

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

FORTRESS CREDIT CORP., FORTRESS  
CREDIT OPPORTUNITIES I LP,

Plaintiffs,

-against-

RUSKIN MOSCOU FALTISCHEK P.C.,

Defendant.

Index No.:

Date Purchased:

**SUMMONS**

Plaintiffs designate New York County as the  
place of trial

The basis of venue is Plaintiffs' principal place  
of business:  
1345 Avenue of the Americas  
New York, NY 10019

**TO THE ABOVE-NAMED DEFENDANT**

RUSKIN MOSCOU FALTISCHEK P.C.  
1425 RXR Plaza  
Uniondale, New York 11556

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy  
of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on  
the Plaintiffs' Attorneys within 20 days after the service of this summons, exclusive of the day of service  
(or within 30 days after the service is complete if this summons is not personally delivered to you within  
the State of New York); and in case of your failure to appear, judgment will be taken against you by  
default for the relief demanded in the complaint.

Dated: New York, New York  
July 20, 2010

KASOWITZ, BENSON, TORRES  
& FRIEDMAN LLP

By: 

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**COMPLAINT**

Plaintiffs Fortress Credit Corp. (“Fortress Credit”) and Fortress Credit Opportunities I LP (“Fortress Opportunities”) (together, “Fortress”), for their complaint against defendant Ruskin Moscou Faltischek, P.C. (“Ruskin Moscou”), allege, upon knowledge as to themselves and otherwise upon information and belief, as follows:

**PRELIMINARY STATEMENT**

1. This action arises out of the shocking recklessness, negligence and malpractice of the law firm Ruskin Moscou in issuing to Fortress, an alternative investment manager, utterly false legal opinion letters (the “Legal Opinions”) that were used by felon and disbarred attorney Marc S. Dreier (“Dreier”) to defraud Fortress as part of his massive criminal Ponzi scheme. In clear and reckless violation of the recognized standards of professional duty, Ruskin Moscou issued the Legal Opinions without doing even the most basic diligence concerning the clients whom it purported to represent or the transaction on which it purported to opine. As a result, Fortress -- which Ruskin Moscou knew would rely on its Legal Opinions -- lost over \$50 million.

2. In its Legal Opinions, Ruskin Moscou provided Fortress with false assurances of the bona fides of a loan transaction and extensions thereof proposed by Dreier. Those assurances led Fortress to agree in 2006 and 2007 to loan over \$50 million to what it believed were certain affiliated companies controlled by Sheldon Solow (collectively "Solow Realty"), a major New York real estate developer who Ruskin Moscou purported to represent. In fact, the loan transaction was an utter sham, the proceeds of which Dreier misappropriated for his own use. Had Ruskin Moscou not falsely told Fortress in its Legal Opinions that, among other things, it was counsel to Solow Realty -- though, on information and belief, it never even bothered to confirm this relationship with a single telephone call or e-mail to anyone at Solow Realty -- and that the loan documents had been "duly executed and delivered" by Solow Realty -- when in fact they were forgeries that were delivered by Dreier -- Fortress would never have entered into the loan transaction and extensions.

3. In January 2006, Fortress agreed to loan \$25 million to Solow Realty to fund a purported real estate investment venture to be managed by Dreier and funded by Solow Realty (the "January 2006 Loan"). The loan was to be for a one-year term, with quarterly interest-only payments at an annual rate of 11%. In late 2006, Fortress agreed to increase the 2006 loan to Solow Realty by an additional \$35 million, \$10 million of which Fortress assigned to an unaffiliated entity, for a total principal amount of \$50 million (the "December 2006 Loan Increase"). That 2006 loan was extended in December 2007 for an additional one-year term (the "December 2007 Extension").

4. As a condition to entering into each of the January 2006 Loan, the December 2006 Loan Increase and the December 2007 Extension, Fortress required that it receive a legal opinion from independent counsel to Solow Realty -- *i.e.*, counsel independent of Dreier --

assuring Fortress of the bona fides of Solow Realty's participation in the transaction and relevant loan agreement.

5. In all three of its Legal Opinions, Ruskin Moscou represented to Fortress that it was "special transaction counsel" to Solow Realty. Ruskin Moscou knew that this statement and its independence, which was an express condition of each of the loan transactions at issue, were material to Fortress. In fact, this fundamental basis for the Legal Opinions -- that Ruskin Moscou was acting as independent counsel to Solow Realty -- was entirely false. Ruskin Moscou had no attorney-client relationship with Solow Realty; indeed, upon information and belief, no one at the Ruskin Moscou law firm ever communicated with any officer, principal or employee of Solow Realty with respect to the January 2006 Loan, December 2006 Loan Increase or December 2007 Extension. Thus, Ruskin Moscou had no valid basis to render its Legal Opinions -- a fact it knowingly concealed from Fortress. Ruskin Moscou's misrepresentations to Fortress of its status as purportedly independent counsel to Solow Realty, and its failure to disclose to Fortress that it was never retained by and never communicated with Solow Realty, were an integral and necessary part of the success of Dreier's criminal and fraudulent scheme.

