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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 Kumbalek and Kristofer
Nelson, a married couple; and Vikram
Dadlani and Jane Doe Dadlani, a married
couple,

Defendants

No. CV2019-011499

**PLAINTIFF'S RESPONSES TO THE
U.S. BANK DEFENDANTS' FIRST
SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION**

(Assigned to the Honorable
Daniel Martin)

Plaintiff responds to Defendants U.S. Bank National Association ("US Bank") and Hilda H. Chavez's (collectively, "Defendants" or "U.S. Bank Defendants") First Set of Interrogatories and Requests for Production, as follows:

Plaintiff objects to the "Definitions" accompanying the interrogatories and requests for production to the extent they impose obligations greater than those imposed by Rules 26, 33 and 34 and/or which call for the disclosure of information protected from disclosure by the attorney-client privilege and the work-product doctrine.

1 **INTERROGATORIES**

2 **INTERROGATORY NO. 1:**

3 Describe in detail the factual basis of your allegations that U.S. Bank was aware
4 that Menaged was going to defraud DenSco (*see* paragraph 116 of the TAC), including
5 identifying any witnesses and documents that support your allegations.

6 **RESPONSE:**

7 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
8 Plaintiff has not yet deposed witnesses with relevant knowledge nor has it received from
9 US Bank all relevant documents.

10 **INTERROGATORY NO. 2:**

11 Describe in detail the factual basis of your allegations that Hilda Chavez was aware
12 that Menaged was going to defraud DenSco (*see* paragraph 116 of the TAC), including
13 identifying any witnesses and documents that support your allegations.

14 **RESPONSE:**

15 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
16 Hilda Chavez has not yet been deposed. She was a teller on transactions where checks
17 were not used for their intended purpose. There was no business purpose for how these
18 checks were issued and re-deposited.

19 **INTERROGATORY NO. 3:**

20 Describe in detail the factual basis of your allegations that U.S. Bank substantially
21 assisted Menaged with the intent of promoting Menaged's alleged fraud (*see* paragraphs
22 4, 7, 8, and 117 of the TAC), including identifying any witnesses and documents that
23 support your allegations.

24 **RESPONSE:**

25 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
26 Plaintiff has not yet deposed witnesses with relevant knowledge nor has it received from
27 US Bank all relevant documents.

1 **INTERROGATORY NO. 4:**

2 Describe in detail the factual basis of your allegations that Hilda Chavez
3 substantially assisted Menaged with the intent of promoting Menaged's alleged fraud (*see*
4 paragraphs 4, 7, 8, and 117 of the TAC), including identifying any witnesses and
5 documents that support your allegations.

6 **RESPONSE:**

7 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
8 Hilda Chavez was the WD teller and the deposit teller on several of the certified checks
9 that were not used for their intended purpose. Plaintiff has not yet deposed witnesses
10 with relevant knowledge nor has it received from US Bank all relevant documents.

11 **INTERROGATORY NO. 5:**

12 Identify each of the bank policies and procedures you contend U.S. Bank avoided,
13 changed, or violated, as alleged in paragraphs 7 and 61-62 of the TAC, including how
14 and when U.S. Bank avoided, changed, or violated each of them and how doing so
15 substantially assisted Menaged's alleged unlawful conduct, including identifying any
16 witnesses and documents that support your allegations.

17 **RESPONSE:**

18 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
19 Plaintiff has not yet deposed witnesses with relevant knowledge nor has it received from
20 US Bank all relevant documents.

21 **INTERROGATORY NO. 6:**

22 Describe in detail the factual basis of your allegations that Chavez "benefitted
23 personally in the form of additional compensation," or otherwise personally benefitted,
24 by keeping Menaged's accounts at U.S. Bank (*see* paragraph 63 of the TAC), including
25 identifying any witnesses and documents that support your allegations.

1 **RESPONSE:**

2 The allegation is based on information and belief. As discovery is ongoing,
3 Plaintiff is not yet in a position to respond to this Interrogatory. The Plaintiff will
4 supplement.

5 **INTERROGATORY NO. 7:**

6 Describe in detail the factual basis of your allegations that Menaged told U.S. Bank
7 of his business relationship with DenSco and that DenSco lent money to Easy Investments
8 for purposes of buying foreclosed homes (*see* paragraphs 49 and 51 of the TAC),
9 including identifying any witnesses and documents that support your allegations.

10 **RESPONSE:**

11 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
12 Plaintiff has not yet deposed witnesses with relevant knowledge nor has it received from
13 US Bank all relevant documents.

