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SUPERIOR COURT OF ARIZONA

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 **DEFENDANTS' DISCLOSURE OF EXPERT WITNESS KEVIN OLSON** (Commercial Case) (Assigned to the Honorable Daniel Martin)

Pursuant to the Court's May 16, 2018 Scheduling Order, Defendants Clark Hill PLC and David G. Beauchamp, hereby disclose the attached report of Kevin Olson.

DATED this 5th day of April, 2019.

COPPERSMITH BROCKELMAN PLC

By: _____
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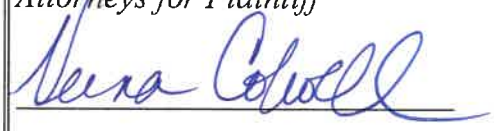

EXPERT REPORT OF KEVIN OLSON

April 5, 2019

Re: Peter S. Davis v. Clark Hill, et al.

1. Introduction and Qualifications

I was admitted to practice in Arizona in October 1980 after graduating from Yale Law School in May 1980. I began working at Lewis and Roca in Phoenix, Arizona, in June 1980 and practiced law there, first as an associate and then as a partner, from the date of my admission until I left to join Steptoe & Johnson LLP in October 1997. I have practiced law as a partner at Steptoe from October 1997 through the present date.

At Lewis and Roca, a significant part of my practice from the mid-1980s until I left in 1997 was advising clients in connection with securities offerings, including offerings qualified under SEC Regulation D. In that period I estimate I advised clients in connection with 3 to 6 offerings per year.

I remain active in both the Securities Law section and the Business Law section of the State Bar of Arizona. I was involved in the leadership of each section, and became chair of each section, at separate times during the 1980s and 1990s. As a member of the leadership council and as chair of the Securities Law section, I was actively involved in efforts to improve and simplify Arizona's securities laws, including its analog to Regulation D.

When I joined Steptoe in 1998, I continued to advise clients with respect to private offerings (including Regulation D offerings), as well as advising larger companies focused on bank and other institutional financing or on public securities markets. While my work in private offerings has lessened over time, I am familiar with the SEC's rules and practices relating to Regulation D since even companies that are primarily focused on bank and institutional financing will periodically find a Regulation D offering a preferable method for raising capital. I regularly review all SEC releases related to the securities markets, including releases related to Regulation D and the private offering markets. I also have regularly attended Securities Law

section programs, particularly those presented at the State Bar Convention relating to SEC developments.

I have not served regularly as an expert in litigated cases, and to date each case where I agreed to serve as an expert was settled before I was deposed or called upon to testify at trial.

I was engaged by Clark Hill's counsel in this case on an hourly basis, at the rate of $665 per hour. None of my compensation is contingent upon the content of my report or the result of this case.

I have been engaged to address the applicable standard of care for securities and transactional lawyers and its application to David Beauchamp and the lawyers with whom he worked.

2. Documents and Other Matters Reviewed

In preparing this report, I was supplied and reviewed the deposition transcripts of the receiver, Mr. Davis, Shawna Heuer, Densco's accountant Mr. Preston, and of Clark Hill attorneys Mr. Beauchamp, Mr. Schenck, Mr. Anderson, and Mr. Hood, as well as former Clark Hill attorney Mr. Sifferman. I also reviewed the latest version of each party's disclosure statement as well as the documents and other exhibits as listed on Exhibit A.

3. Brief Background

3.1. DenSco Business

DenSco Investment Corporation ("DenSco") is a company that was solely owned and managed by Denny Chittick. DenSco began operations in the early 2000s and operated continually until Mr. Chittick's suicide in late July 2016. DenSco did not have any directors, officers, or employees other than Mr. Chittick. Mr. Chittick was responsible for managing DenSco's business, with only occasional assistance from experts, consultants and contractors. Mr. Chittick appears to have sought to operate DenSco with very low overhead and to minimize outside costs as much as possible.

DenSco was focused on the "hard money lending" business in Arizona. DenSco made high interest short-term loans to borrowers, who used DenSco's funds to buy residential

properties (primarily in the metro Phoenix, Arizona, area and often out of foreclosure). The loans were intended to be secured by deeds of trusts on the properties purchased. The purchasers would improve the properties (with physical improvements or by placing renters in them) and then seek to "flip" them quickly at a substantial profit even after payment of DenSco's interest charges.

DenSco financed its business by raising money from investors. DenSco issued general obligation notes at interest rates that varied depending on the maturity date. The notes were not directly tied to or secured by the properties DenSco was financing, or by any other security. All of the investors represented to DenSco that they were "accredited investors" under SEC Regulation D, which meant that DenSco's sales of the notes qualified for exemption from registration under SEC Rule 506 (discussed below).

3.2. David Beauchamp's Representation of DenSco

David Beauchamp has represented clients in the areas of corporate law, securities, venture capital, and private equity for more than 35 years, since graduating with honors from the University of Michigan Law School in 1981. Mr. Beauchamp started providing securities advice to DenSco in the early 2000s, while he was a partner at the law firm Gammage & Burnham. He continued to provide securities advice to DenSco when Mr. Beauchamp joined Bryan Cave in March 2008 and when he joined Clark Hill in September 2013.

Until mid-2013, Mr. Beauchamp's work as DenSco's counsel included, among other things, drafting DenSco's Private Offering Memoranda and related investor documents, including subscription agreements and questionnaires; advising DenSco regarding Blue Sky laws and state and federal securities reporting and filing requirements; advising DenSco as to state financial and lending rules; and advising DenSco regarding the applicability of mortgage broker regulations. At times, Mr. Beauchamp answered DenSco's questions regarding its Reg D filings and obligations, although this is a task for which Mr. Chittick took primary responsibility. On rare occasions, Mr. Beauchamp offered other advice, including advice in May and June, 2011, regarding the potential formation of a title insurance company.

Mr. Chittick's relationship with his lawyer developed over more than a dozen years. During that time, it appeared to Mr. Beauchamp that Mr. Chittick was a trustworthy and savvy businessman, and a good client. He appeared to be devoted to his business and investors, many of whom Mr. Beauchamp understood were friends, neighbors, and family. Despite often complaining about the cost of legal services, Mr. Chittick appeared to follow Mr. Beauchamp's advice and provided information when asked for it, at least until the final 6 months of the representation.

In addition to Mr. Beauchamp, DenSco used other professionals. At minimum, DenSco had an outside accountant, David Preston, who prepared both DenSco's and Mr. Chittick's tax returns. It appears, based on Mr. Preston's testimony, that Mr. Chittick failed to provide complete and accurate information regarding DenSco and its finances to Mr. Preston. Mr. Beauchamp was not engaged or asked to review or approve DenSco financial statements or tax returns or to investigate borrowers. Mr. Beauchamp was not provided access to DenSco's financial statements or Quickbooks accounting records.

4. Securities Regulations and Context

Because much of Mr. Beauchamp's advice to DenSco was based on DenSco's obligations under applicable securities laws, a brief discussion of the background and development of the Federal securities laws is helpful to provide context to the conclusions reached in this report.

4.1. Adoption of the 1933 and 1934 Acts

The fundamental federal laws governing the sale of securities in the United States are the Securities Act of 1933 ("33 Act"), which governs the sale by an issuer of any securities in any public offering, and the Securities Exchange Act of 1934 ("34 Act"), which governs the obligations of an issuer of publicly registered securities to make disclosures about the issuer, its securities and its business. The Securities Exchange Commission ("SEC") has issued many regulations under each of these Acts to implement their requirements and guide issuers and investors with respect to their obligations.

