

#### **4. The Underwriter Defendants**

32. Defendant Friedman, Billings, Ramsey Group, Inc. along with and/or through its subsidiary, FBR Capital Markets Corp. (collectively, "FBR"), is an investment banking firm that provides securities underwriting, financial advisory and equity research services. FBR acted as one of the underwriters with respect to the January 2007 Stock Offering and July 2007 Preferred

Stock Offering. For the January 2007 Stock Offering, FBR sold and distributed RAIT Common Stock to the investing public pursuant to the registration statement and prospectus filed with the SEC in connection with that Offering (defined below as the “January 2007 Registration Statement”). FBR purchased and agreed to sell to the investing public at least \$130,050,000 in Common Stock in connection with the January 2007 Offering. For the July 2007 Preferred Stock Offering, FBR sold and distributed RAIT Preferred Stock to the investing public pursuant to the registration statement and prospectus filed with the SEC in connection with that Offering (defined below as the “July 2007 Registration Statement”). FBR purchased and agreed to sell to the investing public at least \$4,000,000 in Preferred Stock in connection with the July 2007 Offering. Further, since 2004, FBR has issued at least \$812.9 million of TruPs that were acquired by subsidiaries of Taberna or by CDOs managed by affiliates of Cohen & Co., another company controlled by the Cohen family. Since 2004, FBR has received approximately \$7.6 million in fees for introducing TruPS issuers to Cohen & Co. FBR’s corporate headquarters are located at 1001 Nineteenth Street North, Arlington, VA 22209.

33. Defendant Bear, Stearns & Co. Inc. (“Bear Stearns”) is an investment banking firm that provides securities underwriting, financial advisory and equity research services. Bear Stearns acted as one of the underwriters with respect to the January 2007 Stock Offering and July 2007 Preferred Stock Offering. For the January 2007 Stock Offering, Bear Stearns sold and distributed RAIT Common Stock to the investing public pursuant to the January 2007 Registration Statement. Bear Stearns purchased and agreed to sell to the investing public at least \$106,250,000 in Common Stock in connection with the January 2007 Stock Offering. For the July 2007 Preferred Stock Offering, Bear Stearns sold and distributed RAIT Preferred Stock to the investing public pursuant to the July 2007 Registration Statement. Bear Stearns purchased

and agreed to sell to the investing public at least \$18,000,000 in Preferred Stock in connection with the July 2007 Preferred Stock Offering. Bear Stearns also provided short-term warehouse credit facilities to Taberna and RAIT up to \$700 million, which Taberna and RAIT used to purchase and hold the TruPS that collateralized their CDOs. Further, since 2005, Bear Stearns has earned at least \$27 million in fees for introducing TruPS issuers to Cohen & Co. Bear Stearns' corporate headquarters are located at 383 Madison Avenue, New York, NY 10179.

34. Defendant UBS Securities LLC ("UBS"), a subsidiary of UBS AG, is an investment banking firm that provides securities underwriting, financial advisory and equity research services. UBS acted as one of the underwriters with respect to the January 2007 Stock Offering. For the January 2007 Stock Offering, UBS sold and distributed RAIT Common Stock to the investing public pursuant to the January 2007 Registration Statement. UBS purchased and agreed to sell to the investing public at least \$34,000,000 in Common Stock in connection with the January 2007 Stock Offering. UBS's United States headquarters are located at 299 Park Avenue, New York, NY 10017.

35. Defendant RBC Capital Markets Corporation ("RBC") is an investment banking firm that provides securities underwriting, financial advisory and equity research services. RBC acted as one of the underwriters with respect to the January 2007 Stock Offering. For the January 2007 Stock Offering, RBC sold and distributed RAIT Common Stock to the investing public pursuant to the January 2007 Registration Statement. RBC purchased and agreed to sell to the investing public at least \$22,950,000 in Common Stock in connection with the January 2007 Stock Offering. RBC's United States headquarters are located at One Liberty Plaza, 165 Broadway, New York, NY 10006.

36. Defendant KeyBanc Capital Markets, a division of McDonald Investments, Inc. (“KeyBanc”), is an investment banking firm that provides securities underwriting, financial advisory and equity research services. KeyBanc acted as one of the underwriters with respect to the January 2007 Stock Offering. For the January 2007 Stock Offering, KeyBanc sold and distributed RAIT Common Stock to the investing public pursuant to the January 2007 Registration Statement. KeyBanc purchased and agreed to sell to the investing public at least \$19,550,000 in Common Stock in connection with the January 2007 Stock Offering. KeyBanc’s United States headquarters are located at 127 Public Square, Cleveland, OH 44114.

37. Defendant Stifel, Nicolaus & Company, Inc. (“SNC”) is an investment banking firm that provides securities underwriting, financial advisory and equity research services. SNC also acted as one of the underwriters with respect to the January 2007 Stock Offering and July 2007 Preferred Stock Offering. For the January 2007 Stock Offering, SNC sold and distributed RAIT Common Stock to the investing public pursuant to the January 2007 Registration Statement. SNC purchased and agreed to sell to the investing public at least \$19,550,000 in Common Stock in connection with the January 2007 Stock Offering. For the July 2007 Preferred Stock Offering, SNC sold and distributed RAIT Preferred Stock to the investing public pursuant to the July 2007 Registration Statement. SNC purchased and agreed to sell to the investing public at least \$6,000,000 in Preferred Stock in connection with the July 2007 Preferred Stock Offering. SNC’s United States headquarters are located at One Financial Plaza, 501 North Broadway, St. Louis, MO 63102.

38. Defendant BMO Capital Markets Corp. (“BMO”) is an investment banking firm that provides securities underwriting, financial advisory and equity research services. BMO acted as one of the underwriters with respect to the January 2007 Stock Offering. For the

January 2007 Stock Offering, BMO sold and distributed RAIT Common Stock to the investing public pursuant to the January 2007 Registration Statement. BMO purchased and agreed to sell to the investing public at least \$7,650,000 in Common Stock in connection with the January 2007 Stock Offering. BMO's United States headquarters are located at 3 Times Square, New York, NY 10036.

39. Defendant Piper Jaffray & Co. ("Piper") is an investment banking firm that provides securities underwriting, financial advisory and equity research services. Piper acted as one of the underwriters with respect to the July 2007 Preferred Stock Offering. For the July 2007 Preferred Stock Offering, Piper sold and distributed RAIT Preferred Stock to the investing public pursuant to the July 2007 Registration Statement. Piper purchased and agreed to sell to the investing public at least \$6,000,000 in Preferred Stock in connection with the July 2007 Preferred Stock Offering. Piper's corporate headquarters are located at 800 Nicollet Mall, Suite 800, Minneapolis, MN 55402.

40. Defendant RBC Dain Rauscher, Inc. ("Dain Rauscher") is an investment bank firm that provides securities underwriting, financial advisory and equity research services. Dain Rauscher acted as one of the underwriters with respect to the July 2007 Preferred Stock Offering. For the July 2007 Preferred Stock Offering, Dain Rauscher sold and distributed RAIT Preferred Stock to the investing public pursuant to the July 2007 Registration Statement. Dain Rauscher purchased and agreed to sell to the investing public at least \$6,000,000 in Preferred Stock in connection with the July 2007 Preferred Stock Offering. Dain Rauscher's corporate headquarters are located at Dain Rauscher Plaza, 60 South 6th Street, Minneapolis, MN 55402.

41. FBR, Bear Stearns, UBS, RBC, KeyBanc, SNC, and BMO, are sometimes referred to herein collectively as the "Common Stock Underwriter Defendants." As part of their

duties as underwriters, the Common Stock Underwriter Defendants were required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements contained in the January 2007 Registration Statement contained no misstatement or omission of material fact.

42. FBR, Bear Stearns, SNC, Piper and Dain Rauscher are sometimes referred to herein collectively as the “Preferred Stock Underwriter Defendants.” As part of their duties as underwriters, the Preferred Stock Underwriter Defendants were required to conduct, prior to the offering, a reasonable investigation of the Company to ensure that the statements contained in the July 2007 Registration Statement contained no misstatement or omission of material fact.

43. The Common Stock Underwriter Defendants and the Preferred Stock Underwriter Defendants are sometimes referred to collectively as the “Underwriter Defendants.”

## **5. Defendant Grant Thornton**

44. Defendant Grant Thornton LLP (“Grant Thornton”) served as the Company’s outside auditor during the Class Period. Grant Thornton has provided audit, audit-related, tax and other services to the Company prior to, throughout and subsequent to the Class Period, which included the issuance of unqualified opinions on the Company’s financial statement for Fiscal Year 2006. Grant Thornton consented to the incorporation by reference in the July 2007 Registration Statement of its unqualified opinions on the Company’s financial statements and management’s assessment of internal controls for Fiscal Year 2006. Grant Thornton maintains its national headquarters at 175 West Jackson Blvd., Chicago, IL 60604.

### **D. The Exchange Act Defendants**

#### **1. The Company**

45. As discussed above, Defendant RAIT is a self-managed and self-advised REIT that provides a set of debt financing options for the real estate industry by investing in trust

preferred securities, other debt securities, residential mortgages and mortgage-related receivables, commercial mortgages, and mezzanine loans. RAIT finances its investment portfolio in large part by securitizing its investments through CDOs, and selling those securities to qualified institutional buyers through private offerings.

## **2. The Officer Defendants**

46. As set forth above, Defendant Daniel Cohen has served as RAIT's Chief Executive Officer and Trustee since RAIT acquired Taberna on December 11, 2006. From March 2005 until the December 2006 merger with RAIT, he was the Chairman, Chief Executive Officer, and Trustee of Taberna. Since 2001, Daniel Cohen has served as Chairman of Cohen Bros., an investment management firm that specializes in structuring a range of CDOs. Daniel Cohen signed the Company's Form 10-K for Fiscal Year ending December 31, 2006 ("Fiscal Year 2006"), and the Forms 10-Q for the quarters ended March 31, 2007 and June 30, 2007. Additionally, pursuant to Sections 302 and 906 of the Sarbanes Oxley Act of 2002 ("Sarbanes Oxley"), Daniel Cohen certified the accuracy of the Company's Form 10-K for Fiscal Year 2006 as well as its Forms 10-Q for the first and second quarters of 2007.

47. As set forth above, Betsy Cohen is Daniel Cohen's mother. She has served as Chairwoman and Trustee of RAIT since she founded it in August 1997, and was RAIT's Chief Executive Officer from August 1997 to December 2006. Betsy Cohen signed the Company's Form 10-K for Fiscal Year 2006. Additionally, pursuant to Sarbanes Oxley, Betsy Cohen certified the accuracy of the Company's Form 10-K for Fiscal Year 2006.

48. As set forth above, Defendant Salmon has served as Chief Financial Officer and Treasurer of RAIT since December 2006. He also served as Taberna's Executive Vice President, Chief Financial Officer, and Treasurer from March of 2005 to December 2006. Defendant Salmon was employed by Cohen Bros. from January 2005 until April 2005. From 1989 to 2002,

Salmon, a certified public accountant, was a partner with the accounting firm Arthur Anderson LLP, where he had lead partner responsibilities for REIT public offerings, due diligence engagements, and SEC matters. He also advised multiple REITs on acquisitions, mergers, and portfolio transactions. Salmon signed the Company's registration statement on form S-3ASR in connection with the January 2007 Stock Offering as well as the registration statement on form 8-A in connection with the July 2007 Preferred Stock Offering. Salmon also signed the Company's Form 10-K for Fiscal Year 2006, as well as its Forms 10-Q for the first and second quarters of 2007. Additionally, pursuant to Sarbanes Oxley, Salmon certified the accuracy of the Company's Form 10-K for Fiscal Year 2006 as well as its Forms 10-Q for the first and second quarters of 2007.

#### **IV. CLASS ACTION ALLEGATIONS**

49. Lead Plaintiff brings this action on behalf of itself and as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of all persons or entities (the "Class") that acquired the securities of RAIT during the period from June 8, 2006 through August 3, 2007, inclusive, including securities purchased in the January 2007 Stock Offering, the July 2007 Preferred Stock Offering, and the April 2007 Note Offering, and who suffered damages as a result. Excluded from the Class are: (a) Defendants; (b) members of the immediate families of the Individual Defendants; (c) the subsidiaries and affiliates of Defendants; (d) any person or entity who is a partner, executive officer, director, trustee, or controlling person of RAIT or Taberna (including any of their subsidiaries or affiliates) or of any other Defendant; (e) any entity in which any Defendant has a controlling interest; (f) Defendants' liability insurance carriers, and any affiliates or subsidiaries thereof; and (g) the legal representatives, heirs, successors and assigns of any such excluded party.



50. The members of the Class are so numerous that joinder of all members is impracticable. As of September 30, 2007, RAIT had 61,000,401 common shares issued and 52,151,412 common shares outstanding; 2,760,000 Series A Preferred Shares issued and outstanding; 2,258,300 Series B Preferred Shares issued and outstanding; and 1,600,000 Series C Preferred Shares issued and outstanding. Throughout the Class Period, RAIT's common and preferred stock was actively traded on the New York Stock Exchange. While the exact number of Class members is unknown to Lead Plaintiff at this time, Lead Plaintiff believes that Class members number in the thousands.

51. Lead Plaintiff's claims are typical of the claims of the members of the Class. Lead Plaintiff and other members of the Class acquired RAIT common stock in the open market during the Class Period. Lead Plaintiff and members of the Class acquired RAIT common stock in the January 2007 Stock Offering pursuant and/or traceable to the January 2007 Registration Statement, purchased or sold RAIT securities in the market, and sustained damages as a result of Defendants' conduct complained of herein.

52. Lead Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation. Lead Plaintiff has no interests that are adverse or antagonistic to the Class.

53. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Because the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation make it impracticable for Class members individually to seek redress for the wrongful conduct alleged herein.

54. Common questions of law and fact exist as to all members of the Class, and predominate over any questions affecting solely individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) whether the Federal securities laws were violated by Defendants' conduct as alleged herein;
- (b) whether the registration statements and prospectuses for the Company's Offerings contained material misstatements or omitted to state material information;
- (c) whether the SEC filings, press releases and other public statements disseminated to the investing public during the Class Period contained material misstatements or omitted to state material information;
- (d) whether and to what extent the Company's financial statements failed to comply with GAAP during the Class Period;
- (e) whether and to what extent the market prices of RAIT Common Stock and other securities were artificially inflated during the Class Period due to the omissions and/or misstatements complained of herein;
- (f) whether, with respect to Lead Plaintiff's claims under the Securities Act, Defendants named in those claims can sustain their burden of establishing an affirmative defense pursuant to the applicable statute;
- (g) whether, with respect to Lead Plaintiff's claims under the Exchange Act, Defendants named in those claims acted with scienter;
- (h) whether reliance may be presumed pursuant to the fraud-on-the-market doctrine; and

- (i) whether the members of the Class have sustained damages as a result of the conduct complained of herein, and if so, the proper measure of damages.

55. The names and addresses of those persons and entities who purchased or sold RAIT securities during the Class Period are available from the Company's transfer agent(s) and/or from the Underwriter Defendants. Notice may be provided to such class members via first-class mail using techniques and a form of notice similar to those customarily used in securities class actions.

## V. FACTUAL ALLEGATIONS RELATING TO THE SECURITIES ACT CLAIMS

### A. The Respective Businesses Of RAIT And Taberna

56. Prior to its acquisition of Taberna, RAIT originated real estate loans and acquired and managed a variety of real estate interests. As a REIT, the Company was not subject to corporate income tax if it met certain conditions, including that it invest at least 75% of its total assets in real estate, and distribute at least 90% of its taxable income to shareholders every year. Taberna also operated as a REIT. Unlike RAIT, however, Taberna's principal business was originating financing for home builders, mortgage lenders, and other real estate operating companies, and then using those assets to collateralize private securities offerings structured as CDOs. Many of the issuers of the TruPS and subordinated debt that collateralized Taberna's CDOs were companies that specialized in homebuilding, subprime mortgage lending, or Alt-A mortgage lending. "Subprime" lenders issue mortgages to individuals whose credit history does not qualify them for a traditional mortgage. Subprime mortgages typically have higher interest rates and/or include features such as escalating interest rates or interest-only payments that result in negative amortization. Alt-A mortgages, also known as "liar loans," require no documentation of the borrower's income. As set forth more fully below, the subprime, Alt-A, and homebuilders

markets plummeted throughout 2006 and 2007, which, unbeknownst to investors, exposed Taberna (and RAIT) to significant default risks – risks that were ultimately realized at the end of the Class Period and resulted in hundreds of millions of dollars in investor losses.

57. Taberna's business model consisted of two primary steps. *First*, Taberna would originate financing for real estate companies in the form of either trust preferred securities, called TruPS, or subordinated debt of various ratings. TruPS are an attractive form of financing for real estate operating companies because they do not require pledges of collateral. They also generally rank junior to an issuer's existing debt obligations in right of payment and liquidation. By acquiring these TruPS, Taberna provided uncollateralized financing to a range of real estate companies and thus left itself exposed to any default. In return, the issuer of the TruPS agreed to make periodic payments, usually monthly, for interest and principal. Taberna initially funded its purchases of TruPS and subordinate debt through its available capital or its short-term credit facilities, which consisted of repurchase agreements and warehouse facilities provided by investment banks.

58. *Second*, Taberna would carry the TruPS and subordinated debt instruments on its credit lines until it had acquired enough assets to structure a CDO – typically between \$600 million and \$1 billion. Taberna would then move those assets into a subsidiary created solely for that purpose, which it denominated, for example, Taberna Preferred Funding I, Ltd., Taberna Preferred Funding II, Ltd., etc. After the collateral – the TruPS and subordinated debt – was aggregated into the subsidiary, Taberna securitized it by issuing notes, called CDO notes payable, which it sold to qualified institutional buyers in private transactions. The CDOs would generate income for their purchasers as the underlying collateral performed, *i.e.*, when the issuers of the TruPS and subordinated debt made their payments of interest and principle.

Throughout the Class Period, Taberna retained substantial interests in each of the CDOs it issued.

59. The CDO notes issued by Taberna, and later RAIT, were not all equal. Since each CDO was a highly structured transaction, each tranche of CDO Notes Payable was issued with a level of seniority that corresponded with various tranches of underlying collateral. The highest CDO notes (which typically corresponded to the highest-rated pieces of the collateral debt structure) were paid first when the collateral performed. The lowest level CDO notes – called the equity shares – were paid last. Since the equity shares were paid last, they were not paid at all if the underlying collateral (the TruPS or subordinated debt) did not perform well enough to pay each of the more senior obligations. As a result, the equity shares would take the loss before any of the more senior notes, and were called the “first loss” piece of the CDOs.

60. Taberna typically retained about half of the “first loss” equity shares, as well as substantial portions of the subordinated debt. Much of the subordinated debt that Taberna retained was rated BBB or lower. Thus, if the real estate companies that issued the debt were unable to generate enough income to satisfy all of the outstanding CDO notes payable, Taberna was exposed to the first loss through its retained equity shares, and additional losses through its retained interests in the subordinated debt. By selling the highest-quality portion of the CDO Notes Payable, Taberna raised capital that it could use to either (a) acquire more TruPS and subordinated debt for its next CDO, or (b) pay down its short-term credit facilities and, in turn, use those facilities to acquire more TruPS and subordinated debt for the next CDO.

61. At bottom, Taberna was a CDO production mill. Following its formation in April 2005, Taberna collateralized, structured, and sold at least ten CDOs. Because each CDO required approximately \$600 million to \$1 billion in assets, Taberna’s business model was highly

capital intensive. In the Joint Proxy Statement-Prospectus that Taberna and RAIT issued in connection with their December 11, 2006 merger, Taberna recognized its need for substantial capital on an ongoing basis, stating, “Taberna’s business requires a significant amount of cash, and if such cash is not available, its business and financial performance and, therefore, the business and financial performance of RAIT following the merger, will be significantly harmed.” The worst possible scenario for a CDO business such as Taberna was to exhaust its working capital and be unable to structure new CDOs, thereby becoming a static pool of fixed-income assets with no growth potential.

**B. The RAIT/Taberna Merger**

**1. Taberna Cuts Short A Planned IPO To Merge With RAIT**

62. In late November 2005, Taberna filed a Form S-11 with the SEC seeking to register securities for an IPO. In the months following Taberna’s S-11 filing, the real estate markets, and particularly the subprime mortgage, Alt-A mortgage, and homebuilder markets began to deteriorate, and interest dampened in Taberna’s IPO. In a Joint Proxy statement filed with the SEC in November 2006, RAIT and Taberna stated that by April 2006 the “challenges” and “execution risks” associated with an IPO for Taberna were too great and identified the “primary execution risk” as exposure to “then-prevailing market conditions over which Taberna would have no control.”

63. As Defendant Daniel Cohen knew, the failure of the IPO was a serious problem for Taberna. Without access to the large pools of capital available to public companies, Taberna would stagnate. Daniel Cohen tried to solve this problem by merging Taberna with a public company, but interest was non-existent – no public company wished to combine with a company (Taberna) that was unable to complete an IPO. Into this void stepped Defendant Betsy Cohen,

who offered a lifeline to her son's company by offering to merge her publicly-traded Company (RAIT) with Taberna.

64. The Company has since admitted that RAIT was the *only* entity interested in merging with Taberna. In a document filed with the SEC in November 2006, RAIT gave some of the background to the merger, stating:

Based on the Taberna special committee's discussion with Merrill Lynch [which was the Taberna special committee's exclusive financial advisor], and after considering Merrill Lynch's views regarding the potential interest of such third parties in a merger or acquisition transaction with Taberna, *the Taberna special committee concluded that neither a cash acquisition of Taberna by a third party nor a merger with any entity other than RAIT on relatively attractive terms was likely.*

65. In short, Betsy Cohen used her publicly-traded company (RAIT) to come to the rescue of her son's company (Taberna) despite the fact that Taberna was unable to complete an IPO and no other entities were interested in merging with Taberna. While the merger provided immense benefits to Taberna, it fundamentally altered RAIT's business model and risk profile. As discussed below, in connection with the merger, RAIT assumed Taberna's exposure on its risky (and impaired) TruPS and CDOs.

66. On June 8, 2006, the first day of the class period, RAIT and Taberna filed a Form 8-K and accompanying press release announcing that "they have entered into a definitive merger agreement" whereby Taberna shareholders would receive .5389 shares of RAIT common stock for each share of Taberna. Following the closing of the transaction, the combined company would continue to trade on the New York Stock Exchange under the "RAS" symbol under which RAIT had traded for years. The Form 8-K listed several "Key Transaction Benefits" of the merger, including:

- "enhanced growth profile";
- "lower costs of funds and greater access to financing sources"; and

- “increased capital and operating scale.”

67. As a result of the merger announcement, RAIT’s common shares rose from \$25.16 on June 8, 2006 to \$27.23 on June 12, 2006 on heavy trading volume. Following the announcement of the merger, Daniel and Betsy Cohen immediately portrayed Taberna as built on the bedrock of extremely strong credit. They sought to allay the market skepticism that undermined Taberna’s IPO in order to stoke interest in the public offerings (discussed below) that were soon to follow, and which were crucial to funding the new Company’s cycle of CDO production.

68. In a conference call with analysts on June 9, 2006 – the day after the merger was announced – Daniel Cohen stated that:

And, of course, for somebody who’s in the credit business, the most important element – no defaults and *no risks in terms of our underlying finance structure.*

69. Betsy Cohen similarly stated, with respect to RAIT, that “if you look back at the credit history of RAIT, over the last eight years, you’ll see that it had no defaults and no losses.”

70. Daniel Cohen also stated that “we [Taberna] really finance the best and most capable, best capitalized real estate borrowers,” that “losses have been almost non-existent on REIT debt,” and that:

[W]e will continue to represent a very large percentage of the business. Furthermore, our deals will be at higher credit qualities. Statistically higher credit quality, but our weighted average coupons will be lower than our competitors. So, we will have the ability to finance companies, still getting tremendous yields for us that the ROEs that we talked about, previously, *but allow us to really do a cream-of-the-crop approach to lending to real estate investment trusts and real estate operating companies.*



71. In connection with the June 9, 2006 conference call, RAIT and Taberna distributed a slide presentation touting Taberna's supposed "Focus on low-risk asset classes" and "Disciplined underwriting policies and procedures."

72. Besty Cohen, RAIT's Chairwoman and CEO at the time of the merger, continued as RAIT's Chairwoman after the merger, while Daniel Cohen ascended to his mother's position as RAIT's CEO.

2. **The Story Behind The Merger: The "Web of Conflicts" Intertwining RAIT, Taberna And Cohen Bros.**

73. The RAIT/Taberna merger was not the first (nor would it be the last) time that the Cohens used RAIT and Taberna as vehicles to advance their own interests. For instance, Taberna was originally owned by Cohen Brothers, LLC ("Cohen Bros."), an investment management firm founded by Daniel Cohen and his brother, Jonathan, and in which Daniel Cohen owns a controlling 87.6% ownership interest. Rafael Licht, who is RAIT's Chief Legal Officer, Chief Administrative Officer, and Secretary, and who held those same positions at Taberna prior to the merger, also owns a minority stake in Cohen Bros.

74. According to the Joint Proxy Statement-Prospectus dated November 3, 2006 ("Joint Proxy") and filed pursuant to SEC Rule 424(b)(3) on or about November 6, 2006, Taberna began its existence as two separate companies called Taberna Capital Management, LLC and Taberna Securities. Cohen Bros., either directly or through a wholly-owned subsidiary of its parent company, owned both Taberna Capital Management, LLC and Taberna Securities. On April 28, 2005, Cohen Bros. sold Taberna Capital Management, LLC and Taberna Securities to the corporate entity referred to herein as Taberna in exchange for 2 million shares of Taberna worth \$20 million.

75. Following this sale, Daniel Cohen remained as Taberna's Chief Executive Officer and Cohen Bros. remained lucratively connected to Taberna and RAIT. Among other things, Taberna, and later RAIT, retained Cohen & Company Securities, LLC ("Cohen & Company"), a wholly-owned subsidiary of Cohen Bros., to perform a variety of broker-dealer services. These services included originating and structuring the TruPS securities that Taberna (and later RAIT) used to collateralize its CDOs. According to the Joint Proxy, "[a] substantial majority" of the TRuPS funded through Taberna were originated by Cohen & Company. This relationship was extremely lucrative for Defendant Daniel Cohen, as Cohen & Company has received more than \$54 million in fees in connection with its services to Taberna and RAIT.

76. In addition to the Broker-Dealer Services Agreement, Cohen Bros. receives fees from Taberna under a Shared Services and Facilities Agreement. Pursuant to that agreement, Cohen Bros. provided Taberna with "office space and assistance with structuring and managing Taberna's investments in mortgage loans and other mortgage-backed securities" as well as "cash management services . . . software licensing and human resources and administrative and other services." As of September 30, 2007, Cohen Bros. had received fees of at least \$2.025 million under the Shared Services and Facilities Agreement.

