

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

CIVIL ACTION NO. 6:21-cv-694-CEM-DCI

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**HARBOR CITY CAPITAL CORP.,
HARBOR CITY VENTURES LLC,
HCCF-1 LLC,
HCCF-2 LLC,
HCCF-3 LLC,
HCCF-4 LLC,
HCCF-5 LLC,
HARBOR CITY DIGITAL VENTURES INC.,
HCC MEDIA FUNDING LLC,
JONATHAN P. MARONEY,**

Defendants,

and

**CELTIC ENTERPRISES LLC and
TONYA L. MARONEY,**

Relief Defendants.

_____/

**PLAINTIFF'S UNOPPOSED MOTION FOR APPOINTMENT
OF RECEIVER AND MEMORANDUM OF LAW**

Plaintiff Securities and Exchange Commission moves this Court for an Order appointing a Receiver over Defendants Harbor City Capital Corp., Harbor City Ventures LLC, HCC-1 LLC, HCCF-2 LLC, HCCF-3, HCCF-4 LLC, HCCF-5 LLC, Harbor City Digital Ventures Inc., HCC Media Funding LLC, (collectively the "Corporate

Defendants”) and Relief Defendant Celtic Enterprises LLC (“Celtic”), in this action, with full and exclusive power, duty, and authority to: administer and manage the business affairs, funds, assets, causes of action and any other property of the Corporate Defendants and Relief Defendant Celtic; marshal and safeguard all of the assets of these parties; and take whatever actions are necessary for the protection of investors. The grounds for this motion are fully set forth in the memorandum of law below. As additional support for this motion, the Commission incorporates the factual discussion in its Emergency Motion and Memorandum of Law in Support of Temporary Restraining Order, Asset Freeze, and Other Injunctive Relief (“TRO Motion”) (D.E. 4).

In connection with this request to appoint a Receiver, the Commission’s staff solicited expressions of interest from potential receivers it believes are well-qualified to handle this matter. The Commission attaches the credentials of the top three candidates as Exhibits 1 through 3 to this motion.

After considering each of these candidates, the Commission’s staff believes the interests of investors would best be served by appointing Katherine Donlon, Esq. to serve as Receiver. Ms. Donlon, whose credentials are attached as Exhibit 1, is a partner in the law firm of Johnson, Cassidy, Newlon & Decort PA, a Tampa firm specializing in business and complex commercial litigation. Ms. Donlon has a 26-year professional history as a lawyer, with specialties in securities and business law, and has previously served as counsel to a Receiver in similar matters. Most recently, she served as lead counsel to the Receiver in *SEC v. Brian Davison, et al*, Case No. 8:20-cv-325-T-35AEP, a \$170 Million Ponzi scheme with issues similar to those presented in the instant case. Because of the size and

scope of the Harbor City Receivership, which will involve marshalling the remaining assets of the defendant, litigation against third parties and determining a long-term exit strategy for the Funds, among other tasks, a Receiver is required.

Moreover, Ms. Donlon is willing to significantly discount her and her firm's current hourly rates. She is willing to discount her normal hourly rate from \$425 an hour to a capped rate of \$350 an hour. Additionally, the firm's partners normally charge from \$250 to \$475 per hour, but she will reduce and cap those rates at \$350 an hour. She will also cap the firm's associates' rates at \$240 per hour. Not only will these considerable rate reductions substantially reduce the costs of the Receivership to defrauded investors, they are lower rates than the other candidates offered.

For these reasons, the Commission recommends that the Court appoint Katherine Donlon as the Receiver over the Corporate Defendants and Relief Defendant Celtic. As discussed above, the SEC sought expressions of interest to serve as Receiver from two additional candidates, both of whom are well-qualified and prepared to serve. Both, along with their respective firms, have also agreed to significantly discount their fees. If the Court does not agree with the Commission's recommendation, the Commission respectfully requests that the Court appoint either of these candidates. Their credentials are attached as Exhibits 2 and 3, respectively.

MEMORANDUM OF LAW

The Court should appoint a Receiver over the Corporate Defendants and Relief Defendant Celtic with full and exclusive power, duty, and authority to: administer and manage their business affairs, funds, assets, causes of action and any other property of the

Corporate Defendants and Relief Defendants; marshal and safeguard all of the assets of the Corporate Defendants and Relief Defendants; and take whatever actions are necessary for the protection of the investors.

The appointment of a Receiver is a well-established equitable remedy available to the Commission in civil enforcement proceedings for injunctive relief. *See, e.g., SEC v. First Financial Group of Texas*, 645 F.2d 429, 438 (5th Cir. 1981); *see also* Section 22(a) of the Securities Act of 1933, 15 U.S.C. § 77v(a), and Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. § 78aa.

The appointment of a Receiver is particularly appropriate in cases such as this where a corporation, through its management, has defrauded members of the investing public. *First Financial Group of Texas*, 645 F.2d at 438. In such cases, without the appointment of a Receiver to maintain the status quo, the corporate assets will be subject to diversion and waste to the detriment of those who were induced to invest in the fraudulent scheme. *Id.*; *See also SEC v. R.J. Allen & Associates, Inc.*, 386 F. Supp. 866, 891 (S.D. Fla. 1974). A Receiver is appropriate to protect the public interest when it is obvious that those in control of an entity who have inflicted serious detriment in the past must be ousted. *SEC v. Bowler*, 427 F.2d 190, 198 (4th Cir. 1970).

Here, as discussed in more detail on the TRO Motion and the Complaint, the Defendants in this action have misappropriated and misused millions of dollars belonging to investors. At this juncture, the Corporate Defendants and Relief Defendant Celtic need a Court-appointed Receiver to act in their best interests and to maximize value for defrauded investors.

CONCLUSION

For the foregoing reasons, the Commission requests that the Court grant its request for the appointment of Katherine Donlon, Esq., as Receiver over the Corporate Defendants and Relief Defendant Celtic.

Local Rule 3.01(g) Certification

Pursuant to Local Rule 3.01(g) undersigned counsel for the Commission have conferred with counsel for Defendant Jonathan Maroney who does not oppose the relief requested in this motion.

Respectfully submitted,

June 16, 2021

By: s/Alise Johnson
Alise Johnson, Esq.
Senior Trial Counsel
Fla. Bar No. 0003270
Direct Dial: (305) 982-6385
Email: johnsonali@sec.gov

Attorney for Plaintiff
**SECURITIES AND EXCHANGE
COMMISSION**
801 Brickell Avenue, Suite 1950
Miami, Florida 33131
Telephone: (305) 982-6300
Facsimile: (305) 536-4154

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 16, 2021, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified on the below Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to received electronically Notices of Electronic Filing.

SERVICE LIST

Mark M. O'Mara, Esq.
O'MARA LAW GROUP
221 NE Ivanhoe Boulevard, Suite 200
Orlando, Florida 32804
Email: Mark@omaralawgroup.com

s/Alise Johnson
Alise Johnson, Esq.

EXHIBIT 1



JOHNSON, CASSIDY, NEWLON & DECORT

ATTORNEYS AT LAW

Katherine C. Donlon, Esquire

E-mail: kdonlon@jclaw.com

Direct Dial: 813-291-3300

Via E-Mail

Alise M. Johnson
Senior Trial Counsel
Securities and Exchange Commission
801 Brickell Avenue, Ste 1950
Miami, FL 33131

Re: *Securities and Exchange Commission v. Harbor City Capital Corp., et al.*,
Case No. 6:21-cv-00694-CEM-DCI

Dear Alise:

Thank you for considering me for appointment as Receiver in the above-referenced case. This letter is submitted to provide you with further information regarding my background and proposed staffing for the case.

Although I have not served as a Receiver in the past, for the past fifteen months, I have served as lead counsel to Receiver Burt Wiand in the case of *SEC v. Brian Davison, et al*, Case No. 8:20-cv-325-T-35AEP. This case involves a Ponzi scheme at EquiAlt, a real estate development and property management company, that was selling debentures to investors to allegedly fund the purchase of real estate but in fact supported the lavish lifestyles of the Company's principals. The case involves over 1700 investors who invested almost \$200 million into the EquiAlt scheme. As lead counsel, I have worked closely with the Receiver and directed all investigative and legal efforts on his behalf to marshal assets including real property, cars, jewelry and watches, and bank/investment accounts. I have also been the main liaison in the case with our forensic accountants at Yip Associates.

In addition to the marshalling of assets in the *Davison* case, we have also pursued clawback claims against investors who received false profits and sales agents who received fraudulent transfers in the guise of commissions and marketing fees. To date, we have been successful in obtaining \$1.2 million in settlements with these investors. Further, I have been involved with extensive negotiations between the SEC and Mr. Davison to come to terms on a settlement valued at over \$24 million to benefit defrauded investors. I am currently working toward starting the claims process in that matter.

In addition to serving as lead counsel in the EquiAlt case, I have been practicing in the area of complex commercial litigation for 26 years. My practice focuses largely on the defense of financial institutions and their associated persons but also includes general commercial litigation,

Alise M. Johnson
Senior Trial Counsel
Securities and Exchange Commission
May 20, 2021
Page 2

business torts, employment litigation and contract disputes. I previously served as President of the Federal Bar Association, Tampa Bay Chapter, and in 2010 received the Chapter's highest award "for excellence in federal practice and distinguished service to the federal bar." I am active in the Florida Bar Business Law Section and the Florida Securities Dealers Association. A brief resumé of my background and activities is attached as Exhibit A.

My normal hourly rate for business litigation matters is \$425/hour. For this receivership, I would discount that rate to \$350. For legal services, I would anticipate retaining Johnson, Cassidy, Newlon & DeCort P.A. ("JCND") and other lawyers to perform administrative and litigation services. You can visit the Firm's website at www.jclaw.com for more information. We have run a conflicts check within the firm against the parties and entities in this case and JCND has no conflicts.

Lawyers at JCND are experienced in handling complex commercial litigation and have worked on some receivership matters, including *Securities and Exchange Commission v. HKW Trading, LLC, Howard Waxenberg Trading, L.L.C, et al.*, Case No. 8:05-cv-1076-T-24MSS (M.D. Fla.). It is likely that Nicole Newlon, Esq. will serve as primary counsel and will be assisted as needed by other attorneys at the firm. Her brief resumé is attached hereto as Exhibit B. Standard billing rates for partners at JCND range from \$250 to \$475, however, I would propose a blended partner rate of \$350 for work on this case. Associate billing rates range from \$195 to \$250. I would propose a blended rate of \$240. A schedule of our proposed fees for this matter is attached as Exhibit C. If necessary, I may employ other outside counsel, but would seek the assent of the SEC and the Court before doing so.

Based on the size of this case and the accounting work already done by the SEC, a separate forensic accounting firm may not be necessary. However, should matters develop where accounting assistance is required, JCND has access to a broad array of accounting service providers that have substantial experience in forensic accounting, fraud examinations, and auditing.

We work regularly with forensic information technology specialists that may be necessary in a matter of this nature. If such services are needed, I will use them at a reasonable cost. Our cases often involve cooperation with criminal law enforcement agencies. We are well versed in assisting law enforcement and the use of appropriate procedures to preserve evidence.

Through a combination of these professionals, I believe that we will be able to provide prompt, efficient and economical services to receiverships. We work hard to gather and conserve receivership assets with a view to maximizing proceeds for victims and enhancing the effectiveness of a regulatory action.

JOHNSON, CASSIDY, NEWLON & DECORT

Alise M. Johnson
Senior Trial Counsel
Securities and Exchange Commission
May 20, 2021
Page 3

Thank you for contacting me and allowing me the opportunity to submit this proposal. I would be delighted to serve as Receiver in this matter. Please do not hesitate to contact me if I can provide you with any additional information.

Sincerely,

JOHNSON, CASSIDY, NEWLON & DECORT, P.A.

A handwritten signature in blue ink that reads "Katherine C. Donlon". The signature is fluid and cursive, with the first name being the most prominent.

Katherine C. Donlon

KCD/mm

JOHNSON, CASSIDY, NEWLON & DECORT

2802 N. HOWARD AVE | TAMPA, FL 33607 | 813.699.4859

EXHIBIT A



JOHNSON CASSIDY
NEWLON & DECORT (<http://www.jclaw.com>)
ATTORNEYS AT LAW



Katherine C. "Kacy" Donlon
PARTNER

Kacy Donlon is a partner at Johnson, Cassidy, Newlon & DeCort, P.A. She has practiced in the area of commercial and securities litigation for over 25 years. Her practice is based on the principles instilled in her during her clerkship with a federal judge in Alabama – work hard for your client, be honest, and look for creative ways to win or resolve cases. Kacy's main concentration is the defense of businesses and individuals involved in the securities and financial services industries, and she also has experience in a broad spectrum of commercial litigation matters, including receiverships, employment disputes, business torts, and contract disputes. Kacy has handled complex matters in federal and state court as well as in arbitration, including the successful defense of numerous matters involving allegations relating to the sale of variable and equity-indexed annuities and other insurance product sales practices.

Kacy's experience includes the representation of national and regional brokerage and insurance firms in arbitration and court proceedings brought by customers involving variable products, mutual funds, REITs, BDCs, TICs, equity securities, oil and gas partnerships, and other investment products. In addition to litigation, Kacy has represented many clients in investigations and enforcement actions by regulatory bodies such as the SEC, FINRA, CFP, and state securities and insurance regulators. She also counsels clients on compliance issues.

Kacy is originally from Alabama where she clerked for District Court Judge Seybourn Lynne in Birmingham before starting her legal practice in Tampa. She is the immediate past President of the Florida Securities Dealers Association and the incoming Chair for the Business Law Section of the Florida Bar. She is a past president of the Tampa Bay Chapter of the Federal Bar Association who in 2010 awarded her its highest award, the George C. Carr award, for excellence in federal practice and service to the Federal Bar.

Admitted in both Florida and Alabama, Kacy is AV Peer Review Rated by Martindale-Hubbell and has been recognized as one of the Best Lawyers in America and a Super Lawyer.

EDUCATION

- **Washington and Lee University School of Law**, J.D., cum laude, 1994 (Securities Editor, Law Review)
- **University of St. Andrews, Scotland** (Attended on Rotary International Scholarship), 1989-1990

Kappa)

ADMISSIONS

- The Florida Bar
- Alabama State Bar
- U.S. Supreme Court
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle, Northern, and Southern Districts of Florida

INVOLVEMENT

- **Florida Securities Dealers Association** President (2020); Vice-President (2019); Treasurer (2018); Secretary (2017); Board Member (2013-present)
- **The Business Law Section of The Florida Bar** Chair-Elect (2020-2021); Treasurer (2019-2020); Secretary (2018-2019); Chair, Legislation Committee (2017-2018); Chair, Communications Committee (2014-2015); Chair, State/Federal Judicial Liaison Committee (2006-2007); Chair, Business Litigation Committee (2005-2006); Executive Council (2004-present)
- **Federal Bar Association** President, Tampa Bay Chapter (2006-2007); Executive Board (2000-2008)
- **Florida Bar Special Committee on Chapter 517** (2005-2007)
- **Florida Supreme Court: Committee on Standard Jury Instruction-Contract and Business Cases** Member (2006-2008)
- **Hillsborough County Bar Association**
- **Securities Industry and Financial Markets Association** Member, Compliance and Legal Division
- **American Bar Association** Securities Litigation Committee; Section of Litigation
Southeastern Women in Financial Services
- **Birmingham-Southern College** National Alumni Association Vice-President, Service and Outreach (2007-2009)
- **Leadership Tampa** Class of 2004
- **Bayshore Christian School** Athletic Boosters

EXPERIENCE

- **Fowler White Boggs Banker** (1995-2009)
- **Wiand Guerra King** (2009-2021)



EXHIBIT B



JOHNSON CASSIDY
NEWLON & DECORT (<http://www.jclaw.com>)
ATTORNEYS AT LAW



Nicole Deese Newlon
PARTNER

Nicole is a partner at Johnson, Cassidy, Newlon, & DeCort, P.A. Nicole practices in the areas of commercial, real estate, business, civil, and complex litigation. She advises private and corporate clients on a broad range of commercial litigation matters. Nicole provides litigation support to both private and public companies, and individuals, corporations and their associated persons, investment dealers and advisers in civil, regulatory and compliance matters.

Nicole has represented clients in arbitration and litigation matters, administrative investigations, proceedings before state and federal regulatory agencies and self-regulatory organizations, and in state, federal, and appellate courts. Nicole has defended matters involving health care fraud, environmental crimes, and qui tam actions.

Nicole has been named as a Rising Star by Super Lawyers in Business litigation, an honor given to less than 2% of all of Florida's practicing attorneys. Nicole appeared frequently on CNBC, and local television and radio to comment on a variety of legal issues.

Nicole is very active in the community, and served as a City Commissioner for the City of Dade City. Nicole serves on the Board of the Federal Bar Association Federal Litigation Section and on The Florida Bar Federal Court Practice Committee. Nicole is a Past President of The Tampa Bay Chapter of the Federal Bar Association. Though born in Tuscaloosa, Alabama, Nicole was raised here in the Tampa/Dade City area, where she currently lives with her twin boys.

EDUCATION

- **Stetson University College of Law**
J.D. *magna cum laude*, (Class Rank, 2nd)
Certificate of Concentration: *Advocacy*
Honors Program Graduate; Stanley Milledge Award Recipient;
Victor O. Wehle Trial Advocacy Award

Member: Trial Team, Moot Court Board, and *Stetson Law Review*

- **University of South Florida**
M.B.A.
- **University of South Florida**
B.A., Finance

ADMISSIONS

- The Florida Bar
- U.S. District Court, Southern, Middle, and Northern Districts of Florida
- U.S. Court of Appeals, Eleventh Circuit

INVOLVEMENT

Current

- **Dade City Rotary (Noon Club)** Social Chair (2015-2017); President Nominee (2016-2017); President (2017-2018); Past President (2018-2019); Assistant Governor Area 5 (2018-2021); Board Member (2016-present)
- **The Florida Bar** Federal Court Practice Committee (Appointed 2015-present); Section Membership: Appellate, Business Law, City, County & Local Government Law, Trial Lawyers, and Solo & Small Firm
- **Federal Bar Association (National)** Federal Litigation Section, Secretary/Treasurer (2016-2018); Board Member (2015-present); Vice Chair (2018-2020); Chair (2020-2022).
- **Federal Bar Association (Local)** Tampa Bay Chapter, Member (2004-present); Board of Directors (2006-2008); Communications (2008-2010); Treasurer (2011-2012); Vice President (2012-2013); President (2014-2015); Immediate Past President (2015)
- **American Bar Association** Litigation and Criminal Justice Section
- **Hillsborough County Bar Association** Member (2004-present); Co-Chair of Young Lawyer's Division Pro Bono Committee (2006-2008)
- **Empowering Pasco's Veterans** (2019-present); Secretary (2019-present)
- **Academy At The Farm PTO Board** (2018-present); Treasurer (2019-present)

Former

- **City of Dade City** Commissioner (2016-2020)
- **Pasco Education Volunteer** (2010-2011)
- **Pasco High School** School Advisory Committee (2012-2014)
- **The Tampa Connection** Class of 2008
- **Tampa Bay Inn of Court** (2005-2007)
- **Herbert G. Goldberg Criminal Law Inn of Court** (2008-2010)
- **East Pasco YMCA** Board of Directors (2009-2013)
- **Florida Autism Center of Excellence** Board of Directors (2010-2011)
- **Hillsborough and Pasco Counties** Guardian Ad Litem
- **Delta Gamma**
- **Commission on the Status of Women** (Pasco) (2016-2019)
- **Merit Selection Panel, Middle District of Florida** (2016-2017)
- **Women Lawyers of Pasco** (2016-2019)

EXPERIENCE

- **Carlton Fields** (Summer Associate/Law Clerk, 2003-2004)
- **Fowler White** (2004-2007)
- **Shutts & Bowen** (2007-2014)

EXHIBIT C

JOHNSON, CASSIDY, NEWLON & DeCORT, P.A.

