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Attorneys for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN 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; JPMorgan  
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 THIRD  
SUPPLEMENTAL RULE 26.1  
DISCLOSURE STATEMENT**

For its Third Supplemental Disclosure Statement, Plaintiff Peter S. Davis, as  
Receiver of DenSco Investment Corporation, sets forth the following:

**V. WRITTEN STATEMENTS**

The Receiver was a plaintiff in a prior proceeding against Clark Hill. *See Peter  
Davis, as Receiver of DenSco Investment Corporation v. Clark Hill PLC, et al.,*

1 CV2017-013832 (Maricopa County). Numerous depositions were taken in that case as  
2 indicated in the Rule 26.1 statements. Two Chase Bank employees were deposed in  
3 that case.

4 Moreover, written statements in the form of diaries and calendar records made  
5 by Denny Chittick were revealed in that case, as well as letters made by him in the last  
6 days of his life. Menaged was deposed in the bankruptcy case and the Clark Hill case  
7 and made a declaration in the case.

8 Expert witnesses disclosed in the Clark Hill case all prepared expert reports.

9 In a letter dated April 29, 2021, US Bank counsel stated that “Plaintiff’s vague  
10 reference to ‘numerous’ depositions taken in another matter to which U.S. Bank was  
11 not a party, and statements and reports that were not produced with Plaintiff’s  
12 disclosure, or identified in any meaningful way so that U.S. Bank can be assured that it  
13 has obtained all of them or knows what Plaintiff is referring to, does not suffice under  
14 the Rule.” Plaintiff attached to its First Supplemental Rule 26.1 Statement and  
15 incorporated by reference its Seventh Supplemental Disclosure in the Clark Hill case.  
16 That disclosure contained the following (additions are bracketed):

17 **Luigi Amoroso** (contact information to be added): Mr. Amoroso gave a  
18 deposition in the Receivership Proceeding on December 14, 2016. The Receiver’s  
19 counsel is the custodian of the transcript of that deposition.

20 **Robert Anderson** (c/o John DeWulf, Coppersmith Brockelman, PLC, 2800 N.  
21 Central Avenue, Suite 1200, Phoenix, AZ 85004; (602) 224-0999): Mr. Anderson gave a  
22 deposition in this case, the original transcript of which is in the possession of the  
23 Receiver’s counsel.

24 **David Beauchamp** (c/o John DeWulf, Coppersmith Brockelman, PLC, 2800 N.  
25 Central Avenue, Suite 1200, Phoenix, AZ 85004; (602) 224-0999): Mr. Beauchamp  
26 executed a declaration dated August 17, 2016 that was submitted to the court in the  
27 Receivership Proceeding in support of the Estate’s Recommendations re Receiver and  
28 Attorney/Client Privilege. The Estate’s counsel, Gammage & Burnham, is believed to be

1 the custodian of the original declaration. Mr. Beauchamp has also given a deposition in  
2 this case, the original transcript of which is in the possession of the Receiver's counsel.

3 **Shawna Chittick Heuer** (c/o Greg Fairbourn, Bonnett Fairbourn Friedman &  
4 Balint PC, 2325 E. Camelback Rd., Suite 300, Phoenix, AZ 85016): Ms. Heuer gave a  
5 deposition in this case. Clark Hill's counsel is believed to be the custodian of the original  
6 transcript of that deposition. [A redacted copy of this transcript is included with this  
7 disclosure.]

8 **Scott Menaged** (c/o Molly Patricia Brizgys, 2210 S. Mill Avenue, Suite 7A,  
9 Tempe, AZ 85282; (602) 460-9013): On October 20, 2016, Mr. Menaged gave testimony  
10 during a Rule 2004 Examination that was taken in connection with Mr. Menaged's  
11 bankruptcy proceeding. The Receiver's counsel is the custodian of the transcript of that  
12 deposition. [Menaged current address is Yomtov S. Menaged #74322-408, FCI Safford,  
13 PO Box 9000, Safford, Arizona 85548. The Receiver does not believe he is currently  
14 represented by counsel.]

15 On December 8, 2017, Mr. Menaged was interviewed by Ken Frakes, Special  
16 Counsel to the Receiver, before a court reporter. Mr. Frakes is believed to be the  
17 custodian of the transcript of that interview.

18 [On September 23 and 24, 2019, Mr. Menaged gave a deposition in this case,  
19 the original transcript of which is in the possession of the Receiver's counsel.]

