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**SUPERIOR COURT OF ARIZONA**

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**COUNTY OF MARICOPA**

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Peter S. Davis, as Receiver of DenSco  
Investment Corporation, an Arizona  
12 corporation,

No. CV2017-013832

13

Plaintiff,

**DEFENDANTS' DISCLOSURE OF  
AREAS OF EXPERT TESTIMONY**

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v.

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Clark Hill PLC, a Michigan limited liability  
company; David G. Beauchamp and Jane  
16 Doe Beauchamp, husband and wife,

17

Defendants.

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Defendants Clark Hill PLC, David G. Beauchamp and Jane Doe Beauchamp  
19 (collectively, "Defendants") hereby disclose the followings areas of anticipated expert  
20 testimony pursuant to the Court's May 16, 2018 Scheduling Order.

21

Discovery in this case is ongoing. Further, the Defendants' ability to identify experts  
22 and areas of expert testimony has been inhibited by Plaintiffs' ongoing failure to comply with  
23 their disclosure obligations under Rule 26.1 of the Arizona Rules of Civil Procedure.  
24 Specifically, although (a) the Receiver has stated he may have potential claims against  
25 financial institutions JP Morgan Chase Bank and US Bank for their participation in Yomtov  
26 Menaged's scheme to defraud DenSco, has retained counsel to investigate those claims, and

1 is moving forward with claims against those institutions pursuant to a notice filed by the  
2 Receiver on June 1, 2018, and (b) the Receiver has stated he may have potential claims against  
3 Active Funding Group and its principals for enabling Menaged's scheme to defraud DenSco,  
4 and has retained counsel to investigate those claims, all of whom Defendants have likewise  
5 timely identified as non-parties at fault, the Receiver has thus far failed to produce documents  
6 and communications regarding the Receiver's investigation into, and pursuit of, those claims.

7 Consequently, and without addressing the sufficiency of Plaintiffs' other discovery  
8 responses and production, Defendants reserve the right to supplement, modify, or amend this  
9 expert disclosure, as needed and as additional information and testimony becomes or is made  
10 available, as required by Rule 26.1 of the Arizona Rules of Civil Procedure or otherwise.

#### 11 AREAS OF EXPERT TESTIMONY

12 1. DenSco's accounting practices and procedures, and Plaintiff's alleged damages,  
13 including but not limited to:

- 14 a. an analysis and accounting of DenSco's books and records during the  
15 relevant time period(s), including an analysis and accounting of transfers to  
16 and from DenSco (including any investments in, loans to, or loans from,  
17 DenSco);
- 18 b. the value and financial condition of DenSco's business at various points in  
19 time, including, but not limited to, the solvency, liquidation value, debts  
20 owed, and losses incurred with respect to DenSco's business at various  
21 points in time;
- 22 c. the fraud(s) perpetrated upon DenSco by Yomtov Menaged;
- 23 d. Any issues with and/or necessary corrections to Plaintiff's alleged damage  
24 claims such as, but not limited to, (i) speculation used in the damage claims,  
25 (ii) inaccurate calculations used in the damage claims, (iii) inappropriate  
26 assumptions used in the damage claims, (iv) lack of causal relationship

1 between the damage claims and Defendants' conduct (as alleged or  
2 otherwise), (v) intervening and/or superseding causes of the alleged  
3 damages, and (vi) actual and/or expected recoveries of the alleged damages  
4 from sources other than Defendants

5 e. the maintenance of DenSco's books and records;

6 f. DenSco's reporting of DenSco's financial condition to government entities,  
7 its financial professionals, and to its other professionals, including its  
8 attorneys;

9 g. Mr. Chittick's personal transfers to, and funding of, DenSco;

10 h. any areas and issues addressed in the Receiver's reports to the investors;

11 i. any areas and issues addressed in any expert report regarding the Receiver's  
12 accounting, or DenSco's accounting, financial condition, or value;

13 j. any areas and issues addressed in any expert report regarding Plaintiff's  
14 purported damages.