PROPOSED RATES

<u>Professional</u>	<u>Range of Standard Rates</u>	<u>Proposed Rate</u>
Receiver	\$425	\$350
Partner	\$250-\$470	\$350
Associate	\$195-\$250	\$240
Paralegal	\$165-\$190	\$150



JOHNSON CASSIDY
NEWLON & DECORT (<http://www.jclaw.com>)
ATTORNEYS AT LAW



Bradley F. Kinni
ASSOCIATE

Brad is an associate at Johnson, Cassidy, Newlon & DeCort, P.A., having joined the Firm in August 2020. He has focused his practice in the areas of business and commercial litigation, concentrating primarily on contract disputes and litigation involving complex business and employment issues.

Brad attended the Florida State University College of Law, where he earned three book awards and graduated magna cum laude in May 2020. While at FSU, Brad was a member of the Trial Team, competing in numerous mock trial competitions in both Florida and Georgia, and he served as the President of the Phi Delta Phi legal honor society during the 2019-2020 term. Throughout his summers in Tallahassee, Brad worked as a summer associate at Hopping, Green & Sams, P.A. and a law clerk at Ausley McMullen, P.A.

In his free time, Brad enjoys visiting the lake and beach, attending concerts and sporting events, and spending time with his friends and family. Raised in South Georgia, Brad moved to Tampa in the summer of 2020.

EDUCATION

- Florida State University College of Law J.D., *magna cum laude*
- University of Georgia B.B.A., Finance

ADMISSIONS

- The Florida Bar
- U.S. District Court, Middle District of Florida

INVOLVEMENT

- The Florida Bar Young Lawyers Division
- Hillsborough County Bar Association Young Lawyers Division

EXPERIENCE

- **Hopping, Green & Sams, P.A.**, Summer Associate (2019)
- **Ausley McMullen, P.A.**, Summer Law Clerk (2018)



JOHNSON CASSIDY
NEWLON & DECORT (<http://www.jclaw.com>)
ATTORNEYS AT LAW



James Jeffrey Burns
PARTNER

Jeff Burns is a partner at Johnson, Cassidy, Newlon, & DeCort, P.A. His business and commercial litigation practice includes matters involving trade secrets, noncompete and other restrictive covenants, employment agreements, contract disputes, consumer claims, commercial leases, general business disputes, and other civil matters. He has represented clients in federal, bankruptcy, and state court. In addition to his private practice experience, Jeff served as a judicial law clerk for the Honorable James D. Whittemore of the United States District Court for the Middle District of Florida.

Jeff graduated magna cum laude from the Florida State University College of Law in May 2014, where he served as Executive Article Editor of the Law Review and received the Outstanding Editor of the Year award. However, he received his undergraduate degree from the University of Florida, and still bleeds orange and blue! While in Tallahassee, Jeff worked at the Florida Department of Business and Professional Regulation for two years. Jeff was also a Certified Legal Intern at the Tallahassee State Attorney's Office, where he gained valuable trial and litigation experience.

Born and raised in Florida, Jeff lives in South Tampa with his wife, dog, and two cats.

EDUCATION

- **Florida State University**
J.D., *magna cum laude*, 2014
- **University of Florida**
B.A. Criminology, 2011

ADMISSIONS

- The Florida Bar
- U.S. District Court, Middle District of Florida

INVOLVEMENT

- **Tampa Connection**, Alumni Committee Executive Board
- **Hillsborough County Bar Association**, Young Lawyers Division
- **Federal Bar Association**, Member

EXPERIENCE

- **U.S. District Court, Middle District of Florida**, Judicial Law Clerk (2017-18)
- **Florida Department of Business and Professional Regulation**, Law Clerk (2012-14)

EXHIBIT 2



GUERRA KING

Jared J. Perez
Direct Dial: 813-347-5114
jperez@guerraking.com

May 21, 2021

VIA EMAIL (johnsonali@sec.gov)

Alise M. Johnson
Senior Trial Counsel
Securities and Exchange Commission
801 Brickell Ave., No. 1800
Miami, FL 33131

Re: Harbor City Receivership

Dear Ms. Johnson:

Thank you for considering Guerra King P.A. (“**GK**”) in connection with *S.E.C. v. Harbor City Capital Corp., et al.*, Case No. 6:21-cv-694-CEM-DCI (M.D. Fla.) (the “**Harbor City Receivership**”). Either Peter King or I would welcome the opportunity to serve as receiver in this matter.

I have practiced law for 16 years and have more than 10 years of experience representing receivers in state and federal courts at the request of virtually every relevant enforcement agency, including the Securities and Exchange Commission, Commodity Futures Trading Commission, Federal Trade Commission, Florida Office of Financial Regulation, and the Office of the Attorney General of Florida. The underlying investment schemes involved a variety of fraudulent products and practices, ranging from limited partnership interests in hedge funds and promissory notes purportedly backed by medical accounts receivable or real estate to foreign exchange trading pools and timeshare resale scams. I am a member of the National Association of Federal Equity Receivers and sit on both its *amicus curiae* and regulatory outreach committees.

Among other matters, I presently serve as lead counsel representing receiver Burton W. Wiand in *C.F.T.C. v. Oasis International Group, Ltd. et al.*, Case No. 8:19-cv-886-T-33SPF (M.D. Fla.), a Ponzi scheme that involves approximately \$80 million raised from more than 700 victims throughout the United States, purportedly to invest in foreign exchange trading pools through companies located in Florida, the Cayman Islands, Belize, New Zealand, and the United Kingdom (the “**Oasis Receivership**”). For reference, I have attached our most recent interim report as **Exhibit A**.

May 21, 2021

I understand that the Harbor City Receivership could require clawback litigation. Along with other GK attorneys, I have prosecuted numerous clawback actions, including *Wiand v. Lee*, 753 F.3d 1194 (11th Cir. 2014), a case that made important and favorable law regarding the application of the Florida Uniform Fraudulent Transfer Act to Ponzi schemes. *See, e.g., id.* at 1201 (“We now clarify that, under FUFTA’s actual fraud provision, proof that a transfer was made in furtherance of a Ponzi scheme establishes actual intent to defraud under § 726.105(1)(a) without the need to consider the badges of fraud.”).

I also understand that the Harbor City Receivership could include a multimillion-dollar property in Melbourne, Florida. I have substantial experience seizing and liquidating comparable real estate. *See, e.g., Lee v. Wiand*, 603 B.R. 161 (M.D. Fla. 2018) (imposing a constructive trust and equitable lien on homestead property purchased and improved with funds traceable to Ponzi scheme). As reflected in Section III.C. of Exhibit A, the Oasis Receivership involved several parcels of luxury real estate, which were sold for a total of almost \$8.8 million. I obtained court approval of the sales and, along with title counsel, facilitated the closings to the extent required.

Finally, I understand that assets in the Harbor City Receivership could be limited. I have assisted the Federal Trade Commission with two smaller receiverships involving timeshare resale scams. These “businesses” typically operate from boiler rooms, and assets are often limited to whatever money can be frozen upon initial entry. As such, I have experience operating efficiently with limited funds.

Additional information about my background is attached as **Exhibit B**. Although I have not yet served as a court-appointed receiver, I would welcome the opportunity to do so and believe I have the requisite experience based on the matters described in this submission.

Alternatively, Mr. King also is willing and able to serve as receiver in this matter. At the request of the Office of the Attorney General, State of Florida, Department of Legal Affairs, Mr. King served as receiver over MAP Destinations, LLC and certain affiliates in a case alleging fraud and deceptive marketing practices relating to the sale of vacation club memberships. In addition, he has served in other court-appointed roles, including as a special master, corporate monitor, and a “special litigation committee” or “SLC” under Florida’s shareholder derivative statute. I represented Mr. King in the derivative matter, and we were asked to evaluate certain shareholder claims arising from a failed real estate development and a contentious partnership dispute. We filed a lengthy report, which the trial court adopted in full after an evidentiary hearing. The aggrieved shareholder appealed the SLC’s findings to Florida’s Second District Court of Appeal, but the appellate court affirmed the trial court’s judgment, concluding, “[q]uite simply, our record reflects a textbook example of how a SLC should proceed.” *Taneja v. Saraiya*, 290 So. 3d 602, 605 (Fla. 2d DCA 2020). A copy of the pertinent order is attached as **Exhibit C**. Additional information about Mr. King’s background is attached as **Exhibit D**.

In either case and in any combination, Mr. King or I would utilize GK’s associates and other counsel, including Larry Dougherty, Chemere Ellis, and Max McKinley. Information about their backgrounds is attached as **Exhibits E-G**. Briefly, Mr. Dougherty was an investigative reporter for the *St. Petersburg Times* before he became an attorney, and Ms. Ellis and Mr. McKinley both are former

May 21, 2021

prosecutors with extensive trial experience. We think their backgrounds are uniquely helpful in receivership matters. For more information, please visit www.guerraking.com.

GK bills on an hourly basis. My standard rate for commercial litigation is \$400 per hour, which I discount to \$350 for receivership engagements. Mr. King's standard rate is \$525 per hour, which he would discount to \$360 if appointed. GK would bill Mr. Dougherty, as of counsel to the firm, at the discounted rate of \$320 and all associates at a blended, discounted rate not to exceed \$240. Should other partners of the firm work on this matter, their hourly rate would be \$350 as opposed to standard rates ranging from \$360 to \$525. A schedule of proposed rates is attached as **Exhibit H**.

If necessary, GK has access to a broad range of complementary professionals, including forensic accountants, tax accountants, information technology specialists, real estate agents, and asset managers. Our cases also frequently involve cooperation with law enforcement, as demonstrated by Sections I and III.A. of the attached interim report from the Oasis Receivership.

Through a combination of these professionals, GK can provide prompt, efficient, and economical services in receivership matters. We have experience with both small and very large receiverships, including the following recent examples:

- *S.E.C. v. Davison et al.*, Case No. 8:20-cv-325-MSS-AEP (M.D. Fla.);
- *C.F.T.C. v. Oasis International Group, Ltd. et al.*, Case No. 8:19-cv-886-T-33SPF (M.D. Fla.);
- *S.E.C. v. A. Nadel et al.*, Case No. 8:09-cv-87-T-26TBM (M.D. Fla.);
- *Fla. Office of Fin. Reg. v. Tri-Med Corp. et al.*, Case No. 14-CA-001695 (Fla. 6th Cir.);
- *F.T.C. v. Nat'l Solutions, LLC et al.*, Case No. 6:11-cv-1131-ORL-22-GJK (M.D. Fla.);
- *F.T.C. v. Resort Solution Trust, Inc., et al.*, Case No. 8:13-cv-1329-T-33TBM (M.D. Fla.);
- *Office of the Attorney General, State of Florida, Department of Legal Affairs v. MAP Destinations, LLC, et al.*, Case No. 2015-CA-011413-O (Fla. 9th Cir.); and
- *Fla. Office of Fin. Reg. v. Univ. Lux. Coaches*, Case No. 04-CA-2130-16-W (Fla. 18th Cir.).

Contact information for associated regulators is available upon request. Thank you for allowing us to submit this proposal. I would welcome the opportunity to serve as receiver in this matter. In the alternative, if the Commission prefers someone with a previous appointment, Mr. King also is interested in serving as receiver. In either case, GK, its attorneys, and its professional network are able and eager to assist the Commission and the Court should our services be sought.

Sincerely,

/s/ Jared J. Perez

EXHIBIT A

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

COMMODITY FUTURES TRADING
COMMISSION,

Case No. 8:19-CV-886-T-33SPF

Plaintiff,

v.

OASIS INTERNATIONAL GROUP,
LIMITED; OASIS MANAGEMENT, LLC;
SATELLITE HOLDINGS COMPANY;
MICHAEL J DACORTA; JOSEPH S.
ANILE, II.; RAYMOND P MONTIE III;
FRANCISCO "FRANK" L. DURAN; and
JOHN J. HAAS,

Defendants;

and

FUNDADMINISTRATION, INC.;
BOWLING GREEN CAPITAL
MANAGEMENT LLC; LAGOON
INVESTMENTS, INC.; ROAR OF THE
LION FITNESS, LLC; 444 GULF OF
MEXICO DRIVE, LLC; 4064 FOUNDERS
CLUB DRIVE, LLC; 6922 LACANTERA
CIRCLE, LLC; 13318 LOST KEY PLACE,
LLC; and 4 OAKS LLC,

Relief Defendants.

THE RECEIVER'S EIGHTH INTERIM REPORT

Information and Activity from January 1, 2021 through March 31, 2021.

TABLE OF CONTENTS

Table of Contentsii

INTRODUCTION 1

BACKGROUND4

I. Procedure and Chronology.....4

II. Overview of Preliminary Findings..... 8

ACTIONS TAKEN BY THE RECEIVER..... 11

III. Securing The Receivership Estate 11

A. Cooperation with the Department of Justice, Federal Bureau of Investigation, and U.S. Marshals Service..... 12

B. Freezing Bank Accounts and Liquid Assets..... 14

1. The ATC Account in the United Kingdom 14

2. Financial Assets in Belize 16

C. Securing Real Property..... 17

1. 444 Gulf of Mexico Drive, Longboat Key, Florida 17

2. 13318 Lost Key Place, Lakewood Ranch, Florida 18

3. 6922 Lacantera Circle, Lakewood Ranch, Florida 18

4. 4064 Founders Club Drive, Sarasota, Florida 19

5. 7312 Desert Ridge Glen in Lakewood Ranch, Florida 20

6. The Vardon Terrace Condos 20

7. 6300 Midnight Pass Road, No. 1002, Sarasota, Florida 22

8. Defendant Montie’s Real Property 22

9. Defendant Haas’s Real Property 24

D. Securing Personal Property 24

1. Vehicles 24

2. Cash and Precious Metals 25

3. Other Personal Property 25

E. Securing the Entities’ Books and Records 26

F. Operating or Related Businesses.....	26
IV. Retention of Professionals.....	26
V. Pending and Contemplated Litigation.....	28
1. Completed and Related Litigation	29
a. Fundadministration, Inc.	20
b. The Government's Civil Forfeiture Action.....	29
c. The Anile Criminal Action.....	30
2. Pending Litigation	35
a. The DaCorta Criminal Action	30
b. The Receiver's General Clawback Litigation	30
c. The Receiver's Litigation Against Montie.....	34
3. Contemplated Litigation	35
a. Contemplated Litigation Against Insiders.....	36
b. ATC Brokers Ltd. and Affiliates and Principals	37
c. Spotex, LLC.....	39
VI. Claims Process	39
VII. The Next Ninety Days	40
CONCLUSION	41

INTRODUCTION

Burton W. Wiand, the Court-appointed receiver over the assets of the above-captioned defendants and relief defendants (the “**Receiver**” and the “**Receivership**” or “**Receivership Estate**”), files this Eighth Interim Report to inform the Court, investors, creditors, and others interested in this Receivership of activities to date as well as the Receiver’s proposed course of action. The Receiver has established a website, www.oasisreceivership.com, which he has updated periodically. The Receiver will continue to update the website regarding the Receiver’s most significant actions, important Court filings, and other items that might be of interest to the public. This Eighth Interim Report, as well as all other reports, will be posted on the website.¹

Overview of Significant Activities During this Reporting Period

During the time covered by this Eighth Interim Report, the Receiver and his professionals engaged in the following significant activities:

- Obtained Court approval of a settlement with Fundadministration, Inc. and recovered **\$3,555,000.00** (net; *see infra* § V.1.a.);
- Closed the sale of 6300 Midnight Pass Road, No. 1002 in Sarasota, Florida and recovered **\$863,654.69** (net);
- Closed the sale of 7312 Desert Ridge Glen in Bradenton, Florida and recovered **\$774,740.08** (net);

¹ As directed by the Court, the Receiver will submit his next interim report and subsequent reports within thirty days after the end of each calendar quarter. Where possible, the Receiver has also included information about events occurring between March 31, 2021 (the end of the reporting period) and the date of this filing.

- Closed the sale of 17006 Vardon Terrace Unit #105 in Lakewood Ranch, Florida and recovered **\$187,813.91** (net);
- Closed the sale of 16804 Vardon Terrace Unit #307 in Lakewood Ranch, Florida and recovered **\$187,542.50** (net);
- Obtained Court approval and closed the sale of 4058 Founders Club Drive in Sarasota, Florida and recovered **\$186,252.37** (net);
- Obtained Court approval of the sale of 4064 Founders Club Drive in Sarasota, Florida for **\$1,875,000.00** (pending; gross);
- Collected **\$7,200.03** in interest income on seized funds;
- Continued to prosecute and reach settlements in a “clawback” action against **almost 100 defendants** who received “false profits” or other avoidable transfers from the Ponzi scheme underlying this enforcement action (*see infra* § V.2.b.);
- Obtained Court approval of 7 additional clawback settlements with 9 defendants or potential defendants in the total amount of **\$208,897.95** (the Receiver has already collected most of that money, but some settlements contain payment plans);
- Obtained Court approval of the engagement, on a contingency fee basis, of Sallah Astarita & Cox, LLC to further investigate and prosecute claims against ATC Brokers Ltd. and its affiliates and principals;
- Continued and substantially completed analyzing approximately **785 proof of claim forms totaling approximately \$70 million** in furtherance of the claims process approved by the Court during earlier reporting periods (*see infra* § VI);
- Continued to prosecute a second clawback action against Raymond P. Montie, III, seeking to recover approximately \$1.7 million in fraudulent transfers and as much as \$50 million for aiding and abetting or committing breaches of fiduciary duty;
- Continued to cooperate with the Department of Justice regarding its efforts to repatriate approximately **\$2 million** from the United Kingdom; and
- Continued efforts to repatriate **\$560,000** from Belize in cooperation with local counsel.

Overview of Activities Since the Beginning of this Receivership

Since the beginning of this Receivership, the Receiver and his professionals engaged in the following significant activities:

- Served subpoenas or the order appointing the Receiver and freezing the assets of the defendants and relief defendants on approximately **100 individuals and entities** who could have assets or records belonging to the Receivership Estate;
- Seized more than **\$8.66 million** from frozen bank accounts at numerous financial institutions;
- Generated **\$51,138.13** in business income, primarily from mortgages and rentals;
- Liquidated an additional approximately **\$7,006,986.54** (net) in assets, mostly subject to agreements with the Department of Justice and the United States Marshals Service;
- Collected **\$154,330.31** in interest and/or dividend income;
- Collected total litigation income of **\$4,225,323.67** through clawback and other third-party settlements;
- Retained legal counsel (domestic and foreign), forensic accountants, tax accountants, a technology services firm, and an asset manager to assist the Receiver and obtained Court approval of those engagements;
- Completed forensic reconstructions of at least 25 bank accounts, including more than 26,000 individual transactions;
- Interviewed dozens of individuals, including certain defendants, employees, sales agents, investors, legal counsel, and accountants;
- Established a website for investors and other interested parties;
- Collected hundreds of thousands of pages of documents from dozens of nonparties, including employees, banks, credit card companies, accountants, and lawyers; and
- Fielded hundreds of calls from investors and/or their counsel.

Finally, although the Receiver and his professionals are not responsible for criminal prosecutions, on November 18, 2020, defendant Joseph S. Anile, II was sentenced to imprisonment of **120 months** (*i.e.*, 10 years) and supervised release of three years. He was also ordered to pay restitution of **\$53,270,336.08**. The sentence was based on his plea of guilty to multiple felony counts underlying this Ponzi scheme. The above activities are discussed in more detail in the pertinent sections of this Eighth Interim Report and in the Receiver's previous interim reports.

