

Exhibit 1 Declaration of Karyl Van Tassel regarding the Magness Defendants, dated June 18, 2010. *See* App. 1-99.

Exhibit 2 James M. Davis's Plea Agreement in Criminal No. H-09-335 (S.D. Tex.—Houston Division). *See* App. 100-131.

2. The summary judgment evidence conclusively establishes that SIB was a Ponzi scheme, and the Court recently held that SIB was indeed a Ponzi scheme. [*See* Doc. 456 at 2, 11, and 13.] This fact, in turn, gives rise to conclusive legal presumptions that establish, as a matter of law, the Magness Defendants' liability under both sections 24.005(a)(1) (actual fraud) and 24.005(a)(2) (constructive fraud) of TUFTA. The Ponzi schemer is conclusively presumed to have made the payments "with actual intent to hinder, delay, or defraud . . . creditor[s] of the debtor" (*see* § 24.005(a)(1)), and the Ponzi entity is conclusively presumed to have had unreasonably small capital and to have lacked the ability to repay its debts at the time of the payments (*see* § 24.005(a)(2)(A) and (B)). In addition, payments to an investor that exceed the amount he, she, or it invested are, as a matter of law, not in exchange for "reasonably equivalent value."

3. Exhibit 1, the Declaration of Karyl Van Tassel, conclusively establishes that the Magness Defendants received payments in excess of their investments in the following amounts:

<u>Name of Defendant</u>	<u>Amount in Excess of Investment</u>
The Gary D. Magness Irrevocable Trust	\$4,491,442.93
Magness Securities LLC	\$879,734.30
GMAG LLC	\$3,144,779.91

PRAYER

The Receiver requests that the Court grant partial summary judgment that the Receiver recover from each Magness Defendant the amounts noted above; prejudgment and post-judgment interest thereon; and costs and attorneys' fees, as permitted by section 24.013 of the Texas Business and Commerce Code, in amounts to be determined at a later date. The Receiver also requests such other and further relief to which he may be justly entitled.

Dated: June 22, 2010

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ Kevin M. Sadler

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ATTORNEYS FOR RECEIVER RALPH S. JANVEY

CERTIFICATE OF SERVICE

On June 22, 2010, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I will serve all counsel of record electronically or by other means authorized by the Court or the Federal Rules of Civil Procedure.

/s/ Kevin M. Sadler
Kevin M. Sadler