Before the two Acts the sale and resale of securities was governed by a patchwork of state laws (and very limited federal laws) so that it was difficult for issuers and investors to operate in a national market. Many issuers engaged in questionable activities that led to significant losses for investors, who did not have adequate information about the companies they invested in.

The two Acts imposed new rules on issuers in the public securities markets, leading to the development of better regulated national markets in which investors could have more confidence than before the Acts came into force. Together, the two Acts impose a disclosure regimen that is intended to give investors the information they need in order to make informed choices about the companies they wish to invest in. Both Acts are focused on disclosure and giving information to investors, not on evaluating or approving the merits of any given investment.

4.2. The Public Offering and its Costs.

The 33 Act is the primary act governing an issuer's initial sale of its securities to investors. Under the 33 Act, an issuer may sell its securities only if either (a) the sale of the securities is registered under the 33 Act or (b) the sale of the securities qualifies for an exemption under the 33 Act.

A sale registered under the 33 Act is known as a "public offering" and an issuer's first sale under the 33 Act is known as an "initial public offering." The IPO process is generally an extended and expensive one that requires preparation of a prospectus describing the issuer, the issuer's business, and the securities being sold. The issuer is also required to make available audited financial statements for at least 2 years before the offering.

The costs associated with a public offering will generally run into the millions of dollars and, when the offering is complete, the issuer then must also assume the costs of registration and disclosure under the 34 Act and of the stock exchange where the securities will trade. For all but the smallest companies, the costs are likely to involve over $3 million per year in overhead, accounting, and legal expense—in some cases significantly more. As a result, a

public offering is generally not realistic for companies who are not raising very substantial amounts—generally $100 million and preferably much more.

4.3. Private Offerings and Regulation D

The 33 Act recognizes that not all sales of securities can be economically registered under the Act and provides exemptions for certain sales. The most important of these is an exemption for sales by an issuer "not involving any public offering." The SEC initially promulgated Regulation D in 1982 to establish conditions under which sales would be deemed not to involve a public offering. Since 1982, the SEC has progressively expanded the offerings that qualify for the Regulation D exemption as it has determined that more restrictive conditions were not necessary. The most recent expansion, in 2013, now permits companies to make general solicitations of accredited investors to participate in certain Regulation D offerings.

4.4. Accredited Investors

Regulation D establishes a definition of accredited investors and allows issuers to sell to accredited investors under rules that reduce the disclosure necessary in, and therefore the cost of, offerings that are limited to accredited investors. The reduced disclosure is permitted because accredited investors have the assets or income deemed necessary to give them experience in investment matters, and leverage with issuers, so that they are deemed to have the ability to insist on receiving all information they believe is necessary to evaluate an investment in the proposed security.

I will not here discuss the accredited investor definition in detail, since that definition has not been an issue in this case, but a basic description of accredited investors is:

- Individuals with:
    - a net worth (alone or with spouse, but excluding primary residence) over $1 million;
    - individual income for the last 2 years, and reasonably expected for the current year, of $200,000 per year; or

- income with spouse for the last 2 years, and reasonably expected for the current year, of $300,000 per year;

- Directors, executive officers, and general partners of the issuer;
- Banks and other private development companies;
- Certain entities (including trusts and corporations) with assets over $5 million; and
- Other entities if all of their owners are accredited investors.

4.5. Advantages of Offerings to Accredited Investors

Under Regulation D, Rule 506(c), an offering that is limited to accredited investors (and satisfies the other conditions to Rule 506(c), which are not relevant to this report) is not required to provide substantive information in any particular format. Consequently, the information can be conveyed verbally or in writing. In contrast, if an offering is made that includes non-accredited investors, Rule 506(b) requires disclosure of information in writing, to the extent material, that is equivalent to what is required in a registration statement the issuer would be eligible to use for a public offering.

The lack of specific written information requirements for offerings to accredited investors is because of the SEC's decision that accredited investors have the assets, income, knowledge, experience and leverage necessary to insist on the information they deem relevant, such that the SEC does not have to prescribe what information is required.

The framework Regulation D has established for private offerings allows issuers to conduct offerings to accredited investors at a much lower cost than to non-accredited investors or in a public offering. The framework loosens the requirements as to how material information must be disclosed to investors. In a public offering, or an offering that includes non-accredited investors, the issuer must provide specific written disclosure of information about the issuer, its business, and its financial condition. The preparation of such documents requires the involvement of, and due diligence by, accountants, lawyers, and other experts. Private offerings to non-accredited investors are substantially less costly than public offerings,

but the specific written disclosure that is required makes them much more expensive than private offerings that are limited to accredited investors.

Offerings limited to accredited investors can be completed at a much lower cost because the assistance required from accountants, lawyers and experts is much less. Further, the lack of a requirement to prepare specific written disclosure reduces the diligence required of such professionals. As a result, if an issuer is confident that it has connections with an adequate number of accredited investors, a private offering to non-accredited investors is the preferred method for raising lesser amounts.

4.6. Requirement for Adequate Disclosure

The lack of specific written disclosure requirements in an offering to accredited investors does not make such offerings a free for all in which issuers are free to withhold relevant information. It only means that the issuer is free to work with investors to provide all material information in a manner that is appropriate under the circumstances. Issuers still have an obligation to disclose material information that is accurate and to disclose all information necessary to make the disclosures that are made not misleading.

Many issuers make basic disclosures to accredited investors in a written private offering memorandum ("POM"), supplemented by other written or oral disclosures. In many offerings the most important information is disclosed in diligence meetings between the issuer's management and investors. If prepared, the POM provides the initial outline of high-level information but is expected to be supplemented by other written and oral disclosures. The supplemental disclosures often focus on material developments since the date of the POM and some issuers decide not to use a POM at all in favor of providing information based on the questions of their investors.

5. The DenSco Offerings

From the start of its capital raising efforts, DenSco's offerings were conducted as private offerings and were made solely to accredited investors. They were intended to qualify under Regulation D, Rule 506(c) and appear to have so qualified.

Until the SEC's expansion of Regulation D in July 2013, when the SEC allowed general solicitation of accredited investors in Rule 506(c) offerings, the SEC required that private offerings to accredited investors not involve advertising or general solicitation. DenSco's offerings were developed and most were conducted before the July 2013 expansion, so they did not involve general solicitation. This was a subject of discussion between Mr. Beauchamp and DenSco in the Summer of 2013 regarding the contents of DenSco's website, and whether those contents constituted a general solicitation. In fact, it appears that the offerings were mostly limited to Mr. Chittick's friends and family, and to other investors specifically referred by friends and family.

DenSco's offerings were conducted under rules that did not require a POM. To the extent a POM was prepared, DenSco's offerings were conducted under rules that did not requir any particular content in the POM. Like many issuers, DenSco developed a pattern of preparing and periodically updating a POM—in DenSco's case, every 2 years. As noted above, this is common practice in Rule 506(c) offerings and the POM is ordinarily supplemented by disclosures (both verbal or written) that give investors information about material developments since the date of the POM. Thus, DenSco could comply with its Regulation D obligations by disclosing information orally.

Because the DenSco offerings did not require a POM, the expiration of the then-current POM was not a problem for DenSco's offering. If the POM expired, DenSco could stop using the expired POM entirely, but make other disclosures (both orally and in writing) to replace those in the expired POM. Alternatively, DenSco could continue to use the POM (which investors could see was expired) and use it's supplemental oral and written disclosures to bring the information provided to investors up to date. The important requirement of Rule 506(c) is for adequate disclosure to the investors, so that the failure to update the POM would not directly violate the rules of the offering.

