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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.

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

Defendants.

No. CV2017-013832

**PLAINTIFF'S OBJECTIONS AND
RESPONSES TO DEFENDANTS'
FIRST SET OF NON-UNIFORM
INTERROGATORIES**

Pursuant to Rule 33(b), Plaintiff Peter S. Davis, as the court-appointed receiver of DenSco Investment Corporation (the "Receiver"), responds to Defendants' First Set of Non-Uniform Interrogatories as follows:

PRELIMINARY STATEMENT

The Receiver has not completed discovery or trial preparation and therefore reserves the right to supplement or amend these responses. The Receiver's responses should not be construed as an admission of the accuracy of any assertion or factual assumption in an interrogatory. Nor should the Receiver's responses be construed as an admission of admissibility or any other legal conclusion.

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1 purport to use such a definition; rather they simply call on a party to “list” a document so
2 that it can be identified and its location and custodian. But Subpart 3 requires more. First,
3 Subpart 3 requires the Receiver to state the “contents” of any document identified. This
4 requirement ignores the distinction between interrogatories and requests for production.¹
5 It is Defendants’ duty to locate and review documents identified by the Receiver in
6 response to an interrogatory, not the Receiver’s duty to type out their contents. Second,
7 Subpart 3 requires the Receiver to identify not only the authors of each document, but also
8 “all persons for whom it was prepared or who received copies of it.” (Capitalization
9 omitted.) Under this requirement, Defendants would have the Receiver not only divine
10 the intended audience of each document but also track down everyone who ever possessed
11 it.²

12 Subpart 3 of Definition G is not some obscure feature of Defendants’
13 interrogatories. Nearly all of Defendants’ interrogatories expressly ask the Receiver to
14 identify all “documents” that support an aspect of the Receiver’s position.

15 Other subparts of Definition G are also improper. For example, under Subpart 4,
16 every “communication” identified by the Receiver in response to an interrogatory must
17 include not only the date, place, and participants in the communication, but also (1) the
18 “purpose, content, and substance” of the communication, (2) each person who “became
19 privy to its purpose, content, or substance,” and (3) each document that “constitutes,
20 contains, concerns, refers to or in any way relates to” the communication. (Capitalization
21 omitted.) Similarly, under Subpart 5, each “statement” identified by the Receiver in

22 ¹ Requests for production are intended to be much more limited in number.
23 *Compare* Ariz. R. Civ. P. 33(a)(2) (party may serve no more than 40 interrogatories on
24 another party) *with* Ariz. R. Civ. P. 34(b)(1) (party may serve no more than 10 requests
25 for production on another party).

26 ² And, for each person identified by the Receiver – whether an author, intended
27 recipient, or unintended recipient – Definition G seeks to require the Receiver to list the
28 person’s full name, last known business address, last known residential address, last
known business affiliation, and employment position.

1 response to an interrogatory must include not only the date, place, and person making the
2 statement, but also (1) “the language actually used” in the statement, (2) each person who
3 “heard or received” the statement, and (3) each document that “constitutes, contains,
4 concerns, refers to or in any way relates to” the statement.

5 **GENERAL OBJECTIONS**

6 1. Rule 33(a)(2) limits the number of interrogatories, which includes “[a]ny
7 discrete subpart to a non-uniform interrogatory,” to 40. Defendants’ First Set of Non-
8 Uniform Interrogatories contains 65 interrogatories, including discrete subparts.

9 **RESPONSES TO INTERROGATORIES**

10 **INTERROGATORY NO. 1**

11 You contend in Paragraph 9 of the Complaint that after Denny Chittick’s death,
12 “Clark Hill and Beauchamp . . . sought to conceal . . . the fraud Menaged had committed
13 before January 2014, their role in Chittick’s two-year attempt to cover up his
14 mismanagement of DenSco . . . and Chittick’s misuse ... of investor funds . . .” Explain
15 the factual and legal basis for these contentions and identify (a) all facts that You allege
16 support those contentions, (b) all documents that You allege support those contentions,
17 and (c) all witnesses that You allege will support those contentions.

18 **Objections to Interrogatory No. 1 and its Subparts**

19 1. The requests that the Receiver identify “all” facts, documents, and
20 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
21 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
22 “every fact and document” upon which plaintiff based a contention was overly broad
23 and unduly burdensome and should be limited to identification of the material or
24 principal facts and documents supporting plaintiff’s factual contentions).

25 2. Those requests are also overly broad and unduly burdensome
26 because discovery has only recently commenced and the Receiver is not yet in a position
27 to identify every material or principal fact, document, or witness that supports the
28 contentions in Paragraph 9 of the Complaint.

1 3. Those requests are also unduly burdensome in that the Receiver is
2 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
3 the claims asserted in the Complaint, including the contentions in Paragraph 9, and has a
4 continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
5 requests unnecessary and unduly burdensome because they purport to require the
6 Receiver to restate information that has been or will be disclosed to Defendants pursuant
7 to Rule 26.1.

8 **Response to Interrogatory No. 1 and its Subparts**

9 Without waiving these objections, the Receiver states that certain material or
10 principal facts are set forth in Paragraphs 417 to 435 of the Receiver's Initial Disclosure
11 Statement. Any additional material or principal facts will be disclosed by the Receiver
12 in a supplemental disclosure statement pursuant to Rule 26.1(d). The Receiver is not
13 presently in a position to list the material or principal documents which support the
14 contentions in Paragraph 9 of the Complaint because those documents and others are
15 being processed and numbered, but those documents will be identified in a supplemental
16 disclosure statement that the Receiver anticipates serving within the next 30 days. Any
17 additional material or principal documents will be disclosed by the Receiver in a
18 supplemental disclosure statement pursuant to Rule 26.1(d). Persons with knowledge of
19 the material or principal facts set forth in Paragraphs 417 to 435 of the Receiver's Initial
20 Disclosure Statement are identified therein. Any additional persons who may have
21 knowledge of material or principal facts will be disclosed by the Receiver in a
22 supplemental disclosure statement pursuant to Rule 26.1(d).

23 **INTERROGATORY NO. 2**

24 You contend in Paragraph 9 of the Complaint that "Clark Hill and Beauchamp
25 ran the day-to-day operations of DenSco for a period of time." Explain in detail what
26 operations you contend that Clark Hill and Beauchamp ran and when they ran those
27 operations and identify (a) all facts that You allege support that contention, (b) all
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1 documents that You allege support that contention, and (c) all witnesses that You allege
2 will support that contention.

3 **Objections to Interrogatory No. 2 and its Subparts**

4 1. The requests that the Receiver identify “all” facts, documents, and
5 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
6 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
7 “every fact and document” upon which plaintiff based a contention was overly broad
8 and unduly burdensome and should be limited to identification of the material or
9 principal facts and documents supporting plaintiff’s factual contentions).

10 2. Those requests are also overly broad and unduly burdensome
11 because discovery has only recently commenced and the Receiver is not yet in a position
12 to identify every material or principal fact, document, or witness that supports the
13 contentions in Paragraph 9 of the Complaint.

