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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

PETER S. DAVIS, as Receiver of
DENSCO INVESTMENT
CORPORATION, an Arizona corporation,

Plaintiff,

v.

U.S. BANK, NA, a national banking
organization; HILDA H. CHAVEZ and
JOHN DOE CHAVEZ, a married couple;
JP MORGAN CHASE BANK, N.A., a
national banking organization;
SAMANTHA NELSON f/k/a
SAMANTHA KUMBALECK and
KRISTOFER NELSON, a married couple;
and VIKRAM DADLANI and JANE DOE
DADLANI, a married couple.

Defendants.

No. CV2019-011499

**THE U.S. BANK DEFENDANTS'
RESPONSES TO DENSCO
INVESTMENT CORPORATION
SECOND SET OF REQUESTS FOR
PRODUCTION**

(Assigned to the Hon. Daniel Martin)

Defendant U.S. Bank National Association (“U.S. Bank”) responds to DenSco Investment Corporation’s Second Set of Requests for Production.

These responses are made only for the purposes of this action, and each response is subject to all objections as to relevancy, materiality, admissibility, foundation, hearsay, privilege and all other objections which would require the exclusion of any statement made or document referenced or produced at the time of trial or hearing. All objections are expressly reserved and may be asserted at the time of trial, hearing, or deposition. Further, all responses are made to the best of the present knowledge and belief of U.S. Bank.

1 U.S. Bank does not concede the relevance of the requests nor the relevance or
2 admissibility of any information provided. The fact that information is provided in
3 response to a particular request does not mean that it is probative of any particular issue in
4 this case. U.S. Bank reserves its right to object to future discovery requests involving
5 related subject matter on the basis of relevance.

6 Because discovery has not been completed, U.S. Bank's responses are based upon
7 information currently known or available to it. U.S. Bank reserves the right to revise or
8 supplement these responses as additional information becomes known.

9 U.S. Bank objects to the Instructions and Definitions to the extent they impose
10 obligations broader than what is imposed on U.S. Bank by the Arizona Rules of Civil
11 Procedure. U.S. Bank disclaims any such broader obligation purportedly imposed by the
12 Instructions and Definitions.

13 Notwithstanding and without waiving the foregoing objections, U.S. Bank responds
14 as follows:

15 **REQUESTS FOR PRODUCTION**

16 **REQUEST FOR PRODUCTION NO. 1:**

17 Organizational charts for the branch offices where Menaged and his staff procured
18 cashier's checks during the relevant time period of the Third Amended Complaint.

19 **RESPONSE:**

20 U.S. Bank objects on the following grounds: (1) the request seeks documents that
21 are not relevant to any claim or defense and is disproportionate to the needs of this case;
22 (2) the request is overbroad to the extent it seeks information concerning employees that
23 have no connection to the Easy Investments LLC account ending 4457 at issue or the
24 relevant transactions as to U.S. Bank; (3) the phrase "his staff" is vague and ambiguous
25 without identifying individuals' names or other identifying information; (4) the request is
26 vague because it fails to identify the subject branches or subject transactions; and (5) the
27 request is overbroad because it seeks documents from time periods that are not relevant to
28 a claim or defense as to U.S. Bank. Subject to these objections, and following a reasonable

1 inquiry, U.S. Bank has not located any organizational charts for the two branch locations
2 where cashier's checks from the Easy Investments LLC account ending 4457 were issued
3 that would have been effective between January and April 2014.

4 **REQUEST FOR PRODUCTION NO. 2:**

5 Internal emails and communications internal to the bank regarding Menaged, his
6 staff, like Veronica Castro, or his business entities and personal and business accounts.

7 **RESPONSE:**

8 U.S. Bank objects on the following grounds: (1) to the extent DenSco seeks
9 attorney-client or work product protected documents, U.S. Bank objects and declines to
10 produce such documents; (2) the request is overbroad in that it does not include any subject
11 matter or temporal limitations, and thus includes documents regarding unrelated accounts,
12 services, and information, and documents beyond the time period relevant to the claims
13 and defenses as to U.S. Bank, and therefore seeks documents that are not relevant to any
14 claim or defense in the case; (3) the phrase "his staff" is vague and ambiguous without
15 identifying individuals' names or other identifying information; and (4) the request seeks
16 documents that are not proportional to the needs of the case. Subject to these objections,
17 U.S. Bank has not identified any non-privileged, unprotected responsive documents
18 following a reasonable inquiry.