6. Fortress required the Legal Opinions from Ruskin Moscou in order to, among other things, obtain assurances regarding the borrower (Solow Realty), including assurances that Solow Realty carried out the necessary corporate actions to make the loan documents valid and binding on Solow Realty. Hence, Ruskin Moscou assured Fortress in its Legal Opinions that it had verified and confirmed that Solow Realty's relevant corporate formalities were in order, that Solow Realty had the authority to enter into the transaction, that it had complied with the requisite formalities in executing the transaction documents, and that it had "duly executed and delivered" these documents -- all of the assurances that a lender would expect to receive in this

type of transaction. However, Ruskin Moscou, which knew it was required to be independent counsel, did absolutely nothing to confirm the truth of any of these assurances, other than rely on Dreier -- the very party from whom it was supposed to be independent -- and failed to confirm any of the facts underlying its Legal Opinions with anyone from Solow Realty. Instead, Ruskin Moscou simply acted as an "opinion mill" for Dreier, providing him with on-demand legal opinion letters that helped propel and perpetuate his Ponzi scheme.

7. The reality is that Ruskin Moscou's assurances to Fortress were utterly false. In fact, the documents about which Ruskin Moscou opined were falsified and forged by Dreier -- a fact Ruskin Moscou should have and would have uncovered had it not recklessly disregarded its professional obligations and its own assurances to Fortress.

8. Having obtained the loan proceeds from Fortress under false pretenses, with Ruskin Moscou's crucial assistance, Dreier stole those proceeds, converting them for his own use in his criminal enterprise. He would have been unable to do so had Ruskin Moscou exercised independence and professional judgment, as it was required to do and as it had falsely assured Fortress it had done.

9. Accordingly, Fortress brings this action for fraud, negligent misrepresentation, malpractice, negligence and breach of fiduciary duty in order to recover compensatory damages in excess of \$50 million, as well as punitive damages arising from Ruskin Moscou's egregious misconduct.

#### **JURISDICTION AND VENUE**

10. Jurisdiction is proper pursuant to CPLR §§ 301 and 302(a), as the action arises out of tortious conduct committed within the State of New York.

11. Venue is proper pursuant to CPLR § 503(a).

## FACTS

### **A. The Parties, Dreier And Solow Realty**

12. Plaintiff Fortress Credit is a Delaware corporation, with its principal place of business at 1345 Avenue of the Americas, New York, New York.

13. Plaintiff Fortress Opportunities is a Delaware limited partnership, with its principal place of business at 1345 Avenue of the Americas, New York, New York. Fortress Credit and its affiliates have assigned their rights under the January 2006 Loan to Fortress Opportunities.

14. Defendant Ruskin Moscou, a law firm, is a New York professional corporation, with its principal place of business at 1425 RXR Plaza, Uniondale, New York.

15. Prior to his arrest in 2008, non-party Marc S. Dreier controlled Dreier LLP, then a national 250-lawyer law firm based in New York. As of that time, Dreier had acted as litigation counsel for Sheldon Solow and his real estate development companies for a number of years. Dreier was arrested on or about December 7, 2008 on charges stemming from his role in defrauding numerous hedge funds, including Fortress, among other victims. He was criminally prosecuted on federal charges of securities and wire fraud in the United States District Court for the Southern District of New York, in the case *United States v. Dreier*, 09-CR-0085. On May 11, 2009, he was convicted upon a plea of guilty and was later sentenced to 20 years' imprisonment. On October 8, 2009, Dreier was disbarred from the practice of law in the State of New York by order of the New York Appellate Division, First Judicial Department.

16. Non-party Solow Realty -- consisting of non-parties Solow Realty & Development Company LLC (“Solow Realty & Development”), Solow Building Company LLC (“Solow Building”), Solow Management Corp. (“Solow Management”), and SHS Property Corp. (“SHS”) -- are affiliated real estate companies controlled by Sheldon Solow, a New York real estate developer. During the time in question, Steven M. Cherniak was the Chief Executive Officer of each of the Solow Realty entities; his signature was forged by Dreier on numerous transaction documents at issue in this action. Following the arrest of Dreier and exposure of his fraud, Solow Realty stated that it had no knowledge of and was never party to those documents.