14 3. Those requests are also unduly burdensome in that the Receiver is
15 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
16 the claims asserted in the Complaint, including the contentions in Paragraph 9, and has a
17 continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
18 requests unnecessary and unduly burdensome because they purport to require the
19 Receiver to restate information that has been or will be disclosed to Defendants pursuant
20 to Rule 26.1.

21 4. Those requests are also unduly burdensome because all responsive
22 information is in Defendants’ possession, inasmuch as the actions at issue were taken by
23 Defendant David Beauchamp and persons at Clark Hill acting at his direction and
24 memorialized in records maintained by Clark Hill.

25 **Response to Interrogatory No. 2 and its Subparts**

26 Without waiving these objections, the Receiver states that certain material or
27 principal facts are set forth in Paragraphs 417-435 of the Receiver’s Initial Disclosure
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1 Statement. Any additional material or principal facts will be disclosed by the Receiver
2 in a supplemental disclosure statement pursuant to Rule 26.1(d). The Receiver is not
3 presently in a position to list the material or principal documents which support the
4 contentions in Paragraph 9 of the Complaint because those documents and others are
5 being processed and numbered, but those documents will be identified in a supplemental
6 disclosure statement that the Receiver anticipates serving within the next 30 days. Any
7 additional material or principal documents will be disclosed by the Receiver in a
8 supplemental disclosure statement pursuant to Rule 26.1(d). Persons with knowledge of
9 the material or principal facts set forth in Paragraphs 417-435 of the Receiver's Initial
10 Disclosure Statement are identified therein. Any additional persons who may have
11 knowledge of material or principal facts will be disclosed by the Receiver in a
12 supplemental disclosure statement pursuant to Rule 26.1(d).

13 Pursuant to Rule 33(d), the Receiver also refers Defendants to Clark Hill's billing
14 statements and documents in the Business Matters and Business Wind Down files Clark
15 Hill established and maintained for the work at issue.

16 **INTERROGATORY NO. 3**

17 You contend in Paragraph 21 of Your Complaint that from 2003 to September
18 2016, Beauchamp advised DenSco on "general business, litigation, securities law, and
19 other legal matters." Identify (a) all facts that You allege support the contention that
20 Beauchamp advised DenSco on matters other than securities law, (b) all documents that
21 You allege support that contention, and (c) all witnesses that You allege will support that
22 contention.

23 **Objections to Interrogatory No. 3 and its Subparts**

24 1. The requests that the Receiver identify "all" facts, documents, and
25 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
26 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
27 "every fact and document" upon which plaintiff based a contention was overly broad
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1 and unduly burdensome and should be limited to identification of the material or
2 principal facts and documents supporting plaintiff's factual contentions).

3 2. Those requests are also overly broad and unduly burdensome
4 because discovery has only recently commenced and the Receiver is not yet in a position
5 to identify every material or principal fact, document, or witness that supports the
6 contentions in Paragraph 21 of the Complaint.

7 3. Those requests are also unduly burdensome in that the Receiver is
8 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
9 the claims asserted in the Complaint, including the contentions in Paragraph 21, and has
10 a continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
11 requests unnecessary and unduly burdensome because they purport to require the
12 Receiver to restate information that has been or will be disclosed to Defendants pursuant
13 to Rule 26.1.

14 4. Those requests are also unduly burdensome because all responsive
15 information is in Defendants' possession, inasmuch as the actions at issue were taken by
16 Defendant David Beauchamp and many of the actions were memorialized in records
17 maintained by Clark Hill.

18 **Response to Interrogatory No. 3 and its Subparts**

19 Without waiving these objections, the Receiver states that certain material or
20 principal facts are set forth in Paragraphs 14, 48-54, 58-64, 92-99, 135-138, 223-233,
21 237-254, 274-278, 285, 288-291, 302-313, 316-334, 341-385, and 410 of the Receiver's
22 Initial Disclosure Statement. Any additional material or principal facts will be disclosed
23 by the Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d). The
24 Receiver is not presently in a position to list the material or principal documents which
25 support the contentions in Paragraph 21 of the Complaint because those documents and
26 others are being processed and numbered, but those documents will be identified in a
27 supplemental disclosure statement that the Receiver anticipates serving within the next
28 30 days. Any additional material or principal documents will be disclosed by the

1 Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d). Persons with
2 knowledge of the material or principal facts set forth in Paragraphs 14, 48-54, 58-64, 92-
3 99, 135-138, 223-233, 237-254, 274-278, 285, 288-291, 302-313, 316-334, 341-385, and
4 410 of the Receiver's Initial Disclosure Statement are identified therein. Any additional
5 persons who may have knowledge of material or principal facts will be disclosed by the
6 Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d).

7 Pursuant to Rule 33(d), the Receiver also refers Defendants to Clark Hill's billing
8 statements and files, Bryan Cave's billing statements and files, and Gammage &
9 Burnham's files, which are either in Defendants' possession or in the Receiver's
10 document depository.

11 **INTERROGATORY NO. 4**

12 You contend in Paragraph 29 of the Complaint that "Beauchamp told a Gammage
13 & Burnham lawyer in 2007 [that] DenSco had an 'ongoing roll-over of the existing
14 investors every six months or so.'" Identify (a) all facts that You allege support that
15 contention, (b) all documents that You allege support that contention, and (c) all
16 witnesses that You allege will support that contention.

17 **Objections to Interrogatory No. 4 and its Subparts**

18 1. The requests that the Receiver identify "all" facts, documents, and
19 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
20 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
21 "every fact and document" upon which plaintiff based a contention was overly broad
22 and unduly burdensome and should be limited to identification of the material or
23 principal facts and documents supporting plaintiff's factual contentions).

24 2. Those requests are also unduly burdensome in that the Receiver is
25 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
26 the claims asserted in the Complaint, including the contentions in Paragraph 29, and has
27 a continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
28 requests unnecessary and unduly burdensome because they purport to require the

1 Receiver to restate information that has been or will be disclosed to Defendants pursuant
2 to Rule 26.1.

3 3. Those requests are also unduly burdensome because all responsive
4 information is in Defendants' possession, inasmuch as the actions at issue were taken by
5 Defendant David Beauchamp.

6 **Response to Interrogatory No. 4 and its Subparts**

7 Without waiving these objections, the Receiver states that this interrogatory refers
8 to an email described in Paragraph 39 of the Receiver's Initial Disclosure Statement that
9 David Beauchamp sent to Richard Carney, whom the Receiver has learned was then
10 affiliated with Quarles & Brady, rather than Gammage & Burnham, as alleged in
11 Paragraph 29 of the Complaint. The Receiver is not presently in a position to identify
12 the email at issue because it is among the documents that are being processed and
13 numbered. It will be identified in a supplemental disclosure statement that the Receiver
14 anticipates serving within the next 30 days. As disclosed, Messrs. Beauchamp and
15 Carney are believed to have knowledge of the email.

16 **INTERROGATORY NO. 5**

17 You contend in Paragraph 31 of the Complaint that "Beauchamp never advised
18 DenSco to update a private offering memorandum during the two-year period a
19 memorandum was in effect." Identify (a) all facts that You allege support that
20 contention, (b) all documents that You allege support that contention, and (c) all
21 witnesses that You allege will support that contention.