BACKGROUND

I. Procedure and Chronology

On April 15, 2019, the Commodity Futures Trading Commission ("**CFTC**") filed a complaint (Doc. 1) against (1) defendants Oasis International Group, Limited ("**OIG**"); Oasis Management, LLC ("**Oasis Management**"); Michael J. DaCorta ("**DaCorta**"); Joseph S. Anile, II ("**Anile**"); Francisco "Frank" L. Duran ("**Duran**"); Satellite Holdings Company ("**Satellite Holdings**"); John J. Haas ("**Haas**"); and Raymond P. Montie, III ("**Montie**") (collectively, the "**defendants**") and (2) relief defendants Fundadministration, Inc. ("**FAI**"); Bowling Green Capital Management, LLC ("**Bowling Green**"); Lagoon Investments, Inc. ("**Lagoon**"); Roar of the Lion Fitness, LLC ("**Roar of the Lion**"); 444 Gulf of Mexico Drive, LLC ("**444 Gulf of Mexico**"); 4064 Founders Club Drive, LLC ("**4064 Founders Club**"); 6922 Lacantera Circle, LLC ("**6922 Lacantera**"); 13318 Lost Key Place, LLC ("**13318 Lost Key**"); and 4Oaks LLC

("**4Oaks**") (collectively, the "**relief defendants**"). The foregoing defendants and relief defendants are referred to as the "**Receivership Entities.**"

The complaint charges the defendants with violations of the Commodity Exchange Act and CFTC regulations and seeks to enjoin their violations of these laws regarding a fraudulent foreign currency ("**forex**") trading scheme. The CFTC alleges that between mid-April 2014 and April 2019, the defendants fraudulently solicited over 700 U.S. residents to invest in two forex commodity pools – Oasis Global FX, Limited and Oasis Global FX, S.A. (collectively, the "**Oasis Pools**"). The CFTC also asserts that the defendants raised approximately \$75 million from these investors and misappropriated over \$28 million of the pool funds to make payments to other pool participants and over \$18 million for unauthorized personal and business expenses, including the transfer of at least \$7 million to the relief defendants.²

On the same day the CFTC filed its complaint, April 15, 2019, the Court entered an order appointing Burton W. Wiand as temporary Receiver for the Receivership Entities (Doc. 7) (the "**SRO**"). The Court directed him, in relevant part, to "[t]ake exclusive custody, control, and possession of the Receivership Estate," which includes "all the funds, properties, premises, accounts, income, now or hereafter due or owing to the Receivership Defendants, and other assets directly or indirectly owned, beneficially or otherwise, by the Receivership

² On June 12, 2019, the CFTC filed an amended complaint (Doc. 110), which contains additional allegations about certain defendants and relief defendants.

Defendants.” *See id.* at p. 14, ¶ 32 & p. 15, ¶ 30.b. The SRO also imposed a temporary injunction against the defendants and relief defendants and froze their assets. *Id.* at 19.

Subsequently, all defendants and relief defendants either defaulted or consented to the entry of a preliminary injunction against them (with some differences unique to the circumstances of each party). *See* Docs. 35, 43, 44, 82, 85, 172, 174-77. On July 11, 2019, the Court entered a Consolidated Receivership Order, which is now the operative document governing the Receiver’s activities. Doc. 177 (the “**Consolidated Order**”).³ Pursuant to the Consolidated Order and its predecessors (*see* Docs. 7, 44), the Receiver has the duty and authority to (1) administer and manage the business affairs, funds, assets, and any other property of the Receivership Entities; (2) marshal and safeguard the assets of the Receivership Entities; and (3) investigate and institute legal proceedings for the benefit of the Receivership Entities and their investors and other creditors as the Receiver deems necessary.

On June 26, 2019, the Department of Justice, through the United States Attorney’s Office for the Middle District of Florida (the “**DOJ**”), moved to stay this litigation to protect an ongoing criminal investigation. Doc. 149. The Court granted the DOJ’s motion on July 12, 2019 but exempted the Receiver’s activities

³ On April 23, 2021, the Court reappointed the Receiver for purposes of 28 U.S.C. § 754, but the order of reappointment attaches and incorporates the Consolidated Order by reference. *See* Doc. 390. As such, the provisions of the Consolidated Order continue to govern the Receiver’s mandate upon reappointment. *Id.*

from the stay. Doc. 179. The Court also required the DOJ to provide periodic status reports during the stay. *Id.*

On August 8, 2019, defendant Anile pled guilty to three counts involving the scheme – (1) conspiracy to commit wire and mail fraud; (2) engaging in an illegal monetary transaction; and (3) filing a false income tax return. *See United States of America v. Joseph S. Anile, II*, Case No. 8:19-cr-334-T-35CPT (M.D. Fla.) (the “**Anile Criminal Action**” or “**ACA**”). A copy of Anile’s plea agreement was attached as Exhibit A to the Receiver’s Second Interim Report. Doc. 195. On November 18, 2020, Anile was sentenced to imprisonment of 120 months and supervised release of three years. ACA Doc. 56. He was also ordered to pay restitution of \$53,270,336.08. *Id.*

On December 17, 2019, a federal grand jury returned a two-count indictment against defendant DaCorta, alleging conspiracy to commit wire and mail fraud as well as engaging in an illegal monetary transaction. *See United States of America v. Michael J. DaCorta*, Case No. 8:19-cr-605-T-02CPT (M.D. Fla.) (the “**DaCorta Criminal Action**” or “**DCA**”). A copy of the indictment was attached as Exhibit A to the Receiver’s Third Interim Report. According to the grand jury, as early as November 2011, DaCorta entered a conspiracy to defraud investors by making numerous fraudulent representations. *See DCA Doc. 1* ¶ 14b.-d.

It was a further part of the conspiracy that conspirators would and did use funds “loaned” by victim-investors to: (i) conduct trades, via an offshore broker, in the FOREX market, which trades resulted in catastrophic losses; (ii) make Ponzi-style payments to victim-investors; (iii) pay expenses

associated with perpetuating the scheme; and (iv) purchase million-dollar residential properties, high-end vehicles, gold, silver, and other liquid assets, to fund a lavish lifestyle for conspirators, their family members and friends, and otherwise for their personal enrichment.

Id. at ¶ 14k.

On February 17, 2021, the DOJ filed a superseding indictment against DaCorta, adding a third count for making a “false and fraudulent statement” on an income tax return. A copy of the superseding indictment is attached as **Exhibit D**. DaCorta’s jury trial is scheduled for the trial term commencing October 4, 2021 before Judge William F. Jung. DCA Doc. 38. A status conference is now scheduled for August 12, 2021. *Id.*

On January 19, 2021, the DOJ moved the Court to extend the stay in this enforcement action for an additional six months to protect its ongoing investigation. Doc. 353. The Court granted the motion and extended the stay until July 26, 2021. Doc. 354. The extension of the stay does not impact the Receiver, who is continuing to marshal assets, develop a claims process, and plan litigation, consistent with his Court-ordered mandate.

II. Overview of Preliminary Findings

The Consolidated Order authorizes, empowers, and directs the Receiver to “investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted...” Doc. 177 ¶ 44. Pursuant to that mandate, the Receiver is in the process of obtaining and reviewing records from Receivership Entities and third parties. The Receiver has formed some preliminary conclusions based on his review of a portion of the records received

and interviews with employees, lawyers, accountants, and others. While these conclusions are not final and might change as the Receiver's investigation progresses, the Receiver believes they should be shared with the Court, the investors, and other potentially interested parties.

There is abundant evidence that the defendants were operating a fraudulent investment scheme. The scheme began with the sale of preferred shares in OIG, which is registered in the Cayman Islands. The shares promised a 12% dividend that was to be derived from trading by a related company: first, Oasis Global FX, Limited and then Oasis Global FX, S.A. – *i.e.*, the Oasis Pools. These companies were registered in New Zealand and Belize, respectively, and were purportedly introducing brokers that would trade currencies or currency-related contracts. The 12% return was to be derived from trading profits and transaction income earned by the brokers. The preferred shares were sold to investors through a private placement memorandum that contained significant false representations and omitted numerous material facts, including that DaCorta, the “Chief Investment Officer,” was prohibited from currency trading through a prior regulatory action in the United States. As the scheme grew, other companies – Oasis Management and Satellite Holdings – were used to gather investments and funnel them into the scheme. Preferred shareholders became purported “lenders” who were told they were lending money to certain defendants. Investors were regularly sent statements showing an account with a

principal amount and accrued and accruing earnings. All of this was false, as confirmed by defendant Anile's guilty plea.

As the scheme matured, the perpetrators created a website that investors could access to view their purported accounts. Investors' account pages showed that they were credited with a 1% "interest" payment each month and, on a daily basis, a portion of purported trading income earned by the scheme's trading entity.⁴ The scheme was successful and proliferated because of the continued deception of the investors with respect to their purported accounts. They were led to believe that they held valuable loan accounts that continually earned money when, in fact, the scheme appears to have been insolvent since its inception. As an example, when the CFTC stopped the scheme in April 2019, the fraudulent website showed investors that they were owed an aggregate of over \$120 million. In truth, OIG only had assets of approximately \$10 million and was losing money continually.

⁴ Specifically, many investors were told by those perpetrating the scheme that the investors would receive a portion of the "spread pay" that Oasis Global FX, S.A. earned from its purported role as a broker of forex transactions for OIG. The spread pay, however, was nothing more than a markup on all transactions and served to increase the losses in the OIG account. No spread pay (or any portion thereof) was ever distributed to an investor. Rather, it was a ruse used to deceive investors into believing that they were receiving enhanced returns when, in fact, fictitious amounts were being credited to their fraudulent accounts. In truth, Oasis Global FX, S.A. and its traders conducted continually and routinely unprofitable trades and lost almost all the investors' money. The fabrication of returns based on purported spread pay was an integral part of the system through which the perpetrators lured investors into the scheme.

The Receiver's preliminary analysis indicates that a total of approximately \$80 million was raised from investors.⁵ An analysis from the beginning of 2017 indicates that approximately \$20 million was deposited for trading, which resulted in substantial losses. The remainder of the money raised from investors was used to make Ponzi payments to other investors, to pay expenses to perpetuate the scheme, and to enrich the defendants. The actual amount of out-of-pocket losses to investors and the projected amount of claims is yet to be determined, but it will likely exceed \$45 million.

ACTIONS TAKEN BY THE RECEIVER

During this reporting period, the Receiver has taken steps to fulfill his mandates under the Consolidated Order and its predecessors. Doc. 177 ¶ 56.A.

III. Securing The Receivership Estate

Attached as **Exhibit A** to this Eighth Interim Report is a cash accounting report showing (1) the amount of money on hand from January 1, 2021, less operating expenses plus revenue, through March 31, 2021, and (2) the same information from the beginning of the Receivership (as opposed to the current reporting period). See Doc. 177 ¶ 56.B. & C. This cash accounting report does not reflect non-cash or cash-equivalent assets. Thus, the value of uncollected or unsold property discussed below is not included in the accounting report. From

⁵ To the extent these numbers differ from those alleged by the CFTC, the Receiver understands that the CFTC only considered transactions within the pertinent statute of limitations while the Receiver is reviewing all available transactions.

January 1, 2021 through March 31, 2021, the Receiver collected income of \$5,799,448.14.⁶

A. Cooperation with the Department of Justice, Federal Bureau of Investigation, and U.S. Marshals Service

As discussed more fully in the Receiver's First Interim Report (Doc. 113), on April 17, 2019, the DOJ, through the United States Attorney's Office for the Middle District of Florida, filed a civil forfeiture action against almost all the properties identified below in § III.C. *See United States of America v. 13318 Lost Key Place, Lakewood Ranch, Florida et al.*, Case No. 8:19-cv-00908 (M.D. Fla.) (the "**Forfeiture Action**" or "**FA**") (FA Doc. 1 ¶ 1). In addition, the Federal Bureau of Investigation ("**FBI**") instituted administrative forfeiture proceedings against, at minimum, the vehicles described in § III.D.1 and the cash, gold, and silver described in § III.D.2. The Receiver, the DOJ, and the United States Marshals Service ("**USMS**") reached agreements governing the forfeiture and sale of this property as well as the transfer and remission of the sale proceeds. *See* Doc. 105, Ex. A (Consent Forfeiture Agreement); Ex. B (Memorandum of Understanding or "**MOU**"); Ex. C (Liquidation Plan). On June 7, 2019, the Receiver moved the Court to approve these agreements (Doc. 105), and the Court granted the Receiver's motion on June 13, 2019 (Doc. 112). According to the

⁶ As explained in footnote 1, to the extent possible, the Receiver has included in this Eighth Interim Report transactions and events occurring after March 31, 2021 to give the Court and others the most current overview of the Receiver's activities. Money collected after that date, however, is not reflected in Exhibit A. Those collections will be included in the Receiver's next interim report.

MOU, “[t]he Receiver has sole discretion to decide the logistics of the sale of the Forfeited Receivership Assets, on the terms and in the manner the Receiver deems most beneficial to the Receivership Estate and with due regard to the realization of the true and proper value of such property.” Doc. 105, Ex. B. The MOU also recognizes that “[a]ll sales of Receivership Assets, including Forfeited Receivership Assets, must comply with the provisions set forth in the Receivership Orders.” *Id.* After the Receiver sells a property subject to forfeiture, the Receiver will transfer the net proceeds to the USMS for deposit in the Department of Justice Asset Forfeiture Fund. *Id.* The Receiver will subsequently file one or more petitions for remission with the DOJ, and the sale proceeds will be returned for distribution to defrauded investors through a claims process supervised by this Court. *See infra* § VI.

The Forfeiture Action and the FBI’s administrative forfeiture proceedings are complete, and pursuant to the MOU, the Receiver has begun listing and marketing the relevant properties for sale, arranging auctions, and seeking potential purchasers through appropriate and cost-effective means.

On October 9, 2020, the Receiver transferred \$3,295,119.94 to the USMS pursuant to the MOU, which is reflected in Exhibit A (from inception) at Line 12. These funds will be remitted to the Receiver in connection with the claims process and his distribution plan. The transfer and remission are intended to comply with certain forfeiture regulations and will not affect the total amount of money available for distribution to claimants. It is anticipated that approximately

\$2,000,000 recovered by British authorities will also be remitted to the Receiver for distribution after collection by the Department of Justice.

B. Freezing Bank Accounts and Liquid Assets

As explained in the First Interim Report, the Receiver identified and/or froze approximately \$11 million at various financial institutions in the United States, the United Kingdom, and Belize. The Receiver opened a money market account for the Receivership at ServisFirst Bank (the “**Receivership Account**”).⁷ The Receiver has now deposited more than \$8.6 million of the frozen funds into this account.⁸ The remaining amount is almost entirely comprised of the money held in Belize and the United Kingdom, as discussed below. The Receiver will attempt to obtain as much of that money as possible and to identify any other accounts containing assets belonging to the Receivership Estate. A list of bank or other financial accounts organized by defendant, relief defendant, and/or affiliated entity is attached as **Exhibit B**.

1. The ATC Account in the United Kingdom

On April 18, 2019, the Receiver served London-based ATC Brokers LTD (“**ATC**”) with a copy of the SRO and requested that ATC freeze all accounts associated with the defendants and relief defendants. In cooperation with domestic law enforcement and the United Kingdom’s National Crime Agency,

⁷ The Receiver also opened a checking/operating account for making disbursements.

⁸ Carolyn DaCorta – defendant DaCorta’s wife – paid \$32,100 for a membership in the Long Boat Key Club one week before the Receiver was appointed. The Receiver obtained a \$30,000 refund without the need for litigation, which is included in the above calculation.

ATC identified and froze one account in the name of Oasis Global FX, S.A., which contained \$2,005,368.28. The repatriation of that money has been complicated by jurisdictional issues, including international treaties and other agreements. The DOJ has assumed responsibility for repatriating the money for the ultimate benefit of the Receivership Estate. The agency has obtained a final order of forfeiture in the Anile Criminal Action regarding the funds and is continuing to take additional steps necessary for repatriation. *See* ACA Doc. 43. According to the order, “[c]lear title to the FOREX Account [as defined in the order] is now vested in the United States of America.” *Id.* The Receiver will cooperate with the United States, through the DOJ, to facilitate repatriation and remission of the funds for the ultimate benefit of the Receivership Estate. At present, the Receiver believes the money is secure and will not be dissipated pending the resolution of these issues.

The Receiver understands that certain individuals have been representing to investors that there is more than \$100,000,000 dollars in unrecovered funds in the United Kingdom. Those representations are based on, at best, a misunderstanding of the fraudulent documents created to perpetuate the scheme, or at worst, complete fabrications. Neither (1) the DOJ and the FBI; (2) the CFTC and its forensic accountants; (3) the Receiver and his forensic accountants; nor (4) the United Kingdom’s National Crime Agency have identified any such funds or accounts. Nevertheless, the Receiver believes ATC’s role in the scheme is much deeper and more significant than previously indicated, and the Receiver is

taking steps to obtain discovery from and pursue litigation against ATC, as further explained below in Section V.3.b.

2. Financial Assets in Belize

Shortly after his appointment, the Receiver learned that Oasis Global FX Limited owned an account (x4622) at Choice Bank Limited (“**Choice Bank**”) in Belize. On June 29, 2018, however, regulators in Belize revoked Choice Bank’s license and appointed a liquidator. The Receiver’s local counsel has identified two deposits at Choice Bank – one for \$31,000 and one for \$32,000. Counsel has contacted the liquidator regarding the Receiver’s claim to those funds, and the liquidator has acknowledged receipt of the claim. The liquidator anticipates paying 52% of all claims but has not yet established a date for payment. If the liquidator pays the Receiver’s claims at the anticipated percentage, the Receivership Estate would recover approximately \$32,760. Local counsel is continuing to work with the liquidator to resolve this matter.

The Receiver also learned that Oasis Global FX, S.A. has an account at Heritage Bank Limited (“**Heritage Bank**”) in Belize containing \$500,000. The money served as a bond that allowed Oasis Global FX, S.A. to operate as a broker-dealer in Belize. On May 7, 2019, the Belize International Financial Services Commission suspended the entity’s trading licenses. On October 22, 2019, the Receiver and defendant Anile executed corporate documents to take legal control of Oasis Global FX, S.A. (in addition to the powers conferred by the Consolidated Order). The Receiver’s local counsel is working with the Director

General of the Belize International Financial Services Commission to issue a letter to Heritage Bank, which would allow the funds to be released and repatriated. Local counsel has also prepared the documents necessary to dissolve (or at least unregister) Oasis Global FX, S.A., which the Receiver has been advised is required to recover the funds.

C. Securing Real Property

The Receivership Estate contains (or previously contained) numerous parcels of real property, including single-family homes, condominiums, and a waterfront office building.⁹ In the Consolidated Order and its predecessors, the Court directed the Receiver to “[t]ake all steps necessary to secure the business and other premises under the control of the Receivership Defendants” (Doc. 7 at 15-16) and to “take immediate possession of all real property of the Receivership Defendants, wherever located, including but not limited to all ownership and leasehold interests and fixtures” (Doc. 44 ¶ 19; Doc. 177 ¶ 19). The Receiver’s actions in fulfillment of his mandate are explained in the following subsections. See Doc. 177 ¶ 56.D.

1. 444 Gulf of Mexico Drive, Longboat Key, Florida

OIG used the two-story property located at 444 Gulf of Mexico Drive #3 in Longboat Key, Florida as an office (the “**Office**”). On November 8, 2019, the

⁹ In addition to the properties discussed below, relief defendant 444 Gulf of Mexico Drive, LLC holds an \$80,000 mortgage on the property located at 1605 55th Avenue West, Bradenton, Florida 34207. The mortgage matures on December 1, 2021 and pays the Receivership Estate \$200 per month.

Receiver entered into an agreement to sell the Office for \$2,100,000. The Receiver moved the Court to approve the sale, and the Court granted the Receiver's motion. *See* Docs. 201, 206, 208, 209. The transaction closed on January 3, 2020 and resulted in a net recovery of \$1,994,155.06. For more information, please see the Receiver's prior interim reports.

2. 13318 Lost Key Place, Lakewood Ranch, Florida

Defendant DaCorta used the two-story property located at 13318 Lost Key Place in Lakewood Ranch, Florida as his residence ("**Lost Key**"). On October 16, 2020, the Receiver entered into an agreement to sell the property for \$1,100,00. The Receiver moved the Court to approve the sale, and the Court granted the Receiver's motion. *See* Docs. 330, 332, 334, 335. The transaction closed on December 8, 2020 and resulted in a net recovery of \$1,038,704.75, which is now reflected in Exhibit A. For more information, please see the Receiver's prior interim reports.

3. 6922 Lacantera Circle, Lakewood Ranch, Florida

The two-story property located at 6922 Lacantera Circle in Lakewood Ranch, Florida ("**Lacantera**") was owned by relief defendant 6922 Lacantera Circle, LLC. On January 7, 2020, the Receiver entered into an agreement to sell Lacantera for \$2,050,000. The Receiver moved the Court to approve the sale, and the Court granted that motion. *See* Docs. 222, 226, 232, 233. The Receiver closed the sale, and the net proceeds of \$372,823.83 are now within the Receivership Estate. The net proceeds differ substantially from the gross

proceeds because the property was encumbered by a large mortgage. For more information, please see the Receiver's prior interim reports.