77. The companies' physical locations conveniently facilitated these related-party transactions: Taberna and Cohen Bros. share office space at 2929 Arch Street in Philadelphia. After the merger was completed and Daniel Cohen became RAIT's CEO, RAIT moved its corporate headquarters to the same address. With the principal components of the Cohen family's holdings consolidated under one roof following the merger, the Cohens have continued to use the Company to facilitate a number of related-party transactions that have provided them with huge personal windfalls.

78. Additional benefits that the Cohens and their related companies continued to receive from their association with RAIT included:

- (a) RAIT purchased more than \$26 million in bonds issued by Kleros Preferred Funding VIII, Ltd., through a securitization managed by Cohen & Company.
- (b) Cohen & Company entered into a non-compete agreement with RAIT, which RAIT valued as a \$9.25 million asset on its balance sheet.
- (c) Between December 31, 2006 and June 30, 2007, RAIT paid Cohen & Company more than \$6.5 million in “origination fees” for structuring certain of the Company’s CDO securitizations.
- (d) Between December 31, 2006 and June 30, 2007, RAIT paid Cohen & Company \$595,000 for “services relating to structuring and managing” RAIT’s investments.
- (e) During the same time, RAIT made payments on a lease to Cohen & Company, which provided “future minimum lease payments” of approximately \$399,000.

79. Moreover, throughout the Class Period, RAIT maintained very close relationships with The Bancorp, Inc. (“Bancorp”), a commercial bank of which Betsy Cohen is the Chief Executive Officer and director, and Daniel Cohen is the Chairman. As of June 30, 2007, RAIT had over \$100 million in cash and restricted cash on deposit at Bancorp. Between December 31, 2006 and June 30, 2007, RAIT paid Bancorp \$39,000 for “information system technical support,” and \$238,000 in “rent” on a sublease of a portion of RAIT’s office space.

**C. As The Crisis In The Real Estate Industry Deepens And Severely Exposes RAIT’s Newly-Acquired TruPS Portfolio, RAIT Sells Hundreds of Millions of Dollars In New Securities To Investors**

80. At the time that the RAIT/Taberna merger was announced, Taberna’s CDO portfolio included six separate CDOs denominated Taberna Preferred Funding II, Ltd. through Taberna Preferred Funding VII, Ltd. (“Taberna II through Taberna VII”). It was these six CDOs

that contained most of the bad debt that ultimately defaulted and caused RAIT to lose hundreds of millions of dollars in market capitalization. Upon the closing of the merger (which occurred on December 11, 2006), RAIT assumed Taberna's obligations under these CDOs, including Taberna's obligations to the holders of securities issued pursuant to Taberna II through VII, and also the \$310.7 million par value in investments that Taberna had retained in these CDOs. These retained interests included the "first loss" pieces of the CDOs, meaning that if the collateral underlying the CDOs failed to perform or otherwise hold its value, RAIT would take the loss before any of the other investors took a loss.

81. As described in more detail below, after RAIT finally disclosed the true extent of its exposure to these "first loss" investments in the deteriorating subprime and Alt-A mortgage and homebuilder markets, one analyst described the Taberna acquisition as a "toxic situation." Throughout the Class Period, however, RAIT refused to disclose to public investors the names of the specific real estate companies that had issued the TruPS and other subordinated debt underlying the Company's CDOs. Rather, during a conference call on August 2, 2007, Daniel Cohen cited RAIT's supposed access to "inside information," which would preclude the Company from disclosing its TruPS counter-parties. Thus, while it was clear by the fall of 2006 that certain sectors of the real estate market – including the subprime, Alt-A and homebuilders sectors – were weakening, investors had to rely on RAIT's generalized characterizations of its exposure to worsening conditions in these markets. As a result, investors remained unaware of the "toxic situation" created by the merger with Taberna until the end of the Class Period.

82. Unbeknownst to investors, this "toxic situation" began to manifest itself well before the closing of the merger between RAIT and Taberna in December 2006. As interest rates rose during and prior to the Class Period, it caused a sharp decline in the real estate market.

New home sales fell eleven percent in June 2006 and existing home sales fell by nine percent during the same period. Faced with these pressures, throughout 2006, the homebuilders market turned down sharply. For example:

- July 13, 2006. The Dow Jones U.S. Home Construction Index was down 35% year to date. By the fall and winter of 2006, the homebuilders market had turned even worse.
- July 14, 2006. DR Horton Inc., the nation's largest homebuilder, cut its full-year earnings forecast by nearly 33%. In a report issued that day, A.G. Edwards analyst Gregory Geiber wrote, "This is an industry epidemic, and we believe others could get hit worse."
- September 2006. Lennar Corporation, one of the country's six largest homebuilders, reported that its profits fell 39% percent in the third quarter of 2006 as compared to the third quarter of 2005.
- October 2006. Pulte Homes, one of the country's six largest homebuilders, reported that its income from continuing operations fell 50%, and its earnings from continuing operations fell 49% in the third quarter of 2006 as compared to the third quarter of 2005.
- October 2006. Centex Corporation, another one of the country's top six homebuilders, reported a 28% drop in its earnings in the second quarter of 2006 as compared to the second quarter of 2005.
- November 2006. D.R. Horton Inc. reported that its profits fell 51% in the fourth quarter of 2006 as compared to the fourth quarter of 2005.
- November 2006. Toll Brothers, the country's sixth-largest homebuilder, reported a 40% plunge in its net earnings for the quarter ended October 31, 2006 as compared to the same period one year earlier.

83. This sharp deterioration in the real estate markets also placed increasing pressure on subprime and Alt-A lenders, and a number of them began to collapse. For example:

- November 8, 2006. Meritage Mortgage Corp., which originated up to \$2.6 billion worth of subprime loans in 2005, was liquidated by its parent NetBank, Inc., as NetBank, Inc. exited the subprime lending business.

- November 15, 2006. Ownit Mortgage Solutions Inc., which had issued up to \$8.3 billion of subprime loans in 2005, defaulted on its credit lines and stopped making new loans. Unable to find additional capital, Ownit ceased operations on December 7, 2006 and filed for Chapter 11 bankruptcy on December 28, 2006.
- November 17, 2006. Summit Financial Group, Inc. announced plans to either sell its subprime mortgage lender, Summit Mortgage, or terminate its operations by January 31, 2007.
- November 21, 2006. Axis Mortgage and Investment, the Alt-A wholesale lending unit of Biltmore Bank of Arizona, abruptly closed after issuing up to \$1 billion of Alt-A loans in 2005.
- December 1, 2006. On December 1, 2006, First Financial Equities, which originated up to \$1 billion of subprime loans in 2005, stopped making new loans and fired about 100 of its 110 employees.
- December 1, 2006. Sebring Capital Partners LP, which had originated up to \$1.2 billion of subprime loans in 2005, suddenly closed after a major investor cut off its funding and it was unable to locate a willing buyer.
- December 20, 2006. Harbourton Mortgage Investment Corp. – which originated up to \$800 million of subprime loans in 2005 and posted a loss for the quarter ending September 30, 2006 – ceased operations.
- December 27, 2006. Alliance Home Funding LLC, which originated up to \$200 million of subprime loans in 2005, stopped operating as a subprime lender and merged back into its parent, Alliance Bankshares.

84. By late 2006, the looming collapse of the residential mortgage market was foreseeable to those, like RAIT, who closely monitored that market. For example, as reported by the Wall Street Journal on December 14, 2007, Goldman Sachs Group Inc. (“Goldman Sachs”) began to accumulate short positions by betting that the values of CDOs back by residential mortgage debt would fall. The collapse of that market yielded more than \$4 billion of profits to Goldman Sachs, as well as considerable profits to other firms that made similar bets, including the hedge funds Paulson & Co. and Hayman Capital Partners. As noted above and throughout,

RAIT investors were not able to judge for themselves the Company's exposure to this market because RAIT refused to name the companies to which it was exposed or disclose the true extent of that disclosure.

85. Moreover, as conditions in the industry worsened, Defendants actively assured investors that RAIT's exposure was minimal. On a November 3, 2006 conference call, a RAIT executive described Taberna as a "stable business." On that same call, Defendant Betsy Cohen was asked "how [do] you view Taberna's exposure to the residential marketplace." She replied by stating "*it's totally hedged out.*"

86. On November 7, 2006, RAIT and Taberna mailed the Joint Proxy to their respective shareholders, and scheduled a vote on the merger for December 11, 2006. Regarding the manner in which Taberna managed its risk, the Joint Proxy stated that:

Taberna seeks to manage its credit risk through the underwriting processes that it performs in advance of acquiring an investment and its ongoing credit analysis and monitoring procedures. *The TruPS and other investments that Taberna considers for future CDO transactions and other securitizations will be subject to a similar credit analysis process and will require the approval of Taberna Capital's investment committee prior to funding.* Taberna Capital's investment committee consists of Daniel G. Cohen and Scott F. Schaeffer.

87. Regarding RAIT's approach to credit management, the Joint Proxy explained that "RAIT has an exemplary track record of credit analysis and underwriting, having suffered almost no losses during its history."

88. The Joint Proxy further provided that Taberna's "financial statements are prepared on the accrual basis of accounting in accordance with GAAP." The Joint Proxy reported the following selected financial data regarding Taberna for the six months ended June 30, 2006: GAAP net income of approximately \$32.6 million; and investments in securities

valued at approximately \$4.15 billion, consisting of approximately \$3.2 billion in available-for-sale securities and \$939 million in security-related receivables.

89. The Joint Proxy also stated that Taberna's loan loss provision "was approximately \$1.1 million for the three month period ended June 30, 2006," the latest period for which the Joint Proxy gave such information. Given that Taberna's TruPS portfolio totaled \$3.3 billion as of June 30, 2006 – and that Taberna held another \$4.2 billion in real estate loan and related receivables – this extremely small loss provision of \$1.1 million suggested that Taberna had limited exposure to the deepening real estate crises. The Joint Proxy reflected no loan loss provision for RAIT.

90. The Joint Proxy also set forth the following pro forma condensed combined financial data of RAIT and Taberna for the six months ended June 30, 2006: net income from continuing operations of approximately \$54.7 million; net income available to common shareholders of approximately \$49.7 million; and investments in securities valued at approximately \$4.11 billion.

91. In addition, the Joint Proxy provided that "Taberna accounts for its investments in securities under "Statement of Financial Accounting Standards No. 115," pursuant to which "[a]vailable-for-sale securities are recorded at their fair value."

92. Finally, the Joint Proxy set forth that Defendant Bear Stearns provided \$500 million of warehouse facilities to Taberna, and that as of June 30, 2006, Defendant Bear Stearns was holding \$449.6 million worth of TruPS on that facility.

93. RAIT's stock climbed steadily from the time of the merger announcement to the time of the merger. Specifically, RAIT's stock rose from \$25.16 on June 8, 2006 to \$34.37 on December 11, 2006. On December 11, 2006, the merger closed. As discussed above, the merger



radically changed RAIT's risk profile by exposing it directly to the declining real estate market through Taberna's TruPS and subordinated debt portfolio underlying Taberna II through Taberna VII.

94. As discussed above, during the Class Period RAIT refused to disclose the names of the specific companies whose TruPS collateralized the CDOs issued by RAIT. This information is peculiarly in the possession and control of RAIT and other Defendants and Lead Plaintiff expects that discovery will yield additional information regarding the identity of other troubled companies in RAIT's portfolio, and the amount of exposure that RAIT had to each such company. Nonetheless, based on Lead Counsel's investigation, including interviews with witnesses and review of documents that were not available until after the Class Period, RAIT had at least the following TruPS and/or subordinated debentures of financially distressed subprime and Alt-A lenders and homebuilders:

- a substantial portion of \$103 million in TruPS from Beazer Homes USA;
- a substantial portion of \$75 million in TruPS from Orleans Homebuilders Inc.;
- \$45 million in TruPS from New York Mortgage Trust;
- \$26 million TruPS from Impac Mortgage Holdings;
- \$25 million in TruPS from NovaStar Financial Inc.;
- \$25 million in TruPS from WCI Communities, Inc.;
- \$20 million in TruPS from Hanover Capital Mortgage Holdings;
- TruPS from Tarragon Corporation in an amount currently unknown;
- TruPS from Levitt Corporation in an amount currently unknown;
- TruPS from Great Wolf Resorts, Inc. in an amount currently unknown; and
- TruPS from HomeBanc Corp. in an amount currently unknown.

95. Neither RAIT nor Taberna publicly disclosed that they held TruPS and/or subordinated debentures issued by those companies, even when those companies exhibited significant financial impairment that materially jeopardized their ability to meet their payment obligations.

96. **Impac Mortgage Holdings.** On February 21, 2006, Impac Mortgage Holdings (“Impac”) – an investor in subprime and Alt-A loans from which Taberna had purchased at least \$26 million of TruPS – reported *an 80% decline* between its net earnings for the fourth quarter of 2005 as compared to the same period in 2004. On May 10, 2006, Impac reported *a 51% decline* between its net earnings for the first quarter of 2006, as compared to the same period in 2005. Further, on November 8, 2006, Impac announced a net *loss of \$127.7 million* for the third quarter of 2006, as compared to net earnings of \$126.4 million for the same period in 2005 – *a 200% decline.*

97. **New York Mortgage Trust, Inc.** Similarly, New York Mortgage Trust, Inc. (“New York Mortgage”), a prime and subprime lender from which Taberna had purchased at least \$45 million of TruPS, was consistently posting losses. On March 6, 2006, New York Mortgage announced a *net loss of \$8.7 million* for the fourth quarter ended December 31, 2005 compared to net income of \$2.0 million for the same period in 2004, and a *net loss of \$5.3 million* for the entire year of 2005 compared to net income of \$4.9 million for 2004. On May 8, 2006, it announced a net loss of \$1.8 million for the first quarter ended March 31, 2006 compared to a net loss of \$38,000 for the same period in 2005. On August 7, 2006, it announced net income of \$178,000 for the second quarter ended June 30, 2006 compared to net income of \$546,000 for the same period in 2005. And on November 7, 2006, New York Mortgage announced a net loss of \$3.9 million for the third quarter ended September 30, 2006 compared to

net income of \$2.9 million for the same period in 2005, and a net loss of \$5.49 million for the nine months ended September 30, 2006 compared to net income of \$3.37 million for the same period in 2005.

98. **Great Wolf Resorts, Inc.** Great Wolf Resorts, Inc. (“Great Wolf”), a real estate company from which Taberna had purchased TruPS in an unknown amount, reported losses as early as February 22, 2006, when it announced a *net loss of \$36.1 million for the entire year 2005*. On May 3, 2006, Great Wolf announced a net loss of \$0.9 million for the first quarter 2006, and on August 2, 2006, Great Wolf announced a net loss of \$1.4 million for the second quarter 2006, as well as a net loss of \$2.3 million for the six months ended June 30, 2006. On November 6, 2006, Great Wolf announced a net loss of \$0.3 million for the nine months ended September 30, 2006, compared to net income of \$2.0 million for the same period in 2005.

99. **NovaStar Financial, Inc.** NovaStar Financial Inc. (“NovaStar”), a subprime lender from which Taberna had purchased at least \$25 million of TruPS, reported substantially declining profit margins as early as May 4, 2006, when it announced net income for the first quarter ended March 31, 2006 of \$22.4 million, compared to net income of \$33.5 million for the same period in 2005 – *a 33% decline*. Part of the decline was attributed to the recording of a \$3.4 million loan loss reserve on collateral earmarked for securitizations – Taberna’s primary business. On August 3, 2006, NovaStar announced net income for the second quarter ended June 30, 2006 of \$33.1 million, compared to net income of \$37.9 million for the same period in 2005. On November 7, 2006, NovaStar reported net income for the third quarter ended September 30, 2006 of \$25.3 million, compared to net income of \$34.6 million for the same period in 2005. The earnings decline resulted primarily from a \$6.1 million charge for impairment to mortgage securities and a \$3.2 million loss provision for whole loan repurchases. All told, NovaStar’s

reported net income for the nine months ended September 30, 2006 was \$80.8 million, compared to \$106.0 million for the same period in 2005, a 24% decline. NovaStar CFO Greg Metz stated that NovaStar had “observed an increase in repurchase requests from whole loan buyers,” while CEO Scott Hartmann stated that he anticipated a “*more adverse credit market.*”

100. **WCI Communities, Inc.** WCI Communities, Inc. (“WCI”), a homebuilder from which Taberna had purchased at least \$25 million of TruPS, also posted multiple quarters of poor earnings before the closing of the RAIT/Taberna merger. On June 12, 2006, WCI announced that for the first two months of the second quarter 2006, combined homebuilding orders declined 50%, and that it projected a 20% decline in combined orders for the entire year of 2006. On August 9, 2006, WCI announced *a 70% decline* in net income for the second quarter ended June 30, 2006. WCI attributed the decline to a significant decrease in new order activity. On November 7, 2006, WCI announced a *73% decline* in net income for third quarter of 2006. WCI attributed the decline to “dramatically lower demand” as well as “home cancellations . . . about twice the historical rate.” WCI also announced net income for the nine months ended September 30, 2006 had declined by 44% as compared to the same period in 2005. On December 8, 2006, WCI announced that Moody’s Investor Services downgraded its senior subordinated notes from BBB to B, which is non-investment grade.

101. **Levitt Corporation.** On August 2, 2006, Levitt Corporation (“Levitt”), a homebuilder from which Taberna purchased an unknown amount of TruPS, announced a net loss for the second quarter of \$0.7 million, compared to net income of \$6.1 million for the same period in 2005. Levitt also announced a net loss of \$1.4 million through the six months ended June 30, 2006, compared to net income of \$35.9 million for the same period in 2005, *a decline of 104%*. Levitt’s CEO pointed to rising mortgage rates and an oversupply of unsold homes as the

primary factors driving the earnings decline. On November 7, 2006, Levitt announced a **70% decline** in net income for the third quarter 2006, as compared to the same period in 2005. Levitt also announced that net income through the nine months ended September 30, 2006 **had declined by more than 96%** as compared to the same period in 2005. In explaining the nosedive, Levitt's CEO cited slowing demand, declining new orders, lower conversion rates, and an increase in forfeited deposits on homes under contract.

102. **Orleans Homebuilders, Inc.** On November 7, 2006, Orleans Homebuilders, Inc. ("Orleans") – a homebuilder from which Taberna had purchased up to \$75 million of TruPS, at least – announced a **50% decline in its net income** between the fiscal 2006 first quarter as compared to the same quarter in 2005. Orleans attributed the sharp decline to a 55% reduction in new orders during the quarter compared to the same period in 2005 and an increase in the cancellation rate to 32% during the quarter from 17% during the same period in 2005. Orleans also stated that:

The unfavorable market conditions in the housing industry have continued to negatively impact the Company's new order activity. The major factors contributing to the unfavorable market conditions include increased new and resale home inventory levels primarily caused by speculators attempting to sell their homes and decreased consumer confidence as reluctant homebuyers delay their purchase decisions. ***The Company believes that these market conditions will continue to have a negative impact on new orders and new order pricing in the near-term, thereby further reducing future revenues, gross margins and net income.***

103. **Tarragon Corporation.** Tarragon Corporation ("Tarragon"), a homebuilder from which Taberna had purchased TruPS in an unknown amount, also was experiencing financial distress. On October 4, 2006, Fitch Ratings placed certain Tarragon TruPS, issued in connection with the Monterra condominium project in Florida, on "rating watch negative," meaning that they could soon be downgraded to junk bond status. One month later, on

November 9, 2006, Tarragon reported terrible third quarter 2006 results, lowered its guidance for the full year 2006, and announced that it would split off its struggling homebuilding division. Specifically, in the third quarter 2006, Tarragon's *earnings declined 88%*. New orders and deliveries also fell precipitously. In the third quarter 2006 Tarragon wrote 274 net new orders totaling \$88 million, while in the third quarter 2005 it wrote 962 net new orders totaling \$271 million – a 71.5% decline in new orders. Further, in the third quarter 2006, Tarragon delivered 338 homes compared with 1,183 homes in the third quarter 2005 – *a 71.4% drop*. Tarragon's struggles in Florida, which Fitch Ratings had flagged in October, were the primary cause of the company's horrible performance. Tarragon's CEO stated, "Our third quarter results reflect the continued slowdown in condominium conversion sales along with declining margins, particularly in Florida." In addition, due to "the continuing sales slowdown and lower margins," Tarragon lowered its guidance for the full year 2006. It also announced plans to "spin off its Homebuilding division."

104. RAIT's insiders were aware of the problems that this exposure to troubled companies created for RAIT. According to one former RAIT executive, a former Senior Vice President of Origination who left the Company in September 2007 ("Confidential Witness 1" or "CW1"), in light of the "horrendous" earnings reports issued by homebuilders in the Fall of 2006, and in light of Taberna's substantial exposure to homebuilders throughout its TruPS portfolio, "the biggest, most glaring problem" with the RAIT/Taberna merger was the failure to account for the increased risk that Taberna's portfolio brought to RAIT. CW1 also stated that there was ample evidence by August 2006 that the homebuilder's market was tanking. Also according to CW1, by the third quarter of 2006 it was well-known within RAIT that the subprime and Alt-A markets were "a disaster." This information was confirmed by a former

Vice President of Investment Banking in the Asset Backed Securities and Specialty Finance Departments of Defendant FBR (“Confidential Witness 2” or “CW2”), who recalled internal discussions about Taberna and noted that “for a long time” there was knowledge in the industry that the CDO market was “a ticking time bomb.”

105. In addition, at all relevant times RAIT’s insiders were aware that its TruPS issuers were financially distressed and likely to default because, as Daniel Cohen recognized on an August 2, 2007 conference all described further below, RAIT possessed “inside information” regarding those companies’ financial performance and prospects. That information was unavailable to investors at large. RAIT acquired that “inside information” as a result of its purportedly “active risk management.” As described in RAIT’s Form 10-K for the year 2006, RAIT “actively monitor[ed] its investments” by several means, including direct calls and visits with the borrowers, and a review of “public filings,” “reports,” and “other sources of data.” RAIT’s purported “ongoing surveillance” was done “even more closely” with respect to companies that had shown signs of impairment, such as those described above and further herein, and were placed on RAIT’s “credit watch list.”

106. Accordingly, by the time that the RAIT/Taberna merger occurred in December 2006, the homebuilder, subprime, and Alt-A markets were in freefall. Moreover, the specific issuers of TruPS and/or subordinated debt collateralizing RAIT’s newly-acquired CDOs already had exhibited severe financial distress that reasonably called into question their ability to make their payments on the debt instruments and, in turn, exposed RAIT to the risk of substantial, and quite foreseeable, loss.

107. Following the closing of the merger, certain issuers of the TruPS and/or subordinated debentures collateralizing Taberna II through Taberna VII continued to show signs

of financial distress. On January 23, 2007, WCI announced that, “results for the fourth quarter will be below prior expectations due to a higher level of defaults than expected in both our Traditional Homebuilding and Tower Homebuilding operations, longer tower construction cycles, and *the recording of significant impairments and write-offs.*” WCI also reported that, “The operating environment in Florida continued to be challenging during the fourth quarter and resulted in cancellations outnumbering new orders in that market.”

108. On January 29, 2007, Orleans announced that it was in violation of certain Debt Service Ratio covenants affecting approximately \$502 million of borrowings and \$41 million of letters of credit, and that its lenders had the ability to hold it in default and demand immediate full payments of those amounts. Orleans stated that it was attempting to amend the covenants but that its failure to do so “could have a material adverse effect on the Company’s financial position.”

109. On January 31, 2007, Levitt announced that of the 204 new home orders it took in the fourth quarter 2006, 122 were cancelled before the end of the quarter, for *a cancellation rate of approximately 60%*. Levitt also announced the disposal of certain properties in which it experienced a loss of \$9.0 million as well as a \$1.4 million write-off in pre-acquisition costs for properties that it would not acquire.

110. Moreover, the overall real estate market also continued its sharp decline. On January 2, 2007, Mortgage Lenders Network USA Inc., which originated up to \$4.9 billion of subprime loans in 2005, rang in the New Year by halting its loan operations. “The economics of this market are not good, and it deals with the performance of loans, and to a lesser extent the value of homes,” said the company’s Executive Vice President. On January 8, 2007, Secured Funding Corp, which originated up to \$1.3 billion in subprime loans in 2005, closed its doors.



The next day, Banco Popular closed its wholesale subprime mortgage business, Popular Financial Holdings, Inc. On January 12, 2007, Clear Choice Financial Bay Capital Corp. closed Bay Capital Corp., its subprime lending subsidiary that had originated up to \$800 million in subprime loans in 2005. On January 17, 2007, Funding America LLC, a two-year old subprime lender, stopped making loans. On January 22, 2007, Wachovia Corp. closed its only subprime loan originator, EquiBanc Mortgage Corp. The following day, subprime lender Rose Mortgage Corp. abruptly closed after Deutsche Bank withdrew its last \$50 million line of credit. Rose Mortgage Corp. laid off roughly 60 employees. On January 25, 2007, Mandalay Mortgage LLC, which originated up to \$900 million of subprime loans in 2005, stopped accepting new loan applications. That same day, Millennium Bankshares Corp. closed its subprime lending business after taking a net loss of \$0.35 per diluted share for the quarter ended December 31, 2006. Deep Green Financial Inc., which had originated up to \$5 billion of subprime loans in 2005, ceased operations on January 31, 2006.

111. Despite the deepening crisis in the real estate industry, and despite RAIT's newly-acquired exposure to these risks, following the close of the RAIT/Taberna merger, RAIT immediately embarked on a series of public and private offerings, raising over *\$855 million* from investors during the Class Period.

**1. The January 2007 Stock Offering**

112. In an offering that closed on or about January 24, 2007, RAIT offered 11,500,000 common shares, including exercised over-allotments, at \$34 per share. Through this offering, RAIT raised more than \$390 million from investors. The Common Stock Underwriter Defendants acted as underwriters for the January 2007 Stock Offering.

113. The January 2007 Stock Offering was offered and sold pursuant to a shelf registration statement on Form S-3 and prospectus dated January 10, 2007 and signed by

Defendants Betsy Cohen, Daniel Cohen, Salmon, DiStefano, Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel; a prospectus supplement dated January 10, 2007; and prospectus supplements filed on January 12, 2007 and January 19, 2007, which were all filed with the SEC (collectively the “January 2007 Registration Statement”). The January 2007 Registration Statement and the July 2007 Registration Statement, as defined below, as well as the documents that those two registration statements incorporate by reference, are sometimes referred to collectively herein as the “Offering Documents.” Between the time RAIT first filed portions of the January 2007 Registration Statement on January 10, 2007, and the day the offering closed on January 24, 2007, RAIT’s stock price rose from \$32.98 to \$36.46 on higher-than-normal trading volume.

