

Edward J. Hood

Member

Edward J. Hood has practiced civil litigation at Clark Hill since 1989. His litigation practice involves construction, business, and tort cases in state and federal courts and arbitrations. Edward serves as the firm's General Counsel, representing the law firm in its legal matters and counseling firm attorneys on professional ethics and risk management issues.

Edward is also a trained and qualified mediator and arbitrator. He accepts mediation and arbitration engagements involving business, construction, and professional liability issues. Edward is a member of the American Arbitration Association's national roster of construction arbitrators.

Edward is rated "AV" by Martindale-Hubbell's peer review rating service, the highest rating for legal ability and ethics, and has been selected for inclusion in *Michigan Super Lawyers* and in *The Best Lawyers in America*. He is a Fellow of the American Bar Foundation, an honor reserved to less than one percent of lawyers in each state.

Edward currently serves as a member of the State Bar of Michigan Committee on Professional Ethics. He has also been active in three chapters of the American Inns of Court - an organization dedicated to excellence and civility in advocacy.

While at the University of Michigan, Edward majored in English literature and earned a varsity letter as a member of the Michigan football team from 1982 to 1985. Edward remains an active supporter of University of Michigan athletics, and served as President of the Letterwinners M Club for 2007-2008.

While attending Wayne State University, Edward received several moot court advocacy awards, including the Mark Johnson briefwriting award, first place briefwriter in Spring 1988 Moot Court Competition, first place in the Fall 1987 Arthur Neef Moot Court Competition, and first place in the Spring 1988 Law Day Moot Court Competition. He also represented Wayne Law School as a briefwriter in national Moot Court Competition.

Edward earned a Master of Business Administration degree at the Stephen M. Ross School of Business at the University of Michigan. He graduated with high distinction and twice earned admission to Beta Gamma Sigma, the highest scholastic honor conferred by the Ross School of Business.



Office

Detroit

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ehood@clarkhill.com

Education

M.B.A., *with high distinction*, University of Michigan, Ann Arbor, Michigan, 2005
J.D., *cum laude*, Wayne State University Law School, Detroit, Michigan, 1989

B.A., University of Michigan, Ann Arbor, Michigan, 1986

State Bar Licenses

Michigan

Court Admissions

U.S. District Ct., E.D. of Michigan

Edward is a contributing author of Clark Hill's Michigan Construction Law Manual, which was first published by West in 2009.

The following are some of Edward's cases:

- Lead counsel for global integrated steel producer in arbitration against supplier of iron ore regarding pricing and environmental issues
- Lead counsel in several corporate governance, fiduciary duty and shareholder rights actions in Michigan courts
- Lead counsel for trucking company in defense of significant personal injury claim, including alleged traumatic brain injury
- Lead and local counsel for international food franchisor in various civil litigation
- Lead counsel for global integrated steel producer in arbitration against supplier of pulverized coal regarding supply reliability and pricing issues
- Lead counsel for receiver in SEC civil enforcement action against a Ponzi-scheme operator and ancillary fraudulent transfer and securities fraud actions
- Lead counsel for global integrated steel producer in arbitration against coke supplier regarding product quality issues
- Lead counsel for municipality in defense of claim for cost overruns on water/sewer project
- Lead counsel for global integrated steel producer in class action lawsuits claiming environmental nuisance and related air quality claims
- Lead counsel for subcontractor in asserting change and cost overrun claim on oil refinery project
- Lead counsel for Federal Deposit Insurance Corporation in declaratory judgment action against director and officer liability policy insurer
- Lead counsel for bankruptcy trustee in adversary proceedings against principal of Tier-1 automotive supplier
- Lead counsel for general contractor in asserting delay, disruption and cost overrun claims on natural gas process and distribution facility project

Awards/Achievements

The Best Lawyers in America, 25th Edition

Memberships

American Bar Association, Litigation Section, Construction Forum

State Bar of Michigan, Litigation Section, Business Section

Washtenaw County Bar Association

U.S. District Ct., W.D. of Michigan

U.S. Court of Appeals, 6th Circuit



Construction Financial Management Association

Detroit Area Construction Association

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News

Sixty-Six Clark Hill Attorneys Named 2018 Michigan Super Lawyers & Rising Stars

143 Clark Hill Attorneys Selected for Inclusion in the 2019 Edition of Best Lawyers in America

Sixty-Seven Clark Hill Attorneys Named 2018 Leading Lawyers

Sixty-Six Clark Hill Attorneys Named 2017 Michigan Super Lawyers & Rising Stars

Sixty Clark Hill Attorneys Named 2016 Michigan Super Lawyers & Rising Stars

Clark Hill Attorney Edward J. Hood Co-Presents On-Demand Webcast "Of Counsel Relationships from Both Sides" for the Institute of Continuing Legal Education

Sixty-Six Clark Hill Attorneys Selected for the 2015 Super Lawyers Business Edition

Sixty-Five Clark Hill Attorneys Named to Michigan Super Lawyers 2015 List

Fifty-Seven Clark Hill Attorneys Named 2014 Leading Lawyers

Sixty-Three Clark Hill Attorneys Named to Michigan Super Lawyers 2014 List

Professional Ethics & Risk Management

Clark Hill attorneys counsel and represent many different professionals—including accountants, attorneys, directors, officers and fiduciaries, financial services providers, real estate agents and insurance agents—in pre-suit negotiations and in litigation.

We understand that the outcome of a dispute or trial can have profound ramifications on the professional reputations of the individuals involved, as well as the partnerships, practices and companies for which they work. On behalf of our clients, we obtain defense verdicts, summary judgments, non-suits, dismissals and favorable settlements. Our representation ranges from national firms to sole practitioners.

We have special experience in ethics, risk management and professional responsibility issues facing lawyers. Clark Hill is equipped to conduct risk audits of law firms suggesting methods to reduce the potential of liability exposure. The firm represents attorneys facing grievance procedures, bar admission disputes, disqualification motions, and other issues implicating the Rules of Professional Conduct. Professional responsibility attorneys at Clark Hill are active members of the Association of Professional Responsibility Lawyers and the ABA Center for Professional Responsibility.

News

Member David Brandon's Article Published on Los Angeles County Bar Association's LACBA Update

Sixty-Six Clark Hill Attorneys Named 2018 Michigan Super Lawyers & Rising Stars

143 Clark Hill Attorneys Selected for Inclusion in the 2019 Edition of Best Lawyers in America

Articles

"The Dos and Don'ts of Witness Compensation," Los Angeles County Bar Association Update, December 2018

From Fort Lee to Bowling v. Office of Open Records

Rethinking Governmental Immunity in Pennsylvania

Sitting in Judgment

Professional Ethics & Risk Management Leaders

William B. Dunn

Edward J. Hood

Professional Ethics & Risk Management Professionals

Brandon, David L.

Dunn, William B.

Flaherty, Timothy M.

Hood, Edward J.

Richman, Steven M.

Rosinski, Frances A.

Shindler, Donald A.

Turner, Reginald M.

Wieczorek, Nicholas M.

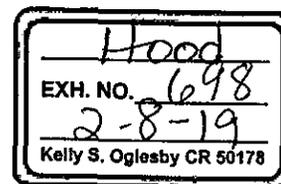
Presentations

Amendments to the Pennsylvania Rules of Professional Conduct - Legal Intelligencer In-House Counsel CLE, March 18, 2014

Attorney Pitfalls with Social Media and E-Mail: Ethics Considerations Raised by Social Media and Dangers to the Attorney-Client Privilege - August 2012

5.





About Us

Clark Hill is a multidisciplinary, international law firm that draws on our attorneys' comprehensive industry and policy knowledge and a global network of industry advisors and subject-matter experts to provide innovative legal solutions and client-service excellence worldwide. Our work is guided by our deeply-held shared values, including practicality, entrepreneurship, mutual respect, diversity, ethical behavior and a commitment to client and community service.

One of the largest firms in the United States — with more than 650 attorneys and professionals in 25 offices, spanning the United States as well as Dublin and Mexico City, we are a committed partner to a diverse range of leading brands, forward-thinking businesses, public entities, nonprofit organizations and individuals. Our significant presence in Washington, DC, and our deep government relations and public affairs experience at every level help ensure that our clients' voices are heard in the development of federal and state regulatory policy and legislation.

Our investment in new service lines and programs — such as HR/Advantage, Information Governance 360, Reputation Governance 360 and Conrad Consulting — further reinforces our ability to develop and deliver coordinated legal, business, and political strategies that achieve business success.

Clark Hill is built upon a core set of values that guide us in our relationships with our clients, our interactions with each other, and our connection to the communities in which we serve. These values have a real and lasting impact on the way we conduct our business, the way we treat our clients and colleagues, and the way we go about growing our firm. We believe these values come into play in each and every client experience, and they are essential to the ultimate success of our lawyers and our firm.

Our DNA consists of these guiding principles:

Count On More. We provide practical counsel with an entrepreneurial spirit, offering innovative ideas, technologies and solutions. We deliver value through high quality work and a collaborative team approach.

Relationships Fuel Our Firm. Respect is the foundation of our strong relationships with clients and colleagues. We are tenacious advocates for our clients while being approachable and supportive.

Everyone Matters. We value the contributions of each individual in our firm and encourage fresh ideas and diverse perspectives. We embrace the differences among our colleagues, enriching our experiences.

Ethical Behavior is Non-Negotiable. We believe in doing the right thing every time. We uphold our professional responsibilities and are accountable for our actions.

It's Not Just About Us. Making a positive impact is central to who we are. We devote our personal and collective time, talent and resources to making our communities better places to live and work.

Fast Facts:

Attorneys: 600+

Year Established: 1890

Full Service:

- Business Legal Services
- Personal Legal Services
- Government & Public Affairs

Offices: 25

Prominence:

- AM Law 200 Ranked
- Ranked as a top 100 client service law firm in the U.S. by BTI
- Named to State Bar of Michigan 2016 Pro Bono Circle of Excellence - Leadership Level
- 64 Best Lawyers in America
- 130 Super Lawyers/Rising Stars
- 18 Chambers USA Ranked Attorneys

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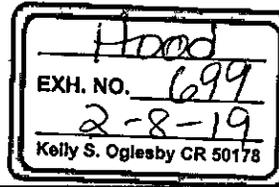
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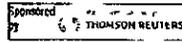
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The NLJ 500: Main Chart

The NLJ 500 is the National Law Journal's survey of the 500 largest law firms in the United States covering the previous calendar year.

By ALM Staff | June 28, 2018 at 06:00 AM

f Methodology: The NLJ 500 is the National Law Journal's survey of the 500 largest law firms in the United States covering the previous calendar year. Data is collected from firms at the same time as the Am Law financial numbers. ALM sent surveys this year to more than 900 law firms to determine the 500 largest U.S.-centric firms by headcount. Firms smaller than No. 350 are divided into two tiers instead of earning individual ranks.

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NATIONAL LAW JOURNAL (/NATIONALLAWJOURNAL/)

3 **Twenty-One Years After Her Autism Diagnosis, Haley Moss Is Admitted to the Florida Bar** (https://www.law.com/dailybusinessreview/years-after-her-autism-diagnosis-haley-moss-is-admitted-to-the-florida-bar/)

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4

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THE AMERICAN LAWYER (/AMERICANLAWYER/)

5 Roger Stone's Legal Team Didn't Exactly Get Off to a Great Start in DC (https://www.law.com/natio stones-legal-team-didnt-exactly-get-off-to-a-great-start-in-dc/)

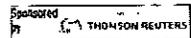
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3 Ways Government Attorneys Wished You Handled Investigations (https://www.law.com/legaltechnews/2019/01 government-attorneys-wished-you-handled-investigations/)

Former US AGs: Attorneys Need to Be Flexible and Have IT Skills (https://www.law.com/legaltechnews/2019/01)

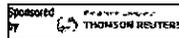
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 with the details to get started.

Description



According to the National Law Journal's 2018 NLJ 500 ranking of firms based on size, Clark Hill has 403 attorneys and is ranked 109th in the United States. With \$193,621,000 gross revenue in 2017, the firm placed 146th on The American Lawyer's 2018 Am Law 200 ranking.

www.clarkhill.com (http://www.clarkhill.com)

Rankings

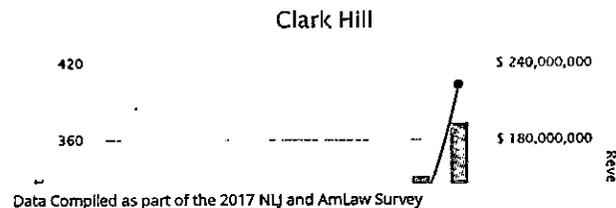
Ranking	2018	2017	2016
Global 200	N/A	N/A	N/A
Am Law 200	#146	#167	#171
NLJ 500	#109	#138	#138
UK Top 100	N/A	N/A	N/A

Overview

Global Rank:	N/A
Total Offices:	24
Total Headcount*:	403
Equity Partners:	73
Non-Equity Partners:	126
Associates:	191
Total Revenue:	\$193,621,000

Changes in Headcount

Profit Per Equity Partner: \$525,000
Revenue Per Lawyer: \$480,000
 * "Other" attorneys are not included



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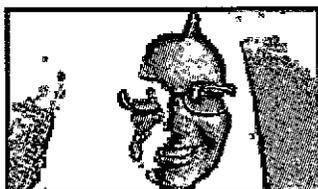
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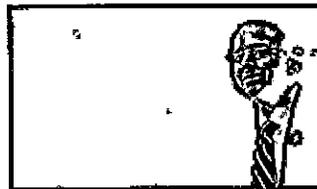


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Draft Report: Rod Rosenstein, Law Firm Recruit

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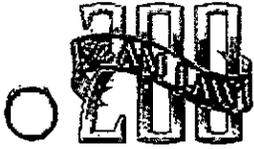
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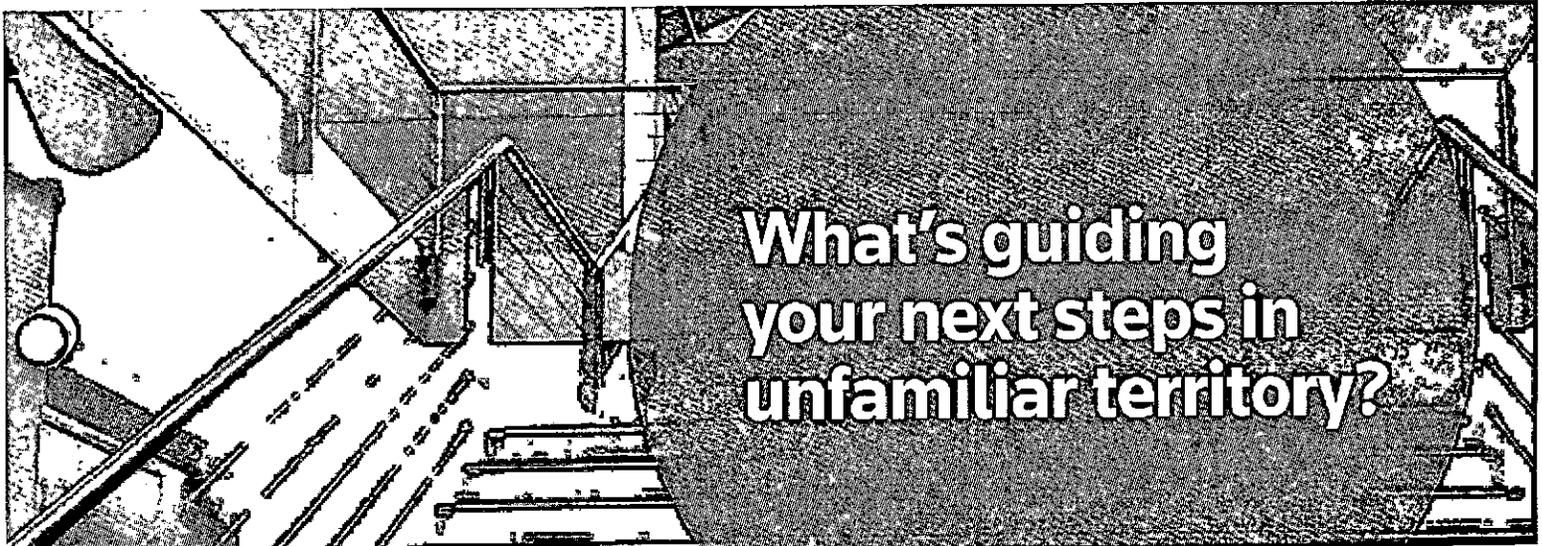
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 NICHOLAS BRUCH, DIRECTOR, ALM INTELLIGENCE | JAN 9, 2019



FIRMS A TO Z

FIRM	2016 Gross Revenue	Change from 2015	Revenue Per Lawyer	Change from 2015	Profits Per Partner	Change from 2015	Profit Margin	Leverage
Clark Hill Detroit, 313 lawyers 79 equity partners 77 nonequity partners	\$151,500,000	8.2%	\$485,000	6.6%	\$545,000	6.9%	28	2.97
Curtis, Mallet-Prevost, Colt & Mosle International , 320 lawyers 36 equity partners 38 nonequity partners	\$177,000,000	16.8%	\$555,000	15.6%	\$1,265,000	-5.9%	26	7.89
Davis Wright Tremaine Seattle, 509 lawyers 179 equity partners 94 nonequity partners	\$333,000,000	4.6%	\$655,000	0.0%	\$645,000	1.6%	35	1.84
Day Pitney Hartford, Connecticut, 265 lawyers 90 equity partners 43 nonequity partners	\$164,500,000	2.2%	\$620,000	1.6%	\$720,000	2.9%	40	1.94
Dickinson Wright Troy, Michigan, 411 lawyers 123 equity partners 127 nonequity partners	\$209,000,000	12.7%	\$510,000	2.0%	\$550,000	6.8%	32	2.34
Dinsmore & Shohl Cincinnati, 549 lawyers 153 equity partners 154 nonequity partners	\$231,500,000	5.5%	\$420,000	-3.4%	\$430,000	-3.4%	29	2.59
Dorsey & Whitney National, 488 lawyers 179 equity partners 75 nonequity partners	\$326,500,000	-3.0%	\$670,000	1.5%	\$600,000	0.0%	33	1.73
Dykema Gossett Chicago, 407 lawyers 104 equity partners 119 nonequity partners	\$219,000,000	-2.7%	\$540,000	0.9%	\$545,000	7.9%	26	2.92
Finnegan, Henderson, Farabow, Garrett & Dunner Washington, D.C., 291 lawyers 90 equity partners 29 nonequity partners	\$310,000,000	0.6%	\$1,065,000	0.9%	\$1,270,000	8.1%	37	2.22
Fisher & Phillips National, 319 lawyers 119 equity partners 48 nonequity partners	\$176,500,000	11.7%	\$555,000	1.8%	\$560,000	6.7%	38	1.69



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your next steps in
unfamiliar territory?**

2



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7 *Attorneys for Defendants*

8
9 **SUPERIOR COURT OF ARIZONA**
10 **COUNTY OF MARICOPA**

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

13 Plaintiff,

14 v.

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

17 Defendants.

No. CV2017-013832

**DEFENDANTS' INITIAL RULE 26.1
DISCLOSURE STATEMENT**

18 Defendants Clark Hill PLC, David G. Beauchamp and Jane Doe Beauchamp
19 (collectively, "Defendants") provide this initial disclosure statement according to Arizona
20 Rule of Civil Procedure 26.1. Defendants reserve the right to amend or supplement this
21 disclosure statement as discovery progresses.

22 This case is in its infancy and thus the content of this disclosure statement is
23 preliminary and subject to supplementation, amendment, explanation, change and
24 amplification. Because the parties have just commenced discovery, there may be
25 information, documents, and materials related to the various allegations and defenses set forth
26 in the pleadings of which Defendants are presently unaware. Defendants note that they do

1 not currently have access to all potentially relevant documents of the Plaintiff, or third parties,
2 and that this disclosure statement is based upon information currently available to
3 Defendants. Nothing in this disclosure statement is intended to be an admission of fact, an
4 affirmation of the existence of any document, or an agreement with or an acceptance of any
5 legal theory or allegation. The information set forth below is provided without waiving (1)
6 the right to object to the use of such information for any purpose in this or any other action
7 due to applicable privilege (including the work-product and attorney-client privileges),
8 materiality, or any other appropriate grounds; (2) the right to object to any request involving
9 or relating to the subject matter of the information in this disclosure statement; or (3) the right
10 to revise, correct, supplement or clarify any of the information provided below. If any part
11 of this statement is ever read to the jury, fairness would require that the jury be read this
12 introductory statement and any supplementation, amendments, explanation, changes or
13 amplifications which may occur or be filed subsequent to this disclosure statement.

14 Defendants also incorporate by reference into this disclosure statement all
15 interrogatory answers, responses to requests for production, responses to requests for
16 admission, other discovery and disclosure statements and supplements thereto in this action,
17 and all transcripts of any deposition taken in this action and any exhibits thereto.

18 **I. FACTUAL BASIS OF CLAIMS AND DEFENSES.**

19 **A. Retention/Scope of Work**

20 For more than 35 years, since graduating with honors from the University of Michigan
21 Law School in 1981, David Beauchamp has represented his clients in the areas of corporate
22 law, securities, venture capital, and private equity with distinction and integrity.

23 One of those clients was DenSco Investment Corporation ("DenSco"), a company
24 solely owned and managed by Denny Chittick. DenSco raised money from investors by
25 issuing general obligation notes to those investors at interest rates that varied depending on
26 the note's maturity date. DenSco then invested those funds primarily by making high interest

1 short-term loans to borrowers buying residential properties out of foreclosure, which loans
2 were intended to be secured by deeds of trusts on those properties. Mr. Beauchamp started
3 providing securities advice to DenSco in the early 2000s, while he was a partner at the law
4 firm Gammage & Burnham. DenSco followed Mr. Beauchamp as a client when he left
5 Gammage to join the law firm Bryan Cave in March 2008, and again when Mr. Beauchamp
6 left Bryan Cave to join Clark Hill in September 2013.

7 Although the various firms' engagement letters with DenSco only specifically
8 identified DenSco as the client, DenSco could not operate or engage with legal counsel
9 except through its president and sole owner, Mr. Chittick. DenSco had no other employees;
10 Mr. Chittick was responsible for all aspects of DenSco's business, and Mr. Chittick
11 understood that Mr. Beauchamp, as an incident to Mr. Beauchamp's representation of
12 DenSco, was also representing Mr. Chittick in his capacity as president of DenSco. The
13 investors understood that as well. The private offering memoranda DenSco provided state
14 that "legal counsel to the Company will represent the interests solely of the Company and its
15 President, and will not represent the interests of any investor."

16 Shortly after Mr. Chittick's death, and in the midst of a chaotic time dealing with the
17 fallout of his passing, Mr. Beauchamp stated in an August 10, 2016 letter to an Arizona
18 Corporation Commission subpoena to Mr. Chittick that he had "not previously represented
19 Denny Chittick" and that the ACC would need to request the personal information it sought,
20 including Mr. Chittick's personal tax returns, from counsel for Mr. Chittick's estate. To the
21 extent that Mr. Beauchamp's statement was not clear or that any clarification was necessary,
22 Mr. Beauchamp averred in an August 17, 2016 declaration under oath that he represented
23 DenSco and "Mr. Chittick as the President of DenSco." Mr. Beauchamp did not represent
24 Mr. Chittick outside of his role as a corporate officer at DenSco.

