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CASE #: 25-2-17253-8 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING

31512 CAPITAL GP LLC, on behalf of 31512
CAPITAL ABS MASTER FUND LP,

NO.

Plaintiff,

COMPLAINT

v.

FIRST FED BANK

Defendant.

Plaintiff 352 Capital GP LLC, on behalf of 352 Capital ABS Master Fund LP (the
“352 Fund”), through its undersigned counsel, alleges against defendant First Fed Bank
 (“First Fed”) as follows:

1. This case arises out of a massive fraud perpetrated against the 352 Fund and
its investors. As described herein, non-party Ryan Wear, through a web of wholly owned or
controlled companies including Water Station Management, LLC (“Water Station
Management”), Refreshing USA, LLC (“Refreshing USA”), Creative Technologies, LLC
 (“Creative Technologies”), and Ideal Property Investments LLC (“Ideal Property,” and with
other companies wholly owned or controlled by Ryan Wear, the “Wear Entities”)¹

¹ Water Station Management, Refreshing USA, Creative Technologies, and Ideal Property are
debtors in the bankruptcy proceedings captioned, *In re: Refreshing USA, LLC*, Lead Case No. 24-
01863-11 (Jointly Administered) (Bankr. E.D. Wash.); and *In re: Ideal Property Investments, LLC*,
Case No. 24-01421 (Bankr. E.D. Wash.).

1 misappropriated more than \$100 million dollars provided to Water Station Management in
2 connection with a bond offering for the express and exclusive purpose of acquiring self-
3 service water station machines, known as WST-700s, which filter water from a local source
4 for purchase by consumers (the “Water Machines”). Wear was only able to accomplish the
5 fraud by entering a conspiracy with First Fed, as well as non-party Jordan Chirico (a former
6 352 Fund portfolio manager), the Wear Entities, and others. Wear and the other non-party
7 co-conspirators are defendants in a related action filed by the 352 Fund in the Supreme Court
8 for the State of New York, *352 Capital GP LLC v. Wear, et al.*, Index No. 653486/2025
9 (Sup. Ct. N.Y. Cnty).² As a result of their collective misconduct, including the substantial
10 assistance of First Fed, more than \$100 million of funds provided to Water Station
11 Management to acquire Water Machines were misappropriated and siphoned to participants
12 in the scheme (including First Fed), or diverted to or for the benefit of Wear and other
13 companies under his ownership and control.

14 2. Water Station Management and Creative Technologies held themselves out
15 as the manufacturer, operator and manager of thousands of Water Machines. The purported
16 business model of Water Station Management was twofold. Water Station Management
17 allegedly owned and managed thousands of Water Machines, at a supposed value of \$8,500
18 per machine, from which Water Station Management would collect revenue when customers
19 purchased filtered water. Water Station Management also entered into “franchise” or “joint
20 venture” agreements with third parties, pursuant to which third parties could purportedly
21 purchase Water Machines from Creative Technologies that would be placed at retail
22 locations and serviced by Water Station Management for a fee. The remaining revenue
23 generated by the Water Machines was supposed to belong to the franchisees. Wear and

² A copy of the complaint is attached to, and incorporated in, this complaint as Exhibit A.

1 Water Station Management also guaranteed to some franchisees a “too good to be true” fixed
2 annual return of as much as 35% on their franchises in lieu of payments tied to fluctuating
3 revenues.

4 3. However, most of the Water Machines that Water Station Management
5 purportedly “franchised” did not, in fact, exist. Instead, Wear would use the money provided
6 by new franchisees to pay the returns guaranteed to older franchisees, and to pay various
7 other of Water Station Management’s and its affiliates’ expenses and creditors—including
8 First Fed.

9 4. The 352 Fund is the owner of more than \$100 million of bonds, issued by
10 Water Station Management pursuant to an indenture dated April 29, 2022 (the “Indenture”).
11 Under the Indenture, proceeds from the bonds could only be used by Water Station
12 Management to purchase Water Machines, which would then collateralize the bonds and
13 generate revenue to enable principal and interest payments.

14 5. The entire bond transaction was a fraud. Wear paid millions of dollars in
15 bribes to the 352 Fund’s portfolio manager, Chirico, to cause the 352 Fund to enter the bond
16 transaction. The Indenture itself contained numerous material misrepresentations, including
17 that Water Station Management owned the 2,974 Water Machines identified in the Indenture
18 as its primary revenue generating assets, and that were pledged as collateral for the bonds.
19 Then, throughout 2022 and 2023, Water Station Management submitted withdrawal
20 certificates, backed by purchase orders and invoices, to request withdrawals of the bond
21 proceeds to purchase Water Machines, as required under the Indenture. In fact, most of those
22 Water Machines did not exist, and the purchase orders and invoices were fabricated. Once
23 the funds were released into a Water Station Management bank account, they were diverted
24 to pay “franchisees” the returns on their “investments,” because the Water Machines

1 supposedly purchased by them also did not exist and were not generating revenue, or to other
2 conspirators—including First Fed.

3 6. First Fed played a critical role in the fraudulent misappropriation of the bond
4 proceeds, and perpetuation of the Water Station Management franchise scheme. First Fed
5 was heavily invested in Wear’s purported Water Machine business as one of Water Station
6 Management and the Wear Entities’ largest lenders, and as the operator of a financing
7 program dedicated to providing loans to individual “franchisees” so they could “invest” in
8 the Water Machine scheme. At its peak, First Fed was owed more than \$30 million by the
9 Wear Entities.

10 7. By the summer of 2022, First Fed knew that Water Station Management and the
11 other Wear Entities were unable to provide financial statements to substantiate the revenue
12 that they were supposedly generating from their Water Machine or franchise business. The
13 Wear Entities were also in default of multiple obligations under their loan agreements with
14 First Fed, including a payment default by Ideal Property. First Fed also knew the Water
15 Machines were not generating the revenue promised to franchisees, and as a result, the
16 franchisees were unable to repay their loans provided by First Fed.