114. As noted above, RAIT planned to use the funds raised in the offering principally to fuel Taberna’s cycle of CDO production by paying down Taberna’s credit lines, thereby freeing up more credit to purchase additional CDO collateral.

115. The January 2007 Registration Statement stated that, as of September 30, 2006, RAIT had total assets of \$1.2 billion and net income of \$58 million. It also stated that Taberna had funded \$4.8 billion of TruPS through September 30, 2006, and for the nine months ended on that date, it generated \$50 million of revenue and earned \$34.2 million in net income.

116. The January 2007 Registration Statement also provided as follows:

***Core components of our business include a robust origination network, a disciplined credit underwriting process and, through our ownership of Taberna, an ability to finance our business more efficiently through the use of CDO transactions. . . . Our credit underwriting involves an extensive due diligence process that seeks to identify risks related to each proposed investment before an investment decision is made and, thereafter, to monitor each investment on a continuous basis.***

117. The January 2007 Registration Statement also incorporated by reference the Company’s Form 8-K/A dated December 11, 2006 and filed with the SEC on or about January 4,

2007 (the “December 11, 2006 Form 8-K/A”). The December 11, 2006 Form 8-K/A reported that Taberna had a “loan loss” reserve of approximately \$2.4 million for the quarter ended September 30, 2006, and that the company accounted for its investments in debt and equity securities pursuant to Statement of Financial Accounting Standards (“SFAS”) No. 115, such that assets are recorded at their fair value. The December 11, 2006 Form 8-K/A also stated that Taberna had a “disciplined underwriting process and recurring credit analysis.” According to the December 11, 2006 Form 8-K/A:

Taberna seeks to manage its credit risk through the underwriting processes that it performs in advance of acquiring an investment and its ongoing credit analysis and monitoring procedures. The TruPS and other investments that Taberna considers for future CDO transactions and other securitizations will be subject to a similar credit analysis process and will require the approval of Taberna Capital’s investment committee prior to funding. Taberna Capital’s investment committee consists of Daniel G. Cohen and Scott F. Schaeffer.

118. The January 2007 Registration Statement also contained the following “Selected Consolidated Historical Financial Data of Taberna” for the nine months ended September 30, 2006: net income of approximately \$34.3 million and investments in securities valued at approximately \$4.77 billion.

119. The January 2007 Registration Statement further set forth the following “Selected Unaudited Pro Forma Condensed Combined Financial Data of RAIT and Taberna” for the nine months ended September 30, 2006: net income from continuing operations of approximately \$69.2 million; net income available to common shareholders of approximately \$61.7 million; and investments in securities valued at approximately \$4.73 billion.

120. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. At the time of the January 2007 Stock

Offering, and contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and valuation of investments in securities were overstated.

**2. The April 2007 Note Offering**

121. Despite continued impairments and further decline in the real estate industry following the January 2007 Stock Offering, in April 2007 RAIT again turned to the capital markets to raise hundreds of millions of dollars from investors. As discussed in more detail herein, on or about April 18, 2007, RAIT issued \$425 million of 6.875% Convertible Senior Notes (the "Notes") in a private offering to qualified institutional buyers (the "April 2007 Note Offering"). Defendant Bear Stearns underwrote the April 2007 Note Offering, for which it received up to \$10.75 million in fees.

122. From that offering, RAIT netted approximately \$414.25 million in proceeds, and used \$74 million of those proceeds to repurchase approximately 2,717,600 of its common shares at a price of \$27.34 per share. RAIT used the remaining proceeds, approximately \$341 million, "principally [for] investment in its targeted asset classes," *i.e.*, for obtaining more CDO collateral. Between the time that RAIT announce this offering in a press release dated April 13, 2007, and the time the offering closed on or about April 18, 2007, the price of RAIT stock rose from \$27.86 to \$29.47, on very high trading volume.

### 3. The July 2007 Preferred Stock Offering

123. On or about July 5, 2007, RAIT closed another public offering by issuing approximately 1,600,000 shares of Series C Preferred Stock at \$25 per share, raising proceeds of approximately \$40 million. These proceeds were earmarked “principally [for] investment in our target asset classes,” such as TRuPS and subordinated debt to collateralize even more CDOs. The Preferred Stock Underwriter Defendants acted as underwriters for the July 2007 Preferred Stock Offering.

124. The July 2007 Preferred Stock Offering was offered and sold pursuant to a shelf registration statement on Form S-3 and prospectus dated January 10, 2007 signed by Defendants Betsy Cohen, Daniel Cohen, Salmon, DiStefano, Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel; a prospectus supplement filed on June 25, 2007; a prospectus supplement dated June 28, 2007; and a free writing prospectus dated June 29, 2006, which were filed with the SEC (collectively the “July 2007 Registration Statement”), as well as a Form 8-A registration statement filed on June 29, 2007 signed by Defendant Salmon.

125. The July 2007 Registration Statement stated:

*Core components of our business include a robust origination network, a disciplined credit underwriting process* and, through our ownership of Taberna, an ability to finance our business more efficiently through the use of CDO transactions. . . . *Our credit underwriting involves an extensive due diligence process* that seeks to identify risks related to each proposed investment before an investment decision is made and, thereafter, to *monitor each investment on a continuous basis*.

126. The July 2007 Registration Statement set forth the following “Selected Financial Information regarding RAIT for the three months ended March 31, 2007: net investment income of approximately \$43 million; income from continuing operations of approximately \$22.7 million; net income available to common shareholders of approximately \$20.3 million; earnings per share – diluted of \$0.34; and investments in securities valued at approximately \$6.12 billion.

127. The July 2007 Registration Statement expressly incorporated, *inter alia*, RAIT's Form 10-K for Fiscal Year 2006 and Form 10-Q for the quarter ended March 31, 2007.

128. RAIT's Form 10-K for Fiscal Year 2006 reported the following: net income of approximately \$77.9 million; net investment income of approximately \$75 million; net income from continuing operations of approximately \$72 million; net income available to common shareholders of approximately \$67.8 million; earnings per share-diluted of \$2.30; and investments in securities valued at approximately \$5.1 billion, consisting of approximately \$3.98 billion in available-for-sale securities (of which \$3.72 billion were TruPS and subordinated debentures) and approximately \$1.16 billion in security-related receivables.

129. Despite the enormous size of RAIT's total portfolio, which it valued at approximately \$12 billion, in its Form 10-K for Fiscal Year 2006, RAIT reported a loan loss provision of only \$2.49 million for the year ended December 31, 2006.

130. In its Form 10-K for Fiscal Year 2006, RAIT asserted that its "consolidated financial statements have been prepared by the Company in accordance with U.S. generally accepted accounting principles ("GAAP")." The Company also set forth that it "accounts for its investments in securities under Statement of Financial Accounting Standards No. 115," pursuant to which "[a]vailabe for sale securities are recorded at fair value."

131. RAIT also touted its "active risk management" in the Form 10-K for Fiscal Year 2006, as follows:

***Disciplined credit underwriting and active risk management.*** The core of our investment process is credit analysis and active risk management. Our senior management has extensive experience in underwriting the credit risk associated with our targeted asset classes and we conduct due diligence on all investments. We seek to identify risks related to each proposed investment before we make an investment decision. After making an investment, ***we actively monitor our investments.***

132. RAIT greatly expanded on its credit and risk management, as follows:

***Credit and Risk Management.*** The cornerstone of our investment process is credit analysis and risk management. We focus our attention on credit and risk assessment from the earliest stage of our investment selection process. We manage portfolio risk, including the risks related to credit losses, interest rate volatility, liquidity and counterparty credit. ***We manage credit risk, primarily the risk our borrowers will not repay us, by an integrated and disciplined process which analyzes the sustainability and adequacy of a potential borrower's cash flow, liquidity and capital and the quality and experience of management.***

The investment decision process consists of various types of due diligence and quantitative analyses, depending upon the asset class. The underwriting process involves these steps:

***Step 1: Initial Screening*** Potential investments are sourced through a variety of channels, including commercial and investment banks, mortgage brokers, other financial sponsors and other intermediaries. We screen investment opportunities considered for our portfolio and determine the viability of the investment opportunity.

***Step 2: Call/Visit with Borrower***

We obtain information providing a strategic overview regarding the proposed investment from the borrower or securities issuer.

***Step 3: Detailed Credit Analysis***

We analyze the credit information relevant to the particular investment being proposed. ***Extensive due diligence and quantitative analysis techniques are applied to the prospective investment. A key focus is analyzing whether the cash flow of the borrower is sufficient to satisfy the terms of our proposed investment.***

***Step 4: Credit Write-Up***

All relevant financial information is presented and analyzed in a written document. After assessing an investment's relative value, the results of our credit analysis are summarized in a credit report and submitted to the management investment committee for review.

***Step 5: Investment Committee Review***

The management investment committee further evaluates a potential investment based upon our management team's experience. The investment committee meets at least twice weekly so that we can be responsive to attractive and time-sensitive opportunities.

***Step 6: Ongoing Surveillance***

***Our credit analysts continually monitor our assets for potential credit impairment.*** If we identify a particular asset exhibiting deterioration in credit, those assets are added to a credit watch list. ***Our analysts may***

*communicate directly with our borrowers on a regular basis, visit properties, review public filings and reports generated by borrowers and review other sources of data that may impact a particular credit, and will do so even more closely for borrowers who are on one of our watch lists.*

133. As noted above, RAIT also incorporated into the July 2007 Registration Statement its Form 10-Q for the quarter ended March 31, 2007. In that Form 10-Q, RAIT reported the following financial information: net income of approximately \$22.8 million; net investment income of approximately \$43 million; net income from continuing operations of approximately \$22.7 million; net income available to common shares of approximately \$20.3 million; earnings per share – diluted of \$0.34; investments in securities valued at approximately \$6.12 billion, consisting of approximately \$4.7 billion in available-for-sale securities and \$1.4 billion in security-related receivables; and TruPS and subordinated debentures valued at approximately \$4.05 billion.

134. RAIT's Form 10-Q for quarter ended March 31, 2007 also set forth that as of that date, RAIT had invested in approximately \$4.8 billion of TruPS, subordinated debentures, and other securities, all of which were held for sale. Of those investments, RAIT asserted that “the unrealized losses on our securities are primarily the result of market interest rate factors *rather than credit impairment*, and we believe that the carrying values are fully realizable over the securities' expected holding period.”

135. Despite that enormous portfolio, RAIT recorded a provision for loan losses of only \$3.7 million. RAIT also stated that “Our allowance for losses is based on management's evaluation of known losses and inherent risks . . . .”

136. The Form 10-Q for the quarter ended March 31, 2007 also contained consolidated balance sheets and consolidated statements of earnings purporting to reflect the Company's



financial performance and assets and liabilities for the three months ended March 31, 2007 in accordance with GAAP. The Form 10-Q stated:

The accompanying unaudited interim consolidated financial statements have been prepared by management in accordance with U.S. generally accepted accounting principles, or GAAP. . . . In the opinion of management, all adjustments, consisting only of normal recurring adjustments, necessary to present fairly our consolidated financial position and consolidated results of operations and cash flows are included.

137. Also in that Form 10-Q, RAIT set forth that, “We account for our investments in securities under Statement of Financial Accounting Standards No. 115,” pursuant to which “[a]vailable-for-sale securities are recorded at fair value.”

138. In addition, Grant Thornton consented to the incorporation by reference in the July 2007 Registration Statement of its unqualified opinion on the Company’s financial statements for the year ended December 31, 2006. Grant Thornton’s unqualified opinion on the Company’s financial statements for the year ended December 31, 2006, set forth as follows:

We have audited the accompanying consolidated balance sheets of RAIT Financial Trust (formerly RAIT Investment Trust) . . . ***We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States).*** Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement . . . .

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of RAIT Financial Trust and its subsidiaries as of December 31, 2006 and 2005, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2006 in conformity with accounting principles generally accepted in the United States of America.

139. As set forth herein, the July 2007 Registration Statement and the Forms 10-K and 10-Q incorporated therein, as well as Grant Thornton’s opinions as to RAIT’s financial statements for the year ended December 31, 2006, contained untrue statements of material facts and omitted to state material facts required therein or necessary to make the statements contained

therein not misleading. Among other things, those statements reported artificially high levels of net income, net investment income, net income from continuing operations, and net income available to common shares; earnings per share-diluted; reported artificially low loss provisions and/or other-than-temporary, asset impairment charges; reported artificially high carrying values of RAIT's investments in securities; materially misstated RAIT's credit underwriting and monitoring guidelines; materially misstated that RAIT's financial statements were reported in accordance with GAAP; omitted to state the true extent of RAIT's exposure to the subprime, Alt-A, and homebuilder markets; and omitted to properly reflect the true impairment of RAIT's TruPS and/or subordinated debenture portfolios.

**VI. DEFENDANTS' VIOLATIONS OF GAAP AND IMPACT ON FINANCIAL STATEMENTS**

140. The accounting profession recognizes GAAP as the standard set of conventions, rules and procedures necessary to define accepted accounting practices. GAAP principles are the official standards accepted by the SEC and used to ensure standard, uniform, and accurate presentation of financial statements by reporting companies. During the Class Period, RAIT purported to present its financial statements in accordance with GAAP.

141. Specifically, in its public filings with the SEC, RAIT purported to apply, among others, Statements of Financial Accounting Standards ("SFAS") No. 115, "Accounting for Certain Investments in Debt and Equity Securities," to its available-for-sale securities and security-related receivables, which included the TruPS investments. This statement was untrue and misleading. Among other things, RAIT failed to take other-than-temporary, asset impairment charges to its TruPS investments when it was required to do so. Thus RAIT avoided taking necessary charges to earnings, and therefore gave a materially false and misleading picture of its true results of operations for a given period.

142. SFAS No. 115 was issued in 1993 and requires companies to make a determination as to whether declines in value of available-for-sale securities are non-temporary:

For individual securities classified as either available-for-sale or held-to-maturity, an enterprise *shall determine whether a decline in fair value below the amortized cost basis is other than temporary. For example, if it is probable that the investor will be unable to collect all amounts due according to the contractual terms of a debt security not impaired at acquisition, an other-than-temporary impairment shall be considered to have occurred.* If the decline in fair value is judged to be other than temporary, the cost basis of the individual security shall be written down to fair value as a new cost basis and the amount of the write-down shall be included in earnings (that is, accounted for as a realized loss). The new cost basis shall not be changed for subsequent recoveries in fair value.

143. In making the other-than-temporary impairment determination, management must consider “general market conditions which reflect prospects for the economy as a whole or by specific information pertaining to an industry or an individual company,” pursuant to SEC Staff Accounting Bulletin No. 59, “Accounting for Noncurrent Marketable Equity Securities,” Release No. SAB – 59 (“SAB 59”).

144. The list of nonexclusive factors which must be considered, and “which individually or in combination, indicate that a decline is other than temporary and that a write down of the carrying value is required [include]: [t]he length of the time and the extent to which the market value has been less than cost, [and] [t]he financial condition and *near-term prospects* of the issuer, including any specific events which may influence the operations of the issuer [and] . . . that may impair the earnings potential of the investment or the discontinuance of a segment of the business that may affect the future earnings potential.” SAB 59 also states:

[u]nless evidence exists to support a realizable value equal to or greater than the carrying value of the investment, *a write-down accounted for as a realized loss should be recorded [,] such loss should be recognized in the determination of net income of the period in which it occurs [and] [t]he written down value of the investment in the company becomes the new cost basis of the investment.*

145. Thus, pursuant to GAAP, throughout the Class Period, RAIT was required to assess whether its investments in TruPS and other securities had suffered a non-temporary impairment and, if they had, RAIT was required to take a write-down that would reduce net income, net income from continuing operations, net income available to common shares, and earnings per share-diluted. RAIT has since acknowledged that approximately \$247 million of its investments were other-than-temporarily impaired. Had these impairment charges been taken earlier, as required by GAAP, they would have wiped out the Company's net income for the entire Class Period.

146. RAIT's failure to take other-than-temporary impairment charges in accordance with GAAP rendered its financial statements untrue and misleading during the Class Period by, among other things, materially overstating (i) RAIT's net income, (ii) net income available to common shareholders, (iii) earnings per share, and (iv) the reported values of RAIT's TruPS and subordinated debentures investments, and its total available-for-sale securities.

147. The following chart details the impact of RAIT's failure to take other-than-temporary impairment charges of \$247 million on net income; net income available to common stockholders; and earnings per share - diluted, in its September 30, 2006, December 31, 2006 and March 31, 2007 financial statements:

<b>(In Millions, except earnings per share information)</b>						
<b>Period</b>	<b>Net Income/(Loss)</b>		<b>Net Income/(Loss) Available to Common Shares</b>		<b>Earnings/(Loss) per share - diluted</b>	
	<u>Reported</u>	<u>Actual</u>	<u>Reported</u>	<u>Actual</u>	<u>Reported</u>	<u>Actual</u>
March 31, 2007	\$22.9	\$(224.1)	\$20.4	\$(226.6)	\$0.34	\$(3.77)
December 31, 2006	\$77.92	\$(169.08)	\$67.84	\$(179.16)	\$2.30	\$(6.06)
Nine months ended September 30, 2006 (consolidated)	\$69.29	\$(177.71)	\$61.73	\$(185.27)	\$1.20	\$(3.61)

148. The following chart details the impact of RAIT's failure to take other-than-temporary impairment charges of \$247 million on the total net income and total net income available to common stockholders, for the period January 1, 2006 through March 31, 2007:

(In Millions)				
Other-than-temporary charges	Net Income/(Loss) – (January 1, 2006 through March 31, 2007)		Net Income/(Loss) Available to Common Shares– (January 1, 2006 through March 31, 2007)	
	<u>Reported</u>	<u>Actual</u>	<u>Reported</u>	<u>Actual</u>
\$247	\$100.8	\$(146.2)	\$88.2	\$(158.8)

149. The following chart details the impact of RAIT's failure to take other-than-temporary impairment charges of \$247 million on the reported carrying value of its TruPS and subordinated debentures, and total securities held for sale, at September 30, 2006, December 31, 2006, and March 31, 2007:

(In Billions)				
Other-than-temporary charges	TruPS and subordinated debentures		Total available-for-sale securities	
	<u>Reported</u>	<u>Actual</u>	<u>Reported</u>	<u>Actual</u>
March 31, 2007	\$4.08	\$3.83	\$4.78	\$4.53
December 31, 2006	\$3.75	\$3.50	\$4.01	\$3.76
September 30, 2006	\$3.58	\$3.33	\$3.71	\$3.46

## VII. GRANT THORNTON'S VIOLATIONS OF AUDITING STANDARDS

150. Public investors rely on independent, registered public accounting firms to audit financial statements when deciding whether to invest in or do business with a public company.

151. The Public Company Accounting Oversight Board ("PCAOB"), established by the Sarbanes-Oxley Act of 2002, is responsible for the development of auditing and related

professional practice standards that are required to be followed by registered public accounting firms. On April 16, 2003, the PCAOB adopted as its interim standards Generally Accepted Auditing Standards (“GAAS”) as described by the American Institute of Certified Public Accountants Auditing Standards Board’s Statement of Auditing Standards No. 95, *Generally Accepted Auditing Standards*, and related interpretations in existence on that date. Accordingly, an auditor’s reference to “the standards of the Public Company Accounting Oversight Board (United States)” includes a reference to GAAS in existence as of April 16, 2003. For simplicity, all reference to GAAS hereinafter includes the standards of the PCAOB.

152. During the Class Period, Grant Thornton issued an unqualified opinion on the Company’s financial statements for the year-ended December 31, 2006. Grant Thornton also completed reviews of RAIT’s interim unaudited financial statements for the quarters ended March 31, June 30, and September 30, 2006, as well as for the quarter ended March 31, 2007.

153. Grant Thornton consented to the incorporation by reference in the July 2007 Registration Statement for the July 2007 Preferred Stock Offering of its unqualified opinion on the Company’s financial statements for the year ended December 31, 2006.

154. In that opinion, Grant Thornton stated that it performed its audits and evaluations in accordance with the standards of the PCAOB. This statement was untrue when made and at the time of the July 2007 Preferred Stock Offering because, as set forth below, Grant Thornton’s audits failed to comply with the standards of the PCAOB.

155. There are ten GAAS provisions, which are divided into three types of standards: (1) general standards, which provide guidelines for auditor staffing and maintaining independence from the client; (2) standards of fieldwork, which provide guidelines for audit planning, collecting evidential verification for audit findings, and the proper evaluation of

internal controls; and (3) standards of reporting, which are primarily concerned with ensuring that a company's financial statements are presented in accordance with GAAP.

156. GAAS General Standard No. 3 states that: "Due professional care is to be exercised in the performance of the audit and the preparation of the report." GAAS Standard of Field Work No. 1 states that: "The work is to be adequately planned and assistants, if any, are to be properly supervised." GAAS Standard of Field Work No. 2 states: "A sufficient understanding of the internal control structure is to be obtained to plan the audit and to determine the nature, timing and extent of tests to be performed." GAAS Standard of Field Work No. 3 states: "Sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit." GAAS Standard of Reporting No. 1 states: "The report shall state whether the financial statements are presented in accordance with generally accepted accounting principles (GAAP)." At all relevant times, Grant Thornton violated all of these GAAS provisions.

157. In order to effectively audit RAIT's compliance with GAAP, Grant Thornton was required to, but did not, follow these GAAS standards in evaluating RAIT's risk management standards and practices, as well as its asset impairment and reserving methodology.

158. Grant Thornton failed to comply with the standards of the PCAOB in auditing RAIT's asset impairments, loss reserve provision and related internal controls.

159. As set forth herein, RAIT, in violation of GAAP, failed to account for the significant exposure it assumed through its merger with Taberna in its asset impairment, in setting its loss reserve provision and in valuing its TruPS and other securities, such that the Company's net income, net income from continuing operations, net income available to common

shares, and earnings per share-diluted were materially overstated throughout the Class Period, including as of December 31, 2006, and the Company's TruPS and other securities were materially overvalued throughout that time. Given that RAIT assumed substantial exposure through the December 11, 2006 merger with Taberna; that Taberna's total assets represented approximately 87% of the combined entity after the merger; that RAIT acquired substantial "first loss" positions on Taberna's portfolio; that Betsy Cohen's son, Daniel Cohen, was the CEO of Taberna; that RAIT, Taberna, and Cohen Bros. routinely engaged in related-party transactions that inured to the benefit of Daniel and Betsy Cohen; and that RAIT never identified any of its TruPS and subordinated debenture issuers from the time it merged with Taberna, it was incumbent upon Grant Thornton to exercise due professional care in performing its audit; to adequately plan its audit; to obtain a sufficient understanding of RAIT's internal controls; and to obtain sufficient competent evidential matter in auditing RAIT's asset impairments and loss reserve provision. Grant Thornton failed to conduct its audit in compliance with all of these GAAS provisions. Had Grant Thornton performed its audit consistent with GAAS, it would have uncovered RAIT's material, undisclosed exposure to impaired borrowers in the subprime lending, Alt-A lending, and homebuilder markets; its failure to record other-than-temporary impairment charges; its materially deficient loss reserve provision; its materially deficient valuations of its TruPS and securities portfolio; and its materially deficient statements of income.

#### **VIII. THE SECURITIES ACT DEFENDANTS' NEGLIGENCE**

160. The Underwriter Defendants did not conduct a reasonable investigation of the statements contained in the Offering Documents, and did not possess reasonable grounds for believing that the statements in those documents were true and not misleading. In particular, the Underwriter Defendants did not conduct a reasonable investigation into the accuracy of the statements in the Offering Documents relating to, among other things, RAIT's credit



underwriting process, exposure to worsening conditions in the real estate market, reported loan loss reserves, TruPS valuations, net income, net investment income, net income from continuing operations, and net income available to common shares.

161. Defendants Daniel Cohen, Betsy Cohen, Salmon, DiStefano, Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel, each of whom prepared, approved, and/or signed the Offering Documents, did not conduct a reasonable investigation of the statements contained in the Offering Documents, and did not possess reasonable grounds for believing that the statements in those documents were true and not misleading.

162. Grant Thornton, which consented to the inclusion in the Offering Documents for the July 2007 Preferred Stock Offering of its audit opinion on the Company's financial statements, performed its audits of the Company's financial statements in a negligent manner that did not comply with GAAS, and did not properly investigate whether the Company's financial statements were accurate. Grant Thornton's audit opinion also falsely stated that RAIT's financials were in conformance with GAAP. This statement was untrue as discussed above.

## **IX. CLAIMS FOR RELIEF UNDER THE SECURITIES ACT**

### **COUNT ONE**

#### **For Violations Of Section 11 Of The Securities Act, On Behalf Of Purchasers Of RAIT Common Stock In The January 2007 Stock Offering, Against RAIT, The Officer Defendants, The Trustee Defendants And The Common Stock Underwriter Defendants**

163. Lead Plaintiff repeats and realleges each and every allegation above as if fully set forth herein. For the purposes of this claim, Lead Plaintiff asserts only strict liability and negligence claims and expressly disclaims any claim of fraud or intentional misconduct.

164. This claim is brought pursuant to Section 11 of the Securities Act against RAIT; Officer Defendants Daniel Cohen, Betsy Cohen, Salmon, and DiStefano; Trustee Defendants

Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel; and Underwriter Defendants FBR, Bear Stearns, UBS, RBC, Keybanc, SNC, and BMO.

165. This claim is brought on behalf of Lead Plaintiff and other members of the Class who, during the Class Period, purchased or otherwise acquired RAIT Common Stock issued pursuant and/or traceable to the January 2007 Registration Statement and were damaged by acts alleged herein.

166. RAIT issued the Common Stock pursuant to the January 2007 Registration Statement.

167. RAIT violated Section 11 of the Securities Act by issuing the January 2007 Registration Statement, which included untrue statements of material fact and omitted to state material facts required to be stated therein or necessary in order to make the statements therein not misleading. The facts misstated and omitted would have been material to a reasonable person reviewing the January 2007 Registration Statement. Throughout the Class Period, the Defendants named in this Count had a duty to disclose new information that came to their attention, which rendered their prior statements to the market in the January 2007 Registration Statement materially untrue and/or misleading. RAIT is strictly liable for its violations of Section 11 of the Securities Act.

168. Defendants Daniel Cohen, Betsy Cohen, Salmon, DiStefano, Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel each signed the January 2007 Registration Statement.

169. As set forth above, at the time the January 2007 Registration Statement and the prospectus supplements were filed, Defendants Daniel Cohen and Betsy Cohen were each officers and trustees of RAIT; Defendants Salmon and DiStefano were each officers of RAIT;

and Defendants Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel were each trustees of RAIT.

170. Defendants FBR, Bear Stearns, UBS, RBC, Keybanc, SNC, and BMO acted as underwriters for the January 2007 Stock Offering.