25 Until mid- 2013, Mr. Beauchamp's work as DenSco's securities counsel included,
26 among other things, drafting DenSco's Private Offering Memoranda and related investor

1 documents; advising DenSco regarding Blue Sky laws and state and federal securities
2 reporting and filing requirements; advising DenSco as to the rules and regulations
3 promulgated by state financial and lending authorities; and advising DenSco regarding the
4 applicability of mortgage broker regulations. At times, it would also involve answering
5 DenSco's questions regarding its Reg D filings and obligations. Although Mr. Beauchamp
6 helped DenSco file its first set of Reg D documents in 2003, Mr. Chittick told Mr.
7 Beauchamp thereafter that he did not want to pay a lawyer to review and file the Reg D
8 documents, and that Mr. Chittick would take on that responsibility himself. That was not a
9 surprising request, as Mr. Chittick repeatedly instructed Mr. Beauchamp to keep legal fees
10 to a minimum. Consequently, although Mr. Beauchamp's paralegal initially helped Mr.
11 Chittick understand the filing process and obtain access to the EDGAR filing site, in
12 accordance with his client's wishes Mr. Beauchamp did not review DenSco's Reg D filings.

13 The scope of Mr. Beauchamp's representation of DenSco and its president was
14 narrow. Further, the relationship was friendly, but professional. Mr. Beauchamp did not go
15 to dinner or vacation with Mr. Chittick or his family. They did not play golf or otherwise
16 socialize together.

17 Over the years, Mr. Chittick showed himself to be a trustworthy and savvy
18 businessman, and a good client. He was devoted to his business and investors, many of
19 whom were friends and family. Despite often complaining about the cost of legal services,
20 Mr. Chittick appeared to follow Mr. Beauchamp's advice and provided information when
21 asked for it. Further, Mr. Beauchamp understood that DenSco utilized an outside accountant,
22 David Preston, to review DenSco's books and records and file its tax returns. At no point
23 did Mr. Beauchamp serve as DenSco's general corporate counsel, nor was Mr. Beauchamp
24 engaged to review or approve DenSco financial statements or tax returns or to investigate
25 borrowers.

26

1 **B. The Private Offering Memoranda**

2 Mr. Beauchamp advised DenSco regarding its Private Offering Memoranda
3 (“POMs”), which DenSco generally updated every two years. He helped draft the 2003,
4 2005, 2007, 2009, and 2011 POMs. The POMs, however, had similar provisions and
5 generally described DenSco’s historical performance based on information provided by Mr.
6 Chittick; set forth Mr. Chittick’s authority to determine DenSco’s “major business decisions
7 and policies”, and to make, amend, or deviate from those policies in Mr. Chittick’s sole
8 discretion; and set forth DenSco’s aspirational lending standards (including its intent to
9 “maintain a loan-to-value ratio below 70%” for both individual trust deeds DenSco
10 purchased and the aggregate loan portfolio, as well as its intent to “achieve a diverse
11 borrower base” with no borrower comprising more than 10-15% of the portfolio).

12 In early summer 2013, Mr. Beauchamp advised DenSco that it needed to update its
13 2011 POM given the passage of time and changes in the scope of DenSco’s fund raising. In
14 particular, based on Mr. Chittick’s representations to Mr. Beauchamp, DenSco either had or
15 would soon eclipse the \$50 million maximum offering set forth in the 2011 POM.
16 Consequently, Mr. Beauchamp began drafting revisions to the 2011 POM, which included
17 updates to the maximum offering and updates on DenSco’s performance to date, among other
18 revisions. Mr. Beauchamp, however, was never able to finalize the 2013 POM. Although
19 Mr. Beauchamp asked for updated investment, loan and financial information regarding
20 DenSco, Mr. Chittick stalled on providing the information, preferring to wait until after he
21 scaled down the amount outstanding to investors. Mr. Beauchamp repeatedly advised
22 DenSco that an update was necessary irrespective of DenSco’s plans regarding the
23 outstanding amount of its offerings, but Mr. Chittick continued to delay.

24 **C. The FREO Lawsuit**

25 On May 24, 2013, Easy Investments, an entity owned by Yomtov “Scott” Menaged
26 (“Menaged”), DenSco, and Ocwen Loan Servicing, were sued by FREO Arizona, LLC

1 explained to Mr. Beauchamp that this was an isolated incident with a borrower, Menaged,
2 whom Mr. Chittick described in his email as someone he had "done a ton of business
3 with...hundreds of loans for several years...."

4 **D. Mr. Beauchamp leaves Bryan Cave, hears nothing from Mr. Chittick for**
5 **months.**

6 Mr. Beauchamp left Bryan Cave at the end of August 2013. Prior to his departure,
7 Mr. Beauchamp had repeatedly made clear to DenSco and Mr. Chittick that they needed to
8 update DenSco's POM. On August 30, 2013, Mr. Beauchamp and Bryan Cave sent Mr.
9 Beauchamp's clients, including DenSco, a joint separation letter informing them that Mr.
10 Beauchamp was joining Clark Hill effective as of September 1, 2013. The letter invited
11 those clients to either request the transition of their files to Mr. Beauchamp or affirmatively
12 request that the files remain at Bryan Cave. Mr. Chittick initially agreed to transfer a portion
13 of DenSco's files to Clark Hill, but aside from DenSco's authorization letter, Mr. Beauchamp
14 never heard from Mr. Chittick regarding the unfinished 2013 POM, or any other matter, until
15 December 2013.

16 **E. DenSco contacts Mr. Beauchamp in late 2013, slowly reveals scope of**
17 **Menaged issues over several months**

18 In December 2013, Mr. Chittick contacted Mr. Beauchamp for the first time in
19 months. He told Mr. Beauchamp over the phone that he had run into an issue with some of
20 his loans to Menaged, and specifically, that properties securing a few DenSco loans were
21 each subject to a second deed of trust competing for priority with DenSco's deed of trust.
22 Mr. Beauchamp reminded Mr. Chittick that he still needed to update DenSco's private
23 offering memorandum. After briefly discussing the allegedly limited double lien issue, Mr.
24 Chittick emphasized to Mr. Beauchamp that Mr. Chittick wanted to avoid litigation with
25 other lenders. Mr. Chittick, however, did not request any advice or help. Accordingly, Mr.
26 Beauchamp suggested that Mr. Chittick develop and document a plan to resolve the double
liens, and nothing more came of the conversation.

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

12 It seems unlikely that the issue with the Miller Lenders was a surprise to Mr. Chittick.
13 Although Mr. Chittick's business journals contain hearsay and present questions regarding
14 admissibility, they suggest that Menaged had told Mr. Chittick about the double lien issue in
15 November 2013, and had explained that the issue could affect every property Menaged had
16 purchased using DenSco funds going back as far as 2011. Further, as set forth below, Mr.
17 Chittick and Menaged had apparently already reached an agreement on how to deal with the
18 double lien issue in November 2013 as well. Mr. Chittick, however, failed to provide that
19 information to Mr. Beauchamp in December. Nor did he immediately provide Mr.
20 Beauchamp with the full scope of the problem, or reveal the procedure he had agreed to with
21 Menaged to resolve that problem, in December or early January.

22 Instead, Mr. Chittick sent the Miller letter to Mr. Beauchamp on January 6, 2014 with
23 nothing more than a sparse request for Mr. Beauchamp to "read the first two pages." The
24 next day, Mr. Chittick provided Mr. Beauchamp a more expansive, if incomplete,
25 explanation. In his email, Mr. Chittick stated that he had lent Menaged a total of \$50 million
26 since 2007 and that he'd "never had a problem with payment or issue that hasn't been

1 resolved.” Mr. Chittick asserted, however, that Menaged’s wife had become critically ill in
2 the past year, and that Menaged had turned the day-to-day operations of his companies over
3 to his cousin. According to Mr. Chittick, the cousin would receive loan funds directly from
4 DenSco, then request loans for the same property from another lender, including the Miller
5 Lenders. The other lenders, who had funded their loans directly to the trustee, would record
6 their deed of trust, as would DenSco, leaving DenSco in second position. The cousin,
7 unfortunately, then purportedly absconded with the funds DenSco lent directly to Menaged.
8 This “double lien” issue consequently jeopardized DenSco’s secured position and its loan-
9 to-value ratios. Mr. Chittick feared that a lawsuit with the Miller Lenders would jeopardize
10 DenSco’s entire enterprise.

11 According to Mr. Chittick’s email, Menaged purportedly found out about his cousin’s
12 scam in November and revealed the fraud to Mr. Chittick at the time. Yet rather than consult
13 legal counsel, Mr. Chittick worked out a plan to fix the double lien issue with Menaged. The
14 initial plan included DenSco paying off the other lenders. That required additional capital,
15 which Menaged and Mr. Chittick agreed would come from DenSco lending Menaged an
16 additional \$1 million and Menaged investing additional capital, including \$4-\$5 million from
17 the liquidation of other assets, as set forth in a term sheet DenSco and Menaged signed after
18 having already put their plan into effect. As the scope of the problem appeared to grow, Mr.
19 Chittick and Menaged agreed to terms of an expanded plan, which included further
20 investment from both DenSco and Menaged, who would also continue to flip and rent homes
21 to raise the necessary profits needed to pay off the other lenders.

22 Unbeknownst to Mr. Beauchamp, and according to Mr. Chittick’s January 7, 2014
23 email, DenSco and Menaged had already been “proceeding with this plan since November
24 [2013].” That is corroborated by the Receiver, who asserts that Mr. Chittick lent \$1 million
25 to Menaged to further their private workout plan in December 2013. In other words, by the
26 time Mr. Chittick approached Mr. Beauchamp with a partial disclosure of the issues in late

1 2013 and early 2014, Mr. Chittick had already agreed to a business plan with Menaged to
2 work out the double lien problems, and had already advanced Menaged significant sums
3 pursuant to that agreement. As Mr. Beauchamp explained in a February 20, 2014 email to
4 his colleagues, Mr. Chittick "without any additional documentation or any legal advice...has
5 been reworking his loans and deferring interest payments to assist Borrower...When we
6 became aware of this issue, we advised our client that he needs to have a Forbearance
7 Agreement in place to evidence the forbearance and the additional protections he needs."

8 1. Mr. Beauchamp tells DenSco it cannot accept new funds or roll over
9 prior funds.

10 After receiving Mr. Chittick's January 7, 2014 email, Mr. Beauchamp was alarmed
11 that DenSco may be taking on new investors or rolling over prior investments without
12 disclosing the double lien issue or the workout to which Mr. Chittick and Menaged had
13 agreed. Mr. Beauchamp's advice to Mr. Chittick regarding disclosures Mr. Chittick had to
14 make to investors was immediate, clear, practical, consistent with his practice and
15 experience, and consistent with the standard of care: (a) DenSco was not permitted to take
16 new money without full disclosure to the investor lending the money; (b) DenSco was not
17 permitted to roll over existing investments without full disclosure to the investor rolling over
18 the money; and (c) DenSco needed to update its POM and make full disclosure to all its
19 investors. Mr. Beauchamp provided this advice to DenSco starting with his January 9, 2014
20 meeting with Mr. Chittick, and repeated it routinely over the next few months.

21 Mr. Beauchamp was also concerned about the source and use of the funds needed to
22 effectuate the Menaged-Chittick workout. Yet, as Mr. Chittick explained, the funds for the
23 \$1 million loan (which Mr. Chittick funded prior to engaging Clark Hill) and an additional
24 \$5 million loan Mr. Chittick and Menaged eventually agreed to as part of the workout, would
25 come from (a) Mr. Chittick's investment of additional funds out of his retirement account,
26 (b) Mr. Chittick's personal \$1.5 million line of credit, and (c) DenSco's working capital

1 raised as loans to other borrowers paid off. Again, and at all times Mr. Beauchamp, advised
2 Mr. Chittick that he could not obtain new investor funds or roll over prior investments
3 without full disclosure. Mr. Beauchamp also repeatedly insisted that Mr. Chittick revise his
4 out-of-date POM to provide disclosure to all his investors. Mr. Chittick, however, insisted
5 that DenSco first document the forbearance agreement so that Mr. Chittick would have a
6 plan to show his investors.

7 Further, Mr. Chittick assured Mr. Beauchamp repeatedly that he was making the
8 requisite disclosures to investors on an as needed basis, and that he had informed a select
9 group of investors as to the double lien issue and proposed workout. That would be in
10 keeping with Mr. Chittick's prior approach to business. As far as Mr. Beauchamp knew, and
11 as Mr. Chittick had previously told him, Mr. Chittick indeed had a select group of investors
12 to whom he turned for advice and approval when confronted with important business
13 decisions, such as, for example, diversifying his investments into different types of
14 properties. Mr. Chittick told Mr. Beauchamp that he was seeking such advice from what Mr.
15 Chittick described as an "advisory council." And again, while the letters Mr. Chittick
16 appears to have authored prior to his passing contain hearsay and present questions regarding
17 admissibility, they include various statements suggesting that Mr. Chittick may have
18 previously told (and received approval from) a select group of investors that he was investing
19 specifically with Menaged, that he was increasing his loan concentration with Menaged
20 above the 10-15% concentration threshold suggested in his POMs, and that his lending
21 process involved funding loans directly to borrowers, rather than a trustee or escrow account.

22 There was no reason for Mr. Beauchamp to question whether Mr. Chittick was in fact
23 providing disclosures to limited investors. Moreover, over the more than decade long strong
24 professional relationship Mr. Beauchamp had developed with Mr. Chittick, Mr. Chittick had
25 proven himself to be a trustworthy client with a strong history of sharing information and
26 making prudent decisions.

1 2. Mr. Beauchamp advises DenSco to enter into a forbearance agreement.

2 Beginning in early January, and over the course of several meetings and telephone
3 conversations with Mr. Chittick, Mr. Beauchamp convinced Mr. Chittick that if he was going
4 to keep doing business with Menaged (and Mr. Chittick never wavered from his insistence
5 on working his way out of the double lien issue with Menaged), DenSco should at least
6 document the issues and workout plan in a forbearance agreement. Entering into a
7 forbearance agreement was sound, practical advice and consistent with the standard of care,
8 particularly where Mr. Chittick and Menaged had already implemented their own workout
9 plan. As Mr. Beauchamp repeatedly explained to Mr. Chittick, the forbearance agreement
10 would, among other things, (a) clarify and set forth the facts that led to the double lien issue,
11 (b) clarify and set forth the scope of the issue with the borrower, (c) acknowledge Mr.
12 Menaged's defaults under his loan documents with DenSco, as well as the amount and
13 validity of any debt owed to DenSco, (d) obtain additional written commitments from
14 Menaged and his entities to fund the workout Mr. Chittick and Menaged had already agreed
15 to; and (e) obtain additional security and other protections from Menaged and his entities to
16 protect DenSco and its investors. Mr. Beauchamp was crystal clear with Mr. Chittick all of
17 this would need to be disclosed to DenSco's investors. Other protections Mr. Beauchamp
18 advocated for, including additional admissions of fault and fraud by Menaged to protect
19 DenSco in the event of a bankruptcy filing by Menaged or his entities, were eventually
20 stricken from the agreement at Menaged and Mr. Chittick's insistence, and over Mr.
21 Beauchamp's objections.

22 Mr. Beauchamp had previously drafted and negotiated countless forbearance
23 agreements. He reasonably anticipated that documenting DenSco's forbearance would take
24 2-3 weeks. Negotiating the forbearance agreement, however, turned out to be more difficult
25 than Mr. Beauchamp could have reasonably imagined. For one, Menaged and his counsel
26 repeatedly insisted on edits and revisions that served only to undermine DenSco's fiduciary

1 duty to its investors. Mr. Beauchamp repeatedly had to undo changes proffered by Menaged
2 or Jeff Goulder, Menaged's attorney, and often by Mr. Chittick at Menaged's direction, in
3 order to protect DenSco's investors. For example, Menaged (and Mr. Goulder) attempted to
4 restrict the type of information that could be disclosed to investors, attempted to obtain
5 releases for Menaged related to his defaults and conduct, and refused to provide additional
6 security or information regarding that additional security. Mr. Beauchamp repeatedly pushed
7 back on these efforts and advised DenSco and Mr. Chittick, both in writing and verbally, that
8 they had fiduciary duties to DenSco's investors, which included disclosure obligations. *See*
9 *e.g.*, February 4, 2014 email from Mr. Beauchamp to Mr. Chittick ("you cannot obligate
10 DenSco to further help Scott, because that would breach your fiduciary duty to your
11 investors"); February 14, 2014 email from Mr. Beauchamp to Mr. Chittick ("[Goulder]
12 clearly thinks he can force you to agree to accept a watered down agreement and give up
13 substantial rights that you should not have to give up. Unfortunately, it is not your money.
14 It is your investors' money. So you have a fiduciary duty"); March 13, 2014 email from Mr.
15 Beauchamp to Mr. Chittick ("we cannot give Scott and his attorney any time to cause further
16 delay in getting this Forbearance Agreement finished and the necessary disclosure prepared
17 and circulated").

18 In addition to Menaged and his counsel's constant revisions, the number of loans
19 affected by the double lien issue also kept growing. The number of loans Mr. Chittick
20 asserted were in issue grew from December 2013 to January 2014, and then grew again from
21 January 2014 to February 2014. This resulted in constant changes to the revised workout
22 documents, as well as to Menaged and Mr. Chittick's agreement regarding the manner in
23 which to fund the workout. Mr. Chittick, however, maintained, despite multiple inquiries
24 from Mr. Beauchamp, that he had run the calculations and projections and was confident his
25 plan with Menaged would work. Mr. Chittick also told Mr. Beauchamp that he had gone
26 over those projections with his "advisory council." As Mr. Chittick described it to Mr.

1 Beauchamp, it was a cash flow issue, not a payment issue, and that with Menaged's
2 additional investments, the workout would succeed.

3 Nevertheless, Mr. Beauchamp at one point became concerned enough at Menaged's
4 intransigence and the apparent influence he held over Mr. Chittick, that he reached out to
5 third parties in late January 2014 to inquire about Menaged. Those third parties informed
6 him that Menaged was generally someone to be distrusted and not someone to do business
7 with. Mr. Beauchamp attempted to persuade Mr. Chittick of this during several heated
8 conversations, but Mr. Chittick ignored these admonitions, explaining that while Menaged
9 could be sharp and off-putting, Menaged had always performed on DenSco's loans in the
10 past, and had stood by Mr. Chittick in tough times. Despite Mr. Beauchamp's efforts, Mr.
11 Chittick could not be convinced to cut ties with Menaged.

12 **F. Mr. Beauchamp terminates representation of DenSco and Mr. Chittick.**

13 When Mr. Beauchamp agreed to represent DenSco with respect to Menaged, Mr.
14 Beauchamp made clear that Mr. Chittick had to immediately update DenSco's POM and
15 make full disclosure to its investors regarding the double lien issues, the workout with
16 Menaged, and the potential implications thereof on DenSco's finances and the investors'
17 investments. Mr. Chittick always acknowledged that responsibility and agreed to make the
18 full disclosure once the forbearance agreement was properly documented. As the
19 forbearance neared completion, Mr. Beauchamp and his associate, Daniel Schenk, began
20 drafting the updated POM in April and May 2014. Specifically, the draft 2014 POM would
21 have: provided a description of the forbearance agreement (including all the parties' funding
22 obligations), the reason it was necessary, and its effect on DenSco's books; updated
23 DenSco's goals for intended loan-to-value ratios; updated the descriptions regarding
24 DenSco's loan funding and securitizations procedures; updated the number of loan defaults
25 triggering foreclosures; and amended the descriptions regarding DenSco's borrower base,
26 among other things. Further, Mr. Beauchamp explained that the updated POM would need

1 to be accompanied with a cover letter or other communication highlighting the major
2 material changes, including the double lien issue and resulting workout agreement, to ensure
3 that investors were fully informed. Mr. Chittick, however, refused to provide the necessary
4 information to complete the POM and refused to approve the description of the workout or
5 the double lien issue, despite his prior acknowledgement that he would need to make full
6 disclosure to all of his investors about DenSco (as he had been doing through POMs and
7 newsletters since 2003).

8 In May 2014, Mr. Beauchamp handed Mr. Chittick a physical copy of the draft POM
9 and asked him what Mr. Chittick's specific issues were with the disclosure. Mr. Chittick
10 responded that there was nothing wrong with the disclosure, he was simply not ready to make
11 any kind of disclosures to his investors at this stage. Mr. Beauchamp again explained that
12 Mr. Chittick had no choice in the matter and that he had a fiduciary duty to his investors to
13 make these disclosures. Mr. Chittick would not budge. Faced with an intransigent client
14 who was now acting contrary to the advice Mr. Beauchamp was providing, and with concerns
15 that Mr. Chittick may not have been providing any disclosures to anyone since January 2014,
16 Mr. Beauchamp informed Mr. Chittick that Beauchamp and Clark Hill could not and would
17 not represent DenSco any longer. Mr. Beauchamp also told Chittick that he would need to
18 retain new securities counsel, not only to provide the proper disclosure to DenSco's
19 investors, but to protect DenSco's rights under the forbearance agreement. Mr. Chittick
20 suggested that he had already started that process and was speaking with someone else.

21 Thereafter, Mr. Beauchamp and Clark Hill ceased providing DenSco with securities
22 advice. Mr. Chittick accepted that, but asked that Mr. Beauchamp clean up some small issues
23 with the forbearance agreement before ending the relationship entirely. Other than
24 addressing those small forbearance agreement issues in June and July, Clark Hill stopped
25 working with DenSco or Mr. Chittick in any capacity until 2016, when Mr. Chittick
26 requested that Mr. Beauchamp assist with a very limited issue involving an audit by the

1 Arizona Department of Financial Institutions - work Mr. Beauchamp had previously
2 performed for DenSco and that Mr. Chittick characteristically believed could be done most
3 cost-effectively by Mr. Beauchamp rather than by a new lawyer with no background on the
4 issue.

5 **G. Menaged continues to perpetrate fraud on DenSco, which only grows in**
6 **scale.**

7 During the time that he represented it regarding securities matters, Mr. Beauchamp (a)
8 repeatedly advised DenSco that it had to make full disclosure to its investors and then
9 terminated his relationship as securities counsel for DenSco when DenSco refused, (b)
10 explained that DenSco would need to retain new counsel after Mr. Beauchamp withdrew to
11 provide proper disclosures and monitor the forbearance, and (c) repeatedly reminded Mr.
12 Chittick that he needed to fund loans directly to a trustee or escrow company, rather than to
13 the borrower. Mr. Chittick ignored Mr. Beauchamp's advice. It is unclear if DenSco ever
14 engaged or even talked to new counsel. It appears Mr. Chittick never issued an updated POM,
15 a fact which could not have gone unnoticed by DenSco's sophisticated investors, who had
16 gotten used to regular updates from DenSco, not only through updated POMs, but through
17 monthly newsletters and periodic investor meetings. It is quite clear that Mr. Chittick
18 continued to loan funds directly to Menaged in direct contravention of Mr. Beauchamp's
19 repeated advice.

20 Nevertheless, the brazen scope of Menaged's efforts to defraud DenSco was not
21 foreseeable. After several years of bilking DenSco and others out of millions of dollars,
22 Menaged was eventually arrested. The United States Department of Justice first charged
23 Menaged with defrauding various banks through his purported furniture stores. Menaged used
24 fabricated receipts of purchases made at the furniture store to obtain credit from banks using
25 the names of, and personal identification information of, individuals who had recently died.
26 He would then incur millions of dollars in fraudulent charges on those fake

1 accounts. Incredibly, Menaged acknowledged in his plea agreement that he had perpetrated
2 the bank fraud in order to get cash to continue defrauding DenSco.

3 The Department of Justice then also charged Menaged with money laundering with
4 respect to the DenSco fraud. In his plea agreement, Menaged admitted that from January 2014
5 through June 2016, he embezzled millions of dollars without purchasing properties with the
6 loans obtained from DenSco. He explained that DenSco would wire money to purchase
7 properties directly to Menaged who, in turn, would send DenSco "an image of a bank cashier's
8 check and a copy of a Trustee Certificate of Sale Receipt." No sales, however, actually took
9 place. Menaged would simply redeposit the cashier's check into his account and create bogus
10 receipts for the purchase of the property. Between January 2013 and June 2016, Menaged
11 admitted he obtained 2,172 loans from DenSco totaling approximately \$734,484,440.67. Yet,
12 of the 2,712 loans made by DenSco, only 96 involved actual property transactions. Menaged
13 supposedly used the remaining 2,616 loans for personal expenses, gambling trips, and transfers
14 to his family members and associates. Menaged would also utilize new loans from DenSco to
15 pay back outstanding DenSco loans to conceal the embezzlement. Menaged was sentenced to
16 17 years in jail. As First Assistant U.S. Attorney Elizabeth Strange stated, the "lengthy
17 sentence is a fitting punishment for his egregious crimes."

