

Colin F. Campbell, 004955
Geoffrey M. T. Sturr, 014063
Timothy J. Eckstein, 018321
Joseph N. Roth, 025725
OSBORN MALEDON, P.A.
2929 North Central Avenue, 21st Floor
Phoenix, Arizona 85012-2793
(602) 640-9000
ccampbell@omlaw.com
gsturr@omlaw.com
teckstein@omlaw.com
jroth@omlaw.com

Attorneys for Plaintiff

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 RESPONSE TO
DEFENDANTS JPMORGAN CHASE
BANK, N.A., SAMANTHA NELSON,
AND VIKRAM DADLANI'S FIRST
SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS**

(Assigned to the Honorable
Daniel Martin)

Plaintiff responds to Defendant JPMorgan Chase Bank, N.A. ("Chase"), Samantha Nelson, and Vikram Dadlani's (collectively, "Defendants" or "Chase Defendants") First Set of Requests for Production of Documents.

REQUESTS FOR PRODUCTION

REQUEST NO. 1

Any and all documents, ESI, and communications showing the dollar amounts the Receiver has recovered on behalf of the receivership estate, including the settlement

1 amount received in relation to the matter captioned *Davis, as Receiver of DenSco*
2 *Investment Corp., v. Clark Hill PLC, et al.*, No. CV2017-013832 (Superior Court of AZ,
3 Maricopa Cty.).

4 **RESPONSE TO REQUEST NO. 1**

5 *See* the expert report of Fenix Financial for a listing of recoveries and costs of the
6 Receiver. Plaintiff Receiver objects to “any and all documents, ESI and communications”
7 as disproportionate to what is needed by the Defendant. For example, all documents
8 bearing on the Clark Hill settlement or other recoveries is disproportionate and not
9 relevant to discovery in this case.

10 **REQUEST NO. 2**

11 Any and all documents, ESI, and communications—other than those identified in
12 response to Dadlani Request No. 1 and Nelson Request No. 1 below—DenSco contends
13 support its allegation that Chase knew or had a general awareness that Yomtov “Scott”
14 Menaged (“Menaged”) was engaging in the alleged fraudulent conduct set forth in the
15 TAC.

16 **RESPONSE TO REQUEST NO. 2**

17 *See* the expert report of Jeff Gaia and documents listed in the report. *See*
18 documents produced by Receiver in its original Rule 26.1 and supplemental disclosures.
19 *See* documents produced by Chase in response to subpoena and document requests from
20 the Receiver.

21 **REQUEST NO. 3**

22 Any and all documents, ESI, and communications—other than those identified in
23 response to Dadlani Request No. 2 and Nelson Request No. 2 below—DenSco contends
24 support its allegation that Chase substantially assisted and/or encouraged Menaged’s
25 alleged fraud against DenSco as set forth in the TAC.

26 **RESPONSE TO REQUEST NO. 3**

27 *See* response to request no. 2
28

1 **REQUEST NO. 4**

2 Any and all documents, ESI, and communications—other than those identified in
3 response to Dadlani Request No. 4 and Nelson Request No. 4—DenSco contends support
4 its allegation that Chase economically benefitted from allegedly assisting Menaged’s
5 alleged fraud against DenSco as set forth in the TAC.

6 **RESPONSE TO REQUEST NO. 4**

7 *See* expert report of Jeff Gaia. *See* answers to Interrogatories from Chase Bank
8 served contemporaneously with this response.

9 **REQUEST NO. 5**

10 All documents, ESI, and communications referenced in Paragraph 29 of the TAC.

11 **RESPONSE TO REQUEST NO. 5**

12 Paragraph 29 states:

13 29. Chittick, believing Menaged’s story, agreed with Menaged that
14 DenSco would continue loaning money to Menaged’s entities so that
15 DenSco and Menaged could jointly and collaboratively “work out”
16 the problem loans that resulted from the conduct of Menaged’s cousin.
17 DenSco relied upon Menaged’s representations that he would use all
18 future loans from DenSco for their intended purpose and would work
19 closely with DenSco to complete the “work out” plan. DenSco’s
20 decision to put trust and confidence in Menaged, and to rely upon him
21 as a fiduciary to effectuate the “work out” plan, is reflected in
22 numerous written communications between Chittick and Menaged
23 that began in December 2013 and continued for years thereafter, as
24 well as a Term Sheet that DenSco, Menaged, Arizona Home
25 Foreclosures, LLC and Easy Investment, LLC signed in January 2014.

26 *See* all Rule 26.1 disclosure statements produced in the Clark Hill case and the
27 documents referenced in the Rule 26.1 statements. All documents referenced in the Rule
28 26.1 statements have been produced to Chase. *See also* deposition testimony of David
Beauchamp; corporate and personal diaries of Dennis Chittick.

