


THIS IS EXHIBIT "AA" TO  
THE AFFIDAVIT OF W, JUDSON MARTIN  
SWORN MARCH 30, 2012

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A Commissioner, etc.

  
LEE HONG KIU KILDARIA  
Solicitor, Hong Kong SAR

1416

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

DAVID LEAPARD and IMF FINANCE SA on their  
own behalf and on behalf of all others similarly situated,

Plaintiffs,

v.

ALLEN T.Y. CHAN, DAVID J. HORSLEY, KAI KIT  
POON, BANC OF AMERICA SECURITIES LLC,  
CREDIT SUISSE SECURITIES (USA) LLC, SINO-  
FOREST CORPORATION, ERNST & YOUNG  
GLOBAL LIMITED, and ERNST & YOUNG LLP,

Defendants.

INDEX NO.

**VERIFIED CLASS ACTION  
COMPLAINT**

**JURY TRIAL DEMANDED**

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Plaintiffs, David Leopard and IMF Finance SA, on behalf of themselves and all others similarly situated (the “Class” or “Class Members”), allege the following upon personal knowledge as to themselves and their own acts and upon information and belief as to all other matters. Plaintiffs’ information and belief is based on the investigation of counsel including, inter alia, review and analysis of (i) government and regulatory documents relating to Defendant Sino-Forest Corporation (“Sino-Forest” or the “Company”); (ii) press releases, Company filings and other public statements by Sino-Forest; (iii) reports of securities analysts; and (iv) other publicly available materials. Many of the facts related to Plaintiffs’ allegations are known only to Defendants or are exclusively within their custody or control. Plaintiffs believe that substantial additional evidentiary support for the allegations set forth below will be developed after reasonable opportunity for discovery.

## **I. INTRODUCTION**

1. Plaintiffs bring this class action on behalf of (i) all persons or entities who, from March 19, 2007 through August 26, 2011 (the “Class Period”) purchased the common stock of Sino-Forest on the Over-the-Counter (“OTC”) market and who were damaged thereby; and (ii) all persons or entities who, during the Class Period, purchased debt securities issued by Sino-Forest other than in Canada and who were damaged thereby.

2. Sino-Forest is a Canadian company engaged in the commercial forest plantation business whose principal operations are in the People’s Republic of China (“PRC” or “China”). Among Sino-Forest’s businesses are the ownership and management of forest plantation trees, sales of standing timber and wood logs, and the manufacture of related wood products. Substantially all of the Company’s sales for 2008, 2009 and 2010 were supposedly generated in the PRC. The Company maintains offices in Toronto, Hong Kong and the PRC. Its common

stock is registered in Canada and trades on the Toronto Stock Exchange, and also trades in the United States on the OTC market. Sino-forest's debt securities are also traded in the open market.

3. Sino-Forest portrayed itself as one of the world's largest and most successful forestry companies. According to the Company's Annual Information Form for the year ended December 31, 2010 (the "2010 Annual Form") Sino-Forest "had approximately 788,700 hectares of forest plantations under management which are located primarily in southern and eastern China." Between 2006 and 2010, Sino-Forest's assets (primarily plantation acreage) purportedly grew nearly five-fold from approximately \$1.2 billion to over \$5.7 billion, while revenues grew from \$555 million to \$1.9 billion and net income more than tripled from \$113 million to \$395 million as reflected in the Company's financial statements.<sup>1</sup> From 2007 through 2010, the Company's financial statements were audited by Defendant Ernst & Young LLP which certified they had been prepared in accordance with Canadian Generally Accepted Accounting Principles ("Canadian GAAP") and that the audit had been conducted in conformance with Canadian Generally Accepted Auditing Standards ("Canadian GAAS").

4. Sino-Forest's tremendous growth was ostensibly fueled by increasingly large acquisitions of valuable tree plantations and revenues generated from operations relating to that business. In addition, the Company's escalating growth allowed it to raise enormous sums of capital from investors around the world through the sale of debt securities and common stock, including the sale of \$600 million in notes which occurred in October 2010 (the "Note Offering") that will come due in 2017 (the "2017 Notes"). The Note Offering was underwritten

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<sup>1</sup> Except where otherwise indicated, all amounts in this Complaint are in U.S. dollars.

by Defendants Banc of America Securities LLC and Credit Suisse Securities (USA) LLC. In total, the Company issued *over \$1.8 billion* in debt instruments during the Class Period.

5. However, in stark contrast to the investing public's perception of an enormously successful forestry business in the fast growing PRC market, Sino-Forest was, in fact, materially misleading both investors and regulators. Sino-Forest's assets, revenues and income were all materially overstated. In addition, the Company's financial statements and other disclosures were materially misleading because they failed to disclose that many of Sino-Forest's significant business transactions were with unknown or related parties. Further, Sino-Forest had misrepresented and failed to disclose the true terms of certain agreements it had entered into in the PRC for the acquisition of plantation acreage, vastly overstating the amount of timber it had acquired during the Class Period. In many instances, no documentation or inadequate documentation existed to support Sino-Forest's timber holdings and related assets and the valuations attributed to those properties on Sino-Forest's financial statements. Sino-Forest failed to disclose that the Company lacked adequate internal controls to substantiate its financial performance or verify its assets and contractual relationships; that its operations were permeated by unsubstantiated and undisclosed related party transactions; and that its financial statements were misleading and not prepared in accordance with the applicable accounting standards.

6. Information regarding Sino-Forest's fraud first came to light on June 2, 2011, when Muddy Waters, a firm that specializes in analyzing Chinese companies whose stock trades in the U.S. and Canada, published a detailed report alleging improper and illegal conduct at the Company. Over the ensuing weeks, there was a flurry of articles, investigations, and news reports about the Company's misconduct, as well as denials by the Company of the allegations published by Muddy Waters. On June 18, 2011, *The Globe and Mail* reported on its own

investigation regarding some of the allegations against Sino-Forest, finding that there were “doubts about the company’s public statements regarding the value of [its] assets” and “broader questions about its business practices.”

7. Ultimately, in late August 2011, the Ontario Stock Commission (“OSC”) confirmed that there was evidence of fraud at Sino-Forest and ordered a halt in trading of Sino-Forest’s common stock on the Toronto Stock Exchange, effective August 26th. Reportedly, the OSC accused Sino-Forest of “fraudulently inflating its revenues and exaggerating the extent of its timber holdings.” The OSC also noted that the Company had “engaged in significant non-arms-length transactions.” Similarly, trading of Sino-Forest common stock was halted in the U.S. on the OTC Bulletin Board. Two days later it was reported that the Company’s CEO, Defendant Chan, had resigned; that three of the Company’s vice-presidents were placed on leave; and that another senior vice-president was relieved of most of his duties. Sino-Forest has since not filed any required periodic reports or issued financial statements for the third quarter of 2011. On November 11, 2011, the Company announced that it was also the subject of a criminal investigation by the Royal Canadian Mounted Police with respect to the allegations surrounding its business and finances. Sino-Forest has failed to make the most recent payments due on its outstanding debt, been forced to seek waivers of default from its debt holders and has now belatedly advised the investing public that its historical financial statements and audit reports should not be relied upon.

8. The disclosures relating to Defendants’ misconduct caused the trading prices of the Company’s stock and its debt securities to decline dramatically, thereby damaging Class Members. Sino-Forest’s common stock, which traded as high as \$26.64, last traded at \$1.38

before trading was halted in the U.S. Moreover, Sino-Forest's debt securities are now priced at a fraction of their original value.

9. The Individual Defendants earned millions of dollars in compensation because of Sino-Forest's artificially inflated stock price. Moreover, their misleading portrayal of the Company's finances allowed Sino-Forest to raise billions of dollars by issuing debt and equity securities to investors. This was critical to the Company's survival since the Company had a negative cash flow -- it was spending more money than it was taking in -- yet was spending enormous sums purportedly to purchase new assets. Sino-Forest's inflated stock price also allowed it to use its shares as currency to acquire other companies and assets.

10. It was only because of Defendants' concealment of Sino-Forest's true financial condition that the Company was able to complete the \$600 million Note Offering in October 2010. Investors would not have purchased these notes or would not have purchased them at the prices they did, if the truth about Sino-Forest had been known.

11. Thus, during the Class Period, Defendants, acting in concert with others, made materially false statements and misleading statements and omitted material facts about the true financial condition and business operations of Sino-Forest, causing the prices of Sino-Forest's common stock and Debt Securities to be artificially inflated during the Class Period. With respect to the claims asserted against the Banc of America Securities LLC, Credit Suisse Securities (USA) LLC, Ernst & Young Global Limited, and Ernst & Young LLP, which are based on negligence, negligent misrepresentation, gross negligence and breach of fiduciary duty, Plaintiffs specifically disclaim any allegations of fraud or fraudulent intent.



## II. PARTIES

### A. Plaintiffs

12. Plaintiff **David Leopard** is a resident of South Carolina and purchased the common stock of Sino-Forest during the Class Period in the OTC market and suffered damages when the price of those shares declined as a result of Defendants' misconduct.

13. Plaintiff **IMF Finance SA ("IMF")** is an entity with offices in the British Virgin Islands and purchased 2017 Notes pursuant to the October 2010 Note Offering and suffered damages when the price of the 2017 Notes declined as a result of Defendants' misconduct. Plaintiff IMF asserts claims on behalf of purchasers of Sino-Forest debt securities including purchasers of the 2017 Notes.