15 2. Mr. Chittick's personal accounting practices and procedures; the maintenance  
16 of Mr. Chittick's personal books and records; Mr. Chittick's reporting of his personal  
17 financial condition to government entities, his financial professionals, and to his other  
18 professionals, including his attorneys; the nature, amount, and source of tax refunds or  
19 liabilities owed to, or by, Mr. Chittick or his estate.

20 3. Yomtov Menaged's (and his entities') accounting practices and procedures; the  
21 maintenance of Mr. Menaged's (and his entities') personal books and records.

22 4. The administration of a receivership, including best and standard practices for  
23 the pursuit and preservation of receivership assets, as well as the costs and expenses  
24 associated with that pursuit and preservation; the nature and propriety of the Receiver's  
25 actions and decisions in this matter.

26 5. All aspects of the standard of care that a certified public accountant is required

1 to meet in the provision of services to clients; the responsibilities of a certified public  
2 accountant to his/her clients; the nature of the financial information regarding DenSco and  
3 Mr. Chittick reported to accounting professionals; the financial information regarding  
4 DenSco and Mr. Chittick available to accounting professionals.

5         6. Forensic psychological analysis regarding Dennis Chittick; the psychology of  
6 suicide, suicidal mentality, and depression; Dennis Chittick's psychological, mental, and  
7 emotional state(s)/profiles and the fluctuations of those profiles; the process for retrospective  
8 analysis of individuals who have committed suicide; the risk factors for, and manifestations  
9 of, depression and suicidal proclivities; the impact of Mr. Chittick's personality as well as  
10 psychological and emotional state(s) on Mr. Chittick's interactions with his attorneys,  
11 accountants, and other professionals, including his ability to, among other things, (a) receive  
12 and take advice and (b) provide truthful and accurate information; the impact of Mr. Chittick's  
13 psychological and emotional states on his interactions with third parties (including Yomtov  
14 Menaged), including, but not limited to, the ability of third parties to exert influence or control  
15 over Mr. Chittick; the reliability of Mr. Chittick's writings, including, but not limited to, his  
16 journal(s) and pre-suicide "letters" in light of his psychological, mental, and emotional  
17 states/profiles; intervening and/or superseding causes of the damages Plaintiff claims to have  
18 suffered in light of Mr. Chittick's psychological, mental, and emotional states/profiles.

19         7. The psychology, and psychological profile, of con-artists and those who commit  
20 financial fraud and other financial crimes; Yomtov Menaged's personality and character  
21 features, and his psychological, mental, and emotional state(s)/profiles during the relevant time  
22 period(s); the methods and conduct of con-artists and those who commit financial fraud and  
23 other financial crimes, and their ability to exert influence over others; intervening and/or  
24 superseding causes of the damages Plaintiff claims to have suffered in light of Mr. Menaged's  
25 psychological, mental, and emotional states/profiles.

26         8. All aspects of the hard money lending industry, including, standard, typical, and

1 best practices for hard money lenders; government regulations and their application; DenSco's  
2 business plans and conduct.

3 9. Intervening and/or superseding causes of the damages Plaintiff claims to have  
4 suffered in light of any infractions or violations of any laws, rules, standards, policies, and  
5 procedures governing banks related to the processing of any DenSco or Menaged related  
6 transactions, including, but not limited to, those potential infractions addressed in the  
7 Receiver's report(s) and/or what the Receiver has termed the "Second Fraud"; relevant bank  
8 laws, rules, standards, policies, and procedures and their effect on Yomtov Menaged, DenSco,  
9 and Mr. Chittick, and the fraud perpetrated by Yomtov Menaged on DenSco and Mr. Chittick.

