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12 Attorneys for Plaintiffs
13 ROBERT RIVERA

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 ROBERT RIVERA, on Behalf of Himself and
18 all Others Similarly Situated,

19 Plaintiffs,

20 v.

21 OPPENHEIMER CALIFORNIA
22 MUNICIPAL FUND;
23 OPPENHEIMERFUNDS, INC.;
24 OPPENHEIMERFUNDS DISTRIBUTOR,
25 INC; BRIAN F. WRUBLE; JOHN V.
26 MURPHY; BRIAN W. WIXTED; DAVID K.
27 DOWNES; MATTHEW P. FINK; ROBERT
28 G. GALLI; PHILLIP A. GRIFFITHS; MARY
F. MILLER; JOEL W. MOTLEY; RUSSELL
S. REYNOLDS, JR.; PETER I. WOLD;
RONALD H. FIELDING; DANIEL G.
LOUGHRAN; SCOTT S. COTTIER and
TROY E. WILLIS,

Defendants.

No. C 09-0567 SI

CORRECTED FIRST AMENDED
COMPLAINT FOR VIOLATION OF THE
FEDERAL SECURITIES LAWS

CLASS ACTION

DEMAND FOR JURY TRIAL

1 **SUMMARY OF THE ACTION**

2 1. Plaintiff individually and on behalf of all other persons similarly situated for their
3 Complaint against Defendants alleges as follows:

4 2. This is an action by and on behalf of persons who purchased A, B and C shares of
5 Oppenheimer California Municipal Bond Fund (the "Fund") (Ticker Symbols: OPCAX (A
6 shares), OCABX (B shares), OCACX (C shares)) during the period from September 27, 2006 to
7 November 28, 2008 (the "Class Period"), against the Fund's underwriter, investment adviser,
8 officers and directors and the other Defendants for violations of the disclosure requirements of
9 the federal securities laws.

10 3. The Fund's Registration Statements and Prospectus issued and filed with the SEC
11 during the relevant period were false and misleading in that they represented the Fund to be a
12 "mutual fund that seeks as high a level of current interest income ... as is consistent with
13 preservation of capital." In fact, the Fund's investment policies were formulated and its
14 operations were conducted virtually in complete disregard for preservation of capital, and as a
15 result during the Class Period, it lost 45% of its net asset value ("NAV"). The Fund policies that
16 were inconsistent with preservation of capital included: (1) overconcentration of bonds whose
17 credit quality was largely at the lowest investment grade or below investment grade (junk bonds),
18 amounting to 78% of the Fund's portfolio; (2) overconcentration of unrated bonds whose sole
19 rating was established by the Fund's internal modeling, amounting to over 60% of the Fund's
20 portfolio; (3) overconcentration in higher risk securities, such as Tobacco Bonds, Dirt Bonds, and
21 Inverse Floaters; and (4) overconcentration of assets in the California real estate market during a
22 time when that market was facing serious financial problems.

23 4. The Fund's Registration Statements and Prospectuses made several additional
24 false and/or misleading statements. The Registration Statements and Prospectuses failed to
25 disclose that due to the overconcentration of the Fund's holdings in BBB rated bonds, only slight
26 errors in its internal rating system would violate the Fund's fundamental investment policy
27 prohibiting it from holding more than 25% of the Fund's assets invested in Junk Bonds. The
28 disclosures also failed to state that such an error would render the Fund's strategy more

1 appropriate for a high yield bond fund, rather than a fund aimed to preserve capital. The Fund
2 also falsely stated that it would not invest more than 25% of its assets in any one industry, and
3 that it had reduced risk by investing in a wide range of municipal securities. In fact, the Fund
4 was concentrated over 40% in Limited Tax Obligations—a percentage five times the
5 concentration of the average municipal bond fund in its Lipper peer group.

6 5. Plaintiff, by and through his undersigned attorneys, brings this action upon
7 personal knowledge as to himself and his own acts, upon the investigation conducted by and
8 through Plaintiff's counsel as to all other matters, including without limitation, analysis of
9 publicly available news articles and reports, public filings with the Securities and Exchange
10 Commission ("SEC"), review of various websites and Internet information sources (including the
11 Oppenheimer Funds website), news reports, press releases and other matters of public record,
12 prospectuses, Statements of Additional Information, annual and semi-annual reports issued by
13 and on behalf of the Fund, the Fund's sales materials, and upon information and belief.