### B. Defendants

14. Defendant **Sino-Forest** purports to be a commercial forest plantation operator, principally in the PRC but with additional operations in other locations. At all material times, Sino-Forest had its registered office located in Mississauga, Ontario and its common stock traded on the OTC market in the United States using the symbol "SNOFF." As a reporting issuer in Ontario, Canada, Sino-Forest was required to file certain periodic reports regarding its business and operations, including audited financial statements, which were made available to investors. Sino-Forest's common stock and various debt instruments are traded in Canada, the United States and elsewhere.

15. Sino-Forest derives substantial revenue from interstate or international commerce.

16. Defendant **Allen T. Y. Chan** is a co-founder of Sino-Forest and was the Chairman, Chief Executive Officer and a director of the Company from 1994 until his recent resignation in the wake of the disclosure of the misconduct described in this Complaint. As

Sino-Forest's CEO, Chan certified the accuracy of the Company's securities filings, including its financial statements, during the Class Period. Chan signed each of the Company's Annual Consolidated Financial Statements issued from 2006 through 2010. Chan is a resident of Hong Kong and, on information and belief, is a citizen of the PRC.

17. During the Class Period, Chan received substantial compensation from the Company. For example, for 2008 to 2010, Chan's total compensation was, respectively, \$5.0 million, \$7.6 million, and \$9.3 million. In addition, during the Class Period, while in possession of material adverse information regarding the business and finances of Sino-Forest, Chan sold nearly \$3 million worth of Sino-Forest common stock to unsuspecting investors.

18. As of May 1, 1995, shortly after Sino-Forest became a reporting issuer, Chan held 18.3% of Sino-Forest's outstanding common shares and 37.5% of its preference shares. As of April 29, 2011, he held 2.7% of Sino-Forest's common shares.

19. Defendant **David J. Horsley** has been Sino-Forest's Chief Financial Officer ("CFO"), since October 2005. In his position as Sino-Forest's CFO, Horsley was responsible for the Company's accounting, internal controls and financial reporting, including the preparation of the Company's financial statements. Horsley signed and certified the Company's disclosure documents during the Class Period. Horsley resides in Ontario.

20. During the Class Period, Horsley received substantial compensation from Sino-Forest. For 2008 to 2010, Horsley's total compensation was, respectively, \$1.7 million, \$2.5 million, and \$3.1 million. During the Class Period, while in possession of material adverse information concerning the business and finances of Sino-Forest, Horsley sold almost \$11 million worth of shares of Sino-Forest common stock.

21. Defendant **Kai Kit Poon** is a co-founder of Sino-Forest, a member of its Board of Directors and has been President of the Company since 1994. Poon resides in Hong Kong and, on information and belief, is a citizen of the PRC. During the Class Period, while in possession of material adverse information concerning the business and finances of Sino-Forest, Poon sold almost \$30 million worth of shares of Sino-Forest common stock.

22. Defendants Chan, Horsley and Poon are collectively referred to as the **Individual Defendants**. The Individual Defendants and Sino-Forest are collectively referred to as **the Sino-Forest Defendants**.

23. Defendant **Banc of America Securities LLC (“BOA”)** is a financial services company which, using the name “BofA Merrill Lynch,” acted as one of two “Joint Global Coordinators and Lead Bookrunning Managers” for the Offering. In this capacity, BOA acted as an underwriter for the Offering. BOA operates in and has its principal place of business in New York County, New York. Defendant BOA and Defendant Credit Suisse Securities (USA) LLC are collectively referred to as the **Underwriter Defendants**. This Complaint seeks damages on behalf of the purchasers of the 2017 Notes against any and all Bank of America entities that may be liable for the misconduct described herein.

24. Defendant **Credit Suisse Securities (USA) LLC (“Credit Suisse”)** is a financial services company which acted as one of two “Joint Global Coordinators and Lead Bookrunning Managers” for the Note Offering. In this capacity, Credit Suisse acted as an underwriter for this offering. Credit Suisse operates in and has offices in New York County, New York. This Complaint seeks damages on behalf of the purchasers of the 2017 Notes against any and all Credit Suisse entities that may be liable for the misconduct described herein.

25. BOA and Credit Suisse are collectively referred to as the **Underwriter Defendants**. The Underwriter Defendants who are located in New York, NY, offered and sold the 2017 Notes pursuant to a materially false and misleading Offering Memorandum dated October 14, 2010 (the “Offering Memorandum”) to certain Class Members in the United States who purportedly satisfied the requirements to be considered a “qualified institutional buyer” pursuant to Rule 144 of the U.S. Securities and Exchange Commission (“SEC”). The Underwriter Defendants also sold certain notes in the offering to foreign investors relying on the exemption set forth in SEC Regulation S.

26. Defendant **Ernst & Young Global Limited** is a UK private company limited by guarantee which operates worldwide and which, through affiliated entities, provides audit, accounting and other services. Defendant **Ernst & Young LLP**, a part of Ernst & Young Global Limited, has offices in Toronto, Canada, has been Sino-Forest’s auditor since August 13, 2007 and was also Sino-Forest’s auditor from 2000 to 2004. This Complaint seeks damages against any and all Ernst & Young entities that may be liable for the misconduct described herein.

27. Ernst & Young Global Limited and Ernst & Young LLP are collectively referred to as “**E&Y**” or as “**the E&Y Defendants**.” E&Y does business in New York.

28. For Sino-Forest’s 2007 through 2010 fiscal years, E&Y provided an “Auditor’s Report” addressed directly to Sino-Forest’s shareholders, which gave the Company a “clean” audit opinion on its financial statements. At all material times, E&Y knew that its audit opinion was directed to Sino-Forest’s shareholders, prospective shareholders and prospective purchasers of Sino-Forest’s securities, and that investors would and did rely on E&Y’s statements relating to Sino-Forest in making their investment decisions. E&Y’s opinion informed the Company’s investors and the purchasers of its securities that, based on its audit, Sino-Forest’s financial

statements were presented in accordance with Canadian GAAP and that it had performed its audit in accordance with applicable auditing standards. E&Y's audit opinion was materially false and misleading and was recklessly or negligently issued to investors, including Plaintiffs and Class Members.

29. The Individual Defendants, as the most senior officers of Sino-Forest, are liable to Plaintiffs and the Class because they knew of, directed and participated in the misconduct described in this Complaint and also assisted and conspired with others involved in the misconduct. Sino-Forest is liable for the misconduct of its employees and agents. Furthermore, the representations made in the financial statements and in the Offering Memorandum were materially inaccurate and inconsistent with the truth such that their falsity would have been discovered with minimal due diligence. Nevertheless, despite the obviously false and misleading nature of these statements, E&Y and the Underwriter Defendants recklessly or negligently facilitated the improper conduct of Sino-Forest and the Individual Defendants; E&Y by certifying the Company's financial statements; and the Underwriter Defendants by failing to perform adequate due diligence and disseminating the misleading Offering Memorandum to investors.

**C. Jurisdiction and Venue**

30. The Court possesses jurisdiction over this action pursuant to NYCPLR §§ 301 and 302(a).

31. This court has jurisdiction, and venue is proper because, in connection with the Note Offering, Sino-Forest "... irrevocably and unconditionally submits to the non-exclusive jurisdiction of any New York State or United States Federal court sitting in the Borough of Manhattan, New York City over any suit, action or proceeding arising out of or relating to this

Indenture, any Note or any Subsidiary Guarantee.” In addition, the Indenture provides that “[a]s long as any of the Notes remain Outstanding, the Company and each of the Subsidiary Guarantors will at all times have an authorized agent in New York City, upon whom process may be served in any legal action or proceeding arising out of or relating to this Indenture, any Note or any Subsidiary Guarantee.” Finally, as contemplated by the Indenture, “[e]ach of the Notes, the Subsidiary Guarantees and the Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.”

32. In addition, the Underwriter Defendants are located in New York and all Defendants do substantial business in New York. All Defendants participated in certain transactions and activities in New York relating to the Note Offering. Also, purchases and sales of Sino-Forest common stock occurred on the OTC market in the United States, including New York. Moreover, the trustee for the 2017 Notes is the Law Debenture Trust Company of New York which is located at 400 Madison Avenue, Suite 4D, New York, New York 10017.

### **III. BACKGROUND**

33. Although ostensibly a forestry company, Sino-Forest’s purported business was, in many respects, more that of a trader or financial intermediary than of a traditional forestry company. The Company seldom sold wood products to end-user customers. Instead, it claimed that most of its earnings came from buying logs and buying the right to harvest trees and then reselling these logs and rights to harvest trees at higher prices.

34. Sino-Forest’s corporate structure is a complex web of dozens of interconnected Canadian, Chinese, Hong Kong, Cayman Islands and British Virgin Islands subsidiaries, most of which are wholly-owned or in which the Company has a majority interest. Sino-Forest’s most

recently released corporate organizational chart, attached as Exhibit A, illustrates in part, the complexity.