**B. The January 2006 Loan Transaction, Loan Increase And Extension**

**(i) The January 2006 Loan**

17. Affiliates of Fortress began discussions with Dreier regarding potential loan transactions in or about November 2005. Dreier contacted Fortress, and, claiming to act on behalf of Solow Realty and himself, proposed that Fortress participate in a short-term note program to finance the purchase of foreign real estate assets. Under the proposed transaction, Fortress would enter a loan agreement with Solow Realty as the borrower and with Dreier as guarantor, providing a limited recourse guarantee.

18. Fortress retained the law firm Skadden, Arps, Slate, Meagher & Flom, LLP (“Skadden Arps”) as transaction counsel and ultimately agreed to enter into this transaction.

19. As negotiations progressed, Fortress told Dreier that it required a legal opinion and that such opinion must be obtained from independent counsel for Solow Realty, *i.e.*, counsel independent of Dreier, who was himself to be a principal in the transaction and would be providing a limited recourse guarantee. This requirement was memorialized in the terms of the

loan agreement, which as a condition precedent required that Fortress receive an opinion of “independent counsel” to Solow Realty and the guarantors.

20. Dreier informed Fortress that Solow Realty would retain the law firm Ruskin Moscou to act as “special transaction counsel” and to provide the required legal opinion.

21. In connection with this arrangement, Dreier contacted Eric Rubenstein, a partner with Ruskin Moscou. On behalf of Ruskin Moscou, and in clear dereliction of applicable professional obligations, Rubenstein provided the Legal Opinions on terms dictated by Dreier and communicated solely with Dreier rather than contacting Solow Realty directly.

22. Ruskin Moscou established a routine pattern of providing Dreier with legal opinion letters in connection with his now admitted Ponzi scheme, without, on information and belief, ever meeting with its client (here, purportedly, Solow Realty) or obtaining directly from the client an executed retention agreement. So long as Ruskin Moscou received its required fee from Dreier, it continued to provide Dreier with clean legal opinions, in the form and manner prescribed by Dreier.

23. On or about the day of the January 13, 2006 closing of the January 2006 Loan, Fortress received, among other things, an executed term loan agreement (the “2006 Loan Agreement”), a term note (the “January 2006 Term Note”), a limited recourse guarantee from SHS Property Corp. (a Solow Realty entity), and a limited recourse personal guarantee from Dreier. All of the documents to which Solow Realty, as borrower and guarantor, was a signatory appeared to have been executed by Solow Realty. Some of the documents bore what appeared to be the signatures of Sheldon Solow, the principal of Solow Realty, and Steven Cherniak, as CEO of Solow Realty.

24. Ruskin Moscou, claiming to be “special transaction counsel” to Solow Realty, provided Fortress the legal opinion letter for the January 2006 Loan (the “January 2006 Legal Opinion”). Ruskin Moscou failed, however, to disclose to Fortress that it had never contacted Solow Realty directly, but rather, had only reviewed material provided by Dreier and had only communicated with Dreier. The January 2006 Legal Opinion stated that, among other things, Ruskin Moscou was counsel to Solow Realty, that the transaction documents had been “executed and delivered” by Solow Realty, and that the documents were “legal, valid, and binding” upon Solow Realty. The 2006 Loan Agreement that Ruskin Moscou claimed to review, moreover, explicitly referenced the requirement of an opinion from “independent counsel.” In fact, as Dreier later confessed and according to Solow Realty’s public statements, the Ruskin Moscou assurances were false: the documents had not been “executed and delivered” by Solow Realty, and were not “legal, valid, and binding” upon Solow Realty. Ruskin Moscou received all of the documents on which it opined and relied directly from Dreier -- even those documents purportedly executed by Solow Realty.

25. In reliance on Ruskin Moscou’s January 2006 Legal Opinion and unaware of the falsehoods therein, Fortress transferred approximately \$25 million to a Dreier LLP attorney trust account (the “Escrow Account”) designated for the “Solow Note” on or about January 13, 2006.

26. In the ensuing months, Dreier timely made interest payments purportedly on behalf of Solow Realty to Fortress.

(ii) **The December 2006 Loan Increase**

27. As the maturity date of the one-year January 2006 Term Note neared, instead of repaying the principal of the loan, Dreier requested, purportedly on behalf of Solow Realty, a

one-year extension and an increase in the principal loan amount to \$60 million. In considering whether to increase the principal amount of the loan, Fortress again retained Skadden Arps. In the course of the negotiations of the terms of the amended note, Dreier again told Fortress and Skadden Arps that Solow Realty wanted Dreier to handle the matter on its behalf. After conducting additional due diligence, Fortress agreed to loan an additional \$35 million to Solow Realty.