19 **REQUEST FOR PRODUCTION NO. 3:**

20 Emails and communications between the Banks and Menaged, his staff, like
21 Veronica Castro, or businesses.

22 **RESPONSE:**

23 U.S. Bank objects on the following grounds: (1) the request is overbroad in that it
24 does not include any subject matter or temporal limitations, and thus includes emails and
25 communications regarding unrelated accounts, services, and information, and documents
26 beyond the time period relevant to the claims and defenses as to U.S. Bank, and therefore
27 seeks documents that are not relevant to any claim or defense in the case; (2) the phrases
28 "between the Banks and Menaged" and "his staff" are too vague and ambiguous without

clarifying between whom specifically communications are sought and identifying individuals' names or other identifying information; and (3) the request seeks documents that are disproportionate to the needs of the case. Subject to these objections, U.S. Bank states that it has already produced relevant communications between U.S. Bank and Easy Investments LLC regarding the account ending 4457 between January and April 2014, in the form of account statements reflecting account activity: USB_DENSCO000670-995 (Confidential – Subject to Protective Order).

REQUEST FOR PRODUCTION NO. 4:

The Banks' document retention policies.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request seeks documents that are not relevant to any claim or defense in the case; (2) even if relevant, the request is overbroad because it does not include any subject matter or temporal limitations, and would therefore include retention policies for categories of documents completely unrelated to any claim or defense as to U.S. Bank in this case, and which are not otherwise implicated in U.S. Bank's disclosures or responses to any discovery request; and (3) it seeks documents that are disproportionate to the needs of the case.

REQUEST FOR PRODUCTION NO. 5:

Organizational charts for any department of the Bank responsible for compliance, fraud detection, money laundering detection, or any other function directed to uncovering crime or fraud during the relevant time period of the Third Amended Complaint.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request seeks documents that are not relevant to any claim or defense in this case; (2) the terms "compliance" department, "fraud detection" department, "money laundering detection" department, and "any other function directed to uncovering crime or fraud" are so vague and ambiguous that U.S. Bank cannot reasonably discern their meanings; (3) the request is overbroad because it purports to seek information about U.S. Bank departments, products, and services that are unrelated

1 to any claim or defense in this case as to U.S. Bank; (4) the request is overbroad because it
2 seeks documents from time periods that are not relevant to any claim or defense as to U.S.
3 Bank, and (5) the request is disproportionate to the needs of the case.

4 **REQUEST FOR PRODUCTION NO. 6:**

5 Any investigation or audit conducted by the Bank on Menaged or his staff, like
6 Veronica Castro, or his business and affiliated entities. In particular, provide all
7 compliance exception reports which were generated as a result of activity in any/all
8 Menaged-related bank accounts during the period identified in the Third Amended
9 Complaint, as well as the disposition status of any such exception investigations.

10 **RESPONSE:**

11 U.S. Bank objects on the following grounds: (1) to the extent DenSco seeks
12 documents that U.S. Bank is prohibited from disclosing or protected under the Bank
13 Secrecy Act, 31 U.S.C. § 5318(g)(2)(A)(i); 31 C.F.R. § 1020.320(e); and 12 C.F.R. §
14 21.11(k); *see also* 75 Fed. Reg. 75593, 75595 (Dec. 3, 2010), U.S. Bank objects and
15 declines to produce any such documents; (2) to the extent DenSco seeks attorney-client or
16 work product protected documents, U.S. Bank objects and declines to produce such
17 documents; (3) the request is overbroad because it seeks documents from time periods and
18 unrelated accounts that are not relevant to any claim or defense as to U.S. Bank; (4) the
19 phrases “investigation,” “audit,” “his staff,” “affiliated entities,” “compliance exception
20 reports,” and “Menaged-related bank accounts” are so vague and ambiguous that U.S. Bank
21 cannot reasonably discern their meanings; and (5) the request is disproportionate to the
22 needs of the case.