17 8. By no later than August 2022, First Fed knew that many of the Water Machines
18 that were supposedly purchased by the franchisees to which First Fed had extended loans
19 did not exist, including because First Fed had the serial numbers of the machines that were
20 supposedly purchased by the franchisees and the serial numbers of machines that were
21 supposedly owned by Water Station Management and pledged as collateral for the bonds
22 under the Indenture—and hundreds of machines appeared on both lists.

23 9. First Fed also served as a bank that was entrusted to hold bond proceeds released
24 to Water Station Management for the sole purpose of acquiring Water Machines under the

1 Indenture. Given its close relationship to Wear and the Wear Entities, and communications
2 it had with them and the bond trustee, U.S. Bank, concerning the Indenture and bond
3 transaction, First Fed was fully aware that: (i) the Water Station Management bank account
4 at First Fed was designated under the Indenture to receive bond proceeds; (ii) the bond
5 proceeds could be used only for the purpose of purchasing Water Machines; and (iii) to
6 obtain a withdrawal of bond proceeds from U.S. Bank, Wear and Water Station Management
7 were required to certify that the bond proceeds would be used only to purchase Water
8 Machines, backed by invoices or purchase agreements that identified the machines to be
9 purchased.

10 10. Almost immediately after entering the Indenture, Water Station Management
11 began submitting fraudulent withdrawal certificates to induce U.S. Bank to release bond
12 proceeds to the Water Station Management bank account at First Fed. Those certifications,
13 at least 25 in total, falsely represented that the proceeds would be used to purchase Water
14 Machines and were backed by fabricated invoices and purchase and sale agreements. At
15 least \$12.9 million in bond proceeds were released to the Water Station Management bank
16 account at First Fed as a result of these fraudulent withdrawal requests.

17 11. First Fed knew that the bond proceeds would only be released to the account at
18 First Fed based on a certification that the proceeds would be used to purchase Water
19 Machines, and it knew that such purchases were the only allowed use of those funds. Yet
20 from August 2022 until February 2023, First Fed facilitated the fraudulent diversion of bond
21 proceeds from the account at First Fed to other Wear Entities, and to First Fed itself to pay
22 down the loans it provided to the Wear Entities. First Fed also helped fraudulently divert
23 bond proceeds to the accounts of franchisees at First Fed, which (i) prevented the franchisees
24 from discovering that the Water Machines they supposedly purchased did not exist and were

1 not generating the revenue promised by Water Station Management, and (ii) made those
2 funds available to First Fed to repay itself on the loans it had made to those franchisees.

3 12. Wear, Water Station Management and their co-conspirators could not have
4 accomplished their fraud against the bondholders without the knowing, substantial assistance
5 of First Fed described herein. Plaintiff therefore brings this action to hold First Fed
6 accountable for its participation in a fraud that resulted in damages to the 352 Fund of over
7 \$100 million.

8 **PARTIES**

9 13. Plaintiff 31512 Capital GP LLC is a Cayman Islands limited liability company
10 that acts as the general partner of the 352 Fund and, under Cayman Islands law, is authorized
11 to bring this action on behalf of the 352 Fund.

12 14. Defendant First Fed is a Washington state commercial deposit and FDIC
13 insured bank with its principal place of business located at 105 West Eighth Street, Port
14 Angeles, Washington 98362. First Fed has a branch office located at 1100 Bellevue Way
15 NE, Unit 6, Bellevue, Washington 98004 and a business center located at 10500 NE 8th,
16 Suite 1788, Bellevue, Washington 98004.

17 **RELEVANT NON-PARTIES**

18 15. Water Station Management is a limited liability company organized and
19 existing under the laws of Washington. Wear founded Water Station Management and
20 operated and controlled Water Station Management at all relevant times. Water Station
21 Management is currently a debtor in bankruptcy proceedings being administered in the
22 United States Bankruptcy Court for the Eastern District of Washington.

23 16. Creative Technologies is a limited liability company organized and existing
24 under the laws of Washington. Wear founded Creative Technologies and operated and

1 controlled Creative Technologies at all relevant times. Creative Technologies is currently a
2 debtor in bankruptcy proceedings being administered in the United States Bankruptcy Court
3 for the Eastern District of Washington.

4 17. Ideal Property is a limited liability company organized and existing under the
5 laws of Washington. Wear founded Ideal Property and operated and controlled Ideal
6 Property at all relevant times. Ideal Property is currently a debtor in bankruptcy proceedings
7 being administered in the United States Bankruptcy Court for the Eastern District of
8 Washington.

9 18. Refreshing USA is a limited liability company organized and existing under
10 the laws of Washington. Wear founded Refreshing USA and operated and controlled
11 Refreshing USA at all relevant times. Refreshing USA is currently in bankruptcy in the
12 United States Bankruptcy Court for the Eastern District of Washington.

13 19. Summit Management is a limited liability company organized and existing
14 under the laws of Washington. Summit Management Services is owned and controlled by
15 Wear and Wear's father, Richard Wear.

16 20. Jeremy Briggs ("Briggs") was the Director of Finance and Corporate
17 Controller of Water Station Technology and the Corporate Controller of Refreshing USA.

18 21. Jordan Chirico ("Chirico") was the former portfolio manager of the 352 Fund
19 and an employee of Leucadia Asset Management ("LAM"), the manager of the 352 Fund,
20 beginning on May 28, 2020, until he was terminated on June 5, 2024. Chirico was also a
21 franchisee of Water Station Management.

22 22. Tyler Sadek ("Sadek") was the Chief Financial Officer of Water Station
23 Management. Sadek was also a franchisee of Water Station Management.

1 23. Wear was the owner of Water Station Management, Creative Technologies,
2 Refreshing USA, Ideal Property, and Summit Management, and has acted as the Chief
3 Executive Officer of these entities.

4 **JURISDICTION AND VENUE**

5 24. Jurisdiction in this Court is proper pursuant to RCW 2.08.10 as this is a civil
6 dispute with over \$300 in controversy and there is no law that vests exclusive jurisdiction in
7 some other court.

8 25. Venue in this Court is proper pursuant to RCW 4.12.025(1)(a) and (b),
9 because defendant First Fed transacts business in King County, including by maintaining a
10 branch office at 1100 Bellevue Way NE, Unit 6, Bellevue, Washington 98004 and a business
11 center at 10500 NE 8th, Suite 1788, Bellevue, Washington 98004.

