

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY KERRIGAN, LORI MIKOVICH
and RYAN M. VALLI, individually, and on
behalf of all others similarly situated,

Plaintiffs,

v.

VISALUS, INC., a corporation, et al.,

Defendants.

Case No. 2:14-cv-12693
Hon. Matthew F. Leitman

**DEFENDANT RYAN BLAIR'S ANSWER TO SECOND AMENDED
COMPLAINT**

Defendant Ryan Blair, ("Blair") through undersigned counsel, for his Answer to the Second Amended Complaint ("SAC"), admits, denies, and alleges as follows:

1. Responding to Paragraph 1 of the SAC, Blair denies the allegations contained therein.
2. Responding to Paragraph 2 of the SAC, Blair refers to the website quoted therein for the full content thereof.
3. Responding to Paragraph 3 of the SAC, Blair denies the allegations contained therein.
4. Responding to Paragraph 4 of the SAC, Blair denies the allegations contained therein.
5. Responding to Paragraph 5 of the SAC, Blair is without knowledge or sufficient information as to whether the three named Plaintiffs were ViSalus

promoters, and therefore denies the same. Blair denies the remaining allegations contained therein.

6. Responding to Paragraph 6 of the SAC, Blair admits that it has had over 100,000 promoters. Blair denies the remaining allegations contained therein.

7. Responding to Paragraph 7, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

8. Responding to Paragraph 8 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

9. Responding to Paragraph 9 of the SAC, Blair denies the allegation that there was "a huge wave of IP's recruited by the Defendants in a push to try and spin ViSalus off into an IPO in late 2012." Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

10. Responding to Paragraph 10 of the SAC, Blair refers to Exhibits A and B to the SAC for the full content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

11. Responding to Paragraph 11 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

12. Responding to Paragraph 12 of the SAC, Blair refers to the videos and website pages referred to therein for the full content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

13. Responding to Paragraph 13 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

14. Responding to Paragraph 14 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

15. Responding to Paragraph 15 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

16. Responding to Paragraph 16 of the SAC, Blair admits that ViSalus is headquartered in Troy, Michigan. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

17. Responding to Paragraph 17 of the SAC, the allegations contained therein relate to defendants who have been dismissed from this lawsuit, and Blair therefore need not answer those allegations.

18. Responding to Paragraph 18 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

19. Responding to Paragraph 19 of the SAC, Blair admits that Todd Goergen is currently the Chief Operating Officer of ViSalus. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

20. Responding to Paragraph 20 of the SAC, Blair denies that ViSalus is a pyramid scheme or that he is a primary promoter of any such scheme. Blair admits that he is ViSalus' Chief Executive Officer and a co-founder of the company. Blair denies the remaining allegations contained in Paragraph 20 of the SAC.

21. Responding to Paragraph 21 of the SAC, Blair denies that ViSalus is a pyramid scheme or that Sarnicola is a primary promoter of any such scheme. Blair further admits that Sarnicola is a co-founder of ViSalus and left its employ in 2010. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

22. Responding to Paragraph 22 of the SAC, Blair denies that ViSalus is a pyramid scheme or that Mallen is a primary promoter of any such scheme. Blair admits that Mallen is a co-founder of ViSalus and is employed in an executive capacity by ViSalus. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

23. Responding to Paragraph 23 of the SAC, Blair denies the factual allegations contained therein.

24. Responding to Paragraph 24 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

25. Responding to Paragraph 25 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

26. Responding to Paragraph 26 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

27. Responding to Paragraph 27 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

28. Responding to Paragraph 28 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and

therefore denies the same.

29. Responding to Paragraph 29 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

30. Responding to Paragraph 30 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

31. Responding to Paragraph 31 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

32. Responding to Paragraph 32 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

33. Responding to Paragraph 33 of the SAC, the allegations contained therein relate to defendants who have been dismissed from this lawsuit, and Blair therefore need not answer those allegations.

34. Responding to Paragraph 34 of the SAC, Blair admits that he is subject to the Court's jurisdiction and that the Court has subject-matter jurisdiction at this time. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

35. Responding to Paragraph 35 of the SAC, Blair admits that ViSalus has made one or more payments to each of the individuals named as co-defendants in this case. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

36. Responding to Paragraph 36 of the SAC, Blair admits that ViSalus has communicated with certain of the individuals named as co-defendants in this case. Blair is without knowledge or sufficient information to respond to the remaining

allegations contained therein, and therefore denies the same.

37. Responding to Paragraph 37 of the SAC, the allegations contained therein relate to defendants who have been dismissed from this lawsuit, and Blair therefore need not answer those allegations.

38. Responding to Paragraph 38 of the SAC, Blair admits the allegations contained therein.

39. Responding to Paragraph 39 of the SAC, the allegations therein set forth legal conclusions as to which no response is required.

40. Responding to Paragraph 40 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

41. Responding to Paragraph 41 of the SAC, Blair refers to the Michigan Franchise Investment Act for the full content thereof.

42. Responding to Paragraph 42 of the SAC, Blair refers to the jury instruction quoted therein for the full content thereof.

43. Responding to Paragraph 43 of the SAC, the allegations therein set forth legal conclusions as to which no response is required. Blair further denies that Plaintiffs have accurately and completely summarized the federal common law.

44. Responding to Paragraph 44 of the SAC, Blair denies the allegations contained therein.

45. Responding to Paragraph 45 of the SAC, Blair admits that ViSalus has referred to the right to distribute its products as a business opportunity. Blair admits that ViSalus has referred to those individuals with the right to sell ViSalus products as the promoter sales force. Blair denies the remaining allegations contained in Paragraph 45.