14 **INTERROGATORY NO. 8:**

15 Describe in detail the factual basis for your allegations that Hilda Chavez
16 authorized, requested, ratified, and recklessly tolerated Menaged's alleged pattern of
17 racketing (*see* paragraph 153 of the TAC), including identifying any witnesses and
18 documents that support your allegations.

19 **RESPONSE:**

20 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
21 *See* answers to preceding interrogatories. Plaintiff has not yet deposed witnesses with
22 relevant knowledge nor has it received from US Bank all relevant documents.

23 **INTERROGATORY NO. 9:**

24 Describe in detail the information Chittick discovered or which was otherwise
25 available to Chittick in or around November 2013 (*see* paragraphs 26-28 of the TAC)
26 regarding the First Fraud, including identifying any witnesses and documents that support
27 your allegations.

1 **RESPONSE:**

2 Plaintiff has produced to US Bank almost all of the discovery conducted in the
3 Clark Hill case, and almost all of the documents in the document depository from which
4 US Bank can derive the answer to this question. Plaintiff also incorporates in this answer
5 all of its Disclosure Statements in the Clark Hill case which have been produced to US
6 Bank.

7 **INTERROGATORY NO. 10:**

8 Describe in detail the factual basis of your allegations that Chittick believed
9 Menaged's story regarding the First Fraud (*see* paragraph 29 of the TAC), including
10 identifying any witnesses and documents that support your allegations.

11 **RESPONSE:**

12 Plaintiff has produced to US Bank the discovery conducted in the Clark Hill case
13 from which US Bank can derive the answer to this question. Plaintiff also incorporates
14 all of its Disclosure Statements in the Clark Hill case which have been produced to US
15 Bank. *See also* the deposition testimony of David Beauchamp.

16 **INTERROGATORY NO. 11:**

17 Identify by date, check number, and amount, each check you contend Menaged
18 did not use for its intended purpose and which forms the basis of your claims against the
19 U.S. Bank Defendants (*see* paragraphs 50, 56, and 58 of the TAC).

20 **RESPONSE:**

21 Plaintiff has produced in discovery each loan file along with the certified checks
22 not used for their intended purposes and related documents as to each loan. US Bank can
23 derive the answer to the question from the documents produced. In its 12th Supplemental
24 Disclosure, Plaintiff also discussed additional US Bank checks by bates number for which
25 US Bank has not provided any information like the back side of the check, withdrawal
26 and deposit slips or a list of the check on the cashier's check sequential list kept by US
27 Bank.

1 **INTERROGATORY NO. 12:**

2 Identify by date and amount which of the wires described in paragraph 50 of the
3 TAC corresponds with each of the Identified Properties, including identifying any
4 witnesses and documents that support your allegations.

5 **RESPONSE:**

6 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
7 *See also* the expert report of Fenix Financial. *See* answer to Interrogatory no. 11, as well
8 as the monthly statements as to Mr. Chittick's accounts produced by US Bank.

9 **INTERROGATORY NO. 13:**

10 Identify all payments made on each of the loans to Menaged for the Identified
11 Properties, including the amounts, dates, and whether and when each loan was paid off,
12 including the source of the funds used to pay down or payoff each loan, if known.

13 **RESPONSE:**

14 *See* the expert report of Fenix Financial. *See also* the expert report of Felix
15 Financial in the Clark Hill civil action, and the reports of the Receiver to the Court.

16 **INTERROGATORY NO. 14:**

17 Describe in detail what documents or other proof you required Menaged to submit
18 to you to confirm his receipt and use of the loan proceeds (*see* paragraph 32 of the TAC),
19 including identifying any witnesses and documents that support your allegations.

20 **RESPONSE:**

21 *See* Answer to Interrogatory No. 11.
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REQUEST FOR PRODUCTION NO. 1

RESPONSE TO REQUEST NO. 1

REQUEST FOR PRODUCTION NO. 2

RESPONSE TO REQUEST NO. 2

REQUEST FOR PRODUCTION NO. 3

RESPONSE TO REQUEST NO. 3

7

1 **REQUEST FOR PRODUCTION NO. 4**

2 Documents supporting your allegations that Hilda Chavez substantially assisted
3 Menaged with the intent of promoting Menaged's alleged fraud, including as alleged in
4 paragraphs 4, 7, 8, and 117 of the TAC.

5 **RESPONSE TO REQUEST NO. 4**

6 *See* the expert report of Jeff Gaia regarding the conduct and actions of US Bank.
7 See Response to RFP nos. 1 and 2.

8 **REQUEST FOR PRODUCTION NO. 5**

9 Documents describing or referencing your underwriting and lending practices
10 and procedures for the loans made to Menaged, including the procedures described in
11 paragraphs 3 and 107 of the TAC.