23 **REQUEST FOR PRODUCTION NO. 7:**

24 All policies and procedures regarding the issuance of cashier’s checks, cashier’s
25 checks not used for their intended purpose, the listing of a remitter on the cashier’s
26 checks, and the noting of the purposes of the cashier’s checks during the relevant time of the
27 Third Amended Complaint.
28

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request is overbroad in scope, because it seeks policies and procedures well beyond the subject matter of the Third Amended Complaint (“TAC”), and thus seeks documents that are not relevant to any claim or defense as to U.S. Bank; (2) the request is overbroad because it seeks documents from time periods that are not relevant to a claim or defense as to U.S. Bank; (3) the request is vague and ambiguous in that it fails to state whether it is seeking information about checks drawn by and on U.S. Bank or checks deposited to the credit of U.S. Bank. Subject to these objections, and following a reasonable inquiry, U.S. Bank previously identified the following policies and procedures related to the issuance of U.S. Bank cashier’s checks that were in effect between January and April 2014 and which may be relevant to the allegations in the TAC as against U.S. Bank: Operating Procedures Manual (M-5) – Cashier’s Check and Personal Money Orders (Revision Date 09/2013) (USB_DENSCO001079-1083) (Highly Confidential – Subject to Protective Order); Operating Procedures Manual (Quick Reference (M-5)) – Issuing Bank Checks – Wizard Offline (Revision Date 09/2013) (USB_DENSCO001072-1073) (Highly Confidential – Subject to Protective Order); Operating Procedures Manual (Quick Reference (M-5)) – Issuing Bank Checks – Wizard Online Quick Reference (Revision Date 09/2013) (USB_DENSCO001074-1078) (Highly Confidential – Subject to Protective Order); and Operating Procedures Manual (Quick Reference (M-5)) – Voiding Bank Checks (Revision Date 09/2013) (USB_DENSCO001070-1071) (Highly Confidential – Subject to Protective Order).

REQUEST FOR PRODUCTION NO. 8:

All policies and procedures regarding reporting of unusual activities or suspicious activities internally within the bank; all policies and procedures for how any unusual activities report or suspicious activities report are to be handled within the bank and to whom such activities are reported. In particular, provide policies, procedures and training materials covering “red flag” identification and reporting, such as identification and

1 reporting of transactions which appear to serve no legitimate business purpose and cash
2 transaction structuring to avoid Cash Transaction Report limits.

3 **RESPONSE:**

4 U.S. Bank objects on the following grounds: (1) the request is overbroad in scope
5 because it seeks policies and procedures well beyond the subject matter of the TAC and
6 U.S. Bank's involvement in this case; (2) the request is overbroad in duration as it seeks
7 documents for timeframes that have no relevance to any claim or defense as to U.S. Bank;
8 (3) the terms and phrases "reporting," "unusual activities," and "red flag" are not defined
9 and so vague and ambiguous that U.S. Bank cannot reasonably discern their meanings; (4)
10 to the extent this request seeks information about U.S. Bank's compliance with the Bank
11 Secrecy Act, the request is not relevant to any claim or defense; and (5) for the reasons
12 described above, the request is disproportionate to the needs of the case. Subject to these
13 objections, and following a reasonable inquiry, U.S. Bank identifies the following written
14 procedures that address internal referrals by branch personnel for further investigation
15 effective between January and April 2014: Operating Procedures Manual (Y-2) – Anti-
16 Money Laundering / Suspicious Activity – Anti-Money Laundering (AML) / Bank Secrecy
17 Act (BSA) Activity Referral (Revision Date 07/2013) (USB_DENSCO001084-1085)
18 (Highly Confidential – Subject to Protective Order); Operating Procedures Manual (Quick
19 Reference (Y-2)) – Accessing and Completing an AML/BSA IRF (Revision Date 07/2013)
20 (USB_DENSCO001086-1088) (Highly Confidential – Subject to Protective Order); and
21 Operating Procedures Manual (Quick Reference (Y-2)) – Examples of When to Report
22 Suspicious AML/BSA Activity (Revision Date 07/2013) (USB_DENSCO001089) (Highly
23 Confidential – Subject to Protective Order).