Issuers voluntarily use a POM in many offerings because the POM provides a basic outline of information and sets forth the core facts about the issuer's business. This makes it

easier for the issuer to provide the basic information to each investor and also makes it easier to update material information since only information that has changed needs to be provided to investors.

As noted above, one advantage of an accredited investor only private offering is the reduced costs of such an offering. A significant part of this reduction in costs is the reduced role of accountants, lawyers and experts—since the POM is not required to contain specific written information that the SEC requires in public or non-accredited investor offerings, an issuer can provide the basic information based on its internal records. The outside accountants and lawyers do not have to audit or otherwise confirm the information. This is a major cost savings, but means that these outside advisors are not playing a role in confirming the information the company develops.

5.1. Mr. Beauchamp's role and Densco's POMs

Mr. Beauchamp advised DenSco regarding its POMs. In conjunction with other attorneys across multiple law firms (including Gammage & Burnham, Bryan Cave and Clark Hill), Mr. Beauchamp helped draft and update the 2003, 2005, 2007, 2009, and 2011 POMs. The POMs had similar provisions and in all cases relied upon specific information and data Mr. Chittick supplied—no outside advisers were retained to provide a comprehensive due diligence review or audit of the information in the POMs. Generally, the POMs:

(a) described DenSco's historical lending performance;

(b) described DenSco's borrowing and investment history;

(c) disclosed Mr. Chittick's authority to determine DenSco's "major business decisions and policies", and to make, amend, or deviate from those policies in Mr. Chittick's sole discretion;

(d) set forth DenSco's lending standards, including:

   i. DenSco's intent to "maintain a loan-to-value ratio below 70%" for both individual trust deeds that secure loans to borrowers from DenSco and the aggregate loan portfolio,

ii. DenSco's intent to "achieve a diverse borrower base" with no borrower comprising more than 10-15% of the portfolio, and

iii. DenSco's intent that loans be secured by first position trust deeds;

(e) provided information regarding DenSco's lending history and loan portfolio, and provided an assessment of certain risks, including the risk of insufficient demand, the risk that DenSco's success depended on its ability to achieve and maintain growth, and the risk that such growth could challenge the company's management and resources;

(f) explained that DenSco would offer Notes until the earlier of two years after the POM was issued or the offering reached a maximum of $50 million. The 2011 POM purports to expire on July 1, 2013—two years after the 2011 POM was issued. DenSco retained the right to amend, modify, or terminate the offering; and

(g) set forth the nature of the investments that investors could make. Generally, DenSco sold notes with six month, one year, and two to five year terms, with corresponding interest rates at 8, 10, and 12%. Investors could elect to be paid interest quarterly, or to allow the interest to accrue. At the note's maturity, investors could elect to rollover their investment or redeem the note.

In helping to prepare the POMs, Mr. Beauchamp would generally inquire of Mr. Chittick as to how DenSco was administering the loans and performing due diligence on the collateral. Mr. Chittick played an active role in providing all of the information with respect to DenSco's operations and performance included in the POMs and also demonstrated his familiarity with the requirement to limit the DenSco offering to accredited investors only.

5.2. Diligence Reviews and Other Offering Issues

As noted above, neither Mr. Beauchamp nor any other outside professionals or advisors were asked to conduct a comprehensive due diligence review to confirm the statements in the POM, nor to monitor DenSco's ongoing compliance with those statements.

Such a review was not required, would have been atypical, and would have involved substantial additional expense.

Further, I understand that the Plaintiff is asserting that the increased amounts of money DenSco was lending and raising, as reflected in the 2011 POM Mr. Beauchamp help draft, should have been a "red flag" to Mr. Beauchamp that perhaps Mr. Chittick was taken on too much responsibility given the expanding size of DenSco's portfolio. In my opinion, the increased amounts of money being lent and raised did not constitute a "red flag" that required further diligence, action or advice from Mr. Beauchamp. The amount of money being lent and raised was consistent with a "hot" market as the real estate market finally recovered from the 2007 to 2010 collapse. Mr. Chittick had demonstrated the ability to manage through a very difficult time and had been a competent manager. He, not Mr. Beauchamp, was responsible to determine what infrastructure was needed to operate the business as volume expanded.

5.3. Hard Money Lending Practices

In addition to providing advice regarding the POMs, Mr. Beauchamp and his prior law firms, including Gammage & Burnham, also provided advice to DenSco regarding proper loan documentation and procedures. DenSco and Mr. Chittick were advised (a) that DenSco should fund loans through a trustee, title company or other fiduciary under a letter of instruction, (b) that DenSco was representing to its investors that DenSco's loans would be in first position, and (c) that it was of fundamental importance that DenSco safeguard the use of its funds by properly recording liens, in order to ensure that DenSco's loans were in first position. The mortgage documents that DenSco used appeared to comply with those instructions, and state that DenSco was funding its loans through a trustee. Mr. Beauchamp reiterated this advice repeatedly, including in January 2014.

It now appears that DenSco suffered losses as a result of what the Receiver has termed the First Fraud and the Second Fraud. These losses were a direct result of DenSco's decision to pay loan funds directly to borrowers (particularly Menaged), which allowed borrowers to use the funds for purposes not intended under the loan documents and to

avoid recording liens on the properties for which DenSco was ostensibly lending. Mr. Beauchamp was not responsible to, or in a position to, prevent Mr. Chittick from ignoring this advice when Mr. Chittick came under Mr. Menaged's undue influence. Further, it appears that Mr. Chittick, starting as early as Fall of 2012, and even after learning of Menaged's misuse of DenSco funds, abandoned his business model and fundamental hard money lending practices, including the representations about his practices made to his investors.

5.4. Investment Process

Investors were required to sign a Subscription Agreement and received a promissory note from DenSco setting forth the terms of their investment. Only accredited investors could purchase the notes from DenSco.

5.5. Reasonableness of Mr. Beauchamp's reliance on Mr. Chittick

Until the difficulties that Mr. Chittick slowly began to disclose to Mr. Beauchamp as discussed in Section 6 below, Mr. Chittick's history and relationship with Mr. Beauchamp was one that appears to demonstrate Mr. Chittick's professionalism, desire to operate DenSco in full compliance with the law, and willingness to follow the obligations and guidelines set forth in DenSco's POM, which he updated regularly.

Mr. Chittick successfully managed DenSco's business through the dramatic real estate collapse that Arizona suffered from late 2007 through 2010. During that period the collapse placed increased stress on the DenSco business, including the need to manage a dramatic increase in foreclosures and repossessions. Mr. Chittick disclosed such difficulties to his investors and worked through them for DenSco. Mr. Chittick had operated DenSco through a very difficult real estate recession, disclosing the developments to his investors and never missing an interest payment or defaulting on his notes to investors.

DenSco at all times appeared to be performing well, with few borrower issues, as reflected in the information Mr. Chittick provided Mr. Beauchamp during their work updating the POMs. On those facts, Mr. Chittick appeared to have demonstrated competent leadership

and appeared to have followed appropriate procedures. This properly informed Mr. Beauchamp's perception of, and advice to, Mr. Chittick.

5.6. Updating the 2011 POM

In 2013 Mr. Beauchamp started working with Mr. Chittick to update the DenSco POM. Mr. Chittick and Mr. Beauchamp met as early as May 2013 to discuss the updates. DenSco needed to update its financial information and borrower information and disclose the size of its portfolio. Mr. Chittick informed Mr. Beauchamp that he had 114 individual borrowers holding investor notes across approximately 80 families. He also disclosed to Mr. Beauchamp that he had reached or was about to cross the $50 million threshold in funds raised.