14 **JURISDICTION AND VENUE**

15 6. The claims asserted herein arise under and pursuant to §§11, 12(a)(2) and 15 of
16 the Securities Act of 1933 (the "1933 Act") (15 U.S.C. §§77k, 77i and 77o).

17 7. This Court has jurisdiction over the subject matter of this action pursuant to §22 of
18 the 1933 Act, 15 U.S.C. §77v, and 28 U.S.C. §§1331 and 1332(d).

19 8. Venue is proper in this District pursuant to 15 U.S.C. §77v and 28 U.S.C.
20 §1391(b). Several of the Defendants are found, inhabitants of, or transact business in this
21 District. In addition, many of the acts giving rise to the violations of law complained of herein,
22 including the dissemination to shareholders of the Registration Statements and Prospectuses,
23 occurred in this District.

24 9. In connection with the acts alleged in this Complaint, Defendants, directly or
25 indirectly, used the means and instrumentalities of interstate commerce, including, but not
26 limited to, the mails, interstate telephone communications and the facilities of the national
27 securities markets.

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1 **INTRADISTRICT ASSIGNMENT**

2 10. This is a securities class action (although not subject to the Private Securities
3 Litigation Reform Act). Accordingly, it is assigned on a District-wide basis pursuant to Civil
4 Local Rule 3-2(c).

5 **PARTIES**

6 **A. Plaintiff.**

7 11. Plaintiff Robert Rivera purchased shares of the Oppenheimer California
8 Municipal Fund (the Fund) during the relevant time period pursuant to or traceable to a
9 registration statement and prospectus at issue in this Complaint and has been damaged thereby.

10 **B. Defendants.**

11 12. The Defendants are all affiliated with each other and conduct business under the
12 umbrella of the “Oppenheimer” name, which is a substantial worldwide financial services
13 organization, having its home office as one of the largest financial services organizations in the
14 world.

15 13. Defendant Oppenheimer California Municipal Fund is a mutual fund that,
16 according to its Registration Statement of March 8, 2007, seeks “as high a level of current
17 interest income exempt from federal and California income taxes for individual investors as is
18 consistent with preservation of capital.” The Fund is headquartered at 6803 South Tucson Way,
19 Centennial, Colorado 80112.

20 14. Defendant OppenheimerFunds, Inc. (the “Manager”) is the manager and
21 investment advisor of the Fund and chooses the Fund’s investments and handles its day-to-day
22 business. It is a holding company that engages in securities brokerage, banking services and
23 related financial services through its subsidiaries. OppenheimerFunds, Inc. is headquartered at
24 Two World Financial Center, 225 Liberty Street, New York, New York 10281-1008. The
25 Manager carries out its duties, subject to the policies established by the Fund’s Board of
26 Trustees, under an investment advisory agreement. As compensation for its services,
27 OppenheimerFunds, Inc. receives a management fee.

28 15. Defendant OppenheimerFunds Distributor, Inc., also located at Two World

1 Financial Center, 225 Liberty Street, New York, New York 10281-1008, is a subsidiary of the
2 Manager and was, during the relevant time period, the principal underwriter and distributor for
3 shares of the Fund and was the Trust's agent for the purpose of the continuous public offering of
4 the Fund's shares.

5 16. Defendant Brian F. Wruble is the Chairman of the Board of Trustees of the Fund
6 and signed each Registration Statement effective during the relevant time period through
7 November 28, 2008 identified at ¶32. Defendant Wruble and the individual Defendants listed in
8 paragraphs 17-30 are referred to herein as the "Individual Defendants."

9 17. Defendant John V. Murphy is President and Principal Executive Officer and a
10 Fund Trustee, and signed each Registration Statement effective during the relevant time period
11 through November 28, 2008 identified at ¶32.

12 18. Defendant Brian W. Wixted is Treasurer and Principal Financial and Accounting
13 Officer of the Fund and signed each Registration Statement effective during the relevant time
14 period through November 28, 2008 identified at ¶32.

15 19. Defendant David K. Downes is a Trustee of the Fund and signed each Registration
16 Statement effective during the relevant time period through November 28, 2008 identified at ¶32.