28. In connection with this transaction, Fortress again required that Solow Realty provide an independent legal opinion and again the Ruskin Moscou firm issued a second Legal Opinion, dated December 19, 2006 (the "December 2006 Legal Opinion"). Like the January 2006 Legal Opinion, the December 2006 Legal Opinion issued by Ruskin Moscou was false.

29. In reliance on the Ruskin Moscou December 2006 Legal Opinion, Fortress agreed to the modification and extension in December 2006 executing, among other loan documentation, an amended and restated term note (the "Amended and Restated Term Note"). Prior to closing, on or about December 19, 2006, Fortress received, among other things, the amended and restated term note, which appeared to have been signed by Cherniak as CEO of Solow Realty, and then wired approximately \$35 million in additional funds to the Escrow Account.

30. On December 29, 2006, \$10 million of the additional \$35 million loan amount was assigned by Fortress to two subsidiaries of an unaffiliated hedge fund through an assignment and acceptance agreement.

**(iii) The December 2007 Extension**

31. On or about December 19, 2007, the parties executed a second amended term note (the “Second Amended and Restated Note”), extending the term of the loan through December 2008. In connection with this extension, Ruskin Moscou, again purportedly as “special transaction counsel” to Solow Realty and to Dreier, issued a third false Legal Opinion, dated December 21, 2007 (the “December 2007 Legal Opinion”), on which Fortress relied, again unaware of its falsity, in agreeing to this extension of the term of the 2006 Loan.

32. Once again, the assurances in this third Legal Opinion were false: the December 2007 Extension documents had not been signed or authorized by Solow Realty. And further, Ruskin Moscou continued to fail to disclose to Fortress that it was not independent and that it had never contacted Solow Realty directly, but rather, had only reviewed material provided by, Dreier and had only communicated with him.

33. Purportedly on behalf of Solow Realty, Dreier made interest payments to Fortress on time as required by the 2006 Loan Agreement, as later amended by the 2006 Amended and Restated Note and the 2007 Second Amended and Restated Note.

34. Ruskin Moscou was aware at all times that Fortress relied and expected Ruskin Moscou to validate the 2006 Loan Agreement and the subsequent December 2006 Loan Increase and December 2007 Extension with Ruskin Moscou’s purported client, Solow Realty, and to do so independently of Dreier. Unbeknownst to Fortress, and in clear dereliction of applicable professional obligations, Ruskin Moscou provided the Legal Opinions on the terms dictated by Dreier and communicated solely with Dreier rather than contacting Solow Realty directly.

35. Indeed, in issuing legal opinions, law firms commonly have personal knowledge of the matters as to which they are opining: For example, they often had a role in forming the entities that they later affirm in legal opinion letters have been validly formed; they are commonly involved in drafting the very instruments that empower the officers as to whom they then opine are empowered to execute documents; and they often obtain signed certifications from the client, after consultation, to document that specific factual items have been understood and verified by the client and internal procedures duly followed.

36. Ruskin Moscou did not have any personal knowledge of its purported client, Solow Realty, and, incredibly, in the absence of such knowledge, made no effort to confirm the accuracy or validity of Solow Realty certifications with any officer or principal of its purported client. Instead, Ruskin Moscou's entire effort consisted of forwarding and receiving certifications to and from Dreier -- not Solow Realty. Knowing that Fortress was relying on its Legal Opinions and had specifically required Ruskin Moscou to act as independent counsel, Ruskin Moscou breached its duties to Fortress and violated fundamental standards of professional conduct when it did not -- at any time -- act as independent counsel to Solow Realty and when it failed to disclose this material fact to Fortress.

**C. The False Representations In The Ruskin Moscou Legal Opinions**

37. Each of the three Ruskin Moscou Legal Opinions was expressly addressed to "Fortress Credit Corp." or "Fortress Credit Opportunities I LP," at "1345 Avenue of the Americas, 46<sup>th</sup> Floor, New York, New York," bore the subject line of "Re: Solow Loan," and was signed in the name of "Ruskin Moscou Faltischek, P.C." Copies of the three Ruskin Moscou Legal Opinions are attached hereto as Exhibit A.