18 Menaged shamelessly duped Mr. Chittick. Documents and recordings suggest that
19 Menaged never invested any money into the workout plan. He never obtained any money from
20 Israel despite purportedly making numerous trips to the country for that very purpose, blatantly
21 lied that funds that could have been used to fund the workout were tied up in his divorce
22 proceedings, and ultimately invented a non-existent investment scheme involving
23 "auction.com" which Menaged falsely claimed was retaining most of DenSco's money (to go
24 along with his fabrication of the fraudulent cousin and terminally ill wife). Sadly, Mr. Chittick
25 bought into all of Menaged's lies until his last days.

26 Discovery is continuing. Defendants may supplement.

1 **II. LEGAL THEORIES OF CLAIMS AND DEFENSES.**

2 **A. Plaintiff's claims**

3 *Legal Malpractice*

4 Receiver asserts that Defendants, in their representation of DenSco, committed
5 malpractice and breached fiduciary duties owed to DenSco. Legal malpractice requires proof
6 of the existence of a duty, breach of duty, that defendant's breach was the actual and proximate
7 cause of damages, and the "nature and extent" of those damages. *Glaze v. Larsen*, 207 Ariz.
8 26, 29 ¶ 12 83 P.3d 26, 29 (Ariz. 2004) (citations and quotations omitted).

9 Receiver cannot prove breach of duty, actual and proximate cause, or resulting damages.
10 To prove breach of duty, Receiver will need to demonstrate that Defendants deviated from the
11 professional standard of care. *Phillips v. Clancy*, 152 Ariz. 415, 418, 733 P.2d 300, 303 (App.
12 1986). Defendants' advice and conduct in representing DenSco and, in doing so, representing
13 Mr. Chittick as president of DenSco, was consistent with Defendants' practice and experience,
14 and consistent with the standard of care. Thus, Defendants did not breach their duties to
15 DenSco. Receiver will also need to prove that if Defendants had not purportedly breached the
16 standard of care, that DenSco would not have suffered injury. *Id.* Whatever harm befell
17 DenSco was not an actual or foreseeable result of the advice provided by Defendants. Thus,
18 Receiver's malpractice claim fails.

19

20 *Aiding and Abetting Breach of Fiduciary Duties*

21 Receiver asserts that Defendants aided and abetted Mr. Chittick in breaching his
22 fiduciary duties to DenSco. Claims of aiding and abetting require proof that: (1) the primary
23 tortfeasor must commit a tort that caused injury to the plaintiff; (2) the defendant must know
24 that the primary tortfeasor's conduct constitutes a breach of duty; (3) the defendant must
25 substantially assist or encourage the primary tortfeasor in the achievement of that breach and
26 (4) there must be a causal relationship between the defendant's assistance or encouragement

1 and the primary tortfeasor's commission of the tort. *Wells Fargo Bank v. Az. Laborers,*
2 *Teamsters and Cement Masons Local No. 395 Pension Trust Fund*, 201 Ariz. 474, 485 (Ariz.
3 2002); *Sec. Title Agency, Inc. v. Pope*, 219 Ariz. 480, 491 (App. 2008). Importantly, "[b]ecause
4 aiding and abetting is a theory of secondary liability, the party charged with the tort must have
5 knowledge of the primary violation." *Wells Fargo*, 201 Ariz. at 485.

6 It is unclear from the Complaint what actions the Receiver asserts constitute a breach
7 of Mr. Chittick's fiduciary duties to DenSco. In any event, as set forth above, Defendants'
8 advice and conduct in representing DenSco were consistent with the applicable standard of
9 care. Defendants did not "substantially assist or encourage" Mr. Chittick in breaching his
10 duties to DenSco, Defendants did not have knowledge of Mr. Chittick's purported "primary
11 violation," nor is there a causal relationship between Defendants' representation of DenSco
12 and Mr. Chittick's purported tortious conduct with respect to DenSco. Further, as set forth
13 above, whatever harm befell DenSco was not an actual or foreseeable result of Defendants'
14 actions or inactions.

15 **B. Affirmative Defenses**

16 *Statute of Limitations*

17 Both the legal malpractice claim and the aiding and abetting claim have a two-year
18 statute of limitations. *See* A.R.S. §12-542(1) (An action "[f]or injuries done to the person of
19 another" shall be commenced and prosecuted within two years after the cause of action accrues,
20 and not afterward"). Receiver, who stands in the shoes of DenSco, did not file the Complaint
21 in this action until October 16, 2017, which was well outside the statute of limitations. DenSco,
22 and potentially the Investors, could have discovered at least as of Summer 2014, that DenSco's
23 loans to Menaged (or his entities) and DenSco's lending practices with respect to Menaged,
24 could give rise to potential causes of action against Mr. Chittick or his agents. Consequently,
25 because the statute of limitations ran, at the latest, in the Summer of 2016, the Complaint is
26 barred in its entirety.

1 *In pari delicto* and *unclean hands*

2 Arizona law recognizes the doctrine of *in pari delicto*. *Brand v. Elledge*, 89 Ariz. 200,
3 205, 360 P.2d 213, 217 (1961) (quoting *Furman v. Furman*, 34 N.Y.S.2d 699, 704 (N.Y. Sup.
4 Ct. 1941), *aff'd*, 40 N.E.2d 643 (N.Y. 1942)). *In pari delicto* is an affirmative defense by which
5 a party is barred from recovering damages if his losses are substantially caused by activities
6 the law forbade him to engage in." *Stewart v. Wilmington Trust SP Servs., Inc.*, 112 A.3d 271,
7 301-02 (Del. Ch.), *aff'd*, 126 A.3d 1115 (Del. 2015) (quotation omitted). The defense may
8 be raised against a receiver. *Id.* ("no cogent reason for sparing the innocent Receiver the effect
9 of *in pari delicto* while equally innocent stockholders or policyholders would be barred from
10 relief in the derivative context"); *Knauer v. Jonathon Roberts Fin. Grp., Inc.*, 348 F.3d 230,
11 236 (7th Cir. 2003) (affirming dismissal of the receiver's claims against the broker dealers,
12 concluding that they were barred by the defense of *in pari delicto*).

13 Here, to the extent there are claims against the Defendants, DenSco, into whose shoes
14 the Receivers steps, bears fault for damages about which it complains. Thus, the Receiver's
15 claims are barred by doctrine of *in pari delicto* and, to the extent it specifically seeks equitable
16 relief, by the related doctrine of *unclean hands*.

17
18 *Laches*

19 A claim is barred by *laches* when the delay in bringing the claim is "unreasonable under
20 the circumstances" given "the party's knowledge of his or her right" and "any change in
21 circumstances caused by the delay has resulted in prejudice to the other party sufficient to
22 justify denial of relief." *Mathieu v. Mahoney*, 174 Ariz. 456, 459, 851 P.2d 81, 84 (1993).
23 Receiver seeks to recover potentially millions of dollars in alleged damages resulting from
24 loans Mr. Chittick made to Menaged. DenSco would have been aware of the harms that could
25 befall DenSco and its investors as a result of DenSco's loans to, and lending practices with,
26 Menaged, by Summer 2014 at the latest. DenSco's inaction for several years, up through the

1 death of Mr. Chittick, to seek relief against any potential third party for harms suffered by
2 DenSco was unreasonable in light of DenSco's knowledge. Because the Receiver steps into
3 DenSco's shoes, the claims are barred.

4
5 *Setoff*

6 Clark Hill filed a proof of claim in the DenSco Receivership for unpaid fees incurred
7 by Clark Hill on behalf of DenSco after Mr. Chittick's death. The Receiver improperly denied
8 the claim on the basis of an alleged conflict of interest. To the extent Defendants are found to
9 owe Plaintiff anything, that debt must be reduced any sums Plaintiff owes Clark Hill.

10 **Additional defenses:**

- 11 • Third parties, including Mr. Chittick and Menaged, over whom Defendants
12 have no authority or control, are at fault for any damages suffered.
- 13 • Densco, in to whose shoes the Receiver steps, is at fault for any damages
14 suffered.
- 15 • Densco, in to whose shoes the Receiver steps, assumed the risk of any actions
16 taken or not taken by DenSco or Mr. Chittick. *Hildebrand v. Minyard*, 16 Ariz.
17 App. 583, 585, 494 P.2d 1328, 1330 (1972) ("A plaintiff who by contract or
18 otherwise expressly agrees to accept a risk of harm arising from the defendant's
19 negligent or reckless conduct cannot recover for such harm . . .") (*quoting*
20 *Restatement (Second) of Torts § 496(B) (1965)*).
- 21 • Receiver cannot demonstrate proximate cause or loss causation because
22 Defendants are not the actual or proximate cause of any damages suffered.
- 23 • Any damages suffered were the result of intervening or superseding events or
24 causes over which the Defendants had no control and were not legally
25 responsible.
- 26 • Receiver's claims are barred by doctrines of waiver and estoppel.

1
2 Discovery is continuing. Defendants may supplement.

3 **III. WITNESSES.**

4 Because no discovery has taken place, Defendants have not yet identified all persons it
5 may call as witnesses at trial, but reserves the right to call any of the following persons to
6 testify as a witness at trial:

- 7
8 1. David Beauchamp
9 c/o Coppersmith Brockelman, PLC
10 2800N. Central Avenue, Suite 1900
11 Phoenix, Arizona 85004

12 Mr. Beauchamp is expected to testify regarding the allegations in the Complaint and
13 his representation of DenSco and of Mr. Chittick in his capacity as president of DenSco.

- 14 2. Peter Davis, Receiver of DenSco Investment Corporation
15 c/o Osborn Maledon, P.A.
16 2929 N. Central Avenue, Suite 2100
17 Phoenix, Arizona 85012

18 Mr. Davis is expected to testify regarding the allegations in the Complaint; the
19 Receiver's evaluations, analyses, and determinations regarding all aspects of DenSco's
20 finances, including, but not limited to, DenSco's loans, lending practices, record keeping,
21 financial transactions, and solvency; the Receiver's maintenance of any DenSco or Chittick
22 records or property, including, but not limited to, electronic records, websites, and email
23 communications; the Receiver's communications with third parties related to DenSco,
24 including communications with financial institutions, investors, and accountants and other
25 professionals; the Receiver's determinations regarding the Receiver's evaluation and analysis
26 regarding the potential fault, liability, or culpability of any third party with respect to any
losses suffered by DenSco, including, but not limited, to Chase Bank, U.S. Bank, Yomtov
Menaged, Active Funding Group, LLC, and/or Gregg Seth Reichman.

- 1 3. Any witnesses disclosed by other parties.
2 4. Any witnesses that become known through discovery.
3 5. Custodian or other foundational witnesses necessary to admit exhibits.
4 Discovery is continuing. Defendants may supplement.

5 **IV. ADDITIONAL PERSONS WHO MAY HAVE RELEVANT INFORMATION.**

6 1. Yomtov "Scott" Menaged

7 Scott Menaged is expected to have knowledge regarding all aspects of any personal,
8 financial, or business dealings he may have had with DenSco and Mr. Chittick; all aspects of
9 the fraud(s) he perpetrated on DenSco and Mr. Chittick, either directly, or through one of his
10 entities, including, but not limited to, Easy Investments, LLC, Arizona Home Foreclosures,
11 LLC, Furniture King, LLC, and Scott's Fine Furniture; all aspects of actions or conduct
12 related to his criminal indictment, plea bargain, or sentencing in the United States District
13 Court for the District of Arizona; his communications with DenSco and Mr. Chittick; and his
14 communications with Mr. Beauchamp.

15

16 2. PMK Easy Investments, LLC
17 10510 East Sunnyside Drive
18 Scottsdale, AZ 85259

19 *See Description for Scott Menaged.*

20

21 3. PMK Arizona Home Foreclosures, LLC
22 7320 West Bell Road
23 Glendale, AZ 85308

24

25 *See Description for Scott Menaged.*

26

1 4. PMK Furniture King, LLC
2 3200 North Central Avenue
3 Suite 2460
4 Phoenix, AZ 85012

5 *See Description for Scott Menaged.*

6 5. PMK Scott's Fine Furniture

7 *See Description for Scott Menaged.*

8 6. Veronica Castro aka Veronica Gutierrez Reyes
9 c/o Thomas W. Warshaw Attorney at Law
10 33147 North 71st Way
11 Scottsdale, AZ 85266

12 Ms. Castro is expected to have knowledge regarding Menaged's personal, financial, or
13 business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on
14 DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
15 communications with DenSco and Mr. Chittick; Menaged's communications with Mr.
16 Beauchamp; the actions or conduct related to Menaged's criminal indictment, plea bargain,
17 or sentencing in the United States District Court for the District of Arizona; and Ms. Castro's
18 communications with DenSco and Mr. Chittick.

19 7. Luigi Amoroso

20 Mr. Amoroso is expected to have knowledge regarding Menaged's personal, financial,
21 or business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on
22 DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
23 communications with DenSco and Chittick; Menaged's communications with Mr.
24 Beauchamp; the actions or conduct related to Menaged's criminal indictment, plea bargain,
25 or sentencing in the United States District Court for the District of Arizona; and Mr.
26 Amoroso's communications with DenSco and Mr. Chittick.

1 8. Alberto Pena
2 c/o Law Office of Cameron A. Morgan
3 4356 North Civic Center Plaza
4 Suite 101
5 Scottsdale, AZ 85251

6 Mr. Pena may have knowledge regarding Menaged's personal, financial, or business
7 dealings with DenSco and Chittick; the fraud(s) Menaged perpetrated on DenSco and
8 Chittick, either directly, or through one of Menaged's entities; Menaged's communications
9 with DenSco and Mr. Chittick; and the actions or conduct related to Mr. Pena's and
10 Menaged's criminal indictment, plea bargain, or sentencing in the United States District
11 Court for the District of Arizona.

12 9. Troy Flippo
13 c/o Storrs Law Firm PLLC
14 1421 East Thomas Road
15 Phoenix, AZ 85014

16 Mr. Flippo may have knowledge regarding Menaged's personal, financial, or business
17 dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on DenSco and
18 Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
19 communications with DenSco and Chittick; and the actions or conduct related to Flippo's and
20 Menaged's criminal indictment, plea bargain, or sentencing in the United States District
21 Court for the District of Arizona.

22 10. Menaged family members, including, Joseph Menaged, Michelle Menaged,
23 Jennifer Bonfiglio, Joy Menaged, Jess Menaged

24 Menaged's family may have knowledge regarding Menaged's personal, financial, or
25 business dealings with DenSco and Chittick; the fraud(s) Menaged perpetrated on DenSco
26 and Chittick, either directly, or through one of Menaged's or his Family's entities; the use of
funds obtained from DenSco; Menaged's communications with DenSco and Chittick; and the

1 actions or conduct related to Menaged's criminal indictment, plea bargain, or sentencing in
2 the United States District Court for the District of Arizona.

3

4 11. Shawna Heuer
5 c/o Bonnett Fairbourn, PC
6 2325 E. Camelback Road
7 Phoenix, Arizona 85016

8 Ms. Heuer is expected to have knowledge regarding Mr. Beauchamp's work on behalf
9 of DenSco after Mr. Chittick's death and her communications with Mr. Beauchamp. Ms.
10 Heuer may also have knowledge regarding Mr. Chittick and DenSco's business, and Mr.
11 Chittick's communications with Mr. Beauchamp, Menaged, or DenSco's investors.

12 12. Jeff Goulder
13 Stinson Leonard Street
14 1850 North Central Avenue, Suite 2100
15 Phoenix, Arizona 85004

16 Mr. Goulder is expected to have knowledge regarding the negotiations of the
17 Forbearance Agreement. Mr. Goulder also may have knowledge regarding Menaged's
18 businesses, business practices, and finances. Mr. Goulder also may have knowledge
19 regarding Menaged's communications with Mr. Beauchamp.

20 13. David Preston
21 c/o Gammage & Burnham
22 2 N. Central Avenue, Suite 15
23 Phoenix, Arizona 85004

24 Mr. Preston is expected to have knowledge regarding DenSco and Mr. Chittick's
25 finances and tax returns. Mr. Preston is also expected to have knowledge regarding Mr.
26 Chittick's retirement plan.

1 14. DenSco Investors

2 The Investors are expected to have knowledge regarding Mr. Chittick's
3 communications to the Investors and their knowledge of DenSco's business, the status of
4 their investments, and the status of DenSco's loans at all relevant times.

5

6 15. PMK Chase Bank
7 3800 North Central Avenue
8 Suite 460
9 Phoenix, AZ 85012

10 Chase Bank is expected to have knowledge regarding Menaged's banking practices,
11 including Menaged's use of Chase Bank to perpetrate his fraud on DenSco and Chittick.

12

13 16. PMK US Bank
14 3800 North Central Avenue
15 Suite 460
16 Phoenix, AZ 85012

17 US Bank is expected to have knowledge regarding Menaged's banking practices,
18 including Menaged's use of Chase Bank to perpetrate his fraud on DenSco and Chittick.

19

20 17. Gregg Seth Reichman/Active Funding Group
21 Attention: Andrew Abraham
22 702 East Osborn Road
23 Suite 200
24 Phoenix, AZ 85014

25 Mr. Reichman may have knowledge regarding Menaged's businesses, business
26 practices, and finances; the fraud(s) Menaged perpetrated on DenSco and Mr. Chittick, either
27 directly, or through one of Menaged's entities; and Mr. Reichman or his entities' (including
28 Active Funding Group) participation in any of those fraudulent schemes (as suggested by the
29 Receiver's Petition No. 45).

1 18. Daniel Schenk
2 c/o Coppersmith Brockelman, PLC
3 2801N. Central Avenue, Suite 1900
4 Phoenix, Arizona 85004

5 Mr. Schenk is expected to have knowledge regarding any work he performed on
6 behalf of DenSco and Mr. Chittick in his capacity as president of DenSco. Mr. Schenk may
7 also have knowledge of Menaged's communications with Beauchamp, Menaged
8 communications with Mr. Chittick, and Mr. Beauchamp's communications with Mr. Chittick.

9 19. Robert Anderson
10 c/o Coppersmith Brockelman, PLC
11 2802N. Central Avenue, Suite 1900
12 Phoenix, Arizona 85004

13 Mr. Anderson is expected to have knowledge regarding any work he performed on
14 behalf of DenSco and Mr. Chittick in his capacity as president of DenSco.

15 **V. PERSONS WHO HAVE GIVEN STATEMENTS.**

16 None at this time. Discovery is continuing. Defendants may supplement.

17 **VI. EXPERT WITNESSES.**

18 Defendants will identify expert witnesses in accordance with the schedule ordered by
19 the Court.

20 **VII. COMPUTATION AND MEASURE OF DAMAGES.**

21 Plaintiff is not entitled to recover damages against Defendants.

22 Discovery is continuing. Defendants may supplement.

23 **VIII. EXHIBITS.**

24 Defendants have not yet identified which of the documents listed in Section IX below
25 will be used at trial, and therefore expressly reserve the right to introduce any of the listed
26 documents as exhibits at trial. Defendants may also use any documents identified in any other

1 party's disclosure statement or otherwise disclosed in this matter. By reserving the right to
2 introduce any of the listed documents as exhibits at trial, Defendants do not waive their right
3 to object to the introduction of any of these documents at the time of trial. Defendants will
4 supplement this initial disclosure statement in accordance with Arizona Rules of Civil
5 Procedure 26.1(b)(2).

6 Discovery is continuing. Defendants may supplement.

7 **IX. LIST OF RELEVANT DOCUMENTS.**

8 Defendants have not yet identified any additional relevant documents. The
9 following documents, or categories of documents, may be relevant or lead to discovery of
10 admissible evidence in this action and have already been exchanged or are being produced
11 herewith:

- 12 1. Documents previously produced by Clark Hill bates labeled CH_0000001-
13 13330.
- 14 2. Additional documents produced herewith by Clark Hill bates labeled
15 CH_0013331-13374.
- 16 3. Documents previously produced by Plaintiff including bates labeled
17 DIC000001-25330, 28634-53950 and Quickbooks backup.
- 18 4. Documents previously produced by Plaintiff including bates labeled D126751-
19 128731 and 130972-133111.
- 20 5. Documents previously produced by Bryan Cave in response to Subpoena Duces
21 Tecum bates labeled BC000001-3188.
- 22 6. Documents produced herewith by Dave Preston in response to Subpoena Duces
23 Tecum bates labeled DP000001-601.
- 24 7. Any and all documents in CR-17-00680, United States of America v. Yomtov
25 Scott Menaged, et al.
- 26 8. All documents produced by any party or third party in this litigation.

- 1 9. All pleadings, filings, minute entries, orders and judgments.
2 10. All deposition or hearing transcripts in the above captioned litigation.
3 11. All transcripts from any Section 341 creditor meetings, Rule 2004 examinations,
4 depositions, or hearings in Yomtov Menaged's bankruptcy pending in the United
5 States Bankruptcy Court for the District of Arizona at 2:16-bk-04268.

6 Defendants reserves the right to supplement the list of documents that may be relevant
7 as information becomes available.

8 **X. INSURANCE AGREEMENTS.**

9 Not applicable.

10

11

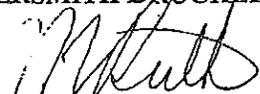
12 DATED this 9th day of March, 2018.

13

14

COPPERSMITH BROCKELMAN PLC

15

By: 

16

John E. DeWulf
Marvin C. Ruth
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17

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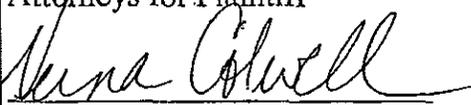
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ORIGINAL mailed and emailed this
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21

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8

9

SUPERIOR COURT OF ARIZONA

10

COUNTY OF MARICOPA

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

13 Plaintiff,

14 v.

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

17 Defendants.

No. CV2017-013832

**DEFENDANTS' SECOND
SUPPLEMENTAL RULE 26.1
DISCLOSURE STATEMENT**

18 Defendants Clark Hill PLC, David G. Beauchamp and Jane Doe Beauchamp
19 (collectively, "Defendants") **supplement their** initial disclosure statement according to
20 Arizona Rule of Civil Procedure 26.1. Defendants reserve the right to amend or supplement
21 this disclosure statement as discovery progresses. **Supplements are in bold.**

22 This case is in its infancy and thus the content of this disclosure statement is
23 preliminary and subject to supplementation, amendment, explanation, change and
24 amplification. Because the parties have just commenced discovery, there may be
25 information, documents, and materials related to the various allegations and defenses set forth
26 in the pleadings of which Defendants are presently unaware. Defendants note that they do

1 not currently have access to all potentially relevant documents of the Plaintiff, or third parties,
2 and that this disclosure statement is based upon information currently available to
3 Defendants. Nothing in this disclosure statement is intended to be an admission of fact, an
4 affirmation of the existence of any document, or an agreement with or an acceptance of any
5 legal theory or allegation. The information set forth below is provided without waiving (1)
6 the right to object to the use of such information for any purpose in this or any other action
7 due to applicable privilege (including the work-product and attorney-client privileges),
8 materiality, or any other appropriate grounds; (2) the right to object to any request involving
9 or relating to the subject matter of the information in this disclosure statement; or (3) the right
10 to revise, correct, supplement or clarify any of the information provided below. If any part
11 of this statement is ever read to the jury, fairness would require that the jury be read this
12 introductory statement and any supplementation, amendments, explanation, changes or
13 amplifications which may occur or be filed subsequent to this disclosure statement.