20 **Ryan Lorenz** (c/o John DeWulf, Coppersmith Brockelman, PLC, 2800 N.  
21 Central Avenue, Suite 1200, Phoenix, AZ 85004; (602) 224-0999): Mr. Lorenz gave  
22 an affidavit in support of notices of claim Clark Hill submitted to the Receiver. He is  
23 believed to be the custodian of the original affidavit.

24 **Daniel Schenck** (c/o John DeWulf, Coppersmith Brockelman, PLC, 2800 N.  
25 Central Avenue, Suite 1200, Phoenix, AZ 85004; (602) 224-0999): Mr. Schenck gave  
26 a deposition in this case, the original transcript of which is in the possession of the  
27 Receiver's counsel.

1           **Steve Bunger** (6134 W. Trovita Place, Chandler, AZ 85226): Mr. Bunger gave  
2 a deposition in this case, the original transcript of which is in the possession of Clark  
3 Hill's counsel. [A redacted copy of the transcript is included herewith.]

4           **Anthony Burdett**: Mr. Burdett gave a deposition in this case, the original  
5 transcript of which is in the possession of Clark Hill's counsel.

6           **Warren Bush**: Mr. Bush gave a deposition in this case, the original transcript  
7 of which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript  
8 is included herewith.]

9           **Ranasha Chittick**: Ms. Chittick gave a deposition in this case, the original  
10 transcript of which is in the possession of Clark Hill's counsel. [The entire transcript  
11 was marked confidential and is therefore not included.]

12           **[Gary Clapper**: Mr. Clapper gave a deposition in this case, the original  
13 transcript of which is in the possession of Clark Hill's counsel.]

14           **Dori Ann Davis**: Ms. Davis gave a deposition in this case, the original transcript  
15 of which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript  
16 is included herewith.]

17           **Peter Davis**: Mr. Davis gave a deposition in this case, the original transcript of  
18 which is in the possession of Clark Hill's counsel.

19           **Russell Dupper**: Mr. Dupper gave a deposition in this case, the original  
20 transcript of which is in the possession of Clark Hill's counsel. [A redacted copy of the  
21 transcript is included herewith.]

22           **Victor Gojcay**: Mr. Gojcay gave a deposition in this case, the original transcript  
23 of which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript  
24 is included herewith.]

25           **Scott Gould**: Mr. Gould gave a deposition in this case, the original transcript of  
26 which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript is  
27 included herewith.]

1           **Ed Hood:** Mr. Hood gave a deposition in this case, the original transcript of  
2 which is in the possession of the Receiver's counsel.

3           **Brian Imdieke:** Mr. Imdieke gave a deposition in this case, the original  
4 transcript of which is in the possession of Clark Hill's counsel. [A redacted copy of the  
5 transcript is included herewith.]

6           **Paul Kent:** Mr. Kent gave a deposition in this case, the original transcript of  
7 which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript is  
8 included herewith.]

9           **Robert Koehler:** Mr. Koehler gave a deposition in this case, the original  
10 transcript of which is in the possession of Clark Hill's counsel. [A redacted copy of the  
11 transcript is included herewith.]

12           **Barry Luchtel:** Mr. Luchtel gave a deposition in this case, the original transcript  
13 of which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript  
14 is included herewith.]

15           **Patricia Miller:** Ms. Miller gave a deposition in this case, the original transcript  
16 of which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript  
17 is included herewith.]

18           **Kevin Olson:** Mr. Olson gave a deposition in this case, the original transcript of  
19 which is in the possession of Clark Hill's counsel.

20           **[Debbie Pihl:** Ms. Pihl gave a deposition in this case, the original transcript of  
21 which is in the possession of Clark Hill's counsel.]

22           **[David Preston:** Mr. Preston gave a deposition in this case, the original  
23 transcript of which is in the possession of Clark Hill's counsel. A redacted copy of the  
24 transcript is included herewith.]

25           **John Ray:** Mr. Ray gave a deposition in this case, the original transcript of  
26 which is in the possession of Clark Hill's counsel.

27           **Gregg Reichman:** Mr. Reichman gave a deposition in this case, the original  
28 transcript of which is in the possession of Clark Hill's counsel.

1           **Scott Rhodes:** Mr. Rhodes gave a deposition in this case, the original transcript  
2 of which is in the possession of Clark Hill's counsel.

3           **GE Siegford:** Mr. Siegford gave a deposition in this case, the original transcript  
4 of which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript  
5 is included herewith.]

6           **[Judy Siegford:** Ms. Siegford gave a deposition in this case, the original  
7 transcript of which is in the possession of Clark Hill's counsel. A redacted copy of the  
8 transcript is included herewith.]