17 20. Defendant Matthew P. Fink is a Trustee of the Fund and signed each Registration
18 Statement effective during the relevant time period through November 28, 2008 identified at ¶32.

19 21. Defendant Robert G. Galli is a Trustee of the Fund and signed each Registration
20 Statement effective during the relevant time period through November 28, 2008 identified at ¶32.

21 22. Defendant Phillip A. Griffiths is a Trustee of the Fund and signed each
22 Registration Statement effective during the relevant time period through November 28, 2008
23 identified at ¶32.

24 23. Defendant Mary F. Miller is a Trustee of the Fund and signed each Registration
25 Statement effective during the relevant time period through November 28, 2008 identified at ¶32.

26 24. Defendant Joel W. Motley is a Trustee of the Fund and signed each Registration
27 Statement effective during the relevant time period through November 28, 2008 identified at ¶32.

28 25. Defendant Russell S. Reynolds, Jr. is a Trustee of the Fund and signed each

1 Registration Statement effective during the relevant time period through November 28, 2008
2 identified at ¶32.

3 26. Defendant Peter I. Wold is a Trustee of the Fund and signed each Registration
4 Statement effective during the relevant time period through November 28, 2008 identified at ¶32.

5 27. Defendant Ronald H. Fielding was a Vice President and Senior Portfolio Manager
6 of the Fund since January 1996. Fielding is also the chief strategist, a Senior Portfolio Manager,
7 an officer, and a trader for the Fund and other Oppenheimer funds.

8 28. Defendant Daniel G. Loughran has been a Vice President of the Fund since
9 October 2005 and a Senior Portfolio Manager of the Fund since April 2001. Mr. Loughran was a
10 Portfolio Manager of the Fund from since April 2001 and has been a Vice President of the
11 Manager since 1999. He is team leader, a Senior Portfolio Manager, an officer and a trader for
12 the Fund and other Oppenheimer funds.

13 29. Defendant Scott S. Cottier has been a Vice President of the Fund since October
14 2005 and a Senior Portfolio Manager of the Fund since 2002. Mr. Cottier has been a Vice
15 President of the Manager since 2002, and is a Senior Portfolio Manager, an officer and a trader
16 for the Fund and other Oppenheimer funds.

17 30. Defendant Troy E. Willis has been a Vice President of the Fund since October
18 2005 and a Senior Portfolio Manager of the Fund since January 2006. Mr. Willis is a Senior
19 Portfolio Manager, an officer and a trader for the Fund and other Oppenheimer funds.

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21 **DEFENDANTS' FALSE AND DEFICIENT REGISTRATION
STATEMENT**

22 31. This is a class action on behalf of all persons or entities who acquired
23 the Fund's shares during the period from September 27, 2006 to November 28, 2008 pursuant to
24 the Fund's untrue and misleading Registration Statements filed in connection with the offerings
25 of the Fund's shares during this period (the "Registration Statements").

26 32. The Registration Statements and the promotional and advertising material used to
27 sell the Fund's shares during the relevant time period through November 28, 2008 contained
28 representations that were false and/or misleading, contained material omissions, or omitted

1 material facts necessary in order to make the statements, in light of the circumstances under
2 which they were made, not misleading. The Fund's shares were issued to investors pursuant to
3 the following series of nearly identical Registration Statements filed with the SEC:

- 4 • Registration Statement filed pursuant to Form N-1A on September 27, 2006;
- 5 • Registration Statement filed pursuant to Form N-1A on March 8, 2007; and
- 6 • Registration Statement filed pursuant to Form N-1A on October 31, 2007.

7 33. The Fund also was marketed and sold to investors pursuant to the following series
8 of Prospectuses, which were supplemented periodically and which are referred to collectively
9 herein as the "Prospectuses":

- 10 • Prospectus dated September 27, 2006;
- 11 • Prospectus dated September 27, 2006, revised as of March 8, 2007; and
- 12 • Prospectus dated October 31, 2007.

13 34. The Prospectuses also incorporated by reference Statements of Additional
14 Information ("SAI") and the Fund's Annual and Semi-Annual Reports for each year, which
15 provided investors with additional guidance about, *inter alia*, the Fund's investment strategies
16 and limitations.