38. Ruskin Moscou provided each of its Legal Opinions with the intention, expectation and understanding that Fortress was relying upon these Legal Opinions in agreeing to make the loans. Indeed, each of the Ruskin Moscou Legal Opinions expressly stated that it was to be relied upon by Fortress. (“This Opinion may be relied upon . . . by the Lender . . .”). Had Ruskin Moscou not agreed to provide any of the Legal Opinions to Fortress, Fortress would not have entered into the January 2006 Loan, the December 2006 Loan Increase or the December 2007 Extension. The Ruskin Moscou firm thereby assumed the duty to perform legal services for the benefit of Fortress with the reasonable care, skill and diligence as ordinarily possessed and exercised by other members of the legal profession in the community. However, as described further below, Ruskin Moscou fell woefully short of its responsibilities.

39. The Ruskin Moscou Legal Opinions are substantially identical, and, in issuing each one, Ruskin Moscou made the same material omissions and false statements of fact, with each subsequently issued Legal Opinion serving to conceal the failings and falsehoods of the preceding one.

40. The three Ruskin Moscou Legal Opinions contained the following false statements:

- “We are special transaction counsel to Solow Realty & Development Company . . . Solow Management Corp. . . . and Solow Building Company, . . . as well as SHS Property Corp. . . .”
- “The Loan Documents have been duly executed and delivered by the Loan Parties [including Solow Realty] and constitute the legal, valid and binding

obligations of the Loan Parties [including Solow Realty] enforceable in accordance with their respective terms”;<sup>1</sup>

- “As to certain questions of fact which are material to our opinions expressed herein, we are relying solely upon the information provided by the Loan Parties [including Solow Realty] with respect to such matters, recitals of the Loan documents and representations and warranties of the Loan Parties set forth in the Loan Documents and, although we have no contrary knowledge, we have not conducted any independent investigation regarding such information or undertaken to search the records of any court or governmental agency other than those provided to us by the Loan Parties [including Solow Realty] . . . .”

41. Each of these statements is false: with respect to the loan transaction described herein, Ruskin Moscou was never legal counsel to Solow Realty & Development Company, Solow Management Corp., Solow Building Company, SHS Property Corp. or any other Solow Realty entity or principal. Ruskin Moscou did not examine any certificate of or executed by Solow Realty. And the various loan documents were in fact not executed and delivered by Solow Realty.

42. Furthermore, the Ruskin Moscou Legal Opinions explicitly state that the 2006 Loan Agreement was examined and was “made part” of each opinion letter; the express provisions of the 2006 Loan Agreement required that Solow Realty retain “independent counsel” -- Ruskin

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<sup>1</sup> The quoted language is from the January 2006 Legal Opinion. The other two Legal Opinions also make the same representation: “The Loan Documents have been executed and delivered by the Loan Parties [including Solow Realty] and constitute the legal, valid and binding obligations of the Loan Parties signatory thereto [including Solow Realty] enforceable in accordance with their respective terms.”

Moscou -- and Ruskin Moscou agreed to, and represented to Fortress that it would, act as such. Again, that representation was false: Ruskin Moscou relied solely on Dreier and did not act independently of Dreier.

43. In addition to its misrepresentations of fact, Ruskin Moscou made material omissions in the Legal Opinions and otherwise failed to disclose material facts. Among other things, Ruskin Moscou failed to disclose to Fortress that Ruskin Moscou had not communicated with Solow Realty and, instead, relied exclusively on communications with Dreier. But for Ruskin Moscou's misrepresentations and failure to disclose these basic and material facts to Fortress, Fortress would not have entered into the January 2006 Loan, the December 2006 Loan Increase or the December 2007 Extension.

44. The Legal Opinions include boilerplate qualifications and disclaimers. For example, the Legal Opinions include a commonplace statement that Ruskin Moscou "assumed" the genuineness of signatures and authenticity of documents and thus did not witness the execution of the various loan documents or compare copies to originals. None of these qualifications or assumptions permitted Ruskin Moscou to defraud and mislead Fortress, relieved Ruskin Moscou of its basic duty to actually represent the party it claimed to represent, disclosed or warned that, contrary to its role as "independent" and "special" counsel, it would rely solely on Dreier, or in any way relieved Ruskin Moscou of its basic due diligence obligations to Fortress, for whose benefit Ruskin Moscou issued the Legal Opinions.

**D. Ruskin Moscou's Failure To Independently Confirm With Solow Realty**

45. Ruskin Moscou's exclusive reliance on and delegation of duties to Dreier, and its failure to exercise independent judgment and to communicate directly with Solow Realty, violated applicable standards of due care and professional conduct.

46. It is patently improper to issue a legal opinion unless the factual assurances and opinions therein are based on information obtained from an appropriate source and such information has been assessed using sound professional judgment. By relying solely upon information provided by Dreier and by failing to have any communication whatsoever with its purported client, Solow Realty, Ruskin Moscou acted in violation of proper professional practices and standards, particularly where, as here, it is expressly represented that it would act independently of Dreier.