46. Responding to Paragraph 46 of the SAC, Blair admits that no training

or experience is required to become a ViSalus IP. Blair further admits that a person can become a distributor through another IP. Blair admits that an individual must fill out a form in order to become a distributor. Blair further admits that there are different enrollment options that an individual may choose from when becoming a ViSalus distributor. Blair refers to the Independent Distributor Application for the full content thereof. Blair denies the remaining allegations contained in Paragraph 46.

47. Responding to Paragraph 47 of the SAC, Blair admits that prospective IPs could enroll by purchasing an ESS for \$499 or an ESS with samples for \$999, in addition to a basic enrollment for \$49. Blair denies the remaining allegations contained in Paragraph 47.

48. Responding to Paragraph 48 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

49. Responding to Paragraph 49 of the SAC, Blair refers to the videos referenced therein for the full content thereof. Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

50. Responding to Paragraph 50 of the SAC, Blair admits that new distributors provide ViSalus with a credit card number. Blair admits that new distributors and other customers can purchase various ViSalus products on a one-time or recurring (i.e. auto ship) basis. Blair admits that new distributors could enroll for a monthly website subscription. Blair denies the remaining allegations contained in Paragraph 50.

51. Responding to Paragraph 51 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

52. Responding to Paragraph 52 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations about sales and IP statistics contained therein, and therefore denies the same.. Blair denies the remaining allegations contained in Paragraph 52.

53. Responding to Paragraph 53 of the SAC, Blair refers to the ViSalus Compensation Plan for the content thereof. Blair denies the remaining allegations contained in Paragraph 53.

54. Responding to Paragraph 54 of the SAC, Blair denies the allegations contained therein.

55. Responding to Paragraph 55 of the SAC, Blair refers to the ViSalus Compensation Plan for the content thereof. Blair denies the remaining allegations contained in Paragraph 55.

56. Responding to Paragraph 56 of the SAC, Blair refers to the ViSalus Compensation Plan for the content thereof. Blair denies the remaining allegations contained in Paragraph 56.

57. Responding to Paragraph 57 of the SAC, Blair refers to the ViSalus Compensation Plan for the content thereof. Blair denies the remaining allegations contained in Paragraph 57.

58. Responding to Paragraph 58 of the SAC, Blair refers to the ViSalus Compensation Plan for the content thereof. Blair denies the remaining allegations contained in Paragraph 58.

59. Responding to Paragraph 59 of the SAC, Blair refers to the materials depicted therein for the content thereof.

60. Responding to Paragraph 60 of the SAC, Blair refers to the ViSalus Prospectus quoted therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 60.

61. Responding to Paragraph 61 of the SAC, Blair refers to the ViSalus

Plan Book for the content thereof.

62. Responding to Paragraph 62 of the SAC, ViSalus refers to the ViSalus Compensation Plan for the content thereof.

63. Responding to Paragraph 63 of the SAC, Blair refers to the ViSalus Compensation Plan and to the ViSalus Prospectus from which these statement appear to be quoted for the content thereof. Blair denies the remaining allegations contained in Paragraph 63.

64. Responding to Paragraph 64 of the SAC, Blair refers to the pleadings or filings quoted or referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 64.

65. Responding to Paragraph 65 of the SAC, Blair refers to the Welcome Booklet quoted therein for the content thereof.

66. Responding to Paragraph 66 of the SAC, Blair refers to the "other publications" referenced therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 66.

67. Responding to Paragraph 67 of the SAC, Blair refers to the Compensation Plan for the content thereof. Blair admits that ViSalus has made copies of the Compensation Plan available on the internet and at meetings with prospective distributors. Blair denies the remaining allegations contained in Paragraph 67.

68. Responding to Paragraph 68 of the SAC, Blair refers to the pleadings or filings quoted or referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 68.

69. Responding to Paragraph 69 of the SAC, Blair admits that the ViSalus products compete against similar products manufactured by other companies, including those companies referenced in Paragraph 69. Blair denies the remaining allegations contained in Paragraph 69.

70. Responding to Paragraph 70 of the SAC, Blair refers to the eBay and Craigslist ads and listings quoted or referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 70.

71. Responding to Paragraph 71 of the SAC, Blair admits that a non-active IP cannot receive commissions. Blair denies the remaining allegations contained in Paragraph 71.

72. Responding to Paragraph 72 of the SAC, Blair denies the allegations contained therein.

73. Responding to Paragraph 73 of the SAC, Blair denies knowledge "that the vast bulk of the people recruited to be distributors lose money." Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

74. Responding to Paragraph 74 of the SAC, Blair is without knowledge or sufficient information to respond to the general allegations about the operation of pyramid schemes contained therein, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 74.

75. Responding to Paragraph 75 of the SAC, Blair refers to the ViSalus' website and the promotional materials referenced therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 75.

76. Responding to Paragraph 76 of the SAC, Blair refers to the ViSalus promotions referenced therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 76.

77. Responding to Paragraph 77 of the SAC, Blair admits that ViSalus has referred to its most successful distributors as "Ambassadors," and that it employs a ranking system to differentiate between different levels of "Ambassadors." Blair admits that ViSalus holds out its Ambassadors as examples of success. Blair refers to the "the success stories posted on the ViSalus website or the blog the company

runs" and the ads and promotions referred to in Paragraph 77 for the content thereof. Blair denies the remaining allegations contained in Paragraph 77.

78. Responding to Paragraph 78 of the SAC, Blair refers to the company's website and print promotions for the content thereof. Blair denies the remaining allegations contained in Paragraph 78.