22 **Objections to Interrogatory No. 5 and its Subparts**

23 1. The requests that the Receiver identify "all" facts, documents, and
24 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
25 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
26 "every fact and document" upon which plaintiff based a contention was overly broad
27 and unduly burdensome and should be limited to identification of the material or
28 principal facts and documents supporting plaintiff's factual contentions).

1 2. Those requests are also overly broad and unduly burdensome
2 because discovery has only recently commenced and the Receiver is not yet in a position
3 to identify every material or principal fact, document, or witness that supports the
4 contentions in Paragraph 31 of the Complaint.

5 3. Those requests are also unduly burdensome in that the Receiver is
6 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
7 the claims asserted in the Complaint, including the contentions in Paragraph 31, and has
8 a continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
9 requests unnecessary and unduly burdensome because they purport to require the
10 Receiver to restate information that has been or will be disclosed to Defendants pursuant
11 to Rule 26.1.

12 4. Those requests are also unduly burdensome because all responsive
13 information is in Defendants' possession, inasmuch as the actions (or inactions) at issue
14 were taken by Defendant David Beauchamp and memorialized in records maintained by
15 Clark Hill.

16 **Response to Interrogatory No. 5 and its Subparts**

17 Without waiving these objections, the Receiver states that he is unaware of any
18 evidence that Beauchamp advised DenSco to update a private offering memorandum
19 during the two-year period a memorandum was in effect, as noted in Paragraphs 44-45,
20 86-87, and 130-131 of the Receiver's Initial Disclosure Statement. The absence of such
21 evidence indicates that no such advice was given. As set forth in Paragraphs 16-17, 19-
22 39, 66-80, 101-124, 132, 139-149, 152-158, 170-71, 177-202, 209-221 and 390-398 of
23 the Receiver's Initial Disclosure Statement, Defendant Beauchamp has knowledge of his
24 own negligence in this regard. Any additional material or principal information
25 regarding this contention will be disclosed by the Receiver in a supplemental disclosure
26 statement pursuant to Rule 26.1(d).

1 **INTERROGATORY NO. 6**

2 You contend in Paragraph 36 of Your Complaint that Bryan Cave “had an
3 ‘internal compliance procedure’ requiring Beauchamp to conduct ‘due diligence’ on
4 each of the statements made in the new DenSco private offering memorandum”
5 Explain in detail what Bryan Cave’s internal compliance and due diligence procedures
6 were and identify (a) all facts that You allege support that contention, (b) all documents
7 that You allege support that contention, and (c) all witnesses that You allege will support
8 that contention.

9 **Objections to Interrogatory No. 6 and its Subparts**

10 1. The requests that the Receiver identify “all” facts, documents, and
11 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
12 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
13 “every fact and document” upon which plaintiff based a contention was overly broad
14 and unduly burdensome and should be limited to identification of the material or
15 principal facts and documents supporting plaintiff’s factual contentions).

16 2. Those requests are also overly broad and unduly burdensome
17 because discovery has only recently commenced and the Receiver is not yet in a position
18 to identify every material or principal fact, document, or witness that supports the
19 contentions in Paragraph 36 of the Complaint.

20 3. Those requests are also unduly burdensome in that the Receiver is
21 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
22 the claims asserted in the Complaint, including the contentions in Paragraph 36, and has
23 a continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
24 requests unnecessary and unduly burdensome because they purport to require the
25 Receiver to restate information that has been or will be disclosed to Defendants pursuant
26 to Rule 26.1.

1 4. Those requests are also unduly burdensome because all responsive
2 information is in Defendants' possession, inasmuch as the actions at issue were taken by
3 Defendant David Beauchamp and the procedures at issue were those of Bryan Cave.

4 **Response to Interrogatory No. 6 and its Subparts**

5 Without waiving these objections, the Receiver states that this interrogatory refers
6 to an email that David Beauchamp sent to Denny Chittick on June 11, 2011 as described
7 in Paragraph 112 of the Receiver's Initial Disclosure Statement. The Receiver is not
8 presently in a position to identify the email at issue because it is among the documents
9 being processed and numbered. It will be identified in a supplemental disclosure
10 statement that the Receiver anticipates serving within the next 30 days. Any additional
11 material or principal documents will be disclosed by the Receiver in a supplemental
12 disclosure statement pursuant to Rule 26.1(d). The Receiver is not presently aware of
13 any other documents referring to or describing the internal compliance procedure
14 described therein. As disclosed, Mr. Beauchamp has knowledge of the email and the
15 internal compliance procedure described therein. Any additional material or principal
16 information regarding the contention at issue will be disclosed by the Receiver in a
17 supplemental disclosure statement pursuant to Rule 26.1(d).

18 **INTERROGATORY NO. 7**

19 You contend in Paragraphs 73(a) and 74 of Your Complaint that Clark Hill did
20 not advise Chittick "to immediately cease accepting investor funds." Identify (a) all
21 facts that You allege support that contention, (b) all documents that You allege support
22 that contention, and (c) all witnesses that You allege will support that contention.

23 **Objections to Interrogatory No. 7 and its Subparts**

24 1. The requests that the Receiver identify "all" facts, documents, and
25 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
26 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
27 "every fact and document" upon which plaintiff based a contention was overly broad
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1 and unduly burdensome and should be limited to identification of the material or
2 principal facts and documents supporting plaintiff's factual contentions).

3 2. Those requests are also overly broad and unduly burdensome
4 because discovery has only recently commenced and the Receiver is not yet in a position
5 to identify every material or principal fact, document, or witness that supports the
6 contentions in Paragraphs 73(a) and 74 of the Complaint.

7 3. Those requests are also unduly burdensome in that the Receiver is
8 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
9 the claims asserted in the Complaint, including the contentions in Paragraphs 73(a) and
10 74, and has a continuing duty under Rule 26.1(d) to timely supplement those disclosures,
11 making the requests unnecessary and unduly burdensome because they purport to
12 require the Receiver to restate information that has been or will be disclosed to
13 Defendants pursuant to Rule 26.1.

14 4. Those requests are also unduly burdensome because all responsive
15 information is in Defendants' possession, inasmuch as the actions (or inactions) at issue
16 were taken by Defendant David Beauchamp and memorialized in records maintained by
17 Clark Hill.

18 **Response to Interrogatory No. 7 and its Subparts**

19 Without waiving these objections, the Receiver states that he is unaware of any
20 evidence that on January 9, 2014 Beauchamp advised DenSco to immediately cease
21 accepting investor funds. The absence of such evidence indicates that no such advice
22 was given. Moreover, there is affirmative evidence that Beauchamp failed to give such
23 advice and instead advised DenSco that it could accept investor funds, as set forth in
24 Paragraphs 288-301, 412-413, and 415-416 of the Receiver's Initial Disclosure
25 Statement. Any additional material or principal facts will be disclosed by the Receiver
26 in a supplemental disclosure statement pursuant to Rule 26.1(d). The Receiver is not
27 presently in a position to identify the documents referenced in Paragraphs 288-301, 412-
28 413, and 415-416 of the Receiver's Initial Disclosure Statement because those

documents and others are being processed and numbered, but they will be identified in a supplemental disclosure statement that the Receiver anticipates serving within the next 30 days. Any additional material or principal documents will be disclosed by the Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d). Persons with knowledge of the material or principal facts set forth in Paragraphs 288-301, 412-413, and 415-416 of the Receiver's Initial Disclosure Statement are identified therein. Any additional persons who may have knowledge of material or principal facts will be disclosed by the Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d).