47. Ruskin Moscou further violated applicable standards of care by failing even to send an engagement letter directly to the supposed client. In fact, in purporting to represent both the borrower (Solow Realty) and the guarantor (Dreier) -- *i.e.*, parties with potentially diverging interests -- Ruskin Moscou had a professional ethical obligation to communicate directly with both purported clients about the potential conflict of interest, and it breached that professional standard when it failed to consult with Solow Realty at all. Ruskin Moscou's failure to communicate at any time with its purported client, Solow Realty, and its failure to disclose this fact to Fortress, thus constituted a breach of Ruskin Moscou's professional duties and applicable legal standards.

48. In further dereliction of its professional duties owed to Fortress, Ruskin Moscou failed to independently verify Dreier's purported (and false) claims to be in communication with

and acting on behalf of Solow Realty. Moreover, in relying on an undisclosed attorney -- Dreier -- to handle all contact with Ruskin Moscou's own purported client, Solow Realty, Ruskin Moscou thereby assumed responsibility for Dreier's role and his malfeasance and wrongdoing.

49. Ruskin Moscou also represented to Fortress that it had relied on a back up certificate purportedly signed by Cherniak on behalf of Solow Realty. In issuing legal opinions, law firms commonly rely on such certificates from their clients or other relevant entities in order to document the firm's investigation regarding factual matters. Ruskin Moscou, by its conduct and communication with Fortress and Fortress's counsel, represented that it had obtained such a certificate directly from Solow Realty. In fact, the certificate had not been obtained from Solow Realty, but from Dreier.

50. In return for this reckless and willful blindness, Ruskin Moscou was well compensated by Dreier. Among other things, Ruskin Moscou profited from a long-term relationship with Dreier, effectively acting as an "opinion mill" for Dreier's fraudulent transactions.

51. Had Ruskin Moscou complied with proper practice and its professional obligations, it would have known that Solow Realty was not its client, was in fact not the borrower, and, contrary to Ruskin Moscou's false Legal Opinions, had neither authorized the loan transaction nor "duly executed or delivered" anything relating to the transaction.

**E. The Revelation Of Dreier's Massive Fraud**

52. In December 2008, Dreier was caught impersonating an officer of another purported borrower in connection with a potential transaction, and was arrested later that same day.

53. Shortly thereafter, it became apparent that Dreier had orchestrated a massive fraud that extended over a period of years. To carry out this fraud, he abused his professional office and reputation to fabricate deceptive schemes to fraudulently obtain millions of dollars from a variety of entities and individuals. At his guilty plea and subsequent sentencing in federal court, Dreier confessed to defrauding numerous victims and to stealing in excess of \$700 million. He was sentenced to 20 years' imprisonment. Neither the so-called "borrower" nor Dreier ever repaid any amount of the principal owed under the 2006 Loan Agreement, as later amended by the Amended and Restated Term Note and the Second Amended and Restated Term Note.

54. Dreier enlisted Ruskin Moscou, among other firms and individuals, to enable him to carry out his criminal enterprise, and Ruskin Moscou itself profited from its participation.

55. It was not until after Dreier was arrested in December 2008 that Fortress discovered Ruskin Moscou's prior assurances to Fortress to be utterly false: the loan documents had not been executed by or delivered from Solow Realty, and the signatures in the names of Sheldon Solow and Cherniak were forgeries. Ruskin Moscou never disclosed to Fortress that it in fact was not independent -- as Fortress requested and as expressly required in the 2006 Loan Agreement, which agreement is expressly referred to and incorporated into each of the three Legal Opinions -- or that, critically and most fundamentally, it had never contacted Solow Realty

directly, but rather, had only reviewed material provided by Dreier and had only communicated with him.

56. Dreier's brazen deception of Fortress would not and could not have been accomplished without Ruskin Moscou's misconduct. Ruskin Moscou knew that its Legal Opinions were a condition of Fortress's participation in the January 2006 Loan, December 2006 Loan Increase and December 2007 Extension, and that Fortress required a legal opinion from independent counsel to Solow Realty and Dreier. Nonetheless, contrary to its clear professional obligations, Ruskin Moscou never confirmed any factual certifications on which Ruskin Moscou purported to rely in issuing its Legal Opinions. Worse yet, Ruskin Moscou never even spoke to its purported client: it never obtained a retention letter directly from any Solow Realty entity or representative nor did anyone from Ruskin Moscou ever communicate directly with any Solow Realty entity or employee regarding the corporate actions on which it opined.