4. **4064 Founders Club Drive, Sarasota, Florida**

Defendant Anile used the two-story property located at 4064 Founders Club Drive in Sarasota, Florida ("**Founders Club**") as his residence.¹⁰ It was owned by relief defendant 4064 Founders Club Drive, LLC. Defendant Anile was a principal of that entity until the Receiver's appointment. The property contains approximately 7,230 square feet, including five bedrooms, numerous bathrooms, a wine cellar, game room, theater room, and a pool.¹¹ Founders Club appears to have been purchased on October 20, 2017 for approximately \$1,775,000. Steven and Natalee Herrig hold a \$1,065,000 mortgage on the property with a balloon payment due on October 20, 2021. The 2020 tax assessed value of Founders Club is \$1,365,100. The DOJ obtained a final judgment of forfeiture with respect to this property on August 30, 2019. See FA Doc. 65. On March 22, 2021, the Receiver entered into an agreement to sell Founders Club for \$1,875,000. The Receiver moved the Court to approve the sale, and the Court granted that motion.

¹⁰ Similarly, 4058 Founders Club Drive in Sarasota, Florida is a vacant lot (the "**Founders Club Lot**") owned by 4058 Founders Club Drive, LLC. Defendant Anile was a principal of that entity, although it is not a relief defendant. The Founders Club Lot appears to have been purchased on March 26, 2018 for approximately \$190,000. There is no mortgage. The 2020 tax assessed value of the Founders Club Lot is \$119,300. The DOJ obtained a final judgment of forfeiture with respect to this property on August 20, 2019. See FA Doc. 63. On January 29, 2021, the Receiver entered into an agreement to sell the Founders Club Lot for \$195,000. The Receiver moved the Court to approve the sale, and the Court granted that motion. See Docs. 363, 365. The transaction closed on or about February 19, 2021 and resulted in a net recovery of \$186,252.37, which is now reflected in Exhibit A.

¹¹ See www.oasisreceivership.com/assets-for-sale/4064-founders-club-drive/.

See Docs. 387, 389. The transaction is scheduled to close shortly after this filing, and if the sale proceeds as anticipated, the net proceeds will be included in Exhibit A to the Receiver's next interim report.

5. 7312 Desert Ridge Glen in Lakewood Ranch, Florida

Defendant Francisco Duran used the two-story property located at 7312 Desert Ridge Glen in Lakewood Ranch, Florida as his residence ("**Desert Ridge**"). On November 29, 2020, the Receiver entered into an agreement to sell Desert Ridge for \$846,000. The Receiver moved the Court to approve the sale, and the Court granted that motion. See Docs. 340, 343. The Receiver closed the sale on or about January 7, 2021, and the net proceeds of \$774,740.08 are now reflected in Exhibit A. For more information, please see the Receiver's prior interim reports.

6. The Vardon Terrace Condos

Shortly after his appointment, the Receiver learned that DaCorta and/or Oasis Management had an interest in four condominiums in Lakewood Ranch, Florida (the "**Vardon Terrace Condos**"): (1) 16804 Vardon Terrace #307 formerly owned by Vincent Raia; (2) 16804 Vardon Terrace #108 owned by 16804 Vardon Terrace #108, LLC; (3) 16904 Vardon Terrace #106 owned by 16904 Vardon Terrace #106, LLC; and (4) 17006 Vardon Terrace #105 owned by 17006 Vardon Terrace #105, LLC.

On July 18, 2018, defendant DaCorta (through 16804 Vardon Terrace 307, LLC) transferred Condo #307 to Vincent Raia, who managed certain properties

for the defendants and relief defendants prior to the Receiver's appointment. Oasis Management held a \$215,000 balloon mortgage on the property. Mr. Raia's monthly, interest-only mortgage payment to Oasis Management was \$537.50. The Receiver was collecting the payments and adding them to the Receivership Account, but he obtained a deed in lieu of foreclosure from Mr. Raia. This arrangement avoided unnecessary litigation with Mr. Raia regarding the length and validity of his mortgage. The Receiver recorded the deed and took ownership of the property. On November 30, 2020, the Receiver entered into an agreement to sell Condo #307 for \$198,000. The Receiver moved the Court to approve the sale, and the Court granted that motion. *See Docs. 341, 344.* The transaction closed on or about February 5, 2021, and the net proceeds of \$187,542.50 are now reflected in Exhibit A.

Oasis Management is the authorized representative of the limited liability company that owned Condo #108, which was purchased for approximately \$190,000. On February 12, 2020, the Receiver entered into an agreement to sell Condo #108 for \$212,000. The Receiver moved the Court to approve the sale, and the Court granted that motion. *See Docs. 239, 250.* The Receiver closed the sale and recovered net proceeds of \$204,312.38. For more information, please see the Receiver's prior interim reports.

Defendant DaCorta was the authorized representative of the limited liability company that owned Condo #106, which was purchased for \$185,000. On June 29, 2020, the Receiver entered into an agreement to sell Condo #106 for

\$184,000. On July 24, 2020, the Receiver moved the Court to approve the sale (Doc. 291), and the Court granted that motion (Doc. 303). The Receiver closed the sale and recovered net proceeds of \$177,104.89. For more information, please see the Receiver's prior interim reports.

Oasis Management was the authorized representative of the limited liability company that owned Condo #105, which was purchased for \$190,999. On December 28, 2020, the Receiver entered into an agreement to sell Condo #105 for \$198,000. On January 22, 2021, the Receiver moved the Court to approve the sale (Docs. 359, 360), and the Court granted that motion (Docs. 361, 362). The transaction closed on or about February 18, 2021, and the net proceeds of \$187,813.91 are now reflected in Exhibit A.

7. 6300 Midnight Pass Rd., No. 1002, Sarasota, Florida

The condominium located at 6300 Midnight Pass Road, No. 1002 in Sarasota, Florida ("**Midnight Pass**") was owned by 6300 Midnight Pass Road, No. 1002, LLC. On December 14, 2020, the Receiver entered into an agreement to sell Midnight Pass for \$913,000. On January 4, 2021, the Receiver moved the Court to approve the sale (Doc. 345), and the Court granted that motion (Doc. 356). The transaction closed on or about February 3, 2021, and the net proceeds of \$863,654.69 are now reflected in Exhibit A.

8. Defendant Montie's Real Property

Defendant Montie owns real estate in Hauppauge, New York, valued between \$485,000 (as is) and \$635,000 (repaired), based on a recent

“Comparative Market Analysis” obtained by Montie from an appraiser. The property is subject to a mortgage. Montie has expressed a desire to sell the property and has identified a buyer willing to pay \$505,000. The Receiver commissioned a certified independent appraisal and confirmed that the proposed sale price reflects market value. Montie conferred with the CFTC and the Receiver, and the parties agreed to the sale. On December 22, 2020, the Court granted Montie’s unopposed motion to permit the sale. Doc. 342. The transaction closed on April 23, 2021, but certain conditions still require satisfaction. The proceeds of the sale, currently estimated to be approximately \$269,349.46, will be held in escrow pending the resolution of the CFTC’s and/or the Receiver’s claims.

Montie also owns property in Jackson, New Hampshire, which he values at \$1,412,800, based on “local property assessor figures.” As of June 15, 2019, the property carried a mortgage of \$845,747. Finally, Montie owns property in Lake Ariel, Pennsylvania, which he values at \$926,700, based on “local property assessor figures.” As of August 1, 2019, the property carried a mortgage of \$658,254. As such, Montie’s properties carried positive net equity of approximately \$1,211,602 in 2019, according to his sworn financial affidavit. “Montie is responsible for making mortgage, property tax, and insurance payments and for the general upkeep of these residences.” Doc. 177 ¶ 20. The Receiver reserves the right to pursue these properties and any other disclosed (or undisclosed) assets when the circumstances warrant.

9. Defendant Haas's Real Property

Defendant Haas owns a property in New York, which he estimates to be worth approximately \$448,622. As of June 24, 2019, it had a mortgage in the amount of \$127,397.15. As such, Haas's property carried positive net equity of approximately \$321,231 in 2019, according to his sworn financial affidavit. "Haas is responsible for making mortgage, property tax, and insurance payments and for the general upkeep of this residence." Doc. 177 ¶ 21. The Receiver reserves the right to pursue this property and any other disclosed (or undisclosed) assets when the circumstances warrant.

D. Securing Personal Property

1. Vehicles

On April 18, 2019, FBI agents executed search warrants and seized, among other things, luxury automobiles purchased by certain defendants and relief defendants. The FBI then instituted administrative forfeiture proceedings against the vehicles. On October 11, 2019, the Receiver filed a motion seeking the Court's approval of his plan to auction the vehicles pursuant to the MOU. Doc. 192. The Court granted the motion on October 29, 2019. Doc 194. Orlando Auto Auction sold the vehicles that were not underwater, which resulted in a recovery of approximately \$307,714. The Receiver obtained the sale proceeds in January 2020. The Receiver has now sold all forfeited vehicles and collected all related funds. For more information, please see the Receiver's prior reports.

2. Cash and Precious Metals

Law enforcement agents also seized cash, gold, and silver from certain defendants or their residences. On November 4, 2019, the Receiver moved the Court to approve a procedure for the sale of the metals, and the Court granted the motion on November 7, 2019. *See* Docs. 197, 200. After obtaining several bids from companies that deal in precious metals, the Receiver sold the gold and silver to International Diamond Center for \$657,382.25. *See* Doc. 205. The Receiver has now sold all forfeited metals and collected all related funds.¹² For more information, please see the Receiver's prior interim reports.

3. Other Personal Property

When the Receiver and his representatives visited certain defendants' residences on April 18, 2019, they observed and photographed potentially valuable items, including art, antiques, collectibles, sports memorabilia, and jewelry. The defendants have been instructed that all such personal property is subject to the asset freeze, and they are not to sell, transfer, or otherwise dispose of anything without the Receiver's authorization. To date, the Receiver has identified and/or seized the property listed in **Exhibit C**.¹³ He has sold most items as set forth in the exhibit. The Receiver is working with the defendants and

¹² This does not include certain assets in the possession of defendants Haas and Montie, as disclosed in their financial affidavits.

¹³ Importantly, the values identified in Exhibit C were and are only estimates. Actual recoveries have been and will be subject to market conditions and other factors.

their counsel to identify additional property that rightfully belongs to the Receivership Estate.

E. Securing the Receivership Entities' Books and Records

As explained in prior interim reports, the Receiver and his professionals have taken substantial steps to secure the Receivership Entities' books and records, including computer systems, emails, and other documents. The Receiver has also obtained documents from numerous nonparties under the Consolidated Order or through subpoenas. During this reporting period, the Receiver has obtained documents directly from investors in connection with his demand letters, clawback litigation, and/or the claims process. The Receiver continues to encourage investors who dispute the Receiver's calculations of gains or losses related to the scheme to provide documents substantiating the dispute. This will ultimately conserve resources and avoid unnecessary litigation.

F. Operating or Related Businesses

In prior interim reports, the Receiver has provided information about three businesses: (1) relief defendant Roar of the Lion; (2) Mirror Innovations, LLC; and (3) Diamond Boa LLC d/b/a Kevin Johnson Reptiles. While some issues still require resolution, the Receiver does not believe any of these businesses have material value to the Receivership Estate.

IV. Retention of Professionals

The Consolidated Order authorizes the Receiver "[t]o engage and employ persons in his discretion to assist him in carrying out his duties and

responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business advisors, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers.” Doc. 177 at ¶ 8.F.

On May 30, 2019, the Receiver moved the Court to approve his engagement of the following legal, accounting, and other professionals: (1) Wiand Guerra King P.A. n/k/a Guerra King P.A. (“**WGK**” or “**GK**”), a law firm; (2) KapilaMukamal, LLP (“**KM**”), a forensic accounting firm; (3) PDR CPAs (“**PDR**”), a tax accounting firm; (4) RWJ Group, LLC (“**RWJ**”), an asset management and investigations firm; and (5) E-Hounds, Inc. (“**E-Hounds**”), a technology and computer forensics firm. See Doc. 87. On June 6, 2019, the Court granted the Receiver’s motion for approval to retain these professionals. Doc. 98. The Receiver has also retained special counsel to assist with the repatriation of foreign assets: Glenn D. Godfrey & Company LLP in Belize (Doc. 138) and Maples Group in the Cayman Islands (Doc. 187).

On March 5, 2020, the Receiver filed a motion seeking to retain Sallah Astarita & Cox, LLC (the “**Sallah Firm**”) on a contingency fee basis to investigate and pursue claims against FAI. Doc. 238. Similarly, on March 20, 2020, the Receiver moved the Court to approve his retention of Sergio C. Godinho as a litigation consultant to assist the Receiver’s and the Sallah Firm’s investigation and prosecution of those claims. Doc. 253. FAI opposed both motions, and after related briefing, on April 7, 2020, the Court granted the

Receiver's motions, thereby approving his engagement of the Sallah Firm and Mr. Godinho. Doc. 261. As explained in Section V.1.a. below, the Receiver has since resolved his claims against FAI.

On March 24, 2020, the Receiver moved the Court to approve the engagement of John Waechter and Englander Fischer to assist the Receiver and his primary counsel with clawback litigation. Doc. 285. The Court granted the Receiver's motion on April 13, 2010. Doc. 264. As explained in Section V.2.b. below, the Receiver is pursuing clawback litigation against numerous defendants.

On March 31, 2021, the Receiver filed a second motion seeking to retain the Sallah Firm on a contingency fee basis to investigate and pursue claims against ATC Brokers Ltd. and its affiliates and principals. Doc. 385. On April 23, 2021, the Court granted the Receiver's motion, thereby approving his second engagement of the Sallah Firm. Doc. 390.

V. Pending and Contemplated Litigation

The Consolidated Order requires this Eighth Interim Report to contain “a description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in (i) reducing the claims to judgment and (ii) collecting such judgments.)” Doc. 177 ¶ 56.E. The following subsections address both asserted and unasserted claims held by the Receivership Estate and certain related litigation.

1. Completed and Related Litigation

a. Fundadministration, Inc.

As explained above in Section IV, the Court authorized the Receiver to retain the Sallah Firm to investigate and pursue claims against FAI on a contingency fee basis. The Receiver and FAI mediated their dispute on October 13, 2020 and subsequently reached an agreement regarding the Receiver's claims. On February 8, 2021, the Receiver moved the Court to approve the parties' agreement (Doc. 368), and on February 25, 2021, the Court granted the Receiver's motion (Doc. 376). On or about March 1, 2021, FAI transferred net settlement proceeds of \$3,555,000.00 to the Receiver. FAI also reached an agreement with the CFTC, which provided for its dismissal as a relief defendant from the agency's enforcement action. *See* Docs. 364, 366. As such, FAI is no longer a party to any litigation involving the Receiver or the CFTC.

b. The Government's Civil Forfeiture Action

The Forfeiture Action is essentially complete because judgments of forfeiture have been entered against all defendant properties. *See* FA Docs. 60, 63, 65, 67. The Receiver has been selling those properties pursuant to the MOU. The Receiver understands that the FBI's administrative forfeiture proceeding against certain personal property is also complete. If the sale of Founders Club closes as anticipated, the Receiver will have sold all forfeited real and personal property subject to the MOU.

c. The Anile Criminal Action

As noted above, defendant Anile pled guilty to several felony charges regarding the scheme, and the court in the Anile Criminal Action accepted his guilty plea on October 15, 2019. ACA Docs. 19, 27. He was sentenced to imprisonment of 120 months (*i.e.*, 10 years) and supervised release of three years. He was also ordered to pay restitution of \$53,270,336.08. The DOJ is still pursuing forfeiture and repatriation of approximately \$2 million from the United Kingdom (*see supra* § III.B.1.), but the Receiver believes the Anile Criminal Action is otherwise complete.

2. Pending and Related Litigation

The Receiver is not aware of any litigation against Receivership Entities that was pending at his appointment, and the Consolidated Order enjoins the filing of any litigation against Receivership Entities without leave of Court.

a. The DaCorta Criminal Action

As also noted above, defendant DaCorta has been indicted in a separate but related action. DCA Doc. 1 & Ex. A. A copy of the indictment was attached as Exhibit A to the Receiver's Third Interim Report. He is awaiting trial in 2021.

b. The Receiver's General Clawback Litigation

The Court found that entry of the Consolidated Order was necessary and appropriate for the purposes of marshaling and preserving all assets, including in relevant part, assets that "were fraudulently transferred by the Defendants and/or Relief Defendants." Doc. 177 at 2. The Court also authorized the Receiver

“to sue for and collect, recover, receive and take into possession all Receivership Property” (*id.* ¶ 8.B.) and “[t]o bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging his duties as Receiver” (*id.* ¶ 8.I.). Similarly, the Court authorized, empowered, and directed the Receiver to “prosecute” actions “of any kind as may in his discretion, and in consultation with the CFTC’s counsel, be advisable or proper to recover and/or conserve Receivership Property.” *Id.* ¶ 43.

Pursuant to that mandate, the Receiver worked with forensic accountants to perform a cash-in/cash-out analysis of the Receivership Entities. This allowed the Receiver to identify any investor who received more money from a Receivership Entity than he or she contributed to the Receivership Entity. In Ponzi schemes, such amounts are generally referred to as “false profits” because the money transferred to the pertinent investor was not derived from legitimate activities but from other defrauded investors. Receivers in the Eleventh Circuit (and nationwide) have a clear right to recover false profits through fraudulent transfer or “clawback” litigation. *See, e.g., Wiand v. Lee, et al.*, 753 F.3d 1194 (11th Cir. 2014).¹⁴

¹⁴ *See also* Doc. 237 § II; *Wiand v. Lee*, 2012 WL 6923664, at *17 (M.D. Fla. Dec. 13, 2012), *adopted* 2013 WL 247361 (M.D. Fla. Jan. 23, 2013) (“[A]s the Receiver indicates, it is well-settled that a receiver is entitled to recover from winning investors profits above the initial outlay, also known as ‘false profits,’ and an investor in a scheme does not provide reasonably equivalent value for any amounts received from [the] scheme that exceed the investor’s principal investment.”); *Perkins v. Haines*, 661 F.3d 623, 627 (11th Cir. 2011) (“Any transfers over and above the amount of the principal—*i.e.*, for fictitious profits—are not made for ‘value’ because they exceed the scope of the investors’ fraud claim and may be subject to recovery....”).

On February 28, 2020, the Receiver filed a motion seeking approval of certain pre-suit settlement procedures regarding his fraudulent transfer and unjust enrichment claims against investors who received false profits. Doc. 237. The Court granted that motion on March 16, 2020. Doc. 247. The Receiver then mailed approximately 175 demand letters to potential defendants, offering to waive the Receiver's entitlement to prejudgment interest and to settle the Receiver's claims for 90% of the investor's false profits. Those letters also offered potential defendants the opportunity to dispute the Receiver's calculations. The pre-suit resolution procedures were fruitful in several important ways:

- First and most importantly, the procedures resulted in settlements collectively worth \$246,497.09.
- Second, many investors and/or their counsel took the afforded opportunity to contest the Receiver's calculations by providing documents showing that they did not, in fact, receive false profits or, for example, that the investor was entitled to an equitable setoff because one account received false profits but a related account suffered even greater losses. This conserved resources by avoiding unnecessary litigation.
- Third, in more complicated situations, the Receiver and investors and/or their counsel entered into tolling agreements to afford additional time to exchange documents, reconcile accounts, and engage in negotiations. This process is ongoing.