Mr. Beauchamp and Bryan Cave conducted some research to determine if crossing that threshold would impose additional obligations on DenSco. They determined it would not. Mr. Chittick, however, did not provide all the updated detail, including financial detail, that was needed for the 2013 POM. Mr. Beauchamp also understood that Mr. Chittick preferred to wait to issue an updated POM until after he scaled down the amount outstanding to investors. Mr. Beauchamp advised against waiting. Mr. Beauchamp, however, could not update the POM on his own – it required that Mr. Chittick provide updated financial information with respect to DenSco's investors and DenSco's loan portfolio.

6. DenSco's Difficulties and Mr. Chittick's Suicide

6.1. The FREO Lawsuit

On May 24, 2013, Easy Investments, an entity owned by Yomtov "Scott" Menaged ("Menaged"), DenSco, and Ocwen Loan Servicing, were sued by FREO Arizona, LLC ("FREO"). In a June 14, 2013 email from Mr. Chittick to Mr. Beauchamp, Mr. Chittick first disclosed the lawsuit to Mr. Beauchamp and explained that Easy Investments had purchased a property at a trustee's sale using a DenSco loan, which property had apparently been previously purchased by FREO, leading to a dispute. The partial Complaint attached to the email included an allegation that the property at issue was subject to liens held by both DenSco and Active Funding Corporation.

Mr. Chittick did not ask Mr. Beauchamp to represent DenSco in the litigation nor did he ask Mr. Beauchamp to investigate the factual allegations in the Complaint. Mr. Chittick expressly stated that he merely wanted Mr. Beauchamp to "be aware" of the lawsuit. Mr. Chittick also represented to Mr. Beauchamp that the borrower involved in the lawsuit, Menaged, was a good borrower. Specifically, Mr. Chittick stated:

> I have a borrower, to which I've done a ton of business with, million in loans and hundreds of loans for several years, he's getting sued along with me. . . . Easy Investments, has his attorney working on it, I'm ok to piggy back with his attorney to fight it, Easy Investments is willing to pay the legal fees to fight it. I just wanted you to be aware of it, and talk to his attorney.

As requested, Mr. Beauchamp did not represent DenSco in the litigation and did not conduct any further investigation into its merits. Mr. Beauchamp did, however, explain to Mr. Chittick that this lawsuit would need to be disclosed in DenSco's 2013 POM. In addition, Mr. Beauchamp advised Mr. Chittick, as he had done previously, that Mr. Chittick needed to fund DenSco's loans directly to the title or escrow company conducting the sale to ensure that DenSco's deed of trust was recorded with the intended priority. Mr. Chittick, however, explained to Mr. Beauchamp that this was an isolated incident with a borrower, Menaged, whom Mr. Chittick had vouched for in his email as someone he had "done a ton of business with...hundreds of loans for several years...."

In my opinion, neither the information in the FREO lawsuit, nor the information Mr. Chittick shared with Beauchamp about the FREO lawsuit, would have or should have prompted Mr. Beauchamp to raise additional concerns about DenSco's business practices. At most, the FREO lawsuit suggested that there had been a failure in one instance to secure a first position deed of trust. The information provided by DenSco to Mr. Beauchamp in connection with the FREO lawsuit did not present "red flags" or put Beauchamp on notice that Mr. Chittick was violating his representations in the POMs. There are a variety of events that may cause a property to end up as the subject of multiple liens, and there was no reason or basis for Mr. Beauchamp to conduct further due diligence on his own given Mr. Chittick's statement that he was happy to piggyback on the other party's lawyer in the case. There was

no basis to determine that DenSco was in material violation of its representations in the POM, or that Mr. Chittick was lying to Mr. Beauchamp based on this supposedly isolated occurrence. There was no basis for Mr. Beauchamp to question his client's explanation, and no reasonable basis for him to perform due diligence on his own.

As set forth elsewhere, however, Mr. Chittick knew at the time, or should have known, that the double liening issue was systemic, and had been for some time. Mr. Chittick, however, failed to provide that information to Mr. Beauchamp.

6.2. Mr. Beauchamp leaves Bryan Cave

Mr. Beauchamp left Bryan Cave at the end of August 2013. On August 30, 2013, Mr. Beauchamp and Bryan Cave sent Mr. Beauchamp's clients, including DenSco, a joint separation letter informing them that Mr. Beauchamp was joining Clark Hill effective as of September 1, 2013. The letter invited those clients to either request the transition of their files to Mr. Beauchamp or affirmatively request that the files remain at Bryan Cave. Mr. Chittick initially agreed to transfer a portion of DenSco's files to Clark Hill, but aside from DenSco's authorization letter, Mr. Beauchamp did not hear from Mr. Chittick regarding the unfinished 2013 POM, or any other matter, until December 2013.

6.3. DenSco contacts Mr. Beauchamp in late 2013

On December 18, 2013, Mr. Chittick contacted Mr. Beauchamp via email, requesting information regarding updating of the 2013 POM. Mr. Chittick and Mr. Beauchamp also had a brief phone call. I understand that Mr. Chittick told Mr. Beauchamp over the phone that he had run into an issue with some of his loans to Menaged, and specifically, that properties securing a few DenSco loans were each subject to a second deed of trust competing for priority with DenSco's deed of trust. Mr. Beauchamp reminded Mr. Chittick that he still needed to update DenSco's private offering memorandum. Mr. Chittick stated he wanted to avoid litigation with Menaged, but did not request any advice or help. Instead he indicated he wanted to continue working on a plan with Menaged to resolve the double-lien issue. Mr. Beauchamp suggested

that Mr. Chittick and Menaged document their plan. Nothing more came of the conversation until January.

Under these circumstances, I do not believe that, at this time, there was sufficient information from which Mr. Beauchamp could surmise that there was a systemic issue regarding double liening at DenSco. I also believe that Mr. Beauchamp could reasonably believe, given the history of their relationship and his knowledge of Mr. Chittick's practices, that Mr. Chittick would handle this as a business matter and keep Mr. Beauchamp reasonably apprised as to his progress. It now appears that Mr. Chittick possessed additional knowledge regarding the scope of the double liening issue as of December 2013, but did not share this knowledge with his lawyer until at least January 2014, after other lenders threatened suit.

6.4. Mr. Beauchamp is told more about the double liening issue

On January 6, 2014, Attorney Bob Miller at Bryan Cave sent Mr. Chittick a letter on behalf of various lenders (the "Miller Lenders"). The letter asserted that the Miller Lenders had advanced purchase money loans directly to trustees to buy more than 50 properties out of foreclosure, and had recorded deeds of trust to evidence their first position security interest. DenSco, however, had likewise recorded mortgages evidencing its purchase money loans for the same properties. The Miller Lenders asserted that DenSco's claimed interest was a "practical and legal impossibility since...only the Lenders provided the applicable trustee with certified funds supporting the Borrowers purchase money acquisition for each of the Properties," demanded that DenSco subordinate its alleged interests to their interests, and threatened to bring claims for fraud, negligent misrepresentation, and wrongful recordation.

Mr. Chittick sent the Miller letter to Mr. Beauchamp on January 6, 2014 with a request for Mr. Beauchamp to "read the first two pages." The next day, Mr. Chittick provided Mr. Beauchamp a more expansive explanation. In his email, Mr. Chittick explained an issue with Menaged's cousin and Menaged's sick wife that led to the double liens and the loss of DenSco funds. Again, Mr. Chittick vouched for Menaged. He represented to Mr. Beauchamp that he

had lent Menaged a total of $50 million since 2007 and that he'd "never had a problem with payment or issue that hasn't been resolved."