35. One specific example of this complexity is Sino-Forest's relationship with one of its most important subsidiaries, Greenheart Group Ltd. ("Greenheart"). Sino-Forest's 64 percent interest in Greenheart was acquired using shares of Company stock. Greenheart trades on the Hong Kong Stock Exchange. Greenheart controls most of Sino-Forest's supposedly substantial forestry assets outside of China. But, Sino-Forest also holds a 39.6 percent stake in Greenheart Resources Holdings Ltd. ("GRH"), a subsidiary of Greenheart. GRH, in turn, indirectly owns 100 percent of Greenheart's forest assets and operations in the western part of Suriname, supposedly one of Sino-Forest's principal timber holdings.

36. Sino-Forest's business model is further complicated by the fact that much of its business is done through what it describes as "Authorized Intermediaries" ("AIs"), supposedly independent companies which are largely responsible for the actual sale of forestry products to the users of these products. Despite the critical role that these Authorized Intermediaries play in its business, little is known of the financial relationships with these AIs and Sino-Forest has, with one exception, refused to disclose the identity of these companies.

37. Because Sino-Forest principally operates in China, Sino-Forest's convoluted structure and business practices did not initially arouse investor suspicions. Because of the unusual aspects of doing business in China, which tightly regulates foreign investment, a number of legitimate foreign companies who operate in that country have unusually complex structures. But, unbeknownst to investors, there was little or no business justification for the way Sino-Forest structured itself and its operations. Sino-Forest's structure was not meant to facilitate

compliance with Chinese law, but to make it easier for Defendants to materially mislead investors about the Company's, operations, revenue, earnings and assets.

38. Investors were further assured of the legitimacy of Sino-Forest's finances and operations because of annually issued clean audit opinions from E&Y and by the due diligence purportedly conducted by BOA and Credit Suisse in connection with the Company's offering of the 2017 Notes.

39. The purported steady and impressive growth of Sino-Forest helped fuel a series of capital raising activities by the Company. By making the Company appear to be on a much more economically sound footing than was actually the case, Sino-Forest was able to raise the funds it needed to finance its rapid expansion. Because the Company's cash flow did not cover its operating expenses, the Company would not have been able to continue to operate absent cash infusions from debt and equity investors.

40. During the Class Period, Sino-Forest conducted numerous debt and equity offerings, issuing over \$1.8 billion in debt securities to investors and also sold investors hundreds of millions of dollars of common stock. Specifically, the following securities were issued to investors:

- On July 17, 2008, the Company closed an offering of convertible guaranteed senior notes (the "2013 Convertible Notes") for gross proceeds of \$300,000,000. On August 6, 2008, the Company issued an additional \$45,000,000 of 2013 Convertible Notes pursuant to the exercise of an over-allotment option granted to the underwriters in connection with the offering, increasing the gross proceeds to \$345,000,000.



- On June 24, 2009, the Company offered to eligible holders of outstanding Senior Notes due in 2011 (the “2011 Senior Notes”) to exchange these notes for up to \$300,000,000 of new guaranteed senior notes due 2014 (the “2014 Senior Notes”). On July 27, 2009, the Company completed this exchange offer, issuing an aggregate principal amount of \$212,330,000 of 2014 Senior Notes, representing approximately 70.8% of the aggregate principal amount of the 2011 Senior Notes.
- In June 2009, the Company completed a public offering and international private placement of 34,500,000 common shares (including 4,500,000 common shares issued upon the exercise of the underwriters’ over-allotment option) for gross proceeds of approximately \$339,810,000.
- On December 17, 2009, the Company closed an offering of convertible guaranteed senior notes (the “2016 Convertible Notes”) for gross proceeds of \$460,000,000.
- In December 2009, the Company completed a public offering of 21,850,000 common shares (including an overallotment exercise) for gross proceeds of approximately \$345,318,000.
- In May 2010, Sino-Forest issued 1,990,566 shares of common stock as a \$33.3 million payment to acquire 34% of Greenheart Resources.
- In August 2010, the Company issued \$2.3 million shares of common stock in partial payment of its acquisition of Mandra Forestry Holdings Limited, a company which supposedly owned the rights to technology relevant to the Company’s business. In connection with this acquisition of Mandra, the

Company also exchanged nearly \$195 million of Mandra notes for Sino-Forest notes—the Sino-Forest notes had a longer duration and lower interest rate than the Mandra notes for which they were exchanged.

- On October 21, 2010, the Company completed the \$600,000,000 Note Offering of the 2017 Notes.

41. Thus, during the Class Period, while Defendants were issuing materially false and misleading financial statements and other reports to investors, Sino-Forest was taking advantage of the illusory growth portrayed to investors through these large debt and equity offerings, which in less than three years, cumulatively totaled over \$2.5 billion.

#### **IV. FALSE AND MISLEADING STATEMENTS**

42. During the Class Period, Defendants made numerous statements that were materially false and misleading and which had the effect of artificially inflating the value of Sino-Forest's securities. These false statements were contained in the Company's public filings, press releases, reports and other statements to the investing public. In general, during the Class Period, the Company reported steadily increasing holdings of timber assets (mostly in the PRC) achieved through acquisitions and purchases, and increasing revenues and earnings, all of which contributed to the Company's rising stock price and its ability to issue additional debt and equity securities to investors.

##### **A. Misrepresentations and Omissions With Respect to Sino-Forest's Financial Statements**

43. Sino-Forest's financial statements, which it published to investors on a quarterly and annual basis via press releases and public filings, consistently portrayed Sino-Forest as a profitable and rapidly expanding company. As set forth in Sino-Forest's 2006 Annual

Consolidated Financial Statements, dated March 19, 2007; its 2007 Annual Consolidated Financial Statements dated March 18, 2008; its 2008 Annual Consolidated Financial Statements dated March 16, 2009; its 2009 Annual Consolidated Financial Statements dated March 16, 2010; and its 2010 Annual Consolidated Financial Statements dated March 15, 2011, the Company's revenue, earnings and assets supposedly grew during the Class Period as follows:

	2006	2007	2008	2009	2010
<b>Assets</b>	\$1,207,255,000	\$1,837,497,000	\$2,603,924,000	\$3,963,899,000	\$5,729,033,000
<b>Revenue</b>	\$555,480,000	\$713,866,000	\$896,045,000	\$1,238,185,000	\$1,923,536,000
<b>Net Income</b>	\$113,480,000	\$152,273,000	\$228,593,000	\$286,370,000	\$395,426,000

44. Each of the annual financial statements, except for the 2006 statements, were accompanied by an audit opinion from E&Y stating that E&Y had conducted annual audits in accordance with Canadian GAAS and that these financial statements were presented in accordance with Canadian GAAP. Defendant Chan signed each annual financial statement.

45. The Company also issued materially false and misleading unaudited "Interim Financial Statements," during the Class Period, which incorporated prior period audited financial statements and similarly overstated the Company's revenue, earnings and assets. The Company's materially false and misleading quarterly financial statements (through 2010) which, like the annual financial statements, showed increasing revenue, earnings and assets, were released on the following dates:

<b>Document</b>	<b>Date of Filing</b>
2007 Q-1 Interim Financial Statements	5/14/2007
2007 Q-2 Interim Financial Statements	8/13/2007
2007 Q-3 Interim Financial Statements	11/12/2007
2008 Q-1 Interim Financial Statements	5/13/2008
2008 Q-2 Interim Financial Statements	8/12/2008
2008 Q-3 Interim Financial Statements	11/13/2008

<b>Document</b>	<b>Date of Filing</b>
2009 Q-1 Interim Financial Statements	5/11/2009
2009 Q-2 Interim Financial Statements	8/10/2009
2009 Q-3 Interim Financial Statements	11/12/2009
2010 Q-1 Interim Financial Statements	5/12/2010
2010 Q-2 Interim Financial Statements	8/10/2010
2010 Q-3 Interim Financial Statements	11/10/2010

46. Sino-Forest's quarterly and annual financial statements (through December 31, 2010) were materially false and misleading because they failed to comply with Canadian GAAP. Specifically, at the time each of these financial statements was issued, they overstated the Company's assets, inflated the reported revenue and earnings and misled investors regarding the Company's then current financial situation and its future prospects. Because, among other things, the Company lacked adequate internal controls to substantiate its financial performance, and its operations were permeated by unsubstantiated and undisclosed related party transactions, these financial statements were not prepared in accordance with the applicable accounting standards. Sino-Forest's quarterly financial statements for the first two quarters of fiscal year 2011 also overstated the Company's assets, revenues and net earnings at the time they were issued and were not presented in accordance with the applicable Canadian accounting standards.

**B. Other Misrepresentations and Omissions In Annual And Quarterly Filings**

47. In addition to filing false and misleading financial statements, the Company also made numerous other false and misleading statements to investors in other periodic securities filings made pursuant to Canadian disclosure regulations. During the Class Period, the Sino-Forest Defendants repeatedly made statements in Sino-Forest's periodic filings that falsely and misleadingly described the Company as a fast-growing, legitimate business which followed good corporate governance practices.

48. The Company's periodic reports to investors included (in addition to the separately filed financial statements) a "Management Discussion and Analysis" ("MD&A") that Sino-Forest filed each quarter during the Class Period, "Annual Information Forms" ("AIFs") and annual reports. These documents provided narrative explanations of the Company's business, operations and financial performance for the specific period, and of the Company's financial condition and future prospects. Canadian law specifically requires that the MD&A discuss important trends and risks that have affected the Company and that are reasonably likely to affect it in future. The dates of these false and misleading statements are set out in the table below.