12 **FACTS**

13 **I. Wear Creates Water Station Management**

14 26. Wear founded Water Station Management in or around January 2016.

15 27. Water Station Management and Creative Technologies held themselves out
16 as the manufacturer, operator, and manager of thousands of Water Machines. Water Station
17 Management allegedly owned and managed thousands of Water Machines, at a supposed
18 value of \$8,500 per machine, which Water Station Management would place at retail
19 locations across the United States and collect revenue when customers purchased filtered
20 water.

21 28. Water Station Management also entered into “franchise” or “joint venture”
22 agreements with third parties, pursuant to which third parties could purportedly purchase
23 Water Machines directly from Creative Technologies that would then be placed at retail

1 locations and serviced by Water Station Management for a fee. The remaining revenue
2 generated by the Water Machines was supposed to belong to the franchisees.

3 29. Wear and Water Station Management agreed to guarantee to some
4 franchisees a “too good to be true” fixed annual return of as much as 35% on their franchises
5 in lieu of payments tied to fluctuating revenues.

6 **II. First Fed Enters Its Lending Relationship**
7 **With Water Station Management and the Wear Entities**
8

9 30. Beginning in 2020, First Fed began a significant lending relationship with
10 Wear to support his Water Machine enterprise. As described below, in the aggregate, First
11 Fed made tens of millions of dollars of loans to various Wear Entities and directly to
12 numerous “franchisees” of Water Station Management.

13 **A. First Fed Makes Business Loans to**
14 **Water Station Management and Other Wear Entities**

15 31. In 2020, Wear approached First Fed to obtain business loans for Water
16 Station Management, Creative Technologies, Summit Management, and Ideal Property, all
17 of which conducted operations related to his Water Machines business.

18 32. In response, First Fed engaged in a due diligence process pursuant to which
19 it requested and received a package of information from Wear concerning these Wear
20 Entities. This package included a description of Water Station Management’s “franchise”
21 business model and a projection of its future growth and potential earnings for each of these
22 Wear Entities.

23 33. First Fed thus knew that Water Station Management’s business model was
24 intended to generate revenue in two ways: (i) by operating Water Machines to be placed at
25 various retail locations around the country directly and collecting revenue from consumer
26 purchases of filtered water from those machines; and (ii) by operating Water Machines it

1 would sell to “franchisees” in exchange for fees collected from revenue generated by the
2 Water Machines. In either case, Water Station Management’s profitability and projected
3 growth depended on the Water Machines generating revenue.

4 34. Wear also provided First Fed with financial statements for Water Station
5 Management, Creative Technologies, Summit Management, and Ideal Property that
6 included lists of each company’s assets and liabilities, including the list of Water Machines
7 purportedly owned by Water Station Management and generating revenue.

8 35. Following its review of this information, First Fed agreed to make two sets
9 of loans to Water Station Management and its affiliated Wear Entities, with the purported
10 goal of supporting the growth of the Water Machine business.

11 36. *First*, First Fed made \$28.7 million in loans to Water Station Management,
12 Creative Technologies, and Summit Management, which were part of the Federal Reserve’s
13 “Main Street Lending Program.” The proceeds of these loans were to be used to acquire,
14 maintain, and store Water Machines. As mandated by the Main Street Lending Program, the
15 loan agreements required each of the borrower entities, as well as certain affiliates and
16 guarantors, to provide quarterly and annual audited financial statements to First Fed to keep
17 it appraised of how the Water Machine business was performing.

18 37. *Second*, on March 12 and September 7, 2021, First Fed made two additional
19 loans to Ideal Property in the aggregate amount of \$7.04 million. Ideal Property purportedly
20 intended to use the loan proceeds to acquire or maintain warehouses in which various
21 equipment, including Water Machines, would be stored. These two loan agreements also
22 imposed financial reporting obligations similar to those under the Main Street Lending
23 Program.

1 **B. First Fed Partners with Wear to Create**
2 **the Water Station Management Financing Program**

3 38. In or around June 2021, after making these Main Street business loans to the
4 Wear Entities, First Fed, in partnership with Wear, launched and operated a Water Station
5 Management financing program to make loans directly to Water Station Management's
6 supposed "franchisees." All, or nearly all, of these loans made under the financing program
7 were backed by the U.S. Government's Small Business Administration, or "SBA."

8 39. Under this program, a franchisee would: (i) take an SBA-backed loan from
9 First Fed; (ii) use the loan proceeds obtained from First Fed to "purchase" Water Machines
10 from Creative Technologies; and (iii) sign a "franchise agreement" with Water Station
11 Management.

12 40. Before First Fed would issue any loan to a franchisee under this program,
13 First Fed would receive and review a copy of the franchise agreement that its borrower would
14 enter with Water Station Management. Those agreements would identify the specific serial
15 numbers of the Water Machines that each franchisee was supposedly purchasing with loan
16 proceeds. The agreements also provided that Water Station Management would be
17 responsible for placing and servicing the franchisee's Water Machines at retail locations
18 throughout the United States. Water Station Management would be responsible for
19 collecting the revenue generated by the franchisee's Water Machines and disbursing a
20 portion of that revenue to the franchisee—sometimes with a fixed guaranteed return as high
21 as 35% of the franchisee's initial investment per year.

22 41. For each franchisee to which First Fed made a loan under the Water Station
23 Management financing program, First Fed opened a deposit account. The account would
24 receive from Water Station Management the revenue that was purportedly generated by the
25 franchisees' Water Machines. First Fed would then automatically draw from these accounts

1 to collect principal and interest payments on the loans that it made to the franchisees.

2 42. Because it was operating the financing program, First Fed knew that Water
3 Station Management was promising unrealistic guaranteed payments to the supposed
4 “franchisees,” that each franchisee was supposed to be receiving revenue from the Water
5 Machines that the franchisee was acquiring with the proceeds of a First Fed loan, and that
6 those revenues would be used to pay down the franchisees’ loan obligations to First Fed.
7 Moreover, First Fed knew whenever Water Station Management failed to make the promised
8 payments to the franchisee, and if any franchisee therefore had insufficient funds to make
9 the required loan payments, because the franchisee’s account was held at First Fed.