171. The January 2007 Registration Statement contained untrue statements of material fact, including the financial statements of RAIT. In addition, the January 2007 Registration Statement omitted to state material facts required to be stated therein or necessary to make the statements therein not misleading, including RAIT's violations of GAAP and any disclosure as to RAIT's exposure, and the true extent of that exposure, to the impaired credits collateralizing its CDOs. The facts misstated and omitted would have been material to a reasonable person reviewing the January 2007 Registration Statement.

172. Defendants named in this Count owed to Lead Plaintiff and the Class the duty to make a reasonable and diligent investigation of the statements contained in the January 2007 Registration Statement, to ensure that the statements contained or incorporated by reference therein were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading.

173. Defendants were negligent and did not make a reasonable investigation of the statements contained and incorporated by reference in the January 2007 Registration Statement and did not possess reasonable grounds for believing that the January 2007 Registration Statement did not contain an untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

174. The Common Stock Underwriter Defendants were negligent and did not conduct a reasonable investigation of the statements contained in and incorporated by reference in the

January 2007 Registration Statement and did not possess reasonable grounds for believing that the statements contained therein were true and not materially misstated. In particular, the Common Stock Underwriter Defendants did not conduct a reasonable investigation into the accuracy of the statements regarding the Company's reported financial performance and risk management standards. Nor did the Common Stock Underwriter Defendants conduct a reasonable investigation into RAIT's exposure to the credits underlying RAIT's CDO portfolio, which it acquired from Taberna only one month before the January 2007 Stock Offering, and which comprised 87% of its assets. The Common Stock Underwriter Defendants could not simply rely on the work of RAIT's auditors because the investing public relies on the underwriters to obtain and verify relevant information and then make sure that important facts are accurately disclosed. Moreover, the financial information included in the January 2007 Registration Statement was unaudited. Thus, the Common Stock Underwriter Defendants were required to conduct their own, independent and reasonable investigation into the accuracy of the Company's financial statements, which they were negligent in failing to do sufficiently in connection with the January 2007 Stock Offering.

175. Similarly, the Trustee Defendants were negligent in failing to conduct a reasonable investigation of the statements contained in the January 2007 Registration Statement regarding the Company's financial performance and did not possess reasonable grounds for believing that the statements contained therein were true and not materially misstated. The Trustee Defendants, through RAIT's Audit Committee, failed to conduct their own independent and reasonable investigation into the Company's financial reporting prior to the January 2007 Stock Offering. The Trustee Defendants also failed to conduct their own independent and reasonable investigation into RAIT's exposure to the real estate companies underlying RAIT's

CDO portfolio, which it acquired from Taberna only one month before the January 2007 Stock Offering, and which comprised 87% of its assets.

176. Lead Plaintiff and members of the Class purchased RAIT Common Stock issued in, or traceable to, the January 2007 Registration Statement and were damaged thereby.

177. Lead Plaintiff and the Class did not know, nor in the exercise of reasonable diligence could they have known, of the untrue statements of material fact or omissions of material facts in the January 2007 Registration Statement when they purchased or acquired the shares. This claim is brought within the applicable statute of limitations.

178. By reason of the foregoing, Defendants are liable to Lead Plaintiff and members of the Class for violations of Section 11 of the Securities Act.

#### **COUNT TWO**

#### **For Violations Of Section 12(a)(2) Of The Securities Act, On Behalf Of Purchasers Of RAIT Common Stock In The January 2007 Stock Offering, Against RAIT And The Common Stock Underwriter Defendants**

179. Lead Plaintiff repeats and realleges each and every allegation above as if fully set forth herein. For the purposes of this claim, Lead Plaintiff asserts only strict liability and negligence claims and expressly disclaims any claim of fraud or intentional misconduct.

180. This claim is brought pursuant to Section 12(a)(2) of the Securities Act against RAIT, and Underwriter Defendants FBR, Bear Stearns, UBS, RBC, Keybank, SNC, and BMO.

181. This claim is brought on behalf of Lead Plaintiff and other members of the Class who, during the Class Period, purchased or otherwise acquired RAIT Common Stock issued pursuant or traceable to the January 2007 Registration Statement and were damaged by acts alleged herein.

182. The Company solicited the purchase of Common Stock through the means or instruments of transportation or communication in interstate commerce or the mails, and through

the January 2007 Registration Statement. Underwriter Defendants FBR, Bear Stearns, UBS, RBC, Keybank, SNC, and BMO committed to purchase and purchased the Common Stock from RAIT and sold the shares to Lead Plaintiff and members of the Class by means of the January 2007 Registration Statement. Underwriter Defendants FBR, Bear Stearns, UBS, RBC, Keybank, SNC, and BMO were responsible for the contents and dissemination of the January 2007 Registration Statement.

183. As alleged herein, the January 2007 Registration Statement contained untrue statements of material fact, including the financial statements of RAIT. In addition, the January 2007 Registration Statement omitted to state material facts required to be stated therein or necessary to make the statements therein not misleading, including RAIT's violations of GAAP. Underwriter Defendants FBR, Bear Stearns, UBS, RBC, Keybank, SNC, and BMO also failed to conduct their own independent and reasonable investigation into RAIT's exposure to the various real estate companies underlying RAIT's CDO portfolio, which it acquired from Taberna only one month before the January 2007 Stock Offering, and which comprised 87% of its assets. The facts misstated and omitted would have been material to a reasonable person reviewing the January 2007 Registration Statement. Throughout the Class Period, these Defendants had a duty to disclose new information that came to their attention, which rendered their prior statements to the market in the January 2007 Registration Statement materially untrue and/or misleading.

184. Defendants named in this Count owed to Lead Plaintiff and members of the Class the duty to make a reasonable and diligent investigation of the statements contained in the January 2007 Registration Statement, to ensure that the statements contained or incorporated by reference therein were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading.

185. Defendants did not make a reasonable investigation of the statements contained and incorporated by reference in the January 2007 Registration Statement and did not possess reasonable grounds for believing that the January 2007 Registration Statement did not contain an untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

186. Lead Plaintiff and the Class did not know, nor in the exercise of reasonable diligence could they have known, of the untrue statements of material fact or omissions of material facts in the January 2007 Registration Statement when they purchased or acquired the shares. This claim is brought within the applicable statute of limitations.

187. By reason of the foregoing, Defendants are liable to Lead Plaintiff and members of the Class for violations of Section 12(a)(2) of the Securities Act. Lead Plaintiff and Class members hereby tender their shares to Defendants and seek rescission of their purchases to the extent they continue to own such securities.

### **COUNT THREE**

#### **For Violations Of Section 15 Of The Securities Act, On Behalf Of Purchasers Of RAIT Common Stock In The January 2007 Stock Offering, Based On RAIT's Section 11 Violations, Against Defendants Daniel Cohen, Betsy Cohen And Salmon**

188. Lead Plaintiff repeats and realleges each and every allegation above as if fully set forth herein. For the purposes of this claim, Lead Plaintiff asserts only strict liability and negligence claims and expressly disclaims any claim of fraud or intentional misconduct.

189. This claim is brought pursuant to Section 15 of the Securities Act against Defendants Daniel Cohen, Betsy Cohen, and Salmon, on behalf of Lead Plaintiff and other members of the Class who purchased or acquired RAIT Common Stock issued pursuant and/or traceable to the January 2007 Registration Statement and were damaged by acts alleged herein.

190. RAIT is strictly liable for its violations of Sections 11 and 12(a)(2) of the Securities Act through issuing the January 2007 Registration Statement, which included untrue statements of material fact and omitted to state material facts required to be stated therein or necessary in order to make the statements therein not misleading. The facts misstated and omitted would have been material to a reasonable person reviewing the January 2007 Registration Statement.

191. Defendants Daniel Cohen, Betsy Cohen, and Salmon were RAIT's three most senior executives, were described in RAIT's publicly-filed documents as "members of our senior management," and acted as controlling persons of RAIT when the January 2007 Registration Statement was filed and became effective. These Defendants' control is demonstrated by, among other things, their senior executive positions at RAIT; their direct involvement in its day-to-day operations, including its financial reporting and accounting functions; and their signatures on and participation in the preparation and dissemination of the registration statement and other publicly-filed statements. Additional evidence of these Defendants' control over RAIT at the time of the issuance of the January 2007 Registration Statement (and through the end of the Class Period) includes:

(a) **Daniel Cohen.** Defendant Daniel Cohen was RAIT's Chief Executive Officer and a Trustee of RAIT. Daniel Cohen also served on the management investment committee (along with Defendants Betsy Cohen and Salmon), and had explicit authority to approve all investments made by the Company (including its investments in TruPS and other securities issued by troubled real estate companies) up to 5% of RAIT's capital. Moreover, Daniel Cohen (along with Betsy Cohen) was a member of the Trustee Investment Committee, which was granted authority to approve investments in amounts greater than 5% of RAIT's outstanding capital. Daniel Cohen's control over RAIT is also demonstrated by his close relationship with his mother, Betsy Cohen, and his ability to effectuate the merger between RAIT and Taberna following the failure of Taberna's IPO. On or about April 10, 2007, RAIT filed a proxy statement on Schedule 14A, which acknowledged that RAIT entered into an employment agreement with Daniel Cohen on June 8, 2006 in order to ensure his continued employment with RAIT. Daniel Cohen also regularly participated in RAIT's conference calls with analysts and investors, where he



responded to questions relating to all aspects of RAIT's business, strategic direction, loan loss reserves, eventual impairment charges, and financial performance.

(b) **Betsy Cohen.** Defendant Betsy Cohen was RAIT's Chairperson and a Trustee of RAIT. Betsy Cohen also served on the management investment committee (along with Defendants Daniel Cohen and Salmon), and had explicit authority to approve all investments made by the Company up to 5% of RAIT's capital. Moreover, Betsy Cohen (along with Daniel Cohen) was a member of the Trustee Investment Committee, which was granted authority to approve investments in amounts greater than 5% of RAIT's outstanding capital. Betsy Cohen's control over RAIT is also demonstrated by her ability to effectuate the merger between RAIT and Taberna following the failure of Taberna's IPO. On or about April 10, 2007, RAIT filed a proxy statement on Schedule 14A, which acknowledged that RAIT entered into an employment agreement with Betsy Cohen on June 8, 2006 in order to ensure her continued employment with RAIT. Betsy Cohen also regularly participated in RAIT's conference calls with analysts and investors, where she responded to questions relating to all aspects of RAIT's business, strategic direction, loan loss reserves, eventual impairment charges, and financial performance.

(c) **Salmon.** Defendant Salmon was RAIT's Chief Financial Officer and Treasurer. Defendant Salmon also served on the management investment committee (along with Defendants Daniel and Betsy Cohen), and had explicit authority to approve all investments made by the Company up to 5% of RAIT's capital. As Chief Financial Officer, Defendant Salmon worked closely with Daniel Cohen and Betsy Cohen in preparing the Company's financial and other disclosures and for ensuring that the Company's internal disclosure and accounting procedures, including its credit monitoring and risk management procedures, were effective and required no changes. Consistent with this responsibility, Defendant Salmon repeatedly signed RAIT's publicly-filed financial statements and other documents, as detailed herein. Defendant Salmon also regularly participated in RAIT's conference calls with analysts and investors, where he responded to questions relating to all aspects of RAIT's business, strategic direction, loan loss reserves, eventual impairment charges, and financial performance.

192. By virtue of the foregoing, Defendants Daniel Cohen, Betsy Cohen, and Salmon each had the power to influence and control, and did influence and control, directly or indirectly, the decision making of RAIT, including the content of its financial statements and of the January 2007 Registration Statement.

193. Defendants Daniel Cohen, Betsy Cohen, and Salmon acted negligently and without reasonable care regarding the accuracy of the information contained and incorporated by

reference in the January 2007 Registration Statement and lacked reasonable grounds to believe that such information was accurate and complete in all material respects.

194. Lead Plaintiff and members of the Class purchased RAIT Common Stock issued pursuant or traceable to the January 2007 Registration Statement and were damaged thereby.

195. Lead Plaintiff and the Class did not know, nor in the exercise of reasonable diligence could they have known, of the untrue statements of material fact or omissions of material facts in the January 2007 Registration Statement when they purchased or acquired the shares. This claim is brought within the applicable statute of limitations.

196. By reason of the foregoing, Defendants Daniel Cohen, Betsy Cohen, and Salmon are liable to Lead Plaintiff and members of the Class for violations of Section 15 of the Securities Act.

#### **COUNT FOUR**

#### **For Violations Of Section 11 Of The Securities Act, On Behalf Of Purchasers Of RAIT Preferred Stock In The July 2007 Preferred Stock Offering, Against RAIT, The Officer Defendants, The Trustee Defendants, Defendant Grant Thornton And The Preferred Stock Underwriter Defendants**

197. Lead Plaintiff repeats and realleges each and every allegation above as if fully set forth herein. For the purposes of this claim, Lead Plaintiff asserts only strict liability and negligence claims and expressly disclaims any claim of fraud or intentional misconduct.

198. This claim is brought pursuant to Section 11 of the Securities Act against RAIT; Officer Defendants Daniel Cohen, Betsy Cohen, Salmon, and DiStefano; Trustee Defendants Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel; Defendant Grant Thornton; and Underwriter Defendants FBR, Bear Stearns, SNC, Piper and Dain Rauscher.

199. This claim is brought on behalf of Lead Plaintiff and other members of the Class who, during the Class Period, purchased or otherwise acquired RAIT Preferred Stock issued

pursuant and/or traceable to the July 2007 Registration Statement and were damaged by acts alleged herein.

200. RAIT issued the Preferred Stock pursuant to the July 2007 Registration Statement.

201. RAIT violated Section 11 of the Securities Act by issuing the July 2007 Registration Statement, which included untrue statements of material fact and omitted to state material facts required to be stated therein or necessary in order to make the statements therein not misleading. The facts misstated and omitted would have been material to a reasonable person reviewing the July 2007 Registration Statement. Throughout the Class Period, the Defendants named in this Count had a duty to disclose new information that came to their attention, which rendered their prior statements to the market in the July 2007 Registration Statement materially untrue and/or misleading. RAIT is strictly liable for its violations of Section 11 of the Securities Act.

202. Defendants Daniel Cohen, Betsy Cohen, Salmon, DiStefano, Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel each signed the July 2007 Registration Statement.

203. As set forth above, at the time the July 2007 Registration Statement and the prospectus supplements were filed, Defendants Daniel Cohen and Betsy Cohen were each officers and trustees of RAIT; Defendants Salmon and DiStefano were each officers of RAIT; and Defendants Brown, Farnesi, Kim, Makadon, Promislo, Quigley, and Stempel were each trustees of RAIT.

204. Defendant Grant Thornton was the auditor of RAIT during the Class Period and consented to being named in the July 2007 Registration Statement as a party who certified the

audited financial statements contained or incorporated by reference therein. Grant Thornton's audit report incorrectly stated that Grant Thornton's audits were performed in accordance with GAAS, that the Company's financial statements were fairly presented in accordance with GAAP, and that the Company employed adequate internal controls.

205. Defendants FBR, Bear Stearns, SNC, Piper and Dain Rauscher acted as underwriters for the July 2007 Preferred Stock Offering.

206. The July 2007 Registration Statement contained untrue statements of material fact, including the financial statements of RAIT and statements as to the adequacy of its internal controls. In addition, the July 2007 Registration Statement omitted to state material facts required to be stated therein or necessary to make the statements therein not misleading, including RAIT's violations of GAAP and its exposure to the various impaired real estate companies underlying its CDO portfolio and an accurate disclosure of that exposure. The facts misstated and omitted would have been material to a reasonable person reviewing the July 2007 Registration Statement.

207. Defendants named in this Count owed to Lead Plaintiff and the Class the duty to make a reasonable and diligent investigation of the statements contained in the July 2007 Registration Statement, to ensure that the statements contained or incorporated by reference therein were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading.

208. Defendants were negligent and did not make a reasonable investigation of the statements contained and incorporated by reference in the July 2007 Registration Statement and did not possess reasonable grounds for believing that the July 2007 Registration Statement did

not contain an untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

209. The Preferred Stock Underwriter Defendants were negligent and did not conduct a reasonable investigation of the statements contained in and incorporated by reference in the July 2007 Registration Statement and did not possess reasonable grounds for believing that the statements contained therein were true and not materially misstated. In particular, the Preferred Stock Underwriter Defendants did not conduct a reasonable investigation into the accuracy of the statements regarding the Company's reported financial performance and RAIT's risk management standards. Nor did the Preferred Stock Underwriter Defendants make a reasonable investigation into the various real estate companies underlying RAIT's CDO portfolio, even though by July 2007 it was apparent to any reasonable person that a company such as RAIT, which purchased TruPS and subordinated debt from a variety of real estate operating companies and REITs, might have substantial exposure to impaired borrowers in the subprime, Alt-A, and homebuilder markets. The Preferred Stock Underwriter Defendants could not simply rely on the work of RAIT's auditors because the investing public relies on the underwriters to obtain and verify relevant information and then make sure that important facts are accurately disclosed. Thus, the Preferred Stock Underwriter Defendants must conduct their own independent and reasonable investigation into the accuracy of the Company's financial statements and risk management standards, which they were negligent in failing to do sufficiently in connection with the July 2007 Preferred Stock Offering.

210. Similarly, the Trustee Defendants were negligent in failing to conduct a reasonable investigation of the statements contained in the July 2007 Registration Statement regarding the Company's financial performance, and did not possess reasonable grounds for

believing that the statements contained therein were true and not materially misstated. The Trustee Defendants, through RAIT's Audit Committee, failed to conduct their own independent and reasonable investigation into the Company's financial reporting prior to the July 2007 Preferred Stock Offering. The Trustee Defendants also failed to make a reasonable investigation into the various real estate companies underlying RAIT's CDO portfolio, even though by July 2007 it was apparent to any reasonable person that a company such as RAIT, which purchased TruPS and subordinated debt from a variety of real estate operating companies and REITs, might have substantial exposure to impaired borrowers in the subprime, Alt-A, and homebuilder markets.

211. Defendant Grant Thornton, who consented to the inclusion of its opinions in the July 2007 Registration Statement, negligently failed to perform its audits of RAIT in a reasonable manner; as set forth above, did not comply with the standards of the PCAOB; and, thus, its audit did not constitute a reasonable investigation of whether the Company's financial statements were presented in compliance with GAAP.

212. Members of the Class purchased RAIT Preferred Stock issued pursuant or traceable to the July 2007 Registration Statement and were damaged thereby.

213. Lead Plaintiff and the Class did not know, nor in the exercise of reasonable diligence could they have known, of the untrue statements of material fact or omissions of material facts in the July 2007 Registration Statement when they purchased or acquired the shares. This claim is brought within the applicable statute of limitations.

214. By reason of the foregoing, Defendants are liable to members of the Class for violations of Section 11 of the Securities Act.

### **COUNT FIVE**

#### **For Violations Of Section 12(a)(2) Of The Securities Act, On Behalf Of Purchasers Of RAIT Preferred Stock In The July 2007 Preferred Stock Offering, Against RAIT And The Preferred Stock Underwriter Defendants**

215. Lead Plaintiff repeats and realleges each and every allegation above as if fully set forth herein. For the purposes of this claim, Lead Plaintiff asserts only strict liability and negligence claims and expressly disclaims any claim of fraud or intentional misconduct.

216. This claim is brought pursuant to Section 12(a)(2) of the Securities Act against Defendant RAIT, and Underwriter Defendants FBR, Bear Stearns, SNC, Piper and Dain Rauscher.

217. This claim is brought on behalf of members of the Class who, during the Class Period, purchased or otherwise acquired RAIT Preferred Stock issued pursuant or traceable to the July 2007 Registration Statement and were damaged by acts alleged herein.

218. The Company solicited the purchase of Preferred Stock through instruments of transportation or communication in interstate commerce or the mails and by means of the July 2007 Registration Statement. Underwriter Defendants FBR, Bear Stearns, SNC, Piper and Dain Rauscher committed to and purchased the Preferred Stock from RAIT and sold the shares to members of the Class by means of the July 2007 Registration Statement. Underwriter Defendants FBR, Bear Stearns, SNC, Piper and Dain Rauscher were responsible for the contents and dissemination of the July 2007 Registration Statement.

219. As alleged herein, the July 2007 Registration Statement contained untrue statements of material fact, including the financial statements of RAIT. In addition, the July 2007 Registration Statement omitted to state material facts required to be stated therein or necessary to make the statements therein not misleading, including RAIT's violations of GAAP, its purported financial performance, and its exposure to the various real estate companies

underlying its CDO portfolio. The facts misstated and omitted would have been material to a reasonable person reviewing the July 2007 Registration Statement.

220. Defendants named in this Count owed members of the Class the duty to make a reasonable and diligent investigation of the statements contained in the July 2007 Registration Statement, to ensure that the statements contained or incorporated by reference therein were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading.

221. Defendants did not make a reasonable investigation of the statements contained and incorporated by reference in the July 2007 Registration Statement and did not possess reasonable grounds for believing that the July 2007 Registration Statement did not contain any untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

222. Lead Plaintiff and the Class did not know, nor in the exercise of reasonable diligence could they have known, of the untrue statements of material fact or omissions of material facts in the July 2007 Registration Statement when they purchased or acquired the shares. This claim is brought within the applicable statute of limitations.

223. By reason of the foregoing, Defendants are liable to members of the Class for violations of Section 12(a)(2) of the Securities Act. Class members hereby tender their shares to Defendants and seek rescission of their purchases to the extent they continue to own such securities.



## COUNT SIX

### **For Violations Of Section 15 Of The Securities Act, On Behalf Of Purchasers Of RAIT Preferred Stock In The July 2007 Preferred Stock Offering, Based On RAIT's Section 11 Violations, Against Defendants Daniel Cohen, Betsy Cohen And Jack Salmon**

224. Lead Plaintiff repeats and realleges each and every allegation above as if fully set forth herein. For the purposes of this claim, Lead Plaintiff asserts only strict liability and negligence claims and expressly disclaims any claim of fraud or intentional misconduct.

225. This claim is brought pursuant to Section 15 of the Securities Act against Defendants Daniel Cohen, Betsy Cohen and Jack Salmon, on behalf of members of the Class who purchased or acquired RAIT Preferred Stock issued pursuant and/or traceable to the July 2007 Registration Statement and were damaged by acts alleged herein.

226. RAIT is strictly liable for its violations of Sections 11 and 12(a)(2) of the Securities Act through issuing the July 2007 Registration Statement which included untrue statements of material fact and omitted to state material facts required to be stated therein or necessary in order to make the statements therein not misleading. The facts misstated and omitted would have been material to a reasonable person reviewing the July 2007 Registration Statement.

227. Defendants Daniel Cohen, Betsy Cohen and Jack Salmon were controlling persons of RAIT when the July 2007 Registration Statement was filed and became effective, due to their senior executive positions therewith; their direct involvement in its day-to-day operations, including its financial reporting and accounting functions; and their signatures on and participation in the preparation and dissemination of the registration statement, as set forth more fully above.

228. By virtue of the foregoing, Defendants Daniel Cohen, Betsy Cohen and Jack Salmon each had the power to influence and control, and did influence and control, directly or

indirectly, the decision making of RAIT, including the content of its financial statements and of the July 2007 Registration Statement.

229. Defendants Daniel Cohen, Betsy Cohen and Salmon acted negligently and without reasonable care regarding the accuracy of the information contained and incorporated by reference in the July 2007 Registration Statement and lacked reasonable grounds to believe that such information was accurate and complete in all material respects.

230. Members of the Class purchased RAIT Common Stock issued pursuant or traceable to the July 2007 Registration Statement and were damaged thereby.

231. Lead Plaintiff and the Class did not know, nor in the exercise of reasonable diligence could they have known, of the untrue statements of material fact or omissions of material facts in the July 2007 Registration Statement when they purchased or acquired the shares. This claim is brought within the applicable statute of limitations.

232. By reason of the foregoing, Defendants Daniel Cohen, Betsy Cohen and Salmon are liable to members of the Class for violations of Section 15 of the Securities Act.

**X. FACTUAL ALLEGATIONS RELEVANT TO CLAIMS UNDER THE EXCHANGE ACT**

233. Lead Plaintiff repeats and realleges each of the allegations set forth above as if fully set forth herein. As described below, during the Class Period, Defendants RAIT, Daniel Cohen, Betsy Cohen and Jack Salmon (collectively, the “Section 10(b) Defendants”), individually and in concert, directly and indirectly, by the use of the means or instrumentalities of interstate commerce, the mails and the facilities of a national securities exchange, employed devices, schemes and artifices to defraud, made untrue statements of material fact and/or omitted to state material facts necessary to make statements made not misleading, and engaged in acts, practices and a course of conduct which operated as a fraud and deceit upon Class members in

violation of the Exchange Act. Among other things, those statements were materially false because they reported artificially high levels of net income, net investment income, net income from continuing operations, net income available to common shares, and earnings per share-diluted; reported artificially low loss provisions; reported artificially high carrying values of RAIT's investments in securities; materially misstated RAIT's credit underwriting and monitoring guidelines; materially misstated that RAIT's financial statements were reported in accordance with GAAP; omitted to state the true extent of RAIT's exposure to the subprime, Alt-A, and homebuilder markets; affirmatively and materially misrepresented the extent of such exposure; and omitted to properly reflect the true impairment of RAIT's TruPS and/or subordinated debenture portfolios.

**A. The Real Estate Market Continues To Deteriorate Following The January 2007 Stock Offering**

234. During February 2007, the specific companies to which, unbeknownst to investors, RAIT had substantial credit exposure, continued to experience steep declines. Throughout this time, RAIT refused to disclose to investors the names of the companies that had issued the TruPS backing its CDOs on the pretense that such information was material, non-public "inside information," as Daniel Cohen stated in the August 2, 2007 conference call described below. This refusal forced investors to trust RAIT's judgment as to the creditworthiness of its borrowers, and to rely on certain misleading information, such as RAIT's low loss reserves and the absence of other-than-temporary write downs in its TruPS carrying valuations, which circumstantially (and inaccurately) indicated that RAIT's exposure to the impaired borrowers was minimal. Moreover, as discussed below, within the context of this information void Defendant Daniel Cohen repeatedly and falsely assured investors that RAIT's potential exposure to these worsening conditions in the residential mortgage and housing markets

was no more than \$13 million – a purportedly “de minimus” risk to RAIT’s portfolio with which investors need not be concerned. Given the lack of any information concerning RAIT’s borrowers, as well as RAIT’s misleading loss reserves and TruPS carrying valuations, investors had no choice but to trust Daniel Cohen’s affirmative false assurances of only \$13 million of total exposure to the residential mortgage and homebuilder markets.