79. Responding to Paragraph 79 of the SAC, Blair admits that ViSalus reimburses Sarnicola for some of his travel expenses incurred in marketing ViSalus. Blair refers to the videos and promotional materials mentioned in Paragraph 79 for the content thereof. Blair denies the remaining allegations contained in Paragraph 79.

80. Responding to Paragraph 80 of the SAC, Blair refers to the videos and downloadable PowerPoint presentations referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 80.

81. Responding to Paragraph 81 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations about the Promoter Defendants' alleged "web and social media presence," "individual accounts on Facebook, YouTube and Vimeo," and "videos" contained therein, and therefore denies the same. Blair admits that ViSalus advertises on the internet, maintains social media accounts on websites, and has produced promotional videos. Blair refers to those accounts, websites, and videos for the content thereof. Blair denies the remaining allegations contained in Paragraph 81.

82. Responding to Paragraph 82 of the SAC, Blair refers to the interviews, articles or blogs referenced therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 82.

83. Responding to Paragraph 83 of the SAC, Blair refers to Vimeo, Google, and YouTube for the content thereof. Blair is without knowledge or sufficient information to respond to the allegations about the spread of interviews

and lists of top distributors through network-marketing website, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 83.

84. Responding to Paragraph 84 of the SAC, Blair refers to the PowerPoint presentations and videos referenced therein for the content thereof. Blair admits that in order to become and remain a Regional Director (which is one level above Director) in the ViSalus system, an individual must sign up three active promoters and have monthly sales volume of at least \$12,500. Blair denies the remaining allegations of Paragraph 84.

85. Responding to Paragraph 85 of the SAC, Blair refers to the marketing materials and videos referenced therein, including those regarding the "Bimmer Club," for the content thereof. Blair admits that Rick Gutman joined ViSalus in 2011. Blair denies the remaining allegations contained in Paragraph 85.

86. Responding to Paragraph 86 of the SAC, Blair admits that the ViSalus Promoters remain responsible for making all required payments on their BMW vehicle. Blair further admits that in order to continue receiving the monthly bonus payment under ViSalus' Bimmer Bonus Program, a Promoter must remain active and achieve and maintain the rank of Regional Director. Blair denies the remaining allegations contained in Paragraph 86.

87. Responding to Paragraph 87 of the SAC, Blair refers to the videos contained therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 87.

88. Responding to Paragraph 88 of the SAC, Blair admits that ViSalus has published its own magazine for distribution to, among others, its distributors, and that ViSalus has worked with "Success" magazine. Blair denies the remaining allegations contained in Paragraph 88.

89. Responding to Paragraph 89 of the SAC, Blair admits that the next rank up from Regional Director is National Director. Blair is without knowledge

or sufficient information to respond to the allegations about ViSalus' statements as to National Director income and training, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 89.

90. Responding to Paragraph 90 of the SAC, Blair refers to the public filing referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 90.

91. Responding to Paragraph 91 of the SAC, Blair is without knowledge or sufficient information to respond to the general allegations about the "the network marketing business" and "the check-waving ritual" contained therein, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 91.

92. Responding to Paragraph 92 of the SAC, Blair admits that ViSalus has provided certain of its distributors with large-sized checks at ViSalus meetings. Blair denies the remaining allegations contained in Paragraph 92.

93. Responding to Paragraph 93 of the SAC, Blair refers to the printed and Internet materials referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 93.

94. Responding to Paragraph 94 of the SAC, Blair refers to the books and videos referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 94.

95. Responding to Paragraph 95 of the SAC, Blair admits that certain IPs have appeared on "The Pyramid Thing." Blair refers to the episodes posted online for the content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

96. Responding to Paragraph 96 of the SAC, Blair refers to the videos referred to therein for the content thereof. Blair denies the remaining allegations

contained in Paragraph 96.

97. Responding to Paragraph 97 of the SAC, Blair admits that Nick and Ashley Sarnicola have spoken on stage together at ViSalus events. Blair denies the remaining allegations of Paragraph 97.

98. Responding to Paragraph 98 of the SAC, Blair denies the allegations contained therein.

99. Responding to Paragraph 99 of the SAC, Blair admits that ViSalus provides IPs with training opportunities. Blair refers to the training videos and promotional materials referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 99.

100. Responding to Paragraph 100 of the SAC, Blair refers to the promotional materials and downloadable PowerPoint referred to therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 100.

101. Responding to Paragraph 101 of the SAC, Blair refers to the Compensation Plan for the content thereof. Blair admits that ViSalus utilizes a database designed and maintained by iCentris. Blair further admits that a distributor's rank within the ViSalus system affects how much commission each distributor will receive. Blair denies the remaining allegations contained in Paragraph 101.

102. Responding to Paragraph 102 of the SAC, Blair refers to the Sarnicola interview referenced therein for the full content thereof. Blair denies the remaining allegations contained in Paragraph 102.

103. Responding to Paragraph 103 of the SAC, Blair denies the allegations contained therein.

104. Responding to Paragraph 104 of the SAC, Blair refers to the pleadings and filing in the *ViSalus v. Bohn* case for the content thereof. Blair denies the remaining allegations contained in Paragraph 104.

105. Responding to Paragraph 105 of the SAC, Blair refers to the *Amway Corporation* decision referenced therein for the content thereof.

106. Responding to Paragraph 106 of the SAC, Blair refers to the Compensation Plan and ViSalus' policies and procedures for the content thereof. Blair refers to the reports and other publicly-available documents regarding the number of IPs referenced therein for the content thereof. Blair admits that ViSalus has laid off corporate staff. Blair denies the remaining allegations contained in Paragraph 106.