INTERROGATORY NO. 8

You contend in Paragraphs 73(b) and 74 of Your Complaint that Clark Hill did not advise Chittick "to first investigate the circumstances under which the Menaged entities had obtained loans from both DenSco and the lenders who claimed to have senior liens." Identify (a) all facts that You allege support that contention, (b) all documents that You allege support that contention, and (c) all witness that You allege will support that contention.

Objections to Interrogatory No. 8 and its Subparts

1. The requests that the Receiver identify "all" facts, documents, and witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought "every fact and document" upon which plaintiff based a contention was overly broad and unduly burdensome and should be limited to identification of the material or principal facts and documents supporting plaintiff's factual contentions).

2. Those requests are also overly broad and unduly burdensome because discovery has only recently commenced and the Receiver is not yet in a position to identify every material or principal fact, document, or witness that supports the contentions in Paragraphs 73(b) and 74 of the Complaint.

1 3. Those requests are also unduly burdensome in that the Receiver is
2 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
3 the claims asserted in the Complaint, including the contentions in Paragraphs 73(b) and
4 74, and has a continuing duty under Rule 26.1(d) to timely supplement those disclosures,
5 making the requests unnecessary and unduly burdensome because they purport to
6 require the Receiver to restate information that has been or will be disclosed to
7 Defendants pursuant to Rule 26.1.

8 4. Those requests are also unduly burdensome because all responsive
9 information is in Defendants' possession, inasmuch as the actions (or inactions) at issue
10 were taken by Defendant David Beauchamp and memorialized in records maintained by
11 Clark Hill.

12 **Response to Interrogatory No. 8 and its Subparts**

13 Without waiving these objections, the Receiver states that he is unaware of any
14 evidence that Beauchamp or any other Clark Hill attorney advised DenSco to investigate
15 the circumstances under which the Menaged entities had obtained loans from both
16 DenSco and the lenders who claimed to have senior liens, as noted in Paragraphs 255-
17 273, 280, and 311-312 of the Receiver's Initial Disclosure Statement. The absence of
18 such evidence indicates that no such advice was given. Any additional material or
19 principal facts will be disclosed by the Receiver in a supplemental disclosure statement
20 pursuant to Rule 26.1(d). The Receiver is not presently in a position to list the material
21 documents which support the contentions in Paragraphs 73(b) and 74 of the Complaint
22 because those documents and others are being processed and numbered. Those
23 documents will be identified in a supplemental disclosure statement that the Receiver
24 anticipates serving within the next 30 days. Any additional material or principal
25 documents will be disclosed by the Receiver in a supplemental disclosure statement
26 pursuant to Rule 26.1(d). Persons with knowledge of the material or principal facts set
27 forth in Paragraphs 255-273, 280, and 311-312 of the Receiver's Initial Disclosure
28 Statement are identified therein. Any additional persons who may have knowledge of

1 material or principal facts will be disclosed by the Receiver in a supplemental disclosure
2 statement pursuant to Rule 26.1(d).

3 **INTERROGATORY NO. 9**

4 You contend in Paragraphs 73(c) and 74 of Your Complaint that Clark Hill did
5 not advise Chittick “to also investigate and assess the impact of the fraud on DenSco’s
6 financial position” and that Clark Hill did not advise Chittick “to consider duties owed
7 to its investors and other creditors in making business decisions.” Identify (a) all facts
8 that You allege support those contentions, (b) all documents that You allege support
9 those contentions, and (c) all witnesses that You allege will support that contention.

10 **Objections to Interrogatory No. 9 and its Subparts**

11 1. The requests that the Receiver identify “all” facts, documents, and
12 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
13 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
14 “every fact and document” upon which plaintiff based a contention was overly broad
15 and unduly burdensome and should be limited to identification of the material or
16 principal facts and documents supporting plaintiff’s factual contentions).

17 2. Those requests are also overly broad and unduly burdensome
18 because discovery has only recently commenced and the Receiver is not yet in a position
19 to identify every material or principal fact, document, or witness that supports the
20 contentions in Paragraphs 73(c) and 74 of the Complaint.

21 3. Those requests are also unduly burdensome in that the Receiver is
22 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
23 the claims asserted in the Complaint, including the contentions in Paragraphs 73(c) and
24 74, and has a continuing duty under Rule 26.1(d) to timely supplement those disclosures,
25 making the requests unnecessary and unduly burdensome because they purport to
26 require the Receiver to restate information that has been or will be disclosed to
27 Defendants pursuant to Rule 26.1.

1 4. Those requests are also unduly burdensome because all responsive
2 information is in Defendants' possession, inasmuch as the actions (or inactions) at issue
3 were taken by Defendant David Beauchamp and memorialized in records maintained by
4 Clark Hill.

5 **Response to Interrogatory No. 9 and its Subparts**

6 Without waiving these objections, the Receiver states that he is unaware of any
7 evidence that Beauchamp or any other Clark Hill attorney advised DenSco to investigate
8 and assess the impact of the fraud on DenSco's financial position or to consider duties
9 owed to its investors and other creditors in making business decisions, as noted in
10 Paragraph 280 of the Receiver's Initial Disclosure Statement. The absence of such
11 evidence indicates that no such advice was given. Any additional material or principal
12 facts will be disclosed by the Receiver in a supplemental disclosure statement pursuant
13 to Rule 26.1(d). The Receiver is not presently in a position to list the material
14 documents which support the contentions in Paragraphs 73(c) and 74 of the Complaint
15 because those documents and others are being processed and numbered. Those
16 documents will be identified in a supplemental disclosure statement that the Receiver
17 anticipates serving within the next 30 days. Any additional material or principal
18 documents will be disclosed by the Receiver in a supplemental disclosure statement
19 pursuant to Rule 26.1(d). Persons with knowledge of the material or principal facts set
20 forth in Paragraph 280 of the Receiver's Initial Disclosure Statement are identified
21 therein. Any additional persons who may have knowledge of material or principal facts
22 will be disclosed by the Receiver in a supplemental disclosure statement pursuant to
23 Rule 26.1(d).

24 **INTERROGATORY NO. 10**

25 You contend in Paragraph 75 of Your Complaint that "Clark Hill and Beauchamp
26 did not promptly advise Chittick that DenSco had to immediately cease accepting
27 investor funds and could not accept any money from investors until a new disclosure
28 document had been issued and provided to such investors." Identify (a) all facts that

1 You allege support that contention, (b) all documents that You allege support that
2 contention, and (c) all witnesses that You allege will support that contention.