235. **Orleans**. On February 7, 2007, Orleans – a homebuilder from which Taberna had purchased up to \$75 million of TruPS, at least – announced a net loss of \$7.5 million for the quarter ended December 31, 2006, compared to net income of \$15.4 million for the same period in 2005, *a decline of 149%*. Orleans attributed the earnings decline to a decrease in new orders and an increase in cancellations. Orleans also announced a net loss of \$3.6 million for the six months ended December 31, 2006 compared to net income of \$23.2 million for the same period in 2005. Factors driving that decline included an \$11.7 million inventory impairment charge for abandoned projects and a decrease of 36% in new orders.

236. **NovaStar**. On February 20, 2007, NovaStar, a subprime lender from which Taberna had purchased at least \$25 million of TruPS, announced a net loss for the fourth quarter 2006 of \$14.4 million, compared to net income of \$26.4 million for the same period in 2005, *a 155% decline*. NovaStar stated that the earnings decline resulted from a \$17.4 million charge for impairment to mortgage securities of 2006 vintage, a \$13.4 million loss provision for whole loan repurchases, a \$10.3 million loan loss provision for securitizations, and a \$3.7 million mark-to-market loss for securities classified as trading. NovaStar’s CFO stated that:

during the period 2007 through 2011, [NovaStar] expects to recognize little, if any, taxable income [and that NovaStar was] *evaluating whether it is in shareholders’ best interest to retain the company’s REIT status beyond 2007 given the asset, income and other REIT related restrictions the company must operate within.*

NovaStar also announced net income of \$66.3 million for the entire year 2006, compared to net income of \$132.5 million for 2005 – a decline of approximately 50%.

237. **WCI.** Also on February 20, 2007, WCI, a homebuilder from which Taberna had purchased at least \$25 million of TruPS, reported a *huge net loss for the fourth quarter 2006 of \$64.5 million*, compared to net income of \$54.6 million for the same period in 2005, a decline of 218%. WCI attributed the huge decline principally to a \$91.4 million real estate inventory impairment loss. WCI also announced net income for the entire year 2006 of \$9.0 million, compared to \$186.2 million for the year 2005, a twenty-fold reduction.

238. **Impac.** Two days later, on February 22, 2007, Impac – an investor in subprime and Alt-A loans from which Taberna had purchased at least \$26 million of TruPS – announced a *net loss of \$54 million for the fourth quarter of 2006*. Compared to Impac’s net earnings of \$21.6 million for the same period in 2005, this loss represented a 250% decline. Impac also announced a *net loss of \$81 million for the entire year 2006*, compared to net earnings of \$256 million for the same period in 2005, a 132% decline. Impac attributed the earnings decline to, *inter alia*, a decrease in the average balance of securitized mortgage collateral and a \$29.5 million charge against earnings due to underperforming loans it was required to repurchase during the second and fourth quarters of 2006. Impac also enormously increased its loan loss provisions from \$3.2 million in the third quarter of 2006 to *\$44 million* in the fourth quarter.

239. **HomeBanc Corporation.** On February 26, 2007 HomeBanc Corporation (“HomeBanc”) – a subprime lender from which Taberna had purchased TruPS in an unknown amount – announced a *net loss of \$10.7 million for the fourth quarter 2006*, compared to a net loss of \$348,000 for the same period in 2005.

240. **Great Wolf.** On February 28, 2007, Great Wolf, a real estate company from which Taberna had purchased TruPS in an unknown amount, announced *a net loss of \$49.3 million for the entire year 2006.*

241. **New York Mortgage.** On February 7, 2007, New York Mortgage, a prime and subprime lender from which Taberna had purchased at least \$45 million of TruPS, announced an agreement to sell its retail mortgage banking business to IndyMac Bank for an estimated price of \$13.4 million, and its wholesale lending business to another bank in a separate deal.

242. On information and belief, RAIT faced significant exposure to additional troubled companies as of February 2007, and the information regarding this exposure is peculiarly in the possession of RAIT and certain other Defendants. Lead Plaintiff expects that discovery will yield additional information as to RAIT's additional exposure.

243. The residential mortgage market as a whole continued to implode during February. For example:

- **February 5, 2007.** On February 5, 2007, Mortgage Lenders Network USA Inc. filed for bankruptcy. That same day, National City Corporation sold First Franklin, a principle component of its subprime lending business, to Merrill Lynch. National City Corporation divested itself of First Franklin, which made up to \$29 billion in subprime loans in 2005, after taking an after-tax charge of \$172 million in credit losses on First Franklin's portfolio for the fourth quarter of 2006.
- **February 6, 2007.** On February 6, 2007, National City Corporation closed Preferred Advantage, another component of its subprime lending business, after Merrill Lynch refused to buy it. In connection with that closure, National City Corporation terminated roughly 50 employees.
- **February 8, 2007.** On February 8, 2007, Lenders Direct Capital Corp., which originated up to \$1.2 billion of subprime loans in 2005, closed.

- February 12, 2007. On February 12, 2007, ResMAE Mortgage Corp., which originated up to \$6.9 billion of subprime loans in 2005, filed for Chapter 11 bankruptcy.
- February 12, 2007. On February 12, 2007, Concorde Acceptance, which originated up to \$220 million of subprime loans in 2005, terminated operations.
- February 14, 2007. On February 14, 2007, Silver Star Mortgage, which originated up to \$500 million of subprime loans in 2005 and had consistently ranked among the country's fastest growing private companies, abruptly closed its offices nationwide.
- February 27, 2007. On February 27, 2007, Central Pacific Mortgage, which had originated up to \$2.3 billion in subprime loans in 2005, abruptly closed down, laying off approximately 260 employees.

**RAIT's February 22, 2007 Conference Call—Defendant Daniel Cohen Falsely States That RAIT's Exposure To The Market Meltdown Is "Less Than \$13 Million"**

244. Against this backdrop, on or about February 21, 2007 RAIT issued a press release entitled "RAIT Financial Trust Announces Fourth Quarter and Fiscal Year 2006 Results," which it appended to its Form 8-K, which was signed by Salmon and filed with the SEC. That press release provided the following information about the Company's financial performance for the three months ended December 31, 2006: net income of approximately \$15.6 million; net investment income of approximately \$22.8 million; net income from continuing operations of approximately \$14 million; net income available to common shares of approximately \$13 million; earnings per share-diluted of \$.39; and investments in securities valued at approximately \$5.13 billion, including available-for-sale securities valued at approximately \$3.98 billion and \$1.16 billion worth of security-related receivables.

245. That press release also provided the following information about the Company's financial performance for the year ended December 31, 2006: net income of approximately \$77.9 million; net investment income of approximately \$75 million; net income from continuing

operations of approximately \$72 million; net income available to common shares of approximately \$67.8 million; earnings per share-diluted of \$2.30; and investments in securities valued at approximately \$5.13 billion, including available-for-sale securities valued at approximately \$3.98 billion and \$1.16 billion worth of security-related receivables.

246. The February 21, 2007 press release reflected that the financial information set forth above was in accordance with GAAP.

247. That press release reflected a loss provision of \$2.49 million for both the three months and year ended December 31, 2006.

248. The following day, RAIT held a conference call with analysts to discuss its earnings for the quarter ended December 31, 2006. Given the severely deteriorating conditions in the real estate industry, investors were particularly concerned about RAIT's potential exposure to troubled credits and asked some pointed questions on the call.

249. For instance, one analyst noted that RAIT had set its loss provisions at \$2.49 million for the quarter and asked Daniel Cohen to "comment on the seasoning and vintage of your credit." Daniel Cohen replied that RAIT "*will take a conservative stance* toward credit losses going forward."

250. Daniel Cohen and one analyst on the call later had the following exchange:

**[Analyst]:** A couple of questions, I think. First, just on the subprime mortgage space, what do you have within your TruPS portfolio, do you have some exposure there? What exposure do you have throughout RAIT to subprime mortgage, and what concerns do you have over that exposure?

**Daniel Cohen:** Our exposure on the asset side is less, is in the single basis point. So, our exposure in a dollar amount *is less than \$13 million across the whole entire portfolio. So we don't really have any exposure to the subprime nonconforming lending space.* Did that answer the question?

**[Analyst]:** Yes, I think so. I wasn't sure if you had some TruPS out with some – with one or two of the subprime mortgage REITs or not, and apparently you don't.



**Daniel Cohen:** The \$12.5 [million] is the net exposure to one REIT that we continue to monitor but feel very comfortable about. *And it's a de minimis exposure overall.*

251. These statements were materially false and misleading, and were designed to mislead investors about the size and extent of RAIT's exposure to troubled real estate companies. As Defendant Daniel Cohen knew at the time, RAIT had at least between \$96 million and \$199 million in exposure to several subprime mortgage companies, including Beazer Homes USA ("Beazer") (which extended subprime loans to purchasers of its homes), New York Mortgage, NovaStar, Impac and HomeBanc.

**C. As Conditions In The Real Estate Industry Continue To Worsen, Defendant FBR Sells Its Own Failing Subprime Unit, While RAIT Continues To Falsely Assure Investors That It Has Minimal Exposure To the Deteriorating Markets**

252. Throughout March 2007, the issuers of the TruPS collateralizing Taberna II through Taberna VII continued to deteriorate. For example:

- AHM. On March 1, 2007, AHM – an originator of Alt-A loans from which (unbeknownst to investors) Taberna had purchased \$95 million in TruPS – disclosed in its form 10-K for the year ended December 31, 2006 that \$124.3 million, or 8.13%, of its loans held for sale, were non-accruing, versus \$9.4 million, or .043%, for the year ended December 31, 2005.
- Impac. On March 2, 2007, Impac announced that it had identified a "material weakness" in its internal controls "related to the design and maintenance of adequate controls over the preparation, review, presentation and disclosure of amounts included in the Company's Consolidated Statements of Cash Flows." Impac further announced that due to the material weakness in its financial reporting, it would restate its Consolidated Statements of Cash Flows for the years 2005 and 2004, and also would be late in filing its 10-K for the year ended December 31, 2006.
- Levitt. On March 7, 2007, Levitt announced a net loss for the fourth quarter 2006 of \$10.7 million, compared to net income of \$8.3 million for the same period in 2005, *a decline of 238%*. The fourth quarter loss was attributed to a \$29.7 million

impairment charge to homebuilding inventory and a \$1.4 million write-off of deposits and pre-acquisition costs for properties that the company decided not to acquire. Levitt also announced a net loss of \$9.2 million for the entire year 2006, compared to net income of \$54.9 million for 2005.

- Impac. On March 14, 2007, Impac revealed in its Form 10-K for the year ended December 31, 2006 that its percentage of loans 60 or more days delinquent doubled to 6.24% of total mortgages owned, from 3.12% for the year ended December 31, 2005.
- NovaStar. Also on March 14, 2007, NovaStar announced that it was laying off 350 employees, approximately 17% of its workforce.
- New York Mortgage. On March 15, 2007, New York Mortgage announced a net loss of \$14.2 million for the entire year 2006 compared to a net loss of \$5.3 million for 2005, a 390% decline. New York Mortgage also announced a net loss of \$8.8 million for the fourth quarter 2006 compared to a net loss of \$8.7 million for the same period in 2005.
- Hanover. On March 19, 2007, Hanover Capital Mortgage Holdings, Inc. (“Hanover”) – a specialty finance REIT from which Taberna had purchased \$20 million of TruPS – announced a net loss of \$3.2 million for the fourth quarter 2006, and a full year loss for 2006 of \$2.9 million.
- Tarragon. Also on March 19, 2007, Tarragon announced deflating fourth quarter and year end 2006 results. It reported only \$8.5 million net income for 2006 compared to \$88.5 million in 2005 – *a 90% decline for the year*. For the fourth quarter 2006 it reported a net loss of \$25.1 million. Tarragon attributed its terrible results to “impairment charges, write-offs and gross margin adjustments.” Tarragon also reported that in the fourth quarter 2006 it wrote 448 new orders totaling \$101.6 million, whereas in the year-ago period it wrote 527 new orders totaling \$138.8 million. Further, in the fourth quarter 2006 it delivered 570 homes for \$126.4 million, while in the year-ago period it delivered 949 homes for \$251.1 million – a 49.6% drop in deliveries by dollar amount. Finally, Tarragon reported that during 2006 it executed 1,562 net orders totaling \$391.1 million compared with 3,899 new orders for \$962.7 million in 2005 – *a 59.3% drop in new orders by dollar amount*.
- Beazer. On March 25, 2007, the Charlotte Observer reported that Beazer – a subprime mortgage broker and homebuilder from

which Taberna purchased up to \$103 million of TruPS – was the subject of a mortgage fraud investigation by the Federal Department of Housing and Urban Development. On March 27, 2007, Business Week reported that the Federal Bureau of Investigation, the Internal Revenue Service, and the Department of Justice jointly had opened “*a broad criminal probe of [Beazer’s] lending practices, a number of financial transactions, and other matters.*” Business Week quoted FBI spokesman Ken Lucas as saying that Beazer was being investigated for “*all types of fraud associated with Beazer corporate, mortgage, [and] investments.*”

253. Likewise, throughout March 2007, the subprime and Alt-A markets as a whole continued their freefall. For example:

- On March 2, 2007, Fremont Investment & Loan, which originated up to \$36.2 billion of subprime loans in 2005, shut down its residential mortgage unit.
- On March 8, 2007, New Century Financial Corp., which originated up to \$56.1 billion in subprime loans in 2005, announced that it stopped accepting new loan applications because its creditors had denied it financing. On April 2, 2007, New Century Financial Corp. filed for Chapter 11 bankruptcy.
- On March 13, 2007, in an effort to stay afloat despite rising margin calls and loan repurchase demands, Accredited Home Lenders, which originated up to \$16.6 billion in subprime loans, announced that it was exploring “strategic options” to acquire more capital; by August, however, it had decided to stop accepting new loans and cut more than half its work force.
- On March 16, 2007, Ameriquest Mortgage Co., which had originated up to \$80 billion of subprime loans in 2005, closed down after unsuccessfully seeking investors to keep it afloat.

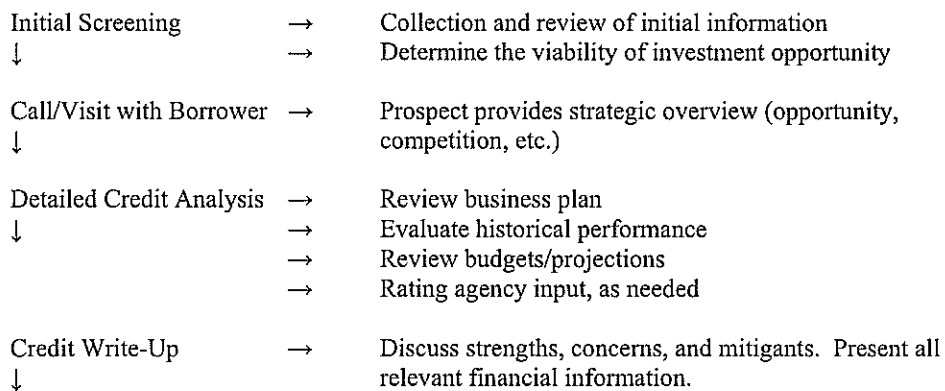
254. Several other smaller lenders either closed or ceased lending operations during March 2007. On March 2, 2007, Domestic Bank, which had originated up to \$100 million of subprime loans in 2005, stopped making loans, citing “extreme market turmoil.” On March 5, 2007, Trojan Lending Inc. closed its lending business. The following day, Ameritrust Mortgage Co. LLC, which originated up to \$900 million of subprime loans in 2005, closed its subprime

lending division. On March 9, 2007, FMF Capital LLC, which had originated \$3.8 billion of subprime loans in 2005, announced that it would wind down its operations due to the “severe” turmoil in the subprime lending market. That same day, Maribella Mortgage LLC, which originated up to \$900 million in subprime loans in 2005, suddenly announced that it would close down within a week and lay off 125 employees. On March 14, 2007, Master Financial Inc., which originated up to \$600 million of subprime and Alt-A loans in 2005, announced that it was ceasing operations effective immediately. That same day, People’s Choice Financial Corp., which originated up to \$4.5 billion of subprime loans in 2005, announced that it was shutting operations; it filed for Chapter 11 bankruptcy on March 20, 2007. On March 15, 2007, Investaid Corp., which originated up to \$300 million of subprime loans in 2005, also shut down. The following day, LoriMac, Inc., a California-based subprime lender, filed for Chapter 7 bankruptcy. On March 17, 2007, CoreStar Financial Group, Inc., a Maryland-based subprime lender, suddenly ceased operations, terminating approximately 200 employees. On March 20, 2007, Loan City, which originated up to \$6.4 billion of prime and Alt-A loans in 2005, abruptly closed down. Two days later, Sunset Direct Lending LLC, which originated up to \$1.2 billion of wholesale subprime loans in 2005, also closed down. On March 30, 2007, EquiFirst Holdings Corp., which originated up to \$10 billion of subprime loans, was sold to Barclays Bank PLC for \$76 million – two thirds less than the originally agreed-upon sale price of \$225 million.

255. The situation was so dire by mid-March 2007 that Defendant FBR itself was looking for a way to exit the subprime lending market. In March, 2007, Defendant FBR announced its desire to shed its wholesale subprime lending unit, First NLC Financial Services Inc. (“First NLC”), which had originated up to \$4 billion of subprime loans in 2005 but was suffering heavy losses in 2006. FBR announced that it was “explor[ing] strategic alternatives to

maximize the value of” First NLC. On March 30, 2007, after First NLC suffered a net loss of \$124.2 million and recorded a loan loss provision of \$125.3 million for the first quarter 2007, Defendant FBR closed First NLC’s operations in the majority of states in which it did business. As a result of restructuring First NLC Financial Services Inc., Defendant FBR took a charge of \$41.3 million in the first quarter of 2007.

256. Despite these ever-worsening market conditions, on or about March 20, 2007, RAIT gave a slide presentation at Cohen & Company’s Investor Conference where it again misled investors regarding its exposure to the real estate crises and sought to falsely assure investors that the Company’s supposed strong credit monitoring had minimized its risk. Indeed, RAIT appended the March 20, 2007 slide presentation to a Form 8-K it filed with the SEC and disseminated to investors on or about March 20, 2007 (the “March 20, 2007 8-K”). The March 20, 2007 8-K was signed by Defendant Salmon and reviewed and approved by Defendants Betsy Cohen and Daniel Cohen. The March 20, 2007 8-K stated that RAIT had acquired “Attractive Asset Classes,” and that its “focus” on “Credit” was the “prime criteria for investment decisions.” It also set forth that its “Key Drivers of Value Creation” included its “Credit focus” and “Risk monitoring and surveillance.” It further described its “Underwriting & Credit Approval Process” as consisting of the following steps:



Investment Committee	→	Comprised of four voting members of executive committee
↓	→	Origination executives are non-voting members
	→	Trustee approval on significant borrowers
<i>Ongoing surveillance</i>	→	<i>Conducted by a credit analyst/asset manager on an ongoing basis</i>

257. In that slide presentation, RAIT also set forth that “Residential Mortgage” issuers comprised 19% of its \$4.3 billion TruPS portfolio as of December 31, 2006, and that of that amount, “Less than 1% is to an issuer whose primary business is subprime lending.”

258. As the Section 10(b) Defendants knew or recklessly disregarded, because of RAIT’s purported “ongoing surveillance” of its borrowers and possession of inside information with respect to those borrowers, these statements were materially false and misleading, and were designed to mislead investors regarding the true extent of RAIT’s exposure to deteriorating conditions in the real estate industry. As a result of that slide presentation, RAIT’s stock price rose from \$28.60 on March 19, 2007 to \$30.84 on March 22, 2007, on high trading volume.

**D. RAIT Issues (And Touts) Another CDO In The Face Of A Declining Market**

259. On March 29, 2007, RAIT continued its cash-intensive strategy of churning out CDOs by closing Taberna VIII, Ltd., a \$772.0 million transaction that, like Taberna II through Taberna VII, consisted of “TruPS issued by REITs and real estate operating companies” as well as “subordinated notes issued by real estate entities.” RAIT retained \$50 million of notes rated between BBB and BB, and \$60 million of first loss equity, for a total nonprime exposure of at least \$110 million. RAIT also retained \$91 million of notes rated between AAA and AA.

260. During April 2007, the issuers of TruPS that (unbeknownst to investors) Taberna had purchased in connection with Taberna II through Taberna VII continued to exhibit further financial distress. On April 3, New York Mortgage announced that its net loss for 2006 was actually \$15.0 million, while its net loss for the fourth quarter 2006 was actually \$9.6 million.

The revisions to the reported net losses resulted from an increase in New York Mortgage's loan loss reserves. On April 5, 2007, NovaStar exited the business of lending to independent mortgage brokers by shuttering its division, WarehouseUSA Capital Corp., through which it extended such credit.

261. On April 6, 2007, AHM filed Form 8-K with the SEC, attaching a press release in which it announced that its profits for the first quarter and full year 2007 would be sharply below its previous expectations, and that it was substantially cutting its quarterly dividend. The press release attached to AHM's April 6, 2007 8-K stated:

During March, conditions in the secondary mortgage and mortgage securities markets changed sharply. In particular, these markets were characterized by far fewer buyers offering materially lower prices, both for loan pools and for "AA", "A", "BBB" and residual mortgage securities. These changes had a significant, adverse impact on our Company's first quarter results, reducing our gain on sale revenue and causing mark-to-market losses in our portfolio. While the market may recover, and while we will attempt to restore our gain on sale margins by raising interest rates charged to consumers, *our working assumption must be that current market conditions will persist and that our gain on sale margins will not recover through the balance of the year. Consequently, I [Michael Strauss, AHM's Chairman and CEO] am disappointed to report that our Company is lowering its full year earnings guidance and its dividend policy.*

262. That press release also stated:

- The Company's first quarter results will be adversely affected by lower gain sale margins. As March progressed, loan pools offered for sale by the Company received relatively few bids at lower than expected prices. As a result, those loans originated by the Company in late February and during March earned lower gain on sales revenue than were expected.
- The Company's first quarter results will also be adversely affected by write-downs of its portfolio of low investment grade and residual securities. *In particular, the Company's approximately \$484 million of securities rated 'AA', 'A' or 'BBB' will be written down* to account for an unusually large widening in the first quarter of the spread over LIBOR at which these securities trade.

- Additionally, the Company's first quarter results will be adversely affected by *ongoing high delinquency related charges due to the Company's establishing additional reserves for increases in non-performing loans*. While high delinquency charges were expected, their impact on quarterly results continues to be significant. A disproportionate share of the Company's non-performing loans are repurchased Alternate "A" loans.

263. On April 30, 2007, AHM continued its descent by announcing dismal results for the quarter ended March 31, 2007. In particular, AHM announced that its net income nosedived 43.7%. Likewise, its earnings per diluted share plummeted 47.1%.

264. On April 19, 2007, MarketWatch from DowJones reported that in advance of Beazer's upcoming earnings announcement, "Analysts see Beazer Homes USA Inc. (BZH) swinging to a quarterly loss of 14 cents compared with profit of \$2.35 a share in the year-ago period. They'll also be looking for any details on Beazer's late-March disclosure that it received a grand jury subpoena demanding documents relating to its mortgage business."

265. Indeed, on April 26, 2007, Beazer *reported a loss of \$43.1 million, or \$1.12 per share*, compared to net earnings of \$104.4 million, or \$2.35 per share for the year-ago fiscal second quarter.

266. April 2007 also was a horrendous month for the subprime, Alt-A and homebuilders markets generally. On April 1, 2007, People's Mortgage Corp. and Zone Funding, a pair of subprime and Alt-A lenders, ceased operations. On April 2, 2007, Madison Equity Corp., a subprime wholesale lender, abruptly closed down. That same day, SouthStar Funding LLC, which originated \$5.6 billion of subprime loans in 2005, also closed its operations. It filed for bankruptcy protection on April 11. Also on April 2, First Consolidated Mortgage, a subprime and Alt-A lender, stopped making those loans. On April 3, 2007 Millennium Funding Group, which originated \$1 billion of subprime loans in 2005, ceased lending operations. On April 11, 2007, Alterna Mortgage, an Alt-A lender, and Solutions Funding Inc., a subprime lender, both



closed down. On April 13, 2007, Homefield Financial Inc., which originated \$2.5 billion of Alt-A loans in 2005, closed its Alt-A wholesale unit. That same day, subprime lender First Source Funding Group closed down. On April 17, 2007, Home Capital Inc., an online subprime retailer, ceased operations. The following day, AcuLink Mortgage Solutions LLC, another subprime lender, also closed down. On April 20, 2007, Mortgage Investment Lending Associates, which originated \$4.5 billion in subprime loans in 2005, ceased operations, as did Innovative Mortgage Capital, another subprime lender. On April 26, 2007, First Horizon Home Loan, which originated \$1.6 billion of subprime loans in 2005, shut its wholesale subprime unit. On April 30, 2007, Dana Capital Group, which originated \$5 billion of subprime loans in 2005, closed the month by closing its doors.

E. **The April 2007 Note Offering And Common Stock Buyback**

267. Despite the continued deterioration of RAIT's TruPS and/or subordinated debentures portfolios and the broader meltdown in the residential mortgage and homebuilders markets during April, RAIT embarked on yet another offering to raise hundreds of millions of dollars from public investors. On or about April 18, 2007, RAIT issued \$425 million of 6.875% Convertible Senior Notes in a private offering to qualified institutional buyers. Defendant Bear Stearns underwrote the April 2007 Note Offering, for which it received up to \$10.75 million in fees.

268. From that offering, RAIT netted approximately \$414.25 million in proceeds. RAIT used \$74 million of the proceeds to repurchase approximately 2,717,600 of its common shares at a price of \$27.34 per share. RAIT used the remaining proceeds, approximately \$341 million, "principally [for] investment in its targeted asset classes," *i.e.*, for obtaining more CDO collateral, according to an April 18, 2007 RAIT press release.

269. Class members purchased the Notes in reliance on the materially false statements that RAIT had previously made and disseminated to the markets.

**F. The May 1, 2007 Conference Call—The Section 10(b) Defendants Again Falsely Reassure Investors Regarding RAIT’s Exposure**

270. On or about April 30, 2007, RAIT issued a press release entitled “RAIT Financial Trust Announces First Quarter 2007 Results,” which it appended to its Form 8-K signed by Salmon and filed with the SEC. That press release set forth the following information concerning RAIT’s financial performance for the quarter ended March 31, 2007: GAAP net income of approximately \$22.9 million; net investment income of approximately \$43 million; net income from continuing operations of approximately \$22.7 million; net income available to common shares of approximately \$20.3 million; earnings per share-diluted of \$0.34; and investments in securities valued at approximately \$6.12 billion, including approximately \$4.74 billion in available-for-sale securities and \$1.38 billion in security-related receivables. The April 30, 2007 press release reflected that the financial information set forth above was in accordance with GAAP.