26 **REQUEST NO. 6**

27 All documents, ESI, and communications supporting the allegation in Paragraph
28 72 that Menaged “told the Chase Defendants about his business relationship with

DenSco” and that “DenSco ... [loaned] monies to AZHF for the purpose of buying foreclosed homes.”

RESPONSE TO REQUEST NO. 6

Paragraph 72 states:

72. Menaged further told the Chase Defendants about his business relationship with DenSco and that DenSco funded these transactions, lending money to AZHF for the purpose of buying foreclosed homes.

Plaintiff has produced to Chase over 1,000 loan files where Chase Bank issued cashier’s checks not used for their intended purpose. Chase has produced emails from Menaged and/or his associates to Chase Bank listing properties for which they were asking for cashier’s checks to purchase particular properties. Chase has also produced the email files of Victor Dadlani and Susan Lazar indicating their knowledge with respect to Menaged’s business activities.

See also expert report of Jeff Gaia.

REQUEST NO. 7

All documents, ESI, and communications relating to the allegation in Paragraph 81 of the Receiver’s First Amended Complaint that “[t]he Receiver finally understood the extent and losses constituting the Second Fraud, and the substantial assistance U.S. Bank and Chase provided to Menaged, when it completed an initial draft of that forensic recreation of Menaged’s banking activity on or about June 13, 2017.”

RESPONSE TO REQUEST NO. 7

Paragraph 81 of the First Amended Complaint states:

81. The Receiver finally understood the extent and losses constituting the Second Fraud, and the substantial assistance U.S. Bank and Chase provided to Menaged, when it completed an initial draft of that forensic recreation of Menaged’s banking activity on or about June 13, 2017.

See Receiver’s reports to the Court.

REQUEST NO. 8

All documents, ESI, and communications supporting the allegation in Paragraph 94 of the TAC that the Chase Defendants “regularly violat[ed] Chase’s multi-day hold policy before wire-transferred funds can be withdrawn” and “systematically over[ode] the 5-7 day hold policy for the funds of re-deposited cashier’s checks.”

RESPONSE TO REQUEST NO. 8

See expert report of Jeff Gaia.

REQUEST NO. 9

All documents, ESI, and communications supporting the allegation in Paragraph 105 of the TAC that “Chittick died unaware of the Second Fraud.”

RESPONSE TO REQUEST NO. 9

Paragraphs 104 and 105 state:

104. On July 28, 2016, Chittick committed suicide.

105. Chittick died unaware of the Second Fraud.

As to what Chittick knew or did not know, *see* all the Rule 26.1 statements produced by Receiver in the Clark Hill case and the documents referenced therein. All documents referenced have been produced.

See, in particular, Dennis Chittick’s corporate and personal journals, and his draft letters to investors and to his sister.

REQUEST NO. 10

Any and all documents, ESI, and communications relied upon by David B. Weekly in creating his Expert Witness Report dated April 4, 2019 and Rebuttal Expert Witness Report dated June 5, 2019 for the matter captioned *Davis, as Receiver of DenSco Investment Corp., v. Clark Hill PLC, et al.*, No. CV2017-013832 (Superior Court of AZ, Maricopa Cty.), including but not limited to those documents that are not contained in the Receiver’s document depository.

RESPONSE TO REQUEST NO. 10

Receiver has produced the expert reports of Mr. Weekly in the Clark Hill case, the documents produced to Clark Hill's lawyers as to Mr. Weekly's report, Mr. Weekly's deposition and the exhibits attached to the deposition, along with documents in the depository.

REQUEST NO. 11

All documents, ESI, and communications supporting the allegations in Paragraphs 28 and 29 that Chittick believed Menaged's story that Menaged's cousin was responsible for the "First Fraud."

RESPONSE TO REQUEST NO. 11

See deposition transcript of David Beauchamp; *see* Mr. Chittick's corporate and personal journals. *See* Receiver's Rule 26.1 disclosure statements in the Clark Hill case and documents referenced therein.

REQUESTS FOR PRODUCTION RELATED TO VIKRAM DADLANI

REQUEST NO. 1

Any and all documents, ESI, and communications DenSco contends support its allegation that Vikram Dadlani knew or had a general awareness that Menaged was engaging in the alleged fraudulent conduct set forth in TAC.

RESPONSE TO REQUEST NO. 1

See Plaintiff Receiver's answers to Chase Interrogatories and documents referenced therein.

REQUEST NO. 2

Any and all documents, ESI, and communications DenSco contends support its allegation Vikram Dadlani substantially assisted or encouraged Menaged's alleged fraud against DenSco set forth in the TAC.

RESPONSE TO REQUEST NO. 2

See Plaintiff Receiver's answers to Chase Interrogatories and documents referenced therein.

REQUEST NO. 3

Any and all documents, ESI, and communications DenSco contends support its allegation Vikram Dadlani authorized, requested, commanded, ratified or recklessly tolerated Menaged's alleged pattern of racketeering activity set forth in the TAC.

RESPONSE TO REQUEST NO. 3

See Plaintiff Receiver's answers to Chase Interrogatories and documents referenced therein.