24 **REQUEST FOR PRODUCTION NO. 9:**

25 Any documents pertaining or related to removing deposit account holds regarding
26 banking by Scott Menaged and his business entities; for example, removing deposit hold
27 after a cashier's check is deposited into an account.
28

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request is overbroad in that it seeks documents that have no relevance to any claim or defense in this case as to U.S. Bank; (2) the request is overbroad in duration as it seeks documents for timeframes that have no relevance to any claim or defense as to U.S. Bank; (3) the overbroad nature of the request makes it disproportionate to the needs of the case; (4) the phrases “business entities,” “deposit account holds,” and “regarding banking” are not defined and so vague and ambiguous that U.S. Bank cannot reasonably discern their meanings; and (5) to the extent DenSco seeks attorney-client or work product protected documents, U.S. Bank objects and declines to produce such documents. Subject to these objections, and following a reasonable inquiry, U.S. Bank has not identified any documents relating to the addition or removal of a hold on any of the cashier’s checks drawn or subsequently deposited into the Easy Investments LLC account ending 4457 between January and April 2014.

REQUEST FOR PRODUCTION NO. 10:

All policies or procedures relating to deposit holds.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request is overbroad in scope and time, because it seeks policies and procedures that are not relevant to any claim or defense in this case and documents for timeframes that have no relevance to any claim or defense as to U.S. Bank; (2) the request is disproportionate to the needs of the case; and (3) the phrase “deposit holds” is so vague and ambiguous that U.S. Bank cannot reasonably discern its meaning. Subject to these objections, and following a reasonable inquiry, U.S. Bank has not identified any policies or procedures that would have applied between January and April 2014 relating to holds on U.S. Bank cashier’s checks that are subsequently deposited into a customer’s U.S. Bank account when they are not used.

REQUEST FOR PRODUCTION NO. 11:

Any emails or communications between Menaged and the Banks relating to holds placed on his deposits or overriding those holds.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request seeks documents that are not relevant to any claim or defense as to U.S. Bank; (2) the request is overbroad in that it is not limited to the relevant U.S. Bank account or relevant deposits, or the relevant time period, and therefore includes documents that are not relevant to any claim or defense as to U.S. Bank; (3) the phrases “holds placed on his deposits” and “overriding those holds” are so vague and ambiguous that U.S. Bank cannot reasonably discern their meanings; (4) the request is overly broad because it fails to identify any custodians who may have such information; and (5) the request is disproportionate to the needs of the case. Subject to these objections, and following a reasonable inquiry, U.S. Bank has not identified any responsive documents relating to the placement or removal of a hold on funds associated with the deposit of U.S. Bank cashier’s checks into the Easy Investments LLC account ending 4457 between January and April 2014.

REQUEST FOR PRODUCTION NO. 12

Any documents relating to the training of tellers as to when to make unusual activity or suspicious activity reports, including policies and procedures. In addition, provide a schedule of all branch training courses completed by branch personnel at the branches identified in the Third Amended Complaint during the relevant period. This schedule should include courses, attendees and dates of attendance for each respective branch.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request is not relevant to any claim or defense and disproportionate to the needs of the case; (2) the request assumes facts that are not correct, including that tellers submit suspicious activity reports as that term is defined in the Bank Secrecy Act; (3) the request is vague and ambiguous in that it fails to define phrases such as “unusual activity,” “suspicious activity reports” (to the extent this phrase is intended to refer to something other than a SAR as referenced in the Bank Secrecy Act), and “branch training courses,” (4) the request is overbroad in scope, because it seeks “any documents” relating to the above-referenced training, a schedule of “all branch

1 training courses,” and policies and procedures beyond the subject matter of the TAC,
2 beyond the employees involved in the U.S. Bank transactions at issue, and beyond U.S
3 Bank’s involvement in this case; (5) the request is overbroad in duration as it seeks
4 documents for timeframes that have no relevance to any claim or defense as to U.S. Bank;
5 and (6) to the extent DenSco seeks attorney-client or work product protected documents,
6 U.S. Bank objects and declines to produce such documents. Subject to these objections,
7 and following a reasonable inquiry, U.S. Bank identifies the following training materials
8 that address internal referrals by branch personnel for further investigation effective
9 between January and April 2014: Anti-Money Laundering: Southwest Boarder Employees
10 2014 (USB_DENSCO001090-1137) (Highly Confidential – Subject to Protective Order).