10 43. By virtue of its on-going lending relationship with the Wear Entities and the
11 franchisees, First Fed was in a unique position with respect to Wear’s Water Machine
12 business. First Fed’s review of the key documents in connection with these loans—including
13 financial statements, descriptions of the Water Machine business model, and franchise
14 agreements—allowed First Fed to understand in detail how Wear’s business was intended
15 to function and generate revenue.

16 **III. The Bond Indenture**

17 44. Pursuant to the Indenture dated April 29, 2022, Water Station Management
18 issued Class A notes in the aggregate principal amount of \$56,250,000, and Class B notes in
19 the aggregate principal amount of \$15,000,000. Non-party Heartland Financial USA, Inc.
20 purchased the Class A notes. The 352 Fund and its affiliate purchased the Class B notes.
21 The 352 Fund subsequently purchased the Class A notes and the remaining Class B notes
22 and agreed to further “upsized” the bonds by \$57.6 million.

23 45. U.S. Bank was appointed to act as Trustee under the Indenture.

24 46. Under the Indenture, U.S. Bank was granted a first priority security interest

1 in all assets of Water Station Management (with limited, irrelevant exceptions), including
2 all Water Machines owned by Water Station Management, identified by serial number in
3 Exhibit D to the Indenture.

4 47. The terms of the Indenture also placed key restrictions on Water Station
5 Management's ability to use the bond proceeds. With one exception not applicable here,
6 Water Station Management was only permitted to use the bond proceeds to acquire Water
7 Machines. The Water Machines and the revenue they generated were pledged as security
8 for the bonds under the Indenture.

9 48. The bond proceeds were to be maintained in a segregated account at U.S.
10 Bank, which was pledged as additional security for the bonds. Water Station Management
11 could only access the bond proceeds by submitting a "withdrawal certificate" that certified
12 the requested proceeds would be used to purchase Water Machines, supported by invoices
13 and purchase and sale agreements for the machines to be purchased. In reliance on that
14 certificate and supporting documentation, U.S. Bank would release bond proceeds to certain
15 Water Station Management deposit accounts identified in the Indenture.

16 49. Schedule IV of the Indenture identified a Water Station Management
17 Account at First Fed (the "8502 Account") as a deposit account into which U.S. Bank would
18 transfer bond proceeds following Water Station Management's completion of a certification
19 and withdrawal process. The Indenture also granted U.S. Bank, as Trustee, a first priority
20 security interest in the 8502 Account, as well as two other Water Station Management
21 accounts held at First Fed.

22 50. In connection with the negotiation and execution of the Indenture by Water
23 Station Management, Wear provided a copy of the Indenture to First Fed, so that First Fed
24 could evaluate whether the terms of the Indenture—including the pledge of Water Station

1 Managements accounts at First Fed and the Indenture's requirement that First Fed execute
2 account control agreements to perfect U.S. Bank's security interest in those accounts—
3 impacted the loans that First Fed had made to the Wear Entities.

4 **IV. The Wear Entities Default on Their First Fed Loans**

5 51. Almost immediately after the Indenture was executed, Water Station
6 Management and the other Wear Entities defaulted on virtually all the loans provided to
7 them by First Fed.

8 52. In May 2022, Water Station Management, Creative Technologies, and
9 Summit Management failed to provide to First Fed quarterly and annually audited financial
10 statements, as well as other financial documents including balance sheets and profit and loss
11 statements, which were required by the respective loan agreements. Despite First Fed's
12 repeated demands, the Wear Entities refused to provide the required financial information.

13 53. In early June 2022, First Fed learned that Summit Management had
14 improperly taken on debt that was prohibited by the terms of its loan agreement with First
15 Fed. Accordingly, on June 8, 2022, First Fed's senior credit risk underwriter notified Briggs
16 that Summit Management was in violation of the terms of its Main Street loan, triggering
17 another default.

18 54. Also in June 2022, First Fed learned that its loans made to franchisees under
19 the Water Station Management financing program were in default. Several franchisees
20 missed payments on their franchise loans because their deposit accounts at First Fed were
21 not receiving payments from Water Station Management sufficient to satisfy their loan
22 obligations to First Fed.

23 55. The defaults related to Wear's Water Machine business continued into the
24 following month. By July 2022, Ideal Property had also defaulted on loan payment

obligations owed to First Fed.

56. By the end of July 2022, First Fed thus recognized that Wear's Water Machine business was in serious financial distress, and First Fed was at risk of having its millions of dollars of loans to the Wear Entities and franchisees going unpaid. Wear could not provide basic financial information about Water Station Management or its affiliates, the Wear Entities were in default of numerous obligations under their loan agreements, and neither these companies nor franchisees participating in First Fed's Water Station Management financing program could pay their loan obligations to First Fed as they came due.

V. First Fed Learns that the Water Machine Business Is a Fraud

57. Following the above-described defaults, in August 2022, First Fed began an investigation into Water Station Management and its finances. During that investigation, First Fed confirmed that the Water Machines were not generating sufficient revenue to cover the franchisees' loan obligations to First Fed. Moreover, First Fed knew that Water Machines that were supposed to have been purchased by the franchisees with First Fed's loans had also been pledged as collateral for the bonds under the Indenture, because hundreds of Water Machine serial numbers listed in the franchise agreements were the same machine numbers identified in the collateral schedule in the Indenture.

58. In other words, First Fed knew that Water Station Management was using the identical Water Machines that it "sold" to franchisees as collateral for the bond transaction. Based on this information, First Fed knew that a significant number of Water Machines that Water Station Management was holding out to U.S. Bank and the franchisees as the key underlying assets for their respective transactions were duplicated. First Fed also recognized that the reason Water Station Management was not providing sufficient revenue to the

franchisees' bank accounts to cover the First Fed loans was because many of those Water Machines did not exist, or Water Station Management had fraudulently represented that ownership of those Water Machines and their revenue had been transferred to the franchisees.