Mr. Chittick disclosure of information to Mr. Beauchamp was incomplete and misleading.

First, emails between Mr. Chittick, Menaged, and Mr. Greg Reichman at Active Funding Group indicate that Mr. Chittick was aware that Menaged had been double liening properties using DenSco's funds as far back as September 2012. It was at that time that Gregg Reichman at Active Funding Group told Mr. Chittick that Menaged had double liened multiple properties with loans from both Active Funding Group and DenSco, thereby putting in question DenSco's lien priority and loan-to-value ratio. It is unclear what Menaged's excuse or explanation to Mr. Chittick was in the Fall of 2012 for double liening properties with DenSco funds. It is unclear whether Mr. Chittick conducted any due diligence with respect to Mr. Menaged's double liening using DenSco funds despite being provided this critical information. It appears, however, that Mr. Chittick (a) drastically increased his lending to Menaged after the 2012 double liening revelation, such that by the end of 2013, more than half of his loan portfolio was for loans to entities Menaged controlled and (b) Mr. Chittick did not then notify Mr. Beauchamp about the extent of the double liening issue. Even when he began to disclose the issue to Mr. Beauchamp in January 2014, Mr. Chittick did not immediately reveal the full extent of the problem – he only provided partial disclosures over time. There were various times in the preceding 18 months where Mr. Chittick could have revealed to Mr. Beauchamp that Menaged's misuse of DenSco funds was an ongoing issue. He did not do so.

Second, based on information in Defendants' Disclosure Statement and the Receiver's reports, Mr. Chittick's representation that DenSco had never had a problem payment or issue with Menaged was misleading, even aside from the ongoing double liening issue. DenSco had lent Menaged $31 million in 2013 alone, and had $28.5 million in loans to Menaged outstanding as of the end of 2013, a large portion of which were more than six months past

due, including a significant number of 2012 loans. Mr. Chittick did not share this information with Mr. Beauchamp.

Having a full, complete, and timely disclosure from Mr. Chittick would have aided Mr. Beauchamp in his efforts to counsel DenSco in January 2014 and would have provided critical context for DenSco's lending relationship with Menaged.

Mr. Chittick did explain to Mr. Beauchamp that Menaged's wife had allegedly become critically ill in the past year, and that Menaged had turned the day-to-day operations of his companies over to his cousin. According to Mr. Chittick, the cousin would receive loan funds directly from DenSco, then request loans for the same property from another lender, including the Miller Lenders. The other lenders, who had funded their loans directly to the trustee, would record their deed of trust, as would DenSco, leaving DenSco at risk of being placed in second position. The cousin then purportedly absconded with the funds DenSco lent directly to Menaged. This "double lien" issue consequently jeopardized DenSco's secured position and its loan-to-value ratios. Mr. Chittick feared that a lawsuit with the Miller Lenders would jeopardize DenSco's ability to maintain its business.

6.5. The DenSco/Menaged Workout Plans

According to Mr. Chittick's email to Mr. Beauchamp, Menaged purportedly found out about his cousin's scam in November 2013 and revealed the fraud to Mr. Chittick at that time. Mr. Chittick did not consult Mr. Beauchamp in November 2013. Instead, Mr. Chittick and Menaged devised a plan to "fix" the double lien issue, which included having DenSco pay off other lenders such that DenSco would be sole secured party with respect to the properties. That required additional capital, which Menaged and Mr. Chittick agreed would come from (a) DenSco lending Menaged an additional $1 million and (b) Menaged investing additional capital, including $4-$5 million from the liquidation of other assets.

By the time Mr. Chittick provided Mr. Beauchamp with the Miller letter (and an incomplete disclosure of the issues DenSco had been facing since 2012), Mr. Chittick and Menaged had already reached a verbal agreement on how to deal with the double lien issue

and had already started performing on that agreement. According to Mr. Chittick's January 7, 2014 email, DenSco and Menaged had been "proceeding with this plan since November [2013]." The Receiver has also stated that Mr. Chittick began lending on the $1 million line of credit to Menaged to further the workout plan in December 2013.

The terms Menaged and Mr. Chittick had already negotiated were ultimately set forth in a term sheet that Mr. Beauchamp helped draft based on DenSco and Menaged's plan. At Menaged and Mr. Chittick's insistence, however, the term sheet omitted language Mr. Beauchamp advised DenSco to include. For example, Mr. Beauchamp had included language whereby Menaged would admit that he was required to put DenSco in first position. Menaged refused. Mr. Beauchamp cautioned Mr. Chittick on January 16, 2014 that "we don't recommend that you accept these changes because it still leaves open the question of whether Scott intended for DenSco to be in first position..." DenSco went forward with the term sheet without such admissions.

As the scope of the double-liening problem appeared to grow (and as that problem was slowly revealed to Mr. Beauchamp), however, Mr. Chittick and Menaged agreed to terms of an expanded plan, which included further investment from both DenSco and Menaged. As, Mr. Beauchamp explained in a February 20, 2014 email to his colleagues, Mr. Chittick "without any additional documentation or any legal advice...has been reworking his loans and deferring interest payments to assist Borrower...When we became aware of this issue, we advised our client that he needs to have a Forbearance Agreement in place to evidence the forbearance and the additional protections he needs."

6.6. Mr. Beauchamp advises DenSco to enter into a forbearance agreement.

Mr. Beauchamp's advice regarding, and documentation of, a Forbearance Agreement, was an appropriate approach to provide a framework to resolve the problems with Menaged's loans. Mr. Chittick had already committed to elements of the plan before consulting with Mr. Beauchamp, but this is not unusual since parties often seek to reach a business accommodation before they begin to incur legal costs to document their plans. Forbearance

agreements are frequently used to resolve lender-borrower disputes, since they confirm facts and create legally enforceable obligations.

It is common for a lender to forbear from exercising its rights where the borrower presents the prospects of a bankruptcy filing, other default or even leaving the country to avoid payment. While an attorney may discuss other options with the client, it is not incumbent upon the attorney to impose his or her business judgment on the client, particularly a sophisticated client such as DenSco that had already put in place and started performing on a plan. In this context, the process of first preparing a term sheet to confirm the business terms already agreed, and provide the lawyer with terms to include in the Forbearance Agreement, was appropriate. It provided an opportunity to confirm the business understanding before the more expensive process of drafting the enforceable agreement began. Mr. Beauchamp provided appropriate advice regarding alternatives, Mr. Chittick as DenSco's due representative chose to pursue the Forbearance Agreement, and the use of the Forbearance Agreement was proper:

- DenSco needed to have a legally enforceable agreement so that it could plan its own business efforts based on the resolution of the Menaged issues;
- DenSco needed to be able to demonstrate to others, including its investors, that it had acted properly and prudently to resolve the Menaged issues;
- The agreement would memorialize the workout plan, set forth relevant facts, obtain admissions and warranties, set forth each party's obligations and establish consequences if the borrower failed to perform.

Although the negotiation was made long and painful because Mr. Menaged and his counsel sought terms that were outside of the normal bounds of a Forbearance Agreement, Mr. Beauchamp's efforts to finalize the agreement were consistent with his duties as counsel to DenSco and entirely appropriate. Moreover, it was reasonable for Mr. Beauchamp, given these circumstances, to expect that a Forbearance Agreement, and thus a plan for dealing with the issue, would be executed within a few weeks. I also believe it was appropriate for Mr.

Beauchamp to try and ascertain the facts and determine a course of action before a wholesale and meaningful disclosure to the investors could be made.