17 35. The false statements and omissions of material fact contained in the Fund's
18 Registration Statements and SEC-filed materials included the following:

19 (a) The Fund "*seeks as high a level of current interest income exempt from*
20 *federal and California income taxes for individual investors as is consistent with preservation of*
21 *capital.*" This objective was a "fundamental investment policy" under the Registration
22 Statements which could not be changed without shareholder approval. Over 50% of the Fund's
23 bonds were risky Tobacco Bonds and Mello-Roos industrial development bonds (known as "Dirt
24 Bonds" because they are secured only by bare land yet to be developed and not supported by
25 municipal general obligation funds). Over 40% of the bonds were rated BBB at the time of
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1 purchase, the lowest investment grade category.¹ According to Morningstar, as of June 30, 2008
2 78% were BBB or lower. Over 50% of the bonds were not rated by any independent rating
3 agency, but had their classification set by the Fund managers according to their own methods of
4 evaluation. The Fund utilized borrowing and leverage to increase yield, and invested in risky
5 derivatives such as “inverse floaters.” These are not capital preservation strategies. The
6 cumulative impact of these strategies was to turn what was described as a fund with a
7 “preservation of capital” policy into something far riskier that performed even worse than the
8 Lipper High Current Yield Bond Fund Index.

9 (b) “Most the securities the Fund buys must be ‘investment grade’ (the four
10 highest rating categories of national rating organizations such as Moody’s).” In fact, as of
11 December 31, 2008 Lipper estimated that 60.27% of the Fund’s bonds were not rated by any
12 independent rating agency. The Fund counted “unrated” bonds as investment grade if “judged by
13 the Manager to be comparable to rated investment grade securities.” The Fund failed to disclose
14 its bond rating methodology. Moreover, the Fund has never disclosed the performance of bonds
15 it rated compared to bonds rated to be the same category by the national rating organizations.

16 (c) “The Fund can invest as much as 25% of its total assets in municipal
17 securities below investment-grade.” In fact, while the rating agencies typically carry out a
18 periodic review of the ratings they have given bonds, and may downgrade them, the Fund’s
19 filings omit whether its Managers follow this same procedure for the bonds they rated.
20 Moreover, because the Fund’s policies do not require the Fund’s Managers to sell downgraded
21 bonds after they are purchased, the Prospectuses omit that the Fund could carry far more than
22 25% in junk bonds. In fact, according to Morningstar, as of June 30, 2008 the Fund held 78% of
23 its assets in BBB bonds and below. Combined with the fact that the Fund used an undisclosed
24 rating system, the Fund’s materials misleadingly fail to explain that if in fact the Fund’s rating
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26 ¹According to Standard & Poor’s, a BBB rated bond is susceptible to: “adverse economic
27 conditions or changing circumstances [that] are more likely to lead to a weakened capacity of the
28 obligor to meet its financial commitment on the obligation.” Standard & Poor’s Ratings
Services as quoted in the October 31, 2007 Registration Statement at 133.

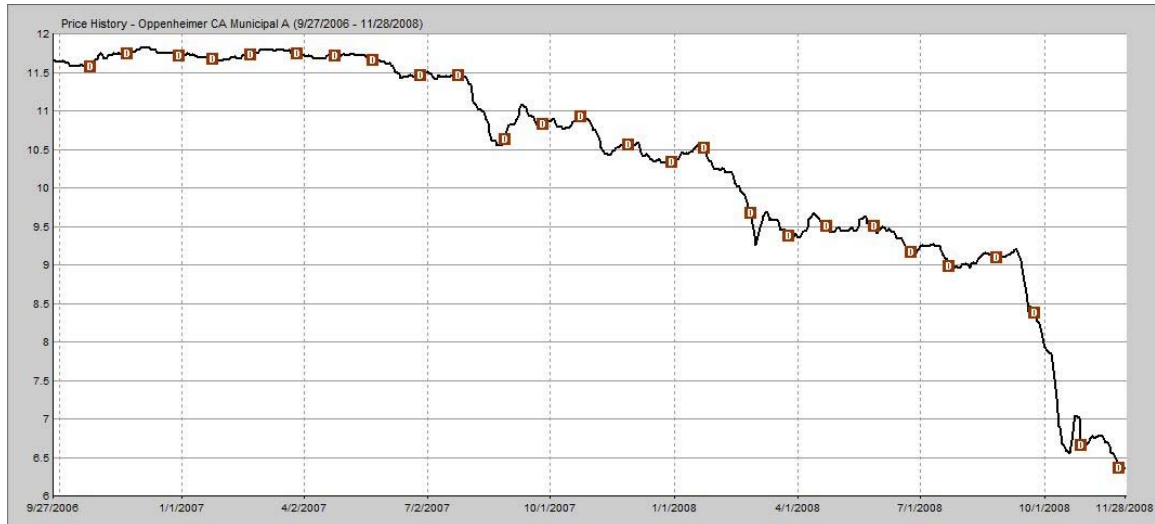
1 system were only slightly optimistic, the Fund would end up holding significantly more than
2 25% of its assets in Junk Bonds given its overconcentration in what is called BBB assets—a
3 violation of the Fund’s fundamental investment policy and a portfolio inconsistent with capital
4 preservation.