3 **Objections to Interrogatory No. 10 and its Subparts**

4 1. The requests that the Receiver identify “all” facts, documents, and
5 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
6 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
7 “every fact and document” upon which plaintiff based a contention was overly broad
8 and unduly burdensome and should be limited to identification of the material or
9 principal facts and documents supporting plaintiff’s factual contentions).

10 2. Those requests are also overly broad and unduly burdensome
11 because discovery has only recently commenced and the Receiver is not yet in a position
12 to identify every material or principal fact, document, or witness that supports the
13 contentions in Paragraph 75 of the Complaint.

14 3. Those requests are also unduly burdensome in that the Receiver is
15 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
16 the claims asserted in the Complaint, including the contentions in Paragraph 75, and has
17 a continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
18 requests unnecessary and unduly burdensome because they purport to require the
19 Receiver to restate information that has been or will be disclosed to Defendants pursuant
20 to Rule 26.1.

21 4. Those requests are also unduly burdensome because all responsive
22 information is in Defendants’ possession, inasmuch as the actions (or inactions) at issue
23 were taken by Defendant David Beauchamp and memorialized in records maintained by
24 Clark Hill.

25 **Response to Interrogatory No. 10 and its Subparts**

26 Without waiving these objections, the Receiver states that he is unaware of any
27 evidence that Beauchamp advised Chittick that DenSco had to immediately cease
28 accepting investor funds and could not accept any money from investors until a new

1 disclosure document had been issued, as noted in Paragraph 280 of the Receiver's Initial
2 Disclosure Statement. The absence of such evidence indicates that no such advice was
3 given. Moreover, there is affirmative evidence that Beauchamp failed to give such
4 advice, as set forth in Paragraphs 279, 288-301, 412-413, and 415-416 of the Receiver's
5 Initial Disclosure Statement. Any additional material or principal facts will be disclosed
6 by the Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d). The
7 Receiver is not presently in a position to list the material or principal documents which
8 support the contentions in Paragraph 75 of the Complaint because those documents and
9 others are being processed and numbered. Those documents will be identified in a
10 supplemental disclosure statement that the Receiver anticipates serving within the next
11 30 days. Any additional material or principal documents will be disclosed by the
12 Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d). Persons with
13 knowledge of the material or principal facts set forth in Paragraphs 279-280, 288-301,
14 412-413, and 415-416 of the Receiver's Initial Disclosure Statement are identified
15 therein. Any additional persons who may have knowledge of material or principal facts
16 will be disclosed by the Receiver in a supplemental disclosure statement pursuant to
17 Rule 26.1(d).

18 **INTERROGATORY NO. 11**

19 You contend in Paragraph 79 of Your Complaint that "easily accessible public
20 records would have revealed that Menaged's claim to have been victimized by his
21 'cousin' was false." Explain the basis of that contention and identify (a) all facts that
22 You allege support that contention, (b) all documents that You allege support that
23 contention, and (c) all witnesses that You allege will support that contention.

24 **Objections to Interrogatory No. 11 and its Subparts**

25 1. The requests that the Receiver identify "all" facts, documents, and
26 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
27 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
28 "every fact and document" upon which plaintiff based a contention was overly broad

1 and unduly burdensome and should be limited to identification of the material or
2 principal facts and documents supporting plaintiff's factual contentions).

3 2. Those requests are also overly broad and unduly burdensome
4 because discovery has only recently commenced and the Receiver is not yet in a position
5 to identify every material or principal fact, document, or witness that supports the
6 contentions in Paragraph 79 of the Complaint.

7 3. Those requests are also unduly burdensome in that the Receiver is
8 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
9 the claims asserted in the Complaint, including the contentions in Paragraph 79, and has
10 a continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
11 requests unnecessary and unduly burdensome because they purport to require the
12 Receiver to restate information that has been or will be disclosed to Defendants pursuant
13 to Rule 26.1.

14 **Response to Interrogatory No. 11 and its Subparts**

15 Without waiving these objections, the Receiver states that certain material or
16 principal facts are set forth in Paragraphs 260-273 of the Receiver's Initial Disclosure
17 Statement. Any additional material or principal facts will be disclosed by the Receiver
18 in a supplemental disclosure statement pursuant to Rule 26.1(d). The Receiver is not
19 presently in a position to list the material documents which support the contentions in
20 Paragraph 79 of the Complaint because those documents and others are being processed
21 and numbered. Those documents will be identified in a supplemental disclosure
22 statement that the Receiver anticipates serving within the next 30 days. Any additional
23 material or principal documents will be disclosed by the Receiver in a supplemental
24 disclosure statement pursuant to Rule 26.1(d). Persons with knowledge of the material
25 or principal facts set forth in Paragraphs 260-273 of the Receiver's Initial Disclosure
26 Statement are identified therein. Any additional persons who may have knowledge of
27 material or principal facts will be disclosed by the Receiver in a supplemental disclosure
28 statement pursuant to Rule 26.1(d).

1 **INTERROGATORY NO. 12**

2 You contend in Paragraph 82 of the Complaint that “[i]f Clark Hill and
3 Beauchamp had properly advised Chittick, then Chittick would have caused DenSco to
4 terminate its relationship with Menaged and his companies, pursue its remedies against
5 Menaged and his companies, and explore whether DenSco could survive as a going
6 concern or would have to liquidate.” Explain the basis of that contention and identify
7 (a) all facts that You allege support that contention, (b) all documents that You allege
8 support that contention, and (c) all witnesses that You allege will support that
9 contention.

10 **Objections to Interrogatory No. 12 and its Subparts**

11 1. The requests that the Receiver identify “all” facts, documents, and
12 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
13 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
14 “every fact and document” upon which plaintiff based a contention was overly broad
15 and unduly burdensome and should be limited to identification of the material or
16 principal facts and documents supporting plaintiff’s factual contentions).

17 2. Those requests are also overly broad and unduly burdensome
18 because discovery has only recently commenced and the Receiver is not yet in a position
19 to identify every material or principal fact, document, or witness that supports the
20 contentions in Paragraph 82 of the Complaint.

21 3. Those requests are also unduly burdensome in that the Receiver is
22 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
23 the claims asserted in the Complaint, including the contentions in Paragraph 82, and has
24 a continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
25 requests unnecessary and unduly burdensome because they purport to require the
26 Receiver to restate information that has been or will be disclosed to Defendants pursuant
27 to Rule 26.1.

1 **Response to Interrogatory No. 12 and its Subparts**

2 Without waiving these objections, the Receiver states that Chittick regularly
3 followed Beauchamp's advice when it was given, as set forth in Paragraphs 7, 94, 99,
4 282, 292, 326, 330, 343, 356, and 363 of the Receiver's Initial Disclosure Statement.
5 Any additional material or principal facts will be disclosed by the Receiver in a
6 supplemental disclosure statement pursuant to Rule 26.1(d). The Receiver is not
7 presently in a position to list the material or principal documents which support the
8 contentions in Paragraph 82 of the Complaint because those documents and others are
9 being processed and numbered. Those documents will be identified in a supplemental
10 disclosure statement that the Receiver anticipates serving within the next 30 days. Any
11 additional material or principal documents will be disclosed by the Receiver in a
12 supplemental disclosure statement pursuant to Rule 26.1(d). Persons with knowledge of
13 the material or principal facts set forth in Paragraphs 7, 94, 99, 282, 292, 326, 330, 343,
14 356, and 363 of the Receiver's Initial Disclosure Statement are identified therein. Any
15 additional persons who may have knowledge of material or principal facts will be
16 disclosed by the Receiver in a supplemental disclosure statement pursuant to Rule
17 26.1(d).