107. Responding to Paragraph 107 of the SAC, Blair admits that ViSalus has expanded to Canada, the UK, and other European Nations. Blair further admits that ViSalus' quarterly revenues are currently less than they were in the third quarter of 2012. Blair denies the remaining allegations contained in Paragraph 107.

108. Responding to Paragraph 108 of the SAC, Blair denies the allegations contained therein.

109. Responding to Paragraph 109 of the SAC, Blair admits that, in 2012, ViSalus filed to participate in an initial public offering and that the initial public offering was eventually withdrawn. Blair is without knowledge or sufficient information to form a belief as to the truth of the allegations about other Defendants' knowledge or the likelihood of survival of network marketing companies, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 109.

110. Responding to Paragraph 110 of the SAC, Blair admits ViSalus is currently a private company. Blair admits that Defendants Wilson and Jackson are no longer ViSalus distributors. Blair is without knowledge or sufficient information to form a belief as to the truth of the allegations about Defendant Wilson and Jackson's involvement with LifeVantage, and therefore denies the

same. Blair denies the remaining allegations contained in Paragraph 110.

111. Responding to Paragraph 111 of the SAC, Blair admits that Plaintiffs have sought a class action under Federal Rule of Civil Procedure 23, but denies that this lawsuit satisfies the requirements under Federal Rule of Civil Procedure 23 for class action treatment.

112. Responding to Paragraph 112 of the SAC, Blair denies that this lawsuit satisfies the requirements under Federal Rule of Civil Procedure 23 for class action treatment or that a class as defined in Paragraph 112 would be appropriate.

113. Responding to Paragraph 113 of the SAC, Blair denies the allegations contained therein.

114. Responding to Paragraph 114 of the SAC, Blair denies the allegations contained therein.

115. Responding to Paragraph 115 of the SAC, Blair denies the allegations contained therein.

116. Responding to Paragraph 116 of the SAC, Blair denies the allegations contained therein.

117. Responding to Paragraph 117 of the SAC, Blair denies the allegations contained therein.

118. Responding to Paragraph 118 of the SAC, Blair denies the allegations contained therein.

119. Responding to Paragraph 119 of the SAC, Blair denies the allegations contained therein.

120. Responding to Paragraph 120 of the SAC, Blair denies the allegations contained therein.

121. Responding to Paragraph 121 of the SAC, Blair denies the allegations contained therein.

122. Responding to Paragraph 122 of the SAC, Blair refers to the federal civil racketeering statute for the content thereof.

123. Responding to Paragraph 123 of the SAC, Blair refers to Section 1962(c) for the content thereof.

124. Responding to Paragraph 124 of the SAC, Blair refers to the federal civil racketeering statute for the content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

125. Responding to Paragraph 125 of the SAC, Blair denies the allegations contained therein.

126. Responding to Paragraph 126 of the SAC, Blair denies the allegations contained therein.

127. Responding to Paragraph 127 of the SAC, Blair admits that he met Robert Goergen, Sr. and Todd Goergen in 2002. Blair further admits that Robert Goergen, Sr. retired as CEO of Blyth in 2013. Blair denies the remaining allegations contained in Paragraph 127.

128. Responding to Paragraph 128 of the SAC, Blair admits that he met Sarnicola and Mallen in 2004 or 2005. Blair denies the remaining allegations contained in Paragraph 128.

129. Responding to Paragraph 129 of the SAC, Blair admits that ViSalus has had an affiliation with Dr. Michael Seidman, who was previously with Henry Ford Hospital and who is a patent holder and, upon information and belief, recipient of NIH grants. Blair further admits that ViSalus has paid Dr. Seidman licensing fees. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

130. Responding to Paragraph 130 of the SAC, Blair denies that ViSalus ever operated as a pyramid scheme. Blair admits that ViSalus has worked with

Michael Sheffield. Blair denies the remaining allegations contained in Paragraph 130.

131. Responding to Paragraph 131 of the SAC, Blair refers to the 2012 Prospectus for the content thereof. Blair admits that he has served on ViSalus's Board of Directors and, as an executive of the company, is not considered an independent director. Blair refers to the ViSalus' biographies for the executive team for the content thereof. Blair denies the remaining allegation contained in Paragraph 131.

132. Responding to Paragraph 132 of the SAC, Blair refers to the Sarnicola interview quoted therein for the content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

133. Responding to Paragraph 133 of the SAC, Blair denies that ViSalus ever operated as a pyramid scheme. Blair denies that Robert Goergen, Sr. and Todd Goergen lent him \$1.5 million to buy all or some of ViSalus' assets and became ViSalus shareholders. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

134. Responding to Paragraph 134 of the SAC, Blair admits that he has served as ViSalus' Chief Executive Officer and that he, Sarnicola, and Mallen have referred to themselves as "co-founders." Blair is without knowledge or sufficient information to respond to the allegations regarding the Goergens' knowledge, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 134.

135. Responding to Paragraph 135 of the SAC, Blair refers to the video referenced therein for the content thereof. Blair further refers to the Membership Interest Purchase Agreement for the content thereof. Blair is without knowledge or

sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

136. Responding to Paragraph 136 of the SAC, Blair admits that Todd Goergen has served as ViSalus' Chief Strategy Officer and Chief Operating Officer. Blair admits that both Robert Goergen Sr. and Todd Goergen have served on ViSalus' Board of Directors. Blair admits that he and Mallen have served as ViSalus' top management. Blair admits that he, Sarnicola, and Mallen have appeared at ViSalus meetings and conventions and have allowed their presentations to be recorded and distributed. Blair admits that he and Mallen have been involved in ViSalus' strategic decision-making and have managed the company. Blair admits that he has served as ViSalus' CEO and that Mallen has served as ViSalus' Chief Marketing Officer. Blair admits that Sarnicola resigned as ViSalus' Chief Sales Officer in 2010. Blair denies the remaining allegations contained in Paragraph 136.