5 (d) “*The Fund cannot invest 25% or more of its total assets in any one*
6 *industry.*” This is another fundamental investment policy of the Fund. In fact, the Fund invested
7 over one-third of its assets in Dirt Bonds and another 10% in single and multiple family housing
8 units, bringing the total investment in the California real estate development industry to over
9 40%. After the fact, and apparently as a result of this overconcentration, rather than rebalancing
10 its assets and bringing investments back in line with its policy, the Fund filed a new Registration
11 Statement on November 28, 2008 stating that Dirt Bond development projects would not be
12 deemed as constituting a “single industry.” This effected a change in the fundamental investment
13 policy without the required shareholder vote.

14 (e) “*The Manager tries to reduce risks by selecting a wide variety of*
15 *municipal investments....*” In fact, the Fund was not well-diversified and was concentrated in one
16 or more risky industries or market segments. According to a December 31, 2008 Lipper report,
17 the Fund’s holdings in Limited Tax Obligations represented 40.2% of the Fund’s assets. By way
18 of comparison, the average fund in the Lipper California Municipal Debt Fund category, which
19 the Fund acknowledges in advertising as its Lipper peer group, holds only 7.8% of this type of
20 municipal security.

21 36. Due to Defendants’ positive, but misleading or untrue statements, billions of
22 dollars poured into Defendants’ Fund at prices set by Defendants. The NAV of the Fund was
23 approximately \$11.44 per share at the beginning of the Class Period. As shown in the chart
24 below, almost immediately thereafter, the NAV began to decline, plummeting to as low as \$5.66
25 per share on December 19, 2008. During the class period, the decline in NAV of the Fund’s
26 shares represents a loss of over 46%. The Fund lost 41.31% in 2008 alone. By comparison, the
27 average Lipper Classification loss for this category during the same period was approximately
28 11.53%. Lipper’s High Current Yield Bond Funds Index of supposedly riskier bond funds fell

1 only approximately 28% in the same period. The following chart shows the decline in Fund
2 assets described above.



12 **CLASS ACTION ALLEGATIONS**

13 37. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil
14 Procedure 23(a) and (b)(3) on behalf of a class consisting of all persons or entities who acquired
15 the Fund's shares traceable to Defendants' false and misleading Registration Statements and who
16 were damaged thereby (the "Class"). Excluded from the Class are Defendants, the Officers and
17 Directors of the Oppenheimer entities named herein, members of their immediate families, their
18 legal representatives, heirs, successors or assigns and any entity in which Defendants had or have
19 a controlling interest.

20 38. The members of the Class are so numerous that joinder of all members is
21 impracticable. While the exact number of Class members is unknown to Plaintiff at this time and
22 can only be ascertained through appropriate discovery, Plaintiff believes that there are thousands
23 of members in the proposed Class. Record owners and other members of the Class may be
24 identified from records maintained by Registrant or its transfer agent and may be notified of the
25 pendency of this action by mail, using the form of notice similar to that customarily used in
26 securities class actions.

27 39. Plaintiff's claims are typical of the claims of the members of the Class as all
28 members of the Class are similarly affected by Defendants' wrongful conduct in violation of

1 federal law that is complained of herein.

2 40. Plaintiff will fairly and adequately protect the interests of the members of the
3 Class and has retained counsel competent and experienced in class and securities litigation.