14 Defendants also incorporate by reference into this disclosure statement all
15 interrogatory answers, responses to requests for production, responses to requests for
16 admission, other discovery and disclosure statements and supplements thereto in this action,
17 and all transcripts of any deposition taken in this action and any exhibits thereto.

18 **I. FACTUAL BASIS OF CLAIMS AND DEFENSES.**

19 **A. Retention/Scope of Work**

20 For more than 35 years, since graduating with honors from the University of Michigan
21 Law School in 1981, David Beauchamp has represented his clients in the areas of corporate
22 law, securities, venture capital, and private equity with distinction and integrity.

23 One of those clients was DenSco Investment Corporation ("DenSco"), a company
24 solely owned and managed by Denny Chittick. DenSco raised money from investors by
25 issuing general obligation notes to those investors at interest rates that varied depending on
26 the note's maturity date. DenSco then invested those funds primarily by making high interest

1 short-term loans to borrowers buying residential properties out of foreclosure, which loans
2 were intended to be secured by deeds of trusts on those properties. Mr. Beauchamp started
3 providing securities advice to DenSco in the early 2000s, while he was a partner at the law
4 firm Gammage & Burnham. DenSco followed Mr. Beauchamp as a client when he left
5 Gammage to join the law firm Bryan Cave in March 2008, and again when Mr. Beauchamp
6 left Bryan Cave to join Clark Hill in September 2013.

7 Although the various firms' engagement letters with DenSco only specifically
8 identified DenSco as the client, DenSco could not operate or engage with legal counsel
9 except through its president and sole owner, Mr. Chittick. DenSco had no other employees;
10 Mr. Chittick was responsible for all aspects of DenSco's business, and Mr. Chittick
11 understood that Mr. Beauchamp, as an incident to Mr. Beauchamp's representation of
12 DenSco, was also representing Mr. Chittick in his capacity as president of DenSco. The
13 investors understood that as well. The private offering memoranda DenSco provided state
14 that "legal counsel to the Company will represent the interests solely of the Company and its
15 President, and will not represent the interests of any investor."

16 Shortly after Mr. Chittick's death, and in the midst of a chaotic time dealing with the
17 fallout of his passing, Mr. Beauchamp stated in an August 10, 2016 letter to an Arizona
18 Corporation Commission subpoena to Mr. Chittick that he had "not previously represented
19 Denny Chittick" and that the ACC would need to request the personal information it sought,
20 including Mr. Chittick's personal tax returns, from counsel for Mr. Chittick's estate. To the
21 extent that Mr. Beauchamp's statement was not clear or that any clarification was necessary,
22 Mr. Beauchamp averred in an August 17, 2016 declaration under oath that he represented
23 DenSco and "Mr. Chittick as the President of DenSco." Mr. Beauchamp did not represent
24 Mr. Chittick outside of his role as a corporate officer at DenSco.

25 Until mid- 2013, Mr. Beauchamp's work as DenSco's securities counsel included,
26 among other things, drafting DenSco's Private Offering Memoranda and related investor

1 documents; advising DenSco regarding Blue Sky laws and state and federal securities
2 reporting and filing requirements; advising DenSco as to the rules and regulations
3 promulgated by state financial and lending authorities; and advising DenSco regarding the
4 applicability of mortgage broker regulations. At times, it would also involve answering
5 DenSco's questions regarding its Reg D filings and obligations. Although Mr. Beauchamp
6 helped DenSco file its first set of Reg D documents in 2003, Mr. Chittick told Mr.
7 Beauchamp thereafter that he did not want to pay a lawyer to review and file the Reg D
8 documents, and that Mr. Chittick would take on that responsibility himself. That was not a
9 surprising request, as Mr. Chittick repeatedly instructed Mr. Beauchamp to keep legal fees
10 to a minimum. Consequently, although Mr. Beauchamp's paralegal initially helped Mr.
11 Chittick understand the filing process and obtain access to the EDGAR filing site, in
12 accordance with his client's wishes Mr. Beauchamp did not review DenSco's Reg D filings.

13 The scope of Mr. Beauchamp's representation of DenSco and its president was
14 narrow. Further, the relationship was friendly, but professional. Mr. Beauchamp did not go
15 to dinner or vacation with Mr. Chittick or his family. They did not play golf or otherwise
16 socialize together.

17 Over the years, Mr. Chittick showed himself to be a trustworthy and savvy
18 businessman, and a good client. He was devoted to his business and investors, many of
19 whom were friends and family. Despite often complaining about the cost of legal services,
20 Mr. Chittick appeared to follow Mr. Beauchamp's advice and provided information when
21 asked for it. Further, Mr. Beauchamp understood that DenSco utilized an outside accountant,
22 David Preston, to review DenSco's books and records and file its tax returns. At no point
23 did Mr. Beauchamp serve as DenSco's general corporate counsel, nor was Mr. Beauchamp
24 engaged to review or approve DenSco financial statements or tax returns or to investigate
25 borrowers.

26

1 **B. The Private Offering Memoranda**

2 Mr. Beauchamp advised DenSco regarding its Private Offering Memoranda
3 (“POMs”), which DenSco generally updated every two years. He helped draft the 2003,
4 2005, 2007, 2009, and 2011 POMs. The POMs, however, had similar provisions and
5 generally described DenSco’s historical performance based on information provided by Mr.
6 Chittick; set forth Mr. Chittick’s authority to determine DenSco’s “major business decisions
7 and policies”, and to make, amend, or deviate from those policies in Mr. Chittick’s sole
8 discretion; and set forth DenSco’s aspirational lending standards (including its intent to
9 “maintain a loan-to-value ratio below 70%” for both individual trust deeds DenSco
10 purchased and the aggregate loan portfolio, as well as its intent to “achieve a diverse
11 borrower base” with no borrower comprising more than 10-15% of the portfolio).

12 In early summer 2013, Mr. Beauchamp advised DenSco that it needed to update its
13 2011 POM given the passage of time and changes in the scope of DenSco’s fund raising. In
14 particular, based on Mr. Chittick’s representations to Mr. Beauchamp, DenSco either had or
15 would soon eclipse the \$50 million maximum offering set forth in the 2011 POM.
16 Consequently, Mr. Beauchamp began drafting revisions to the 2011 POM, which included
17 updates to the maximum offering and updates on DenSco’s performance to date, among other
18 revisions. Mr. Beauchamp, however, was never able to finalize the 2013 POM. Although
19 Mr. Beauchamp asked for updated investment, loan and financial information regarding
20 DenSco, Mr. Chittick stalled on providing the information, preferring to wait until after he
21 scaled down the amount outstanding to investors. Mr. Beauchamp repeatedly advised
22 DenSco that an update was necessary irrespective of DenSco’s plans regarding the
23 outstanding amount of its offerings, but Mr. Chittick continued to delay.

24 **C. The FREO Lawsuit**

25 On May 24, 2013, Easy Investments, an entity owned by Yomtov “Scott” Menaged
26 (“Menaged”), DenSco, and Owen Loan Servicing, were sued by FREO Arizona, LLC.

1 ("FREO") regarding liens recorded by Easy Investments in favor of DenSco and Active
2 Funding Corporation, on a parcel of property. In a June 14, 2013 email from Mr. Chittick to
3 Mr. Beauchamp, Mr. Chittick explained that Easy Investments had purchased a property at
4 a trustee's sale using a DenSco loan, which had apparently been previously purchased by
5 FREO, leading to a dispute. A review of the partial Complaint provided to Mr. Beauchamp
6 confirms Mr. Chittick's description. According to its allegations, the loan servicer, Ocwen,
7 failed to cancel a trustee's sale and release the deed of trust after FREO had paid off the debt
8 and acquired the property, thereby allowing Easy Investments to purchase the property again
9 with DenSco's funds. Contrary to the allegations in the Receiver's Complaint, the FREO
10 lawsuit did not concern lien priority or double lien issues. Moreover, a review of the docket
11 reveals that Easy Investments prevailed in the FREO lawsuit when the Court granted
12 summary judgment in favor of Easy Investments and against both FREO and Ocwen (for
13 breach of its duties) on December 6, 2013.

14 Further, although Mr. Chittick forwarded a portion of the Complaint to Mr.
15 Beauchamp, Mr. Chittick did not ask Mr. Beauchamp to represent DenSco in the litigation;
16 nor did he ask Mr. Beauchamp to investigate the factual allegations in the Complaint. To
17 the contrary, he expressly stated that he merely wanted Mr. Beauchamp to "be aware" of the
18 lawsuit. Consequently, although Mr. Beauchamp ran the matter through Bryan Cave's
19 conflict system pursuant to standard firm procedure, Mr. Beauchamp did not represent
20 DenSco in the litigation and did not conduct any further investigation into its merits given
21 his client's instruction not to get involved.

22 Mr. Beauchamp did, however, explain to Mr. Chittick that this lawsuit would need to
23 be disclosed in DenSco's 2013 POM. In addition, Mr. Beauchamp advised Mr. Chittick, as
24 he had done previously, that Mr. Chittick needed to fund DenSco's loans directly to the
25 trustee or escrow company conducting the sale, rather than provide loan funds directly to the
26 borrower, to ensure that DenSco's deed of trust was protected. Mr. Chittick, however,

1 explained to Mr. Beauchamp that this was an isolated incident with a borrower, Menaged,
2 whom Mr. Chittick described in his email as someone he had "done a ton of business
3 with...hundreds of loans for several years...."

4 **D. Mr. Beauchamp leaves Bryan Cave, hears nothing from Mr. Chittick for**
5 **months.**

6 Mr. Beauchamp left Bryan Cave at the end of August 2013. Prior to his departure,
7 Mr. Beauchamp had repeatedly made clear to DenSco and Mr. Chittick that they needed to
8 update DenSco's POM. On August 30, 2013, Mr. Beauchamp and Bryan Cave sent Mr.
9 Beauchamp's clients, including DenSco, a joint separation letter informing them that Mr.
10 Beauchamp was joining Clark Hill effective as of September 1, 2013. The letter invited
11 those clients to either request the transition of their files to Mr. Beauchamp or affirmatively
12 request that the files remain at Bryan Cave. Mr. Chittick initially agreed to transfer a portion
13 of DenSco's files to Clark Hill, but aside from DenSco's authorization letter, Mr. Beauchamp
14 never heard from Mr. Chittick regarding the unfinished 2013 POM, or any other matter, until
15 December 2013.

16 **E. DenSco contacts Mr. Beauchamp in late 2013, slowly reveals scope of**
17 **Menaged issues over several months**

18 In December 2013, Mr. Chittick contacted Mr. Beauchamp for the first time in
19 months. He told Mr. Beauchamp over the phone that he had run into an issue with some of
20 his loans to Menaged, and specifically, that properties securing a few DenSco loans were
21 each subject to a second deed of trust competing for priority with DenSco's deed of trust.
22 Mr. Beauchamp reminded Mr. Chittick that he still needed to update DenSco's private
23 offering memorandum. After briefly discussing the allegedly limited double lien issue, Mr.
24 Chittick emphasized to Mr. Beauchamp that Mr. Chittick wanted to avoid litigation with
25 other lenders. Mr. Chittick, however, did not request any advice or help. Accordingly, Mr.
26 Beauchamp suggested that Mr. Chittick develop and document a plan to resolve the double
liens, and nothing more came of the conversation.

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

12 It seems unlikely that the issue with the Miller Lenders was a surprise to Mr. Chittick.
13 Although Mr. Chittick's business journals contain hearsay and present questions regarding
14 admissibility, they suggest that Menaged had told Mr. Chittick about the double lien issue in
15 November 2013, and had explained that the issue could affect every property Menaged had
16 purchased using DenSco funds going back as far as 2011. Further, as set forth below, Mr.
17 Chittick and Menaged had apparently already reached an agreement on how to deal with the
18 double lien issue in November 2013 as well. Mr. Chittick, however, failed to provide that
19 information to Mr. Beauchamp in December. Nor did he immediately provide Mr.
20 Beauchamp with the full scope of the problem, or reveal the procedure he had agreed to with
21 Menaged to resolve that problem, in December or early January.

22 Instead, Mr. Chittick sent the Miller letter to Mr. Beauchamp on January 6, 2014 with
23 nothing more than a sparse request for Mr. Beauchamp to "read the first two pages." The
24 next day, Mr. Chittick provided Mr. Beauchamp a more expansive, if incomplete,
25 explanation. In his email, Mr. Chittick stated that he had lent Menaged a total of \$50 million
26 since 2007 and that he'd "never had a problem with payment or issue that hasn't been

1 resolved." Mr. Chittick asserted, however, that Menaged's wife had become critically ill in
2 the past year, and that Menaged had turned the day-to-day operations of his companies over
3 to his cousin. According to Mr. Chittick, the cousin would receive loan funds directly from
4 DenSco, then request loans for the same property from another lender, including the Miller
5 Lenders. The other lenders, who had funded their loans directly to the trustee, would record
6 their deed of trust, as would DenSco, leaving DenSco in second position. The cousin,
7 unfortunately, then purportedly absconded with the funds DenSco lent directly to Menaged.
8 This "double lien" issue consequently jeopardized DenSco's secured position and its loan-
9 to-value ratios. Mr. Chittick feared that a lawsuit with the Miller Lenders would jeopardize
10 DenSco's entire enterprise.

11 According to Mr. Chittick's email, Menaged purportedly found out about his cousin's
12 scam in November and revealed the fraud to Mr. Chittick at the time. Yet rather than consult
13 legal counsel, Mr. Chittick worked out a plan to fix the double lien issue with Menaged. The
14 initial plan included DenSco paying off the other lenders. That required additional capital,
15 which Menaged and Mr. Chittick agreed would come from DenSco lending Menaged an
16 additional \$1 million and Menaged investing additional capital, including \$4-\$5 million from
17 the liquidation of other assets, as set forth in a term sheet DenSco and Menaged signed after
18 having already put their plan into effect. As the scope of the problem appeared to grow, Mr.
19 Chittick and Menaged agreed to terms of an expanded plan, which included further
20 investment from both DenSco and Menaged, who would also continue to flip and rent homes
21 to raise the necessary profits needed to pay off the other lenders.

22 Unbeknownst to Mr. Beauchamp, and according to Mr. Chittick's January 7, 2014
23 email, DenSco and Menaged had already been "proceeding with this plan since November
24 [2013]." That is corroborated by the Receiver, who asserts that Mr. Chittick lent \$1 million
25 to Menaged to further their private workout plan in December 2013. In other words, by the
26 time Mr. Chittick approached Mr. Beauchamp with a partial disclosure of the issues in late

1 2013 and early 2014, Mr. Chittick had already agreed to a business plan with Menaged to
2 work out the double lien problems, and had already advanced Menaged significant sums
3 pursuant to that agreement. As Mr. Beauchamp explained in a February 20, 2014 email to
4 his colleagues, Mr. Chittick "without any additional documentation or any legal advice...has
5 been reworking his loans and deferring interest payments to assist Borrower...When we
6 became aware of this issue, we advised our client that he needs to have a Forbearance
7 Agreement in place to evidence the forbearance and the additional protections he needs."

8 1. Mr. Beauchamp tells DenSco it cannot accept new funds or roll over
9 prior funds.

10 After receiving Mr. Chittick's January 7, 2014 email, Mr. Beauchamp was alarmed
11 that DenSco may be taking on new investors or rolling over prior investments without
12 disclosing the double lien issue or the workout to which Mr. Chittick and Menaged had
13 agreed. Mr. Beauchamp's advice to Mr. Chittick regarding disclosures Mr. Chittick had to
14 make to investors was immediate, clear, practical, consistent with his practice and
15 experience, and consistent with the standard of care: (a) DenSco was not permitted to take
16 new money without full disclosure to the investor lending the money; (b) DenSco was not
17 permitted to roll over existing investments without full disclosure to the investor rolling over
18 the money; and (c) DenSco needed to update its POM and make full disclosure to all its
19 investors. Mr. Beauchamp provided this advice to DenSco starting with his January 9, 2014
20 meeting with Mr. Chittick, and repeated it routinely over the next few months.

21 Mr. Beauchamp was also concerned about the source and use of the funds needed to
22 effectuate the Menaged-Chittick workout. Yet, as Mr. Chittick explained, the funds for the
23 \$1 million loan (which Mr. Chittick funded prior to engaging Clark Hill) and an additional
24 \$5 million loan Mr. Chittick and Menaged eventually agreed to as part of the workout, would
25 come from (a) Mr. Chittick's investment of additional funds out of his retirement account,
26 (b) Mr. Chittick's personal \$1.5 million line of credit, and (c) DenSco's working capital

1 raised as loans to other borrowers paid off. Again, and at all times Mr. Beauchamp, advised
2 Mr. Chittick that he could not obtain new investor funds or roll over prior investments
3 without full disclosure. Mr. Beauchamp also repeatedly insisted that Mr. Chittick revise his
4 out-of-date POM to provide disclosure to all his investors. Mr. Chittick, however, insisted
5 that DenSco first document the forbearance agreement so that Mr. Chittick would have a
6 plan to show his investors.

7 Further, Mr. Chittick assured Mr. Beauchamp repeatedly that he was making the
8 requisite disclosures to investors on an as needed basis, and that he had informed a select
9 group of investors as to the double lien issue and proposed workout. That would be in
10 keeping with Mr. Chittick's prior approach to business. As far as Mr. Beauchamp knew, and
11 as Mr. Chittick had previously told him, Mr. Chittick indeed had a select group of investors
12 to whom he turned for advice and approval when confronted with important business
13 decisions, such as, for example, diversifying his investments into different types of
14 properties. Mr. Chittick told Mr. Beauchamp that he was seeking such advice from what Mr.
15 Chittick described as an "advisory council." And again, while the letters Mr. Chittick
16 appears to have authored prior to his passing contain hearsay and present questions regarding
17 admissibility, they include various statements suggesting that Mr. Chittick may have
18 previously told (and received approval from) a select group of investors that he was investing
19 specifically with Menaged, that he was increasing his loan concentration with Menaged
20 above the 10-15% concentration threshold suggested in his POMs, and that his lending
21 process involved funding loans directly to borrowers, rather than a trustee or escrow account.

22 There was no reason for Mr. Beauchamp to question whether Mr. Chittick was in fact
23 providing disclosures to limited investors. Moreover, over the more than decade long strong
24 professional relationship Mr. Beauchamp had developed with Mr. Chittick, Mr. Chittick had
25 proven himself to be a trustworthy client with a strong history of sharing information and
26 making prudent decisions.

1 2. Mr. Beauchamp advises DenSco to enter into a forbearance agreement.
2 Beginning in early January, and over the course of several meetings and telephone
3 conversations with Mr. Chittick, Mr. Beauchamp convinced Mr. Chittick that if he was going
4 to keep doing business with Menaged (and Mr. Chittick never wavered from his insistence
5 on working his way out of the double lien issue with Menaged), DenSco should at least
6 document the issues and workout plan in a forbearance agreement. Entering into a
7 forbearance agreement was sound, practical advice and consistent with the standard of care,
8 particularly where Mr. Chittick and Menaged had already implemented their own workout
9 plan. As Mr. Beauchamp repeatedly explained to Mr. Chittick, the forbearance agreement
10 would, among other things, (a) clarify and set forth the facts that led to the double lien issue,
11 (b) clarify and set forth the scope of the issue with the borrower, (c) acknowledge Mr.
12 Menaged's defaults under his loan documents with DenSco, as well as the amount and
13 validity of any debt owed to DenSco, (d) obtain additional written commitments from
14 Menaged and his entities to fund the workout Mr. Chittick and Menaged had already agreed
15 to; and (e) obtain additional security and other protections from Menaged and his entities to
16 protect DenSco and its investors. Mr. Beauchamp was crystal clear with Mr. Chittick all of
17 this would need to be disclosed to DenSco's investors. Other protections Mr. Beauchamp
18 advocated for, including additional admissions of fault and fraud by Menaged to protect
19 DenSco in the event of a bankruptcy filing by Menaged or his entities, were eventually
20 stricken from the agreement at Menaged and Mr. Chittick's insistence, and over Mr.
21 Beauchamp's objections.

22 Mr. Beauchamp had previously drafted and negotiated countless forbearance
23 agreements. He reasonably anticipated that documenting DenSco's forbearance would take
24 2-3 weeks. Negotiating the forbearance agreement, however, turned out to be more difficult
25 than Mr. Beauchamp could have reasonably imagined. For one, Menaged and his counsel
26 repeatedly insisted on edits and revisions that served only to undermine DenSco's fiduciary

1 duty to its investors. Mr. Beauchamp repeatedly had to undo changes proffered by Menaged
2 or Jeff Goulder, Menaged's attorney, and often by Mr. Chittick at Menaged's direction, in
3 order to protect DenSco's investors. For example, Menaged (and Mr. Goulder) attempted to
4 restrict the type of information that could be disclosed to investors, attempted to obtain
5 releases for Menaged related to his defaults and conduct, and refused to provide additional
6 security or information regarding that additional security. Mr. Beauchamp repeatedly pushed
7 back on these efforts and advised DenSco and Mr. Chittick, both in writing and verbally, that
8 they had fiduciary duties to DenSco's investors, which included disclosure obligations. *See*
9 *e.g.*, February 4, 2014 email from Mr. Beauchamp to Mr. Chittick ("you cannot obligate
10 DenSco to further help Scott, because that would breach your fiduciary duty to your
11 investors"); February 14, 2014 email from Mr. Beauchamp to Mr. Chittick ("[Goulder]
12 clearly thinks he can force you to agree to accept a watered down agreement and give up
13 substantial rights that you should not have to give up. Unfortunately, it is not your money.
14 It is your investors' money. So you have a fiduciary duty"); March 13, 2014 email from Mr.
15 Beauchamp to Mr. Chittick ("we cannot give Scott and his attorney any time to cause further
16 delay in getting this Forbearance Agreement finished and the necessary disclosure prepared
17 and circulated").

18 In addition to Menaged and his counsel's constant revisions, the number of loans
19 affected by the double lien issue also kept growing. The number of loans Mr. Chittick
20 asserted were in issue grew from December 2013 to January 2014, and then grew again from
21 January 2014 to February 2014. This resulted in constant changes to the revised workout
22 documents, as well as to Menaged and Mr. Chittick's agreement regarding the manner in
23 which to fund the workout. Mr. Chittick, however, maintained, despite multiple inquiries
24 from Mr. Beauchamp, that he had run the calculations and projections and was confident his
25 plan with Menaged would work. Mr. Chittick also told Mr. Beauchamp that he had gone
26 over those projections with his "advisory council." As Mr. Chittick described it to Mr.

1 Beauchamp, it was a cash flow issue, not a payment issue, and that with Menaged's
2 additional investments, the workout would succeed.

3 Nevertheless, Mr. Beauchamp at one point became concerned enough at Menaged's
4 intransigence and the apparent influence he held over Mr. Chittick, that he reached out to
5 third parties in late January 2014 to inquire about Menaged. Those third parties informed
6 him that Menaged was generally someone to be distrusted and not someone to do business
7 with. Mr. Beauchamp attempted to persuade Mr. Chittick of this during several heated
8 conversations, but Mr. Chittick ignored these admonitions, explaining that while Menaged
9 could be sharp and off-putting, Menaged had always performed on DenSco's loans in the
10 past, and had stood by Mr. Chittick in tough times. Despite Mr. Beauchamp's efforts, Mr.
11 Chittick could not be convinced to cut ties with Menaged.