Given the foregoing, the Receiver believes the pre-suit settlement procedures were productive and successful, but unfortunately, many investors did not take advantage of the afforded opportunity. In preparation for that likely event, on March 24, 2020, the Receiver moved the Court for authority to file clawback litigation. Doc. 258. The Court granted the Receiver's motion on April

13, 2010. Doc. 264. Pursuant to the Consolidated Order and the Court’s express authorization, on April 14, 2020, the Receiver filed a clawback complaint against almost 100 non-settling investors, seeking to recover approximately \$4.4 million plus costs and prejudgment interest. A copy of the complaint can be found on [the Receiver’s website](#) (the “**Clawback Action**”).¹⁵

Since filing the Clawback Action, the Receiver has reached settlements with many defendants:

- On July 13, 2020, the Receiver moved the Court to approve 10 settlements with 15 defendants in the total amount of \$99,414.39. See Doc. 280. The Court granted the Receiver’s motion on July 14, 2020. Doc. 281.
- On August 28, 2020, the Receiver moved the Court to approve 5 settlements with 8 defendants in the total amount of \$109,148.48. See Doc. 312. The Court granted the Receiver’s motion on August 31, 2020. Doc. 314.
- On January 14, 2021, the Receiver moved the Court to approve 5 settlements with 6 defendants or potential defendants in the total amount of \$175,631.62. See Doc. 350. The Court granted the Receiver’s motion on January 21, 2021. Doc. 357.
- On March 9, 2021, the Receiver moved the Court to approve 2 settlements with 3 defendants or potential defendants in the total amount of \$33,266.33. See Doc. 379. The Court granted the Receiver’s motion on March 31, 2021. Doc. 383.

¹⁵ The Receiver did not include individuals who received smaller amounts of false profits in the Clawback Action, but importantly, he has not abandoned his claims against those individuals. He will pursue them in a cost-efficient manner and will explore alternative methods of recovery. As such, the Receiver continues to encourage people who received demand letters but were not named in the Clawback Action to reach resolutions with the Receiver.

Other defendants have defaulted, and certain *pro se* defendants are attempting to litigate the Receiver's claims. The chart below summarizes general categories of profiteers and/or defendants and associated figures:

STATUS	DEFENDANTS	AMOUNTS
Pre-Suit Settlements	10	\$246,497.09
Post-Suit Settlements	30	\$783,176.46
Other Settlements (Tolled Non-Parties)	3	\$139,806.23
Default Judgments	48	\$2,333,587.45
Pending	4	\$282,105.75
Voluntary Dismissal, Bankruptcy, or Other	12	\$777,721.08

Given the extensive opportunities afforded by the Receiver to settle claims, resolve documents discrepancies, or enter into tolling agreements, the Receiver will likely continue to seek the maximum recovery from non-settling defendants.

c. The Receiver's Litigation Against Montie

The Receiver sued Raymond P. Montie, III for (like others) the recovery of fraudulent transfers and unjust enrichment but also for breaching his fiduciary duties to Oasis International Group, Ltd. and related entities and for aiding and abetting the criminal breaches of fiduciary duties owed to those entities by Anile and DaCorta (the "**Montie Litigation**"). The Receiver seeks to recover fraudulent transfers in the amount of \$1.7 million that Montie received from the scheme and more than \$50 million in damages based on his tortious conduct. On June 16, 2020, Montie filed a motion to dismiss the Receiver's complaint (ML

Doc. 9), and on June 30, 2020, the Receiver filed a notice of his intent to amend the complaint, as a matter of right under the Federal Rules of Civil Procedure (ML Doc. 12). On July 2, 2020, Montie filed a motion seeking to strike the Receiver's notice and to dismiss the Receiver's case with prejudice. ML Doc. 13. During an in-person hearing on July 13, 2020, the judge presiding over the Montie Litigation denied the motion to strike. ML Doc. 22. The judge also denied Montie's motion to dismiss as moot. ML Doc. 23.

On July 7, 2020, the Receiver filed an amended complaint, a copy of which is available on the Receiver's website. On July 27, 2020, Montie filed a second motion to dismiss. ML Doc. 24. On November 2, 2020, the Court denied Montie's second motion to dismiss. ML Doc. 45. The parties are currently engaged in discovery. Mediation is scheduled for April 30, 2021, and trial is scheduled for January 2022. Importantly, neither the CFTC nor the DOJ can assert the claims the Receiver alleged in the Montie Litigation, and given Montie's ongoing income from a multi-level-marketing company called Ambit Energy and ownership of several properties, the Receiver believes Montie has the resources to satisfy substantial adverse judgments.

3. Contemplated Litigation

In addition to clawback claims, the Receiver might also assert tort claims against brokers, accountants, sales agents, lawyers, and others who aided and abetted the scheme or otherwise knew or should have known of fraudulent

activity. The Receiver is reviewing information to determine if any individuals or entities discussed below have liability in connection with the scheme.

a. Contemplated Litigation Against Insiders

The Receiver is considering litigation against certain OIG insiders, including principles, sales agents, employees, “traders,” and others. On the one hand, the Receiver can assert legal and equitable claims that are independent of and distinct from any claims the government can assert, either through the CFTC, the DOJ, or otherwise. On the other hand, the Receiver seeks to avoid duplicating efforts made (or to be made) by the government to conserve resources and avoid unnecessary litigation. For example, the Receiver likely will not pursue independent litigation against defendant Anile because the DOJ has already obtained a multi-million-dollar criminal forfeiture judgment against him. The Receiver and the government have seized “his” assets, including the house in which he was living (Founders Club), the cars he and his wife were driving, and other personal property. Most of these assets have already been sold. Although defendant DaCorta has not pled guilty and is awaiting trial, the Receiver believes claims against him require similar treatment to avoid unnecessary expenditures.

The Receiver has entered into tolling agreements with defendants Haas and Duran (although this case is stayed, and the Consolidated Order contains a tolling provision, the Receiver also obtained tolling agreements in an abundance of caution to preserve his claims). This will afford the parties additional time to resolve criminal, civil, and other matters and to reach agreements, establish

liability, and recover assets with minimal need for litigation or at least litigation funded by the Receivership Estate.

b. ATC Brokers Ltd. And Affiliates And Principals

The Receiver is also seeking documents from and considering claims against ATC Brokers Ltd. and its affiliates and principals, which received approximately \$20 million from the scheme. ATC is a firm that facilitates, among other things, foreign exchange or “forex” trading from offices in California and the United Kingdom. To avoid incurring unnecessary fees and costs, the Receiver has already sought and obtained documents that ATC provided to the CFTC and separately to the DOJ pursuant to certain international treaties. Those productions, however, are inadequate for the Receiver’s purposes. As such, the Receiver served a subpoena for documents on ATC’s affiliate in the United States and attempted to take the deposition of David Manoukian, one of ATC’s principals as well as a witness and California resident who was deeply involved with the scheme. Instead of cooperating with the Receiver, Manoukian and ATC retained counsel, drafted a motion for a protective order to be filed in California, and threatened to sanction the Receiver’s counsel for attempting to pursue discovery in the United States. It became clear that the Receiver would have to litigate with ATC either in this Court, California, the United Kingdom, or some combination thereof.

On July 10, 2020, the Receiver filed a motion for an order to show cause why Manoukian and ATC should not be held in contempt of Court for failing to

comply with the Consolidated Order by providing documents to the Receiver. Doc. 278. The Court referred the matter to the presiding Magistrate Judge, who recommended that the Receiver's motion be denied. *See* Doc. 289. The Court adopted the Magistrate Judge's report and recommendation over the Receiver's objection. Doc. 316.

In his Seventh Interim Report, the Receiver stated that he anticipated instituting litigation against ATC. As explained above in Section IV, the Receiver subsequently moved the Court to approve his engagement of the Sallah Firm to pursue potential claims against ATC on a contingency fee basis. The Court granted that motion, and the Sallah Firm is now investigating and preparing to assert those claims.

On April 28, 2021, the CFTC also filed a motion seeking "an order granting limited relief from the stay of this litigation such that the CFTC may issue Federal Rule of Civil Procedure 45 subpoenas to the ATC Entities, as well as to any other non-party entities and individuals the CFTC believes likely to possess relevant information related to claims and possible defenses involving the ATC Entities." Doc. 391 at 3. "The Receiver's ATC Motion revealed the existence of significantly more relevant documents than the ATC Entities produced to the CFTC, highlighting the need for the requested third-party discovery." *Id.* As of the date of this filing, the CFTC's motion is pending.

c. Spotex, LLC

Spotex, LLC (“**Spotex**”) created the software that DaCorta allegedly used to conduct trading. It maintained backdoor accounts for OIG through www.spotex.com. The Receiver served a subpoena on Spotex, and the company has produced certain documents. The Receiver is working with counsel for Spotex to obtain additional documents. Counsel has advised the Receiver that Spotex never takes possession of investor money and does not have any money belonging to OIG or its investors.

VI. Claims Process

As explained more fully in prior interim reports, the Receiver – with this Court’s approval – has established a claims process through which he intends to distribute the proceeds of the Receivership Estate to creditors, including defrauded investors. The Claim Bar Date (as defined in Doc. 230 – *i.e.*, the deadline for submitting claims to the Receiver) was June 15, 2020. As of that date (with minimal exceptions), investors and other creditors submitted approximately 785 proof of claim forms totaling approximately \$70 million. Anyone who did not submit a proof of claim form by that date is forever barred from participating in a distribution from the Receivership Estate.

The Receiver is currently in the process of analyzing the claim forms and formulating his determinations. After the Receiver completes his analysis, he will present his determinations to the Court and ask the Court to approve them on an interim basis. He will then serve notice of his determinations on the claimants,

who will have an opportunity to object to the Receiver's determinations through specific procedures approved by the Court and consistent with due process requirements. In the Receiver's experience, most objections can be resolved or settled using such procedures, but if any objections cannot be resolved, they will be presented to the Court for determination. Through this process, the Receiver intends to establish groups or classes of creditors with approved claims that are entitled to receive distributions from the Receivership Estate.

Once the claims process has been completed or substantially completed, the Receiver will evaluate the amount of cash available for distribution and move the Court to approve a first interim distribution to claimants with approved claims. If material claim objections are pending at the time the Receiver determines a distribution is appropriate, he might move the Court to establish reserves for the disputed claims, so they do not impair the Receiver's ability to make a distribution to claimants with undisputed claims. The Receiver anticipates making multiple distributions as assets become available, subject to cost/benefit concerns.

VII. The Next Ninety Days

The Consolidated Order requires this Eighth Interim Report (and all subsequent reports) to contain "[t]he Receiver's recommendations for a continuation or discontinuation of the [R]eceivership and the reasons for the recommendations." Doc. 177 ¶ 56.G. At this stage, the Receiver recommends continuation of the Receivership because he still has (1) more than \$2 million to

repatriate from the United Kingdom (through the DOJ) and more than \$500,000 from Belize; (2) additional real estate to liquidate; (3) additional personal property to liquidate; (4) litigation to bring and/or prosecute, including clawback claims; and (5) a claims process to complete for the distribution of funds.

During the next 90 days, the Receiver will continue to collect and analyze documents from nonparties and other sources. The Receiver is also reviewing information to determine if any other third parties have liability either to the Receivership Estate or investors. The Receiver will continue to attempt to locate funds and other assets and will likely institute additional proceedings to recover assets on behalf of the Receivership Entities. In an effort to more fully understand the conduct at issue and in an attempt to locate more assets, the Receiver will continue to conduct interviews and/or depositions of parties and third parties who might have knowledge of the fraudulent scheme.

CONCLUSION

Investors and other creditors of the Receivership Entities are encouraged to periodically check the Receiver's website (www.oasisreceivership.com) for current information concerning this Receivership. The Receiver and his counsel have received an enormous amount of emails and telephone inquiries and have had to expend significant resources to address them. While the Receiver and his staff are available to respond to any inquiries, to minimize those expenses, investors and other creditors are strongly encouraged to consult the Receiver's website before contacting the Receiver or his counsel. Should the website not

answer your question, please reach out to us. The Receiver continues to encourage individuals or attorneys representing investors who have information that might be helpful in securing further assets for the Receivership Estate or identifying other potential parties who might have liability to either the Receivership Estate or investors to email (jrizzo@guerraking.com) or call Jeffrey Rizzo at 813-347-5100. The Receiver can be contacted directly by email (Burt@BurtonWWiandPA.com) or by phone at 727-460-4679.

Dated this 30th day of April 2021.

Respectfully submitted,

s/ Burton W. Wiand

Burton W. Wiand, Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 30, 2021, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

s/ Jared J. Perez _____

Jared J. Perez, FBN 0085192

jperez@guerraking.com

Lawrence J. Dougherty, FBN 0068637

ldougherty@guerraking.com

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Attorneys for Receiver, Burton W. Wiand

EXHIBIT B

JARED J. PEREZ



Jared Perez concentrates his practice on complex commercial litigation with a focus on financial services and securities matters, including securities fraud litigation, SEC and FINRA investigations, shareholder derivative litigation, and federal equity receiverships.

Martindale-Hubbell has rated Jared AV Preeminent®, which represents the “highest level of professional excellence for ... legal knowledge, communication skills and ethical standards,” and Super Lawyers has designated him a “Rising Star” in business litigation.

Jared is a member of the legal team representing the receiver appointed over Arthur Nadel’s \$400 million Ponzi scheme. In that capacity, he helped to recover tens of millions of dollars for defrauded investors through dozens of cases in the United States District Court for the Middle District of Florida and before the Eleventh Circuit Court of Appeals. Jared has represented receivers appointed at the request of the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, the Florida Office of Financial Regulation, and the Florida Attorney General’s Office. In addition to receivership work, Jared represents individuals and entities in securities fraud litigation, regulatory enforcement proceedings, and complex commercial litigation.

Jared is a Tampa native and graduated from Florida State University, *cum laude*, in 2002. He received his law degree in 2005 from Columbia Law School. At Columbia, Jared served as the Managing Editor of the Science & Technology Law Review. He also interned with the Rackets Bureau of the Manhattan District Attorney’s Office, the Hon. Robert Patterson, Jr., of the United States District Court for the Southern District of New York, and the Hon. Sonia Sotomayor, then of the Second Circuit Court of Appeals and, presently, a member of the United States Supreme Court.

REPRESENTATIVE EXPERIENCE

- Representing federal receiver appointed in CFTC enforcement action in connection with approximately \$80 million foreign exchange fraud
- Representing federal receiver appointed in SEC enforcement action in connection with approximately \$400 million fraudulent scheme operated through multiple hedge funds
- Representing state receiver appointed in enforcement action brought by the Florida Office of Financial Regulation in connection with \$17 million fraudulent investment scheme
- Represented state receiver appointed in enforcement action by the Florida Attorney General's Office in connection with multimillion-dollar travel club operation
- Represented federal receiver appointed in FTC enforcement action in connection with approximately \$6 million telemarketing and timeshare resale scheme
- Represented federal receiver appointed in second FTC enforcement action in connection with multimillion-dollar telemarketing and timeshare resale scheme
- Represented major insurance company in breach of contract and fraud action arising from M&A transaction
- Represented large shareholder in derivative action against biotechnology company and its directors
- Represented defendants in two securities fraud class actions alleging market manipulation
- Represented investment adviser in civil action brought by SEC for securities fraud
- Represented M&A broker in compensation dispute with former employer and related FINRA investigation
- Represented monoline bond insurer in state and federal court actions for fraud and breach of contract against the sponsors of eight mortgage-backed securitizations with an insured value of approximately \$4 billion
- Represented major insurance company in an arbitration concerning the firing of its Chief Executive Officer for various acts of malfeasance and mismanagement
- Represented leading pharmaceutical company in connection with internal investigations to determine compliance with the Foreign Corrupt Practices Act
- Represented national retailer in a lawsuit alleging violations of the securities and antitrust laws in connection with a proxy fight launched by two "activist" hedge funds

SIGNIFICANT REPORTED DECISIONS

- *S.E.C. v. Quest Energy Management Group, Inc.*, 768 F. 3d 1106 (11th Cir. 2014)
- *Wiand v. Lee*, 2012 WL 6923664 (M.D. Fla. 2012), adopted 2013 WL 247361 (M.D. Fla. 2013) (granting summary judgment), affirmed 753 F.3d 1194 (11th Cir. 2014)
- *Wiand v. Dancing \$, LLC*, 2013 WL 246731 (M.D. Fla. 2013) (granting summary judgment), affirmed 578 Fed. App'x 938 (11th Cir. 2014)

- *Wiand v. Meeker*, 2012 WL 6930504 (M.D. Fla. 2012), adopted 2013 WL 298335 (M.D. Fla. 2013) (granting summary judgment), affirmed 572 Fed. App'x 689 (11th Cir. 2014)
- *Wiand v. Morgan*, 2012 WL 831538 (M.D. Fla. 2012), adopted 2013 WL 247072 (M.D. Fla. 2013) (granting summary judgment)
- *Wiand v. Mason*, 2012 WL 7071455 (M.D. Fla. 2012), adopted 2013 WL 542857 (M.D. Fla. 2013) (granting summary judgment)
- *Wiand v. Cloud*, 2013 WL 247004 (M.D. Fla. 2013) (granting summary judgment)
- *Morgan Stanley & Co., LLC v. The Core Fund*, 2012 WL 3292408 (M.D. Fla. 2012)
- *MBIA Ins. Co. v. Residential Funding Co., LLC*, 906 N.Y.S.2d 781 (N.Y. Sup. Ct. 2009)
- *Radian Ins., Inc. v. Deutsche Bank Nat'l Trust Co.*, 638 F. Supp. 2d 443 (E.D. Pa. 2009)

PAST EXPERIENCE

- Cadwalader, Wickersham & Taft LLP, New York, NY
 - Litigation Associate
 - 2005-2011

PROFESSIONAL AFFILIATIONS

- American Bar Association
- National Association of Federal Equity Receivers
 - Member of Amicus and Regulatory Outreach Committees
- Federal Bar Association – Tampa Chapter
- Florida Bar Business Law Section
- Hillsborough County Bar Association
 - Initial Co-Chair of HCBA Securities Law Section
- Clearwater Bar Association

EDUCATION

- J.D., Columbia Law School, 2005 (Science and Technology Law Review, Managing Ed.)
- B.A., Florida State University, 2002 (Phi Beta Kappa)

BAR ADMISSIONS

- Florida
- New York

COURT ADMISSIONS

- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Southern District of New York

DISTINCTIONS

- AV Preeminent Peer Review Rating by Martindale-Hubbell®
- Florida Super Lawyers, Rising Stars

EXHIBIT C

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JUGAL K. TANEJA,)
)
Appellant,)
)
v.)
)
CHANDRESH S. SARAIYA; DOWNTOWN)
ST. PETE PROPERTIES LLC; FIRST)
STREET AND FIFTH AVENUE, LLC;)
PATRICK T. LENNON; and MacFARLANE)
FERGUSON & McMULLEN, P.A.,)
)
Appellees.)
_____)

Case No. 2D18-294

Opinion filed January 31, 2020.

Appeal from the Circuit Court for
Hillsborough County; Paul L. Huey, Judge.

David A. Maney of Maney, Damsker &
Jones, P.A., Tampa, for Appellant.

Michael R. Carey of Carey, O'Malley,
Whitaker, Mueller, Roberts & Smith, P.A.,
Tampa, for Appellees Chandresh S.
Saraiya and First Street and Fifth Avenue,
LLC.

Patrick J. McNamara and David M.
Caldevilla of de la Parte & Gilbert, P.A.,
Tampa, for Appellee Downtown St. Pete
Properties LLC.

Nancy S. Paikoff and Stephen O. Cole of
Macfarlane Ferguson & McMullen,
Clearwater, for Appellees Patrick T.

Lennon and Macfarlane Ferguson & McMullen.

LaROSE, Judge.

For over a decade, Jugal K. Taneja and Chandresh S. Saraiya have engaged in extensive litigation regarding complex commercial real estate and loan transactions. See, e.g., MB Fin. Bank, N.A. v. Paragon Mortg. Holdings, LLC, 89 So. 3d 917, 918-20 (Fla. 2d DCA 2012). Mr. Taneja now seeks reversal of the trial court's final order dismissing the derivative action he filed on behalf of Downtown St. Pete Properties, LLC (DSPP). We have jurisdiction. See Fla. R. App. P. 9.030(b)(1)(A). After careful review of the record and with the benefit of oral argument, we conclude that the derivative claims lack merit. Thus, we affirm the trial court's dismissal. We write to discuss the trial court's discretion and obligations, especially concerning discovery, under Florida's Revised Limited Liability Company Act when reviewing a report from a special litigation committee (SLC).