It was reasonable for Mr. Beauchamp to rely on Mr. Chittick's description of the timing and extent of the double liening and other issues with Menaged. The circumstances (which include a lengthy attorney-client relationship, a seemingly competent and reasonable client, a lack of negative information regarding Menaged as a result of Mr. Chittick's affirmative refusal to disclose such information, etc.) did not warrant Mr. Beauchamp disbelieving his own client. Nor did it warrant Mr. Beauchamp conducting due diligence that his client had not requested and did not want to pay for. Mr. Beauchamp inquired with Mr. Chittick as to Mr. Chittick's investigation of Menaged's business practices and the cousin/wife story. The client's representations regarding his due diligence and his belief in Menaged were sufficient. In any event, it would have been difficult for Mr. Beauchamp to ascertain the truth about Menaged. For example reviewing public documents would not have disproven the "cousin story" that Mr. Chittick provided to Mr. Beauchamp, nor could Mr. Beauchamp have reasonably learned about Menaged's wife's purported hospitalization or the existence of a cousin who had since fled the country. Inter-family business issues, theft, and fraud, are not unheard of problems that could plague a borrower. Under these circumstances, it is my opinion that it was reasonable for Mr. Beauchamp to accept Mr. Chittick's statements and to accept Mr. Chittick's business directions about how Mr. Chittick believed that DenSco could best protect its interests.

Further, Mr. Beauchamp's duty as lawyer for DenSco was to advise Mr. Chittick about the consequences of any proposed terms of the agreement. He could accept Mr. Chittick's direction about DenSco's risk appetite and business priorities. Mr. Beauchamp was not, as securities counsel, the person with final decision-making authority for DenSco. Mr. Beauchamp properly followed Mr. Chittick's instruction regarding the terms and conditions in the Forbearance Agreement even if Mr. Beauchamp had advocated for different terms, or even suggested different potential solutions or means of addressing the issue. This would include accepting the client's representations regarding the company's finances and the means and

sources of funding the workout. Here, Mr. Chittick represented that the workout was feasible and would be funded by Mr. Chittick personally and by Menaged.

It is important to remember that transactional lawyers are generally hired to assist clients with discrete matters. Unless asked (and given the budget) to do complete due diligence with respect to another party, the lawyer (a) ordinarily must rely on the information the client (and other parties) provide and act on that limited information and (b) no obligation to conduct due diligence on his/her own. If the lawyer knows of contradictory information he or she cannot ignore it, but he or she can bring it to the client's attention and rely upon the client's decision about whether to change positions based on the lawyer's information.

Mr. Beauchamp could not, and should not through due diligence, have second-guessed the information provided to him by Mr. Chittick about Menaged, how the double-lien issue came about, or Densco's choice to solve the problem by continuing to do business with Menaged. I understand that Mr. Beauchamp asked Mr. Chittick questions about the feasibility of his plan, DenSco's finances, the sources of the funds to be used in the workout, and DenSco's business relationship with Menaged. Mr. Beauchamp was not obligated to discount or ignore Mr. Chittick's responses given the information at hand, nor was Mr. Beauchamp obligated to conduct his own due diligence in the face of Mr. Chittick's representations.

Likewise, Mr. Beauchamp was not an accountant and was not retained to evaluate DenSco's finances or solvency. It was reasonable to rely on Mr. Chittick's decision that the best solution to the Menaged problems was the workout plan and that this was the most likely way to avoid greater financial problems. Mr. Chittick did not disclose the full magnitude of the problems immediately and Mr. Chittick did not provide Mr. Beauchamp with the financial information that would have allowed Mr. Beauchamp to assess those problems, even if such an assessment were his responsibility. It was reasonable for Mr. Beauchamp to rely on the representations from Mr. Chittick and Menaged that each would provide additional investments that would resolve the shortages created by Menaged's issues, and Mr. Beauchamp reasonably inquired as to the sources of those investments.

The fact that DenSco and Mr. Chittick withheld information from Mr. Beauchamp, or provided information in an untimely fashion, or misrepresented information, did not change Mr. Beauchamp's duty to DenSco. He had to advise DenSco about its legal duties and appropriate options given the information DenSco and Mr. Chittick provided. He could not ignore contrary information that came to his attention, but in this case the information available to him would not have affected his advice since, in any event, (a) Mr. Chittick had made an apparently reasonable business decision that DenSco would be better served by reaching a workout agreement rather than by litigation that would bear substantial costs and might lead to the bankruptcy of the other party (eliminating the hope for substantial recovery) and (b) Mr. Chittick had represented he was following Mr. Beauchamp's advice that he must disclose the situation before accepting new or rollover investments.

The Forbearance Agreement was not signed until April 2014. By that time, Mr. Chittick had already lent Menaged money, contrary to Mr. Beauchamp's advice to wait until the workout plan was properly documented in the Forbearance Agreement. For example, on January 31, 2014, Mr. Beauchamp wrote Mr. Chittick that "until you have the Forbearance Agreement and the other documents in place, you are not protected with respect to Scott OR your investors." Ten days earlier, on January 21, 2014, Mr. Beauchamp advised Mr. Chittick that "I am just very concerned about the payoffs getting so far ahead of the documentation... Under normal circumstances, [the Forbearance Agreement] should be finalized and signed before you advance all of this additional money."

6.7. Mr. Beauchamp tells DenSco it cannot accept new funds or roll over prior funds.

After receiving Mr. Chittick's January 7, 2014 email, I understand Mr. Beauchamp informed Mr. Chittick at the time of the initial meeting about the Menaged workout plan that Mr. Chittick could not accept new money, or roll over existing investments, unless he informed the investors involved about the Menaged issues. Given Mr. Beauchamp's history with Mr. Chittick, his communications with Mr. Chittick, and Mr. Chittick's knowledge and understanding

of DenSco's disclosure obligations (including the need to periodically disclose material information), this oral conversation was a reasonable way to communicate what needed to be done.

It was also reasonable for Mr. Beauchamp to accept Mr. Chittick's assurance that such disclosure was being made (or that Mr. Chittick was using personal funds, including funds raised through personal loans). Mr. Chittick had previously demonstrated a willingness to share information about serious problems with his investors throughout the real estate recession and it was reasonable for Mr. Beauchamp to believe that he was continuing that practice. With DenSco making such disclosures to investors investing or rolling over money, it was reasonable for Mr. Beauchamp to advise that the parties quickly document the workout in the Forbearance Agreement in order to allow a full and meaningful disclosure to all the investors.

As noted above, the rules for an offering to accredited investors do not require a specific method of disclosure to investors. Disclosures to investors do not need to be in writing and do not need to be made through a POM. So long as the disclosures were being made, the update to the POM was not urgent and it was reasonable to wait to update the POM until the Forbearance Agreement was complete. In this regard, Mr. Beauchamp's advice with respect to the confidentiality terms of the Forbearance agreement appropriately preserved for DenSco the ability to discuss the terms of the POM with its investors.

Evidence in the record suggests Mr. Chittick understood this advice. Mr. Chittick, however, did not disclose to Mr. Beauchamp that he was apparently raising funds from new investors and rolling over investments without disclosing DenSco's situation with Menaged.

6.8. Mr. Beauchamp Advised Mr. Chittick about his Fiduciary Duties to Investors

Throughout the process of preparing the Forbearance Agreement, and then the attempt to update the POM, Mr. Beauchamp advised Mr. Chittick that his discretion was constrained by DenSco's fiduciary duties to its investors. Mr. Beauchamp sought to include terms in the forbearance agreement that reflected those fiduciary duties and did not waive DenSco's rights against Menaged.