18 **INTERROGATORY NO. 13**

19 Explain why a "glaring conflict" existed between the Defendants' alleged
20 representation of Denny Chittick individually and DenSco as alleged in Paragraph 84 of
21 the Complaint, identify when You allege the conflict arose, explain why such a
22 purported conflict was not waivable, and identify all the documents and witnesses
23 supporting Your response.

24 **Objections to Interrogatory No. 13 and its Subparts**

25 1. This interrogatory mischaracterizes the Complaint. The Complaint
26 does not allege that Defendants represented Chittick individually. Rather, the Complaint
27 alleges that Defendants attempted to protect the interests of Chittick (a non-client)
28 contrary to the interests of DenSco (their actual client).

1 2. The requests that the Receiver identify “all” documents and
2 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
3 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
4 “every fact and document” upon which plaintiff based a contention was overly broad
5 and unduly burdensome and should be limited to identification of the material or
6 principal facts and documents supporting plaintiff’s factual contentions).

7 3. Those requests are also overly broad and unduly burdensome
8 because discovery has only recently commenced and the Receiver is not yet in a position
9 to identify every material or principal document or witness that supports the contentions
10 in Paragraph 84 of the Complaint.

11 4. Those requests are also unduly burdensome in that the Receiver is
12 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
13 the claims asserted in the Complaint, including the contentions in Paragraph 84, and has
14 a continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
15 requests unnecessary and unduly burdensome because they purport to require the
16 Receiver to restate information that has been or will be disclosed to Defendants pursuant
17 to Rule 26.1.

18 **Response to Interrogatory No. 13 and its Subparts**

19 Without waiving these objections, the Receiver states that certain material or
20 principal facts and related legal theories are set forth in Paragraphs 283-287 and 344 and
21 Section II(A) of the Receiver’s Initial Disclosure Statement. Any additional material or
22 principal facts will be disclosed by the Receiver in a supplemental disclosure statement
23 pursuant to Rule 26.1(d). The Receiver is not presently in a position to list the material
24 documents which support the contentions in Paragraph 84 of the Complaint because
25 those documents and others are being processed and numbered. Those documents will
26 be identified in a supplemental disclosure statement that the Receiver anticipates serving
27 within the next 30 days. The Receiver states that persons with knowledge of the
28 material or principal facts set forth in Paragraphs 283-287 and 344 of the Receiver’s

1 Initial Disclosure Statement are identified therein. Any additional persons who may
2 have knowledge of material or principal facts will be disclosed by the Receiver in a
3 supplemental disclosure statement pursuant to Rule 26.1(d).

4 **INTERROGATORY NO. 14**

5 You assert in Your Complaint and Your January 17, 2018 letter to undersigned
6 counsel that Clark Hill and Beauchamp are responsible for loans DenSco “made to
7 Menaged outside of the ‘work out’ loans contemplated by the Forbearance Agreement.”
8 Explain in detail the factual and legal basis for Your assertion that Clark Hill and
9 Beauchamp are responsible for those loans or that Clark Hill and Beauchamp were the
10 cause of any losses associated with those loans.

11 **Objections to Interrogatory No. 14**

12 1. The interrogatory exceeds the maximum number of interrogatories
13 established by Rule 33(a)(2).

14 2. The request for an explanation of an assertion in the Complaint is
15 unduly burdensome, in that the Receiver is obligated by Rule 26.1(a) to disclose the
16 factual basis and supporting legal theories for the claims asserted in the Complaint and
17 has a continuing duty under Rule 26.1(d) to timely supplement those disclosures,
18 making the requests unnecessary and unduly burdensome because they purport to
19 require the Receiver to restate information that has been or will be disclosed to
20 Defendants pursuant to Rule 26.1.

21 **Response to Interrogatory No. 14**

22 Without waiving this objection, the Receiver states that certain material or
23 principal facts are set forth in Section VII(C) of the Receiver’s Initial Disclosure
24 Statement. Any additional material facts will be disclosed by the Receiver in a
25 supplemental disclosure statement pursuant to Rule 26.1(d). The legal basis for the
26 Receiver’s claims is set forth in Section II of the Receiver’s Initial Disclosure Statement.

1 **INTERROGATORY NO. 15**

2 Identify all facts that support Your contention that Chittick and DenSco would
3 have severed their relationship with Menaged had Clark Hill advised Chittick and
4 DenSco to do so.

5 **Objections to Interrogatory No. 15**

6 1. The interrogatory exceeds the maximum number of interrogatories
7 established by Rule 33(a)(2).

8 2. The request that the Receiver identify “all” facts is overly broad and
9 unduly burdensome. *See, e.g., Steil v. Humana Kansas City, Inc.*, 197 F.R.D. 445 (D.
10 Kan. 2000) (contention interrogatories which sought “every fact and document” upon
11 which plaintiff based a contention was overly broad and unduly burdensome and should
12 be limited to identification of the material or principal facts and documents supporting
13 plaintiff’s factual contentions).

14 3. The request is also overly broad and unduly burdensome because
15 discovery has only recently commenced and the Receiver is not yet in a position to
16 identify every material or principal fact that supports the contentions in the Complaint.

17 4. The request is also unduly burdensome in that the Receiver is
18 obligated by Rule 26.1(a) to disclose the factual basis for the claims asserted in the
19 Complaint and has a continuing duty under Rule 26.1(d) to timely supplement those
20 disclosures, making the request unnecessary and unduly burdensome because it purports
21 to require the Receiver to restate information that has been or will be disclosed to
22 Defendants pursuant to Rule 26.1.

23 **Response to Interrogatory No. 15**

24 Without waiving these objections, the Receiver states that Chittick regularly
25 followed Beauchamp’s advice when it was given, as set forth in Paragraphs 7, 94, 99,
26 282, 292, 326, 330, 343, 356, and 363 of the Receiver’s Initial Disclosure Statement.
27 Any additional material or principal facts will be disclosed by the Receiver in a
28 supplemental disclosure statement pursuant to Rule 26.1(d).

1 **INTERROGATORY NO. 16**

2 You contend that DenSco obtained “more than \$15 million from investors who
3 were never told of Chittick’s mismanagement of DenSco, Menaged’s fraud, and the
4 ‘work out’ agreement.” Explain in detail the factual basis of Your contention that
5 investors were never told of Chittick’s mismanagement and identify those investors, as
6 well as (a) all facts that You allege support that contention, (b) all documents that You
7 allege support that contention, and (c) all witnesses that You allege will support that
8 contention.

9 **Objections to Interrogatory No. 16 and its Subparts**

10 1. The interrogatory and its subparts exceed the maximum number of
11 interrogatories established by Rule 33(a)(2).