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

7 (a) Whether Defendants' acts as alleged were a violation of Sections 11 and
8 12(a)(2) of the Securities Act of 1933;

9 (b) Whether statements made by Defendants to the investing public in the
10 Registration Statements and any sales or promotional material for the Fund misrepresented or
11 omitted material facts about the investment objectives, assets, operations or management of the
12 Fund; and

13 (c) Whether, and to what extent, the members of the Class have sustained
14 damages and the proper measure of damages.

15 42. A class action is superior to all other available methods for the fair and efficient
16 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as
17 the damages suffered by individual Class members may be relatively small, the expense and
18 burden of individual litigation make it impossible for members of the Class to redress
19 individually the wrongs done to them. There will be no difficulty in the management of this
20 action as a class action.

21 **COUNT I**

22 **VIOLATIONS OF SECTION 11 OF THE 1933 ACT AGAINST ALL**
23 **DEFENDANTS**

24 43. Plaintiff repeats and incorporates each allegation contained above.

25 44. This Count I is brought pursuant to Section 11 of the 1933 Act, 15 U.S.C. §77k,
26 on behalf of the Class, against all Defendants.

27 45. The Registration Statements for the Fund contained untrue statements of material
28 facts, omitted to state other facts necessary to make the statements made not misleading, and/or

1 omitted to state material facts required to be stated therein.

2 46. The Defendants named herein were responsible for the content and dissemination
3 of the Registration Statements.

4 47. None of the Defendants named herein made a reasonable investigation or
5 possessed reasonable grounds for the belief that the statements contained in the Registration
6 Statements were true and without omissions of any material facts and were not misleading.

7 48. By reasons of the conduct herein alleged, each Defendant violated and/or
8 controlled a person who violated Section 11 of the 1933 Act.

9 49. Plaintiff acquired the Fund's shares pursuant to the Registration Statements.

10 50. Plaintiff and the Class have sustained damages in that the value of the Fund's
11 shares has declined substantially subsequent to and due to Defendants' wrongful conduct and
12 violation of law.

13 51. At the time of their purchases of the Fund's shares, Plaintiff and other members of
14 the Class were without knowledge of the facts concerning the untrue statements or omissions
15 herein and could not have reasonably discovered those facts prior to the date of the filing of this
16 Complaint. Less than one year has elapsed from the time that Plaintiff discovered or reasonably
17 could have discovered the facts upon which this Complaint is based to the time that Plaintiff filed
18 this Complaint. Less than three years have elapsed from the time that Plaintiff purchased the
19 Fund shares upon which this Count is brought to the time Plaintiff filed this Complaint.

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21 **COUNT II**

22 **VIOLATIONS OF SECTION 12(a)(2) OF THE 1933 ACT**
23 **AGAINST ALL DEFENDANTS**

24 52. This Count II is asserted against all Defendants as participants in the distribution
25 of the Fund's shares (the "Section 12 Defendants").

26 53. Plaintiff repeats and incorporates each and every allegation contained above as if
27 fully set forth, herein, except to the extent any allegations above contain facts which are
28 unnecessary or irrelevant for purposes of stating a claim under Section 12, including allegations
that might be interpreted to sound in fraud or relating to any state of mind on the part of the

1 Section 12 Defendants, other than strict liability or negligence.

2 54. The Section 12 Defendants offered and sold a security, namely shares of the
3 Fund's common stock, by means of the Registration Statements, or were controlling persons of
4 the Fund or of those who offered and sold the Fund's shares. The Registration Statements
5 contained untrue and/or misleading statements of material fact, contained material omissions, or
6 omitted material facts necessary in order to make the statements, in light of the circumstances
7 under which they were made, not misleading, or contained material statements of fact that the
8 Section 12 Defendants in the exercise of reasonable care should have known were false.

9 55. The Section 12 Defendants actively solicited the sale of the Fund's shares to serve
10 their own financial interests.

11 56. At the time of purchase of the Fund's shares, Plaintiff and other members of the
12 Class did not know that the representations made to them by the Section 12 Defendants in
13 connection with the distribution of shares and the matters described above were untrue, and did
14 not know the above described omitted material facts were not disclosed.

15 57. As a result of the matters set forth above, pursuant to Section 12(a)(2) of the
16 Securities Act, Plaintiff and Class members are entitled to recover upon tender of the Fund shares
17 they purchased the consideration paid for the shares with interest thereon, less the amount of any
18 income received thereon, or damages resulting from Defendants' conduct.