**VI. First Fed Helps Water Station Management
to Fraudulently Divert the Bond Proceeds to Itself and Others**

59. After learning that Wear and Water Station Management had fraudulently misrepresented to the bondholders and the franchisees the number of Water Machines that it owned and/or were in operation and generating revenue, First Fed took action to ensure that if the fraud was discovered and fell apart, First Fed would be able to pay itself first with any bond proceeds deposited in the 8502 Account.

60. First Fed immediately reneged on its promise to U.S. Bank to execute an account control agreement for the 8502 Account, thereby preventing U.S. Bank from perfecting its security interest in the 8502 Account or the bond proceeds on deposit therein. First Fed knew that, because the 8502 Account was held at First Fed, First Fed would be able to pay itself first on any amounts owed by Water Station Management under its loan with the bond proceeds so long as it refused to sign the control agreement.

61. Then, on August 15, 2022, U.S. Bank released \$3,262,300 of bond proceeds to Water Station Management's 8502 Account at First Fed. At the time of this deposit, these bond proceeds were the only funds in the 8502 Account. As a result, First Fed knew that all the funds in the 8502 Account at this time were bond proceeds.

62. Moreover, because it knew the terms of the Indenture, First Fed knew that these bond proceeds could only have been released by U.S. Bank if Wear and Water Station Management certified in writing that the proceeds would be used for the exclusive purpose of purchasing Water Machines, and submitted invoices or purchase agreements reflecting

1 those purchases. As detailed in Exhibit A, the withdrawal certificates provided by Water
2 Station Management to procure the release of bond funds on August 15 2022, were false,
3 and the invoices and purchase agreements were fabricated. Most of the Water Machines
4 identified in that documentation did not exist, and there was no intent to purchase them with
5 the bond proceeds.

6 63. The very next day, on August 16, 2022, in coordination with Wear and Water
7 Station Management, First Fed began facilitating the Wear and Water Station Management
8 fraud by diverting the bond proceeds in the 8502 Account to itself, to franchisees, and to its
9 co-conspirators, in coordination with Wear, as follows.

10 64. **First Fed Transfer No. 1:** On August 15, 2022, First Fed transferred
11 \$150,000 of bond proceeds from Water Station Management's 8502 Account to
12 Refreshing USA.

13 65. **First Fed Transfer No. 2:** On August 16, 2022, First Fed transferred
14 \$53,072 of bond proceeds from Water Station Management's 8502 Account to its own
15 account to pay down a loan made by First Fed to Ideal Property.

16 66. **First Fed Transfer No. 3:** On August 17, 2022, First Fed transferred
17 \$91,340 of bond proceeds from Water Station Management's 8502 Account to Teichmiller
18 Freedom Holdings LLC, a franchisee.

19 67. **First Fed Transfer No. 4:** On August 17, 2022, First Fed transferred
20 \$19,975 of bond proceeds from Water Station Management's 8502 Account to Lucky Water
21 LLC, a franchisee.

22 68. **First Fed Transfer No. 5:** On August 17, 2022, First Fed transferred
23 \$116,419.58 of bond proceeds from Water Station Management's 8502 Account to Sadek,
24 Water Station Management's CFO and a franchisee.

69. **First Fed Transfer No. 6:** On August 18, 2022, First Fed transferred \$299.63 of bond proceeds from Water Station Management's 8502 Account to Lucky Water LLC, a franchisee.

70. **First Fed Transfer No. 7:** On August 18, 2022, First Fed transferred \$195.01 of bond proceeds from Water Station Management's 8502 Account to Dr. Scott Runnels Orthodontics, a franchisee.

71. **First Fed Transfer No. 8:** On August 18, 2022, First Fed transferred \$1,280.85 of bond proceeds from Water Station Management's 8502 Account to Teichmiller Freedom Holdings LLC, a franchisee.

72. **First Fed Transfer No. 9:** On August 19, 2022, First Fed transferred \$4,250 of bond proceeds from Water Station Management's 8502 Account to JB Waters Vending Co, a franchisee.

73. **First Fed Transfer No. 10:** On August 19, 2022, First Fed transferred \$6,129.45 of bond proceeds from Water Station Management's 8502 Account to IIWST, LLC, a franchisee.

74. After these ten transfers, by August 19, 2022, all the funds in the 8502 Account had been exhausted.

75. Subsequently, on August 23, 2022, U.S. Bank released an additional \$3,883,125 of bond proceeds into the 8502 Account. After receiving these bond proceeds, and without any other funds being deposited into the 8502 Account, First Fed again coordinated with Water Station Management to transfer bond proceeds to itself and to franchisees that owed loan payments to First Fed.

76. **First Fed Transfer No. 11:** On August 23, 2022, First Fed transferred \$4,250 of bond proceeds from Water Station Management's 8502 Account to JB Waters

Vending Co., a franchisee.

77. **First Fed Transfer No. 12:** On August 23, 2022, First Fed transferred \$4,335 of bond proceeds from Water Station Management's 8502 Account to Royal Reservoirs, a franchisee.

78. **First Fed Transfer No. 13:** On August 23, 2022, First Fed transferred \$5,625 of bond proceeds from Water Station Management's 8502 Account to Redwaters LLC, a franchisee.

79. **First Fed Transfer No. 14:** On August 23, 2022, First Fed transferred \$9,033 of bond proceeds from Water Station Management's 8502 Account to Kmandy Investments LLC, a franchisee.

80. **First Fed Transfer No. 15:** On August 23, 2022, First Fed transferred \$8,500 of bond proceeds from Water Station Management's 8502 Account to ASH Vending, LLC, a franchisee.

81. **First Fed Transfer No. 16:** On August 24, 2022, First Fed transferred \$2,975 of bond proceeds from Water Station Management's 8502 Account to Lucky Water LLC, a franchisee.

82. **First Fed Transfer No. 17:** On August 24, 2022, First Fed transferred \$11,700 of bond proceeds from Water Station Management's 8502 Account to Redwaters LLC, a franchisee.

83. **First Fed Transfer No. 18:** On August 24, 2022, First Fed transferred \$1,275 of bond proceeds from Water Station Management's 8502 Account to Francois Beauchemin, a franchisee.