<b>Document</b>	<b>Date of Filing</b>
2006 MD&A	3/19/2007
2006 AIF	3/30/2007
2006 Annual Report	5/4/2007
2007 Q-1 MD&A	5/14/2007
2007 Q-2 MD&A	8/13/2007
2007 Q-3 MD&A	11/12/2007
2007 MD&A	3/18/2008
2007 AIF	3/28/2008
2007 Annual Report	5/6/2008
2008 Q-1 MD&A	5/13/2008
2008 Q-2 MD&A	8/12/2008
2008 Q-3 MD&A	11/13/2008
2008 MD&A	3/16/2009
2008 AIF	3/31/2009
2008 Annual Report	5/4/2009
2009 Q-1 MD&A	5/11/2009
2009 Q-2 MD&A	8/10/2009
2009 Q-3 MD&A	11/12/2009
2009 MD&A	3/16/2010

<b>Document</b>	<b>Date of Filing</b>
2009 AIF	3/31/2010
2009 Annual Report	5/11/2010
2010 Q-1 MD&A	5/12/2010
2010 Q-2 MD&A	8/10/2010
2010 Q-3 MD&A	11/10/2010
2010 MD&A	3/15/2011
2010 AIF	3/31/2011
2010 Annual Report	5/10/2011

49. Thus, beginning at least as early as March 19, 2007, the Company's MD&A and annual filings were materially false and misleading with respect to the Company's operations and financial performance because they described the Company as a fast-growing, legitimate business which followed good corporate governance practices, while failing to disclose that the Company lacked adequate internal controls to substantiate its financial performance or verify its assets and contractual business relationships, that its operations were permeated by unsubstantiated and undisclosed related party transactions and that the Company's actual financial condition and future prospects were much worse than these public statements indicated.

**C. False Certifications**

50. Each annual financial statement, AIF and MD&A filing was accompanied by separate certifications signed by Chan and Horsley which asserted the following:

1. Review: I have reviewed the AIF, if any, annual financial statements and annual MD&A, including, for greater certainty, all documents and information that are incorporated by reference in the AIF (together, the "annual filings") of Sino-Forest Corporation (the "issuer") for the financial year ended December 31...

2. No misrepresentations: Based on my knowledge, having exercised reasonable diligence, the annual filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement

not misleading in light of the circumstances under which it was made, for the period covered by the annual filings.

3. Fair presentation: Based on my knowledge, having exercised reasonable diligence, the annual financial statements together with the other financial information included in the annual filings fairly present in all material respects the financial condition, results of operations and cash flows of the issuer, as of the date of and for the periods presented in the annual filings.

51. Similarly, each of the quarterly interim financial statements and quarterly MD&As were accompanied by separate certifications signed by Chan and Horsley which also asserted the following:

1. Review: I have reviewed the interim financial report and interim MD&A (together, the “interim filings”) of Sino-Forest Corporation (the “issuer”) for the interim period ended....

2. No misrepresentations: Based on my knowledge, having exercised reasonable diligence, the interim filings do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a statement not misleading in light of the circumstances under which it was made, with respect to the period covered by the interim filings.

3. Fair presentation: Based on my knowledge, having exercised reasonable diligence, the interim financial report together with the other financial information included in the interim filings fairly present in all material respects the financial condition, financial performance and cash flows of the issuer, as of the date of and for the periods presented in the interim filings.

52. However, these publicly filed certifications were materially false and misleading because the Company’s quarterly and annual financial statements overstated its assets, revenues and earnings, and the narrative statements were materially false and misleading. These statements failed to disclose that the Company lacked adequate internal controls to substantiate its financial performance or verify its assets and contractual business relationships, that the Company and its operations were permeated by unsubstantiated and undisclosed related party

transactions, and that the document being certified contained materially false and misleading information which materially overstated the Company's current financial situation and its future prospects.

**D. Misrepresentations and Omissions Relating To Yunnan Forestry Assets**

53. On March 23, 2007 Sino-Forest issued a press release announcing that it had entered into an agreement to sell 26 million shares to several institutional investors for gross proceeds of \$200 million and that the proceeds would be used for the acquisition of standing timber including, pursuant to a new agreement, the purchase of standing timber in China's Yunnan Province. The press release further stated that Sino-Forest-Panel (Asia) Inc. ("Sino-Forest-Panel"), a wholly-owned subsidiary of Sino-Forest, had entered into (on that same day) an agreement with Gengma Dai and Wa Tribes Autonomous Region Forestry Company Ltd., ("Gengma Forestry") in Lincang City, Yunnan Province in the PRC. Under that Agreement, Sino-Forest-Panel would acquire approximately 200,000 hectares of non-state owned commercial standing timber in Lincang City and surrounding cities in Yunnan for \$700 million to \$1.4 billion over a 10-year period.

54. Similar representations regarding the acquisition of these assets were also made in Sino-Forest's Q1 2007 MD&A. Moreover, throughout the Class Period, Sino-Forest discussed its purported Yunnan acquisitions in other filings and public statements. In the Company's 2010 AIF, filed on March 31, 2010, the Company asserted that "[a]s of December 31, 2010, we have acquired approximately 190,300 hectares of plantation trees for US\$925.9 million under the terms of the master agreement" which had been entered into in March 2007. It made a similar statement in its 2010 annual report, which was filed on May 10, 2011.



55. However, as subsequently disclosed, Sino-Forest's and Defendants' statements concerning the acquisition of assets in Yunnan Province were materially false and misleading because, among other reasons, Sino-Forest had acquired the rights to far less timber than the Company had claimed and/or the value attributed to the timber assets purportedly owned by Sino-Forest was materially overstated. As a result, the Company's representations relating to its financial results and business were materially misleading as Defendants failed to disclose the true amount of timber acquired from Gengma Forestry, thereby overstating the assets carried on the balance sheet.

**E. Misrepresentations and Omissions Relating to the Offering of 2017 Notes**

56. On October 14, 2010, Sino-Forest, through the Underwriter Defendants, offered and sold the 2017 Notes. The Underwriter Defendants served as Joint Global Coordinators and Lead Bookrunning Managers. The 2017 Notes were purportedly exempt from registration under the U.S. Securities Act because they were offered, pursuant to SEC Rule 144A, to qualified institutional buyers (including those in the U.S.), and in offshore transactions to investors other than U.S. persons under SEC Regulation S.

57. The 2017 Notes were sold pursuant to the Offering Memorandum, which was materially false and misleading as described below, and which was prepared by the Sino-Forest Defendants and the Underwriter Defendants. The Offering Memorandum specifically incorporates by reference Sino-Forest's misleading 2007, 2008 and 2009 annual financial statements, its unaudited interim financial statements for the six months ended June 30, 2009 and June 30, 2010, and Defendant E&Y's audit reports dated March 13, 2009 and March 16, 2010 (with E&Y's consent). The Offering Memorandum states that the documents incorporated by reference "form [an] integral part of [the] Offering Memorandum."

58. As underwriters of the Note Offering, the Underwriter Defendants had a duty to investors to conduct an adequate due diligence with respect to the representations in the Offering Memorandum. The Underwriter Defendants were reckless or negligent in performing due diligence on the Note Offering by failing, among other things, to determine the legitimacy of the multiple related party transactions at the Company or to ascertain the true value of the assets, properties and business of Sino-Forest, resulting in the issuance of a materially false and misleading Offering Memorandum.

59. The Offering Document was signed by the Underwriter Defendants and contained both Sino-Forest's misleading financial statements and the misleading narrative description of the Company and its future prospects, including the portrayal of the Company as a fast-growing, legitimate business which followed good corporate governance practices with positive future prospects for growth. In particular, the Offering Memorandum cited the Company's competitive strengths including, among others, the following: (i) "Leading commercial forest plantation operator in the PRC with established track record;" (ii) "First mover advantage with strong track record of obtaining and developing commercial tree plantations and ability to leverage our industry foresight;" (iii) "Future growth supported by long-term master agreements at agreed capped prices;" (iv) "Strong research and development capability, with extensive forestry management expertise in the PRC;" and (v) "Diversified revenue and asset base."

60. As described above, the statements in the Offering Document were materially false and misleading because, contrary to the financial results reported in its financial statements, and contrary to the description of Company with major strengths as a forest plantation operator, the Company was engaged in fraudulent practices, resulting in the overstatement of assets, revenues and earnings, and misleading statements about its contractual relationships with certain

parties in the PRC related to the purchase of timber acreage. Thus, at the time of the Note Offering, investors were misled because the Company's actual financial condition and future prospects were much worse than these public statements indicated.

**F. Misrepresentations and Omissions Relating to Code of Business Conduct**

61. At all material times, Sino-Forest maintained it had in place a Code of Business Conduct (the "Code"), which governed its employees, officers and directors. The full text of the code was posted on the Company's Internet site and available to investors. It stated that the members of senior management "are expected to lead according to high standards of ethical conduct, in both words and actions." The Code further required that Sino-Forest representatives act in the best interests of shareholders, that corporate opportunities not be used for personal gain, that insiders not trade in Sino-Forest securities based on undisclosed knowledge stemming from their position or employment with Sino-Forest, that the Company's books and records be honest and accurate, that conflicts of interest be avoided, and that any violations or suspected violations of the Code, and any concerns regarding accounting, financial statement disclosure, internal accounting or disclosure controls or auditing matters, be reported.