12 **F. Mr. Beauchamp terminates representation of DenSco and Mr. Chittick.**

13 When Mr. Beauchamp agreed to represent DenSco with respect to Menaged, Mr.
14 Beauchamp made clear that Mr. Chittick had to immediately update DenSco's POM and
15 make full disclosure to its investors regarding the double lien issues, the workout with
16 Menaged, and the potential implications thereof on DenSco's finances and the investors'
17 investments. Mr. Chittick always acknowledged that responsibility and agreed to make the
18 full disclosure once the forbearance agreement was properly documented. As the
19 forbearance neared completion, Mr. Beauchamp and his associate, Daniel Schenk, began
20 drafting the updated POM in April and May 2014. Specifically, the draft 2014 POM would
21 have: provided a description of the forbearance agreement (including all the parties' funding
22 obligations), the reason it was necessary, and its effect on DenSco's books; updated
23 DenSco's goals for intended loan-to-value ratios; updated the descriptions regarding
24 DenSco's loan funding and securitizations procedures; updated the number of loan defaults
25 triggering foreclosures; and amended the descriptions regarding DenSco's borrower base,
26 among other things. Further, Mr. Beauchamp explained that the updated POM would need

1 to be accompanied with a cover letter or other communication highlighting the major
2 material changes, including the double lien issue and resulting workout agreement, to ensure
3 that investors were fully informed. Mr. Chittick, however, refused to provide the necessary
4 information to complete the POM and refused to approve the description of the workout or
5 the double lien issue, despite his prior acknowledgement that he would need to make full
6 disclosure to all of his investors about DenSco (as he had been doing through POMs and
7 newsletters since 2003).

8 In May 2014, Mr. Beauchamp handed Mr. Chittick a physical copy of the draft POM
9 and asked him what Mr. Chittick's specific issues were with the disclosure. Mr. Chittick
10 responded that there was nothing wrong with the disclosure, he was simply not ready to make
11 any kind of disclosures to his investors at this stage. Mr. Beauchamp again explained that
12 Mr. Chittick had no choice in the matter and that he had a fiduciary duty to his investors to
13 make these disclosures. Mr. Chittick would not budge. Faced with an intransigent client
14 who was now acting contrary to the advice Mr. Beauchamp was providing, and with concerns
15 that Mr. Chittick may not have been providing any disclosures to anyone since January 2014,
16 Mr. Beauchamp informed Mr. Chittick that Beauchamp and Clark Hill could not and would
17 not represent DenSco any longer. Mr. Beauchamp also told Chittick that he would need to
18 retain new securities counsel, not only to provide the proper disclosure to DenSco's
19 investors, but to protect DenSco's rights under the forbearance agreement. Mr. Chittick
20 suggested that he had already started that process and was speaking with someone else.

21 Thereafter, Mr. Beauchamp and Clark Hill ceased providing DenSco with securities
22 advice. Mr. Chittick accepted that, but asked that Mr. Beauchamp clean up some small issues
23 with the forbearance agreement before ending the relationship entirely. Other than
24 addressing those small forbearance agreement issues in June and July, Clark Hill stopped
25 working with DenSco or Mr. Chittick in any capacity until 2016, when Mr. Chittick
26 requested that Mr. Beauchamp assist with a very limited issue involving an audit by the

1 Arizona Department of Financial Institutions - work Mr. Beauchamp had previously
2 performed for DenSco and that Mr. Chittick characteristically believed could be done most
3 cost-effectively by Mr. Beauchamp rather than by a new lawyer with no background on the
4 issue.

5 **G. Menaged continues to perpetrate fraud on DenSco, which only grows in**
6 **scale.**

7 During the time that he represented it regarding securities matters, Mr. Beauchamp (a)
8 repeatedly advised DenSco that it had to make full disclosure to its investors and then
9 terminated his relationship as securities counsel for DenSco when DenSco refused, (b)
10 explained that DenSco would need to retain new counsel after Mr. Beauchamp withdrew to
11 provide proper disclosures and monitor the forbearance, and (c) repeatedly reminded Mr.
12 Chittick that he needed to fund loans directly to a trustee or escrow company, rather than to
13 the borrower. Mr. Chittick ignored Mr. Beauchamp's advice. It is unclear if DenSco ever
14 engaged or even talked to new counsel. It appears Mr. Chittick never issued an updated POM,
15 a fact which could not have gone unnoticed by DenSco's sophisticated investors, who had
16 gotten used to regular updates from DenSco, not only through updated POMs, but through
17 monthly newsletters and periodic investor meetings. It is quite clear that Mr. Chittick
18 continued to loan funds directly to Menaged in direct contravention of Mr. Beauchamp's
19 repeated advice.

20 Nevertheless, the brazen scope of Menaged's efforts to defraud DenSco was not
21 foreseeable. After several years of bilking DenSco and others out of millions of dollars,
22 Menaged was eventually arrested. The United States Department of Justice first charged
23 Menaged with defrauding various banks through his purported furniture stores. Menaged used
24 fabricated receipts of purchases made at the furniture store to obtain credit from banks using
25 the names of, and personal identification information of, individuals who had recently died.
26 He would then incur millions of dollars in fraudulent charges on those fake

1 accounts. Incredibly, Menaged acknowledged in his plea agreement that he had perpetrated
2 the bank fraud in order to get cash to continue defrauding DenSco.

3 The Department of Justice then also charged Menaged with money laundering with
4 respect to the DenSco fraud. In his plea agreement, Menaged admitted that from January 2014
5 through June 2016, he embezzled millions of dollars without purchasing properties with the
6 loans obtained from DenSco. He explained that DenSco would wire money to purchase
7 properties directly to Menaged who, in turn, would send DenSco "an image of a bank cashier's
8 check and a copy of a Trustee Certificate of Sale Receipt." No sales, however, actually took
9 place. Menaged would simply redeposit the cashier's check into his account and create bogus
10 receipts for the purchase of the property. Between January 2013 and June 2016, Menaged
11 admitted he obtained 2,172 loans from DenSco totaling approximately \$734,484,440.67. Yet,
12 of the 2,712 loans made by DenSco, only 96 involved actual property transactions. Menaged
13 supposedly used the remaining 2,616 loans for personal expenses, gambling trips, and transfers
14 to his family members and associates. Menaged would also utilize new loans from DenSco to
15 pay back outstanding DenSco loans to conceal the embezzlement. Menaged was sentenced to
16 17 years in jail. As First Assistant U.S. Attorney Elizabeth Strange stated, the "lengthy
17 sentence is a fitting punishment for his egregious crimes."

18 Menaged shamelessly duped Mr. Chittick. Documents and recordings suggest that
19 Menaged never invested any money into the workout plan. He never obtained any money from
20 Israel despite purportedly making numerous trips to the country for that very purpose, blatantly
21 lied that funds that could have been used to fund the workout were tied up in his divorce
22 proceedings, and ultimately invented a non-existent investment scheme involving
23 "auction.com" which Menaged falsely claimed was retaining most of DenSco's money (to go
24 along with his fabrication of the fraudulent cousin and terminally ill wife). Sadly, Mr. Chittick
25 bought into all of Menaged's lies until his last days.

26 Discovery is continuing. Defendants may supplement.

1 **II. LEGAL THEORIES OF CLAIMS AND DEFENSES.**

2 **A. Plaintiff's claims**

3 *Legal Malpractice*

4 Receiver asserts that Defendants, in their representation of DenSco, committed
5 malpractice and breached fiduciary duties owed to DenSco. Legal malpractice requires proof
6 of the existence of a duty, breach of duty, that defendant's breach was the actual and proximate
7 cause of damages, and the "nature and extent" of those damages. *Glaze v. Larsen*, 207 Ariz.
8 26, 29 ¶ 12 83 P.3d 26, 29 (Ariz. 2004) (citations and quotations omitted).

9 Receiver cannot prove breach of duty, actual and proximate cause, or resulting damages.
10 To prove breach of duty, Receiver will need to demonstrate that Defendants deviated from the
11 professional standard of care. *Phillips v. Clancy*, 152 Ariz. 415, 418, 733 P.2d 300, 303 (App.
12 1986). Defendants' advice and conduct in representing DenSco and, in doing so, representing
13 Mr. Chittick as president of DenSco, was consistent with Defendants' practice and experience,
14 and consistent with the standard of care. Thus, Defendants did not breach their duties to
15 DenSco. Receiver will also need to prove that if Defendants had not purportedly breached the
16 standard of care, that DenSco would not have suffered injury. *Id.* Whatever harm befell
17 DenSco was not an actual or foreseeable result of the advice provided by Defendants. Thus,
18 Receiver's malpractice claim fails.

19

20 *Aiding and Abetting Breach of Fiduciary Duties*

21 Receiver asserts that Defendants aided and abetted Mr. Chittick in breaching his
22 fiduciary duties to DenSco. Claims of aiding and abetting require proof that: (1) the primary
23 tortfeasor must commit a tort that caused injury to the plaintiff; (2) the defendant must know
24 that the primary tortfeasor's conduct constitutes a breach of duty; (3) the defendant must
25 substantially assist or encourage the primary tortfeasor in the achievement of that breach and
26 (4) there must be a causal relationship between the defendant's assistance or encouragement

1 and the primary tortfeasor's commission of the tort. *Wells Fargo Bank v. Az. Laborers,*
2 *Teamsters and Cement Masons Local No. 395 Pension Trust Fund*, 201 Ariz. 474, 485 (Ariz.
3 2002); *Sec. Title Agency, Inc. v. Pope*, 219 Ariz. 480, 491 (App. 2008). Importantly, "[b]ecause
4 aiding and abetting is a theory of secondary liability, the party charged with the tort must have
5 knowledge of the primary violation." *Wells Fargo*, 201 Ariz. at 485.

6 It is unclear from the Complaint what actions the Receiver asserts constitute a breach
7 of Mr. Chittick's fiduciary duties to DenSco. In any event, as set forth above, Defendants'
8 advice and conduct in representing DenSco were consistent with the applicable standard of
9 care. Defendants did not "substantially assist or encourage" Mr. Chittick in breaching his
10 duties to DenSco, Defendants did not have knowledge of Mr. Chittick's purported "primary
11 violation," nor is there a causal relationship between Defendants' representation of DenSco
12 and Mr. Chittick's purported tortious conduct with respect to DenSco. Further, as set forth
13 above, whatever harm befell DenSco was not an actual or foreseeable result of Defendants'
14 actions or inactions.

15 **B. Affirmative Defenses**

16 *Statute of Limitations*

17 Both the legal malpractice claim and the aiding and abetting claim have a two-year
18 statute of limitations. *See* A.R.S. §12-542(1) (An action "[f]or injuries done to the person of
19 another" shall be commenced and prosecuted within two years after the cause of action accrues,
20 and not afterward"). Receiver, who stands in the shoes of DenSco, did not file the Complaint
21 in this action until October 16, 2017, which was well outside the statute of limitations. DenSco,
22 and potentially the Investors, could have discovered at least as of Summer 2014, that DenSco's
23 loans to Menaged (or his entities) and DenSco's lending practices with respect to Menaged,
24 could give rise to potential causes of action against Mr. Chittick or his agents. Consequently,
25 because the statute of limitations ran, at the latest, in the Summer of 2016, the Complaint is
26 barred in its entirety.

1 *In pari delicto* and *unclean hands*

2 Arizona law recognizes the doctrine of *in pari delicto*. *Brand v. Elledge*, 89 Ariz. 200,
3 205, 360 P.2d 213, 217 (1961) (quoting *Furman v. Furman*, 34 N.Y.S.2d 699, 704 (N.Y. Sup.
4 Ct. 1941), *aff'd*, 40 N.E.2d 643 (N.Y. 1942)). *In pari delicto* is an affirmative defense by which
5 a party is barred from recovering damages if his losses are substantially caused by activities
6 the law forbade him to engage in.” *Stewart v. Wilmington Trust SP Servs., Inc.*, 112 A.3d 271,
7 301–02 (Del. Ch.), *aff'd*, 126 A.3d 11:15 (Del. 2015) (quotation omitted). The defense may
8 be raised against a receiver. *Id.* (“no cogent reason for sparing the innocent Receiver the effect
9 of *in pari delicto* while equally innocent stockholders or policyholders would be barred from
10 relief in the derivative context”); *Knauer v. Jonathon Roberts Fin. Grp., Inc.*, 348 F.3d 230,
11 236 (7th Cir. 2003) (affirming dismissal of the receiver’s claims against the broker dealers,
12 concluding that they were barred by the defense of *in pari delicto*).

13 Here, to the extent there are claims against the Defendants, DenSco, into whose shoes
14 the Receivers steps, bears fault for damages about which it complains. Thus, the Receiver’s
15 claims are barred by doctrine of *in pari delicto* and, to the extent it specifically seeks equitable
16 relief, by the related doctrine of *unclean hands*.

17

18 *Laches*

19 A claim is barred by *laches* when the delay in bringing the claim is “unreasonable under
20 the circumstances” given “the party’s knowledge of his or her right” and “any change in
21 circumstances caused by the delay has resulted in prejudice to the other party sufficient to
22 justify denial of relief.” *Mathieu v. Mahoney*, 174 Ariz. 456, 459, 851 P.2d 81, 84 (1993).
23 Receiver seeks to recover potentially millions of dollars in alleged damages resulting from
24 loans Mr. Chittick made to Menaged. DenSco would have been aware of the harms that could
25 befall DenSco and its investors as a result of DenSco’s loans to, and lending practices with,
26 Menaged, by Summer 2014 at the latest. DenSco’s inaction for several years, up through the

1 death of Mr. Chittick, to seek relief against any potential third party for harms suffered by
2 DenSco was unreasonable in light of DenSco's knowledge. Because the Receiver steps into
3 DenSco's shoes, the claims are barred.

4

5 *Setoff*

6 Clark Hill filed a proof of claim in the DenSco Receivership for unpaid fees incurred
7 by Clark Hill on behalf of DenSco after Mr. Chittick's death. The Receiver improperly denied
8 the claim on the basis of an alleged conflict of interest. To the extent Defendants are found to
9 owe Plaintiff anything, that debt must be reduced any sums Plaintiff owes Clark Hill.

10 Additional defenses:

- 11 • Third parties, including Mr. Chittick and Menaged, over whom Defendants
12 have no authority or control, are at fault for any damages suffered.
- 13 • DenSco, in to whose shoes the Receiver steps, is at fault for any damages
14 suffered.
- 15 • DenSco, in to whose shoes the Receiver steps, assumed the risk of any actions
16 taken or not taken by DenSco or Mr. Chittick. *Hildebrand v. Minyard*, 16 Ariz.
17 App. 583, 585, 494 P.2d 1328, 1330 (1972) ("A plaintiff who by contract or
18 otherwise expressly agrees to accept a risk of harm arising from the defendant's
19 negligent or reckless conduct cannot recover for such harm . . .") (*quoting*
20 *Restatement (Second) of Torts § 496(B) (1965)*).
- 21 • Receiver cannot demonstrate proximate cause or loss causation because
22 Defendants are not the actual or proximate cause of any damages suffered.
- 23 • Any damages suffered were the result of intervening or superseding events or
24 causes over which the Defendants had no control and were not legally
25 responsible.
- 26 • Receiver's claims are barred by doctrines of waiver and estoppel.

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Discovery is continuing. Defendants may supplement.

III. WITNESSES.

Because no discovery has taken place, Defendants have not yet identified all persons it may call as witnesses at trial, but reserves the right to call any of the following persons to testify as a witness at trial:

- 1. David Beauchamp
c/o Coppersmith Brockelman, PLC
2800N. Central Avenue, Suite 1900
Phoenix, Arizona 85004

Mr. Beauchamp is expected to testify regarding the allegations in the Complaint and his representation of DenSco and of Mr. Chittick in his capacity as president of DenSco.

- 2. Peter Davis, Receiver of DenSco Investment Corporation
c/o Osborn Maledon, P.A.
2929 N. Central Avenue, Suite 2100
Phoenix, Arizona 85012

Mr. Davis is expected to testify regarding the allegations in the Complaint; the Receiver's evaluations, analyses, and determinations regarding all aspects of DenSco's finances, including, but not limited to, DenSco's loans, lending practices, record keeping, financial transactions, and solvency; the Receiver's maintenance of any DenSco or Chittick records or property, including, but not limited to, electronic records, websites, and email communications; the Receiver's communications with third parties related to DenSco, including communications with financial institutions, investors, and accountants and other professionals; the Receiver's determinations regarding the Receiver's evaluation and analysis regarding the potential fault, liability, or culpability of any third party with respect to any losses suffered by DenSco, including, but not limited, to Chase Bank, U.S. Bank, Yomtov Menaged, Active Funding Group, LLC, and/or Gregg Seth Reichman.

- 1 3. Any witnesses disclosed by other parties.
2 4. Any witnesses that become known through discovery.
3 5. Custodian or other foundational witnesses necessary to admit exhibits.
4 Discovery is continuing. Defendants may supplement.

5 **IV. ADDITIONAL PERSONS WHO MAY HAVE RELEVANT INFORMATION.**

6 1. Yomtov "Scott" Menaged
7 Scott Menaged is expected to have knowledge regarding all aspects of any personal,
8 financial, or business dealings he may have had with DenSco and Mr. Chittick; all aspects of
9 the fraud(s) he perpetrated on DenSco and Mr. Chittick, either directly, or through one of his
10 entities, including, but not limited to, Easy Investments, LLC, Arizona Home Foreclosures,
11 LLC, Furniture King, LLC, and Scott's Fine Furniture; all aspects of actions or conduct
12 related to his criminal indictment, plea bargain, or sentencing in the United States District
13 Court for the District of Arizona; his communications with DenSco and Mr. Chittick; and his
14 communications with Mr. Beauchamp.

15
16 2. PMK Easy Investments, LLC
17 10510 East Sunnyside Drive
18 Scottsdale, AZ 85259
19 See Description for Scott Menaged.

20 3. PMK Arizona Home Foreclosures, LLC
21 7320 West Bell Road
22 Glendale, AZ 85308

23 See Description for Scott Menaged.
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4. PMK Furniture King, LLC
3200 North Central Avenue
Suite 2460
Phoenix, AZ 85012

See Description for Scott Menaged.

5. PMK Scott's Fine Furniture
See Description for Scott Menaged.

6. Veronica Castro aka Veronica Gutierrez Reyes
c/o Thomas W. Warshaw Attorney at Law
33147 North 71st Way
Scottsdale, AZ, 85266

Ms. Castro is expected to have knowledge regarding Menaged's personal, financial, or business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's communications with DenSco and Mr. Chittick; Menaged's communications with Mr. Beauchamp; the actions or conduct related to Menaged's criminal indictment, plea bargain, or sentencing in the United States District Court for the District of Arizona; and Ms. Castro's communications with DenSco and Mr. Chittick.

7. Luigi Amoroso

Mr. Amoroso is expected to have knowledge regarding Menaged's personal, financial, or business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's communications with DenSco and Chittick; Menaged's communications with Mr. Beauchamp; the actions or conduct related to Menaged's criminal indictment, plea bargain, or sentencing in the United States District Court for the District of Arizona; and Mr. Amoroso's communications with DenSco and Mr. Chittick.

1 8. Alberto Pena
2 c/o Law Office of Cameron A. Morgan
3 4356 North Civic Center Plaza
4 Suite 101
5 Scottsdale, AZ 85251

6 Mr. Pena may have knowledge regarding Menaged's personal, financial, or business
7 dealings with DenSco and Chittick; the fraud(s) Menaged perpetrated on DenSco and
8 Chittick, either directly, or through one of Menaged's entities; Menaged's communications
9 with DenSco and Mr. Chittick; and the actions or conduct related to Mr. Pena's and
10 Menaged's criminal indictment, plea bargain, or sentencing in the United States District
11 Court for the District of Arizona.

12 9. Troy Flippo
13 c/o Storrs Law Firm PLLC
14 1421 East Thomas Road
15 Phoenix, AZ 85014

16 Mr. Flippo may have knowledge regarding Menaged's personal, financial, or business
17 dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on DenSco and
18 Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
19 communications with DenSco and Chittick; and the actions or conduct related to Flippo's and
20 Menaged's criminal indictment, plea bargain, or sentencing in the United States District
21 Court for the District of Arizona.

22 10. Menaged family members, including, Joseph Menaged, Michelle Menaged,
23 Jennifer Bonfiglio, Joy Menaged, Jess Menaged

24 Menaged's family may have knowledge regarding Menaged's personal, financial, or
25 business dealings with DenSco and Chittick; the fraud(s) Menaged perpetrated on DenSco
26 and Chittick, either directly, or through one of Menaged's or his Family's entities; the use of
funds obtained from DenSco; Menaged's communications with DenSco and Chittick; and the

1 actions or conduct related to Menaged's criminal indictment, plea bargain, or sentencing in
2 the United States District Court for the District of Arizona.

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11. Shawna Heuer
c/o Bonnett Fairbourn, PC
2325 E. Camelback Road
Phoenix, Arizona 85016

Ms. Heuer is expected to have knowledge regarding Mr. Beauchamp's work on behalf of DenSco after Mr. Chittick's death and her communications with Mr. Beauchamp. Ms. Heuer may also have knowledge regarding Mr. Chittick and DenSco's business, and Mr. Chittick's communications with Mr. Beauchamp, Menaged, or DenSco's investors.

12. Jeff Goulder
Stinson Leonard Street
1850 North Central Avenue, Suite 2100
Phoenix, Arizona 85004

Mr. Goulder is expected to have knowledge regarding the negotiations of the Forbearance Agreement. Mr. Goulder also may have knowledge regarding Menaged's businesses, business practices, and finances. Mr. Goulder also may have knowledge regarding Menaged's communications with Mr. Beauchamp.

13. David Preston
c/o Gammage & Burnham
2 N. Central Avenue, Suite 15
Phoenix, Arizona 85004

Mr. Preston is expected to have knowledge regarding DenSco and Mr. Chittick's finances and tax returns. Mr. Preston is also expected to have knowledge regarding Mr. Chittick's retirement plan.

1 14. DenSco Investors

2 The Investors are expected to have knowledge regarding Mr. Chittick's
3 communications to the Investors and their knowledge of DenSco's business, the status of
4 their investments, and the status of DenSco's loans at all relevant times.

5

6 15. PMK Chase Bank
7 3800 North Central Avenue
8 Suite 460
9 Phoenix, AZ 85012

10 Chase Bank is expected to have knowledge regarding Menaged's banking practices,
11 including Menaged's use of Chase Bank to perpetrate his fraud on DenSco and Chittick.

12

13 16. PMK US Bank
14 3800 North Central Avenue
15 Suite 460
16 Phoenix, AZ 85012

17 US Bank is expected to have knowledge regarding Menaged's banking practices,
18 including Menaged's use of Chase Bank to perpetrate his fraud on DenSco and Chittick.

19

20 17. Gregg Seth Reichman/Active Funding Group
21 Attention: Andrew Abraham
22 702 East Osborn Road
23 Suite 200
24 Phoenix, AZ 85014

25 Mr. Reichman may have knowledge regarding Menaged's businesses, business
26 practices, and finances; the fraud(s) Menaged perpetrated on DenSco and Mr. Chittick, either
27 directly, or through one of Menaged's entities; and Mr. Reichman or his entities' (including
28 Active Funding Group) participation in any of those fraudulent schemes (as suggested by the
29 Receiver's Petition No. 45).

1 18. Daniel Schenk
2 c/o Coppersmith Brockelman, PLC
3 2801N. Central Avenue, Suite 1900
4 Phoenix, Arizona 85004

5 Mr. Schenk is expected to have knowledge regarding any work he performed on
6 behalf of DenSco and Mr. Chittick in his capacity as president of DenSco. Mr. Schenk may
7 also have knowledge of Menaged's communications with Beauchamp, Menaged
8 communications with Mr. Chittick, and Mr. Beauchamp's communications with Mr. Chittick.

9 19. Robert Anderson
10 c/o Coppersmith Brockelman, PLC
11 2802N. Central Avenue, Suite 1900
12 Phoenix, Arizona 85004

13 Mr. Anderson is expected to have knowledge regarding any work he performed on
14 behalf of DenSco and Mr. Chittick in his capacity as president of DenSco.