10 10. All aspects of the standard of care in the provision of legal services, which area  
11 shall include, but is not limited to:

- 12 a. the nature of the engagement between the Defendants, DenSco and Dennis  
13 Chittick;
- 14 b. provision of advice to close corporations or solely owned entities;
- 15 c. a lawyer's duties to clients, non-clients, and the Court, and the Defendants'  
16 compliance with those duties;
- 17 d. a lawyer's process, considerations, and methods in discharging those duties;
- 18 e. the conduct/actions of DenSco, Dennis Chittick, Yomtov Menaged and other  
19 third parties, and the impact thereof on the lawyers' assessment of all material  
20 aspects of the issues facing their client, their ability to discharge their duties  
21 with respect to those issues, and the advice provided;
- 22 f. the lawyer's conduct as the actual or proximate cause of Plaintiff's alleged  
23 damages;
- 24 g. the historical relationship between the lawyers, DenSco, and Dennis Chittick,  
25 and the impact thereof on the lawyers' assessment of all material aspects of  
26 the issues facing their client, their ability to discharge their duties with respect

1 to those issues, and the advice provided;

- 2 h. the ethical rules and the standards of professionalism and conduct that govern
- 3 lawyers, including, but not limited to, the Arizona Rules of Professional
- 4 Conduct (Ethical Rules) 1.2, 1.6, 1.7, 1.8, 1.9, 1.13, 1.16, 2.3, 4.1, 5.1, and
- 5 8.4, and lawyers' discharge of their duties under those Ethical Rules;
- 6 i. the role lawyers play as securities and/or corporate counsel to a client;
- 7 j. the nature and scope of the attorney-client privilege;
- 8 k. the nature and assessment of conflicts and potential conflicts, including (i)
- 9 conflicts between corporate client and its ownership, (ii) conflicts between
- 10 corporate client and its management, and (iii) conflicts between corporate
- 11 client and its creditors;
- 12 l. a lawyer's process, considerations, and methods in terminating a client, and
- 13 a lawyers' considerations with respect to a client post-termination; a
- 14 m. lawyer's process, considerations, and methods upon a client's or former
- 15 client's death or incapacity;
- 16 n. Any areas and issues addressed in the preliminary expert report of Mark T.
- 17 Hiraide provided to Defendants.

18 11. All area of private securities and corporate laws, rules, and regulations and the  
19 attorneys' role in providing advice to clients with respect to private securities and corporate  
20 laws, rules, and regulations, including, but not limited to:

- 21 a. the nature of the engagement between an attorney and a client in the area of
- 22 securities and corporate law, and any limitations to that engagement;
- 23 b. understanding of accredited versus non-accredited investors;
- 24 c. provision of securities and/or corporate legal advice to a hard money lender;
- 25 d. a company's disclosure obligations to its investors and third parties under
- 26 securities law and otherwise (including, but not limited to, disclosure through

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Private Offering Memorandums, Regulation D, etc.), as well as the form, nature, content, and timing of those obligations, among other things;

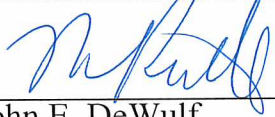
- e. nature and purpose of private offering memorandums and updates/revisions thereto;
- f. DenSco's loan documents and procedures, and advice provided with respect to same;
- g. a company's fiduciary duties to its investors and other creditors; DenSco's exercise of those fiduciary duties; and lawyers' advice in light of that fiduciary duty and information related to DenSco's exercise of those duties;
- h. the use and function of forbearance agreements in general and in this case in particular;
- i. Due diligence requirements for client and attorney, if any;
- j. Client's business judgment, and reliance on client's business judgment;
- k. Conflicts between corporate client and client's ownership and/or management;
- l. Access to client's business and financial information; solvency analysis.

12. Allocation of fault among the non-parties identified by Defendants and apportionment of fault for any damages proven by Plaintiffs among those non-parties.

13. All topics mentioned in Plaintiff's disclosure of areas of expert testimony

DATED this 7<sup>h</sup> day of September, 2018.

**COPPERSMITH BROCKELMAN PLC**

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1 **ORIGINAL** mailed and emailed this  
2 7<sup>th</sup> day of September, 2018 to:

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