62. Nonetheless, as explained in this Complaint, the publicly disclosed Code contained materially false and misleading statements because, as described herein, Sino-Forest's top executives did not actually follow the provisions of the Code.

**V. INITIAL DISCLOSURE OF FRAUD AT SINO-FOREST**

63. A report published on June 2, 2011 by Muddy Waters (the "Report"), a research firm that specializes in analyzing Chinese companies traded in the United States and Canada, reported that Sino-Forest and its financial statements were permeated by fraud.

64. The Report detailed the extensive investigative effort and resources that Muddy Waters had undertaken to discover the truth about the Company:

In order to conduct our research, we utilized a team of 10 persons who dedicated most to all of their time over two months to analyzing [Sino-Forest]. The team included professionals who focus on China from the disciplines of accounting, law, finance, and manufacturing. Our team read over 10,000 pages of documents in Chinese pertaining to the company. We deployed professional investigators to five cities. We retained four law firms as outside counsel to assist with our analysis.

65. The Muddy Waters report concluded that the Company was extensively involved in business practices that were “blatantly illegal” and that the Company’s financial statements and other reports to investors were permeated by fraud. According to the Report, Sino-Forest’s remarkably consistent growth during the Class Period was illusory – simply the result of “a Ponzi scheme,” rather than a real expansion in Sino-Forest’s business. According to Muddy Waters, the Company used its supposed growth and profitability to raise money from private lenders and the financial markets. This money, in turn, was used to bolster an appearance of further growth and increased profitability, which in turn opened the door to additional funding from private lenders and the capital markets. According to the Report, however, the capital raised by Sino-Forest was not used to expand the Company’s business, but was instead largely siphoned off by insiders in undisclosed related party transactions.

66. At the heart of the misconduct at Sino-Forest, according to Muddy Waters, is the Company’s use of AIs. The Report noted that AIs apparently act as both buyers and sellers in Sino-Forest transactions. For example, in one case uncovered by Muddy Waters, an AI purchased logs from Sino-Forest and delivered them to a chipping facility. Once the logs reached the facility they were sold back to Sino-Forest. Sino-Forest then turned around and sold the logs back to the AI who then proceeded to turn the logs into wood chips. The purpose of

these transactions, which were pointless from a business perspective, was to create the appearance of additional revenue for Sino-Forest.

67. The Report also disclosed that Sino-Forest had vastly overstated its forestry assets. In China's Yunnan Province alone the overstatement is potentially hundreds of millions of dollars. As noted above, in March 2007 Sino-Forest publicly announced that it had entered into an agreement to purchase up to 200,000 hectares of trees in Lincang City in Yunnan for \$700 million to \$1.4 billion, but a review of relevant government documents by Muddy Waters indicated that the actual size of this purchase was about 40,000 hectares.

68. Furthermore, although Sino-Forest generally does not identify the companies from which it purchases forestry assets, Muddy Waters was able to identify many of these companies by means that included careful review of government records. Muddy Waters visited many of these entities, finding that they "generally operated out of apartments while purportedly each doing annual revenue in the hundreds of millions from TRE [Sino-Forest] alone." This discovery supports Muddy Waters' conclusion that a substantial portion of the Company's reported purchases of forestry assets were greatly exaggerated or never occurred at all.

69. The Report also noted that Sino-Forest had engaged in substantial transactions with undisclosed related parties, transactions which are in violation of the applicable accounting rules and which require disclosure of related party transactions. An example is Jiangxi Zhonggan Industrial Development Company Ltd., which was incorporated just months before Sino-Forest entered into an approximately \$700 million contract with it in June 2009. The legal representative and President of this company is Sino-Forest Executive Vice President, Lam Hong Chiu. According to Muddy Waters, Zhonggan's 2008 and 2009 audit report shows "numerous large transactions between the Company, TRE, and other parties." Separately, Muddy Waters

identified Huaihua Yuda Wood Company Ltd., as “an undisclosed TRE subsidiary that has been receiving massive amounts of money from TRE’s subsidiaries.”

70. On publication of the Muddy Waters Report, the price of Sino-Forest’s securities dropped dramatically. On June 2, 2011, the Company’s shares, which had ended trading at \$18.64 on June 1, ended trading on the OTC market at \$7.33 and then fell further, to \$5.41 on June 3, a price drop of 71% over two days on substantially larger volume than normal. The prices of the Company’s debt securities also declined significantly.

## **VI. SINO-FOREST’S DENIALS AND FURTHER MISLEADING STATEMENTS**

71. Soon after publication of the Muddy Waters Report, Defendants began an organized campaign to further mislead investors by falsely claiming that there was no misconduct at the Company. These misleading statements (¶¶ 72-76) continued to prop up the prices of Sino-Forest securities until trading was halted on August 26, 2011.

72. In a June 3, 2011 press release, the Company asserted that “[t]he Board of Directors and management of Sino-Forest wish to state clearly that there is no material change in its business or inaccuracy contained in its corporate reports and filings that needs to be brought to the attention of the market. Further we recommend shareholders take extreme caution in responding to the Muddy Waters report.” The release also quoted Chan as saying the following: “let me say clearly that the allegations contained in this report [by Muddy Waters] are inaccurate and unfounded.” The release quoted Horsley as saying “I am confident that the [Sino-Forest Board of Directors’] independent committee’s examination will find these allegations to be demonstrably wrong.”

73. In a June 6, 2011 press release, Sino-Forest further stated that “The Company believes Muddy Waters’ report to be inaccurate, spurious and defamatory.” The press release

quoted Chan as saying the following: “I stand by our audited financial statements, including the revenue and assets shown therein. All material related party transactions are appropriately disclosed in our financial statements. We do business with the parties identified in the report at arm’s length. Those parties are not related or connected to the Company or any of its management.”

74. During a June 14 conference call with investors, Chan suggested that the Muddy Waters allegations were entirely inaccurate, accusing Muddy Waters of a “pattern of sloppy diligence and gross inaccuracy.”

75. Moreover, even after the release of the Muddy Waters Report, the Sino-Forest Defendants continued their practice of making false and misleading statements about Sino-Forest’s financial condition and future prospects. On both June 14, 2011 and August 15, 2011, Sino-Forest filed, respectively, its Interim Financial Statements and its MD&A covering the first quarter. These filings (which investors were later told they should not rely upon) contained material misrepresentations and omissions similar to those made in filings earlier in the Class Period: they falsely portrayed the Company as a fast-growing, legitimate business which followed good corporate governance practices with positive future prospects for growth and they materially overstated the Company’s revenue, earnings and assets.

76. The August 15, 2011 MD&A also made the following false statement: “[u]nder the master agreement entered in March 2007 to acquire 200,000 hectares of plantation trees over a 10-year period in Yunnan, the Company has actually acquired 230,200 hectares of plantation trees for \$1,193,459,000 as at March 31, 2011.” In fact, as the Muddy Waters Report had disclosed, the Company had vastly overstated the value of its holdings in Yunnan under the March 2007 agreement.

## VII. CONFIRMATION OF THE FRAUD

77. After publication of the Muddy Waters Report, additional investigations and disclosures evidence that numerous statements by Sino-Forest during the Class Period were materially false and misleading or omitted material information.

### A. *The Globe and Mail Investigation*

78. A June 18, 2011 article in the highly respected Globe and Mail, Canada's largest-circulation national newspaper, confirmed that Sino-Forest had provided materially inaccurate information about the Company's holdings in Yunnan, which comprised a substantial portion of the Company's supposed forestry assets. The article stated, in part:

The Globe's investigation raises particularly hard questions about a key agreement in March, 2007, that Sino-Forest says gave it the right to buy timber rights for up to 200,000 hectares of forest in Yunnan over a 10-year period for between \$700-million (U.S.) and \$1.4-billion. The trees were to be bought through a series of agreements with an entity called Gengma Dai and Wa Tribes Autonomous Region Forestry Co. Ltd., also known as Gengma Forestry.

The company says it has fulfilled virtually all of the agreement with Gengma and now owns more than 200,000 hectares in Yunnan.

But officials with Gengma Forestry, including the chairman, dispute the company's account of the deal, telling *The Globe and Mail* that the actual numbers are much smaller.

79. *The Globe and Mail* article reported that in an interview with officials involved in the Sino-Forest transactions indicated that it had acquired less than 14,000 hectares. The article went on to say:

Mr. Xie's account corroborates the assertions of senior forestry officials in the province. Speaking on condition of anonymity, these officials challenged the company's statements that it controls more than 200,000 hectares of Yunnan trees, and said they are now investigating.



80. *The Globe and Mail* further reported:

In a written response to questions from *The Globe*, Sino-Forest said it stands by its public statements regarding its Yunnan holdings. The company said it has purchased about 13,300 hectares of ‘forestry assets and leased land’ directly from Gengma Forestry, and another 180,000 hectares of ‘forestry assets only’ from other sellers, using Gengma as a purchasing agent.