137. Responding to Paragraph 137 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations regarding Blyth and the Goergens contained therein, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 137.

138. Responding to Paragraph 138 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations regarding Blyth and the Goergens contained therein, and therefore denies the same. Blair refers to the 2011 interview referenced in Paragraph 138 for the content thereof. Blair denies the remaining allegations contained in Paragraph 138.

139. Responding to Paragraph 139 of the SAC, Blair denies the allegations contained therein.

140. Responding to Paragraph 140 of the SAC, Blair denies the allegations contained therein.

141. Responding to Paragraph 141 of the SAC, Blair denies the allegations contained therein.

142. Responding to Paragraph 142 of the SAC, Blair admits that Sarnicola, Blair, and Mallen have appeared at ViSalus meetings and conventions and that he has allowed some of his presentations to be recorded and distributed. Blair refers to those videos for the content thereof. Blair denies the remaining allegations contained in Paragraph 142.

143. Responding to Paragraph 143 of the SAC, Blair refers to the reports and other publicly-available documents regarding sales and number of IPs referenced therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 143.

144. Responding to Paragraph 144 of the SAC, Blair refers to the website referred to therein for the content thereof. Blair is without knowledge or sufficient information to respond to the allegations regarding public comments allegedly made by the Goergens, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 144.

145. Responding to Paragraph 145 of the SAC, Blair refers to the videos referenced therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 145.

146. Responding to Paragraph 146 of the SAC, Blair refers to the websites referenced therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 146.

147. Responding to Paragraph 147 of the SAC, Blair refers to the document filed with the SEC referenced or relied upon therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 147.

148. Responding to Paragraph 148 of the SAC, Blair refers to the videos and websites referenced therein for the content thereof. Blair denies the remaining

allegations contained in Paragraph 148.

149. Responding to Paragraph 149 of the SAC, Blair denies the allegations contained therein.

150. Responding to Paragraph 150 of the SAC, Blair admits that he has, at times, promoted the ViSalus Compensation Plan. Blair refers to the videos quoted and referenced in Paragraph 150 for the content thereof. Blair denies the remaining allegations contained in Paragraph 150.

151. Responding to Paragraph 151 of the SAC, Blair refers to the videos quoted and referenced therein for the content thereof. Blair denies the remaining allegations contained in Paragraph 151.

152. Responding to Paragraph 152 of the SAC, Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the allegations contained therein about what the Promoter Defendants understood, and therefore denies the same.

153. Responding to Paragraph 153 of the SAC, Blair denies the allegations contained therein.

154. Responding to Paragraph 154 of the SAC, Blair denies the allegations contained therein.

155. Responding to Paragraph 155 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein about what the Promoter Defendants understood, and therefore denies the same.

156. Responding to Paragraph 156 of the SAC, Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein about the Promoter Defendants' statements and knowledge, and therefore denies the same.

157. Responding to Paragraph 157 of the SAC, Blair refers to the published interviews referenced therein for the content thereof. Blair is without knowledge

or sufficient information to respond to the allegations contained therein about the Promoter Defendants' statements, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 157.

158. Responding to Paragraph 158 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

159. Responding to Paragraph 159 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

160. Responding to Paragraph 160 of the SAC, Blair refers to the videos and blogs referenced therein for the content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

161. Responding to Paragraph 161 of the SAC, Blair refers to the published interview referenced therein for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

162. Responding to Paragraph 162 of the SAC, Blair refers to the website, YouTube channel, and videos and printed materials referenced therein for the content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

163. Responding to Paragraph 163 of the SAC, Blair refers to the published interview referenced therein for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

164. Responding to Paragraph 164 of the SAC, Blair refers to the websites and videos referenced therein for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

165. Responding to Paragraph 165 of the SAC, Blair admits that Defendant Craig is a former executive and Director of Sales for ViSalus. Blair admits that Craig resigned his employment with ViSalus in 2010. Blair admits that Defendant Craig has been a distributor and promoter for ViSalus. Blair refers to the websites referred to in Paragraph 165 for the content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

166. Responding to Paragraph 166 of the SAC, Blair refers to the websites, videos, written and mailed brochures, magazines, DVD's, and PR releases referred to therein for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

167. Responding to Paragraph 167 of the SAC, Blair refers to the press release quoted in Paragraph 167 for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

168. Responding to Paragraph 168 of the SAC, Blair refers to the websites, blogs, videos, and published presentations referenced therein for the content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

169. Responding to Paragraph 169 of the SAC, Blair refers to the episode of "The Pyramid Thing" referenced in Paragraph 169 for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

170. Responding to Paragraph 170 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same.

171. Responding to Paragraph 171 of the SAC, Blair refers to the websites, materials, and videos referenced in Paragraph 171 for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

172. Responding to Paragraph 172 of the SAC, Blair refers to the interview quoted therein for the content thereof. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

173. Responding to Paragraph 173 of the SAC, Blair refers to the websites, news releases, articles, and videos referenced in Paragraph 173 for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

174. Responding to Paragraph 174 of the SAC, Blair refers to the websites, promotional materials, and videos referenced in Paragraph 174 for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

175. Responding to Paragraph 175 of the SAC, Blair denies the allegations contained therein.

176. Responding to Paragraph 176 of the SAC, Blair refers to the federal civil racketeering statutes for the content thereof. Blair denies the remaining allegations contained in Paragraph 176.