84. The benefit of a number of these above-listed 18 transfers to franchisees ultimately accrued to First Fed. First Fed knew that the Water Machines purportedly owned

1 by the franchisees were not generating revenue sufficient to cover the franchisees' loans to
2 First Fed, including because Water Station Management had fraudulently induced the
3 franchisees into entering agreements based on Water Machines that either did not exist or
4 were owned by others. However, by transferring the bond proceeds to the franchisees'
5 accounts at First Fed, the franchisees would be duped into believing that the Water Machines
6 in fact did exist and were generating the revenue promised by Water Station Management,
7 and thereby assisted in preventing these franchisees from discovering the fraud. In addition,
8 once First Fed transferred the bond proceeds to the franchisees' accounts, those proceeds
9 would be available to pay down the franchisees' loan obligations to First Fed—obligations
10 that otherwise would have likely gone unpaid.

11 85. On August 26, 2022, after exhausting the bond proceeds deposited in the
12 8502 Account to that point, First Fed informed Wear that it was putting the Water Station
13 Finance program "on hold," meaning that it would no longer provide loans to the Wear
14 Entities or the franchisees for purposes of purchasing Water Machines. On information and
15 belief, First Fed made that decision because it knew full well that many of the Water
16 Machines underlying the fraud did not exist and were not generating the promised revenues,
17 including because First Fed itself was actively participating in covering up that fraud by
18 transferring bond proceeds to the accounts of the franchisees to create the illusion that their
19 Water Machine investments were operating as promised.

20 86. First Fed then continued to provide substantial assistance to Wear and Water
21 Station Management's fraud against the bond holders, by transferring bond proceeds in the
22 8502 Account that it knew were obtained based on false promises that the proceeds would
23 be used exclusively to purchase Water Machines.
24

1 87. On August 29, 2022, U.S. Bank released \$2,236,775 of bond proceeds into
2 the 8502 Account, and First Fed coordinated with Wear and Water Station Management to
3 continue to divert those funds to itself and others, as follows.

4 88. **First Fed Transfer No. 19:** On September 7, 2022, First Fed transferred
5 \$62,500 of bond proceeds from Water Station Management's 8502 Account to David Grillo,
6 a franchisee.

7 89. **First Fed Transfer No. 20:** On September 7, 2022, First Fed transferred
8 \$25,888.76 of bond proceeds from Water Station Management's 8502 Account to its own
9 account. This transfer was made to pay down a loan made by First Fed to Ideal Property,
10 which remained in default of its loan payment obligations to First Fed.

11 90. **First Fed Transfer No. 21:** On February 15, 2023, First Fed transferred
12 \$25,889 of bond proceeds from Water Station Management's 8502 Account to pay off a loan
13 owed by Ideal Property to First Fed. This transfer was made at the request of a First Fed
14 employee.

15 91. **First Fed Transfer No. 22:** On February 17, 2023, First Fed transferred
16 \$186,533.28 of bond proceeds from Creative Technologies' account at First Fed ending in
17 3905 to pay off a loan owed to First Fed by Creative Technologies.

18 92. **First Fed Transfer No. 23:** On April 4, 2023, First Fed transferred
19 \$1,304,363 of bond proceeds from Water Station Management's 8502 Account to pay off
20 two loans that Ideal Property owed to First Fed.

21 93. **First Fed Transfer No. 24:** On July 20, 2023, First Fed transferred \$14,663
22 of bond proceeds from Water Station Management's 8502 account to pay off a loan owed
23 that Ideal Property owed to First Fed.

1 **VII. First Fed Breached Its Obligation to Shut Down a Known, Fraudulent Scheme**

2 94. U.S. federal law requires banks, such as First Fed, to implement an anti-
3 money laundering program (or “AML Program”), through which the bank will “establish
4 appropriate, specific, and, where necessary, enhanced, due diligence policies, procedures,
5 and controls that are reasonably designed to detect and report instances of money laundering
6 through those accounts.” 31 U.S.C. § 5318(i).

7 95. While each bank’s AML Program must be tailored to the bank’s specific
8 operations, the U.S. Department of Justice has made clear that all AML Programs require,
9 at a minimum, that any bank which reasonably suspects that a customer is using its deposit
10 accounts to engage in fraudulent activities should either freeze and/or shut down such an
11 account.

12 96. Accordingly, First Fed maintains, or should maintain, an AML Program that
13 complies with these requirements.

14 97. As set forth above, by August 2021, First Fed knew that its bank accounts
15 were being used by Wear to perpetuate his fraudulent scheme, including the diversion of
16 bond proceeds. Indeed, First Fed was itself facilitating the scheme and was a direct
17 beneficiary of it. Accordingly, First Fed was obligated, both by federal law and its own
18 AML Program, to halt further transactions in the bank accounts that were being used by
19 Wear to perpetuate the fraudulent scheme.

20 98. If First Fed had complied with its obligations, the scheme would have
21 immediately unraveled. U.S. Bank and the bondholders would have learned that the
22 withdrawal certificates submitted by Water Station Management were false and fraudulent,
23 and that they never intended to use the bond proceeds to purchase Water Machines, but
24 instead to use the bond proceeds to pay franchisees and their co-conspirators, including First

1 Fed. However, because First Fed propped up Wear's scheme by transferring bond proceeds
2 to these franchisees, it enabled the scheme to continue undetected for nearly two years,
3 resulting in tens of millions of dollars of additional losses by the 352 Fund and its investors.

4 **VIII. Water Station Management's Scheme Is Exposed**

5 99. By July 20, 2023, First Fed had knowingly facilitated the improper transfer
6 of over \$1.9 million bond proceeds. In this same time period, Wear—in conjunction with
7 his other conspirators—had misappropriated approximately \$100 million bond proceeds.
8 The details of these improper transfers are set forth in detail in Exhibit A. First Fed's
9 assistance allowed the misappropriation to occur and remain undetected for nearly two years.