**‘The agreement has not been yet fulfilled as we have not completed the purchase of 200,000 hectares,’ the company said.<sup>2</sup>**

**That statement from Sino-Forest appears to contradict its own publicly filed financial reports. In its first quarter 2011 report, the company said that ‘under the master agreement entered in March 2007 to acquire 200,000 hectares of plantation trees over a 10-year period in Yunnan, the Company has actually acquired 230,200 hectares of plantation trees for \$1,193,459,000 as at March 31, 2011.’**

The company’s 2010 annual information form filed with regulators earlier this year said that as of December 31, 2010, Sino-Forest had ‘acquired approximately 190,300 hectares of plantation trees for \$925.9-million (U.S.) under the terms of the master agreement.’

**The Globe’s investigation of the company’s dealings and holdings in Yunnan points to inconsistencies in the company’s accounting of its timber rights and raises broader questions about its business practices.**

81. In addition, it was reported that:

As of the end of 2010, the company claimed control of about 800,000 hectares of trees in nine Chinese provinces plus New Zealand. Its operation in Yunnan province, in addition to being its largest, is also the one for which it has made additional disclosures recently in an attempt to defuse the allegations made in the Muddy Waters report.

So far, however, it has disclosed purchase agreements as well as forest and woodland rights certificates for about 7,000 hectares of forest in Yunnan. **The company has not disclosed significant**

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<sup>2</sup> Unless otherwise indicated, all emphasis in quotations is added.

**documentation regarding its forestry holdings in other provinces.**

To find Gengma Forestry, Sino-Forest's local partner in the so-called 'Yunnan master agreement' – the 2007 deal said to be worth as much as \$1.4-billion – you have to duck down an alleyway behind the drugstore on the main street of this nondescript trading city, then up a dusty cement staircase.

On the landing is the litter-strewn office with an open door and a window protected by metal bars. Despite signing a deal with Sino-Forest that should guarantee a windfall, the company has clearly fallen on hard times. 'Our relations with [Sino-Forest] were not totally good. They talked about a lot of things, but in the end it was hard to get money from them,' said Zhang Ling, Gengma Forestry's office manager.

82. Statements of local officials in Yunnan province also contradict the reported size of Sino-Forest's holdings:

Senior forestry officials in the province challenged the company's assertion that it controls about 200,000 hectares of forest in the region. Speaking on condition they not be identified, they said their records showed Sino-Forest manages far less than that and said the Yunnan Forestry Bureau would begin an investigation aimed at determining the company's true holdings.

83. Not only have the size of the holdings been questioned, but so has the value as reported in *The Globe and Mail*:

In addition to the questions about Sino-Forest's disclosures on the size of its holdings, forestry officials, as well as local timber brokers who spoke to The Globe raised questions regarding the value Sino-Forest attributes to its Yunnan assets.

'It's very hard for anyone to say what the value of their property is,' said one forestry official, adding that forested land in Yunnan needed to be evaluated by a special body jointly appointed by the Forestry Bureau and the Ministry of Finance. Sino-Forest has not requested such an official valuation of its land, he said. '(The valuation) must have two chops (official seals) and two forestry resource evaluation experts and two licensed evaluators... . Even I can't just go there and give it a value.'

84. Subsequently, in early September 2011, *The Globe and Mail* reported that “A Globe investigation, based on interviews with people associated with Sino-Forest and an examination of legal and regulatory documents in Hong Kong and mainland China, has uncovered a pattern of questionable deals and disclosures from the company that date back to its earliest days.”

**B. Investigations and Regulatory Actions**

85. On August 26, 2011 the Ontario Stock Commission issued a “Temporary Order” that said the following: “Sino-Forest and certain of its officers and directors including Chan appear to be engaging or participating in acts, practices or a course of conduct related to its securities which it and/or they know or reasonably ought to know perpetuate a fraud on any person or company contrary to section 126.1 of the [Ontario Securities] Act and contrary to the public interest.”

86. The Commission halted trading in Sino-Forest’s stock on the Toronto Stock Exchange effective August 26, 2011 and demanded that several of Sino-Forest’s executives resign. Trading was halted in the U.S. on the OTC Bulletin Board at 5:30 p.m. on August 26, 2011.

87. On August 28, *The Globe and Mail* reported that CEO Chan had resigned. The newspaper also reported that “[t]hree Sino-Forest vice-presidents – Alfred Hung, George Ho and Simon Yeung – have been placed on administrative leave. Senior vice-president Albert Ip has been relieved of most of his duties but remains with the Company to assist the internal probe.” The newspaper also explained why Chan’s departure had occurred: “According to people familiar with the case, Mr. Chan was confronted by company officials in Hong Kong last week after a review of e-mail accounts outside the company’s network revealed questionable

transactions and money transfers.” Despite this evidence of misconduct, Chan remains with the Company, having been granted the title “Founding Chairman Emeritus.”

88. In late August Standard & Poor’s Ratings Services announced that it was withdrawing its ratings on the Company’s debt because “[r]ecent developments point towards a higher likelihood that allegations of fraud at the company will be substantiated.”

89. As a result of the suspension in the trading of Sino-Forest’s common stock and disclosure of the suspected fraud, the shares are now virtually worthless and the value of its Debt Securities, including the 2017 Notes have declined substantially. On November 11, 2011, it was announced that the Royal Canadian Mounted Police had commenced a criminal investigation.

90. Subsequently, on January 10, 2012, Sino-Forest announced that investors should no longer rely upon its historical financial statements and related audit reports. The Company stated that there was “no assurance” that it would be able to release third quarter financial results or audited financial statements for its 2011 fiscal year. The Company further disclosed in the January 10, 2012 announcement that it was still unable to explain or resolve outstanding issues, relating to its financial results and business relationships, including matters raised by documents identified by its auditor E&Y and the OSC.

### **VIII. MOTIVATION FOR FRAUD**

91. The Sino-Forest Defendants had ample motive to commit fraud: the exaggerated revenue, earnings and assets allowed the Company to continue to raise substantial funds from lenders and investors, inflated the Company’s stock price and provided a personal financial windfall to the Individual Defendants who sold highly inflated stock to unsuspecting investors.

92. In addition to the billions of dollars raised by Sino-Forest during the Class Period (described above), Company insiders also benefited directly by the inflated value of Sino-

Forest's stock because of their substantial stock holdings and because part of their compensation was in the form of stock options. Documents filed by the Company revealed that the Individual Defendants have sold over \$44 million of Company stock since 2006.

**Defendants' Sales Of Shares During Class Period**

<b>Defendant</b>	<b>Net Shares Sold</b>	<b>Value \$Can</b>	<b>Value \$U.S.</b> (on 11/15/11 \$Can 1 =\$US 0.98494)
Chan	182,000.00	\$3,003,200.20	\$2,957,970
Horsley	531,431.00	\$11,157,962.93	\$10,989,900
Poon	3,037,900	\$30,054,387.32	\$29,601,800
<b>TOTAL</b>	<b>3,751,331</b>	<b>\$44,215,550.45</b>	<b>\$43,549,670</b>

**IX. CLASS ALLEGATIONS**

93. Plaintiffs bring this action on their own behalf and, pursuant to Article 9 of the New York Civil Practice Law and Rules ("CPLR"), as a class action on behalf of themselves and all persons or entities who purchased (i) Sino-Forest's common stock during the Class Period on the OTC market who were damaged thereby; and (ii) all persons or entities who, during the Class Period, purchased Debt Securities issued by Sino-Forest other than in Canada and who were damaged thereby. Excluded from the Class are Defendants, the officers and directors of Sino-Forest during any portion of the Class Period, members of the immediate families of the foregoing persons and the legal representatives, heirs, successors or assigns of such persons and any entity in which any Defendant has or had a controlling interest. The Class specifically excludes any investor who purchased Sino-Forest securities on the Toronto Stock Exchange or in Canada.

94. The claims of Plaintiffs and the members of the Class have a common origin and share a common basis. The claims of all Class Members originate from the same improper conduct and arise from securities purchases entered into on the basis of the same materially

misleading statements and omissions by Defendants during the Class Period. If brought and prosecuted individually, each Class Member would necessarily be required to prove their respective claims upon the same facts, upon the same legal theories and would be seeking the same or similar relief, resulting in duplication and waste of judicial resources.

95. The members of the Class are so numerous that joinder of all members is impracticable. Although all Class Members cannot be identified without discovery, Plaintiff believes that there are many thousands of class members. Sino-Forest has over 246 million shares outstanding which actively traded on the OTC market (as well as in Canada on the Toronto Stock Exchange) and there are approximately \$1.8 billion in Debt Securities outstanding including, approximately, \$600 million in 2017 Notes.

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

- a. Whether Defendants made materially false and misleading statements or omissions;
- b. Whether Defendants engaged in any acts that operated as a fraud or deceit, or negligently misrepresented the Company's financial condition to the Class;
- c. Whether Defendants breached their fiduciary duties to Plaintiffs and the class or were negligent in the performance of their duties;
- d. Whether Defendants' acts proximately caused injury to the Class or irreparably harmed the Class, and if so, the appropriate relief to which the Class is entitled; and,
- e. Whether Defendants' acts constitute violations of law for which the Class is entitled to recover damages or other relief.

97. The prosecution of separate actions by individual members of the Class would also create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible rights and standards of conduct for the parties involved in this case. The prosecution of separate actions by individual members of the Class would also create a risk of adjudications with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of other members of the Class or substantially impair or impede their ability to protect their interests.