11 **REQUEST FOR PRODUCTION NO. 13**

12 Any currency transaction reports prepared regarding Mr. Menaged’s personal
13 accounts or his business accounts.

14 **RESPONSE:**

15 U.S. Bank objects on the following grounds: (1) the request seeks documents that
16 are not relevant to any claim or defense as to U.S. Bank; (2) even if relevant, the request is
17 overbroad in that it is not limited to the U.S. Bank account at issue in the TAC, and
18 therefore the request includes documents that are not relevant to any claim or defense as to
19 U.S. Bank; (3) even if relevant, the request is overbroad because it seeks documents from
20 time periods that are not relevant to a claim or defense as to U.S. Bank; (4) the request is
21 vague and ambiguous to the extent it fails to identify what is intended by the phrase “Mr.
22 Menaged’s personal accounts or his business accounts”; and (5) the request is
23 disproportionate to the needs of the case. Subject to these objections, and following a
24 reasonable inquiry, U.S. Bank has not identified any currency transaction reports
25 associated with the Easy Investments account ending 4457 during the January through
26 April 2014 timeframe.

REQUEST FOR PRODUCTION NO. 14:

Any policies and procedures regarding when currency transaction reports have to be prepared and who they are routed to within the Bank. In particular, provide policies which address the reporting requirements of both cash and “near-cash” transactions (i.e., cashier’s checks, money orders, or other negotiable instruments) which might be used by customers to avoid CTR reporting requirements.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request seeks documents that are not relevant to any claim or defense in this case as to U.S. Bank; (2) even if relevant, the request is overbroad in that it is not limited to the U.S. Bank account and time period at issue in the TAC as to U.S. Bank’s involvement, and therefore the request includes documents that are not relevant to any claim or defense as to U.S. Bank; (3) the request is disproportionate to the needs of the case; (4) the phrase “near-cash transaction” is not defined and is too vague and ambiguous for U.S. Bank to reasonably discern its meaning; (5) when currency transaction reports “have to be prepared” and “the reporting requirements of... cash.... transactions” is a question of regulation, not a question of U.S. Bank policy, *see, e.g.*, 31 C.F.R. 1020.310; (6) to whom CTRs are routed within the bank is not relevant to any claim or defense; and (7) the request purports to require U.S. Bank to speculate about instruments that might be used to avoid CTR requirements.

REQUEST FOR PRODUCTION NO. 15:

Any documents relevant or pertaining to the account opening process for all Menaged-related bank accounts, including all information obtained by the bank with respect to the bank’s due diligence investigations, “know your customer” documents, Customer Due Diligence and/or Enhanced Due Diligence files or reports, or other documents containing information collected on Menaged and his businesses.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request is overbroad in that it is not limited to the U.S. Bank account and time period at issue in the TAC as to U.S. Bank,

1 and therefore the request includes documents that are not relevant to any claim or defense
2 as to U.S. Bank; (2) the request is disproportionate to the needs of the case; (3) the phrase
3 “all Menaged-related bank accounts” is not defined and too vague and ambiguous without
4 identifying the account holder by name; (4) the phrases “any documents” relevant to an
5 “account opening process” are too vague and ambiguous for U.S. Bank to reasonably
6 discern their meanings; and (5) to the extent they are intelligible, documents concerning
7 U.S. Bank’s account opening processes are not relevant to any claim or defense. Subject
8 to these objections, and following a reasonable inquiry, U.S. Bank has identified the
9 following documents relating to the opening of the Easy Investments LLC account ending
10 4457 (1) Signature Card (USB_DENSCO001138) (Confidential – Subject to Protective
11 Order); (2) Resolution of LLC (USB_DENSCO001139-1140) (Confidential – Subject to
12 Protective Order); (3) Business Signature Card Addendum (USB_DENSCO001141)
13 (Confidential – Subject to Protective Order); (4) Resolution of LLC
14 (USB_DENSCO001142-1143) (Confidential – Subject to Protective Order); and (5) Easy
15 Investments verification (USB_DENSCO001144-1149) (Confidential – Subject to
16 Protective Order).