12 **RESPONSE TO REQUEST NO. 5**

13 Plaintiff has produced its loan files on the properties where US Bank issued certified
14 checks not used for their intended purposes. The files contain related documents as to
15 each loan. US Bank can derive the answer to this question from the loan files. Plaintiff
16 has also produced its disclosure statements in the Clark Hill case which contain the
17 requested information. See also Answer to Interrogatory No. 11.

18 **REQUEST FOR PRODUCTION NO. 6**

19 Documents supporting or relating to your allegations in paragraphs 26-29 of the
20 TAC, including documents regarding what information Chittick discovered or which was
21 otherwise available to Chittick in or around November 2013 regarding the First Fraud and
22 documents supporting your contention that Chittick believed Menaged's story regarding
23 the First Fraud.

24 **RESPONSE TO REQUEST NO. 6**

25 Plaintiff has produced all of the documents produced, depositions taken, and its
26 Rule 26.1 disclosure statements in the Clark Hill case which contain the requested
27 information. *See also* the deposition of David Beauchamp and other Clark Hill lawyers.
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1 **REQUEST FOR PRODUCTION NO. 7**

2 For each of the Identified Properties, all documents, including communications
3 and emails described in paragraphs 35-37 of the TAC, and any other documents that relate
4 to Menaged's alleged purchase of the Identified Properties.

5 **RESPONSE TO REQUEST NO. 7**

6 Plaintiff has produced its loan files on the properties where US Bank issued certified
7 checks not used for their intended purposes. The files contain related documents as to
8 each loan. US Bank can derive the answer to this question from the loan files. *See also*
9 Answer to Interrogatory No. 11.

10 **REQUEST FOR PRODUCTION NO. 8**

11 For each of the Identified Properties, all documents, including communications,
12 emails, photographs, and trustee sale receipts Menaged submitted to you to confirm his
13 receipt and use of the loan proceeds (*see* paragraphs 32, 59, and 115(a) of the TAC).

14 **RESPONSE TO REQUEST NO. 8**

15 Plaintiff has produced its loan files on the properties where US Bank issued certified
16 checks not used for their intended purposes. The files contain related documents as to
17 each loan. US Bank can derive the answer to this question from the loan files. See also
18 answer to Interrogatory no. 11

19 **REQUEST FOR PRODUCTION NO. 9**

20 Documents identifying all payments made on each of the loans to Menaged for the
21 Identified Properties, including the amounts, dates, and whether and when each loan was
22 paid off, including the source of the funds used to pay down or payoff each loan, if known.

23 **RESPONSE TO REQUEST NO. 9**

24 *See* the expert reports of Jeff Gaia and Fenix Financial, and referenced documents
25 within the reports. Plaintiff has produced virtually all documents in the document
26 depository to US Bank. All documents are responsive to this request. Plaintiff has
27 produced the Receiver reports, or noted where they are publicly available, and all expert
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1 forensic reports in the Clark Hill case. See also the banking documents produced by US
2 Bank to the Receiver.

3 **REQUEST FOR PRODUCTION NO. 10**

4 Documents relating to, considered, and/or generated, reviewed, or created as a
5 result of, or in connection with, the complete forensic recreation of Menaged's banking
6 activity, including those described in paragraph 111 of the TAC.

7 **RESPONSE TO REQUEST NO. 10**

8 *See* expert report of Fenix Financial. Plaintiff objects to this Request to the extent
9 it is intended to call for information protected from disclosure by the attorney-client
10 privilege and/or the work-product doctrine. Plaintiff has produced almost all documents
11 in the document depository to US Bank. These documents include re-creation of the
12 transactions in the Receiver Reports to the Court, and the expert reports in the Clark Hill
13 case.

14 **REQUEST FOR PRODUCTION NO. 11**

15 Documents identifying DenSco's entire outstanding loan portfolio with all
16 borrowers, including Menaged, between 2013 and 2016, including the total indebtedness
17 of all borrowers.

18 **RESPONSE TO REQUEST NO. 11**

19 By borrowers, if US Bank is asking about persons from whom DenSco borrowed
20 money (that is, monies loaned by investors by promissory note to DenSco),
21 borrower/investor files are included in the documents produced from the document
22 depository. A number of borrower/investors were deposed in the Clark Hill case, and the
23 depositions and their exhibits have been produced to US Bank.

24 By borrowers, if US Bank is asking about persons who borrowed money from
25 DenSco as hard money loans, hard money borrower files were produced from the
26 document depository.

1 DATED this 12th day of January 2022.

2 OSBORN MALEDON, P.A.

3
4 By 

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9 COPY of the foregoing served via email
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