15 **V. PERSONS WHO HAVE GIVEN STATEMENTS.**

16 None at this time. Discovery is continuing. Defendants may supplement.

17 **VI. EXPERT WITNESSES.**

18 Defendants will identify expert witnesses in accordance with the schedule ordered by
19 the Court.

20 **VII. COMPUTATION AND MEASURE OF DAMAGES.**

21 Plaintiff is not entitled to recover damages against Defendants.

22 Discovery is continuing. Defendants may supplement.

23 **VIII. EXHIBITS.**

24 Defendants have not yet identified which of the documents listed in Section IX below
25 will be used at trial, and therefore expressly reserve the right to introduce any of the listed
26 documents as exhibits at trial. Defendants may also use any documents identified in any other

1 party's disclosure statement or otherwise disclosed in this matter. By reserving the right to
2 introduce any of the listed documents as exhibits at trial, Defendants do not waive their right
3 to object to the introduction of any of these documents at the time of trial. Defendants will
4 supplement this initial disclosure statement in accordance with Arizona Rules of Civil
5 Procedure 26.1(b)(2).

6 Discovery is continuing. Defendants may supplement.

7 **IX. LIST OF RELEVANT DOCUMENTS.**

8 Defendants have not yet identified any additional relevant documents. The
9 following documents, or categories of documents, may be relevant or lead to discovery of
10 admissible evidence in this action and have already been exchanged or are being produced
11 herewith:

- 12 1. Documents previously produced by Clark Hill bates labeled CH_0000001-
13 13330.
- 14 2. Additional documents produced herewith by Clark Hill bates labeled
15 CH_0013331-13374.
- 16 3. Documents previously produced by Plaintiff including bates labeled
17 DIC000001-25330, 28634-53950 and Quickbooks backup.
- 18 4. Documents previously produced by Plaintiff including bates labeled D126751-
19 128731 and 130972-133111.
- 20 5. Documents previously produced by Bryan Cave in response to Subpoena Duces
21 Tecum bates labeled BC000001-3188.
- 22 6. Documents produced herewith by Dave Preston in response to Subpoena Duces
23 Tecum bates labeled DP000001-601.
- 24 7. Any and all documents in CR-17-00680, United States of America v. Yomtov
25 Scott Menaged, et al.
- 26 8. All documents produced by any party or third party in this litigation.

- 1 9. All pleadings, filings, minute entries, orders and judgments.
2 10. All deposition or hearing transcripts in the above captioned litigation.
3 11. All transcripts from any Section 341 creditor meetings, Rule 2004 examinations,
4 depositions, or hearings in Yomtov Menaged's bankruptcy pending in the United
5 States Bankruptcy Court for the District of Arizona at 2:16-bk-04268.

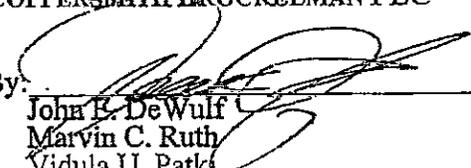
6 Defendants reserves the right to supplement the list of documents that may be relevant
7 as information becomes available.

8 **X. INSURANCE AGREEMENTS.**

9 Defendants produce the insurance policies in effect during the relevant time
10 period and the November 10, 2017 correspondence from Mendes & Mount, LLP, all of
11 which are stamped "Confidential Materials."

12 DATED this 20th day of March, 2018.

13 COPPERSMITH & BROCKELMAN PLC

14
15 By: 

16 John B. DeWulf
17 Marvin C. Ruth
18 Vidula U. Patki
2800 North Central Avenue, Suite 1900
Phoenix, Arizona 85004
Attorneys for Defendants

19 ORIGINAL mailed and emailed this
20 20th day of March, 2018 to:

21 Colin F. Campbell, Esq.
22 Geoffrey M. T. Sturr, Esq.
23 Joshua M. Whitaker, Esq.
24 OSBORN MALEDON, P.A.
2929 N. Central Ave., Suite 2100
Phoenix, AZ 85012-2793
Attorneys for Plaintiff

25 
26



NAUTILUS INSURANCE COMPANY

A Stock Company

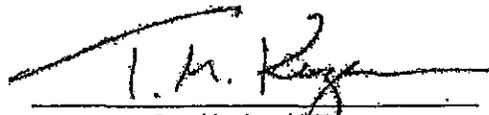
LAWYERS PROFESSIONAL LIABILITY INSURANCE POLICY

THIS POLICY CONSISTS OF:

- Declarations; and
- One or more Coverage Parts. A Coverage Part consists of:
 - One or more Coverage Forms; and
 - Applicable Forms and Endorsements.

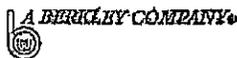
In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representative.


Secretary


President and CEO

Service Office:
250 South Wacker Drive #700 Chicago, IL 60606 Telephone (312) 881-1330 Fax (312) 881-1338

Administrative Office:
7233 East Blutherus Drive Scottsdale, AZ 85260 Telephone (480) 951-0905 Fax (480) 951-9730



SSM-0041(3/10)

CONFIDENTIAL MATERIALS

Hood
EXH. NO. 702
2-8-19
Kelly S. Oglesby CR 50178

RECEIVED
OSBORN MALEDON P.A.

JUN 15 2018

1 John E. DeWulf (006850)
Marvin C. Ruth (024220)
2 Vidula U. Patki (030742)
COPPERSMITH BROCKELMAN PLC
3 2800 North Central Avenue, Suite 1900
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4 T: (602) 224-0999
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7 *Attorneys for Defendants*

8

9

SUPERIOR COURT OF ARIZONA

10

COUNTY OF MARICOPA

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

13 Plaintiff,

14 v.

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

17 Defendants.

No. CV2017-013832

**DEFENDANTS' THIRD
SUPPLEMENTAL RULE 26.1
DISCLOSURE STATEMENT**

18 Defendants Clark Hill PLC, David G. Beauchamp and Jane Doe Beauchamp
19 (collectively, "Defendants") **supplement** their initial disclosure statement according to
20 Arizona Rule of Civil Procedure 26.1. Defendants reserve the right to amend or supplement
21 this disclosure statement as discovery progresses. **Supplements are in bold.**

22 This case is in its infancy and thus the content of this disclosure statement is
23 preliminary and subject to supplementation, amendment, explanation, change and
24 amplification. Because the parties have just commenced discovery, there may be
25 information, documents, and materials related to the various allegations and defenses set forth
26 in the pleadings of which Defendants are presently unaware. Defendants note that they do

1 not currently have access to all potentially relevant documents of the Plaintiff, or third parties,
2 and that this disclosure statement is based upon information currently available to
3 Defendants. Nothing in this disclosure statement is intended to be an admission of fact, an
4 affirmation of the existence of any document, or an agreement with or an acceptance of any
5 legal theory or allegation. The information set forth below is provided without waiving (1)
6 the right to object to the use of such information for any purpose in this or any other action
7 due to applicable privilege (including the work-product and attorney-client privileges),
8 materiality, or any other appropriate grounds; (2) the right to object to any request involving
9 or relating to the subject matter of the information in this disclosure statement; or (3) the right
10 to revise, correct, supplement or clarify any of the information provided below. If any part
11 of this statement is ever read to the jury, fairness would require that the jury be read this
12 introductory statement and any supplementation, amendments, explanation, changes or
13 amplifications which may occur or be filed subsequent to this disclosure statement.

14 Defendants also incorporate by reference into this disclosure statement all
15 interrogatory answers, responses to requests for production, responses to requests for
16 admission, other discovery and disclosure statements and supplements thereto in this action,
17 and all transcripts of any deposition taken in this action and any exhibits thereto.

18 **I. FACTUAL BASIS OF CLAIMS AND DEFENSES.**

19 **A. Retention/Scope of Work**

20 For more than 35 years, since graduating with honors from the University of Michigan
21 Law School in 1981, David Beauchamp has represented his clients in the areas of corporate
22 law, securities, venture capital, and private equity with distinction and integrity.

23 One of those clients was DenSco Investment Corporation ("DenSco"), a company
24 solely owned and managed by Denny Chittick. DenSco raised money from investors by
25 issuing general obligation notes to those investors at interest rates that varied depending on
26 the note's maturity date. DenSco then invested those funds primarily by making high interest

1 short-term loans to borrowers buying residential properties out of foreclosure, which loans
2 were intended to be secured by deeds of trusts on those properties. Mr. Beauchamp started
3 providing securities advice to DenSco in the early 2000s, while he was a partner at the law
4 firm Gammage & Burnham. DenSco followed Mr. Beauchamp as a client when he left
5 Gammage to join the law firm Bryan Cave in March 2008, and again when Mr. Beauchamp
6 left Bryan Cave to join Clark Hill in September 2013.

7 Although the various firms' engagement letters with DenSco only specifically
8 identified DenSco as the client, DenSco could not operate or engage with legal counsel
9 except through its president and sole owner, Mr. Chittick. DenSco had no other employees;
10 Mr. Chittick was responsible for all aspects of DenSco's business, and Mr. Chittick
11 understood that Mr. Beauchamp, as an incident to Mr. Beauchamp's representation of
12 DenSco, was also representing Mr. Chittick in his capacity as president of DenSco. The
13 investors understood that as well. The private offering memoranda DenSco provided state
14 that "legal counsel to the Company will represent the interests solely of the Company and its
15 President, and will not represent the interests of any investor."

16 Shortly after Mr. Chittick's death, and in the midst of a chaotic time dealing with the
17 fallout of his passing, Mr. Beauchamp stated in an August 10, 2016 letter to an Arizona
18 Corporation Commission subpoena to Mr. Chittick that he had "not previously represented
19 Denny Chittick" and that the ACC would need to request the personal information it sought,
20 including Mr. Chittick's personal tax returns, from counsel for Mr. Chittick's estate. To the
21 extent that Mr. Beauchamp's statement was not clear or that any clarification was necessary,
22 Mr. Beauchamp averred in an August 17, 2016 declaration under oath that he represented
23 DenSco and "Mr. Chittick as the President of DenSco." Mr. Beauchamp did not represent
24 Mr. Chittick outside of his role as a corporate officer at DenSco.

25 Until mid- 2013, Mr. Beauchamp's work as DenSco's securities counsel included,
26 among other things, drafting DenSco's Private Offering Memoranda and related investor

1 documents; advising DenSco regarding Blue Sky laws and state and federal securities
2 reporting and filing requirements; advising DenSco as to the rules and regulations
3 promulgated by state financial and lending authorities; and advising DenSco regarding the
4 applicability of mortgage broker regulations. At times, it would also involve answering
5 DenSco's questions regarding its Reg D filings and obligations. Although Mr. Beauchamp
6 helped DenSco file its first set of Reg D documents in 2003, Mr. Chittick told Mr.
7 Beauchamp thereafter that he did not want to pay a lawyer to review and file the Reg D
8 documents, and that Mr. Chittick would take on that responsibility himself. That was not a
9 surprising request, as Mr. Chittick repeatedly instructed Mr. Beauchamp to keep legal fees
10 to a minimum. Consequently, although Mr. Beauchamp's paralegal initially helped Mr.
11 Chittick understand the filing process and obtain access to the EDGAR filing site, in
12 accordance with his client's wishes Mr. Beauchamp did not review DenSco's Reg D filings.

13 The scope of Mr. Beauchamp's representation of DenSco and its president was
14 narrow. Further, the relationship was friendly, but professional. Mr. Beauchamp did not go
15 to dinner or vacation with Mr. Chittick or his family. They did not play golf or otherwise
16 socialize together.

17 Over the years, Mr. Chittick showed himself to be a trustworthy and savvy
18 businessman, and a good client. He was devoted to his business and investors, many of
19 whom were friends and family. Despite often complaining about the cost of legal services,
20 Mr. Chittick appeared to follow Mr. Beauchamp's advice and provided information when
21 asked for it. Further, Mr. Beauchamp understood that DenSco utilized an outside accountant,
22 David Preston, to review DenSco's books and records and file its tax returns. At no point
23 did Mr. Beauchamp serve as DenSco's general corporate counsel, nor was Mr. Beauchamp
24 engaged to review or approve DenSco financial statements or tax returns or to investigate
25 borrowers.

26

1 **B. The Private Offering Memoranda**

2 Mr. Beauchamp advised DenSco regarding its Private Offering Memoranda
3 (“POMs”), which DenSco generally updated every two years. He helped draft the 2003,
4 2005, 2007, 2009, and 2011 POMs. The POMs, however, had similar provisions and
5 generally described DenSco’s historical performance based on information provided by Mr.
6 Chittick; set forth Mr. Chittick’s authority to determine DenSco’s “major business decisions
7 and policies”, and to make, amend, or deviate from those policies in Mr. Chittick’s sole
8 discretion; and set forth DenSco’s aspirational lending standards (including its intent to
9 “maintain a loan-to-value ratio below 70%” for both individual trust deeds DenSco
10 purchased and the aggregate loan portfolio, as well as its intent to “achieve a diverse
11 borrower base” with no borrower comprising more than 10-15% of the portfolio).

12 In early summer 2013, Mr. Beauchamp advised DenSco that it needed to update its
13 2011 POM given the passage of time and changes in the scope of DenSco’s fund raising. In
14 particular, based on Mr. Chittick’s representations to Mr. Beauchamp, DenSco either had or
15 would soon eclipse the \$50 million maximum offering set forth in the 2011 POM.
16 Consequently, Mr. Beauchamp began drafting revisions to the 2011 POM, which included
17 updates to the maximum offering and updates on DenSco’s performance to date, among other
18 revisions. Mr. Beauchamp, however, was never able to finalize the 2013 POM. Although
19 Mr. Beauchamp asked for updated investment, loan and financial information regarding
20 DenSco, Mr. Chittick stalled on providing the information, preferring to wait until after he
21 scaled down the amount outstanding to investors. Mr. Beauchamp repeatedly advised
22 DenSco that an update was necessary irrespective of DenSco’s plans regarding the
23 outstanding amount of its offerings, but Mr. Chittick continued to delay.

24 **C. The FREO Lawsuit**

25 On May 24, 2013, Easy Investments, an entity owned by Yomtov “Scott” Menaged
26 (“Menaged”), DenSco, and Ocwen Loan Servicing, were sued by FREO Arizona, LLC

1 (“FREO”) regarding liens recorded by Easy Investments in favor of DenSco and Active
2 Funding Corporation, on a parcel of property. In a June 14, 2013 email from Mr. Chittick to
3 Mr. Beauchamp, Mr. Chittick explained that Easy Investments had purchased a property at
4 a trustee’s sale using a DenSco loan, which had apparently been previously purchased by
5 FREO, leading to a dispute. A review of the partial Complaint provided to Mr. Beauchamp
6 confirms Mr. Chittick’s description. According to its allegations, the loan servicer, Ocwen,
7 failed to cancel a trustee’s sale and release the deed of trust after FREO had paid off the debt
8 and acquired the property, thereby allowing Easy Investments to purchase the property again
9 with DenSco’s funds. Contrary to the allegations in the Receiver’s Complaint, the FREO
10 lawsuit did not concern lien priority or double lien issues. Moreover, a review of the docket
11 reveals that Easy Investments prevailed in the FREO lawsuit when the Court granted
12 summary judgment in favor of Easy Investments and against both FREO and Ocwen (for
13 breach of its duties) on December 6, 2013.

14 Further, although Mr. Chittick forwarded a portion of the Complaint to Mr.
15 Beauchamp, Mr. Chittick did not ask Mr. Beauchamp to represent DenSco in the litigation;
16 nor did he ask Mr. Beauchamp to investigate the factual allegations in the Complaint. To
17 the contrary, he expressly stated that he merely wanted Mr. Beauchamp to “be aware” of the
18 lawsuit. Consequently, although Mr. Beauchamp ran the matter through Bryan Cave’s
19 conflict system pursuant to standard firm procedure, Mr. Beauchamp did not represent
20 DenSco in the litigation and did not conduct any further investigation into its merits given
21 his client’s instruction not to get involved.

22 Mr. Beauchamp did, however, explain to Mr. Chittick that this lawsuit would need to
23 be disclosed in DenSco’s 2013 POM. In addition, Mr. Beauchamp advised Mr. Chittick, as
24 he had done previously, that Mr. Chittick needed to fund DenSco’s loans directly to the
25 trustee or escrow company conducting the sale, rather than provide loan funds directly to the
26 borrower, to ensure that DenSco’s deed of trust was protected. Mr. Chittick, however,

1 explained to Mr. Beauchamp that this was an isolated incident with a borrower, Menaged,
2 whom Mr. Chittick described in his email as someone he had "done a ton of business
3 with...hundreds of loans for several years...."

4 **D. Mr. Beauchamp leaves Bryan Cave, hears nothing from Mr. Chittick for**
5 **months.**

6 Mr. Beauchamp left Bryan Cave at the end of August 2013. Prior to his departure,
7 Mr. Beauchamp had repeatedly made clear to DenSco and Mr. Chittick that they needed to
8 update DenSco's POM. On August 30, 2013, Mr. Beauchamp and Bryan Cave sent Mr.
9 Beauchamp's clients, including DenSco, a joint separation letter informing them that Mr.
10 Beauchamp was joining Clark Hill effective as of September 1, 2013. The letter invited
11 those clients to either request the transition of their files to Mr. Beauchamp or affirmatively
12 request that the files remain at Bryan Cave. Mr. Chittick initially agreed to transfer a portion
13 of DenSco's files to Clark Hill, but aside from DenSco's authorization letter, Mr. Beauchamp
14 never heard from Mr. Chittick regarding the unfinished 2013 POM, or any other matter, until
15 December 2013.

16 **E. DenSco contacts Mr. Beauchamp in late 2013, slowly reveals scope of**
17 **Menaged issues over several months**

18 In December 2013, Mr. Chittick contacted Mr. Beauchamp for the first time in
19 months. He told Mr. Beauchamp over the phone that he had run into an issue with some of
20 his loans to Menaged, and specifically, that properties securing a few DenSco loans were
21 each subject to a second deed of trust competing for priority with DenSco's deed of trust.
22 Mr. Beauchamp reminded Mr. Chittick that he still needed to update DenSco's private
23 offering memorandum. After briefly discussing the allegedly limited double lien issue, Mr.
24 Chittick emphasized to Mr. Beauchamp that Mr. Chittick wanted to avoid litigation with
25 other lenders. Mr. Chittick, however, did not request any advice or help. Accordingly, Mr.
26 Beauchamp suggested that Mr. Chittick develop and document a plan to resolve the double
liens, and nothing more came of the conversation.

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

12 It seems unlikely that the issue with the Miller Lenders was a surprise to Mr. Chittick.
13 Although Mr. Chittick's business journals contain hearsay and present questions regarding
14 admissibility, they suggest that Menaged had told Mr. Chittick about the double lien issue in
15 November 2013, and had explained that the issue could affect every property Menaged had
16 purchased using DenSco funds going back as far as 2011. Further, as set forth below, Mr.
17 Chittick and Menaged had apparently already reached an agreement on how to deal with the
18 double lien issue in November 2013 as well. Mr. Chittick, however, failed to provide that
19 information to Mr. Beauchamp in December. Nor did he immediately provide Mr.
20 Beauchamp with the full scope of the problem, or reveal the procedure he had agreed to with
21 Menaged to resolve that problem, in December or early January.

22 Instead, Mr. Chittick sent the Miller letter to Mr. Beauchamp on January 6, 2014 with
23 nothing more than a sparse request for Mr. Beauchamp to "read the first two pages." The
24 next day, Mr. Chittick provided Mr. Beauchamp a more expansive, if incomplete,
25 explanation. In his email, Mr. Chittick stated that he had lent Menaged a total of \$50 million
26 since 2007 and that he'd "never had a problem with payment or issue that hasn't been

1 resolved." Mr. Chittick asserted, however, that Menaged's wife had become critically ill in
2 the past year, and that Menaged had turned the day-to-day operations of his companies over
3 to his cousin. According to Mr. Chittick, the cousin would receive loan funds directly from
4 DenSco, then request loans for the same property from another lender, including the Miller
5 Lenders. The other lenders, who had funded their loans directly to the trustee, would record
6 their deed of trust, as would DenSco, leaving DenSco in second position. The cousin,
7 unfortunately, then purportedly absconded with the funds DenSco lent directly to Menaged.
8 This "double lien" issue consequently jeopardized DenSco's secured position and its loan-
9 to-value ratios. Mr. Chittick feared that a lawsuit with the Miller Lenders would jeopardize
10 DenSco's entire enterprise.

11 According to Mr. Chittick's email, Menaged purportedly found out about his cousin's
12 scam in November and revealed the fraud to Mr. Chittick at the time. Yet rather than consult
13 legal counsel, Mr. Chittick worked out a plan to fix the double lien issue with Menaged. The
14 initial plan included DenSco paying off the other lenders. That required additional capital,
15 which Menaged and Mr. Chittick agreed would come from DenSco lending Menaged an
16 additional \$1 million and Menaged investing additional capital, including \$4-\$5 million from
17 the liquidation of other assets, as set forth in a term sheet DenSco and Menaged signed after
18 having already put their plan into effect. As the scope of the problem appeared to grow, Mr.
19 Chittick and Menaged agreed to terms of an expanded plan, which included further
20 investment from both DenSco and Menaged, who would also continue to flip and rent homes
21 to raise the necessary profits needed to pay off the other lenders.

22 Unbeknownst to Mr. Beauchamp, and according to Mr. Chittick's January 7, 2014
23 email, DenSco and Menaged had already been "proceeding with this plan since November
24 [2013]." That is corroborated by the Receiver, who asserts that Mr. Chittick lent \$1 million
25 to Menaged to further their private workout plan in December 2013. In other words, by the
26 time Mr. Chittick approached Mr. Beauchamp with a partial disclosure of the issues in late

1 2013 and early 2014, Mr. Chittick had already agreed to a business plan with Menaged to
2 work out the double lien problems, and had already advanced Menaged significant sums
3 pursuant to that agreement. As Mr. Beauchamp explained in a February 20, 2014 email to
4 his colleagues, Mr. Chittick “without any additional documentation or any legal advice...has
5 been reworking his loans and deferring interest payments to assist Borrower...When we
6 became aware of this issue, we advised our client that he needs to have a Forbearance
7 Agreement in place to evidence the forbearance and the additional protections he needs.”

8 1. Mr. Beauchamp tells DenSco it cannot accept new funds or roll over
9 prior funds.

10 After receiving Mr. Chittick’s January 7, 2014 email, Mr. Beauchamp was alarmed
11 that DenSco may be taking on new investors or rolling over prior investments without
12 disclosing the double lien issue or the workout to which Mr. Chittick and Menaged had
13 agreed. Mr. Beauchamp’s advice to Mr. Chittick regarding disclosures Mr. Chittick had to
14 make to investors was immediate, clear, practical, consistent with his practice and
15 experience, and consistent with the standard of care: (a) DenSco was not permitted to take
16 new money without full disclosure to the investor lending the money; (b) DenSco was not
17 permitted to roll over existing investments without full disclosure to the investor rolling over
18 the money; and (c) DenSco needed to update its POM and make full disclosure to all its
19 investors. Mr. Beauchamp provided this advice to DenSco starting with his January 9, 2014
20 meeting with Mr. Chittick, and repeated it routinely over the next few months.

21 Mr. Beauchamp was also concerned about the source and use of the funds needed to
22 effectuate the Menaged-Chittick workout. Yet, as Mr. Chittick explained, the funds for the
23 \$1 million loan (which Mr. Chittick funded prior to engaging Clark Hill) and an additional
24 \$5 million loan Mr. Chittick and Menaged eventually agreed to as part of the workout, would
25 come from (a) Mr. Chittick’s investment of additional funds out of his retirement account,
26 (b) Mr. Chittick’s personal \$1.5 million line of credit, and (c) DenSco’s working capital

1 raised as loans to other borrowers paid off. Again, and at all times Mr. Beauchamp, advised
2 Mr. Chittick that he could not obtain new investor funds or roll over prior investments
3 without full disclosure. Mr. Beauchamp also repeatedly insisted that Mr. Chittick revise his
4 out-of-date POM to provide disclosure to all his investors. Mr. Chittick, however, insisted
5 that DenSco first document the forbearance agreement so that Mr. Chittick would have a
6 plan to show his investors.