271. In that press release, RAIT also reported a loss provision of only \$3.7 million for the quarter ended against \$12.4 billion in total reported investments in securities, mortgages and loans.

272. On May 1, 2007, following the release of RAIT’s first quarter financial results, RAIT held a conference call with investors. On that call, the Section 10(b) Defendants each made a number of false statements regarding RAIT’s exposure to troubled and impaired companies. Defendant Daniel Cohen stated:

***Our credit quality remains strong*** in our core businesses, even though the first quarter was perhaps the nadir of the mortgage financing business. ***We believe that market conditions are favorable for our businesses and we***

*should continue to grow our portfolio substantially over the next few quarters . . . .*

We have had a very solid quarter. Adjusted earnings came in at \$51.9 million, or \$0.86 per share. Our net investment income was up to \$43 million or \$0.71 per diluted share, even with our increased share count and only partially deployed funds . . . .

On the credit side we had no payment defaults from our TruPS corporate issuers. *However, we continue to take a conservative view by providing for loan losses in our residential [portfolio] as the overall balance sheet continues to grow.*

273. Defendant Salmon stated that RAIT had earned \$43 million in net investment income and that the Company's "\$12.6 billion of investments are generating approximately a 15% return on investment or approximately \$180 million of net investment income on a full year."

274. Defendant Betsy Cohen stated, "As Daniel has described to you, RAIT has both corporate and real estate-specific lines of lending. Both of these markets are healthy today."

275. The very first question from an analyst concerned RAIT's potential exposure to the subprime and homebuilder markets, leading to the following exchange with Daniel and Betsy Cohen and an analyst on the call:

**[Analyst]:** Thank you, a couple [of] questions. I may follow up on credit, if I could? The provision for the quarter, I think I heard it was against the consumer mortgage portfolio. Is that right for the entire provision? And maybe some kind of a view on the areas, Betsy, that you mentioned, the homebuilder and the subprime mortgage market on your exposure there . . . your concerns with those exposures?

**Daniel Cohen:** Bob, as to our subprime exposure *we have very, very limited subprime exposure and we believe that we are currently not at risk for any losses there. The total amount net is just less than \$13 million and it's relatively immaterial to our balance sheet overall.* As to the homebuilders, we are constantly looking over all of the companies that we lend to and again, we feel very strongly that our exposure there is amply covered and that we don't expect any losses in that sector.

**Betsy Cohen: *Underscore the fact that we don't expect any losses in this sector, . . . we watch these carefully, as Daniel said.***

276. As the Section 10(b) Defendants knew because of RAIT's purported "ongoing surveillance" of its borrowers and possession of inside information with respect to those borrowers, these statements were materially false and misleading. As a result of the May 1, 2007 conference call, RAIT's stock price rose from a closing price of \$28.15 on April 30 to a closing price of \$28.57 on May 1, 2007 and \$28.99 on May 2, 2007, on extremely high trading volume.

**G. RAIT Continues To Conceal The True Depth of Its Credit Exposure, And Raises An Additional \$40 Million From Investors Through the July 2007 Preferred Stock Offering**

277. Following the May 1, 2007 conference call, other issuers of the TruPS within RAIT's portfolio continued to exhibit signs of severe financial impairment. For example, on May 8, Great Wolf announced a net loss of \$2.0 million for the first quarter 2007, compared to a net loss of \$0.9 million for the same period in 2006, *a 122% decline*. The next day, Orleans announced a huge net loss of \$51.9 million for the fiscal 2007 third quarter ended March 31, 2007, compared to net income of \$12.8 million for the same period in 2006, *a 505% drop*. Orleans also announced a net loss of \$55.5 million for the nine months ended March 31, 2007, compared to net income of \$36.0 million for the same period in 2006.

278. On May 9, 2007, HomeBanc announced a big net loss of \$23.8 million for the first quarter ended March 31, 2007, compared to a net loss of \$0.5 million for the same period in 2006. On May 10, 2007, Impac announced a staggering *net loss of \$121.7 million for the first quarter 2007*, compared to net earnings of \$85.6 million for the first quarter of 2006. Impac also announced that it held \$52 million of delinquent loans during the first quarter 2007. Just a few days later, beginning on May 14, 2007, Impac laid off 120 workers.

279. On May 8, 2007, WCI announced a net loss for the 2007 first quarter of \$15.8 million, compared to net income of \$40.2 million for the same period in 2006. WCI attributed the decline to a decrease in orders, lower margins on closings and higher defaults. On May 11, 2007, Tarragon announced a net loss of \$4.2 million in the first quarter 2007, compared to net income of \$18.5 million for the first quarter 2006, *a 123% decline*. Tarragon also reported that its new orders and deliveries continued to plunge. In the first quarter 2007, it wrote 283 new orders for \$84.7 million, compared to 461 new orders totaling \$105.1 million in the year-ago period. It delivered 353 homes for \$83 million in the first quarter 2007 compared with 663 new homes for \$156.3 million in the first quarter 2006. Finally, on May 14, New York Mortgage announced a net loss of \$4.7 million for the first quarter 2007 compared to a net loss of \$1.8 million for the same period in 2006. New York Mortgage attributed the decline principally to early payment defaults and loan repurchases.

280. More broadly, the residential mortgage market continued to suffer. On May 2, 2007, Nation One Mortgage, a mid-size wholesale lender, stopped issuing loans. On May 3, 2007, subprime lender and wholesaler Homeland Capital Group stopped making loans; four days later, it shut down. Opteum Financial Services, which originated up to \$6.5 billion of Alt-A loans in 2005, shuttered its wholesale and correspondent businesses and laid off at least 130 workers on May 7, 2007. Ten days later, Columbia Home Loans LLC, which originated up to \$700 million in subprime loans in 2005, closed due to operating losses in the last two quarters. On May 21, NetBank Funding Services, the third-party subprime loan origination platform of NetBank – which originated up to \$13.2 billion of subprime loans in 2005 – abruptly announced its closure. NetBank is expected to record a loss of approximately \$28 million on its shutdown of NetBank Funding Services, along with an overall charge to earnings of approximately \$70

million. Finally, on May 25, The Lending Group, Inc., which was one of Florida's fastest-growing companies and originated \$400 million of subprime loans in 2005, closed down "due to having no funding capacity."

281. Nevertheless, on June 7, RAIT continued pumping out the CDOs by closing RAIT Preferred Funding II, Ltd., an \$832.9 million securitization consisting of commercial and mezzanine loans. RAIT retained \$20 million of notes rated AA or A-; \$65.9 million of notes rated BBB+ and BB; and \$110.2 million of first loss equity.

282. The issuers of TruPS and subordinated debt collateralizing Taberna II through Taberna VII further deteriorated in June and July 2007, as did the subprime, Alt-A and homebuilder markets generally.

283. On June 26, 2007, Impac announced that it would not declare a second quarter dividend on its common shares. Impac's Chairman and CEO said that, "In light of increased delinquencies, REO [real estate owned] and loan losses, we believe it is prudent to aggressively liquidate REOs in this market." The aggressive liquidation of Impac's REO portfolio caused Impac to incur high losses, resulting in its decision to declare no dividend for the second quarter of 2007.

284. On June 27, 2007, Beazer announced in a Form 8-K filed with the SEC the termination for cause of its Chief Accounting Officer and Senior Vice President, Michael T. Rand, for attempting to "destroy documents in violation of the Company's document retention policy." Beazer announced that it discovered Rand's actions in connection with its "internal investigation of the Company's mortgage origination business and related matters."

285. The following day, AHM announced in a press release "that it will take substantial charges for credit-related expenses in the second quarter. As a result, the Company's

second quarter financial results are uncertain, and it is likely the Company will experience a second quarter loss.” AHM also withdrew its previously-issued earnings guidance for the full year 2007.

286. On July 2, 2007, TheStreet.com reported that Tarragon was one of two homebuilders facing “liquidity crises” that might cause them to file for bankruptcy. Indeed, shortly thereafter, Tarragon announced that it would not timely file its Form 10-Q for the second quarter 2007 due to “liquidity issues” that “resulted in Tarragon being unable to complete approximately \$50 million in financing transactions that had been under negotiation and were expected to close in August 2007.”

287. Moreover, on August 10, 2007, Tarragon announced that it had received 15 “acceleration notices” from its lenders for a total of \$251.5 million “immediately due and payable.” Tarragon also disclosed that it had received seven default notices “from various lenders” for approximately \$515.4 million. Finally, Tarragon noted that, “At July 31, 2007, the Company and its consolidated subsidiaries had approximately \$1.6 billion of outstanding indebtedness, including the indebtedness described above.”

288. Like the specific issuers of TruPS and subordinated debt within RAIT’s portfolios, the broader subprime, Alt-A and homebuilder markets further crashed during and around RAIT’s July 2007 Preferred Stock Offering. On June 1, 2007, No Red Tape Mortgage, which originated up to \$3 billion of subprime and Alt-A loans in 2005, announced its closure. The same day, Lancaster Mortgage Bankers LLC, which specialized in Alt-A loans, also closed. On June 8, 2007, Oak Street Mortgage LLC, which once boasted \$2 billion in subprime loan volume and 700 employees, filed for Chapter 11 bankruptcy. Just one week later, on June 15, First Street Financial, which originated up to \$175 million of subprime loans in the fourth quarter

of 2005, abruptly shut down. On June 18, The Mortgage Warehouse, which originated up to \$300 million of subprime loans in 2005, ceased lending operations. On June 29, the Heartwell Mortgage Corp, which had been in business for 37 years, followed suit.

289. Nonetheless, as discussed above, RAIT effected yet another public offering on or about July 5, 2007 in the form of the July 2007 Preferred Stock Offering. Pursuant to that offering (and the materially false and misleading statements contained within the Offering Documents), RAIT raised approximately \$40 million from investors.

290. On the same day that RAIT announced the July 2007 Preferred Stock Offering, it churned out yet another CDO, closing Taberna Preferred Funding IX, Ltd. on June 28, 2007. Taberna IX was a \$757.5 million securitization that, like Taberna II through Taberna VIII, consisted of “TruPS issued by REITs and real estate operating companies” as well as “subordinated notes issued by real estate entities.” RAIT retained at least \$89 million of the notes rated BBB through BB and \$52.5 million of the first loss equity. RAIT also retained \$139 million of notes rated between AAA through A-.

#### **H. The Truth Begins To Emerge**

291. On July 31, 2007, RAIT finally disclosed its exposure to AHM. Even this disclosure was only begrudging, and was couched in the most favorable terms possible. Specifically, RAIT issued a press release, which it appended to a Form 8-K filed with the SEC, stating that:

RAIT Financial Trust (NYSE: RAS) announced today that *all issuers of RAIT's trust preferred securities, other than* American Home Mortgage Investment Corp. (“AHM”), made their payments due on July 30, 2007. RAIT has net equity exposure to AHM of approximately \$95 million, or \$1.56 per share of book value, resulting from trust preferred financing provided to AHM in 2005.



292. As a result of that disclosure, on July 31, 2007, RAIT's common stock plummeted over 36% from its opening price of \$16.20 per share to close at \$10.36 per share, on extraordinarily high volume of 21,911,400 shares. By contrast, its volume on the prior day was 5,832,000 shares.

293. On August 1, 2007, TheStreet.com reported that:

RAIT Financial Trust's (RAS) exposure to the plummeting real estate market is not only tied to the foundering American Home Mortgage (AHM), but it also includes investments in hybrid debt securities issued by two homebuilders facing liquidity worries – Beazer Homes (BZH) and WCI Companies. RAIT shares plunged 36% Tuesday after it disclosed that it has invested in trust preferred securities issued by American Home, which could file for bankruptcy. RAIT's shares were down another \$1.49, or 14%, to \$8.87 in recent trading.

294. That article also reported that Taberna was exposed to additional impaired debt, including at least \$45 million of TruPS from New York Mortgage, whose “shares have plunged this year and are now trading under \$1”; \$25 million of TruPS from “subprime lender NovaStar Financial”; and \$26 million of TruPS from Impac, “a lender whose shares plunged 20% Wednesday.” The article also reported that Taberna invested in Redwood and Orleans – “two other companies being hammered by the dismal real estate market,” with “[b]oth stocks trading near their 52-week lows.” Finally, the article disclosed that Taberna “is believed to have exposure to small-cap homebuilder Tarragon Corp. (TARR), which may be facing a liquidity crisis; and HomeBanc (HMB), which also has had troubles and saw shares slide 55% Wednesday to 27 cents.”

295. In addition, one analyst noted in a report dated August 1, 2007 that RAIT had scheduled a conference call for August 2 to discuss its second quarter earnings and remaining residential mortgage and homebuilder exposure. The report noted that “given management's recent assurances and subsequent value erosion, investors should be prepared for anything.”

296. On August 2, 2007, RAIT held the conference call to discuss its second quarter 2007 earnings and exposure to impaired debt. On that call, Daniel Cohen finally began to reveal part of RAIT's exposure (beyond AHM) to the subprime, Alt-A and homebuilder markets. Specifically, he said that, "what is our exposure to CDOs, the asset securitizations where we believe we have risk? *We have \$191 million of equity financing in transactions for which we have either mortgage or homebuilder borrowers on our watch list for these transactions. We have an additional \$86 million of BB investments.* These investments generate \$11 million of cash flow per quarter as you can see from the press release. We won't handicap any individual credit that we have, nor can we really comment on any of our performing borrowers one by one. We are not in the business of making credit commentaries on companies overall. But we are giving people three scenarios to look at: the write off of our equity in the Taberna 2 through 7 transactions, as a likely worst case scenario, and *beyond that a further write-off of \$100 million.* These are the transactions that are at risk for our homebuilder and mortgage exposure."

297. Thus, just as RAIT had never disclosed the identity of its TruPS and subordinated debenture issuers from the time it merged with Taberna, Daniel Cohen consistently refused to disclose their identities – even at this moment of severe turmoil for RAIT's shareholders – and continued to prevent RAIT's investors from making their own judgment about RAIT's exposure. One analyst specifically asked Daniel Cohen for this information:

**[Analyst]:** Daniel, you said you'd be willing to go granular on your homebuilder and mortgage lender exposure. Without commenting on the quality, are you willing to state specifically how much you have exposed to each lender, at least your top ten lenders and homebuilders?

**Daniel Cohen:** We really can't because we have substantial – we have – we are involved as a lender with these companies. We are engaged in these companies and making sure that they are performing as best as possible. And we have inside information so we, unfortunately, David, I can't be commenting on any of their situations. So if I were to say, *we do*

*have – we have broken out mortgage and homebuilder exposure, but we can't talk about any one of our exposures.*

[Analyst]: I'm not asking you to comment. I'm just trying to ask you to say we have X amount to Beazer, X amount to [Lennar], and that is our total exposure to those companies.

**Daniel Cohen:** Whether or not we have exposure to those companies, if you lumped them into the entire mortgage sector, it's really – I really have been advised that we can't speak to specific granular companies that we've paid unless they have made a – some sort of comment so *I can't comment on any of them, ultimately.*

[Analyst]: Well, implicit in your response is that we – analysts and investors should assume no value, perhaps some recovery value but no value in that portion of your asset base, is I think what you are saying. Because we have to assume it is all Beazer or it's all [Lennar] or all more *toxic stuff, if we are not able to make our own judgments.*

**Daniel Cohen:** Well, I think that what I would say to you is that we've outlined our worst case scenarios and the assumptions we make in our worst case scenarios are exactly that. *If all this stuff is in fact toxic*, then those are the losses.

298. Later in the conference call, Daniel Cohen said even though RAIT had just experienced a substantial default, he could not specifically revalue RAIT's assets, and in particular its TruPS, until "the end of the quarter." He and Jack Salmon then engaged in the following exchange with another analyst:

[Analyst]: Yes, thank you for taking my call. *I guess the first thing that comes to mind for me is the John McEnroe quote, 'You can't be serious, here.'* At the end of Q-2, clearly the market for CMBS [commercial mortgage backed securities], looking at the CMBX [Commercial Mortgage Backed Securities Index], looking at anecdotal and specific bond transactions, had widened dramatically. Yet you just said you are going to look at the mark at the end of the quarter, just like you did last quarter. *You didn't mark anything the last quarter. You thought at the end of Q-2 that everything was fine? In the homebuilders, with WCI, with Beazer, with Tarragon, you thought it was fine with the sub- and mid-prime mortgage lenders? What am I missing?*

**Daniel Cohen:** We have – our mark-to-market is done on an entire portfolio basis. There was negative credit migration among some borrowers and positive credit migration on others.

**[Analyst]:** Is it done on a granular level or portfolio level Daniel?

**Daniel Cohen:** It is done on a granular level and then it is rolled up to a portfolio basis, and therefore –

**[Analyst]:** If it's done on a granular level, how can you say those homebuilders were fine? How is Tarragon good?

**Daniel Cohen:** I'm saying that there were offsets inside the entire portfolio, and I'm not addressing –

**[Analyst]:** But you are taking the first loss piece. It doesn't matter what the best things do. It matters what the worst stuff does.

**Daniel Cohen:** We have used the, Jack – do you want to address the appropriate accounting that we have used here?

**Jack Salmon:** Yes, I think the missing link here is we do look at every security in our portfolio that's held as available for sale security, which all the TruPS securities generally are held as available for sale. In that portfolio, on a specific issuer basis, we look at every credit and we look at it from an overall evaluation. The part of that evaluation in part is the interest rate factor and part of it is the credit factor. And our adjustments, as Daniel described, when you see our 10-Q for the quarter, will display about a \$100 million change in value of those securities for the period ended June 30. That is reflective of downgrades and degradation in credit across the portfolio offset by some upgrades. Interestingly, that number is about \$130 million since the portfolio became part of RAIT in December of '06. And of that \$130 million, approximately 80% of that relates to interest rate and the rest relates to credit. Now the interest rate degradation that I just described has been offset by our hedging strategy and for the quarter ended, for the period ended June 30th, '07 we had favorable evaluation in our interest rate hedges so it –

**[Analyst]:** Okay. So that's fine. I don't think this is an interest rate question anymore.

**Jack Salmon:** I've just given you the components of the changes in value which go through our other comprehensive income where the devaluation that you are describing has been reflected in our equities of our financial statements.

**[Analyst]:** Okay. That may be GAAP but it is certainly not helping anyone. I think looking forward to what's going to happen at the end of Q3, I mean mark it up another \$100 million, whatever, I mean I'm not getting this at all.

299. The day of that earnings conference call, TheStreet.com reported that:

RAIT Financial Trust's (RAS) latest earnings release seems to be written by attorneys who have mastered the art of selective disclosure. That's because in reading between the lines, numerous questions remain about the company's exposure to collateralized debt obligations tied to the plummeting housing market. RAIT's stock has slid 45% over the last three days after the company disclosed it has \$95 million of equity exposure to the trust preferred securities – a hybrid of debt and preferred stock – issued by American Home Mortgage (AHM), a lending company that could be facing bankruptcy. . . . In its earnings release and on its conference call Thursday, RAIT said it could not provide information on individual companies it has purchased from.

300. The August 2, 2007 article from TheStreet.com also reported that RAIT had hedged its statements about its exposure in Taberna VIII and Taberna IX, as follows:

RAIT's earnings release says that the company also closed two new CDO securitizations in 2007, Taberna 8 and Taberna 9. "Neither of these securitizations has encountered any permanent impairment during 2007," the company said. "Our investment in these securitizations includes \$78 million of BB notes and \$112.5 million of equity as of June 30, 2007." Notice the word "includes." What else might the company be holding? Skeptics say RAIT could very well be holding more of these tranches from two deals if it was unsuccessful in selling down the paper in the CDOs, which bears claim has been the case. One market source says Taberna still hasn't fully sold the two deals.

301. Finally, that article noted RAIT's remaining exposure to its European CDO, as follows:

It is believed that the CDO deal has not yet been fully sold to investors. If this is true, that means there is a large portion of real estate debt that RAIT has purchased from undisclosed real estate companies and hasn't resold yet. In general, it is becoming much more difficult to sell such notes. How much of the deal might RAIT be left with? It's just one of several questions left for management to answer.

302. The August 2, 2007 conference call left many questions unanswered. In an August 3, 2007 note, one analyst wrote that "RAIT's conference call left a number of questions about potential worst-case scenarios." After speaking further with "management," the analyst believed that he had a "relatively clear understanding" of RAIT's full exposure. He calculated

that exposure at “about \$537.5 million total book exposure,” including (1) \$278 million in Taberna II through Taberna VII; (2) \$190.5 million of residential mortgage and homebuilder exposure in RAIT’s BB and equity positions in Taberna VIII and IX; (3) \$34.5 million in losses on the sale of \$345 million of investment-grade bonds in Taberna VIII and IX; and (4) \$34.5 million of residential mortgage and homebuilder exposure in Taberena Europe CDO I. Even assuming that all this exposure did not become impaired, Fick concluded, RAIT would *lose “significant value in some of their CDOs – a likely scenario given the toxic credits that RAS is exposed to.”* That substantial impairment “will likely take [RAIT] out of the CDO securitization game for a long time” and “essentially reduce[] the company to a static pool of assets.”

303. These additional disclosures caused RAIT’s stock to fall to a closing price of \$6.32 on August 3, 2007. Overall, RAIT’s stock fell from an opening price of \$16.20 on July 31, 2007 to a closing price of \$6.32 on August 3, 2007 – a decline of approximately 61% – once RAIT finally disclosed the true measure of its exposure to its subprime, Alt-A and homebuilder borrowers.

304. On or about August 8, 2007, RAIT filed its Form 10-Q for the third quarter ended June 30, 2007. In that filing, RAIT reported an approximately \$6.1 billion balance in investments in securities, which was comprised mostly of TruPS, subordinated debentures, subordinated debenture receivables and unsecured REIT note receivables. In that Form 10-Q, RAIT also reported that in October 2006, it engaged a Cohen Bros. affiliate, Strategos Capital Management, “to create and manage a \$1.0 billion high-grade asset backed CDO. In second quarter 2007, we decided not to complete this securitization and terminated this agreement in July 2007.”

305. On November 5, 2007, RAIT released its earnings for the quarter ended September 31, 2007. In a press release appended to RAIT's Form 8-K filed November 5, 2007, RAIT reported a GAAP net loss of \$243.6 million for the quarter, or \$4.02 per share – diluted. During a November 5, 2007 conference call, Daniel Cohen called the losses “significant.” Jack Salmon explained that the losses resulted from “permanent charges for asset impairments in our TruPS portfolio, write-downs in our available for sale securities and write-offs of intangible assets at an accelerated basis which totaled \$247 million net loss.” Salmon further explained that as of October 30, 2007, five TruPS issuers had defaulted on \$315 million worth of TruPS, and that, in total, RAIT had placed \$362 million of loans on non-accrual status.

306. Daniel Cohen added that in addition to the \$247 permanent impairment charge already taken, “we have \$100 million of exposure left in Taberna 2 through 7, ranging in priority of payments from what you call Double AA, which is third priority of payment, all the way down to” BBB. Daniel Cohen further disclosed that RAIT had “\$275 million [of exposure] in Taberna 8 and 9.” Thus, RAIT has acknowledged that it has \$622 million in permanent impairments and remaining exposure.

#### **XI. ADDITIONAL ALLEGATIONS REGARDING VIOLATIONS OF GAAP**

307. As discussed above, RAIT blatantly violated GAAP by failing to properly apply, among other principles, SFAS No. 115 during the Class Period. By only taking temporary charges, RAIT avoided taking necessary charges to earnings, and therefore gave a materially false and misleading picture of its true results of operations for a given period. The following factors, which RAIT was required to address under GAAP, demonstrate that RAIT's investments were permanently impaired during the Class Period: (i) the length of time the fair value was below the amortized cost carrying value; (ii) the financial condition of the TruPS issuers; (iii) the mortgage and homebuilder industry-wide market conditions; and (iv) the lack of evidence

indicating that the realizable value of RAIT's TruPS investments would recover enough to equal or exceed their carrying value.

308. Length of time of the impairment. RAIT's TruPS and similar investments were impaired throughout the Class Period, and other-than-temporary, asset impairment charges should have been taken no later than September 30, 2006. For example, Taberna's December 31, 2005 financial statements, which were incorporated into both the January 2007 Registration Statement and July 2007 Registration Statement, reported that the fair value of its TruPS investments were less than their carrying value (amortized cost) at year end 2005. Taberna also reported the same situation at June 30, 2006 in its financial statements for the quarter then ended. For the next period that Taberna reported its financial statements, September 30, 2006, Taberna again reported that the fair value of its TruPS and other investments were less than their carrying value. Following the closing of Taberna's merger with RAIT, each of RAIT's December 31, 2006 Form 10-K, March 31, 2007 Form 10-Q, and June 30, 2007 Form 10-Q reported that the fair value of the Company's TruPS and other investments was less than their carrying value as of the date of those reports. Thus, for a period covering at least *nineteen consecutive* months, and throughout the Class Period, the TruPS investments of RAIT/Taberna *never* had a fair value that equaled or exceeded their carrying value.

309. Financial condition of the TruPS investment issuers. As discussed in additional detail above, prior to and throughout the Class period, various companies from which (unbeknownst to investors) RAIT had purchased TruPS and other securities demonstrated that RAIT's investment in those companies were other-than-temporarily impaired, including:

- (a) WCI. In the second quarter of 2006 WCI reported a *70% decline in its net income*. WCI's liquidity essentially evaporated from a balance of \$52.6



million at December 31, 2006 to a paltry \$2.0 million at June 30, 2006. As of September 30, 2006, WCI's current obligations exceeded its available liquid assets. For the quarter ended March 31, 2007, WCI reported a *net loss of \$15.8 million for the quarter*.

(b) **HomeBanc.** In HomeBanc's September 30, 2006 Form 10-Q, it reported a \$2.4 million net loss. Further, HomeBanc reported a *net loss of \$11.0 million as of year end December 31, 2006*. For the period ended March 31, 2007, HomeBanc reported a net loss of \$22.6 million, and reported that "in the first quarter of 2007, we sold substantially all of our securities available for sale as a means of generating liquidity."

(c) **Tarragon.** In Tarragon's September 30, 2006 10-Q, it reported *short-term obligations exceeding current liquid assets by more than \$40 million*. And in its December 31, 2006 Form 10-K, Tarragon once again reported short-term obligations exceeding current liquid assets by more than \$40 million. For the quarter ended March 31, 2007, Tarragon reported a \$4.6 million net loss and stated that "as of March 31, 2007, we were *not in compliance with a debt service coverage ratio covenant contained in the indentures for the subordinated unsecured notes*." Tarragon eventually defaulted on its debt.