12 2. The requests that the Receiver identify “all” facts, documents, and
13 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
14 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
15 “every fact and document” upon which plaintiff based a contention was overly broad
16 and unduly burdensome and should be limited to identification of the material or
17 principal facts and documents supporting plaintiff’s factual contentions).

18 3. Those requests are also overly broad and unduly burdensome
19 because discovery has only recently commenced and the Receiver is not yet in a position
20 to identify every material or principal fact, document, or witness that supports the
21 contentions in the Complaint.

22 4. Those requests are also unduly burdensome in that the Receiver is
23 obligated by Rule 26.1(a) to disclose the factual basis and supporting legal theories for
24 the claims asserted in the Complaint and has a continuing duty under Rule 26.1(d) to
25 timely supplement those disclosures, making the requests unnecessary and unduly
26 burdensome because they purport to require the Receiver to restate information that has
27 been or will be disclosed to Defendants pursuant to Rule 26.1.

1 **Response to Interrogatory No. 16 and its Subparts**

2 Without waiving these objections, the Receiver states that he is unaware of any
3 evidence that any investors were told of Chittick's mismanagement prior to Chittick's
4 suicide, as noted in Paragraph 414 of the Receiver's Initial Disclosure Statement. The
5 absence of such evidence indicates that no such communication was made. Moreover,
6 there is affirmative evidence that no such communication was made, as set forth in
7 Paragraphs 288-301 of the Receiver's Initial Disclosure Statement. Any additional
8 material or principal facts will be disclosed by the Receiver in a supplemental disclosure
9 statement pursuant to Rule 26.1(d). The Receiver is not presently in a position to list the
10 material documents which support the contentions in the Complaint because those
11 documents and others are being processed and numbered. Those documents will be
12 identified in a supplemental disclosure statement that the Receiver anticipates serving
13 within the next 30 days. Any additional material or principal documents will be
14 disclosed by the Receiver in a supplemental disclosure statement pursuant to
15 Rule 26.1(d). Persons with knowledge of the material or principal facts set forth in
16 Paragraphs 288-301 and 414 of the Receiver's Initial Disclosure Statement are identified
17 therein. Any additional persons who may have knowledge of material or principal facts
18 will be disclosed by the Receiver in a supplemental disclosure statement pursuant to
19 Rule 26.1(d).

20 **INTERROGATORY NO. 17**

21 Explain the legal and factual basis for Your assertion in the January 17, 2018
22 letter regarding the calculation of prejudgment interest that Clark Hill and Beauchamp
23 caused losses associated with the \$1 million "workout loan" to Menaged when that loan
24 was made prior to 2014.

25 **Objections to Interrogatory No. 17**

26 1. This interrogatory exceeds the maximum number of interrogatories
27 established by Rule 33(a)(2).
28

1 2. This interrogatory mischaracterizes the January 17, 2018 letter.
2 The letter does not state that the \$1 million workout loan was made prior to 2014.
3 Rather, the letter states that Menaged drew on the loan from December 2013 through
4 April 2014.

5 3. The request for an explanation of the Receiver's assertion is unduly
6 burdensome, in that the Receiver is obligated by Rule 26.1(a) to disclose the factual
7 basis and supporting legal theories for the claims asserted in the Complaint and has a
8 continuing duty under Rule 26.1(d) to timely supplement those disclosures, making the
9 requests unnecessary and unduly burdensome because they purport to require the
10 Receiver to restate information that has been or will be disclosed to Defendants pursuant
11 to Rule 26.1.

12 **Response to Interrogatory No. 17**

13 Without waiving these objections, the Receiver states that certain material or
14 principal facts are set forth in Paragraph 280 and Sections VII(B) and (C) of the
15 Receiver's Initial Disclosure Statement. Any additional material or principal facts will
16 be disclosed by the Receiver in a supplemental disclosure statement pursuant to
17 Rule 26.1(d). The legal basis for the Receiver's claims is set forth in Section II of the
18 Receiver's Initial Disclosure Statement.

19 **INTERROGATORY NO. 18**

20 Identify any settlement agreements that You have entered into with any person or
21 entity, and set forth in detail the terms of those settlement agreements.

22 **Objection to Interrogatory No. 18 and its Subpart**

23 1. This interrogatory and its subpart exceeds the maximum number of
24 interrogatories established by Rule 33(a)(2).

25 **Response to Interrogatory No. 18 and its Subpart**

26 Without waiving this objection, the Receiver states, pursuant to Rule 33(d), that
27 the Receiver's petitions for court approval of settlement agreements, and any resulting
28

1 court orders, are part of the receivership proceeding and are available online at
2 <http://denscoreceiver1.godaddysites.com/densco.html>.

3 **INTERROGATORY NO. 19**

4 Identify the “pre-suicide writings” You reference on page 3 of Your January 17,
5 2018 letter regarding the calculation of prejudgment interest, and produce those
6 documents to support Your response.

7 **Objections to Interrogatory No. 19 and its Subpart**

8 1. This interrogatory and its subpart exceeds the maximum number of
9 interrogatories established by Rule 33(a)(2).

10 2. The request to “produce” documents exceeds the scope of
11 interrogatories permitted by Rule 33.

12 3. The request is unduly burdensome because the documents at issue
13 are in Defendants’ possession.

14 **Response to Interrogatory No. 19 and its Subpart**

15 Without waiving these objections, the Receiver states that the “pre-suicide
16 writings” are identified in Paragraphs 412-413 and 415-416 of the Receiver’s Initial
17 Disclosure Statement. Any additional material or principal facts will be disclosed by the
18 Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d).

19 **INTERROGATORY NO. 20**

20 Describe Your findings to date of the “comprehensive investigation into the
21 activities of Menaged and his associates with respect to their business relationships with
22 DenSco” referenced in Your December 2016 Status Report and detail the legal and
23 factual basis for any finding. Identify all the documents and witnesses that support Your
24 response.

25 **Objections to Interrogatory No. 20 and its Subparts**

26 1. This interrogatory and its subparts exceed the maximum number of
27 interrogatories established by Rule 33(a)(2).

1 2. The request for findings of a comprehensive investigation into
2 Menaged's business relationship with DenSco, as well as for "all" supporting documents
3 and witnesses, is overly broad and unduly burdensome in that it calls for information
4 beyond what is both relevant to any party's claim or defense and proportional to the
5 needs of the case. Rule 26(b)(1)(A).

6 3. The request is also impermissibly broad in that it calls for the
7 disclosure of information protected by the attorney-client privilege and/or the work-
8 product doctrine.

9 **Response to Interrogatory No. 20 and its Subparts**

10 Without waiving these objections, the Receiver states, pursuant to Rule 33(d),
11 that the status of the Receiver's claims against Menaged and his associates is described
12 in the December 2017 Status Report, available online at
13 <http://denscoreceiver1.godaddysites.com/densco.html>.

14 **INTERROGATORY NO. 21**

15 Describe Your findings to date of whether DenSco may hold claims against
16 financial institutions including, but not limited to, JP Morgan Chase Bank, NA and US
17 Bank, and detail the legal and factual basis for any finding. Identify all the documents
18 and witnesses that support Your response.