7 Further, Mr. Chittick assured Mr. Beauchamp repeatedly that he was making the
8 requisite disclosures to investors on an as needed basis, and that he had informed a select
9 group of investors as to the double lien issue and proposed workout. That would be in
10 keeping with Mr. Chittick's prior approach to business. As far as Mr. Beauchamp knew, and
11 as Mr. Chittick had previously told him, Mr. Chittick indeed had a select group of investors
12 to whom he turned for advice and approval when confronted with important business
13 decisions, such as, for example, diversifying his investments into different types of
14 properties. Mr. Chittick told Mr. Beauchamp that he was seeking such advice from what Mr.
15 Chittick described as an "advisory council." And again, while the letters Mr. Chittick
16 appears to have authored prior to his passing contain hearsay and present questions regarding
17 admissibility, they include various statements suggesting that Mr. Chittick may have
18 previously told (and received approval from) a select group of investors that he was investing
19 specifically with Menaged, that he was increasing his loan concentration with Menaged
20 above the 10-15% concentration threshold suggested in his POMs, and that his lending
21 process involved funding loans directly to borrowers, rather than a trustee or escrow account.

22 There was no reason for Mr. Beauchamp to question whether Mr. Chittick was in fact
23 providing disclosures to limited investors. Moreover, over the more than decade long strong
24 professional relationship Mr. Beauchamp had developed with Mr. Chittick, Mr. Chittick had
25 proven himself to be a trustworthy client with a strong history of sharing information and
26 making prudent decisions.

1 2. Mr. Beauchamp advises DenSco to enter into a forbearance agreement.

2 Beginning in early January, and over the course of several meetings and telephone
3 conversations with Mr. Chittick, Mr. Beauchamp convinced Mr. Chittick that if he was going
4 to keep doing business with Menaged (and Mr. Chittick never wavered from his insistence
5 on working his way out of the double lien issue with Menaged), DenSco should at least
6 document the issues and workout plan in a forbearance agreement. Entering into a
7 forbearance agreement was sound, practical advice and consistent with the standard of care,
8 particularly where Mr. Chittick and Menaged had already implemented their own workout
9 plan. As Mr. Beauchamp repeatedly explained to Mr. Chittick, the forbearance agreement
10 would, among other things, (a) clarify and set forth the facts that led to the double lien issue,
11 (b) clarify and set forth the scope of the issue with the borrower, (c) acknowledge Mr.
12 Menaged's defaults under his loan documents with DenSco, as well as the amount and
13 validity of any debt owed to DenSco, (d) obtain additional written commitments from
14 Menaged and his entities to fund the workout Mr. Chittick and Menaged had already agreed
15 to; and (e) obtain additional security and other protections from Menaged and his entities to
16 protect DenSco and its investors. Mr. Beauchamp was crystal clear with Mr. Chittick all of
17 this would need to be disclosed to DenSco's investors. Other protections Mr. Beauchamp
18 advocated for, including additional admissions of fault and fraud by Menaged to protect
19 DenSco in the event of a bankruptcy filing by Menaged or his entities, were eventually
20 stricken from the agreement at Menaged and Mr. Chittick's insistence, and over Mr.
21 Beauchamp's objections.

22 Mr. Beauchamp had previously drafted and negotiated countless forbearance
23 agreements. He reasonably anticipated that documenting DenSco's forbearance would take
24 2-3 weeks. Negotiating the forbearance agreement, however, turned out to be more difficult
25 than Mr. Beauchamp could have reasonably imagined. For one, Menaged and his counsel
26 repeatedly insisted on edits and revisions that served only to undermine DenSco's fiduciary

1 duty to its investors. Mr. Beauchamp repeatedly had to undo changes proffered by Menaged
2 or Jeff Goulder, Menaged's attorney, and often by Mr. Chittick at Menaged's direction, in
3 order to protect DenSco's investors. For example, Menaged (and Mr. Goulder) attempted to
4 restrict the type of information that could be disclosed to investors, attempted to obtain
5 releases for Menaged related to his defaults and conduct, and refused to provide additional
6 security or information regarding that additional security. Mr. Beauchamp repeatedly pushed
7 back on these efforts and advised DenSco and Mr. Chittick, both in writing and verbally, that
8 they had fiduciary duties to DenSco's investors, which included disclosure obligations. *See*
9 *e.g.*, February 4, 2014 email from Mr. Beauchamp to Mr. Chittick ("you cannot obligate
10 DenSco to further help Scott, because that would breach your fiduciary duty to your
11 investors"); February 14, 2014 email from Mr. Beauchamp to Mr. Chittick ("[Goulder]
12 clearly thinks he can force you to agree to accept a watered down agreement and give up
13 substantial rights that you should not have to give up. Unfortunately, it is not your money.
14 It is your investors' money. So you have a fiduciary duty"); March 13, 2014 email from Mr.
15 Beauchamp to Mr. Chittick ("we cannot give Scott and his attorney any time to cause further
16 delay in getting this Forbearance Agreement finished and the necessary disclosure prepared
17 and circulated").

18 In addition to Menaged and his counsel's constant revisions, the number of loans
19 affected by the double lien issue also kept growing. The number of loans Mr. Chittick
20 asserted were in issue grew from December 2013 to January 2014, and then grew again from
21 January 2014 to February 2014. This resulted in constant changes to the revised workout
22 documents, as well as to Menaged and Mr. Chittick's agreement regarding the manner in
23 which to fund the workout. Mr. Chittick, however, maintained, despite multiple inquiries
24 from Mr. Beauchamp, that he had run the calculations and projections and was confident his
25 plan with Menaged would work. Mr. Chittick also told Mr. Beauchamp that he had gone
26 over those projections with his "advisory council." As Mr. Chittick described it to Mr.

1 Beauchamp, it was a cash flow issue, not a payment issue, and that with Menaged's
2 additional investments, the workout would succeed.

3 Nevertheless, Mr. Beauchamp at one point became concerned enough at Menaged's
4 intransigence and the apparent influence he held over Mr. Chittick, that he reached out to
5 third parties in late January 2014 to inquire about Menaged. Those third parties informed
6 him that Menaged was generally someone to be distrusted and not someone to do business
7 with. Mr. Beauchamp attempted to persuade Mr. Chittick of this during several heated
8 conversations, but Mr. Chittick ignored these admonitions, explaining that while Menaged
9 could be sharp and off-putting, Menaged had always performed on DenSco's loans in the
10 past, and had stood by Mr. Chittick in tough times. Despite Mr. Beauchamp's efforts, Mr.
11 Chittick could not be convinced to cut ties with Menaged.

12 **F. Mr. Beauchamp terminates representation of DenSco and Mr. Chittick.**

13 When Mr. Beauchamp agreed to represent DenSco with respect to Menaged, Mr.
14 Beauchamp made clear that Mr. Chittick had to immediately update DenSco's POM and
15 make full disclosure to its investors regarding the double lien issues, the workout with
16 Menaged, and the potential implications thereof on DenSco's finances and the investors'
17 investments. Mr. Chittick always acknowledged that responsibility and agreed to make the
18 full disclosure once the forbearance agreement was properly documented. As the
19 forbearance neared completion, Mr. Beauchamp and his associate, Daniel Schenk, began
20 drafting the updated POM in April and May 2014. Specifically, the draft 2014 POM would
21 have: provided a description of the forbearance agreement (including all the parties' funding
22 obligations), the reason it was necessary, and its effect on DenSco's books; updated
23 DenSco's goals for intended loan-to-value ratios; updated the descriptions regarding
24 DenSco's loan funding and securitizations procedures; updated the number of loan defaults
25 triggering foreclosures; and amended the descriptions regarding DenSco's borrower base,
26 among other things. Further, Mr. Beauchamp explained that the updated POM would need

1 to be accompanied with a cover letter or other communication highlighting the major
2 material changes, including the double lien issue and resulting workout agreement, to ensure
3 that investors were fully informed. Mr. Chittick, however, refused to provide the necessary
4 information to complete the POM and refused to approve the description of the workout or
5 the double lien issue, despite his prior acknowledgement that he would need to make full
6 disclosure to all of his investors about DenSco (as he had been doing through POMs and
7 newsletters since 2003).

8 In May 2014, Mr. Beauchamp handed Mr. Chittick a physical copy of the draft POM
9 and asked him what Mr. Chittick's specific issues were with the disclosure. Mr. Chittick
10 responded that there was nothing wrong with the disclosure, he was simply not ready to make
11 any kind of disclosures to his investors at this stage. Mr. Beauchamp again explained that
12 Mr. Chittick had no choice in the matter and that he had a fiduciary duty to his investors to
13 make these disclosures. Mr. Chittick would not budge. Faced with an intransigent client
14 who was now acting contrary to the advice Mr. Beauchamp was providing, and with concerns
15 that Mr. Chittick may not have been providing any disclosures to anyone since January 2014,
16 Mr. Beauchamp informed Mr. Chittick that Beauchamp and Clark Hill could not and would
17 not represent DenSco any longer. Mr. Beauchamp also told Chittick that he would need to
18 retain new securities counsel, not only to provide the proper disclosure to DenSco's
19 investors, but to protect DenSco's rights under the forbearance agreement. Mr. Chittick
20 suggested that he had already started that process and was speaking with someone else.

21 Thereafter, Mr. Beauchamp and Clark Hill ceased providing DenSco with securities
22 advice. Mr. Chittick accepted that, but asked that Mr. Beauchamp clean up some small issues
23 with the forbearance agreement before ending the relationship entirely. Other than
24 addressing those small forbearance agreement issues in June and July, Clark Hill stopped
25 working with DenSco or Mr. Chittick in any capacity until 2016, when Mr. Chittick
26 requested that Mr. Beauchamp assist with a very limited issue involving an audit by the

1 Arizona Department of Financial Institutions - work Mr. Beauchamp had previously
2 performed for DenSco and that Mr. Chittick characteristically believed could be done most
3 cost-effectively by Mr. Beauchamp rather than by a new lawyer with no background on the
4 issue.

5 **G. Menaged continues to perpetrate fraud on DenSco, which only grows in**
6 **scale.**

7 During the time that he represented it regarding securities matters, Mr. Beauchamp (a)
8 repeatedly advised DenSco that it had to make full disclosure to its investors and then
9 terminated his relationship as securities counsel for DenSco when DenSco refused, (b)
10 explained that DenSco would need to retain new counsel after Mr. Beauchamp withdrew to
11 provide proper disclosures and monitor the forbearance, and (c) repeatedly reminded Mr.
12 Chittick that he needed to fund loans directly to a trustee or escrow company, rather than to
13 the borrower. Mr. Chittick ignored Mr. Beauchamp's advice. It is unclear if DenSco ever
14 engaged or even talked to new counsel. It appears Mr. Chittick never issued an updated POM,
15 a fact which could not have gone unnoticed by DenSco's sophisticated investors, who had
16 gotten used to regular updates from DenSco, not only through updated POMs, but through
17 monthly newsletters and periodic investor meetings. It is quite clear that Mr. Chittick
18 continued to loan funds directly to Menaged in direct contravention of Mr. Beauchamp's
19 repeated advice.

20 Nevertheless, the brazen scope of Menaged's efforts to defraud DenSco was not
21 foreseeable. After several years of bilking DenSco and others out of millions of dollars,
22 Menaged was eventually arrested. The United States Department of Justice first charged
23 Menaged with defrauding various banks through his purported furniture stores. Menaged used
24 fabricated receipts of purchases made at the furniture store to obtain credit from banks using
25 the names of, and personal identification information of, individuals who had recently died.
26 He would then incur millions of dollars in fraudulent charges on those fake

1 accounts. Incredibly, Menaged acknowledged in his plea agreement that he had perpetrated
2 the bank fraud in order to get cash to continue defrauding DenSco.

3 The Department of Justice then also charged Menaged with money laundering with
4 respect to the DenSco fraud. In his plea agreement, Menaged admitted that from January 2014
5 through June 2016, he embezzled millions of dollars without purchasing properties with the
6 loans obtained from DenSco. He explained that DenSco would wire money to purchase
7 properties directly to Menaged who, in turn, would send DenSco "an image of a bank cashier's
8 check and a copy of a Trustee Certificate of Sale Receipt." No sales, however, actually took
9 place. Menaged would simply redeposit the cashier's check into his account and create bogus
10 receipts for the purchase of the property. Between January 2013 and June 2016, Menaged
11 admitted he obtained 2,172 loans from DenSco totaling approximately \$734,484,440.67. Yet,
12 of the 2,712 loans made by DenSco, only 96 involved actual property transactions. Menaged
13 supposedly used the remaining 2,616 loans for personal expenses, gambling trips, and transfers
14 to his family members and associates. Menaged would also utilize new loans from DenSco to
15 pay back outstanding DenSco loans to conceal the embezzlement. Menaged was sentenced to
16 17 years in jail. As First Assistant U.S. Attorney Elizabeth Strange stated, the "lengthy
17 sentence is a fitting punishment for his egregious crimes."

18 Menaged shamelessly duped Mr. Chittick. Documents and recordings suggest that
19 Menaged never invested any money into the workout plan. He never obtained any money from
20 Israel despite purportedly making numerous trips to the country for that very purpose, blatantly
21 lied that funds that could have been used to fund the workout were tied up in his divorce
22 proceedings, and ultimately invented a non-existent investment scheme involving
23 "auction.com" which Menaged falsely claimed was retaining most of DenSco's money (to go
24 along with his fabrication of the fraudulent cousin and terminally ill wife). Sadly, Mr. Chittick
25 bought into all of Menaged's lies until his last days.

26 Discovery is continuing. Defendants may supplement.

1 **II. LEGAL THEORIES OF CLAIMS AND DEFENSES.**

2 **A. Plaintiff's claims**

3 *Legal Malpractice*

4 Receiver asserts that Defendants, in their representation of DenSco, committed
5 malpractice and breached fiduciary duties owed to DenSco. Legal malpractice requires proof
6 of the existence of a duty, breach of duty, that defendant's breach was the actual and proximate
7 cause of damages, and the "nature and extent" of those damages. *Glaze v. Larsen*, 207 Ariz.
8 26, 29 ¶ 12 83 P.3d 26, 29 (Ariz. 2004) (citations and quotations omitted).

9 Receiver cannot prove breach of duty, actual and proximate cause, or resulting damages.
10 To prove breach of duty, Receiver will need to demonstrate that Defendants deviated from the
11 professional standard of care. *Phillips v. Clancy*, 152 Ariz. 415, 418, 733 P.2d 300, 303 (App.
12 1986). Defendants' advice and conduct in representing DenSco and, in doing so, representing
13 Mr. Chittick as president of DenSco, was consistent with Defendants' practice and experience,
14 and consistent with the standard of care. Thus, Defendants did not breach their duties to
15 DenSco. Receiver will also need to prove that if Defendants had not purportedly breached the
16 standard of care, that DenSco would not have suffered injury. *Id.* Whatever harm befell
17 DenSco was not an actual or foreseeable result of the advice provided by Defendants. Thus,
18 Receiver's malpractice claim fails.

19
20 *Aiding and Abetting Breach of Fiduciary Duties*

21 Receiver asserts that Defendants aided and abetted Mr. Chittick in breaching his
22 fiduciary duties to DenSco. Claims of aiding and abetting require proof that: (1) the primary
23 tortfeasor must commit a tort that caused injury to the plaintiff; (2) the defendant must know
24 that the primary tortfeasor's conduct constitutes a breach of duty; (3) the defendant must
25 substantially assist or encourage the primary tortfeasor in the achievement of that breach and
26 (4) there must be a causal relationship between the defendant's assistance or encouragement

1 and the primary tortfeasor's commission of the tort. *Wells Fargo Bank v. Az. Laborers,*
2 *Teamsters and Cement Masons Local No. 395 Pension Trust Fund*, 201 Ariz. 474, 485 (Ariz.
3 2002); *Sec. Title Agency, Inc. v. Pope*, 219 Ariz. 480, 491 (App. 2008). Importantly, "[b]ecause
4 aiding and abetting is a theory of secondary liability, the party charged with the tort must have
5 knowledge of the primary violation." *Wells Fargo*, 201 Ariz. at 485.

6 It is unclear from the Complaint what actions the Receiver asserts constitute a breach
7 of Mr. Chittick's fiduciary duties to DenSco. In any event, as set forth above, Defendants'
8 advice and conduct in representing DenSco were consistent with the applicable standard of
9 care. Defendants did not "substantially assist or encourage" Mr. Chittick in breaching his
10 duties to DenSco, Defendants did not have knowledge of Mr. Chittick's purported "primary
11 violation," nor is there a causal relationship between Defendants' representation of DenSco
12 and Mr. Chittick's purported tortious conduct with respect to DenSco. Further, as set forth
13 above, whatever harm befell DenSco was not an actual or foreseeable result of Defendants'
14 actions or inactions.

15 **B. Affirmative Defenses**

16 *Statute of Limitations*

17 Both the legal malpractice claim and the aiding and abetting claim have a two-year
18 statute of limitations. See A.R.S. §12-542(1) (An action "[f]or injuries done to the person of
19 another" shall be commenced and prosecuted within two years after the cause of action accrues,
20 and not afterward"). Receiver, who stands in the shoes of DenSco, did not file the Complaint
21 in this action until October 16, 2017, which was well outside the statute of limitations. DenSco,
22 and potentially the Investors, could have discovered at least as of Summer 2014, that DenSco's
23 loans to Menaged (or his entities) and DenSco's lending practices with respect to Menaged,
24 could give rise to potential causes of action against Mr. Chittick or his agents. Consequently,
25 because the statute of limitations ran, at the latest, in the Summer of 2016, the Complaint is
26 barred in its entirety.

1 *In pari delicto* and *unclean hands*

2 Arizona law recognizes the doctrine of *in pari delicto*. *Brand v. Elledge*, 89 Ariz. 200,
3 205, 360 P.2d 213, 217 (1961) (quoting *Furman v. Furman*, 34 N.Y.S.2d 699, 704 (N.Y. Sup.
4 Ct. 1941), *aff'd*, 40 N.E.2d 643 (N.Y. 1942)). *In pari delicto* is an affirmative defense by which
5 a party is barred from recovering damages if his losses are substantially caused by activities
6 the law forbade him to engage in.” *Stewart v. Wilmington Trust SP Servs., Inc.*, 112 A.3d 271,
7 301–02 (Del. Ch.), *aff'd*, 126 A.3d 1115 (Del. 2015) (quotation omitted). The defense may
8 be raised against a receiver. *Id.* (“no cogent reason for sparing the innocent Receiver the effect
9 of *in pari delicto* while equally innocent stockholders or policyholders would be barred from
10 relief in the derivative context”); *Knauer v. Jonathon Roberts Fin. Grp., Inc.*, 348 F.3d 230,
11 236 (7th Cir. 2003) (affirming dismissal of the receiver’s claims against the broker dealers,
12 concluding that they were barred by the defense of *in pari delicto*).

13 Here, to the extent there are claims against the Defendants, DenSco, into whose shoes
14 the Receivers steps, bears fault for damages about which it complains. Thus, the Receiver’s
15 claims are barred by doctrine of *in pari delicto* and, to the extent it specifically seeks equitable
16 relief, by the related doctrine of *unclean hands*.

17
18 *Laches*

19 A claim is barred by *laches* when the delay in bringing the claim is “unreasonable under
20 the circumstances” given “the party’s knowledge of his or her right” and “any change in
21 circumstances caused by the delay has resulted in prejudice to the other party sufficient to
22 justify denial of relief.” *Mathieu v. Mahoney*, 174 Ariz. 456, 459, 851 P.2d 81, 84 (1993).
23 Receiver seeks to recover potentially millions of dollars in alleged damages resulting from
24 loans Mr. Chittick made to Menaged. DenSco would have been aware of the harms that could
25 befall DenSco and its investors as a result of DenSco’s loans to, and lending practices with,
26 Menaged, by Summer 2014 at the latest. DenSco’s inaction for several years, up through the

1 death of Mr. Chittick, to seek relief against any potential third party for harms suffered by
2 DenSco was unreasonable in light of DenSco's knowledge. Because the Receiver steps into
3 DenSco's shoes, the claims are barred.

4
5 *Setoff*

6 Clark Hill filed a proof of claim in the DenSco Receivership for unpaid fees incurred
7 by Clark Hill on behalf of DenSco after Mr. Chittick's death. The Receiver improperly denied
8 the claim on the basis of an alleged conflict of interest. To the extent Defendants are found to
9 owe Plaintiff anything, that debt must be reduced any sums Plaintiff owes Clark Hill.

10 **Additional defenses:**

- 11 • Third parties, including Mr. Chittick and Menaged, over whom Defendants
12 have no authority or control, are at fault for any damages suffered.
- 13 • Densco, in to whose shoes the Receiver steps, is at fault for any damages
14 suffered.
- 15 • Densco, in to whose shoes the Receiver steps, assumed the risk of any actions
16 taken or not taken by DenSco or Mr. Chittick. *Hildebrand v. Minyard*, 16 Ariz.
17 App. 583, 585, 494 P.2d 1328, 1330 (1972) ("A plaintiff who by contract or
18 otherwise expressly agrees to accept a risk of harm arising from the defendant's
19 negligent or reckless conduct cannot recover for such harm . . .") (*quoting*
20 Restatement (Second) of Torts § 496(B) (1965)).
- 21 • Receiver cannot demonstrate proximate cause or loss causation because
22 Defendants are not the actual or proximate cause of any damages suffered.
- 23 • Any damages suffered were the result of intervening or superseding events or
24 causes over which the Defendants had no control and were not legally
25 responsible.
- 26 • Receiver's claims are barred by doctrines of waiver and estoppel.

1
2 Discovery is continuing. Defendants may supplement.

3 **III. WITNESSES.**

4 Because no discovery has taken place, Defendants have not yet identified all persons it
5 may call as witnesses at trial, but reserves the right to call any of the following persons to
6 testify as a witness at trial:

- 7
8 1. David Beauchamp
9 c/o Coppersmith Brockelman, PLC
10 2800N. Central Avenue, Suite 1900
11 Phoenix, Arizona 85004

12 Mr. Beauchamp is expected to testify regarding the allegations in the Complaint and
13 his representation of DenSco and of Mr. Chittick in his capacity as president of DenSco.

- 14 2. Peter Davis, Receiver of DenSco Investment Corporation
15 c/o Osborn Maledon, P.A.
16 2929 N. Central Avenue, Suite 2100
17 Phoenix, Arizona 85012

18 Mr. Davis is expected to testify regarding the allegations in the Complaint; the
19 Receiver's evaluations, analyses, and determinations regarding all aspects of DenSco's
20 finances, including, but not limited to, DenSco's loans, lending practices, record keeping,
21 financial transactions, and solvency; the Receiver's maintenance of any DenSco or Chittick
22 records or property, including, but not limited to, electronic records, websites, and email
23 communications; the Receiver's communications with third parties related to DenSco,
24 including communications with financial institutions, investors, and accountants and other
25 professionals; the Receiver's determinations regarding the Receiver's evaluation and analysis
26 regarding the potential fault, liability, or culpability of any third party with respect to any
losses suffered by DenSco, including, but not limited, to Chase Bank, U.S. Bank, Yomtov
Menaged, Active Funding Group, LLC, and/or Gregg Seth Reichman.

- 1 3. Any witnesses disclosed by other parties.
2 4. Any witnesses that become known through discovery.
3 5. Custodian or other foundational witnesses necessary to admit exhibits.
4 Discovery is continuing. Defendants may supplement.