177. Responding to Paragraph 177 of the SAC, Blair denies the allegations contained therein.

178. Responding to Paragraph 178 of the SAC, Blair denies the allegations contained therein.

179. Responding to Paragraph 179 of the SAC, Blair denies the allegations contained therein.

180. Responding to Paragraph 180 of the SAC, Blair refers to Section 1962(c) for the content thereof. Blair denies the remaining allegations contained therein.

181. Responding to Paragraph 181 of the SAC, Blair refers to the federal civil racketeering statutes for the content thereof.

182. Responding to Paragraph 182 of the SAC, Blair denies the allegations contained therein.

183. Responding to Paragraph 183 of the SAC, Blair admits that Todd Goergen has been ViSalus' Chief Strategy Officer, and that Todd Goergen and Robert Goergen Sr. have served on ViSalus' Board of Directors. Blair is without knowledge or sufficient information to respond to the allegations about Blyth's operations, existence, and founding contained in Paragraph 183, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 183.

184. Responding to Paragraph 184 of the SAC, Blair refers to the press release quoted therein for the content thereof. Blair denies the remaining

allegations contained in Paragraph 184.

185. Responding to Paragraph 185 of the SAC, Blair denies the allegations contained therein.

186. Responding to Paragraph 186 of the SAC, Blair denies the allegations contained therein.

187. Responding to Paragraph 187 of the SAC, Blair refers to the federal civil racketeering statutes for the content thereof.

188. Responding to Paragraph 188 of the SAC, Blair denies the allegations contained therein.

189. Responding to Paragraph 189 of the SAC, Blair refers to the federal civil racketeering statutes for the content thereof.

190. Responding to Paragraph 190 of the SAC, Blair refers to the federal civil racketeering statutes for the content thereof. Blair denies the remaining allegations contained in Paragraph 190.

191. Responding to Paragraph 191 of the SAC, Blair refers to the federal civil racketeering statutes for the content thereof. Blair denies the remaining allegations contained in Paragraph 191.

192. Responding to Paragraph 192 of the SAC, Blair refers to the Compensation Plan, website, videos, promotional materials, blogs, slides, and interviews referenced therein for the content thereof. Blair denies that he has engaged in any racketeering activity, let alone a pattern of such activity. Blair denies the remaining allegations contained in Paragraph 192.

193. Responding to Paragraph 193 of the SAC, Blair refers to the published materials and videos referenced therein for the content thereof. Blair denies the remaining allegations of Paragraph 193.

194. Responding to Paragraph 194 of the SAC, Blair denies the allegations contained therein.

195. Responding to Paragraph 195 of the SAC, Blair denies the allegations contained therein.

196. Responding to Paragraph 196 of the SAC, Blair denies the allegations contained therein.

197. Responding to Paragraph 197 of the SAC, Blair denies the allegations contained therein.

198. Responding to Paragraph 198 of the SAC, Blair refers to the federal civil racketeering statutes for the content thereof.

199. Responding to Paragraph 199 of the SAC, Blair is without knowledge or sufficient information to respond to the allegations contained therein, and therefore denies the same..

200. Responding to Paragraph 200 of the SAC, Blair denies the allegations contained therein.

201. Responding to Paragraph 201 of the SAC, Blair denies the allegations contained therein.

202. Responding to Paragraph 202 of the SAC, Blair refers to the Compensation Plan for the content thereof. Blair denies the remaining allegations contained in Paragraph 202.

203. Responding to Paragraph 203 of the SAC, Blair denies the allegations contained therein.

204. Responding to Paragraph 204 of the SAC, Blair denies the allegations contained therein.

205. Responding to Paragraph 205 of the SAC, Blair denies the allegations contained therein.

206. Responding to Paragraph 206 of the SAC, Blair is without knowledge or sufficient information to respond to allegations regarding the nature of statements allegedly made and materials allegedly handed out at every one of

ViSalus' meetings, events, or conventions, including those attended by Plaintiffs, and therefore denies the same. Blair denies the remaining allegations contained in Paragraph 206.

207. Responding to Paragraph 207 of the SAC, Blair refers to Section 1962(d) for the content thereof.

208. Responding to Paragraph 208 of the SAC, Blair re-states its responses contained in Paragraphs 1-207 as if fully set forth here.

209. Responding to Paragraph 209 of the SAC, Blair denies the allegations contained therein.

210. Responding to Paragraph 210 of the SAC, Blair denies the allegations contained therein.

211. Responding to Paragraph 211 of the SAC, Blair incorporates by reference its responses to the allegations set forth in response to Count I.

212. Responding to Paragraph 212 of the SAC, that Paragraph relates exclusively to defendants who have been dismissed, and therefore Blair need not answer that Paragraph.

213. Responding to Paragraph 213 of the SAC, Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

214. Responding to Paragraph 214 of the SAC, that Paragraph relates exclusively to defendants who have been dismissed, and therefore Blair need not answer that Paragraph.

215. Responding to Paragraph 215 of the SAC, that Paragraph relates exclusively to defendants who have been dismissed, and therefore Blair need not answer that Paragraph.

216. Responding to Paragraph 216 of the SAC, Blair denies the allegations

contained therein.