Further, it is my understanding that Mr. Chittick assured Mr. Beauchamp repeatedly that he was making the requisite disclosures to investors on an as-needed basis, and that he had informed a select group of investors as to the double lien issue and proposed workout. As far as Mr. Beauchamp knew, and as Mr. Chittick had previously told him, Mr. Chittick indeed had a select group of investors to whom he turned for advice and approval when confronted with important business decisions, such as, for example, diversifying his investments into different types of properties. Mr. Chittick told Mr. Beauchamp that he was seeking such advice from what Mr. Chittick described as an "advisory council." Mr. Beauchamp had observed Mr. Chittick doing the same thing with business problems arising from the real estate recession, so that it was reasonable for him to believe that Mr. Chittick was doing the same now.

6.9. Mr. Beauchamp terminates representation of DenSco and Mr. Chittick.

When Mr. Beauchamp agreed to represent DenSco with respect to Menaged, Mr. Beauchamp told Mr. Chittick that he would need to update DenSco's POM and make full disclosure to its investors regarding the double lien issues, the workout with Menaged, and the potential implications thereof for DenSco's finances and the investors' investments. Based on Mr. Beauchamp's testimony and the notes from his telephone conversations, Mr. Beauchamp and Mr. Chittick also routinely discussed the need for disclosures to investors with respect to, among other things, the double liening, loan concentration, and loan-to-value issues. Mr. Chittick was also a client who had discussed the need to make material disclosures to investors with Mr. Beauchamp on several prior occasions, including during scheduled updates for the DenSco POM, and who had decades of experience in financing, lending, and making securities disclosures. I understand that Mr. Chittick consistently acknowledged that responsibility and agreed to (a) make the full disclosure whenever he accepted new money or rolled over a note and (b) to amend the POM once the forbearance agreement was properly documented. Completion of the forbearance agreement took far longer than could reasonably be expected.

As the forbearance agreement neared completion, Mr. Beauchamp and his associate at the time, Daniel Schenk, began drafting the updated POM in April and May 2014. Critically, the draft 2014 POM would have: provided a description of the forbearance agreement (including all the parties' funding obligations), the reason it was necessary, and its effect on DenSco's finances; updated DenSco's goals for intended loan-to-value ratios; updated the descriptions regarding DenSco's loan funding procedures and system to secure its loans; updated the number of loan defaults triggering foreclosures; and amended the descriptions regarding DenSco's borrower base. Further, Mr. Beauchamp explained that the updated POM would need to be accompanied with a cover letter or other communication highlighting the major material changes, including the double lien issue and resulting workout agreement. Mr. Chittick, however, refused to complete the POM and refused to approve the description of the workout or the double lien issue, despite his prior acknowledgement that he would need to update the POM. Evidence, including emails between Mr. Chittick and Menaged, reveal that Mr. Chittick understood the need to make disclosures.

It is my understanding that in May 2014, Mr. Beauchamp informed Mr. Chittick that Mr. Beauchamp and Clark Hill could not and would not represent DenSco on securities matters any longer, given Mr. Chittick's refusal to make disclosures to investors. Mr. Beauchamp also told Mr. Chittick that he would need to retain new securities counsel, not only to provide the proper disclosure to DenSco's investors, but to protect DenSco's rights under the forbearance agreement. It is my understanding that Mr. Chittick suggested that he had already started that process and was speaking with someone else.

Mr. Beauchamp and Clark Hill ceased providing DenSco with securities advice. Mr. Chittick accepted this termination, but asked that Mr. Beauchamp clean up some small issues with the forbearance agreement before ending the relationship entirely. In my opinion, that clean-up work was appropriate notwithstanding the termination of the relationship given the duplication of effort and extra expense that would have been required to turn over these relatively small tasks to another lawyer.

In the spring of 2016 Mr. Chittick asked Mr. Beauchamp to assist with a limited issue involving an audit by the Arizona Department of Financial Institutions. In prior years, Mr. Beauchamp had advised DenSco whether it would be considered a mortgage broker by the ADFI, and thus, subject to ADFI licensing requirements. In 2016, Mr. Beauchamp again represented DenSco in that limited regard and provided advice as to whether DenSco was subject to ADFI licensure. Mr. Beauchamp again determined that DenSco was not subject to ADFI licensing requirements. The ADFI did not (and has never) contested that conclusion. In my opinion, it was not improper for Clark Hill to represent DenSco in this limited capacity, notwithstanding Mr. Beauchamp's termination of his representation of DenSco as securities counsel in 2014.

6.10. Mr. Beauchamp briefly helps Shawna Heuer and DenSco after Mr. Chittick's suicide

Mr. Beauchamp first found out that Mr. Chittick had committed suicide on July 30, 2016, when Shawna Heuer (Mr. Chittick's sister) called him while he was driving on State Route 51. The news was sufficiently overwhelming as to force him to pull over to the side of the road and collect himself. At that time, Mr. Beauchamp did not have knowledge as to DenSco's business practices or activities after Mr. Beauchamp fired DenSco for failing to make the requisite disclosures to its investors.

Mr. Beauchamp communicated with the Arizona Corporation Commission ("ACC") on August 3, 2016 and became actively involved to help with DenSco's wind-down since there were no other representatives of DenSco who could take any action. At Shawna Heuer's request Clark Hill undertook a limited representation to open an estate and arrange for the appointment of Ms. Heuer as the personal representative of Mr. Chittick's estate since Ms. Heuer had no other contacts in Arizona. During this brief time Mr. Beauchamp was helping Ms. Heuer identify a lawyer to take over this representation, so that it was clear that Clark Hill would not have any duties other than the administrative one of helping open the estate. Ms. Heuer was appointed on August 4, 2016. On August 10, 2016, Gammage & Burnham took over

representing her in that capacity. By August 18, 2016, the Receiver had been appointed over DenSco, at the Arizona Corporation Commission's request.

In the interim, however, DenSco had no employees, officers, or directors other than Mr. Chittick, and Ms. Heuer had no knowledge of DenSco's business, records, or hard money lending in general. DenSco had a letter agreement with another hard money lender, Robert Koehler, to step in and wind down DenSco's affairs in the event Mr. Chittick was incapable of doing so. Mr. Koehler declined to do so.

Given that DenSco needed to provide information to its investors and the ACC, Mr. Beauchamp briefly stepped in to gather information, maintain the status quo, provide information to the ACC, and provide updates to investors until someone else could be appointed. Those updates include (a) an August 3, 2016 email that Mr. Beauchamp sent to the investors alerting them to the situation involving Mr. Chittick's suicide and information then-known about the state of DenSco's finances, after receiving input from Ms. Heuer and Mr. Koehler, (b) an August 5, 2016 email summarizing the status of DenSco's loans, and (c) an August 12, 2016 email explaining his work on behalf of DenSco, which included responding to the Arizona Corporation Commission's subpoena, obtaining and reviewing DenSco's records, and preserving DenSco's rights with respect to the Menaged bankruptcy.

Mr. Beauchamp's conduct after Mr. Chittick's suicide, including helping Mr. Chittick's sister Shawna to get appointed P.R. of Chittick's Estate, communicating with investors and coordinating with the Arizona Corporation Commission was a reasonable effort to help resolve the problems Mr. Chittick had created for those involved in trying to clean up the business after his suicide.

7. Summary of Principal Opinions

My full opinions and conclusions are stated above in the discussion of the facts upon which this report is based. In brief summary, my principal opinions with respect to Mr.