9           **Mark Sifferman:** Mr. Sifferman gave a deposition in this case, the original  
10 transcript of which is in the possession of the Receiver's counsel.

11           **William Swirtz:** Mr. Swirtz gave a deposition in this case, the original transcript  
12 of which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript  
13 is included herewith.]

14           **Coralee Thompson:** Ms. Thompson gave a deposition in this case, the original  
15 transcript of which is in the possession of Clark Hill's counsel.

16           **Steven Tuttle:** Mr. Tuttle gave a deposition in this case, the original transcript  
17 of which is in the possession of Clark Hill's counsel. [A redacted copy of the transcript  
18 is included herewith.]

19           **Kevin Potempa:** Mr. Potempa gave a deposition in this case, the original  
20 transcript of which is in the possession of Clark Hill's counsel. [A redacted copy of the  
21 transcript is included herewith.]

22           **Michelle Tran:** Ms. Tran gave a deposition in this case, the original transcript  
23 of which is in the possession of the Receiver's counsel.

24           The Seventh Supplemental Disclosure Statement in the Clark Hill case also  
25 stated as to experts Plaintiff hired in the case:

26           **Neil Wertlieb:** *See* report dated March 26, 2019, a copy of which is attached as  
27 **Appendix A**, and rebuttal report dated June 4, 2019, a copy of which is attached as  
28 **Appendix B**. [attachments to the disclosure statements]

1       **David Weekly:** *See* report dated April 4, 2019, a copy of which is attached as  
2       **Appendix C**, and rebuttal report dated June 5, 2019, a copy of which is attached as  
3       **Appendix D**. [attachments to the disclosure statements]

4       Plaintiff's First Supplemental Disclosure stated that depositions of witnesses and  
5       experts reports were on the Receiver's website and could be directly printed from the  
6       website.

7       Plaintiff's First Supplemental Disclosure, also attached and incorporated by  
8       reference. Defendant Clark Hill's Tenth Supplemental Disclosure Statement, which  
9       also responds to disclosure of written statements.

10       Plaintiff attaches in a disc, copies of Declarations and deposition transcripts with  
11       exhibits,<sup>1</sup> except that depositions redacted under a protective order will await the entry  
12       of a protective order in this case.

## 13

## 14 **VIII. EXHIBITS**

15       Plaintiff has not yet determined what exhibits it will use at trial and will  
16       supplement accordingly.

17       Plaintiff reserves the right to use any document that is set forth in Section IX  
18       below.

19       Plaintiff did prepare an exhibit list for trial in the Clark Hill case. The Clark Hill  
20       exhibit list was attached to Plaintiff's First Supplemental Disclosure Statement.

21       On April 29, 2021, US Bank counsel in a letter stated that this disclosure "does  
22       not suffice under the Rule." Plaintiff disagrees. Plaintiff disclosed and incorporated  
23       into its Supplemental Rule 26.1 statements the **trial exhibit list** prepared in the Clark  
24       Hill case, which lists 1332 trial exhibits, including Chittick documents and Receiver  
25       documents as to the Menaged frauds. Plaintiff attaches in a disc, copies of these  
26       documents listed in the Clark Hill trial exhibit list. All of the documents listed are

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27       <sup>1</sup> Some of the deposition transcripts have been redacted to protect the names of Mr.  
28       Chittick's children or personal nature of the Chittick marital relationship.

1 subject to disclosure in this case, and, at an appropriate time, some categories and  
2 documents on this list will be designated as trial exhibits in this case.

3 In its Second Supplemental Disclosure, Plaintiff produced lists to Defendants of  
4 the certified checks from US Bank and Chase Bank that were the subject matter of the  
5 second Menaged fraud. These lists will be marked as trial exhibits, and along with the  
6 certified checks, withdrawal and deposit slips associated with them will also be listed.  
7 Plaintiff is compiling this information from documents produced by the Banks to the  
8 Receiver prior to this lawsuit being filed. US Bank's withdrawal and deposit slips, loan  
9 files and trustee receipts are included in the disc as Vol.004 (Bates **R-002766-003261**).

10 DenSco maintained loan files on each of the properties that are the subject of the  
11 Menaged second fraud. These loan files will be trial exhibits and are in the document  
12 depository.

13 Bank of America produced documents to the Receiver. The Receiver produced  
14 a report formatted on an Excel spreadsheet containing a summary of the investigation  
15 and closure of the DenSco accounts. Further discovery has been issued against Bank  
16 of America. Summaries and results of their investigation may be listed as trial exhibits.