(d) **Levitt.** As early as March 2006, Levitt showed a net loss of \$660,000 and reduced its Homebuilding Division's workforce by 69 employees, or 10.6%. In its September 30, 2006 Form 10-Q, Levitt reported that its current obligations were twice as large as the company's liquid assets. As of December 31, 2006, the company reported a net loss of \$9.2 million and *short-term obligations that*

*exceeded its liquid assets by more than \$100 million.* Furthermore, Levitt's cash decreased to \$48.3 million at December 31, 2006 from \$113.6 at December 31, 2005. Levitt acknowledged the grave issues it faced by stating that deteriorating market conditions had led to "weaker sales volumes and high cancellation rates. All of these conditions have a negative impact on our liquidity."

(e) **New York Mortgage.** New York Mortgage experienced a net loss of \$1.8 million for the quarter ended March 31, 2006, and a meager \$178,000 net income for the quarter ended June 30, 2006. New York Mortgage also reported liquid assets roughly equal to its short-term obligations as of both of those quarters. New York Mortgage further reported a net loss of \$5.5 million for the nine months ended September 30, 2006, with just barely enough liquid assets to cover its short-term obligations. In its December 31, 2006 Form 10-K, New York Mortgage reported that it had sold both its wholesale mortgage origination business and its retail mortgage lending origination business due to decreased performance in its portfolio. On July 3, 2007, New York Mortgage announced that it would not be declaring a dividend for the quarter ended June 30, 2007 in an effort to preserve capital.

(f) **Orleans.** In Orleans' September 30, 2006 Form 10-Q, it reported approximately *\$30.0 million of available liquid assets versus more than \$80.0 million of short-term obligations.* In its December 31, 2006 Form 10-K, Orleans again reported short-term obligations in excess of liquid assets, while reporting a \$7.5 million net loss for that quarter. Orleans also stated in its December 31, 2006 Form 10-K that it had recorded impairments to both residential properties

completed or under construction, and land held for development or sale and improvement. These impairments resulted in the company violating its debt service ratio covenant for its revolving loan credit facility. Orleans stated:

*Due to current unfavorable conditions in the homebuilding industry, the Company determined that it is unlikely that it will meet its debt service ratio covenant at June 30, 2007. A violation of this covenant, unless waived by the lenders or otherwise cured, would constitute an **event of default** under the Revolving Credit Facility, giving the lenders the right to terminate their obligations to make additional loans under the Revolving Credit Facility, demand immediate payment in full of all amounts outstanding, foreclose on collateral and exercise other rights and remedies granted under the Revolving Credit Facility and related loan documents and as may be available pursuant to applicable law.*

(g) **Impac.** Impac reported a *\$131.3 million loss for the quarter ended September 30, 2006*. In its December 31, 2006 Form 10-K, Impac reported a net loss for the year of \$90.0 million. For the quarter ended March 31, 2007, Impac suffered a \$121.7 million net loss.

(h) **AHM.** AHM saw its net income plunge more than 50% during the first quarter of 2006. Additionally, in each of its Forms 10-Q for September 30, 2006, December 31, 2006, March 31, 2007, and June 30, 2007, AHM reported *short-term obligations in excess of its liquid assets*. As discussed above, this highly-risky liquidity “strategy” resulted in AHM’s ultimate bankruptcy and default on over \$95 million worth of obligations owed to RAIT.

(i) **Hanover.** Hanover reported a net loss of \$697,000 for the quarter ended March 31, 2006. Additionally, in its June 30, 2006 Form 10-Q, it reported a mere \$156,000 of net income for the six months then ended. In Hanover’s Form 10-Q for third quarter ended September 30, 2006, it reported net income of only \$239,000.

310. Conditions in the Real Estate Industry. As set forth above, the mortgage and homebuilders industries dissolved prior to and during the Class Period, and were in free-fall throughout most of the Class Period.

311. Lack of evidence indicating that impairment was merely temporary. Contrary to RAIT's accounting treatment for its TruPS and other investments, given the industry-wide crises in the mortgage and homebuilder markets (and the issues with specific companies identified herein) there existed no evidence indicating that the impairment of RAIT's TruPS investments was merely temporary, such as evidence that the conditions experienced by the market as a whole, or by the specific issuers, were short-term circumstances that would quickly dissipate.

312. In sum, RAIT's TruPS and other investments had suffered other-than-temporary impairment during the Class Period, and RAIT should have booked other-than-temporary impairment charges in its financial statements for September 30, 2006, December 31, 2006, and March 31, 2007. RAIT's failure to do so was violation of SFAS No. 115, and resulted in its financial statements not being in conformity with GAAP.

313. As reflected in the charts set forth above at ¶¶147-49, Defendants' failure to comply with GAAP caused material misstatements in the Company's financial statements, including, among others, (i) a 1,211% misstatement of net income available to common shares for the quarter ended March 31, 2007; (ii) a 1,080% misstatement in net income for the quarter ended March 31, 2007; and (iii) a 1,109% misstatement in earnings per share – diluted for the quarter ended March 31, 2007.

314. RAIT also failed to properly reserve against its loan portfolio. In addition to acquiring approximately \$5.04 billion of the high-risk investments in securities from Taberna in the December 11, 2006 merger, RAIT *also* acquired approximately \$4.85 billion of Taberna's

high risk investments in mortgages and loans. In total, approximately \$9.9 billion, or 89%, of RAIT's \$11.1 billion of investments in securities *and* investments in mortgages and loans as of December 31, 2006, were of the high-risk variety acquired from Taberna. Yet, RAIT reported only a meager \$2.49 million in loan loss reserves for the three months and year ended December 31, 2006. Furthermore, RAIT recorded only a miniscule \$3.7 million for the quarter ended March 31, 2007. These amounts were woefully inadequate to comply with GAAP.

315. Additionally, the cumulative loan loss allowance of \$5.35 million<sup>1</sup> reported by RAIT on its balance sheet at December 31, 2006 represented only 0.000001% of the total \$11.1 billion in of investments in securities, mortgages and loans that RAIT reported at that date. Similarly, the cumulative loan loss allowance of \$8.72 million reported by RAIT on its balance sheet at March 31, 2007 represented only 0.0000009% of the total \$12.5 billion in investments in securities, mortgages and loans that RAIT reported at that date.

RAIT's reported loan loss reserve amounts failed to comply with GAAP because they did not accurately reflect the value of RAIT's total investments in securities, mortgages and loans at both December 31, 2006 and March 31, 2007, and did not reflect the true extent of RAIT's exposure to the collapsing subprime, Alt A and homebuilders markets.

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<sup>1</sup> The two cumulative loan loss allowance figures set forth in this paragraph represent the cumulative total of loss allowances that Taberna recorded since its inception and through its existence as a RAIT subsidiary as of the dates noted. Thus, even though the accumulated loan loss allowances are quite tiny, they are somewhat larger than the loss allowances posted in any given quarter.

## **XII. ADDITIONAL ALLEGATIONS OF SCIENTER**

### **A. The Section 10(b) Defendants' Close Involvement With All Aspects Of RAIT's Business Supports A Strong Inference Of Scienter**

316. The Section 10(b) Defendants exercised control over nearly every aspect of RAIT's business and operations during the Class Period. Through their interconnected web of family relationships and related-party companies, Defendants Daniel Cohen and Betsy Cohen ran RAIT (and, before the merger, Taberna) as a personal fiefdom. According to a former minority partner of Cohen Bros., who was business partners with Daniel Cohen at Cohen Bros. from 2000 through 2006 ("Confidential Witness #3" or "CW3"), Daniel Cohen was in charge at Taberna and RAIT, and "He was the one calling the shots." Indeed, CW3 stated that the Taberna component of RAIT was essentially just a few people sitting at a desk and "leveraging up cash to buy mortgage backed securities." According to a former Senior Vice President who worked at RAIT for three years, and left in June 2007 ("Confidential Witness #4" or "CW4"), the Taberna component of RAIT consisted of a small group of "tight-knit" individuals who were under the control of Daniel Cohen, Betsy Cohen and Salmon. These statements were corroborated by CW4, who stated that Taberna had less than 20 employees, they were "close-knit," and Defendant Salmon was "involved at all levels" with Betsy Cohen and Daniel Cohen in operating the Taberna side of the business following the RAIT/Taberna merger.

317. Moreover, as alleged above, these Defendants were closely involved in the decisions to take reserves and/or record impairments on RAIT's investment portfolios, as evidenced by, among other things, the fact that each of these Defendants was a member of RAIT's management investment committee with authority to approve all investments up to 5% of the Company's capital. Defendants Betsy Cohen and Daniel Cohen also were members of the

trustee investment committee and were closely involved in the Company's credit monitoring processes and investment decisions. As RAIT disclosed in its December 31, 2006 Form 10-K:

Our investment process is managed by our management investment committee consisting of the following members of our senior management:

Voting members:	
Betsy Z. Cohen	Chairman of the Board
Daniel G. Cohen	Chief Executive Officer
Jack Salmon	CFO and Treasurer
Ken Frappier	Chief Credit Officer

The management investment committee must approve all investments. The management investment committee has the authority to approve investments in an amount up to 5% of our capital (\$60.0 million at December 31, 2006) or, in the case of mezzanine loans or preferred equity investments, up to \$25.0 million. Investments in excess of these limits must also be approved by a trustee investment committee comprised of Betsy Cohen, Daniel Cohen and four independent trustees whose membership on the trustee investment committee is determined on a rotating basis . . . .

318. As members of these committees, the Section 10(b) Defendants were the individuals at RAIT primarily responsible for conducting the supposedly "continuous" monitoring of the Company's credit risks, including through the receipt and review of "inside information" supposedly available to RAIT (but not to investors at large). Indeed, RAIT claimed that the management investment committee met twice per week to review the Company's portfolio.

**B. Defendants Daniel Cohen And Betsy Cohen Arranged The RAIT/Taberna Merger In Order To Rescue Taberna And Thereby Help Themselves At The Expense Of Shareholders**

319. As discussed above, the merger between Taberna and RAIT came about only after Taberna's planned IPO collapsed. Defendants Daniel and Betsy Cohen were motivated to effectuate the merger with Taberna, and thereafter to artificially inflate RAIT's stock price in

order to save Daniel Cohen's company from stagnation and failure. By providing Taberna with the ability to raise over *\$855 million* from public investors during the Class Period, the merger with RAIT enabled Taberna to issue new CDOs, and to seemingly continue its growth even as the real estate industry collapsed. According to a former President of RAIT, who left the Company in late 2006 ("Confidential Witness #5" or "CW5"), the general reaction to the announcement of the Taberna merger inside RAIT was "you've got to be kidding" and that everyone knew "there was a lot of incestuous stuff going down," all of which was kept "very close to the vest." In CW4's view, there was no competitive bidding process for Taberna and the entire merger was arranged by the Section 10(b) Defendants (with assistance from Defendant DiStefano). According to CW4, the TruPS investments were known internally to be "risky" and the Taberna acquisition was nothing more than a "mother helping her son" and "the whole thing reeks" of nepotism. According to CW4, Betsy Cohen knew that Taberna had significant exposure to declining real estate markets and "risky" TruPS, but purchased the company in order to bail out her son. Moreover, according to CW3, Defendant Daniel Cohen, was "extremely unscrupulous, very unethical" and engaged in "a lot of inter-dealings." According to CW3 "there [was] a lot of inner stuff going on" between Cohen Bros. and RAIT.

**C. Defendants Daniel Cohen And Betsy Cohen Were Motivated To Make Material Misstatements About RAIT In Order To Perpetuate The Millions of Dollars In Fees Their Related Companies, Including Cohen Bros., Received From Its Acknowledged "Incestuous Relationship" With RAIT**

320. As discussed above, the complex web of familial relationships between RAIT, Taberna, the Cohens and Cohen Bros., enabled Defendants Betsy and Daniel Cohen to make enormous amounts of personal profit by using RAIT as a vehicle to create and perpetuate a slew of related-party transactions. These transactions resulted in fees of millions of dollars to entities controlled or owned by these Defendants.



**D. The Section 10(b) Defendants' Receipt Of Millions Of Dollars In Dividend Payments Supports A Strong Inference Of Scienter**

321. The Section 10(b) Defendants had additional motive and the opportunity to commit the fraud described herein in order to realize large dividend payments during the Class Period. As a REIT, RAIT was required by law to pay out 90% of its income as dividends to its shareholders. RAIT's income level (and thus its income available for dividends) was inversely related to the amount it recorded in loss reserves, and the amount of impairment charges it took: the higher RAIT's loss reserves and/or impairment charges, the lower its income, and vice versa.

322. During the Class Period, the Section 10(b) Defendants capitalized on these features of RAIT to collectively receive dividends in excess of *\$7 million*. These dividend payments were unusual, because, among other things, the dividend payments occurred and even escalated when the Company should have been marking down its income (and thus reducing its dividends, potentially to zero) by (a) setting high loss reserves and/or (b) properly and accurately accounting for the impairments of its TruPS and/or subordinated debentures.

323. By recording artificially low loss reserves and/or failing to properly and accurately account for the impairments of RAIT's TruPS and/or subordinated debentures, Defendants Daniel Cohen, Betsy Cohen and Salmon maintained RAIT's income at artificially high levels. In turn, this artificially high level of income produced a series of escalating dividend payments that inured directly to these Defendants' benefit even as RAIT's financial condition continually deteriorated. The following table reflects these unusual dividend payments made by RAIT, on a quarterly basis, to Defendants Daniel Cohen, Betsy Cohen and Salmon, during the Class Period, as evidenced by the Company's SEC filings:

Defendant	Second Quarter of 2006	Third Quarter of 2006	Fourth Quarter of 2006	First Quarter of 2007	Second Quarter of 2007	Total During Class Period
Daniel Cohen	N/A	N/A	\$1,324,574.20	\$1,412,879.20	\$1,483,523.10	\$4,220,976.50
Betsy Cohen	\$345,217.86	\$400,898.16	\$417,602.25	\$579,144	\$608,101.20	\$2,350,963.40
Salmon	N/A	N/A	\$87,762.75	\$93,613.60	\$98,294.28	\$279,670.63

324. The dividend payments by RAIT to the Section 10(b) Defendants, summarized above, are unusual in scope and timing because, among other things, they occurred at a time when RAIT was suffering severe impairments in its TruPS and/or subordinated debenture portfolios. As a result of those impairments, RAIT should have set high loss reserves, which are charged against its income dollar for dollar, or properly accounted for the impairments as they occurred, which also would have eliminated its income available for distribution as dividends. Yet RAIT failed to either properly set loss reserves or properly account for the impairments it was experiencing. As a result, RAIT recorded artificially inflated income, which it then paid as dividends to its shareholders, including Defendants Daniel Cohen, Betsy Cohen and Salmon.

325. Further, the escalation of these dividend payments is unusual. The size and rate of the dividend payments continued to *increase* while RAIT's financial condition – especially with respect to its TruPS and subordinated debenture portfolios – continued to *deteriorate*. Specifically, in the second quarter of 2006, RAIT paid a dividend of \$0.62 per common share; in the third quarter of 2006 the dividend shot to \$0.72 per common share; in the fourth quarter of 2006 the dividend jumped again to \$0.75 per common share; in the first quarter of 2007 the dividend climbed yet again to \$0.80 per common share; and in the second quarter of 2007, the dividend reached \$0.84 per common share. If Defendants Daniel Cohen, Betsy Cohen and Salmon had properly set RAIT's loss reserves and/or accounted for the impairment of RAIT's

TruPS and/or subordinated debentures, then RAIT's income – and thus its dividend payments – would have *disappeared entirely* rather than increased. Yet precisely the opposite occurred, again inuring to the financial benefit of Defendants Daniel Cohen, Betsy Cohen and Salmon.

E. **Defendant Daniel Cohen Was Motivated To Artificially Inflate RAIT's Stock Price In Order To Obtain Millions Of Dollars In Personal Credit**

326. In addition to the above allegations, Defendant Daniel Cohen was motivated to maintain RAIT's stock price at artificially inflated levels due to his personal credit arrangements. Specifically, Daniel Cohen possessed a \$10 million line of personal credit with Defendant Bear Stearns. Daniel Cohen collateralized this credit line with RAIT common stock. By maintaining RAIT's stock price at an artificially high level, Daniel Cohen reduced the number of shares he had to pledge as collateral against his personal line of credit.

F. **The Section 10(b) Defendants Were Motivated By A Desire To Receive Millions of Dollars In Personal Compensation**

327. Defendants Daniel Cohen, Betsy Cohen, and Salmon received other substantial and unusual benefits during the Class Period that demonstrate their motive and opportunity to commit the fraud described herein. As noted above, at the time of the RAIT/Taberna merger, Taberna was a company in dire straits: it had canceled its IPO and could find no willing suitor other than RAIT. At that time, Daniel Cohen possessed approximately 565,000 shares of Taberna, which, given Taberna's position, were far less valuable than equity in a more stable company, such as RAIT. Likewise, at the time of the merger Salmon possessed approximately 26,000 shares of Taberna – shares that the marketplace considered unattractive. Through the merger with RAIT, Daniel Cohen and Salmon converted their unattractive Taberna stock into desirable (and subsequently artificially inflated) RAIT stock. Specifically, Daniel Cohen received 304,700 RAIT shares through the merger while Salmon received 14,146 RAIT shares.

Daniel Cohen's RAIT equity was valued at approximately *\$10.5 million* at the time of the merger, and Salmon's RAIT equity was valued at more than \$486,000.

328. In addition to a windfall of RAIT stock, Daniel Cohen received substantial other benefits during the Class Period. Right after the merger, on January 23, 2007, RAIT granted him 75,000 phantom units, which were redeemable for RAIT common shares, and were valued at more than \$2.75 million. Further, for 2007 RAIT paid him a salary of \$660,000 – a 10% raise over his salary at Taberna – plus bonus to be determined.

329. Betsy Cohen also received huge payments during the Class Period. According to RAIT's Proxy Statement filed on Schedule 14A and dated April 10, 2007, in 2006 Betsy Cohen received a \$700,000 salary; a bonus of \$842,300; \$31,250 worth of stock awards; a boost of \$4,565,699 in her pension earnings; and \$21,157 of "other compensation," for total compensation of more than \$6.1 million.

330. Further, on January 23, 2007, RAIT granted Betsy Cohen 100,000 phantom units worth \$3.67 million, even though she stepped down as CEO. In addition, RAIT entered into an Amended and Restated Employment Agreement with Betsy Cohen on the day of the merger, pursuant to which it awarded her a salary of \$375,000 per year, plus bonus to be determined. Also pursuant to that contract, RAIT agreed to pay Betsy Cohen pursuant to her Supplemental Executive Retirement Plan ("SERP") – which annually grants her 60% of her average compensation for the years 2004, 2005, and 2006 – while still paying her a separate salary and bonus for her continued employment as Chairwoman. RAIT began making the SERP payments in July 2007, which resulted in millions of additional dollars to Betsy Cohen.

331. Like Daniel and Betsy Cohen, Salmon received a large grant of phantom units right after the merger. Specifically, on January 23, 2007, Salmon received 10,000 phantom units

worth \$367,000. He also received a substantial salary of \$440,000 – a 10% raise over his salary at Taberna – and bonus to be determined.

332. All of the above payments are unusual in scope and timing because, among other things, they permitted Daniel Cohen and Salmon to convert an unfavorable equity position in Taberna into a valuable equity position in RAIT; and incentivized Daniel Cohen, Betsy Cohen, and Salmon to commit and conceal the fraud described herein so that they could continue to receive their lucrative salary, bonuses, SERP payments, phantom units, and other compensation.

### **XIII. DEFENDANTS' ADDITIONAL FALSE AND MISLEADING STATEMENTS**

333. In addition to the materially false and misleading statements and omissions detailed above, Defendants made the following additional false and misleading statements and omissions during the Class Period.

#### **A. The June 8, 2006 Form 8-K And June 8, 2006 Press Release**

334. As discussed above, on or about June 8, 2006, RAIT filed a Form 8-K announcing that it had “entered into a definitive merger agreement” with Taberna (the “June 8, 2006 Form 8-K”), to which it attached a press release (the “June 8, 2006 Press Release”). In addition to the statements discussed above, in that press release Defendant Betsy Cohen stated:

The combined company will provide both extraordinary expertise in the field of structured finance and a unique line of business in the area of trust preferred securities for REITs and REOCs thus leveraging the strong origination capability and excellent credit experience of RAIT.

335. Defendant Daniel Cohen stated:

We expect to combine our CDO funding capacity with RAIT's origination platform and to build a world-class real estate finance company. At our projected market capitalization we will be able to grow our investments by financing the world's best real estate companies. I look forward to combining one of the best real estate mezzanine lenders with the premier provider of TruPS and subordinate debt for REITs and REOCs

336. In response to this announcement, shares of the Company's common stock rose \$0.97 per share, or 4%, to close at \$23.14, on heavy trading volume.

337. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, and valuation of investments in securities were overstated.

**B. The June 9, 2006 Conference Call And June 9, 2006 Slide Presentation**

338. As described above, on June 9, 2006, RAIT and Taberna held a conference call to discuss the proposed merger (the "June 9, 2006 Conference Call"). In connection with that conference call, RAIT and Taberna distributed a slide presentation (the "June 9, 2006 Slide Presentation").

339. The statements made by Daniel and Betsy Cohen on the June 9, 2006 conference call, and the statements set forth in the June 9, 2006 Slide Presentation, were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves

and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**C. The December 11, 2006 Form 8-K/A**

340. In its December 11, 2006 Form 8-K/A, filed on January 4, 2007, RAIT attached an exhibit entitled, "Taberna Management's Discussion and Analysis of Financial Conditions and Results of Operations" (collectively, the "December 11, 2006 Form 8-K/A"). Salmon signed the December 11, 2006 Form 8-K/A. The January 2007 Registration Statement incorporated the December 11, 2006 Form 8-K/A by reference.

341. The December 11, 2006 Form 8-K/A asserted that Taberna's "financial statements are prepared on the accrual basis of accounting in accordance with GAAP."

342. The December 11, 2006 Form 8-K/A provided the following financial data for Taberna for the three-month period ending September 30, 2006: net income of approximately \$1.6 million; net investment income of approximately \$14.1 million; earnings per share – diluted of \$.04; investments in securities valued at approximately \$4.78 billion, including approximately \$3.7 billion in available-for-sale securities and \$1.08 billion in security-related receivables. The December 11, 2006 Form 8-K/A also reported a loss provision of \$2.39 million, and no other-than-temporary, asset impairment charges, for the same period.

343. The December 11, 2006 Form 8-K/A provided the following financial data for Taberna for the nine-month period ending September 30, 2006: net income of approximately \$34.3 million; net investment income of approximately \$48 million; earnings per share – diluted of \$.79; investments in securities valued at approximately \$4.78 billion, including approximately \$3.7 billion in available-for-sale securities and \$1.08 billion in security-related receivables; and

TruPS and subordinated debentures valued at \$3.562 billion. The December 11, 2006 Form 8-K/A also reported a loss provision of \$4.57 million, and no other-than-temporary, asset impairment charges, for the same period.

344. The December 11, 2006 Form 8-K/A set forth that “Taberna accounts for its investments in securities under Statement of Financial Accounting Standards No. 115,” pursuant to which “[a]vailable-for-sale securities are . . . recorded at their fair value.”

345. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, Taberna, and through the merger, RAIT, was exposed to significant risk from failing or troubled real estate companies; Taberna’s, and through the merger, RAIT’s, underwriting and risk management standards were not designed to minimize investment risk as stated; Taberna’s, and through the merger, RAIT’s, loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated; Taberna, and through the merger, RAIT, was not in compliance with GAAP; and Taberna’s, and through the merger, RAIT’s, net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**D. The February 21, 2007 Press Release And February 21, 2007 Form 8-K**

346. On February 21, 2007, RAIT issued a press release entitled “RAIT Financial Trust Announces Fourth Quarter and Fiscal Year 2006 Results” (the “February 21, 2007 Press Release”), which RAIT attached to a Form 8-K that it filed with the SEC on or about February 21, 2007 (the “February 21, 2007 Form 8-K”). Salmon signed the February 21, 2007 Form 8-K. The February 21, 2007 Press Release stated:



RAIT reported net income available to common shares for the three months and year ended December 31, 2006 of \$13.1 million and \$67.8 million, or total earnings per share – diluted of \$0.39 and \$2.30 based on 33.7 million and 29.6 million weighted average common shares – diluted[.]

347. The February 21, 2007 Press Release also stated that, “At December 31, 2006, RAIT’s investment portfolio totaled \$11.2 billion including: \$4.3 billion relating to trust preferred securities (“TruPS”) and subordinated debentures . . . .”

348. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company’s underwriting and risk management standards were not designed to minimize investment risk as stated, the Company’s loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company’s net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**E. The February 22, 2007 Conference Call**

349. On February 22, 2007, RAIT held a conference call to discuss its financial results for the quarter and year ended December 31, 2006. As discussed above, the Section 10(b) Defendants made numerous false and misleading statements on that call. In addition to the statements discussed above, during that call, Salmon stated that RAIT earned “REIT taxable income of approximately \$92.1 million” for Fiscal Year 2006 and \$30.8 million of REIT taxable income for the quarter. Salmon also reported GAAP earnings of \$30.8 million for the quarter. Betsy Cohen also stated that “we’re so dedicated to pristine credit.”

350. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**F. The March 31, 2007 Form 10-Q**

351. In RAIT's Form 10-Q for the quarter ended March 31, 2007, filed with the SEC on or about May 4, 2007, and described in greater detail above, RAIT set forth that, "We invest in securities that have direct or indirect exposure to the U.S. residential mortgage market, including the 'subprime' sectors of that market." RAIT noted that through its "CDOs that invest in TruPS, we hold a direct investment in one issuer whose business is primarily origination of subprime mortgages" and that it also held "interests in a private partnership that has invested in CDO equity and debt securities which are partly backed by collateral issued by subprime mortgage originators."

352. Those statements were untrue statements of material fact and omitted to state material facts required or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant, rather than limited, risk from several failing or troubled subprime-related real estate companies, rather than only one. Further, those statements were misleadingly

general because at the time they were made, the only specific statement of RAIT's exposure to the subprime market was Daniel Cohen's repeated and false assertions, described above, that RAIT had only approximately \$13 million of exposure to the subprime market. The statements in the March 31, 2007 Form 10-Q did nothing to alter Daniel Cohen's specific, repeated and false assertions that RAIT had only approximately \$13 million of exposure to the subprime market. Further, those statements omitted any reference to RAIT's substantial exposure to the homebuilder market or other sectors of the residential mortgage market.