Beauchamp's actions as a securities and transactional lawyer representing DenSco are as follows:

- Mr. Beauchamp's advice to DenSco that it should enter into a forbearance agreement with Menaged and his entities was appropriate and fully met the standard of care.
- Mr. Beauchamp's advice about the proper terms and scope of the forbearance agreement was consistent with ordinary practice in the area and fully met the standard of care.
- Mr. Beauchamp advice about lending, procedures, and documentation was consistent with ordinary practice in the area and met the standard of care.
- Mr. Beauchamp properly advised DenSco about nature, timing, and necessity of disclosures of material information to investors (including new and rollover investors) and his advice in this respect was consistent with the law and regulations and the met the standard of care.
- Mr. Beauchamp met the standard of care in advising DenSco about its fiduciary duties to its investors.
- Mr. Beauchamp properly performed unrelated legal work for DenSco even after he terminated his representation of DenSco with respect to securities matters, including the final work on the forbearance agreement and the later advice regarding Arizona Department of Financial Institution regulations. His work in this respect met the applicable standard of care.

Dated: March 5, 2019

Kevin Olson

Exhibit A

Peter S. Davis v. Clark Hill
Maricopa County Superior Court Case No. CV2017-013832

MATERIALS CONSIDERED BY EXPERT KEVIN OLSON

- DIC0000055-69, 3635-3636, 8660-8730
- Defendants' Answer
- Letter to Investors, DIC0009462-9475
- Letter to Koehler, DIC0009451-9461
- Letter to Heuer, DIC0009476-9487
- Invoices from Bryan Cave
- Forbearance Agreement, DIC0008036-8055
- Emails enclosing FREO lawsuit
- Invoices from Clark Hill
- Correspondence from R. Miller to Chittick re Demand Letter, DIC0008607-8626
- Private Offering Memorandum (POM) – Redlined, DIC008802-8873
- Declaration of David G. Beauchamp in ACC Litigation and other documents (Representation Correspondence)
- Defendants' Initial Rule 26.1 Disclosure Statement
- Plaintiff's Initial Rule 26.1 Disclosure Statement
- Plaintiff's Notice of Service of Preliminary Expert Opinion
- Plaintiff's Disclosure of Areas of Expert Testimony
- Defendants' Disclosure of Areas of Expert Testimony
- Petition No. 3 - DenSco Receivership – Preliminary Status Report
- Petition No. 15 - DenSco Receivership –Status Report
- Petition No. 50 – Densco Receivership – Status Report
- June 19, 2018 Deposition of Daniel Schenck and Exhibits
- June 21, 2018 Deposition of Robert Anderson
- July 19, 2018 Deposition of David Beauchamp and Exhibits
- July 20, 2018 Deposition of David Beauchamp and Exhibits
- August 22, 2018 Deposition of Shawna Heuer and Exhibits
- August 31, 2019 Deposition of Mark Sifferman and Exhibits
- 2016-08-26 Scott Menaged 341 Testimony
- Menaged Rule 2004 Testimony
- Transcript of Interview of Menaged in ACC proceeding
- Transcript of Recorded Conversation between Chittick and Menaged
- Plaintiff's Fifth Supplemental Disclosure Statement, with Exhibits A-E
- Peter Davis Deposition Transcript w/Exhibits
- Steve Bunger Deposition Transcript w/Exhibits

- Victor Gojcaj Deposition Transcript w/Exhibits
- Brian Imdieke Deposition Transcript w/Exhibits
- Deposition Exhibits: 6, 36, 39, 40, 45, 51, 56, 57, 64, 70, 72, 75, 78, 79, 82, 101, 107, 108, 112, 113, 114, 117, 126, 134, 142, 143, 145, 150, 151, 174, 183, 275, 279, 283, 297, 330, 336, 337, 342, 343, 345, 347, 350, 352, 354, 355, 357, 360, 362, 365, 372, 381, 383, 386, 387, 392, 397, 401, 402, 406, 408, 411, 412, 424, 457, 458, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 823, 825
- CH_REC_CHI_0082589, 82748
- CH_REC_CHI_0067892, 68720
- CH_REC_MEN_0026576, 26580, 26600, 26749, 27218, 27482, 27814, 26584, 67611, 84775
- Ed Hood Deposition
- David Preston Deposition
- Defendants' Sixth Supplemental Disclosure Statement

Exhibit B

Steptoe

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Areas of Practice
Corporate, Mergers & Acquisitions, Capital Markets/Securities

Overview

Kevin Olson has more than three decades of experience in providing corporate and transactional advice to companies on matters involving mergers and acquisitions, securities and corporate finance, and other commercial transactions. His practice emphasizes general corporate advice, mergers and acquisitions, securities and corporate finance, and other commercial transactions.

In his role as outside general counsel, Kevin advises many clients about their day-to-day operations, including issues relating to product distribution, supplier contracts, customer contracts and executive employment arrangements. He also has assisted many clients in connection with their initial organization, advising them about their choice of entity, initial capitalization, and other organizational matters. Kevin serves as outside general counsel for leading Arizona businesses including Rockford Corporation, Community Medical Services, Westminster Village, Royal Oaks Retirement Community, and Friendship Village of Tempe. He has also represented businesses inside and outside Arizona, including Miraca USA, Alkaline Water Company, Aldila, and Rand Worldwide.

Kevin has held various leadership positions with the State Bar of Arizona, Greater Phoenix Leadership, East Valley Partnership, and both the Phoenix and Tempe Chambers of Commerce. He has been named repeatedly as one of Arizona's "Top Lawyers" by *AzBusiness Magazine* and *Ranking Arizona*.

Bar & Court Admissions

- Arizona

Education

- J.D., Yale Law School, 1980
- B.S., Arizona State University, 1977, *summa cum laude,* Phi Beta Kappa

Representative Matters

- Represented Westminster Village in $24 million tax exempt refinancing.
- Represented Rockford Corporation in connection with a "Dutch Auction" to purchase over $9 million of its shares.
- Represented Aldila, Inc., in connection with the merger of Aldila with Mitsubishi Rayon Corporation, producing approximately $24 million for its shareholders.
- Initial public offering of approximately $35 million of common stock for manufacturing company.
- Commercial contracts relating to the development and wind down of a commercial satellite communication system.
- Representation of local management in connection with the leveraged purchase of Arizona manufacturing operations from a Fortune 500 company.
- The $9 million purchase and financing of a major manufacturer's Arizona facilities.
- Representation of shareholders of an Arizona based manufacturer in connection with their $68 million stock sale to new private investors.
- Rendering of legal opinions in many Arizona transactions, both as principal lawyer on a matter and as Arizona local counsel.

News & Publications

PRESS RELEASES

Steptoe Receives 2019 National Peace Corps Association Award

March 4, 2019

ACCOLADES

Southwest *Super Lawyers* Recognizes 19 Steptoe Attorneys

April 11, 2016

PRESS RELEASES

Southwest *Super Lawyers* Recognizes 17 Steptoe Attorneys

April 10, 2015

Noteworthy

- *Super Lawyers,* Southwest, Business/Corporate Law (2012-2016)
- *AzBusiness Magazine,* Arizona's Top Lawyers: Mergers & Acquisitions (2008-2009, 2013)
- *Ranking Arizona Magazine,* Top Lawyers: Mergers & Acquisitions (2013)

Professional Affiliations

- Member and Co-Chair of Transportation and Infrastructure Committee, Greater Phoenix Leadership
- Board of Directors (Past Chair), East Valley Partnership,
- Past President, Tempe Chamber of Commerce
- Past Chair, Securities Council, State Bar of Arizona
- Past Chair, Business Section, State Bar of Arizona
- Maricopa County Bar Association