98. Plaintiffs have engaged counsel experienced in complex class litigation and will fairly and adequately represent the interests of the Class. Plaintiffs' interests are co-extensive with and not antagonistic to those of the absent members of the Class.

99. The members of the Class cannot reasonably be expected to litigate this matter individually. Whether litigated individually or as a class, the causes of action asserted in this Complaint involve complex issues of law and will likely require extensive and costly factual discovery, especially if this case proceeds to trial. The costs of successfully prosecuting such litigation will likely be beyond the resources of most members of the Class.

#### **X. APPLICATION OF THE FRAUD ON THE MARKET PRESUMPTION**

100. During the Class Period, Sino-Forest was a high profile Company which regularly provided purportedly accurate information to investors about the Company's operations. The Company was followed by numerous securities analysts. The securities at issue, Sino-Forest common stock and debt securities, were actively traded on efficient markets and publicly disclosed information about the Company was incorporated in the price of these securities within a reasonable amount of time.

**A. Common Stock**

101. During the Class Period, Sino-Forest common stock was traded on the OTC market in the United States, which is an open, well-developed and efficient market. Sino-Forest common stock was traded on the Toronto Stock Exchange, an open, well developed and efficient market. There was a substantial volume of trading in both the United States and Canada and the price of the shares traded in the United States was affected in the same way as the price of shares traded in Canada.

102. The OTC market has no fixed location but investors throughout the United States, including in New York County, New York, can purchase OTC securities through registered brokers. The principal regulator of the OTC market is the Financial Industry Regulatory Authority which has its principal offices in New York, NY and Washington, DC.

**B. 2017 Notes and Other Debt Securities**

103. According to the Company, the 2017 Notes “offering was made on a private placement basis in Canada, the United States and internationally pursuant to available exemptions, through a syndicate of initial purchasers.” The indenture agreement which governs the 2017 Notes provided that the notes are governed by New York law.

104. The 2017 Notes were initially purchased by the Underwriter Defendants. In the purchase agreement between the Underwriter Defendants and Sino-Forest, Banc of America Securities LLC listed its address as One Bryant Park, New York, NY 10036 and Credit Suisse Securities (USA) LLC listed its address as Eleven Madison Avenue New York, NY 10010. During the Class Period and after their issuance there was an efficient market for the 2017 Notes.

105. The 2017 Notes could only be legally sold to non-U.S. persons and to U.S. persons who were qualified institutional buyers. There is an open and well developed market for



such securities which are issued by large and well known issuers such as Sino-Forest and, specifically, there was an active and well-developed market for the 2017 Notes and Sino-Forest's other Debt Securities during the Class Period. Class Members were able to purchase 2017 Notes and other Debt Securities in the OTC market.

106. Accordingly, Class Members who purchased Sino-Forest common stock or 2017 Notes, and other Debt Securities in the secondary market are entitled to a presumption of reliance on the accuracy of the prices paid.

## **XI. CAUSES OF ACTION**

### **COUNT ONE** **AGAINST SINO-FOREST AND THE INDIVIDUAL DEFENDANTS FOR FRAUD**

107. Plaintiffs repeat and reallege each of the allegations set forth in above. This claim is asserted against Sino-Forest and the Individual Defendants for common law fraud.

108. As set forth herein, Sino-Forest and the Individual Defendants knowingly or recklessly engaged and participated in a continuous course and scheme of fraudulent conduct to disseminate materially false information about Sino-Forest's financial condition or failed to disclose material information with the purpose of inflating the prices of Sino-Forest's common stock, the 2017 Notes and Sino-Forest's other debt securities. As intended by the Sino-Forest Defendants, Plaintiffs and Class Members reasonably relied on these false and misleading statements and failures to disclose and suffered substantial damages as a result.

109. As a direct and proximate result of Sino-Forest and the Individual Defendants' fraud, Plaintiffs and the Class have suffered economic losses in an amount to be determined at trial. Sino-Forest and the Individual Defendants are jointly and severally liable to the Class for common law fraud.

**COUNT TWO**  
**AGAINST SINO-FOREST AND THE INDIVIDUAL DEFENDANTS FOR CIVIL**  
**CONSPIRACY TO DEFRAUD**

110. Plaintiffs repeat and reallege each of the allegations set above. This claim is asserted against Sino-Forest and the Individual Defendants for civil conspiracy to commit fraud.

111. In furtherance of a scheme to defraud investors, the Sino-Forest Defendants corruptly agreed to combine their respective skills, expertise, resources, and reputations, thereby causing injury to Plaintiffs and the Class.

112. As set forth in detail above, one or more of the conspirators made false representations of material facts, with scienter, and Plaintiffs' and Class Members justifiably relied upon these misrepresentations and were injured as a result.

113. As a direct and proximate consequence of the foregoing, Plaintiffs and the Class have suffered economic losses in an amount to be determined at trial. Because Sino-Forest and the Individual Defendants conspired amongst themselves and with others to carry out this fraudulent scheme, the Sino-Forest Defendants are jointly and severally liable both for their own knowledge and conduct and for the knowledge and conduct of their co-conspirators in furtherance of the fraud.

**COUNT THREE**  
**AGAINST SINO-FOREST AND THE INDIVIDUAL DEFENDANTS FOR AIDING AND**  
**ABETTING FRAUD**

114. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against Sino-Forest and the Individual Defendants for aiding and abetting common law fraud. The Sino-Forest Defendants were aware of the fraudulent scheme that is the subject of this Complaint and each of these Defendants provided substantial assistance to the perpetrators of this scheme.

115. As a direct and proximate result of the Sino-Forest Defendants' aiding and abetting of the fraud, Plaintiffs and the Class have suffered economic losses in an amount to be determined at trial. Sino-Forest and the Individual Defendants are jointly and severally liable to the Class for aiding and abetting common law fraud.

**COUNT FOUR**  
**AGAINST SINO-FOREST FOR UNJUST ENRICHMENT**

116. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against Sino-Forest for unjust enrichment.

117. In connection with the fraudulent scheme set out in this Complaint Defendant Sino-Forest received payment for the sale of the 2017 Notes. Defendant Sino-Forest would not have been able to sell the 2017 Notes or would only have been able to sell these notes at a lower price had the true facts about Sino-Forest's business and financial condition been known. Consequently, Sino-Forest unjustly received money from the purchasers of its securities and it would be unjust to allow Sino-Forest to keep this improperly earned money and should be required to repay it.

**COUNT FIVE**  
**AGAINST E&Y FOR BREACH OF FIDUCIARY DUTY**

118. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against the E&Y Defendants for breach of fiduciary duties. Plaintiffs specifically disclaim any allegation of fraud or fraudulent intent of E&Y with respect to this count.

119. The E&Y Defendants had a fiduciary relationship to Plaintiffs and Class Members in that the E&Y Defendants owed Plaintiffs and Class Members a duty of ordinary and reasonable care and good faith which arose from the relationships between the E&Y Defendants

and the Plaintiffs and Class Members who were the intended users of the financial statements certified by the E&Y Defendants. The E&Y Defendants breached these fiduciary duties by certifying materially false and misleading financial statements, having known of the material misstatements or omissions, or having failed to do reasonable due diligence which would have discovered the false and misleading nature of these financial statements.

120. The E&Y Defendants breached their fiduciary duties to Plaintiffs by failing to perform their audits of Sino-Forest's final statements in accordance with Canadian GAAS by, *inter alia*, failing to obtain competent evidentiary material in support of the Company's representations in its financial statements and E&Y's audit opinion.

121. As a direct and proximate result of the E&Y Defendants' breach of fiduciary duty, Plaintiffs and the Class have suffered economic losses in an amount to be determined according to proof at trial. The E&Y Defendants are jointly and severally liable to the Class for breach of fiduciary duty.

**COUNT SIX**  
**AGAINST E&Y FOR NEGLIGENT MISREPRESENTATION**

122. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against the E&Y Defendants for negligent misrepresentation. Plaintiffs specifically exclude any allegations of fraud or fraudulent intent of E&Y with respect to this count.

123. The E&Y Defendants had a special relationship of trust and confidence with Plaintiffs and Class Members because of their status as outside auditors of Sino-Forest that gave rise to a duty to exercise due care in the performance of their duties. These Defendants knew or were reckless in not knowing that Plaintiffs and Class Members were relying on them to exercise reasonable care in the performance of their duties.

124. As set forth herein, the E&Y Defendants negligently made false and misleading statements that inflated the price of Sino-Forest's securities, including by negligently failing to disclose material information they were obligated to disclose. The E&Y defendants negligently misrepresented to Plaintiffs and Class Members that they had performed audits of Sino-Forest's financial Statements in accordance with Canadian GAAS and that the Company's financial statement were properly presented in accordance with Canadian GAAP.

125. Plaintiffs and Class Members reasonably relied on these false and misleading statements and failures to disclose and suffered substantial damages as a result. The E&Y Defendants were at least negligent in making such statements, including because they failed to conduct appropriate due diligence before making such statements by, *inter alia*, failing to obtain competent evidentiary material in support of the Company's representations in its financial statements and E&Y audit opinion.