I. **Background**

On the eve of the 2007-08 financial crisis, Mr. Taneja and Mr. Saraiya formed DSPP to acquire, develop, and manage commercial real estate. As the financial crisis worsened, the parties' relationship soured. They could not satisfy the monetary obligations of the project. As the managing member of DSPP, Mr. Saraiya liquidated Mr. Taneja's interest in DSPP due to Mr. Taneja's failure to pay his portion of expenses. In response, Mr. Taneja filed an eight-count derivative action on behalf of DSPP against Mr. Saraiya, Mr. Saraiya's company, First Street & Fifth Avenue, LLC (FSFA), and Mr. Saraiya's and DSPP's attorneys, Macfarlane Ferguson & McMullen, P.A. (MFM), and Patrick Lennon.

DSPP moved to appoint a SLC pursuant to section 605.0804, Florida Statutes (2015), to investigate the derivative claims and determine whether pursuit of those claims was in DSPP's best interest. The trial court granted the motion and appointed Peter King, Esq., of Wiand Guerra King, P.A., to serve as the SLC. The trial court authorized the SLC to "[e]ngage persons who are necessary . . . to assist the Special Litigation Committee in carrying out its duties and responsibilities." Mr. King engaged his law partner, Jared J. Perez, Esq., for that purpose. The trial court exempted the SLC from "discovery except by leave of Court for good cause shown."

About a year later, the SLC filed with the trial court a fifty-nine-page report and hundreds of pages of supporting exhibits. The report offered an introduction and summary of the SLC's investigation, provided a history of the events leading to the derivative action, and set forth the SLC's analysis and recommendations. The SLC identified the witnesses that it interviewed and the depositions, trial testimony, and documents it reviewed during its investigation. The SLC concluded that pursuing the derivative claims was not in DSPP's best interest. Consequently, the SLC recommended dismissal "because the claims . . . lack[ed] merit and the alleged wrongdoing was not the proximate (or sometimes even actual) cause of DSPP's damage."

Mr. Lennon, MFM, Mr. Saraiya, and FSFA moved to enforce the SLC's report. DSPP set the matter for hearing. Mr. Taneja objected to the report and moved to continue the hearing to permit discovery concerning the independence, objectivity, and reasonableness of the report. Mr. Taneja faulted the SLC for failing to (a) explain its investigatory process in preparing the report, (b) differentiate factual and legal conclusions in its report, (c) identify key documents it relied on in reaching its

conclusions and opinions, (d) identify witnesses interviewed and the substance of the interviews, (e) identify facts discovered during the investigation, (f) describe the document review and collection process, and (g) examine DSPP's records. Mr. Taneja also claimed that he had good cause for discovery because the evidence did not support some of the SLC's conclusions, there was a conflict of interest between MFM's representation of Mr. Saraiya and its representation of DSPP, and the SLC failed to explore various documents and facts.

At the hearing, the trial court noted the large record before it and the voluminous discovery the parties had engaged in over the years. The trial court doubted that additional discovery would reveal any new facts. Thus, the trial court denied Mr. Taneja's request to continue and for further discovery. The trial court proceeded with the evidentiary hearing on the report. Mr. King testified. Mr. Taneja's counsel extensively cross-examined Mr. King regarding his independence and investigatory process.

Mr. King explained the applicable standards for the SLC's independence, good faith, and due diligence. He stated that the SLC was "very careful in analyzing those issues on the front end so [the SLC] didn't wind up on the back end being accused of not having done that." Mr. King testified that the SLC conducted conflict checks and found no reason to think that he, Mr. Perez, or anybody "could [be] accuse[d] of not being independent." Mr. King had no financial or social ties to any of the parties or their representatives. Mr. King assured the trial court, "I didn't feel like anybody attempted to influence the report in any way either. I didn't feel any pressure to do anything in particular other than what I was required to do under the order."

Mr. King described how the SLC prepared and drafted the report. He and Mr. Perez "spent a fair amount of time" reviewing the deposition transcripts and exhibits in the record. Mr. King examined DSPP's records. He testified that all the documents he relied on in preparing the report were attached to the report. Mr. King also identified the witnesses that he and Mr. Perez interviewed at length and the interview process itself. Mr. King took notes of the interviews, notes that none of the parties requested prior to the hearing. Mr. King did not attach his notes to the report, but he explained that the SLC did not learn "anything of any great significance that added to or changed what [the SLC] were seeing in the court file or the deposition transcripts." Mr. King also testified that his notes provided background information about the parties and the history of the case. His notes were not the predicate for the SLC's report. Rather, the predicate for the report was "the 49 exhibits that are attached and referenced in the report," "the voluminous litigation files," "the transcripts of the depositions, court files, pleadings, and so forth."

Mr. King testified that the SLC invited the parties to submit any documents they wanted to; the SLC accepted and reviewed Mr. Taneja's submission. Mr. King testified that he felt confident that the SLC had the information necessary to reach the conclusions set forth in the report in good faith. Mr. King and Mr. Perez did not refuse information from anyone in this case. Mr. King further testified:

I think Mr. Perez and I spent not only a significant amount of time in preparation of the report, but last week and earlier this week spent a considerable amount of additional time reviewing it for just that purpose, to see if there's anything maybe we missed or we should have changed or rethought, and tried to be critical in our analysis of it. And we're comfortable with the report as it sits.

The trial court found that the SLC's "work was clearly disinterested, independent, and done in good faith." The trial court stated:

I think the report is outstanding in its detail. It cites the law; probably could have been done a lot thinner, could have been done without that explanation. Mr. King put it all out there, showed everybody, you know, he stuck his neck out there. He cited statutes, he cites cases, he cited from the record. I don't think he was required to do any of that. . . . So, I think it was done in good faith, disinterested, independent. I think it's sound, legally sound. And the Court's going to adopt it. . . . You've brought a wonderful court reporter here today, and I just think you can put in; The Court finds that the -- for the special litigation committee was done in a disinterested, independent, and good faith fashion and with reasonable care. And the committee has met its burden of proof here today.

The trial court accepted the SLC's report, agreed with its recommendation, and dismissed the derivative action, with prejudice. Mr. Taneja appealed.

II. Discussion

Mr. Taneja argues that the trial court erroneously denied his motion to continue the hearing to permit additional discovery. He wanted discovery on the issues of the SLC's independence, good faith, and reasonable investigation in preparing the report. Neither the Florida statutes nor case law support Mr. Taneja's position. Quite simply, our record reflects a textbook example of how a SLC should proceed.

In a derivative action, a limited liability company "may appoint a special litigation committee to investigate the claims asserted . . . and determine whether pursuing the action is in the best interest of the company." § 605.0804(1). Then, upon a motion to enforce the SLC's determination, "the court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith,

independently, and with reasonable care, with the committee having the burden of proof." § 605.0804(5). "If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court may enforce the determination of the committee." Id.

Chapter 605 does not require the trial court to allow discovery from the SLC. As in other instances, "[a] trial court is given wide discretion in dealing with discovery matters." Alvarez v. Cooper Tire & Rubber Co., 75 So. 3d 789, 793 (Fla. 4th DCA 2011). In the SLC context, the trial court's broad discretion is particularly appropriate because "discovery is 'intended more as an aid to the [c]ourt than it is as a preparation tool for the parties.'" LR Tr. on behalf of SunTrust Banks, Inc. v. Rogers, 270 F. Supp. 3d 1364, 1382 (N.D. Ga. 2017) (quoting (Kaplan v. Wyatt, 484 A.2d 501, 510 (Del. Ch. 1984), aff'd by 499 A.2d 1184 (Del. 1985)).

Clearly, then, discovery relating to a SLC's report is not a matter of right. Rather, the trial court, in its discretion, may determine whether discovery is needed to enable it to make its statutorily-required findings as to the derivative claims. Delaware case law amply supports this conclusion.¹ See, e.g., Kaplan, 484 A.2d at 510 (explaining that "discovery is not afforded to the plaintiff as a matter of right but only to such extent as the Court deems necessary for the purpose of facilitating its inquiries"); Long v. Odland, No. 11-CV-80702, 2012 WL 13019034, at *12 (S.D. Fla. Aug. 15, 2012)

¹"We may also look to the law of Delaware for guidance because '[t]he Florida courts have relied upon Delaware corporate law to establish their own corporate doctrines.'" Boettcher v. IMC Mortg. Co., 871 So. 2d 1047, 1052 n.5 (Fla. 2d DCA 2004) (quoting Connolly v. Agostino's Ristorante, Inc., 775 So. 2d 387, 388 n.1 (Fla. 2d DCA 2000)).

(explaining—based on Delaware case law—that "[t]he Court, not the plaintiff, is entitled to 'limited discovery' in order to facilitate inquiries as to whether the SLC's investigation satisfied its burden of independence, good faith, and reasonableness" (citing Kaplan, 484 A.2d at 507)). It is also within the trial court's discretion to deny a motion for continuance. See Rice v. NITV, LLC, 19 So. 3d 1095, 1099 (Fla. 2d DCA 2009).

Absent a clear abuse of discretion, we will not disturb the trial court's order. See Gaspar's Passage, LLC v. RaceTrac Petroleum, Inc., 243 So. 3d 492, 500 (Fla. 2d DCA 2018) ("We review '[a] trial court's determination with regard to a discovery request' for an abuse of discretion." (alteration in original) (quoting Overton v. State, 976 So. 2d 536, 548 (Fla. 2007))); Rice, 19 So. 3d at 1099 ("Ordinarily, 'the granting or denying of a motion for continuance is customarily within the discretion of the trial court' and an appellate court should 'refrain from substituting its judgment for that of the lower court absent an abuse of discretion.' " (quoting Outdoor Resorts at Orlando, Inc. v. Hotz Mgmt. Co., 483 So. 2d 2, 3 (Fla. 2d DCA 1985))).

The trial court confronted an overly broad and nonspecific discovery request from Mr. Taneja. Essentially, Mr. Taneja asserted that the SLC lacked independence and did not conduct the investigation in good faith and with reasonable care. But, after listing these grounds as good cause, Mr. Taneja merely asked the trial court to delay the evidentiary hearing and permit him to take discovery. Mr. Taneja did not request to depose any specific individuals or obtain any specific materials. Mr. Taneja did not allege or explain what discovery, if any, was necessary to facilitate the trial court's inquiry as to whether the SLC satisfied its burden of independence, good faith, and reasonableness. And, of course, Mr. Taneja had the opportunity to cross-examine Mr. King.

As the trial court explicitly noted, the record before it was voluminous, reflecting the extensive discovery already conducted by the parties. Moreover, Mr. King was present at the hearing and testified fully about his investigation and report. The trial court correctly found that delaying the hearing and granting discovery was not necessary for it to render a decision. After all, in his testimony, Mr. King addressed much of Mr. Taneja's concerns about the investigation and report. He emphasized that the report cited to the pertinent documents and included the documents as exhibits. All witnesses were disclosed in the report.

The only documents that Mr. Taneja's counsel appeared to take issue with during the evidentiary hearing were Mr. King's interview notes. However, Mr. King repeatedly explained that the notes contained information that was already available in the record. Besides, Mr. Taneja never requested the notes. Under these circumstances, the trial court did not abuse its discretion in denying Mr. Taneja's motion to continue and his overly broad, nonspecific discovery request. Cf. Muhammad v. State, 132 So. 3d 176, 201 (Fla. 2013) (concluding that "the court did not abuse its discretion in denying the motion [for public records]" where "[t]he requests are overly broad and Muhammad did not clearly demonstrate how the records were relevant to a colorable claim").

Affirmed.

MORRIS and ATKINSON, JJ., Concur.

EXHIBIT D

PETER B. KING



Peter B. King has served in several court-appointed roles, including as a receiver at the request of the Florida Attorney General Office, a special master, and a Special Litigation Committee under Florida's shareholder derivative statute.

In addition, he practices in the area of commercial and complex litigation, with a focus on disputes involving investments. Peter's clients include broker/dealers, registered investment advisors and their associated persons, and insurance agents who are defending claims brought by investors in state and federal courts, and FINRA and AAA arbitration, as well as regulatory proceedings brought by the Securities and Exchange Commission, FINRA, Florida's Office of Financial Regulation, Florida's Department of Financial Services, Florida's Attorney General, and other state regulators. Peter's litigation experience includes disputes involving shareholders and partnerships, non-compete and other types of restrictive covenants, commercial contracts, and promissory notes. His regulatory experience includes investigations, enforcement actions, registration issues, and other disciplinary proceedings. Peter also has experience representing clients in matters before industry organizations such as the Certified Financial Planner Board. He has tried numerous cases to award in arbitration.

Prior to co-founding the firm in November 2009, Peter was a shareholder of one of Florida's largest and most highly regarded law firms where he played an integral role in the development of a nationally recognized practice in securities and financial services counseling and litigation, including serving as practice group leader. He regularly addresses securities industry groups on matters of compliance and best practices.

Peter is AV Peer Review Rated by Martindale-Hubbell and has been recognized by The Best Lawyers in America, Super Lawyers of Florida, and Florida Trend Magazine's Legal Elite. He serves on the Board of Governors and is a past president of the Florida Securities Dealers Association. He serves on the Board and is a past president of the Federal Bar Association, Tampa Bay Chapter, where he currently serves as chair of the Mentoring Program. Peter received his law

degree from West Virginia University where he is a member of the Order of the Coif and Order of Barristers, and his undergraduate degree from University of South Florida.

Peter and his wife, Beth, are the parents of four daughters.

REPRESENTATIVE EXPERIENCE

- Lead trial counsel for a registered representative defending a claim for breach of a promissory note against a global financial services firm, in which his client asserted counterclaims for defamation. A FINRA arbitration panel awarded his client over \$10 million, including \$500,000 in punitive damages, one of the largest punitive damages awards in a FINRA defamation case.
- Lead trial counsel in an SEC administrative proceeding in which the SEC alleged that the investment advisor failed to achieve best execution in the sale of bonds.
- Defense of broker/dealers in connection with alleged Ponzi schemes perpetrated by former registered representatives, handling both the litigation and regulatory issues and significantly reducing the companies' exposure on both fronts.
- Defense of claims arising from the sale of investments, including private placements, non-traded REITS, tenants-in-common interests, and other non-traditional investments.
- Representation of companies and individuals in investigations and enforcement actions by government and self-regulatory organizations.
- Representation of shareholders in business divorces and other shareholder disputes.
- Defense of insurance agents against claims of negligent and fraudulent sales practices.
- Served as court-appointed receiver in an action by Florida's Attorney General against companies promoting discounted travel and vacation packages.
- Served as court-appointed Special Litigation Committee to evaluate derivative claims asserted by a shareholder.
- Served as court-appointed Special Master to assist in resolving discovery disputes among litigants.
- Lead pro bono trial counsel for prisoner asserting claims against Department of Corrections and its medical provider for failure to provide adequate medical care.
- Obtained dismissal of securities class action claim alleging violations of federal securities laws in connection with the sale of equity indexed annuities, with ruling that equity indexed annuities are not securities.
- Obtained voluntary dismissal of claims for violations of federal and state securities laws by receiver of failed life insurance company against individuals accused of fraud and misrepresentation in sales of collateralized mortgage obligations, after seven years of litigation and with no payment by clients.
- Obtained dismissal of claims in federal court alleging misrepresentation and breach of contract in connection with sale of \$10 million life settlement contract.
- Defeated SEC's motion for temporary injunction against client accused of promoting stock in violation of federal securities laws, paving the way for a favorable settlement for the client.

PROFESSIONAL AFFILIATIONS

- Federal Bar Association, Tampa Bay Chapter; Past president (2015); Executive Board (2005-present)
- Florida Securities Dealers Association: Past president (2013), Board of Governors (2004-present)
- Leadership Tampa Bay (2000)
- Securities Industry and Financial Markets Association (SIFMA): Compliance and Legal Division

COMMUNITY INVOLVEMENT

- Epilepsy Services Foundation, Past president and board member
- Robinson High School Foundation, Founding Member, Board of Directors (2010 – 2012)

EDUCATION

- J.D., West Virginia University College of Law, 1995 (Order of the Coif; Order of Barristers)
- B.S. (Finance), University of South Florida, 1988

BAR ADMISSIONS

- Florida (1995)
- West Virginia (1998)

COURT ADMISSIONS

- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Southern District of West Virginia

DISTINCTIONS

- Pro Bono Service and Excellence Award (co-recipient), Tampa Bay Chapter, Federal Bar Association (2016)
- AV Preeminent Peer Review Rating by Martindale-Hubbell® (2004-present)
- The Best Lawyers in America (2009 – 2019)
- Florida Legal Elite, Florida Trend Magazine (2006 – present)
- Florida Super Lawyers, Florida Super Lawyers Magazine (2011 – 2019)
- Tampa Bay's Top Lawyers by *Tampa Bay Magazine*
- Tampa's Top Attorneys 2011 by *The National Law Journal*

EXHIBIT E

LAWRENCE J. DOUGHERTY



Larry Dougherty (“Dock-er-tee”) focuses his practice on receiverships, disputes between business partners, and securities matters. Larry currently represents the court-appointed receivers in the *Oasis* and *Tri-Med* cases. His other clients include executives, investors, and corporations in the fields of financial services, real estate, and other industries. He has litigated securities, breach-of-contract, white-collar fraud, and other complex matters in direct and derivative actions in federal and state courts. Larry joined the firm in 2020 after seven years practicing with the Tampa office of a respected nationwide law firm. As a former investigative journalist and former federal appellate law clerk, Larry assembles the facts and the law into compelling narratives that persuade decision-makers to rule in favor of his clients.

Larry’s litigation skills have earned him the highest peer review rating of AV Preeminent® by Martindale-Hubbell. He has tried cases as lead counsel, argued appeals in federal and state courts, managed discovery teams analyzing large volumes of electronic records, and resolved cases through negotiation, mediation, and arbitration. Larry helped a client win a groundbreaking appellate opinion concerning arbitration. He also has litigated intellectual property matters.

Larry clerked for the Honorable Charles R. Wilson of the U.S. Court of Appeals for the Eleventh Circuit. Before law school, Larry worked as a newspaper reporter for the *St. Petersburg Times*. He covered business and diplomatic news in Tokyo for *The Japan Times*. Larry graduated in the top 2% of his class at the University of Florida Levin College of Law, where he served as editor in chief of the *Florida Law Review*. He earned his undergraduate degree from Princeton University.

Larry is a founding member of the William Reece Smith, Jr. Litigation American Inn of Court, and is serving as its president in 2020-2021. His service to the Tampa Bay Chapter of the Federal Bar Association includes organizing a presentation in connection with the U.S. Eleventh Circuit’s first oral argument in Tampa in 15 years. He has contributed hundreds of pro bono hours on court-appointed appeals, including arguing successfully in the Florida Supreme Court for a new trial for

a client serving a life sentence for murder. Larry also successfully defended an Iraq war widow's property tax exemption before the Florida Second District Court of Appeal.

REPORTED CASES

- *Oil States Energy Svcs., LLC v. Greene's Energy Group, LLC*, 138 S. Ct. 1365 (2018)
- *Hayslip v. U.S. Home Corp.*, 276 So. 3d 109 (Fla. 2d DCA 2019)
- *Bearden v. State*, 161 So. 3d 1257 (Fla. 2015)
- *Dep't of Revenue v. Bell*, 290 So. 3d 1060 (Fla. 2d DCA 2020)
- *Aguilar v. Gaston-Camara*, 861 F.3d 626 (7th Cir. 2017)
- *Pfizer, Inc. v. Mylan Inc.*, 2016 WL 3021911 (M.D. Fla.)
- *Fennell v. Sec'y, Fla. D.O.C.*, 582 F. App'x 828 (11th Cir. 2014)
- *FairWarning IP, LLC v. Iatric Sys., Inc.*, 2015 WL 3883958 (M.D. Fla.)
- *Biver v. Nicholas Financial, Inc.*, 2014 WL 2441891 (M.D. Fla.)
- *Norman v. Bay Winds Lodging Sarasota, LLC*, 257 So. 3d 974 (Fla. 2d DCA 2018)
- *Rothenberg v. Imperial Holdings/Emergent Capital*, 2015 WL 6161332 (S.D. Fla.)
- *S.T.O.F. Holdings, Ltd. v. Scan.-U.S.A. Homeowners Ass'n, Inc.*, 2016 WL 370957 (Polk Cir. Ct.)