17 **REQUEST FOR PRODUCTION NO. 16:**

18 Account and loan applications submitted by Menaged or his business entities and
19 any underwriting activity documented as to the application. Any Bank policies and
20 procedures regarding reporting of significant gambling activities within an account.

21 **RESPONSE:**

22 U.S. Bank objects on the following grounds: (1) the request seeks documents that
23 are not relevant to any claim or defense in this case; (2) the request is overbroad and thus
24 the requested production is disproportionate to the needs of the case; (3) the phrase “his
25 business entities” is not defined and too ambiguous without identifying the names of the
26 referenced businesses; and (3) the phrase “gambling activities within an account” is
27 unintelligible.

REQUEST FOR PRODUCTION NO. 17

Any policies and procedures pertaining or related to oversight of private bankers and branch personnel. In addition, provide, without limitation, any and all annual or periodic employment reviews for the period covering calendar years 2011 through 2017 of Susan Lazar (who was the private banker for Scott Managed at JP Morgan Chase Bank), Samantha Nelson (f/k/a Samantha Kumbalek) and Vikram Dadlani (both of JP Morgan Chase Bank), and Hilda H. Chavez (U.S. Bank). Include compensation histories which identify base salary and bonus compensation separately, and any performance recognition awards and/or disciplinary actions related to each of the named employees.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request seeks documents that are not relevant to any claim or defense in this case; (2) the request is overbroad as to scope and time and therefore seeks documents that are not relevant to any claim or defense as to U.S. Bank; (3) the request seeks a production that is disproportionate to the needs of the case; (4) the phrase “oversight” of “private bankers and branch personnel” is so vague and ambiguous that U.S. Bank cannot reasonably discern what is requested; and (5) to the extent the request includes employees other than U.S. Bank employees, U.S. Bank is not in the possession, custody, or control of any responsive documents.

REQUEST FOR PRODUCTION NO. 18:

Any documents pertaining or related to increasing any financial limits regarding banking by Scott Menaged and his business entities; for example, increasing his limit for wire transfers, credit cards, business account withdrawals, or debit card transaction limits.

RESPONSE:

U.S. Bank objects on the following grounds: (1) the request seeks documents that are not relevant to any claim or defense in this case; (2) the request is overbroad in that it is not limited to the U.S. Bank account at issue or the time periods at issue as to U.S. Bank; (3) the request seeks a production that is disproportionate to the needs of the case; (4) the

1 phrase “his business entities” is not defined and too ambiguous without identifying the
2 names of the referenced businesses; and (5) the phrase “financial limits” is vague and
3 unintelligible. Subject to these objections, and following a reasonable inquiry, U.S. Bank
4 has not identified any documents relating to any increase in limits on cash withdrawals
5 from the Easy Investments LLC account ending 4457 between January and April 2014.

6 **REQUEST FOR PRODUCTION NO. 19:**

7 A list of duties and obligations for the employees named in the Third Amended
8 Complaint and any other employees identified in response to Plaintiffs’ recent letter.

9 **RESPONSE:**

10 U.S. Bank objects on the following grounds: (1) the request seeks documents that
11 are not relevant to any claim or defense in this case as to U.S. Bank; (2) the request is
12 overbroad in that it is not limited to relevant U.S. Bank employees or the relevant time
13 period and therefore includes documents that are not relevant to any claim or defense as to
14 U.S. Bank; (3) the phrase “in response to Plaintiff’s recent letter” is not defined and too
15 vague and ambiguous without clarification; (4) the request fails to clearly identify about
16 which employees it seeks information, leaving U.S. Bank to speculate; and (5) to the extent
17 this request seeks the creation of a document that does not otherwise exist, U.S. Bank
18 objects as Rule 34 does not require the creation of documents.

19 DATED this 20th day of July, 2021.

20 SNELL & WILMER L.L.P.

21
22 By: 

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CERTIFICATE OF SERVICE

The foregoing was served via e-mail on the following parties this 20th day of July, 2021.

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/s/ Martin Lucero