217. Responding to Paragraph 217 of the SAC, Blair denies the allegations contained therein.

218. Responding to Paragraph 218 of the SAC, Blair denies the allegations contained therein.

219. Responding to Paragraph 219 of the SAC, Blair denies the allegations contained therein.

220. Responding to Paragraph 220 of the SAC, Blair denies the allegations contained therein.

221. Responding to Paragraph 221 of the SAC, Blair re-states its responses contained in Paragraphs 1-220 as if fully set forth here.

222. Responding to Paragraph 222 of the SAC, Blair denies that Plaintiffs have successfully alleged violations of securities laws or that those allegations are not a waiver of the Plaintiffs' racketeering claims.

223. Responding to Paragraph 223 of the SAC, Blair denies the allegations contained therein.

224. Responding to Paragraph 224 of the SAC, Blair denies the allegations contained therein.

225. Responding to Paragraph 225 of the SAC, Blair denies the allegations contained therein.

226. Responding to Paragraph 226 of the SAC, Blair denies the allegations contained therein.

227. Responding to Paragraph 227 of the SAC, Blair denies the allegations contained therein.

228. Responding to Paragraph 228 of the SAC, Blair denies the allegations contained therein.

229. Responding to Paragraph 229 of the SAC, Blair denies the allegations

contained therein.

230. Responding to Paragraph 230 of the SAC, Blair re-states its responses contained in Paragraphs 1-229 as if fully set forth here.

231. Responding to Paragraph 231 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

232. Responding to Paragraph 232 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

233. Responding to Paragraph 233 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

234. Responding to Paragraph 234 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

235. Responding to Paragraph 235 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

236. Responding to Paragraph 236 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

237. Responding to Paragraph 237 of the SAC, Blair re-states its responses contained in Paragraphs 1-236 as if fully set forth here.

238. Responding to Paragraph 238 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

239. Responding to Paragraph 239 of the SAC, that Paragraph relates to a

claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

240. Responding to Paragraph 240 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

241. Responding to Paragraph 241 of the SAC, Blair refers to MCL § 445.902 for the content thereof. Blair denies the remaining allegations contained in Paragraph 241.

242. Responding to Paragraph 242 of the SAC, Blair refers to the Michigan Consumer Protection Act for the content thereof.

243. Responding to Paragraph 243 of the SAC, Blair denies the allegations contained therein.

244. Responding to Paragraph 244 of the SAC, Blair refers to the Compensation Plan for the content thereof and denies that the Compensation Plan contains misrepresentations or misrepresentations by omission. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

245. Responding to Paragraph 245 of the SAC, Blair denies the allegations contained therein.

246. Responding to Paragraph 246 of the SAC, Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

247. Responding to Paragraph 247 of the SAC, Blair denies the allegations contained therein.

248. Responding to Paragraph 248 of the SAC, Blair re-states its responses contained in Paragraphs 1-247 as if fully set forth here.

249. Responding to Paragraph 249 of the SAC, Blair denies the allegations contained therein.

250. Responding to Paragraph 250 of the SAC, Blair refers to the common law in Michigan for the elements of an unjust enrichment claim.

251. Responding to Paragraph 251 of the SAC, Blair denies the allegations contained therein.

252. Responding to Paragraph 252 of the SAC, Blair denies the allegations contained therein.

253. Responding to Paragraph 253 of the SAC, Blair refers to the Compensation Plan for the content thereof. Blair denies that ViSalus ever operated as a pyramid scheme. Blair is without knowledge or sufficient information to respond to the remaining allegations contained therein, and therefore denies the same.

254. Responding to Paragraph 254 of the SAC, Blair denies the allegations contained therein.

255. Responding to Paragraph 255 of the SAC, Blair denies the allegations contained therein.

256. Responding to Paragraph 256 of the SAC, Blair re-states its responses contained in Paragraphs 1-255 as if fully set forth here.

257. Responding to Paragraph 257 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

258. Responding to Paragraph 258 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

259. Responding to Paragraph 259 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that

Paragraph.

260. Responding to Paragraph 260 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

261. Responding to Paragraph 261 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

262. Responding to Paragraph 262 of the SAC, Blair re-states its responses contained in Paragraphs 1-261 as if fully set forth here.

263. Responding to Paragraph 263 of the SAC, Blair admits that Plaintiffs are asserting a claim for civil conspiracy. Blair denies the remaining allegations contained in Paragraph 263.

264. Responding to Paragraph 264 of the SAC, Blair refers to the Michigan common law for the elements of a civil conspiracy claim.

265. Responding to Paragraph 265 of the SAC, Blair denies the allegations contained therein.

266. Responding to Paragraph 266 of the SAC, Blair denies the allegations contained therein.

267. Responding to Paragraph 267 of the SAC, Blair denies the allegations contained therein.

268. Responding to Paragraph 268 of the SAC, Blair re-states its responses contained in Paragraphs 1-267 as if fully set forth here.

269. Responding to Paragraph 269 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

270. Responding to Paragraph 270 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that

Paragraph.

271. Responding to Paragraph 271 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

272. Responding to Paragraph 272 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

273. Responding to Paragraph 273 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

274. Responding to Paragraph 274 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

275. Responding to Paragraph 275 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

276. Responding to Paragraph 276 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

277. Responding to Paragraph 277 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

278. Responding to Paragraph 278 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that Paragraph.

279. Responding to Paragraph 279 of the SAC, that Paragraph relates to a claim that is not asserted against Blair, and therefore he need not answer that

Paragraph.

280. Blair denies each and every allegation contained in the SAC not expressly admitted herein.

AFFIRMATIVE DEFENSES

As and for its affirmative defenses to the Second Amended Complaint, and each and every claim asserted therein, Blair asserts the following:

FIRST AFFIRMATIVE DEFENSE

The SAC fails to state a claim upon which relief can be granted against Blair and must, therefore, be dismissed.