10 100. Ultimately, Wear's scheme was discovered by the 352 Fund in May 2024,
11 when a separately aggrieved franchisee alerted Plaintiff that it believed Wear had been
12 operating a Ponzi scheme. Shortly thereafter, Water Station Management formally defaulted
13 under the bonds, and U.S. Bank issued a notice of default and acceleration.

14 101. Almost one year after Wear's scheme was exposed, government regulators
15 recommended formal charges against Wear and Water Station Management. On May 26,
16 2025, the Washington State Department of Financial Institutions filed a Statement of
17 Charges against Wear and Water Station Management, based on its conclusion that Wear
18 and Water Station Management had "sold thousands of machines to investors that either did
19 not exist or did not exist in the places it represented them to be."³

20 102. If First Fed had raised the flag about Water Station Management's blatant
21 fraud, or at the very least refused to transfer proceeds from the bonds to cover up the revenue

³ The Washington State Department of Financial Institutions reached this conclusion, among others, in: *In the Matter of Determining whether there has been a violation of the Securities Act of Washington by: Creative Technologies, LLC; Water Station Management LLC; WST Franchise Systems LLC; Ryan Wear; Kevin Nooney; Dick Humphrey; Kristi Humphrey; Nick Streeter; Wan Kim; FranServe, Inc.*, Order No: S-21-3226-25SC01.

1 that was supposed to accrue to franchisees, then Water Station Management’s fraud would
2 have been discovered sooner or would not have occurred at all—allowing 352 Fund to avoid
3 its losses of \$106.9 million in its “investment” in Water Station Management’s bonds.

4 **CAUSES OF ACTION**

5 **COUNT I: CONSPIRACY TO COMMIT FRAUD**

6 103. The foregoing paragraphs are incorporated as if expressly set forth herein.

7 104. First Fed conspired with Wear, Water Station Management and others as
8 described herein to engage in a fraudulent conspiracy to misappropriate the bond proceeds.

9 105. **First Fed Combined with Wear to Defraud the 352 Fund.** By no later than
10 August 2022, First knew that Wear, Water Station Management and the other Wear Entities
11 identified herein had agreed to enter a conspiracy to fraudulently obtain and misappropriate
12 millions of dollars of bond proceeds, and knew, *inter alia*, that: (i) Wear and Water Station
13 Management had fraudulently misrepresented to the bondholders and franchisees the
14 existence and/or ownership of Water Machines at the heart of the fraud; (ii) Water Station
15 Management had certified and continued to certify to U.S. Bank that it was using bond
16 proceeds only to purchase Water Machines, and was providing purchase agreements and
17 supporting document to reflect those purchases; (iii) U.S. Bank relied on those certifications
18 to release bond funds to Water Station Management, including to the 8502 Account at First
19 Fed; (iv) because the Water Machines reflected in the franchise agreements did not exist or
20 were owned by others, the Water Machines were not generating revenue as promised on
21 those agreements; (v) Water Station Management was using the bond proceeds, in part, to
22 pay those franchisees and maintain the illusion that the Water Machines existed and were
23 operating as promised; (vi) Water Station Management was also using the bond proceeds to
24 pay obligations of other Wear Entities, including—critically—loan obligations owed to First

1 Fed; and (vii) as a result of the foregoing, the withdrawal certificates and supporting
2 documentation provided to U.S. Bank to procure the release of bond proceeds were false and
3 fraudulent, as Wear and Water Station Management never intended to use those proceeds to
4 purchase Water Machines and the purchase transactions reflected in that documentation were
5 fabricated.

6 106. By no later than August 2022, First Fed worked with Wear to knowingly
7 facilitate this fraudulent scheme including by, *inter alia*: (i) coordinating with Wear and
8 Water Station Management to immediately transfer the fraudulently obtained bond proceeds
9 in the 8502 Account to franchisees, to other Wear Entities, and to itself, which First Fed
10 knew was in direct contravention of the Indenture and the withdrawal certificates; and (ii)
11 failing to alert U.S. Bank or the bondholders, or the franchisees to which First Fed provided
12 loans, to the on-going fraud.

13 107. **First Fed, Wear, and Water Station Management Agreed to Defraud the**
14 **352 Fund.** First Fed entered into an agreement to make the above-described illicit transfers
15 of bond proceeds. Most of the transfers were made at Wear and/or Water Station
16 Management's request and direction, which First Fed followed, or were made at the request
17 of First Fed, to which Wear and Water Station Management agreed.

18 108. **Damages.** As a result of the fraudulent conspiracy in which First Fed
19 participated, millions of dollars of bond proceeds were fraudulently diverted from the
20 352 Fund to or for the benefit of the members of the conspiracy, including First Fed. The
21 352 Fund has been damaged in an amount not less than \$106,925,000, in an amount to be
22 proven at trial.

23 **COUNT II: AIDING AND ABETTING FRAUD**

24 109. The foregoing paragraphs are incorporated as if expressly set forth herein.

1 110. At all relevant times, Wear, Chirico, Sadek, the Wear Entities and First Fed
2 were engaged in a fraudulent scheme to misappropriate bond proceeds by using them for
3 purposes other than those designated in the Indenture.

4 111. **Fraud Against the 352 Fund:** Wear, Sadek, Chirico, Water Station
5 Management and the other Wear Entities, among others, identified herein entered into a
6 conspiracy to fraudulently obtain millions of dollars of bond proceeds through the following
7 actions: (i) Wear and Water Station Management had fraudulently misrepresented to the
8 bondholders and franchisees the existence and/or ownership of Water Machines at the heart
9 of the fraud; (ii) Water Station Management had falsely certified and continued to certify to
10 U.S. Bank that it was using bond proceeds only to purchase Water Machines, and was
11 providing falsified purchase agreements and supporting document to reflect those purchases;
12 (iii) U.S. Bank relied on those certifications to release bond funds to Water Station
13 Management, including to the 8502 Account at First Fed; (iv) because the Water Machines
14 reflected in the franchise agreements did not exist or were owned by others, the Water
15 Machines were not generating revenue as promised on those agreements.