REQUEST NO. 4

Any and all documents, ESI, and communications DenSco contends support its allegation that Vikram Dadlani economically benefitted from allegedly assisting Menaged's alleged fraud against DenSco set forth in the TAC.

RESPONSE TO REQUEST NO. 4

See Plaintiff Receiver's answers to Chase Interrogatories and documents referenced therein.

REQUESTS FOR PRODUCTION RELATED TO SAMANTHA NELSON

REQUEST NO. 1

Any and all documents, ESI, and communications DenSco contends support its allegation that Samantha Nelson knew or had a general awareness that Menaged was engaging in the alleged fraudulent conduct set forth in the TAC.

RESPONSE TO REQUEST NO. 1

See Plaintiff Receiver's answers to Chase Interrogatories and documents referenced therein. Ms. Nelson was deposed in the Clark Hill case. She subsequently produced her referral to Chase of suspicious activities on the part of Menaged. Ms.

1 Nelson was involved in processing of the certified checks not used for their intended
2 purpose and was aware of suspicious wire transfers.

3 **REQUEST NO. 2**

4 Any and all documents, ESI, and communications DenSco contends support its
5 allegation Samantha Nelson substantially assisted or encouraged Menaged's alleged
6 fraud against DenSco set forth in the TAC.

7 **RESPONSE TO REQUEST NO. 2**

8 *See* Plaintiff Receiver's answers to Chase Interrogatories and documents
9 referenced therein. Ms. Nelson was deposed in the Clark Hill case. She subsequently
10 produced her referral to Chase of suspicious activities on the part of Menaged. Ms.
11 Nelson was involved in processing of the certified checks not used for their intended
12 purpose and was aware of suspicious wire transfers.

13 **REQUEST NO. 3**

14 Any and all documents, ESI, and communications DenSco contends support its
15 allegation Samantha Nelson authorized, requested, commanded, ratified or recklessly
16 tolerated Menaged's alleged pattern of racketeering activity set forth in the TAC.

17 **RESPONSE TO REQUEST NO. 3**

18 *See* Plaintiff Receiver's answers to Chase Interrogatories and documents
19 referenced therein. Ms. Nelson was deposed in the Clark Hill case. She subsequently
20 produced her referral to Chase of suspicious activities on the part of Menaged. Ms.
21 Nelson was involved in processing of the certified checks not used for their intended
22 purpose and was aware of suspicious wire transfers.

23 **REQUEST NO. 4**

24 Any and all documents, ESI, and communications DenSco contends support its
25 allegation that Samantha Nelson economically benefitted from allegedly assisting
26 Menaged's alleged fraud against DenSco set forth in the TAC.

RESPONSE TO REQUEST NO. 4

See Plaintiff Receiver's answers to Chase Interrogatories and documents referenced therein. Ms. Nelson was deposed in the Clark Hill case. She subsequently produced her referral to Chase of suspicious activities on the part of Menaged. Ms. Nelson was involved in processing of the certified checks not used for their intended purpose and was aware of suspicious wire transfers.

DATED this 12th day of January 2022.

OSBORN MALEDON, P.A.

By 

Colin F. Campbell
Geoffrey M. T. Sturr
Timothy J. Eckstein
Joseph N. Roth
2929 North Central Avenue, 21st Floor
Phoenix, Arizona 85012-2793

Attorneys for Plaintiff

COPY of the foregoing served via email
this 12th day of January 2022, on:

Nicole Goodwin
GREENBERG TRAURIG, LLP
2375 East Camelback Road, Suite 800
Phoenix, Arizona 85016
goodwinn@gtlaw.com
hershbergera@gtlaw.com
aranat@gtlaw.com


Paul J. Ferak
Jonathan H. Claydon
GREENBERG TRAURIG, LLP
77 West Wacker Drive, Suite 3100
Chicago, Illinois 60601
ferakp@gtlaw.com
claydonj@gtlaw.com

*Attorneys for Defendant JP Morgan Chase Bank, N.A.,
Samantha Nelson f/k/a Samantha Kumbalek,
Kristofer Nelson, Vikram Dadlani, and Jane Doe Dadlani*

1 Gregory J. Marshall
2 Amanda Z. Weaver
3 SNELL & WILMER, LLP
4 400 East Van Buren Street, Suite 1900
5 Phoenix, Arizona 85004-2202
6 gmarshall@swlaw.com
7 aweaver@swlaw.com
8 ehenry@swlaw.com
9 pdooley@swlaw.com

6 Kenneth C. Rudd
7 David B. Chenkin
8 ZEICHNER ELLMAN & KRAUSE LLP
9 1211 Avenue of the Americas, 40th Floor
10 New York, New York 10036
11 krudd@zeklaw.com
12 dchenkin@zeklaw.com

11 *Attorneys for Defendants U.S. Bank National Association and Hilda H. Chavez*

12 

13 9155257