PROFESSIONAL AFFILIATIONS

- William Reece Smith, Jr. Litigation American Inn of Court, Tampa; President (2020-2021); Program Chair (2019-2020); Treasurer (2017-2019); Mentoring Coordinator (2016-2018); Founding member (2014-2015)
- Federal Bar Association, Tampa Bay Chapter; Executive Board (2016-2018)
- History, Education, and Public Outreach Subcommittee of the Bench Bar Fund Committee of the U.S. District Court for the Middle District of Florida (2018-2019)

COMMUNITY INVOLVEMENT

- Princeton Club of Tampa Bay Admissions Interviewing Committee; Chair (1998-2003); Member (1995-present)
- Davis Islands Holiday Toy Drive (2011-present)

EDUCATION

- J.D., University of Florida Levin College of Law (*magna cum laude*; Order of the Coif)
- A.B., Princeton University

BAR ADMISSIONS

- Florida

COURT ADMISSIONS

- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. Eleventh Circuit
- U.S. Seventh Circuit
- Supreme Court of the United States

DISTINCTIONS

- Recognized by the Florida Supreme Court and the Thirteenth Judicial Circuit Pro Bono Committee for pro bono service (2014-2019)
- AV Preeminent® Peer Review Rating by Martindale-Hubbell (2015-present)

EXHIBIT F

CHEMERE ELLIS



Chemere Ellis focuses her practice on a wide range of commercial litigation, criminal defense, and securities litigation. Chemere also represents receivers in receivership proceedings and initiates litigation to recover funds for defrauded investors. Prior to joining the firm, Chemere obtained a very diverse set of experiences as she has practiced criminal law, personal injury law, and has represented clients in the financial services sector. Most recently, Chemere served as a prosecutor for Florida's Sixth Judicial Circuit (Pinellas County), where she prosecuted all manner of cases, including first degree life felonies. Chemere has first-chaired dozens of jury trials and has served in the supervisory role of Lead Trial Attorney in the county courts of Pinellas County.

Chemere earned her law degree from the University of Iowa College of Law, where she competed in the university's oral advocacy competition and earned the Dean's Award for Academic Excellence. Prior to attending law school, Chemere completed her undergraduate studies at Seton Hall University, where she earned the magna cum laude designation in obtaining a Bachelor of Science degree with double majors in Business Finance and English Literature.

PROFESSIONAL AFFILIATIONS

- Hillsborough County Bar Association
- Federal Bar Association, Tampa Bay Chapter
- George Edgecombe Bar Association

EDUCATION

- J.D., The University of Iowa College of Law, 2011
- B.S., Seton Hall University, 2008

BAR ADMISSIONS

- Florida

COURT ADMISSIONS

- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Northern District of Florida

DISTINCTIONS

- Dean's Award for Academic Excellence, Non-profit Organizational Effectiveness II Appellate Advocacy I and II, VanOosterhout Baskerville Competition, The University of Iowa College of Law
- *Magna cum laude*, Experiential Education Award, Seton Hall University

EXHIBIT G

MAX MCKINLEY



Max McKinley joined the firm in 2019 after serving as an Assistant State Attorney for the Thirteenth Judicial Circuit in Tampa. At the State Attorney's Office, Max prosecuted a multitude of criminal cases including punishable-by-life felonies and first-chaired numerous jury and bench trials. He also participated in hundreds of depositions and argued a variety of substantive motions. Max works on a wide range of commercial litigation, white collar crime, receivership, and securities litigation and arbitration matters at GK.

While earning his law degree from the Florida State University College of Law in 2015, Max was awarded a Ladd Scholarship, a merit-based scholarship for academic achievement, and received the Book Award in Criminal Procedure. Prior to attending law school, Max graduated from Florida State University with a Bachelor of Science degree, with double majors in English Literature and Philosophy.

EDUCATION

- J.D., Florida State College of Law, 2015
- B.A., Florida State University, 2012

BAR ADMISSIONS

- Florida

DISTINCTIONS

- Ladd Scholarship, Florida State University College of Law, 2012-2015
- Book Award, Criminal Procedure, Florida State University College of Law, 2015

EXHIBIT H



FIRM MEMBERS	STANDARD RATES	PROPOSED RATE
Peter B. King	\$525	\$360
Jared J. Perez	\$400	\$350
Lawrence J. Dougherty	\$400	\$320
Partners	\$360-\$525	\$350
Associates	\$250-\$350	\$240
Paralegal	\$165-\$175	\$135

We carry malpractice (\$5 million) as well as fidelity and general liability coverage.

EXHIBIT 3

Buchanan Ingersoll & Rooney PC

Mark A. Kornfeld
813 222 2097
Mark.kornfeld@bipc.com

TRUIST Place
401 E. Jackson Street, Suite 2400
Tampa, FL 33602-5236
T 813 222 8180
F 813 222 8189

May 27, 2021

VIA EMAIL: johnsonali@SEC.GOV;

Alise Johnson, Senior Trial Counsel
Securities and Exchange Commission
Miami Regional Office
801 Brickell Avenue, Suite 1950
Miami, FL 33131

**RE: Proposal Regarding Receiver and Receiver's Counsel for
*Securities and Exchange Commission v. Harbor City Capital Corp., et al.***

Dear Ms. Johnson:

Per our recent phone call, and the Commission's request, please accept this letter as Buchanan Ingersoll & Rooney PC's ("Buchanan" or the "Firm") formal proposal to serve as Receiver and Receiver's lead counsel in the above-referenced Enforcement Action filed against Harbor City Capital Corp. and others. We are grateful for and appreciate the opportunity to make this submission.

Buchanan has cleared all necessary conflicts, and thus the following information is provided to the Commission in furtherance of our bid to serve in the anticipated Receivership. Thank you for the Commission's consideration of Buchanan in connection with this important matter. We look forward to the potential opportunity to work closely with you both and to work tirelessly to achieve timely success on behalf of defrauded investors and the overall public interest.

I. Buchanan Ingersoll & Rooney PC

Buchanan is a national and full-service law Firm with more than a dozen offices strategically located across the country, including in Tampa, Miami, Fort Lauderdale, New York City, and Washington D.C. The Firm prides itself on its reputation for delivering high-level client service efficiently and at exceptional value. The Firm is a national leader when it comes to project management, is sharply focused on appropriate staffing levels and billing and cost discipline, and is deeply committed to serving the public interest.

Alise Johnson, Senior Trial Counsel
May 27, 2021
Page 2

The Firm has over 50 attorneys across its Florida offices (and approximately 450 nationwide). The attorneys at the Firm also work collaboratively and seamlessly across offices when strategically appropriate in order to leverage decades of specialized expertise and experience in asset recovery, bankruptcy, complex commercial, enforcement, financial services, receivership and securities-related litigation.

In short, the Firm is well-positioned and poised to effectively serve the Commission with a diverse, talented and experienced team of skilled practitioners.

II. The Proposed Receiver: Mark Kornfeld

I am a Shareholder at the Firm with nearly three decades of experience serving clients at the very highest levels. During that time, I have developed multi-faceted, diverse professional experience and expertise spanning a wide range of subject matters including: asset recovery, bankruptcy, broker-dealer, cross-border and international, investment adviser and management fraud, regulatory, and securities related litigation matters, including matters arising under the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Advisers and Company Acts of 1940. I have, over the course of my career, been able to achieve great success for clients and defrauded victims, by being cost-effective, nimble and strategic in resolving disputes ranging five to ten figures in scope. I also currently serve as the Receiver in *Securities and Exchange Commission v. Kinetic Investment Group, LLC et al.*, Case No. 8:20-cv-394-MSS-SPF (M.D.Fla. 2020), where our collective efforts have resulted in the marshaling and securing of over \$20 million for victims.

Prior to joining Buchanan, I had the privilege and distinction for nearly nine years of being one of the core team leaders representing the Court-appointed Trustee, Irving Picard, in connection with the global Ponzi scheme perpetrated by Bernard L. Madoff. I had significant responsibility overseeing the exhaustive factual investigation that ultimately resulted in the complex task of coordinating the timely filing of more than one thousand lawsuits. I served the Trustee as the first chair of the Expert Committee, where I led the analysis, billing, conflicts, diligence, retention and strategy associated with the analyses, reports and services being provided by numerous consultants and testifying expert witnesses across the Trustee's litigations. I also served the Trustee's global recovery initiative as the first chairperson of the Settlement Committee in which role I advised, counseled, and aided the Trustee and his lead counsel in realizing billions in settlement recoveries for defrauded victims, as nearly ten billion in settlements were executed and received into the Customer Fund within the first few years of the Trustee's appointment.

Of particular relevance to the current matter, my experience in the Madoff liquidation also included leading and directly supervising many high-stakes, cross-border litigations resulting in important settlements for the Trustee. For example, I represented the Madoff Trustee in numerous eight-figure matters involving foreign defendants and entities located in the British Virgin Islands

Alise Johnson, Senior Trial Counsel
May 27, 2021
Page 3

and led the negotiation of a multi-billion dollar settlement and cooperation agreement between the Madoff Trustee and a BVI-based liquidator.

I believe that in addition to years of substantive expertise, a core strength that I would bring if selected here as the Receiver is the aptitude and experience for quickly analyzing and marshaling significant assets on behalf of the defrauded. Both I and our team will work quickly and cost effectively to maximize returns for victims.

My standard billing rate is (and often exceeds) \$625 per hour. If I am appointed as Receiver I shall gladly reduce that rate as an accommodation and public interest discount to the Commission by 30% to \$437.50 per hour. A copy of my bio is attached as **Exhibit 1**.

III. The Receiver's Counsel

If selected to serve as Receiver I plan to retain Buchanan as my primary legal counsel. The Buchanan attorneys who would staff this engagement and work with me have significant experience representing receivers in SEC and other non-regulatory fraud and investment management and advisory matters.

I plan to have Jordan D. Maglich serve as my lead counsel, who has previously lived in Melbourne and has familiarity with the local area. Jordan currently works out of Buchanan's Tampa and Miami offices and has over a decade of experience representing and counseling receivers in SEC and other regulatory enforcement matters involving Ponzi schemes and other investment and consumer frauds. Jordan spent eight years representing the Receiver appointed by the Commission over Mr. Arthur Nadel's \$350 million Ponzi scheme, and he currently serves as my lead counsel in the Kinetic Investment Group receivership. Notably, our efforts in the Kinetic receivership have included the recovery of over \$7 million in additional assets since our appointment. In addition to having significant experience overseeing both the day-to-day matters and the higher-priority issues, Jordan also has significant experience in securing and liquidating both residential and commercial real property assets in receiverships.

Of particular relevance to our understanding of the current case landscape, Jordan also has significant experience evaluating, identifying, and bringing claims against third parties and professionals for their role in the scheme and/or improper receipt of transfers which have included foreign-based defendants. Specifically, this includes successful "clawback" proceedings against investors (including those based in the British Virgin Islands) that improperly received false profits as well as claims against legal, accounting, and financial professionals that provided services to the scheme. The efforts of Mr. Maglich and his co-counsel in those receiverships have resulted in the recovery of tens of millions of dollars for defrauded victims. Jordan's practice also focuses on complex commercial litigation, financial services and securities law matters, and regulatory defense.

Alise Johnson, Senior Trial Counsel
May 27, 2021
Page 4

I would also if, and as deemed strategically appropriate, involve other Firm attorneys with relevant and necessary expertise including experienced fraud recovery and trial attorney Miranda Soto (from the Firm's Miami office), former international white collar federal prosecutor Allison Borgatti (from the Firm's Philadelphia office), and commercial litigation associate Lauren Humphries (from the Firm's Tampa office).

Although Mr. Maglich normally charges a standard rate of \$450.00 per hour, the Firm is pleased to offer the Commission a substantial courtesy and public interest discount in proposing a reduced rate of \$295.00 for this engagement. A similar proportionate discount will be offered for any other Buchanan attorneys that assist in this matter. We will bill paralegals at \$205 per hour although their regular rates range from \$235 to \$285 per hour. I respectfully submit the background information and bios for Mr. Maglich and the other referenced attorneys as **Exhibit 2** to this letter for your consideration. I also submit exemplars of the Firm's Receivership Experience in Florida as experience as **Exhibit 3** to this letter.

Where possible and necessary, Buchanan plans to leverage the rate structures of younger or junior attorneys. The Firm also maintains managed services agreements with several alternative legal service providers in the event that contract attorney services are necessary or would add value.

IV. PROPOSED COURSES OF ACTION.

It is our understanding that a limited number of assets are currently frozen and that there will be an immediate need for deliberate and efficient actions to marshal additional assets. The following is a broad, general summary of the initial measures we would take if I am selected to serve as Receiver:

1. Immediately secure and examine the company's books and records and financial relationships to determine whether any other financial institutions or third parties are holding receivership assets, and take steps to ensure that other known assets (such as automobiles and real estate) are identified and secured. This would include visiting any current offices or other locations that may have receivership property. This may involve retaining forensic accounting experts to review and identify any banking records.
2. Prioritize the determination and identification of third parties and/or entities that may have received recoverable assets and work. With this information, I would work with counsel to assess whether we need to seek judicial relief to quickly secure and preserve those assets – including whether the receivership would need to be expanded to encompass additional entities. We would also evaluate the merit and likely success of bringing any claims

Alise Johnson, Senior Trial Counsel
May 27, 2021
Page 5

against those parties, including the potential to utilize alternative funding arrangements such as litigation funding to preserve current assets.

3. Assess and review the current state of the business. Assuming the business cannot be lawfully operated, we will implement a plan to efficiently wind down the business.
4. To the extent we are successful in securing sufficient funds that would allow any meaningful distribution(s) to defrauded victims, we would formulate a timely plan for court approval of a mechanism to return funds to those victims (and any other creditors) with approved claims.
5. We will ensure that in pursuing any course of action to at all times avoid any action that results in any waste or inefficiency as relates to the resources of the Estate.

The Firm is strategically conscious that efficient performance which eliminates unnecessary expenses is directly related to maximizing the potential recovery for victims. We are equally aware of and greatly value the public service elements being performed for victims

V. EXPERT ASSISTANCE

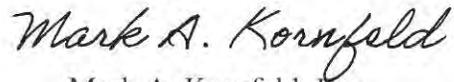
To the extent accounting and/or forensic analysis services shall be required during the course of this engagement (which we anticipate), both Mr. Maglich and I, along with other members of the Firm, have long-standing professional relationships with numerous, first-class consultants and experts we can and will retain, depending on the size and the scope of the services that are needed. We have relationships with numerous first-class Florida-based forensic accounting firms with significant receivership experience and which would offer a similar public interest discount. The Firm is also able to leverage its national reach should it be necessary to engage additional professionals in other regions.

Buchanan also has key relationships with investigators, asset managers, forensic information technology specialists, certified fraud examiners, international law firms as needed and eDiscovery specialists often required in Receivership matters. As part of our proposed course of action we shall identify what if any needs exist to retain other third-party experts or service providers, and then interview, negotiate and execute terms and conditions with any such providers.

Alise Johnson, Senior Trial Counsel
May 27, 2021
Page 6

Thank you again for the opportunity to submit this proposal. Please feel free to contact me if you have any additional questions.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Kornfeld". The signature is written in a cursive, slightly slanted style.

Mark A. Kornfeld, Esq.

cc: Jordan D. Maglich, Esq. (w/o enc.)

Buchanan Ingersoll & Rooney LLP **Buchanan Ingersoll & Rooney PC**
Attorneys & Government Relations Professionals Attorneys & Government Relations Professionals

Exhibit 1 – Mark A. Kornfeld Bio



Mark A. Kornfeld

Shareholder

Email: mark.kornfeld@bipc.com

P: 813 222 2097 Tampa, FL
P: 212 440 4459 New York, NY
P: 305 347 4083 Miami, FL



How Mark Helps Clients

Mark Kornfeld is a trusted adviser to his clients. He has extensive expertise in asset recovery, bankruptcy litigation, complex commercial litigations, equity receiverships, mediation, Ponzi schemes, and regulatory and securities litigation under state and federal securities laws (and FINRA). With more than 30 years of experience, Mark is a skilled dispute resolution expert, who advises, manages and counsels clients across a variety of industries, including financial services, investment bankers, hedge fund managers, media companies, emerging companies, construction and real estate developers, Fortune 500 and private equity companies, executives and board officers. He also assists clients in tort defense.

Mark currently serves as a court-appointed federal equity receiver in connection with the [In Re Kinetics](#) action, which is a result of Mark's decade-long service as one of the core leaders and strategists involved in the court-appointed representation of Securities Investor Protection Act (SIPA) Trustee Irving Picard and working for his lead counsel David Sheehan in global efforts to recover billions in assets for the Fund of Customer Property. Mark was one of the few attorneys in the world to interview Bernie Madoff in prison as part of the Trustee's investigation. Mark also served the Recovery Initiative as the first Chair of the Expert and Settlement Committees, as well as leading multiple teams involved in billions in settlements and litigations against managers, investment advisors, domestic and international feeder funds and other financial institutions.

Due to his experience, Mark frequently speaks on high-profile litigation and regulatory enforcement matters arising from Ponzi schemes, insider trading and other economic frauds.

"I pride myself on delivering first class legal and business advice and counsel to you at platinum value — I distinguish myself by being in the trenches with you, such that what may be keeping you up at night will keep me up at night on your behalf too."

What Clients Can Expect

Mark stands shoulder to shoulder with his clients in their business and helps them make decision that will help further their business goals. He takes a pragmatic, business-centric approach to existing and potential problems. Mark's clients know that he will always look at the full picture - not only during active litigation, but will also routinely provide risk avoidance strategies to help clients avoid business decisions that could lead to litigation.

He draws from decades of high-stakes experience to provide advice and counsel customized to solving a client's problems. Mark prides himself on being a value-add for his clients by being able to quickly analyze the competing variables on complicated disputes, how they will impact the client, and by providing multi-dimensional, strategic and practical advice to the client no matter the industry or scope of the problems at issue. Mark is always mindful of his clients' time and money and is fully committed to providing first-class, substantive expertise in an economic way.

Outside the Office

When Mark isn't working he is spending time with his beautiful wife of 27 years Dawn and their awesome dog Chloe. Mark's greatest pride is two, adult sons Brett, 24, with a master's degree from Notre Dame in Data Analytics and his youngest son Dylan, 23 who is a second year law student at Vanderbilt University.

Mark is an avid, border-line obsessive Philadelphia Eagles football fan, who often notes that he can one day "die in peace" because of having lived to witness the Eagles' 2018 Super Bowl victory over the Patriots which he attended live in Minneapolis with his oldest son. Mark also has a deep love and passion for television, movies, content, all things WWE, music, Alabama football (due to Dawn's alumni status), and poker, where he has played The World Series of Poker Main Event on three separate occasions and sets reaching a final table at a bracelet event as still on his life list.

Awards

- The Legal 500 United States (2015, 2016)
- Recommended in Dispute Resolution: Securities litigation – defense
- New York Metro "Super Lawyer" (2011 to 2017)

Proof Points

- Appointed Federal Equity Receiver by the Middle District of Florida in connection with an SEC Enforcement Action arising out of an alleged \$40 million plus investment management fraudulent scheme.
- Senior counsel who helped secure a pre complaint \$500m settlement against feeder fund and financial institution in connection with the Madoff Ponzi scheme.
- Lead counsel to former independent director being sued for corporate malfeasance by the Small Business Administration arising out of the bankruptcy of two small businesses.
- Lead counsel to former executives of public companies in securities fraud cases and post merger securities class actions upwards of \$500m

Related Services & Industries

LITIGATION

FINANCE

Education

Brooklyn Law School, J.D., 1992, *magna cum laude*

Vassar College, B.A., 1989

Courts & Admissions

Florida

New York

REAL ESTATE

SECURITIES & SEC

U.S. District Court for the Southern District of New York

U.S. District Court for the Eastern District of New York

U.S. Court of Appeals for the Second Circuit

U.S. District Court for the Middle District of Florida

Affiliations

New York State Bar Association

Commercial Section

Alternative Dispute Resolution Section

International Section

Hillsborough County Bar Association

Tampa Circle of Influence

National Association for Federal Equity Receivers (NAFER)

Securities Industry and Financial Markets Association (SIFMA)

Related Keywords

ASSET RECOVERY

BUSINESS/COMMERCIAL LITIGATION

COMPLEX COMMERCIAL LITIGATION

Exhibit 2 – Attorney Bios



Jordan D. Maglich

Counsel

Email: jordan.maglich@bipc.com

P: 813 222 2098 Tampa, FL

P: 305 347 4084 Miami, FL



How Jordan Helps Clients

Jordan Maglich has a broad practice focused on complex commercial litigation, securities and financial services, and regulatory matters. Jordan often serves as counsel to receivers appointed in connection with regulatory enforcement actions brought by federal and state regulators including the Securities and Exchange Commission, Commodity Futures Trading Commission, Federal Trade Commission, and the Florida Office of Financial Regulation. Jordan also counsels individuals and entities that are the subject or focus of investigatory or enforcement proceedings by state and federal regulators.