16 112. **First Fed's Knowledge of the Fraud:** By no later than August 2022, First
17 knew that, *inter alia*: (i) Water Station Management had certified and continued to certify
18 to U.S. Bank that it was using bond proceeds only to purchase Water Machines, and was
19 providing purchase agreements and supporting document to reflect those purchases; (ii) U.S.
20 Bank relied on those certifications to release bond funds to Water Station Management,
21 including to the 8502 Account at First Fed; (iii) because the Water Machines reflected in the
22 franchise agreements did not exist or were owned by others, the Water Machines were not
23 generating revenue as promised on those agreements; (iv) Water Station Management was
24 using the bond proceeds, in part, to pay those franchisees and maintain the illusion that the

1 Water Machines existed and were operating as promised; (v) Water Station Management
2 was also using the bond proceeds to pay obligations of other Wear Entities, including—
3 critically—loan obligations owed to First Fed; and (vi) as a result of the foregoing, the
4 withdrawal certificates and supporting documentation provided to U.S. Bank to procure the
5 release of bond proceeds were false and fraudulent, as Wear and Water Station Management
6 never intended to use those proceeds to purchase Water Machines and the purchase
7 transactions reflected in that documentation were fabricated.

8 113. **First Fed’s Substantial Assistance to the Fraud:** Between May 19 and
9 August 26, 2022, more than \$12.9 million in bond proceeds were transferred to the First Fed
10 8502 Account. Those bond proceeds were supposed to be used for the exclusive purpose of
11 acquiring Water Machines.

12 114. Those proceeds were not used to purchase Water Machines. Instead, after
13 First Fed learned that Water Station Managements was a fraud, it executed multiple transfers
14 of bond funds at Wear’s direction and/or with his approval out of the 8502 Account to pay
15 itself and to pay franchisees who had missed payments on loans made by First Fed.

16 115. **Damages:** As a result of First Fed’s aiding and abetting of the fraud and
17 siphoning off of the proceeds of the bond transaction to enrich themselves and prop up Water
18 Station Management’s fraud, the 352 Fund has suffered damages, including because funds
19 that should have been available to satisfy the obligations owed under the bonds were
20 misappropriated by First Fed.

21 116. Moreover, by helping to create the illusion that franchisees were receiving
22 their guaranteed returns, the Ponzi scheme continued operating. As a result, Wear and his
23 co-conspirators were able to defraud the 352 Fund of tens of millions of additional bond
24 proceeds for two additional years.

117. The 352 Fund will prove the total amount of its damages at trial.

COUNT III: UNJUST ENRICHMENT

118. The foregoing paragraphs are incorporated as if expressly set forth herein.

119. At all relevant times, Wear, Chirico, Sadek, the Wear Entities and First Fed were engaged in a fraudulent scheme to misappropriate bond proceeds by using them for purposes other than those designated in the Indenture.

120. **First Fed Benefitted from Misappropriating the Bond Proceeds:** First Fed misappropriated bond funds, *inter alia*, to pay: (i) overdue principal and interest payments owed by various Wear Entities to First Fed; and (ii) franchisees, several of whom used these bond funds to satisfy missed loan payments they owed to First Fed. Absent First Fed's misappropriation of bond funds for these purposes, neither the Wear Entities nor the franchisees would have been able to make their loan payments to First Fed.

121. **First Fed's Benefit Came at the 352 Fund's Expense:** First Fed's benefit was derived by harming the 352 Fund in at least two ways: (i) the bond funds that First Fed misappropriated to pay itself and to pay franchisees who had missed payments on loans made by First Fed should have been available to satisfy the obligations owed to the 352 Fund under the Indenture; and (ii) by helping to create the illusion that franchisees were receiving their guaranteed returns, the Ponzi scheme continued operating. As a result, Wear and his co-conspirators were able to defraud the 352 Fund of tens of millions of additional bond proceeds for two more years.

122. **First Fed Retaining the Benefit of its Misappropriation Would be Unjust:** First Fed gained the above-described benefits by misappropriating the 352 Fund's bond proceeds, thereby harming the 352 Fund. Consequently, it would be unjust for First Fed to retain these benefits.

1 **COUNT IV: CONSTRUCTIVE TRUST**

2 123. The foregoing paragraphs are incorporated as if expressly set forth herein.

3 124. At all relevant times, Wear, Chirico, Sadek, the Wear Entities and First Fed
4 were engaged in a fraudulent scheme to misappropriate bond proceeds by using them for
5 purposes other than those designated in the Indenture.

6 125. **First Fed Would be Unjustly Enriched by Retaining the Benefit of the**
7 **Bond Proceeds It Misappropriated:** First Fed misappropriated bond funds, *inter alia*, to
8 pay: (i) overdue principal and interest payments owed by various Wear Entities to First Fed;
9 and (ii) franchisees, several of whom used these bond funds to satisfy missed loan payments
10 they owed to First Fed. Absent First Fed's use of bond funds, neither the Wear Entities nor
11 the franchisees would have been able to make their loan payments the First Fed. It would
12 be unjust for First Fed to retain the benefits of these payments made using bond proceeds
13 misappropriated from the 352 Fund.

14 126. **Constructive Trust Should be Imposed Over the Misappropriated Bond**
15 **Proceeds:** The bond proceeds that First Fed misappropriated to pay itself and to pay
16 franchisees properly belong to the 352 Fund. Consequently, the Court should impose a
17 constructive trust over those proceeds, or any property First Fed acquired using those
18 proceeds, and return them to the 352 Fund.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, the 352 Fund respectfully requests that the Court enter judgment in
21 their favor and against First Fed as follows:

22 (a) a judgment in favor of the 352 Fund and against First Fed for damages in an
23 amount to be determined at trial, but in an amount no less than \$106,925,000, plus interest
24 and punitive damages;

1 (b) an imposition of a constructive trust over any funds, property, or proceeds
2 thereof in First Fed's possession, custody, or control properly belonging to Plaintiff;

3 (c) An award of reasonable attorneys' fees and costs incurred by the 352 Fund in
4 connection with this action; and

5 (d) Such other and further relief as this Court may deem just and proper.

6 DATED this Tenth day of June, 2025.

7
8 LASHER HOLZAPFEL SPERRY &
9 EBBERSON PLLC

10
11 /s/ Sean V. Small

12
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