SECOND AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, due to a lack of any cognizable injury or damages legally compensable at law.

THIRD AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, for lack of standing.

FOURTH AFFIRMATIVE DEFENSE

Although Blair denies each and every allegation by Plaintiffs that he or ViSalus made misrepresentations or omissions, Plaintiffs knew or should have known the facts concerning such misrepresentations or omissions.

FIFTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because Plaintiffs, and the members of the purported class, did not rely on any alleged statement or omission by Blair.

SIXTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, based on the doctrine of unclean hands.

SEVENTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, by the doctrines of waiver and/or estoppel.

EIGHTH AFFIRMATIVE DEFENSE

The documents and statements allegedly issued by Blair or others contain full and fair disclaimers with respect to the subject matter of each alleged misrepresentation or omission so as to fully inform prospective distributors as to the risks and benefits of becoming a ViSalus distributor.

NINTH AFFIRMATIVE DEFENSE

Plaintiffs are barred from recovering some or all of their claimed losses because they failed to exercise reasonable care and diligence to avoid, minimize or mitigate their alleged damages.

TENTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, by the doctrine of laches.

ELEVENTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, by the applicable statutes of limitations.

TWELFTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because no act, conduct or omission of Blair was a factor in bringing about any injury, damage or loss purportedly sustained by Plaintiffs, nor was any act or omission of Blair a contributing cause thereof.

THIRTEENTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because Plaintiffs and/or purported class members, through actions or omissions, have expressly or implicitly consented to and ratified the acts about which Plaintiffs now complain.

FOURTEENTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, by the doctrines of res judicata, collateral estoppel, and/or other similar doctrines of preclusion.

FIFTEENTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because at all relevant times ViSalus' and Blair's conduct was made in good faith.

SIXTEENTH AFFIRMATIVE DEFENSE

ViSalus' and Blair's business practices are not unfair, unlawful, or likely to mislead a reasonable consumer.

SEVENTEENTH AFFIRMATIVE DEFENSE

ViSalus' and Blair's business practices and conduct falls within a safe harbor created by law.

EIGHTEENTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because Plaintiffs consented to or approved of (by words or conduct) acts and omissions about which Plaintiffs now complain.

NINETEENTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, to the extent that it is based on non-actionable puffing.

TWENTIETH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, by release of the asserted claims.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because any representations or statements alleged to have been made by Blair were true and accurate at the time made and/or otherwise were made in good faith and with a reasonable belief as to their validity and accuracy and with reasonable belief that all of ViSalus' and Blair's conduct was lawful.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because Plaintiffs seek relief to which they are not entitled.

TWENTY-THIRD AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because Plaintiffs' state law claims are preempted by federal law.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiffs knowingly and voluntarily assumed the risk that they may not be as successful as other ViSalus distributors under ViSalus' network marketing plan, and any damages sustained by Plaintiffs were the proximate result of the risks so assumed.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because Plaintiffs failed to seek such rescission in a timely manner.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

To the extent that Plaintiffs are entitled to seek rescission, the SAC is barred, in whole or in part, because Plaintiffs' own actions have rendered rescission impossible.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' SAC is barred, in whole or in part, to the extent ViSalus complied with the defense set forth in *In re Amway Corp.*, 93 F.T.C. 618 (1979).

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

The equitable claims asserted in the SAC are barred, in whole or in part, because of and to the extent there is an adequate remedy at law.

TWENTY-NINTH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because it alleges "damages" that was caused by Plaintiffs' own acts, or by the acts of third parties, for which Blair is not responsible or liable.

THIRTIETH AFFIRMATIVE DEFENSE

The SAC is barred, in whole or in part, because recovery in favor of Plaintiffs would result in Plaintiffs' unjust enrichment.

THIRTY-FIRST AFFIRMATIVE DEFENSE

As to each and every claim asserted in the SAC, Plaintiffs do not constitute proper representatives of the putative class, are not qualified to protect and represent fairly and adequately the interests of every member of the purported class, and do not have claims typical of other putative class members.

THIRTY-SECOND AFFIRMATIVE DEFENSE

The SAC, and each claim for relief alleged against Blair, fails to set forth facts that warrant class certification under Rule 23 because, among other things, members of the putative class have divergent interests, individual questions of law and fact predominate over questions of law and fact common to members of the putative class, and a class action is not superior to other available methods for the fair and efficient adjudication of this controversy.

THIRTY-THIRD AFFIRMATIVE DEFENSE

While Blair denies any liability in this matter, any potential liability that might ultimately be determined must be offset by the extent to which any alleged losses, liabilities, or other damages or amounts for which Plaintiffs seek recovery are attributable to the conduct of Plaintiffs and third parties.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

Blair specifically reserves the right to assert any additional affirmative defenses that may become apparent during the course of discovery.

WHEREFORE, having fully answered the SAC, Blair prays for judgment as follows:

1. That certification of the putative class be denied;
2. That the SAC be dismissed and that Plaintiffs take nothing from Blair by virtue thereof;
3. That judgment be entered in favor of Blair and against Plaintiffs;
4. That Blair be awarded its attorneys' fees and costs of suit; and

5. For such other and further relief as the Court may deem just and proper.

Dated: April 25, 2016

Respectfully submitted,

By: /s/Nicholas B. Gorga
Attorney for the ViSalus Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2016, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to all counsel of record.

By: /s/Nicholas B. Gorga
Attorney for the ViSalus Defendants

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