17 Plaintiff has asked Defendants to produce the following documents under Rule  
18 26.1:

- 19 (1) Organizational charts for the branch offices where Menaged and his staff  
20 procured cashier's checks during the relevant time period of the Third  
21 Amended Complaint.
- 22 (2) Identify the names of tellers and other bank employees who handled the  
23 paperwork of issuing cashier's checks, preparing or accepting withdrawal  
24 and deposit slips, or otherwise assisting Menaged and his staff in these  
25 transactions, or who were aware of the transactions.
- 26 (3) Internal emails and communications internal to the Bank regarding  
27 Menaged, his staff, like Veronica Castro, or his business entities and  
28 personal and business accounts.
- (4) Emails and communications between the Banks and Menaged, his staff,  
like Veronica Castro, or businesses.



- (5) The Banks' document retention policies.
- (6) 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.
- (7) Identify any employees involved in any investigation involving Menaged and/or his business entities pertaining to the use of his bank accounts with your institution.
- (8) Any investigation or audit conducted by the Bank on Menaged or his staff, like Veronica Castro, or his business and affiliated entities. In particular, provide all compliance exception reports which were generated as a result of activity in any/all Menaged-related bank accounts during the period identified in the Third Amended Complaint, as well as the disposition status of any such exception investigations.
- (9) All policies and procedures regarding the issuance of cashier's checks, cashier's checks not used for their intended purpose, the listing of a remitter on the cashier's checks, and the noting of the purposes of the cashier's checks during the relevant time of the Third Amended Complaint.
- (10) 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 reporting of transactions which appear to serve no legitimate business purpose and cash transaction structuring to avoid Cash Transaction Report limits.
- (11) Any documents related 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.
- (12) Any currency transaction reports prepared regarding Mr. Menaged's personal accounts or his business accounts.

- (13) Any policies and procedures regarding when currency transaction reports must 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.
- (14) 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.
- (15) Account and loan applications submitted by Menaged or his business entities and any underwriting activity documented as to the application.
- (16) Any Bank policies and procedures regarding reporting of significant gambling activities within an account.
- (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 Menaged 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.
- (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.
- (19) For Chase Bank: All documents pertaining or related to Case # 5682556. On the Chase form provided the employee referral was from Sam Nelson; Alert Analyst was Alexander Gil, and Sharon Khoo worked as “BAU.” Provide any documents explaining the role of the referral employee, the alert analyst and the “BAU.”
- (20) For Chase Bank: All documents pertaining or related to Case # 5763950. Employee referral was Sam Nelson; Alert Analyst was Alexander Gill.

1 This list describes the types of documents in the Bank's possession that may be marked  
2 as trial exhibits.

3 DATED this 6th day of May, 2021.

4 OSBORN MALEDON, P.A.

5  
6 By 

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Attorneys for Plaintiff

11 COPY of the foregoing served by first-class mail  
12 (with courtesy copy by email) this 6th day of May, 2021, on:

13 Greg Marshall

Amanda Z. Weaver

14 Bradley R. Pollock

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23 *Attorneys for Defendant JP Morgan Chase Bank, N.A.,*

24 *Samantha Nelson, Kristofer Nelson,*

25 *Vikram Dadlani, and Jane Doe Dadlani*

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1 **VERIFICATION**

2 Pursuant to Rule 8(h), Ariz.R.Civ.P., I, Peter S. Davis, as receiver for Plaintiff,  
3 DenSco Investment Corporation, an Arizona corporation, verify under penalty of perjury  
4 the foregoing is true and correct:  
5

- 6 1. DenSco Investment Corporation is the Plaintiff for the above entitled  
7 action.  
8 2. I have read the foregoing Plaintiff's Supplemental Rule 26.1 Disclosure  
9 Statement and know the contents thereof.  
10 3. The statements and matters alleged are true of my own personal knowledge as  
11 the receiver for DenSco Investment Corporation, except as to those matters  
12 stated upon information and belief, and as to such matters, I reasonably  
believe them to be true.

13 **DATED** this 5th day of May, 2021.

14 **DENSCO INVESTMENT**  
15 **CORPORATION, an Arizona corporation**

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18 By: Peter S. Davis  
19 Its: Receiver  
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OSBORN  
MALEDON

A PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

Davis v. US Bank, et al.  
CV2019-011499

Disc Burn Date  
05/05/2021

Plaintiff's Third Supplemental Disclosure  
Part 1 of 2

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ATTORNEYS AT LAW

Davis v. US Bank, et al.  
CV2019-011499

Disc Burn Date  
05/05/2021

Plaintiff's Third Supplemental Disclosure  
Part 2 of 2