126. As a direct and proximate result of the E&Y Defendants' negligent misrepresentations, Plaintiffs and the Class have suffered economic losses in an amount to be determined according to proof at trial. The E&Y Defendants are jointly and severally liable to the Class for negligent misrepresentation.

**COUNT SEVEN**  
**AGAINST E&Y FOR GROSS NEGLIGENCE**

127. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against the E&Y Defendants for gross negligence. Plaintiffs specifically exclude any allegations of fraud or fraudulent intent of E&Y with respect to this count.

128. The E&Y Defendants had a special relationship with Plaintiffs and Class Members because of their status as outside auditors of Sino-Forest, a relationship that gave rise

to a duty to exercise due care in the performance of the E&Y Defendants' duties. The E&Y Defendants knew or were reckless in not knowing that Class Members were relying on them to exercise reasonable diligence in the performance of their duties. The E&Y Defendants were grossly negligent in the performance of their duties, including by failing to conduct adequate due diligence. The E&Y Defendants breached their finding changes to Plaintiffs by failing to perform their audits of Sino-Forest's final statements in accordance with Canadian GAAS by, *inter alia*, failing to obtain competent evidentiary material in support of the Company's representations in its financial statements and E&Y audit opinion.

129. As a direct and proximate result of the E&Y Defendants' gross negligence, Plaintiffs and the Class have suffered economic losses in an amount to be determined by proof at trial. The E&Y Defendants are jointly and severally liable to the Class for gross negligence.

**COUNT EIGHT**  
**AGAINST E&Y FOR NEGLIGENCE**

130. Plaintiffs repeat and reallege each of the allegations set forth above. This claim is asserted against the E&Y Defendants for negligence. Plaintiffs specifically exclude any allegations of fraud or fraudulent intent of E&Y with respect to this count.

131. The E&Y Defendants had a special relationship with Class Members because of their status as independent auditor of Sino-Forest, a relationship that gave rise to a duty to exercise due care in the performance of the E&Y Defendants' duties. The E&Y Defendants knew or were reckless in not knowing that Plaintiffs and Class Members were relying on the E&Y Defendants to exercise reasonable diligence in the performance of their duties. The E&Y Defendants were negligent in the performance of their duties; specifically the E&Y Defendants breached their duties to Plaintiffs by failing to perform their audits of Sino-Forest's final

statements in accordance with Canadian GAAS, including by failing to conduct adequate due diligence by, *inter alia*, failing to obtain competent evidentiary material in support of the Company's representations in its financial statements and E&Y audit opinion.

132. As a direct and proximate result of the E&Y Defendants' negligence, Plaintiffs and the Class have suffered economic losses in an amount to be determined by proof at trial. The E&Y Defendants are jointly and severally liable to the Class for negligence.

**COUNT NINE**  
**AGAINST THE UNDERWRITER DEFENDANTS FOR NEGLIGENT**  
**MISREPRESENTATION**

133. Plaintiff IMF repeats and realleges each of the allegations set forth above. This claim is asserted against the Underwriter Defendants for negligent misrepresentation on behalf of all Class Members who purchased the 2017 Notes on the Offering. Plaintiff IMF specifically excludes any allegations of fraud or fraudulent intent of Underwriter Defendants with respect to this count.

134. The Underwriter Defendants had a special relationship with IMF and those Class Members who purchased the 2017 Notes from the Underwriter Defendants because of their status as underwriters, which gave rise to a duty to exercise due care in the performance of their duties. The Underwriter Defendants knew or were reckless in not knowing that each Class Member who purchased the 2017 Notes was relying on them to exercise reasonable care in the performance of their duties.

135. As set forth herein, the Underwriter Defendants negligently made false and misleading statements that inflated the price of the 2017 Notes, including by negligently failing to disclose material information they were obligated to disclose. Plaintiff IMF and Class Members reasonably relied on these false and misleading statements and failures to disclose and

suffered substantial damages as a result. The Underwriter Defendants were at least negligent in making such statements, including because they failed to conduct appropriate due diligence before making such statements.

136. As a direct and proximate result of the Underwriter Defendants' negligent misrepresentation, Plaintiffs and the members of the Class have suffered economic losses in an amount to be determined by proof at trial. The Underwriter Defendants are jointly and severally liable to the Class for negligent misrepresentation.

**COUNT TEN**  
**AGAINST THE UNDERWRITER DEFENDANTS FOR GROSS NEGLIGENCE**

137. Plaintiff IMF repeats and realleges each of the allegations set above. This claim is asserted against the Underwriter Defendants for negligent misrepresentation on behalf of all Class Members who purchased the 2017 Notes on the Offering. Plaintiffs specifically exclude any allegations of fraud or fraudulent intent of the Underwriter Defendants with respect to this count.

138. The Underwriter Defendants had a special relationship with Plaintiff IMF and Class Members because of their status as underwriters that gave rise to a duty to exercise due care in the performance of their duties. These Defendants knew or were reckless in not knowing that Class Members were relying on them to exercise reasonable diligence in the performance of their duties. These Defendants were grossly negligent in the performance of their duties, including by failing to conduct adequate due diligence.

139. As a direct and proximate result of the Underwriter Defendants' gross negligence, Plaintiff IMF and the Class have suffered economic losses in an amount to be determined by



proof at trial. The Underwriter Defendants are jointly and severally liable to Plaintiff IMF and the Class for gross negligence.

**COUNT ELEVEN**  
**AGAINST THE UNDERWRITER DEFENDANTS FOR NEGLIGENCE**

140. Plaintiff IMF repeats and realleges each of the allegations set forth above. This claim is asserted against the Underwriter Defendants for negligence on behalf of Plaintiff IMF and all Class Members who purchased the 2017 Notes on the Offering. Plaintiff specifically excludes any allegations of fraud or fraudulent intent of the Underwriter Defendants with respect to this count.

141. The Underwriter Defendants had a special relationship with Class Members who purchased the 2017 Notes from them because of their status as underwriters that gave rise to a duty to exercise due care in the performance of their duties. The Underwriter Defendants knew or were reckless in not knowing that Plaintiff IMF and Class Members were relying on them to exercise reasonable diligence in the performance of their duties. The Underwriter Defendants were negligent in the performance of their duties, including by failing to conduct due diligence.

142. As a direct and proximate result of the Underwriter Defendants' negligence, Plaintiff IMF and the Class have suffered economic losses in an amount to be determined at trial. The Underwriter Defendants are jointly and severally liable to Plaintiff IMF and the Class for negligence.

**XII. PRAYER FOR RELIEF AND JURY DEMAND**


WHEREFORE, Plaintiffs and the Class hereby demands a trial by jury, and seek a judgment:

- A. Awarding Plaintiffs and the Class all compensatory damages they suffered, including lost profits and consequential and incidental damages, as a result of the wrongful conduct of the Defendants, in an amount to be determined at trial;
- B. Awarding Plaintiffs and the Class damages arising from Defendants' unjust enrichment;
- C. Awarding Plaintiffs and the Class punitive damages in an amount to be determined at trial;
- D. Awarding Plaintiffs and the Class pre-judgment and post-judgment interest;
- E. Awarding Plaintiffs and the Class their costs, expert fees, expenses and attorneys' fees incurred in connection with this action to the maximum extent permitted by law;
- F. Awarding Plaintiffs and the Class such other and further relief as the Court finds just and proper.

Dated: January 27, 2012

Respectfully submitted,

COHEN MILSTEIN SELLERS &  
TOLL PLLC



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*Attorneys for Plaintiff and the Proposed  
Class*



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

DAVID LEAPARD and IMF FINANCE SA on their  
own behalf and on behalf of all others similarly situated,

Plaintiffs,

v.

ALLEN T.Y. CHAN, DAVID J. HORSLEY, KAI KIT  
POON, BANC OF AMERICA SECURITIES LLC,  
CREDIT SUISSE SECURITIES (USA) LLC, SINO-  
FOREST CORPORATION, ERNST & YOUNG  
GLOBAL LIMITED, and ERNST & YOUNG LLP,

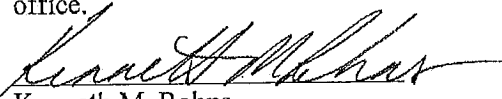
Defendants.

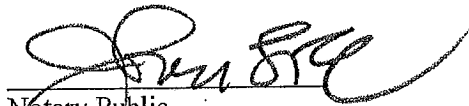
INDEX NO.

VERIFICATION

STATE OF NEW YORK )  
CITY OF NEW YORK )  
COUNTY OF NEW YORK )

Kenneth M. Rehns, being duly sworn, states that he is one of the attorneys for Plaintiffs in this action and that the foregoing complaint is true to his own knowledge, except as to matters therein stated on information and belief and as to those matters he believes to be true; that the ground of his belief as to all matters not stated upon his knowledge are upon review of publicly available securities filings, media and newspaper articles and information contained on the Internet; and that the reason why the verification is not made by Plaintiffs David Leopard and IMF Finance SA is that these Plaintiffs are not in the county where Plaintiff's attorney has his office.

  
Kenneth M. Rehns

  
Notary Public

Sworn before me this 27<sup>th</sup> day of January, 2012

JESSE J. LEE  
Notary Public, State of New York  
No. 01LE6167858  
Qualified in New York County  
Commission Expires June 4, 2015