**FIRST CAUSE OF ACTION**  
**(Fraud)**

57. Fortress repeats and realleges paragraphs 1 through 56 above as though fully set forth herein.

58. Ruskin Moscou knew that it was issuing the Legal Opinions for the benefit of Fortress, and that its issuance of the Legal Opinions was intended to induce, and did induce, Fortress to enter into the January 2006 Loan, the December 2006 Loan Increase and the December 2007 Extension.

59. Ruskin Moscou also knew that it was expected and required to act as counsel to Solow Realty, and that it was to do so independently of Dreier. Ruskin Moscou also knew or

was reckless in not knowing that, contrary to its misrepresentations to Fortress, it did not in fact represent Solow Realty.

60. Ruskin Moscou acted with scienter when, with reckless indifference to and disregard for the truth, it falsely stated to Fortress that Ruskin Moscou was legal counsel to and represented Solow Realty, failed to disclose to Fortress the material fact that Ruskin Moscou had never consulted with any officer or principal of Solow Realty about the January 2006 Loan, December 2006 Loan Increase or December 2007 Extension, falsely asserted the validity of the documents supporting the transaction, and made the other misrepresentations and omissions identified herein in the Legal Opinions, all of which were made without any effort to ascertain the truth thereof.

61. Ruskin Moscou knew and intended that Fortress would be relying, and did rely, upon the Legal Opinions in agreeing to the January 2006 Loan, December 2006 Loan Increase and December 2007 Extension.

62. Fortress did not know of the falsity of the misrepresentations and omissions in the Ruskin Moscou Legal Opinions identified herein and reasonably relied upon the representations contained in the Legal Opinions to its detriment in making the loan described herein and transferring those loan proceeds to the Escrow Account, which was to receive the proceeds on behalf of Solow Realty.

63. As a result of Ruskin Moscou's conduct, Fortress sustained damages in excess of \$50 million dollars.

64. An award of punitive damages, moreover, is warranted here, given Ruskin Moscou's gross abuse of trust, professional misconduct, wanton disregard of Fortress's rights, and, through gross dereliction of duty, facilitation of Dreier's criminal fraud.

65. By reason of the foregoing, Fortress is entitled to recover compensatory damages in an amount to be determined at trial but not less than \$50 million and punitive damages in an amount to be determined at trial.

**SECOND CAUSE OF ACTION**  
**(Negligent Misrepresentation)**

66. Fortress repeats and realleges paragraphs 1 through 65 above as though fully set forth herein.

67. In issuing its Legal Opinions described herein to Fortress, Ruskin Moscou established a special legal relationship with Fortress that gave rise to a duty to speak with care, and a duty to exercise reasonable care.

68. By failing to act or speak with reasonable diligence or care in issuing its false Legal Opinions to Fortress, Ruskin Moscou breached its duties to Fortress.

69. Ruskin Moscou also breached its duties when it misrepresented to Fortress that Ruskin Moscou represented Solow Realty, when it did not, and failed to disclose to Fortress the material fact that Ruskin Moscou had never consulted with any officer or principal of Solow Realty about the January 2006 Loan, December 2007 Loan Increase or December 2007 Extension.

70. Ruskin Moscou knew and intended that Fortress would be relying, and did rely, upon the Ruskin Moscou Legal Opinions in agreeing to the January 2006 Loan, December 2006 Loan Increase and December 2007 Extension.

71. As a result of Ruskin Moscou's conduct, Fortress sustained damages in excess of \$50 million dollars.

72. An award of punitive damages, moreover, is warranted here, given Ruskin Moscou's gross abuse of trust, professional misconduct, wanton disregard of Fortress's rights, and, through gross dereliction of duty, facilitation of Dreier's criminal fraud.

73. By reason of the foregoing, Fortress is entitled to recover compensatory damages in an amount to be determined at trial but not less than \$50 million and punitive damages in an amount to be determined at trial.

**THIRD CAUSE OF ACTION**  
**(Legal Malpractice)**

74. Fortress repeats and realleges paragraphs 1 through 73 above as though fully set forth herein.

75. As attorneys retained to provide legal opinions expressly for the benefit of Fortress, Ruskin Moscou owed Fortress the duty to provide legal services, representation, advice and counsel with the skill and ability reasonably to be expected from a duly-licensed attorney and/or law firm engaged in the practice of law within the State of New York.

76. In issuing the false Legal Opinions, Ruskin Moscou committed legal malpractice by failing to exercise the skill and ability reasonably to be expected from a duly-licensed attorney and/or law firm engaged in the practice of law within the State of New York.

77. Ruskin Moscou knew and intended that Fortress would be relying, and did rely, upon the Ruskin Moscou Legal Opinions in agreeing to the January 2006 Loan, December 2006 Loan Increase and December 2007 Extension.