19 **Objections to Interrogatory No. 21 and its Subparts**

20 1. This interrogatory and its subparts exceed the maximum number of
21 interrogatories established by Rule 33(a)(2).

22 2. The request for findings of an investigation into potential claims
23 against financial institutions, as well as for "all" supporting documents and witnesses, is
24 overly broad and unduly burdensome in that it calls for information beyond what is both
25 relevant to any party's claim or defense and proportional to the needs of the case.
26 Rule 26(b)(1)(A).

1 3. The request is also impermissibly broad in that it calls for the
2 disclosure of information protected by the attorney-client privilege and/or the work-
3 product doctrine.

4 **Response to Interrogatory No. 21 and its Subparts**

5 Without waiving these objections, the Receiver states, pursuant to Rule 33(d),
6 that the status of the Receiver's potential claims against JP Morgan Chase Bank, NA and
7 US Bank, NA is described in the December 2017 Status Report, available online at
8 <http://denscoreceiver1.godaddysites.com/densco.html>.

9 **INTERROGATORY NO. 22**

10 Describe Your findings to date of whether DenSco may hold claims against any
11 other hard money lender, including but not limited to, Active Funding Group, LLC and
12 its principals, and detail the legal and factual basis for any finding. Identify all the
13 documents and witnesses that support Your response.

14 **Objections to Interrogatory No. 22 and its Subparts**

15 1. This interrogatory and its subparts exceed the maximum number of
16 interrogatories established by Rule 33(a)(2).

17 2. The request for findings of an investigation into potential claims
18 against other hard money lenders, as well as for "all" supporting documents and
19 witnesses, is overly broad and unduly burdensome in that it calls for information beyond
20 what is both relevant to any party's claim or defense and proportional to the needs of the
21 case. Rule 26(b)(1)(A).

22 3. The request is also impermissibly broad in that it calls for the
23 disclosure of information protected by the attorney-client privilege and/or the work-
24 product doctrine.

25 **Response to Interrogatory No. 22 and its Subparts**

26 Without waiving these objections, the Receiver states, pursuant to Rule 33(d),
27 that the status of the Receiver's potential claims against Active Funding Group, LLC
28

1 and its principals is described in the December 2017 Status Report, available online at
2 <http://denscoreceiver1.godaddysites.com/densco.html>.

3 **INTERROGATORY NO. 23**

4 Explain whether You are considering claims against any third party not identified
5 in Interrogatories 20-22, and detail the legal and factual basis for that consideration.
6 Identify all the documents and witnesses that support Your response.

7 **Objections to Interrogatory No. 23 and its Subparts**

8 1. This interrogatory and its subparts exceed the maximum number of
9 interrogatories established by Rule 33(a)(2).

10 2. The request for an explanation of whether the Receiver is
11 considering claims against other third parties, as well as for “all” supporting documents
12 and witnesses, is overly broad and unduly burdensome in that it calls for information
13 beyond what is both relevant to any party’s claim or defense and proportional to the
14 needs of the case. Rule 26(b)(1)(A).

15 3. The request is also impermissibly broad in that it calls for the
16 disclosure of information protected by the attorney-client privilege and/or the work-
17 product doctrine.

18 **Response to Interrogatory No. 23 and its Subparts**

19 Without waiving these objections, the Receiver states, pursuant to Rule 33(d),
20 that the Receiver’s petitions for court approval of the engagement of special counsel for
21 claims against third parties, and any resulting court orders, are part of the receivership
22 proceeding and are available online at
23 <http://denscoreceiver1.godaddysites.com/densco.html>. In addition, the Receiver’s
24 pursuit of claims is described in the December 2017 Status Report, available online at
25 <http://denscoreceiver1.godaddysites.com/densco.html>.

26 **INTERROGATORY NO. 24**

27 You state in Your July 31, 2017 Claims Report that You “determined that Clark
28 Hill had a conflict of interest that precluded it from performing those legal services

1 without violating fiduciary duties owed to DenSco.” Explain in detail the factual and
2 legal basis of Your contention and (a) all facts that You allege support that contention,
3 (b) all documents that You allege support that contention, and (c) all witnesses that You
4 allege will support that contention”.

5 **Objections to Interrogatory No. 24 and its Subparts**

6 1. This interrogatory and its subparts exceed the maximum number of
7 interrogatories established by Rule 33(a)(2).

8 2. The requests that the Receiver identify “all” facts, documents, and
9 witnesses are overly broad and unduly burdensome. *See, e.g., Steil v. Humana Kansas*
10 *City, Inc.*, 197 F.R.D. 445 (D. Kan. 2000) (contention interrogatories which sought
11 “every fact and document” upon which plaintiff based a contention was overly broad
12 and unduly burdensome and should be limited to identification of the material or
13 principal facts and documents supporting plaintiff’s factual contentions).

14 3. Those requests are also overly broad and unduly burdensome
15 because discovery has only recently commenced and the Receiver is not yet in a position
16 to identify every material or principal fact, document, or witness that supports the
17 contentions in its July 31, 2017 Claims Report.

18 **Response to Interrogatory No. 24 and its Subparts**

19 Without waiving these objections, the Receiver states that material or principal
20 facts and legal theories are set forth in Paragraphs 286-287, 344, 417-435, and 444 and
21 Section II(A) of the Receiver’s Initial Disclosure Statement. Any additional material or
22 principal facts will be disclosed by the Receiver in a supplemental disclosure statement
23 pursuant to Rule 26.1(d). The Receiver is not presently in a position to list the material
24 or principal documents supportive of the Receiver’s contention because those documents
25 and others are being processed and numbered. Those documents will be identified in a
26 supplemental disclosure statement that the Receiver anticipates serving within the next
27 30 days. Any additional material or principal documents will be disclosed by the
28 Receiver in a supplemental disclosure statement pursuant to Rule 26.1(d). Persons with

1 knowledge of the material or principal facts set forth in Paragraphs 286-287, 344, 417-
2 435, and 444 of the Receiver's Initial Disclosure Statement are identified therein. Any
3 additional persons who may have knowledge of material or principal facts will be
4 disclosed by the Receiver in a supplemental disclosure statement pursuant to
5 Rule 26.1(d).

6 DATED this 9th day of March 2018.

7 OSBORN MALEDON, P.A.

8
9 By Geoffrey M.T. Sturr
10 Colin F. Campbell
11 Geoffrey M. T. Sturr
12 Joshua M. Whitaker
2929 N. Central Avenue, Suite 2100
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13 Attorneys for Plaintiff

14
15 COPY of the foregoing hand delivered
16 this 9th day of March 2018, on:

17 John E. DeWulf
18 Marvin C. Ruth
19 Vidula U. Patki
20 Coppersmith Brockelman PLC
2800 N. Central Avenue, Suite 1900
Phoenix, Arizona 85004
21 Attorneys for Defendants


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23 Debra Huss
7506652

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1. I am the court-appointed receiver of DenSco Investment Corporation and in that capacity the plaintiff in this action.

3. That document was prepared by Special Counsel, Osborn Maledon, and reflects information that Special Counsel has compiled based on its review of relevant documents.

I declare under penalty of perjury that the foregoing is true and correct.


Peter S. Davis