19 58. Plaintiff and putative Class members who do not opt out hereby tender their
20 shares in the Fund.

21 59. The Section 12 Defendants are liable to Plaintiff and Class members pursuant to
22 Section 12(a)(2) of the Securities Act, as sellers of the Fund shares.

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COUNT III

**VIOLATIONS OF SECTION 15 OF THE 1933 ACT AGAINST THE
INDIVIDUAL DEFENDANTS**

60. Plaintiff repeats and incorporates each allegation contained above.

61. This Count III is brought pursuant to Section 15 of the 1933 Act against the Individual Defendants.

62. Each of the Individual Defendants was a control person of the Fund or Defendant Oppenheimer Funds, Inc. or Defendant Oppenheimer Funds Distributor, Inc. by virtue of his or her position as a trustee and/or senior officer of these Defendant entities. The Individual Defendants each had a series of direct and/or indirect business and/or personal relationships with other trustees and/or officers and/or major shareholders of the Defendant Oppenheimer entities and the Fund.

63. Each of the Individual Defendants was a culpable participant in the violations of Sections 11 and 12 of the 1933 Act alleged in the Counts above, based on their having signed or authorized the signing of the Registration Statements and having otherwise participated in the process which allowed the share offering to be successfully completed, or having participated in the offer or sale of the shares of the Fund.

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COUNT IV

**VIOLATIONS OF SECTION 13(A) OF THE INVESTMENT
COMPANY ACT AGAINST ALL DEFENDANTS**

64. Plaintiff repeats and incorporates each allegation contained above.

65. This Count IV is asserted on behalf of the members of the Class for violation of §13 of the Investment Company Act of 1940 (the "ICA"), 15 U.S.C. §80a-13(a).

66. Section 8 of the ICA directs an investment company to recite in its Registration Statement "all investment policies of [the] registrant . . . , which are changeable only if authorized by shareholder vote," as well as all policies that "the registrant deems matters of fundamental policy." 15 U.S.C. §§80a-8(b)(2), (3). Section 13 of the ICA prohibits a registered investment company from deviating from any such policies "unless authorized by the vote of a

1 a duty to act in good faith and with utmost loyalty to Plaintiff and the members of the Class, to
2 protect the interests of the Fund, to supervise the activities of the Fund's Investment Advisor, and
3 to refrain from any action that would cause injury to the assets of the Fund.

4 75. Defendants breaches of fiduciary duties to Plaintiff and the members of the Class
5 included but were not limited to the following:

6 (a) Defendants implemented an investment strategy that was not "consistent with
7 preservation of capital" in violation of a fundamental investment policy;

8 (b) Defendants invested more than 25% of the Fund's assets in one industry in
9 violation of a fundamental investment policy;

10 (c) Defendants over-concentrated the Fund's assets in Dirt Bonds at a time of great
11 uncertainty in the California real estate market;

12 (d) Defendants over-concentrated the Fund's assets in non-investment grade and or
13 near non-investment grade securities, and;

14 (e) Defendants amended the Fund's fundamental investment policy, with regard to
15 industry concentration, without a shareholder vote.

16 76. Plaintiff and the members of the Class have sustained damages in that the value of
17 the Fund's shares has declined substantially subsequent to and due to Defendants' wrongful
18 conduct and breach of fiduciary duty owed to Plaintiff and the members of the Class.

19 **PRAAYER FOR RELIEF**

20 WHEREFORE, Plaintiff prays for judgment as follows:

21 1. Determining that this action is a proper class action and certifying Plaintiff as
22 Class representative under Federal Rule of Civil Procedure 23;

23 2. Awarding compensatory damages in favor of Plaintiff and the other Class
24 members against all Defendants, jointly and severally, for all damages sustained as a result of
25 Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

26 3. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in
27 this action, including counsel fees and expert fees;

28 4. Awarding recessionary damages; and

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5. Such equitable, injunctive or other relief as deemed appropriate by the Court.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury.

Dated: March 24, 2009

Respectfully submitted,

ALAN W. SPARER
MARC HABER
JAMES S. NABWANGU
SPARER LAW GROUP

By: _____ /s/
ALAN W. SPARER

Attorneys for Plaintiffs Robert Rivera