**G. The April 13, 2007 Press Release And April 13, 2007 Form 8-K**

353. On April 13, 2007, RAIT issued a press release entitled, "RAIT Financial Trust Announces Pricing of \$350 Million of Convertible Senior Notes and Repurchase of \$74.3 Million of Common Shares" (the "April 13, 2007 Press Release"), which it appended to a Form 8-K that was signed by Salmon and filed with the SEC on or about April 13, 2007 (the "April 13, 2007 Form 8-K"). The April 13, 2007 Press Release set forth that,

RAIT Financial Trust ("RAIT") (NYSE: RAS) today announced it priced, on April 12, 2007, its offering of \$350 million aggregate principal amount of 6.875% convertible senior notes due 2027 and that it will repurchase \$74.3 million of its common shares from the net proceeds of the offering of the notes. RAIT also granted the initial purchaser an option to purchase up to an additional \$75 million of aggregate principal amount of notes to cover overallocments, if any. Closing is expected to occur on April 18, 2007. . . . The initial conversion price of \$34.86 represents a 27.5 percent premium to yesterday's closing price of \$27.34 per share of RAIT common shares.

354. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize

investment risk as stated, the Company's loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**H. The April 30, 2007 Press Release And May 1, 2007 Form 8-K**

355. On April 30, 2007, RAIT issued a press release entitled "RAIT Financial Trust Announces First Quarter 2007 Results" (the "April 30, 2007 Press Release"), which RAIT attached to its Form 8-K filed with the SEC on or about May 1, 2007 (the "May 1, 2007 Form 8-K"). Defendant Salmon signed the May 1, 2007 Form 8-K. The April 30, 2007 Press Release stated that, "RAIT reported GAAP net income available to common shares for the three months ended March 31, 2007 of \$20.3 million, or total earnings per share – diluted of \$0.34 based on 60.6 million weighted average shares outstanding – diluted."

356. The April 30, 2007 Press Release included an investment summary in which it reported a balance for the TruPS and Subordinated Debentures at March 31, 2007 of \$5.4 billion.

357. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income

available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**I. The May 1, 2007 Conference Call**

358. On May 1, 2007, RAIT held a conference call to discuss its financial results for the quarter ended March 31, 2007 (the “May 1, 2007 Conference Call”). As discussed above, the Section 10(b) Defendants made numerous false and misleading statements on that call. In addition to the statements discussed above, during that call, Daniel Cohen stated that, “While we’ve certainly seen demand for wider spread levels in the funding of CDOs backed by asset-backed securities, so a rise in the cost of funds for things that are backed by subprime mortgages, primarily, this rise has been substantial. This is a marketplace that the Company doesn’t participate in.”

359. Daniel Cohen also stated that, “I think going forward, the [TruPS] pipeline is geared very much towards real estate companies and doesn’t have any new homebuilder exposure or might have, going forward in the future, minimal, but certainly not much.”

360. Further, Daniel Cohen stated that, “We earned \$43 million or \$0.71 per share in net investment income . . . .” He also stated that “[o]ur credit quality remains strong in our core business” and that “[w]e currently have no losses and no delinquencies in our trust portfolio.” He further stated that, “On the credit side, we had no payment defaults from our TruPS issuers. However, we continue to take a conservative view by providing for loan losses in our residential potential as the overall balance sheet continues to grow.”

361. Defendant Salmon stated that,

[O]ur primary earnings driver is the net investment income of the portfolio, which was \$43 million generated on a portfolio that ends at \$12.6 billion at March 31st. . . . The \$12.6 billion of investments are generating approximately a 15% return on investment or approximately

\$180 million of net investment income on a full year, compared to the \$43 million of net investment income we generated during the first quarter.

362. Salmon further stated that RAIT's "net income available to common shares . . . increased [to] \$20.3 million from \$18.1 million in the comparative quarter a year ago."

363. Defendant Betsy Cohen stated that, "RAIT has both corporate and real estate-specific lines of lending. Both of these markets are healthy today. . . . We are currently seeing more than enough credit opportunities with companies in healthy subsectors whose financial profile meets our credit criteria."

364. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**J. The June 5, 2007 Form 8-K**

365. On June 5, 2007, RAIT gave a slide presentation at the NAREIT Investor Forum (the "Investor Forum Slide Presentation"), which was attached as an exhibit to RAIT's Form 8-K filed on or about June 5, 2007 (the "June 5, 2007 Form 8-K"). Defendant Salmon signed the June 5, 2007 Form 8-K. In the Investor Forum Slide Presentation, RAIT set forth that it invested in "Attractive Asset Classes" and that "Credit – focus is the prime criteria for investment

decisions.” RAIT additionally asserted that its “Key Drivers of Value Creation” included its “Credit focus” and “Risk monitoring and surveillance.”

366. RAIT also valued its “Investments in TruPS and Subordinated Debt” at “4.8 billion.” Further, RAIT set forth that its TruPS and subordinated debt portfolio generated a “Return on Investment” of “20.3%.”

367. Moreover, RAIT reported its net investment income as approximately \$43 million for the quarter ended March 31, 2007 and its net income available to common shares as \$20.3 million for that period. Finally, RAIT valued its investments in securities at approximately \$6.1 billion.

368. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company’s underwriting and risk management standards were not designed to minimize investment risk as stated, the Company’s loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company’s net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**K. The June 25, 2007 Form 8-K**

369. On or about June 25, 2007, RAIT filed a Form 8-K with the SEC (the “June 25, 2007 Form 8-K”) for the purpose of “re-issuing its historical financial statements to reflect the reclassification of a real estate asset as held-for-sale.” Defendant Salmon signed the June 25,

2007 Form 8-K, and the June 25, 2007 Form 8-K was incorporated by reference into the July 2007 Registration Statement.

370. In its re-issuance of certain items in its Form 10-K for Fiscal Year 2006, RAIT reiterated the following for Fiscal Year 2006: net income of \$77.9 million; net investment income of approximately \$75 million; net income from continuing operations of approximately \$72 million; net income available to common shareholders of approximately \$67.8 million; earnings per share-diluted of \$2.30; investments in securities valued at \$5.1 billion, including approximately \$3.98 billion of available-for-sale-securities and \$1.16 billion of security-related receivables; and TruPS and subordinated debentures valued at \$3.72 billion

371. The June 25, 2007 Form 8-K further reiterated that its “consolidated financial statements have been prepared by the Company in accordance with U.S. generally accepted accounting principles (‘GAAP’).”

372. The June 25, 2007 Form 8-K also provided that, “We account for our investments in securities under Statement of Financial Accounting Standards No. 115,” pursuant to which “[a]vailable for sale securities are recorded at fair value.”

373. In addition, the June 25, 2007 Form 8-K reported a loss reserve of \$2.49 million for Fiscal Year 2006 while reporting no other-than-temporary, asset impairment charges. The June 25, 2007 Form 8-K set forth that the loss reserve was “[b]ased on our evaluation of our portfolios of loans and the adequacy of our [previous] allowance.”

374. Finally, the June 25, 2007 Form 8-K stated that,

Core components of our business include a robust origination network, a disciplined credit underwriting process and an ability to finance our business more efficiently through the use of CDO transactions. . . . Our credit underwriting involves an extensive due diligence process that seeks to identify risks related to each proposed investment before an investment



decision is made and, thereafter, to monitor each investment on a continuous basis.

375. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

L. **The July 19, 2007 Press Release And July 19, 2007 Form 8-K**

376. On or about July 19, 2007, RAIT filed a Form 8-K with the SEC (the "July 19, 2007 Form 8-K"), to which it attached a press release entitled, "RAIT Financial Trust Sets Second Quarter Financial Results and Provides guidance for Quarter Ended June 30, 2007" (the "July 19, 2007 Press Release"). Salmon signed the July 19, 2007 Form 8-K.

377. The attached July 19, 2007 Press Release set forth that, "All obligors under our trust preferred securities ('TruPS') and subordinated debentures are current as of June 30, 2007." That press release also provided that, "RAIT expects no material change in book value per share based on its quarterly estimate of fair value of its portfolio for the quarter ended June 30, 2007."

378. The July 19, 2007 Press release also set forth that, "RAIT expects adjusted earnings per share – diluted to range between \$0.84 to \$0.90 for the quarter ended June 30, 2007."

RAIT expects estimated GAAP earnings per share – diluted to range between \$0.43 to \$0.46 for the quarter ended June 30, 2007.”

379. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company’s underwriting and risk management standards were not designed to minimize investment risk as stated, the Company’s loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company’s net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

**M. The August 1, 2007 Press Release And August 2, 2007 Form 8-K**

380. On or about August 1, 2007 RAIT issued a press release entitled, “RAIT Financial Trust Announces Second Quarter 2007 Results” (the “August 1, 2007 Press Release”), which it attached to its Form 8-K filed on or about August 2, 2007 (the “August 2, 2007 Form 8-K”). Salmon signed the August 2, 2007 Form 8-K.

381. In the August 1, 2007 Press Release, RAIT reported “[n]et investment income of \$52.4 million for the quarter ended June 30, 2007 as compared to \$17.1 million for the quarter ended June 30, 2006.” RAIT also reported “GAAP net income available to common shares for the three months ended June 30, 2007 of \$27.4 million, or total earnings per share – diluted of \$0.45 based on 61.2 million weighted average shares outstanding – diluted,” as well as “GAAP net income available to common shares for the six months ended June 30, 2007 of \$47.7 million,

or total earnings per share – diluted of \$0.79 based on 60.8 million weighted average shares outstanding – diluted.”

382. Further, RAIT reported the following information for the three month period ended June 30, 2007: net income of approximately \$29.9 million; net investment income of approximately \$52.4 million; net income from continuing operations of approximately \$29.8 million; and investments in securities valued at approximately \$6.07 billion, including available-for-sale securities worth approximately \$4.62 billion and security-related receivables of approximately \$1.45 billion.

383. RAIT also reported the following information for the six month period ended June 30, 2007: net income of approximately \$52.8 million; net investment income of approximately \$95.4 million; net income from continuing operations of approximately \$52.6 million; net income available to common shares of \$47.7 million; earnings per share – diluted of \$0.79; and investments in securities valued at approximately \$6.07 billion, including available-for-sale securities worth approximately \$4.62 billion and security-related receivables of approximately \$1.45 billion.

384. The August 1, 2007 Press Release reflected that the financial information set forth above was prepared in accordance with GAAP.

385. Finally, RAIT reported a loss reserve of only \$845,000 and no other-than-temporary, asset impairment charges for the second quarter of 2007.

386. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the

Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

N. **The August 2, 2007 Conference Call**

387. As described above, on August 2, 2007, RAIT held a conference call with analysts to discuss its earnings for the second quarter of 2007, as well as its exposure to certain subprime and Alt-A lenders and homebuilders from which it had purchased TruPS and/or subordinated debt. In addition to the other false statements already described above, during that call, Daniel Cohen stated that, "Last quarter we generated \$52 million of net interest margin and expected before our real losses from credit events to do approximately the same this quarter."

388. Defendant Salmon stated as follows:

First, from an investment portfolio standpoint, our primary earnings driver, as Daniel mentioned, is the net investment income from our portfolio which reached \$52.4 million generated during the second quarter on an investment portfolio basis of approximately \$12.7 billion. . . . On the TruPS production side, we increased assets this quarter by \$677 million and approximately \$1.4 billion on a year to date basis. Again, the \$12.7 billion portfolio reflects approximately a 16.7% return on these investments, which are already on our balance sheet and funded on a match funded basis for the long-term. . . . Now from an adjusted earnings standpoint, we begin with the net income available to common shares, which this period increased to \$27.4 million, compared to \$18.3 million in the comparative quarter a year ago, and to \$47.7 million as compared to \$36.3 million on a year to date basis. This six month result represents a 31% increase on a year over year basis.

On a per share basis, we are reporting \$0.45 of net income on a per diluted basis for the second quarter of '02, I'm sorry, of '07. We have supplemented these GAAP earnings per share by reporting our estimated REIT-taxable income of \$54 million representing approximately \$0.88 per

diluted share for this quarter as compared to \$25.8 million or \$0.92 per diluted share in the first — in the same quarter for '06. . . .

This results in our \$0.87 of adjusted earnings per diluted share that we are reporting.

389. These statements were untrue statements of material fact and omitted to state material facts required therein or necessary to make the statements contained therein not misleading for all of the reasons described herein. Contrary to the above-referenced statements, the Company was exposed to significant risk from failing or troubled real estate companies, the Company's underwriting and risk management standards were not designed to minimize investment risk as stated, the Company's loan loss reserves and/or other-than-temporary, asset impairment charges were materially understated, the Company was not in compliance with GAAP, and the Company's net income, net income from continuing operations, net income available to common shareholders, earnings per share-diluted, and carrying valuation of investments in securities were overstated.

#### **XIV. LOSS CAUSATION**

390. During the Class Period, as detailed above, the prices of RAIT's securities were artificially inflated as a direct result of Defendants' misrepresentations and omissions regarding the Company. When the truth about the Company was finally revealed to the market at the end of the Class Period, the inflation that had been caused by Defendants' misrepresentations and omissions was eliminated from the price of the Company's securities as a direct and proximate result of the corrective disclosures, causing significant damages to Lead Plaintiff and other Class members. As set forth above, RAIT's securities consistently reacted to information being disclosed into the marketplace.

**A. RAIT Common Stock**

391. On July 31, 2007, the day that RAIT announced its exposure to AHM, RAIT common stock opened at \$16.20 per share and closed at \$10.36 per share – a drop of approximately 36% – on heavy trading volume. On August 1, 2007, the day of TheStreet.com article described above, RAIT common stock opened at \$10.00 and closed at \$9.82, again on heavy trading volume. On August 2, 2007, the day of RAIT’s conference call and a second TheStreet.com article described above, RAIT common stock opened at \$10.98 and closed at \$9.54 on heavy trading volume. Finally, on August 3, 2007, the date that an analyst published a note after speaking “at length with [RAIT] management” in which the analyst attempted to summarize RAIT’s true exposure to the subprime, Alt-A, and homebuilders markets, as described in above, RAIT common stock opened at \$9.18 and closed at \$6.32 – another 31% drop – also on heavy trading volume. In sum, as the corrective disclosures were made, RAIT common stock fell from \$16.20 per share on July 31, 2007 to \$6.32 per share on August 3, 2007 – a drop of approximately 61%.

**B. RAIT Series A Preferred Shares**

392. On July 31, 2007, RAIT Series A Preferred Shares opened at \$15.14 and fell to \$11.17 on heavy trading volume – a drop of approximately 26%. On August 1, 2007, RAIT Series A Preferred Shares opened at \$10.50 and fell to \$8.05 before rebounding to \$13.00, again on heavy trading volume. On August 2, 2007, RAIT Series A Preferred Shares opened at \$14.01 and closed at \$13.91 on heavy volume. On August 3, 2007, RAIT Series A Preferred Shares opened at \$13.50 and closed at \$11.30, a drop of approximately another 16%, also on heavy trading volume. In total, RAIT Series A Preferred Shares fell from \$15.14 on July 31, 2007 to \$11.30 on August 3, 2007 – a tumble of approximately 25.4%.

**C. RAIT Series B Preferred Shares**

393. On July 31, 2007, RAIT Series B Preferred Shares opened at \$16.92 and fell to \$11.65 on heavy trading volume, for a drop of approximately 31%. On August 1, 2007, RAIT Series B Preferred Shares opened at \$10.75 and fell to \$8.75 before rebounding to \$14.10, again on heavy trading volume. On August 2, 2007, RAIT Series B Preferred Shares opened at \$18.00 and closed at \$14.85 on heavy volume – a drop of approximately another 17.5%. On August 3, 2007, RAIT Series B Preferred Shares opened at \$15.00 and closed at \$12.02, also on heavy trading volume – a decline of approximately another 20%. In total, RAIT Series B Preferred Shares fell from \$16.92 on July 31, 2007 to \$12.02 on August 3, 2007 – a drop of approximately 29%.

**D. RAIT Series C Preferred Shares**

394. On July 31, 2007, RAIT Series C Preferred Shares opened at \$21.50 and fell to \$17.50 on heavy trading volume, for a drop of approximately 19%. On August 1, 2007, RAIT Series C Preferred Shares opened at \$17.25 and fell to \$15.00, again on heavy trading volume, for another drop of approximately 13%. On August 2, 2007, RAIT Series C Preferred Shares opened at \$15.60 and closed at \$17.25 on heavy volume. On August 3, 2007, RAIT Series C Preferred Shares opened at \$17.05 and fell approximately 16% to close at \$14.35, also on heavy trading volume. In total, RAIT Series C Preferred Shares fell from \$21.50 on July 31, 2007 to \$14.35 on August 3, 2007 – a drop of approximately 33%.

**E. RAIT Notes**

395. On July 30, 2007, prior to the corrective disclosures described above, RAIT Notes traded at \$88.57. On August 1, 2007, RAIT Notes traded at \$53.54. On August 2, 2007, RAIT Notes traded at \$53.42. Thus, RAIT Notes fell from \$88.57 on July 30, 2007 to \$53.42 on

August 2, 2007 – a drop of approximately 40%. Further, by August 6, 2007, RAIT Notes had fallen even further to \$48.31; in sum, then, RAIT Notes fell from \$88.57 on July 30, 2007 to \$48.31 on August 6, 2007 – a drop of approximately 45.5%

**XV. INAPPLICABILITY OF THE STATUTORY SAFE HARBOR**

396. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false or misleading statements pleaded in this Complaint. The statements alleged to be false or misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false or misleading may be characterized as forward-looking, they were not adequately identified as forward-looking statements when made, and there were no meaningful cautionary statements identifying important facts that could cause actual results to vary materially from those in the purportedly forward-looking statements. To the extent that the statutory safe harbor is intended to apply to any forward-looking statements pleaded herein, defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the Section 10(b) Defendants had actual knowledge that the particular forward-looking statement was materially false or misleading.

**XVI. DUTY TO UPDATE AND/OR CORRECT MISLEADING STATEMENTS**

397. In addition, to the extent any of the statements set forth above were accurate when made but became inaccurate or misleading because of subsequent events or newly discovered information, and Defendants knew or should have known that investors were relying on the inaccurate information, Defendants accordingly had a duty to correct and/or update any such statements, including the January 2007 Registration Statement, the July 2007 Registration Statement, and all documents employed in connection with the April 2007 Note Offering.



## **XVII. PRESUMPTION OF RELIANCE**

398. The market for RAIT's securities was, at all times, an efficient market that promptly digested current information with respect to the Company from publicly-available sources and reflected such information in the prices of the Company's securities. Throughout the Class Period (1) RAIT's stock was actively traded on the NYSE; (2) the market price of RAIT's securities reacted promptly to the dissemination of public information regarding the Company; (3) securities analysts followed and published research reports regarding RAIT that were publicly available to investors; (4) the average weekly trading volume for RAIT's stock during the Class Period was approximately 10 percent of average total outstanding shares; and (5) the Company's market capitalization was in excess of \$1.5 billion during the Class Period.

399. Throughout the Class Period, the Company was consistently followed by securities analysts as well as the business press. During this period, RAIT and certain other Defendants continued to pump materially false information into the marketplace regarding the financial condition of the Company. This information was promptly reviewed and analyzed by the ratings agencies, analysts, and institutional investors; assimilated into the ratings agencies' ratings for the convertible notes and into analysts and investors' analysis of the creditworthiness and the probability of default on the notes; and reflected in the market price of the notes.

400. In addition, a secondary market developed for the Company's Notes. The market for the Notes consisted exclusively of institutional investors and other sophisticated investors. These institutional investors employed professionals who read and analyzed all relevant and publicly available information regarding the Company and the Notes, and promptly adjusted the prices at which they were willing to buy and sell the Notes accordingly. In addition, because the Notes were convertible under certain conditions to shares of the Company's common stock, the

notes reacted to the same information and market disclosures that impacted the trading of RAIT's common stock.

401. As a result of the misconduct alleged herein, the market for RAIT's securities was artificially inflated. Under such circumstances, the presumption of reliance available under the "fraud-on-the-market" theory applies. Lead Plaintiff and the other Class members justifiably relied on the integrity of the market price for the Company's securities and were substantially damaged as a direct and proximate result of their purchases of RAIT securities at artificially inflated prices and the subsequent decline in the price of those securities when the truth was disclosed.

402. Had Lead Plaintiff and the other members of the Class known of the material adverse information not disclosed by the Defendants, or been aware of the truth behind the Defendants' material misstatements, they would not have purchased RAIT's securities at artificially inflated prices.

**XVIII. CLAIMS FOR RELIEF UNDER THE EXCHANGE ACT**

**COUNT SEVEN**

**For Violations Of Section 10(b) Of The Exchange Act, Against RAIT And Officer Defendants Daniel Cohen, Betsy Cohen And Salmon**

403. Lead Plaintiff repeats and realleges each of the allegations set forth above as if fully set forth herein.

404. This claim is brought pursuant to Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, on behalf of Lead Plaintiff and members of the Class against Defendants RAIT, Daniel Cohen, Betsy Cohen and Salmon (as defined above, the Section 10(b) Defendants).

405. As alleged herein, throughout the Class Period, the Section 10(b) Defendants, individually and in concert, directly and indirectly, by the use of the means or instrumentalities

of interstate commerce, the mails and/or the facilities of national securities exchanges, made untrue statements of material fact and/or omitted to state material facts necessary to make their statements not misleading and carried out a plan, scheme and course of conduct, in violation of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder. These Defendants intended to and did, as alleged herein: (i) deceive the investing public, including Lead Plaintiff and other members of the Class; (ii) artificially inflate and maintain the price of RAIT's securities, including its common stock, preferred stock and Notes; and (iii) cause Lead Plaintiff and the members of the Class to purchase RAIT securities at artificially inflated prices.

406. The Section 10(b) Defendants were individually and collectively responsible for making the false and misleading statements and omissions alleged herein and having engaged in a plan, scheme and course of conduct designed to deceive Lead Plaintiff and members of the Class, by virtue of having prepared, approved, signed and/or disseminated documents and/or oral statements that contained untrue statements of material fact and/or omitted facts necessary to make the statements therein not misleading.

407. As set forth above, these Defendants made their false and misleading statements and omissions and engaged in the fraudulent activity described herein knowingly and intentionally, or in such a deliberately reckless manner as to constitute willful deceit and fraud upon Lead Plaintiff and the other members of the Class who purchased RAIT's securities, including its common stock, preferred stock and Notes during the Class Period. During the Class Period, the Section 10(b) Defendants occupied executive-level positions at RAIT and were privy to non-public information concerning the Company. Throughout the Class Period, the Section 10(b) Defendants had a duty to disclose new information that came to their attention, which rendered their prior statements to the market materially false and misleading.

408. In ignorance of the false and misleading nature of these Defendants' statements and omissions, and relying directly or indirectly on those statements or upon the integrity of the market price for RAIT's securities, Lead Plaintiff and other members of the Class purchased RAIT securities at artificially inflated prices during the Class Period. But for the fraud, Lead Plaintiff and members of the Class would not have purchased RAIT securities at artificially inflated prices. As set forth herein, when the true facts were subsequently disclosed, the price of RAIT's securities, including its common stock, preferred stock, and Notes declined precipitously and Lead Plaintiff and members of the Class were harmed and damaged as a direct and proximate result of their purchases of RAIT securities at artificially inflated prices, and the subsequent decline in the price of RAIT's securities when the truth was disclosed. This claim is brought within the applicable statute of limitations.

409. By reason of the foregoing, Defendants RAIT, Daniel Cohen, Betsy Cohen and Salmon are liable to Lead Plaintiff and the members of the Class for violations of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

#### **COUNT EIGHT**

#### **For Violations Of Section 20(a) Of The Exchange Act, Against Defendants Daniel Cohen, Betsy Cohen And Salmon**

410. Lead Plaintiff repeats and realleges each of the allegations set forth above as if fully set forth herein.

411. This claim is brought pursuant to Section 20(a) of the Exchange Act against Defendants Daniel Cohen, Betsy Cohen and Salmon on behalf of Lead Plaintiff and members of the Class.

412. RAIT violated Section 10(b) and Rule 10b-5 promulgated thereunder by making false and misleading statements in connection with the purchase and sale of securities and by

participating in a fraudulent scheme and course of business or conduct throughout the Class Period. This fraudulent conduct was undertaken with scienter and the Company is charged with the knowledge and scienter of Defendants Daniel Cohen, Betsy Cohen, Salmon, and others who knew of or acted with deliberate reckless disregard of the falsity of the Company's statements and the fraudulent nature of its scheme during the Class Period.

413. As described in more detail above, Defendants Daniel Cohen, Betsy Cohen and Salmon were controlling persons of RAIT during the Class Period due to their senior executive positions therewith; their direct involvement in its day-to-day operations, including its financial reporting and accounting functions; and their signatures on and participation in the preparation and dissemination of the Company's public filings. By virtue of the foregoing, Defendants Daniel Cohen, Betsy Cohen and Salmon each had the power to influence and control, and did influence and control, directly or indirectly, the decision-making of RAIT, including the content of its financial statements and public statements.

414. As set forth above, these Defendants culpably participated in the fraudulent scheme described herein, in that they each acted knowingly and intentionally, or in such a deliberately reckless manner, as to constitute willful deceit and fraud upon Lead Plaintiff and the other members of the Class who purchased RAIT securities during the Class Period.

415. In ignorance of the false and misleading nature of the Company's statements and omissions, and relying directly or indirectly on those statements or upon the integrity of the market price for RAIT securities, Lead Plaintiff and other members of the Class purchased RAIT's securities, including RAIT's common stock, preferred stock, and Notes at artificially inflated prices during the Class Period. But for the fraud, Lead Plaintiff and members of the Class would not have purchased RAIT securities at artificially inflated prices. As set forth

herein, when the true facts were subsequently disclosed, the price of RAIT's securities, including its common stock, preferred stock, and Notes, declined precipitously and Lead Plaintiff and members of the Class were harmed and damaged as a direct and proximate result of their purchases of RAIT securities at artificially inflated prices, and the subsequent decline in the price of RAIT's securities when the truth was disclosed. This claim is brought within the applicable statute of limitations.

416. By reason of the foregoing, Defendants Daniel Cohen, Betsy Cohen and Salmon are liable to Lead Plaintiff and the members of the Class for violations of Section 20(a) of the Exchange Act.

**XIX. PRAYER FOR RELIEF**

417. Wherefore, Lead Plaintiff prays for relief and judgment as follows:

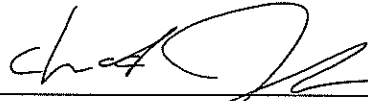
- A. Declaring this action to be a proper class action pursuant to Rule 23(a) and (b)(3) of the Federal rules of Civil Procedure on behalf of the Class defined herein;
- B. Awarding Lead Plaintiff and the Class compensatory damages and/or rescission;
- C. Awarding Lead Plaintiff and the Class pre-judgment and post-judgment interest, as well as reasonable attorneys' fees, expert witness fees and other costs;
- D. Awarding Lead Plaintiff and the Class the fees and expenses incurred in this action, including expert witness fees and attorneys' fees; and
- E. Awarding such other relief as this Court may deem just and proper.

**XX. JURY TRIAL DEMAND**

418. Lead Plaintiff hereby demands a trial by jury in this action of all issues so triable.

Dated: January 4, 2008

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