Jordan regularly practices in state, federal, and bankruptcy courts in matters involving a wide variety of civil disputes and other business-related litigation. Jordan also has significant experience in arbitration forums, including the Financial Industry Regulatory Authority (FINRA). In addition to defending broker-dealers and their associated persons named in FINRA proceedings by customers and/or departing associated persons, Jordan has also obtained various affirmative relief including injunctive relief to prevent non-customers from proceeding in arbitral forums as well as the recovery of transition and incentive payments to departed or terminated associated persons.

He has extensive experience in fraud matters and wrongdoing involving financial malfeasance. Drawing on this experience, Jordan is the founder and editor of [Ponzitracker](#), which tracks the proliferation of Ponzi schemes and provides regular analysis on the topic. Jordan is regularly sought out by local and national media sources for comment on various matters involving Ponzi schemes and financial services, and his commentary has been featured in *The Wall Street Journal*, *The New York Times*, CNBC, and other media. Jordan is also a frequent panelist and speaker on these topics.

What Clients Can Expect

Jordan is a creative problem solver who uses his experience to help his clients both deal with existing issues and proactively ward off future potential problems. Jordan provides his clients with a wide range of solutions concerning high-stakes litigation and ensures they are always aware of any regulatory changes which can negatively impact their business. Above all, Jordan values providing excellent and efficient client service.

Outside the Office

Jordan enjoys spending time with his family in Tampa. He and his wife are avid scuba divers and enjoy spearfishing and fishing. When he isn't on the water, Jordan enjoys traveling and staying involved in his community.

Jordan also has a strong commitment to pro bono service. During his career, Jordan has served as a Guardian ad Litem for multiple at-risk children and also was appointed as pro bono counsel for a federal inmate that ultimately resulted in a favorable settlement with the inmate's correctional institution. Jordan is also proud of his service for the Clemency Initiative, which resulted in President Obama granting his petitions to commute the sentences of several individuals serving then-life sentences for low-level drug offenses.

Awards

- Selected to participate in the Leadership Tampa Class of 2021
- Selected for inclusion in Florida Super Lawyers® - Rising Stars Edition (2015-present)
- Martindale Hubbell AV Preeminent® Rating
- Listed in *The Best Lawyers in America*® "Ones to Watch" (2021, Commercial Litigation)
- Listed in *Florida Trend's* Legal Elite Up and Comers
- Awarded the President's Award and Pro Bono Service and Excellence Award by the Tampa Bay Chapter of the Federal Bar Association
- HCBA Leadership Institute, Class of 2015-2016
- Florida Business Observer 40 Under 40 (2019)

Proof Points

- Representing court-appointed receivers nominated by the SEC, FTC, Florida Office of the Attorney General, and the Florida Office of Financial Regulation. This included marshaling and securing assets as well as pursuing litigation against third parties based on their participation in the scheme or receipt of fraudulent transfers. Through those efforts, victims collectively received at least 50% of their respective allowed claims.
- Experience in identifying, seizing, and liquidating various cryptocurrency assets.
- Defended an affiliate marketer accused of violations of the Commodities Exchange Act through the alleged promotion of binary options.
- Defended individuals in investigations and actions initiated by the SEC and FINRA involving insider trading, microcap fraud, pump and dump schemes, bond underwriting, registration issues, attorney opinion letters, and the Foreign Corrupt Practices Act.
- Successfully defended a national financial services firm accused of violations of Regulation SHO which resulted in denial of plaintiffs' claims after trial.
- Secured major brokerage house's dismissal from FINRA arbitration based on ineligibility of claims.
- Obtained full repayment of client's six-figure investment in private placement investment over misrepresentations in offering materials.
- Defended broker-dealer and its registered principal in SEC investigation and subsequent administrative proceeding.
- Obtained multiple injunctions enjoining non-customers from compelling brokerage firm's participation in FINRA arbitration.
- Defended individual subpoenaed by DOJ relating to undeclared foreign bank accounts.
- Conducted an internal investigation for a national financial services firm under investigation by the Florida Office of Financial Regulation and the Financial Industry Regulatory Authority.

Related Services & Industries

LITIGATION

SECURITIES & SEC

FINANCE

Affiliations

Federal Bar Association, Member; Editorial Board (2014-2016)

Tampa Bay Chapter of the Federal Bar Association, Executive Board Member, President-Elect

Florida Bar 13th Circuit Grievance Committee "E," Chair

Hillsborough County Bar Association, Member

National Association of Federal Equity Receivers (NAFER), Member

Securities Law Section of Hillsborough County Bar Association, Committee Member

American Bar Association, Member

Florida Guardian ad Litem Program

Education

University of Miami School of Law, J.D., 2010, *cum laude*, Charles C. Papy, Jr. Moot Court (Member, Moot Court Board); Dean's Merit Scholarship (Recipient, 2006-2010)

University of Miami School of Business, M.B.A., 2010, Graduate Assistantship Recipient (2008-2010), Finance Concentration

University of Florida, B.A./B.S., 2006, *cum laude*, Business Administration & Political Science

Civic & Charitable

Volunteer: Project HELP (Homeless Experience Program)

Courts & Admissions

Florida

U.S. District Court for the Northern District of Florida

U.S. District Court for the Middle District of Florida

U.S. District Court for the Southern District of Florida

U.S. Court of Appeals for the Eleventh Circuit

Related Keywords

DISPUTE RESOLUTION

SECURITIES LITIGATION



Miranda L. Soto

Shareholder

Email: miranda.soto@bipc.com

P: 305 347 4086 Miami, FL

Buchanan
Ingersoll · Rooney

How Miranda Helps Clients

Miranda Soto is Florida Bar Board Certified in Civil Trial Law and has tried approximately 50-70 cases to verdict. She specializes in high-stakes litigation and complex commercial cases on behalf of private equity, hedge funds, high-end insurance companies, law firms and other sophisticated businesses in cases involving commercial and business disputes, professional and legal malpractice claims, product liability, complex fraud matters, public policy matters, cases of first impression, high-stakes personal injury cases, franchisee/franchisor litigation, trust and estate litigation and premises liability at the state and federal levels. Miranda also handles tobacco, addiction and smoking-related injury litigation. Additionally, she has a strong reputation as a lawyers' lawyer and often serves as a consultant on legal and accounting malpractice claims.

Understanding her clients' business is at the core of Miranda's solution-based approach. She knows that learning the ins and outs of her clients' business is crucial in order to provide the best legal advice possible. As legal issues often extend to the company as a whole, Miranda focuses on minimizing disruptions to the business that can and do arise from legal challenges. Her goal is to leverage all possible opportunities for a quick resolution.

Miranda began her career as an Assistant State Attorney in the Miami-Dade County State Attorney's office. She also served as Lead Counsel for Allstate's Miami and Ft. Myers legal offices.

"I take a solution-based approach that is highly focused on efficiently, effectively, and strategically meeting my client's needs and goals. "

What Clients Can Expect

Miranda's client philosophy is centered on personalization and responsiveness, and providing her clients with concierge service. She is known for her atypical approach to litigation using her experience as an Assistant State Attorney to prosecute her own case instead of litigating it, thus increasing the chances of winning. Unlike most defense lawyers, Miranda doesn't wait until discovery to develop her strategy, instead she takes the time to thoroughly think through every possible outcome, takes the offensive approach and forces plaintiffs to go to trial. As a specialist in civil trials, Miranda is frequently brought on as a special trial counsel for Fortune 100 companies.

Outside the Office

In addition to her work as a trial lawyer, Miranda enjoys mentoring young lawyers and aspiring judges. Miranda is active in assisting organizations like the American Board of Trial Advocates (ABOTA), Federation of Defense and Corporate Counsel (FDCC), and the Florida Association for Women Lawyers (FAWL) with their trial advocacy programs.

When Miranda is not practicing law, she enjoys hand building pottery, watching Alabama football games, reading, traveling and spending time with her daughters and friends.

Awards

- Board Certified in Civil Trial, The Florida Bar
- Technology Master Advocate, FDCC (2018)
- Women of Distinction, "Legal Maverick Award for 10-30 Years in Practice Group," Dade County Bar Association (2018)
- The Best Lawyers in America
- AV Preeminent, Martindale-Hubbell®
- AV Preeminent, Judicial Edition
- Top Up & Comer, South Florida Legal Guide (2015-2018)
- Rising Star, Super Lawyers (2010, 2012-2016)
- "Legal Lion," Law360 (2015)
- The Legal 500 (2015)
- Nominated Finalist, Claims and Litigation Management Alliance for Outside Counsel of the Year Award (2014)
- Miami's Top 10 Litigators, Dade County Bar Association (2013)
- Recognition by American Registry (2011-2018)
- American's Most Honored Professionals (2015-2018)
- Florida Trend, Florida Legal Elite, Civil Trial (2011, 2016-2019)
- Legal Luminary Award, "Top Legal Malpractice Attorney," Dade County Bar Association (2017)

Proof Points

- Served as second chair in six Engle-Progeny trials:
 - *Johnson v. Philip Morris USA Inc., et al.*, No. 14-CA-00019 (Fla. 13th Cir. Ct. 2017) (mistrial);
 - *Oshinsky v. Philip Morris USA Inc., et al.*, No. 2008-CV-025841 (Fla. 17th Cir. Ct. 2016);
 - *Russo v. Philip Morris USA Inc., et al.*, No. 2007-44469-CA-01 (Fla. 11th Cir. Ct. 2015) (defense verdict affirmed on appeal);
 - *Vila v. Philip Morris USA Inc.*, No. 2013-12833-CA (Fla. 11th Cir. Ct. 2015) (defense verdict affirmed on appeal);
 - *Merino v. Philip Morris USA Inc.*, No. No. 08-1287-CA-25 (Fla. 11th Cir. Ct. 2015);
 - *Russo v. Philip Morris USA Inc., et al.*, No. 2007-44469-CA-01 (Fla. 11th Cir. Ct. 2014) (mistrial).

- Appointed as special trial counsel in a 21-plaintiff franchisee/franchisor case involving issues of below-cost pricing, unfair competition, the Florida Motor Fuel Marketing Practices Act, the Petroleum Marketing Practices Act, open-term pricing and other alleged bad acts against a major oil and gasoline corporation.
- Served as member of a trial team that won a complete defense verdict in a multimillion-dollar professional malpractice lawsuit involving a complex Dominican Republic real estate development transaction.
- Served as member of a trial team that won a complete defense verdict in a multimillion-dollar professional malpractice lawsuit involving a complex Dominican Republic real estate development transaction.

Related Services & Industries

LITIGATION

Education

Drake University School of Law, J.D., 2002
 University of Alabama, B.A., 1998,
 Communications and Information Sciences

Courts & Admissions

Florida
 U.S. District Court for the Middle District of Florida
 U.S. District Court for the Southern District of Florida

Affiliations

Judicial Nominating Commission,
 Commissioner for 11th Judicial Circuit (July 1,
 2019-July 1, 2023); Vice Chair (2020-2021)

Drake Law School Board of Counselors

American Board of Trial Advocates (ABOTA),
 National Board Representative, Miami Chapter

Federalist Society, Miami Chapter

League of Prosecutors, Miami Chapter

The Florida Bar, Grievance Committee Member
 (2016-2019)

Claims and Litigation Management Alliance,
 Insurance Fraud Committee

Dade County Bar Association, Board of
 Directors (2017-2020)

Defense Research Institute

Florida Association for Women Lawyers

American Bar Association, Faculty Member;
 Section of Litigation; Professional Liability
 Litigation Committee; Attorney's Liability
 Subcommittee, Co-Chair

International Association of Defense Counsel

Federation of Defense & Corporate Counsel,
 Trial Masters Program, Vice-Chair, 2018-2019;
 Trial Tactics, Practice and Procedures, Vice-
 Chair, 2018-2020; Products Liability, Vice-
 Chair, 2019-2020; Membership State
 Representative from Florida, 2018-2020

Judge for Legal Eagle mock trial, University of
 Miami (2014)



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Counsel

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How Allison Helps Clients

Allison is an international white collar defense attorney who assists corporations and individuals, domestic and foreign, in all facets and stages of state and federal investigations or corporate compliance investigations.

Specifically, Allison represents clients in the investigation and defense of allegations of wrongdoing in complex criminal cases, civil fraud and corruption matters and has extensive experience with issues relating to the Office of Foreign Assets Control (OFAC) and the Foreign Corrupt Practices Act (FCPA). Allison is also known for her experience in navigating complex, multijurisdictional and multinational disputes in federal and state courts at all levels. She has also successfully represented foreign nationals who faced litigation under the Anti-Terrorism Act (ATA) and the Terrorism Risk Insurance Act (TRIA) including the garnishee and interpleader actions involving OFAC sanctions and blocked assets by the U.S. Department of Treasury.

In her current practice, Allison is able to utilize her previous experience as an Assistant District Attorney with the Philadelphia District Attorney's Office, where she managed, investigated, researched, and prosecuted more than 50 major jury trials to verdict, including homicides. She oversaw pre-trial and trial preparation efforts for multiple cases involving thousands of exhibits and witnesses and handled examination of experts in such fields as ballistics and firearms, competency, medical sciences, including forensic pathology, DNA and trace forensic evidence, cellular telephone forensics, historical cellular site analysis, forgery, handwriting analysis, and covert surveillance. She coordinated investigations involving federal and local law enforcement agencies, including, but not limited to, the FBI, the CIA, the Department of Homeland Security, and the Department of Justice.

Allison's clients include Fortune 500 companies and their executives as well as high-ranking government officials in matters such as insider trading, anti-corruption, economic sanctions, and financial services fraud. She also represented a foreign national accused of involvement in the largest healthcare fraud in the United States.

What Clients Can Expect

Clients appreciate Allison's multifaceted experience as a prosecutor and private practice defense counsel. Given the complexity and the severity of some of her clients' cases, she prides herself on being able to put her clients at ease and make them comfortable throughout the process. Allison's clients trust her implicitly. Allison has extensive courtroom experience having tried over fifty jury trials to verdict.

Outside the Office

Allison is equally committed and competitive with things in her personal life. As a former college athlete, Allison routinely participates in competitive cycling races, and enjoys teaching her two young children all of the sports she played as a child.

Despite living in the Philadelphia suburbs, Allison is a devoted Red Sox fan. She also enjoys golfing, cycling, traveling, and exploring Philadelphia museums and restaurants. She has also honed her TV chops as an on-air legal correspondent for the Philadelphia NBC affiliate.

Proof Points

- Successfully prosecuted defendant who claimed allegiance to ISIS and ambushed an on-duty police officer, shooting him multiple times at point blank range. Case received national and international media attention.
- Successfully represented high ranking government official investigated for misappropriation of government funds.
- Defended foreign national indicted for violations of the Foreign Corrupt Practices Act and money laundering.
- Served as lead counsel and represented foreign national and multiple corporations following high-profile designation by the Office of Foreign Assets Control.
- Defended foreign national accused of masterminding the largest health care fraud in the United States.

Awards

- Best Lawyers in America: 2021 "Attorney to Watch"
- Super Lawyer "Rising Star" in White Collar Crime (2020 & 2021)
- First Congressional District of New Jersey Award for Scholarship in the Law 2011: "Whistleblower Incentives & Protection: Why Dodd-Frank Section 922 is Long Overdue."
- Rutgers University School of Law Pro Bono Publico Award: Completed over fifty hours of voluntary legal services to the community.
- Charles Richter Memorial Scholarship 2011 Recipient: Awarded for outstanding academic achievement.

Related Services & Industries

WHITE COLLAR DEFENSE, COMPLIANCE & INVESTIGATIONS

LITIGATION

Affiliations

National Association of Criminal Defense Lawyers, Member

Pennsylvania Association of Criminal Defense Lawyers, Member

Education

Rutgers Law School, J.D., 2011

Franklin and Marshall College, B.A., 2006, Honors, Spanish and American History

Languages

Spanish

Courts & Admissions

U.S. District Court for the Eastern District of Pennsylvania

New Jersey

New York

Pennsylvania

U.S. District Court for the District of New Jersey

White Collar Women's Defense Association.
Member



Lauren V. Humphries

Associate

Email: lauren.humphries@bipc.com

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How Lauren Helps Clients

Lauren is an experienced trial attorney in Florida state and federal courts. Her practice focuses on commercial litigation, business torts, labor and employment, land use, real estate litigation, product liability, and asbestos and toxic tort matters. Lauren also has experience litigating in insurance coverage, premises liability and cases involving professional malpractice against design professionals. Lauren represents businesses in issues that arise in their operations.

Upon graduation from the University of Florida Levin College of Law, Lauren was awarded “Outstanding Graduate” for its trial advocacy program. While in law school, she served as Vice President of the Trial Team, President of the Law Association for Women, Chair of the Honor Court, and was selected by UF law faculty to interview U.S. Supreme Court Justice Clarence Thomas in an all-campus event.

Lauren learned the value of pro bono representation when she advocated for sheltered children in Florida’s foster care system as a Guardian ad Litem. She also works with several Tampa charities that provide mentoring, financial literacy and stable educational/home environments for at-risk youth.

Lauren received a 2021 Best Lawyers: Ones To Watch recognition for Commercial Litigation.

What Clients Can Expect

Lauren believes in a practical yet aggressive approach to litigation. Her clients appreciate her attention to detail and ability to communicate the options for a successful resolution.

“I strive to keep my clients well-informed. I believe that being accessible is an important part of representing clients in complex cases.”

Outside the Office

Lauren loves living in Florida. Born and raised in Tampa, she enjoys playing soccer, kayaking, and spending time with her friends and family. Lauren is an avid SCUBA diver, who advocates for marine conservation and protection of Florida’s natural springs.

Related Services & Industries

LITIGATION

Affiliations

Florida Blue Key

Florida Bar Association

Hillsborough County Bar Association

Tampa Connection Leadership Society

Florida Bar Leadership Academy

Education

University of Florida Levin College of Law, J.D., 2015, cum laude

University of Florida, B.A., 2012, Political Science & Anthropology; Minor Degrees in Environmental Science & History

Courts & Admissions

Florida

U.S. District Court for the Middle District of Florida

U.S. District Court for the Southern District of Florida

Exhibit 3 - Receivership Experience

- *Federal Trade Commission v. NPB Advertising, Inc. et al.*, Case No. 8:14-cv-1155-T-23TGW (M.D. Fla.)
- *Federal Trade Commission v. EM Systems and Services, LLC et al.*, Case No. 8:15-cv-01417-SDM-AEP (M.D. Fla.)
- *Securities and Exchange Commission v. Arthur Nadel et al.*, Case No. 8:09-cv-00087-T-26TBM (M.D. Fla.)
- *State of Florida, Office of Financial Regulation v. Tri-Med Corp. et al.*, Case No. 14-1695-CI (6th Judicial Circuit Court, Pinellas County, Florida)
- *State of Florida, Office of Financial Regulation v. Universal Luxury Coaches, LLC*, Case No. 04-CA-2130-16-W (18th Judicial Circuit Court, Seminole County, Florida)
- *Securities and Exchange Commission v. Kinetic Investment Group, LLC et al.*, Case No. 8:20-cv-000394-MSS-SPF (M.D. Fla.)