78. As a result of Ruskin Moscou's conduct, Fortress sustained damages in excess of \$50 million dollars.

79. An award of punitive damages, moreover, is warranted here, given Ruskin Moscou's gross abuse of trust, professional misconduct, wanton disregard of Fortress's rights, and, through gross dereliction of duty, facilitation of Dreier's criminal fraud.

80. By reason of the foregoing, Fortress is entitled to recover compensatory damages in an amount to be determined at trial but not less than \$50 million and punitive damages in an amount to be determined at trial.

**FOURTH CAUSE OF ACTION**  
**(Negligence)**

81. Fortress repeats and realleges paragraphs 1 through 80 above as though fully set forth herein.

82. As described above, Ruskin Moscou owed plaintiff a duty of reasonable care.

83. Ruskin Moscou breached this duty, and acted negligently in providing its Legal Opinions.

84. Ruskin Moscou knew and intended that Fortress would be relying, and did rely, upon the Ruskin Moscou Legal Opinions in agreeing to the January 2006 Loan, December 2006 Loan Increase and December 2007 Extension.

85. As a result of Ruskin Moscou's conduct, Fortress sustained damages in excess of \$50 million dollars.

86. An award of punitive damages, moreover, is warranted here, given Ruskin Moscou's gross abuse of trust, professional misconduct, wanton disregard of Fortress's rights, and, through gross dereliction of duty, facilitation of Dreier's criminal fraud.

87. By reason of the foregoing, Fortress is entitled to recover compensatory damages in an amount to be determined at trial but not less than \$50 million and punitive damages in an amount to be determined at trial.

**FIFTH CAUSE OF ACTION**  
**(Breach of Fiduciary Duty)**

88. Fortress repeats and realleges paragraphs 1 through 87 above as though fully set forth herein.

89. In undertaking to issue its Legal Opinions to Fortress, Ruskin Moscou established a special relationship with Fortress that imposed on Ruskin Moscou the fiduciary duty to Fortress to speak with care, to conduct careful and thorough due diligence, and to verify information by consulting with appropriate sources.

90. In addition, Ruskin Moscou, in claiming an attorney-client relationship with Solow Realty, represented that it had superior information and access to information concerning Solow

Realty and Dreier, Ruskin Moscou knew that Fortress was relying and did rely on its claim of superior access to information relating to Solow Realty and Dreier and on Ruskin Moscou's professional obligations and specialized knowledge and skill as members of the legal profession experienced in sophisticated financial transactions, and Ruskin Moscou knowingly accepted the fiduciary duties and obligations inherent in establishing and encouraging such a relationship with Fortress.

91. In issuing the false Legal Opinions and making the material false statements and omissions described herein, Ruskin Moscou breached the fiduciary duty it owed to Fortress.

92. Ruskin Moscou knew and intended that Fortress would be relying, and did rely, upon the Ruskin Moscou Legal Opinions in agreeing to the January 2006 Loan, December 2006 Loan Increase and December 2007 Extension.

93. As a result of the Ruskin Moscou's conduct, Fortress sustained damages in excess of \$50 million.

94. An award of punitive damages, moreover, is warranted here, given Ruskin Moscou's gross abuse of trust, professional misconduct, wanton disregard of Fortress's rights, and, through gross dereliction of duty, facilitation of Dreier's criminal fraud.

95. By reason of the foregoing, Fortress is entitled to recover compensatory damages in an amount to be determined at trial but not less than \$50 million and punitive damages in an amount to be determined at trial.

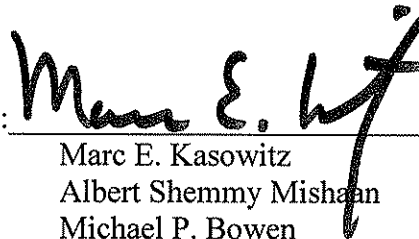
WHEREFORE, Fortress respectfully requests that the Court enter judgment against  
Ruskin Moscou awarding Fortress:

- (a) on each cause of action, compensatory damages in an amount to be determined at trial, but not less than \$50 million;
- (b) on each cause of action, punitive damages in an amount to be determined at trial;
- (c) its costs, expenses, and reasonable attorneys' fees;
- (d) pre-judgment and post-judgment interest at the highest rate(s) provided by law;  
and
- (e) such other and further relief as the Court deems just and proper.

Dated: New York, New York  
July 20, 2010

KASOWITZ, BENSON, TORRES  
& FRIEDMAN LLP

By:

  
\_\_\_\_\_  
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