5 **IV. ADDITIONAL PERSONS WHO MAY HAVE RELEVANT INFORMATION.**

6 1. Yomtov "Scott" Menaged
7 Scott Menaged is expected to have knowledge regarding all aspects of any personal,
8 financial, or business dealings he may have had with DenSco and Mr. Chittick; all aspects of
9 the fraud(s) he perpetrated on DenSco and Mr. Chittick, either directly, or through one of his
10 entities, including, but not limited to, Easy Investments, LLC, Arizona Home Foreclosures,
11 LLC, Furniture King, LLC, and Scott's Fine Furniture; all aspects of actions or conduct
12 related to his criminal indictment, plea bargain, or sentencing in the United States District
13 Court for the District of Arizona; his communications with DenSco and Mr. Chittick; and his
14 communications with Mr. Beauchamp.

15
16 2. PMK Easy Investments, LLC
17 10510 East Sunnyside Drive
18 Scottsdale, AZ 85259

19 *See Description for Scott Menaged.*

20 3. PMK Arizona Home Foreclosures, LLC
21 7320 West Bell Road
22 Glendale, AZ 85308

23 *See Description for Scott Menaged.*
24
25
26

1 4. PMK Furniture King, LLC
2 3200 North Central Avenue
3 Suite 2460
4 Phoenix, AZ 85012

5 *See Description for Scott Menaged.*

6 5. PMK Scott's Fine Furniture

7 *See Description for Scott Menaged.*

8 6. Veronica Castro aka Veronica Gutierrez Reyes
9 c/o Thomas W. Warshaw Attorney at Law
10 33147 North 71st Way
11 Scottsdale, AZ 85266

12 Ms. Castro is expected to have knowledge regarding Menaged's personal, financial, or
13 business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on
14 DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
15 communications with DenSco and Mr. Chittick; Menaged's communications with Mr.
16 Beauchamp; the actions or conduct related to Menaged's criminal indictment, plea bargain,
17 or sentencing in the United States District Court for the District of Arizona; and Ms. Castro's
18 communications with DenSco and Mr. Chittick.

19 7. Luigi Amoroso

20 Mr. Amoroso is expected to have knowledge regarding Menaged's personal, financial,
21 or business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on
22 DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
23 communications with DenSco and Chittick; Menaged's communications with Mr.
24 Beauchamp; the actions or conduct related to Menaged's criminal indictment, plea bargain,
25 or sentencing in the United States District Court for the District of Arizona; and Mr.
26 Amoroso's communications with DenSco and Mr. Chittick.

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8. Alberto Pena
c/o Law Office of Cameron A. Morgan
4356 North Civic Center Plaza
Suite 101
Scottsdale, AZ 85251

Mr. Pena may have knowledge regarding Menaged's personal, financial, or business dealings with DenSco and Chittick; the fraud(s) Menaged perpetrated on DenSco and Chittick, either directly, or through one of Menaged's entities; Menaged's communications with DenSco and Mr. Chittick; and the actions or conduct related to Mr. Pena's and Menaged's criminal indictment, plea bargain, or sentencing in the United States District Court for the District of Arizona.

9. Troy Flippo
c/o Storrs Law Firm PLLC
1421 East Thomas Road
Phoenix, AZ 85014

Mr. Flippo may have knowledge regarding Menaged's personal, financial, or business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's communications with DenSco and Chittick; and the actions or conduct related to Flippo's and Menaged's criminal indictment, plea bargain, or sentencing in the United States District Court for the District of Arizona.

10. Menaged family members, including, Joseph Menaged, Michelle Menaged, Jennifer Bonfiglio, Joy Menaged, Jess Menaged

Menaged's family may have knowledge regarding Menaged's personal, financial, or business dealings with DenSco and Chittick; the fraud(s) Menaged perpetrated on DenSco and Chittick, either directly, or through one of Menaged's or his Family's entities; the use of funds obtained from DenSco; Menaged's communications with DenSco and Chittick; and the

1 actions or conduct related to Menaged's criminal indictment, plea bargain, or sentencing in
2 the United States District Court for the District of Arizona.

3
4 11. Shawna Heuer
5 c/o Bonnett Fairbourn, PC
6 2325 E. Camelback Road
7 Phoenix, Arizona 85016

8 Ms. Heuer is expected to have knowledge regarding Mr. Beauchamp's work on behalf
9 of DenSco after Mr. Chittick's death and her communications with Mr. Beauchamp. Ms.
10 Heuer may also have knowledge regarding Mr. Chittick and DenSco's business, and Mr.
11 Chittick's communications with Mr. Beauchamp, Menaged, or DenSco's investors.

12 12. Jeff Goulder
13 Stinson Leonard Street
14 1850 North Central Avenue, Suite 2100
15 Phoenix, Arizona 85004

16 Mr. Goulder is expected to have knowledge regarding the negotiations of the
17 Forbearance Agreement. Mr. Goulder also may have knowledge regarding Menaged's
18 businesses, business practices, and finances. Mr. Goulder also may have knowledge
19 regarding Menaged's communications with Mr. Beauchamp.

20 13. David Preston
21 c/o Gammage & Burnham
22 2 N. Central Avenue, Suite 15
23 Phoenix, Arizona 85004

24 Mr. Preston is expected to have knowledge regarding DenSco and Mr. Chittick's
25 finances and tax returns. Mr. Preston is also expected to have knowledge regarding Mr.
26 Chittick's retirement plan.

1 14. DenSco Investors

2 The Investors are expected to have knowledge regarding Mr. Chittick's
3 communications to the Investors and their knowledge of DenSco's business, the status of
4 their investments, and the status of DenSco's loans at all relevant times.

5
6 15. PMK Chase Bank
7 3800 North Central Avenue
8 Suite 460
9 Phoenix, AZ 85012

10 Chase Bank is expected to have knowledge regarding Menaged's banking practices,
11 including Menaged's use of Chase Bank to perpetrate his fraud on DenSco and Chittick.

12 16. PMK US Bank
13 3800 North Central Avenue
14 Suite 460
15 Phoenix, AZ 85012

16 US Bank is expected to have knowledge regarding Menaged's banking practices,
17 including Menaged's use of Chase Bank to perpetrate his fraud on DenSco and Chittick.

18 17. Gregg Seth Reichman/Active Funding Group
19 Attention: Andrew Abraham
20 702 East Osborn Road
21 Suite 200
22 Phoenix, AZ 85014

23 Mr. Reichman may have knowledge regarding Menaged's businesses, business
24 practices, and finances; the fraud(s) Menaged perpetrated on DenSco and Mr. Chittick, either
25 directly, or through one of Menaged's entities; and Mr. Reichman or his entities' (including
26 Active Funding Group) participation in any of those fraudulent schemes (as suggested by the
Receiver's Petition No. 45).

1 18. Daniel Schenk
2 c/o Coppersmith Brockelman, PLC
3 2801 N. Central Avenue, Suite 1900
4 Phoenix, Arizona 85004

5 Mr. Schenk is expected to have knowledge regarding any work he performed on
6 behalf of DenSco and Mr. Chittick in his capacity as president of DenSco. Mr. Schenk may
7 also have knowledge of Menaged's communications with Beauchamp, Menaged
8 communications with Mr. Chittick, and Mr. Beauchamp's communications with Mr. Chittick.

9 19. Robert Anderson
10 c/o Coppersmith Brockelman, PLC
11 2802 N. Central Avenue, Suite 1900
12 Phoenix, Arizona 85004

13 Mr. Anderson is expected to have knowledge regarding any work he performed on
14 behalf of DenSco and Mr. Chittick in his capacity as president of DenSco.

15 **V. PERSONS WHO HAVE GIVEN STATEMENTS.**

16 None at this time. Discovery is continuing. Defendants may supplement.

17 **VI. EXPERT WITNESSES.**

18 Defendants will identify expert witnesses in accordance with the schedule ordered by
19 the Court.

20 **VII. COMPUTATION AND MEASURE OF DAMAGES.**

21 Plaintiff is not entitled to recover damages against Defendants.

22 Discovery is continuing. Defendants may supplement.

23 **VIII. EXHIBITS.**

24 Defendants have not yet identified which of the documents listed in Section IX below
25 will be used at trial, and therefore expressly reserve the right to introduce any of the listed
26 documents as exhibits at trial. Defendants may also use any documents identified in any other

1 party's disclosure statement or otherwise disclosed in this matter. By reserving the right to
2 introduce any of the listed documents as exhibits at trial, Defendants do not waive their right
3 to object to the introduction of any of these documents at the time of trial. Defendants will
4 supplement this initial disclosure statement in accordance with Arizona Rules of Civil
5 Procedure 26.1(b)(2).

6 Discovery is continuing. Defendants may supplement.

7 **IX. LIST OF RELEVANT DOCUMENTS.**

8 Defendants have not yet identified any additional relevant documents. The
9 following documents, or categories of documents, may be relevant or lead to discovery of
10 admissible evidence in this action and have already been exchanged or are being produced
11 herewith:

- 12 1. Documents previously produced by Clark Hill bates labeled CH_0000001-
13 13330.
- 14 2. Additional documents produced herewith by Clark Hill bates labeled
15 CH_0013331-13374.
- 16 3. Documents previously produced by Plaintiff including bates labeled
17 DIC000001-25330, 28634-53950 and Quickbooks backup.
- 18 4. Documents previously produced by Plaintiff including bates labeled D126751-
19 128731 and 130972-133111.
- 20 5. Documents previously produced by Bryan Cave in response to Subpoena Duces
21 Tecum bates labeled BC000001-3188.
- 22 6. Documents produced herewith by Dave Preston in response to Subpoena Duces
23 Tecum bates labeled DP000001-601.
- 24 7. Any and all documents in CR-17-00680, United States of America v. Yomtov
25 Scott Menaged, et al.
- 26 8. All documents produced by any party or third party in this litigation.

- 1 9. All pleadings, filings, minute entries, orders and judgments.
- 2 10. All deposition or hearing transcripts in the above captioned litigation.
- 3 11. All transcripts from any Section 341 creditor meetings, Rule 2004 examinations,
- 4 depositions, or hearings in Yomtov Menaged's bankruptcy pending in the United
- 5 States Bankruptcy Court for the District of Arizona at 2:16-bk-04268.
- 6 12. Additional documents produced by Clark Hill bates labeled
- 7 CH_000013387-13616.
- 8 13. Documents produced by Sell Wholesale Funding in response to Subpoena
- 9 Duces Tecum bates labeled SELL000001-766.
- 10 14. Documents produced by Azben Limited, LLC in response to Subpoena
- 11 Duces Tecum bates labeled AZBEN000001-5248.
- 12 15. Documents produced by Geared Equity in response to Subpoena Duces
- 13 Tecum bates labeled GE000001-257.
- 14 16. Documents produced by Active Funding in response to Subpoena Duces
- 15 Tecum bates labeled AF000001-2448.

16 Defendants reserves the right to supplement the list of documents that may be relevant
17 as information becomes available.

18 **X. INSURANCE AGREEMENTS.**

19 Defendants produce the insurance policies in effect during the relevant time period
20 and the November 10, 2017 correspondence from Mendes & Mount, LLP, all of which are
21 stamped "Confidential Materials."

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DATED this 13st day of June, 2018.

COPPERSMITH BROCKELMAN PLC

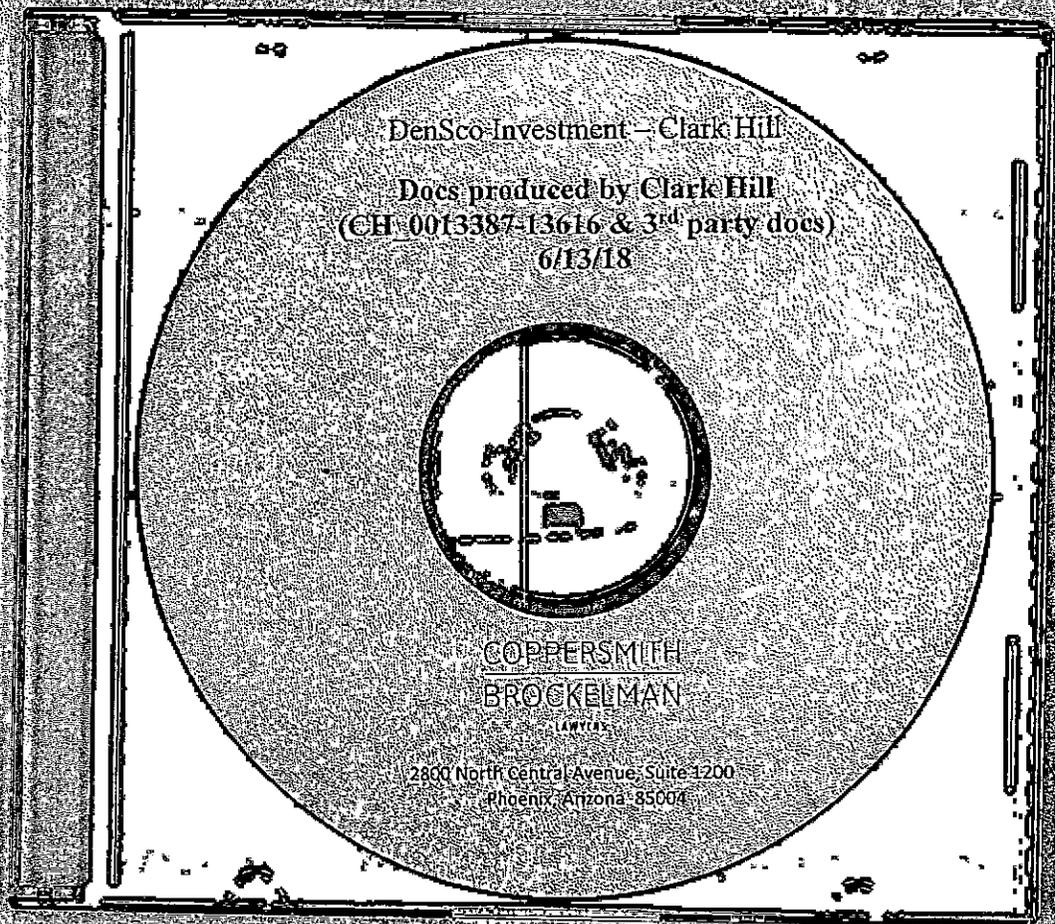
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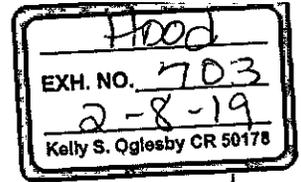
John E. DeWulf
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Vidula U. Patki
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Attorneys for Defendants

ORIGINAL mailed and emailed this
13th day of June, 2018 to:

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8
9 **SUPERIOR COURT OF ARIZONA**
10 **COUNTY OF MARICOPA**

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

13 Plaintiff,

14 v.

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

17 Defendants.

No. CV2017-013832

**DEFENDANTS' FOURTH
SUPPLEMENTAL RULE 26.1
DISCLOSURE STATEMENT**

18 Defendants Clark Hill PLC, David G. Beauchamp and Jane Doe Beauchamp
19 (collectively, "Defendants") **supplement their** initial disclosure statement according to
20 Arizona Rule of Civil Procedure 26.1. Defendants reserve the right to amend or supplement
21 this disclosure statement as discovery progresses. **Supplements are in bold.**

22 This case is in its infancy and thus the content of this disclosure statement is
23 preliminary and subject to supplementation, amendment, explanation, change and
24 amplification. Because the parties have just commenced discovery, there may be
25 information, documents, and materials related to the various allegations and defenses set forth
26 in the pleadings of which Defendants are presently unaware. Defendants note that they do

1 not currently have access to all potentially relevant documents of the Plaintiff, or third parties,
2 and that this disclosure statement is based upon information currently available to
3 Defendants. Nothing in this disclosure statement is intended to be an admission of fact, an
4 affirmation of the existence of any document, or an agreement with or an acceptance of any
5 legal theory or allegation. The information set forth below is provided without waiving (1)
6 the right to object to the use of such information for any purpose in this or any other action
7 due to applicable privilege (including the work-product and attorney-client privileges),
8 materiality, or any other appropriate grounds; (2) the right to object to any request involving
9 or relating to the subject matter of the information in this disclosure statement; or (3) the right
10 to revise, correct, supplement or clarify any of the information provided below. If any part
11 of this statement is ever read to the jury, fairness would require that the jury be read this
12 introductory statement and any supplementation, amendments, explanation, changes or
13 amplifications which may occur or be filed subsequent to this disclosure statement.

14 Defendants also incorporate by reference into this disclosure statement all
15 interrogatory answers, responses to requests for production, responses to requests for
16 admission, other discovery and disclosure statements and supplements thereto in this action,
17 and all transcripts of any deposition taken in this action and any exhibits thereto.

18 **I. FACTUAL BASIS OF CLAIMS AND DEFENSES.**

19 **A. Retention/Scope of Work**

20 For more than 35 years, since graduating with honors from the University of Michigan
21 Law School in 1981, David Beauchamp has represented his clients in the areas of corporate
22 law, securities, venture capital, and private equity with distinction and integrity.

23 One of those clients was DenSco Investment Corporation ("DenSco"), a company
24 solely owned and managed by Denny Chittick. DenSco raised money from investors by
25 issuing general obligation notes to those investors at interest rates that varied depending on
26 the note's maturity date. DenSco then invested those funds primarily by making high interest

1 short-term loans to borrowers buying residential properties out of foreclosure, which loans
2 were intended to be secured by deeds of trusts on those properties. Mr. Beauchamp started
3 providing securities advice to DenSco in the early 2000s, while he was a partner at the law
4 firm Gammage & Burnham. DenSco followed Mr. Beauchamp as a client when he left
5 Gammage to join the law firm Bryan Cave in March 2008, and again when Mr. Beauchamp
6 left Bryan Cave to join Clark Hill in September 2013.

7 Although the various firms' engagement letters with DenSco only specifically
8 identified DenSco as the client, DenSco could not operate or engage with legal counsel
9 except through its president and sole owner, Mr. Chittick. DenSco had no other employees;
10 Mr. Chittick was responsible for all aspects of DenSco's business, and Mr. Chittick
11 understood that Mr. Beauchamp, as an incident to Mr. Beauchamp's representation of
12 DenSco, was also representing Mr. Chittick in his capacity as president of DenSco. The
13 investors understood that as well. The private offering memoranda DenSco provided state
14 that "legal counsel to the Company will represent the interests solely of the Company and its
15 President, and will not represent the interests of any investor."

16 Shortly after Mr. Chittick's death, and in the midst of a chaotic time dealing with the
17 fallout of his passing, Mr. Beauchamp stated in an August 10, 2016 letter to an Arizona
18 Corporation Commission subpoena to Mr. Chittick that he had "not previously represented
19 Denny Chittick" and that the ACC would need to request the personal information it sought,
20 including Mr. Chittick's personal tax returns, from counsel for Mr. Chittick's estate. To the
21 extent that Mr. Beauchamp's statement was not clear or that any clarification was necessary,
22 Mr. Beauchamp averred in an August 17, 2016 declaration under oath that he represented
23 DenSco and "Mr. Chittick as the President of DenSco." Mr. Beauchamp did not represent
24 Mr. Chittick outside of his role as a corporate officer at DenSco.

25 Until mid- 2013, Mr. Beauchamp's work as DenSco's securities counsel included,
26 among other things, drafting DenSco's Private Offering Memoranda and related investor

1 documents; advising DenSco regarding Blue Sky laws and state and federal securities
2 reporting and filing requirements; advising DenSco as to the rules and regulations
3 promulgated by state financial and lending authorities; and advising DenSco regarding the
4 applicability of mortgage broker regulations. At times, it would also involve answering
5 DenSco's questions regarding its Reg D filings and obligations. Although Mr. Beauchamp
6 helped DenSco file its first set of Reg D documents in 2003, Mr. Chittick told Mr.
7 Beauchamp thereafter that he did not want to pay a lawyer to review and file the Reg D
8 documents, and that Mr. Chittick would take on that responsibility himself. That was not a
9 surprising request, as Mr. Chittick repeatedly instructed Mr. Beauchamp to keep legal fees
10 to a minimum. Consequently, although Mr. Beauchamp's paralegal initially helped Mr.
11 Chittick understand the filing process and obtain access to the EDGAR filing site, in
12 accordance with his client's wishes Mr. Beauchamp did not review DenSco's Reg D filings.

13 The scope of Mr. Beauchamp's representation of DenSco and its president was
14 narrow. Further, the relationship was friendly, but professional. Mr. Beauchamp did not go
15 to dinner or vacation with Mr. Chittick or his family. They did not play golf or otherwise
16 socialize together.

17 Over the years, Mr. Chittick showed himself to be a trustworthy and savvy
18 businessman, and a good client. He was devoted to his business and investors, many of
19 whom were friends and family. Despite often complaining about the cost of legal services,
20 Mr. Chittick appeared to follow Mr. Beauchamp's advice and provided information when
21 asked for it. Further, Mr. Beauchamp understood that DenSco utilized an outside accountant,
22 David Preston, to review DenSco's books and records and file its tax returns. At no point
23 did Mr. Beauchamp serve as DenSco's general corporate counsel, nor was Mr. Beauchamp
24 engaged to review or approve DenSco financial statements or tax returns or to investigate
25 borrowers.

26

1 **B. The Private Offering Memoranda**

2 Mr. Beauchamp advised DenSco regarding its Private Offering Memoranda
3 (“POMs”), which DenSco generally updated every two years. He helped draft the 2003,
4 2005, 2007, 2009, and 2011 POMs. The POMs, however, had similar provisions and
5 generally described DenSco’s historical performance based on information provided by Mr.
6 Chittick; set forth Mr. Chittick’s authority to determine DenSco’s “major business decisions
7 and policies”, and to make, amend, or deviate from those policies in Mr. Chittick’s sole
8 discretion; and set forth DenSco’s aspirational lending standards (including its intent to
9 “maintain a loan-to-value ratio below 70%” for both individual trust deeds DenSco
10 purchased and the aggregate loan portfolio, as well as its intent to “achieve a diverse
11 borrower base” with no borrower comprising more than 10-15% of the portfolio).

12 In early summer 2013, Mr. Beauchamp advised DenSco that it needed to update its
13 2011 POM given the passage of time and changes in the scope of DenSco’s fund raising. In
14 particular, based on Mr. Chittick’s representations to Mr. Beauchamp, DenSco either had or
15 would soon eclipse the \$50 million maximum offering set forth in the 2011 POM.
16 Consequently, Mr. Beauchamp began drafting revisions to the 2011 POM, which included
17 updates to the maximum offering and updates on DenSco’s performance to date, among other
18 revisions. Mr. Beauchamp, however, was never able to finalize the 2013 POM. Although
19 Mr. Beauchamp asked for updated investment, loan and financial information regarding
20 DenSco, Mr. Chittick stalled on providing the information, preferring to wait until after he
21 scaled down the amount outstanding to investors. Mr. Beauchamp repeatedly advised
22 DenSco that an update was necessary irrespective of DenSco’s plans regarding the
23 outstanding amount of its offerings, but Mr. Chittick continued to delay.

24 **C. The FREO Lawsuit**

25 On May 24, 2013, Easy Investments, an entity owned by Yomtov “Scott” Menaged
26 (“Menaged”), DenSco, and Ocwen Loan Servicing, were sued by FREO Arizona, LLC

1 ("FREO") regarding liens recorded by Easy Investments in favor of DenSco and Active
2 Funding Corporation, on a parcel of property. In a June 14, 2013 email from Mr. Chittick to
3 Mr. Beauchamp, Mr. Chittick explained that Easy Investments had purchased a property at
4 a trustee's sale using a DenSco loan, which had apparently been previously purchased by
5 FREO, leading to a dispute. A review of the partial Complaint provided to Mr. Beauchamp
6 confirms Mr. Chittick's description. According to its allegations, the loan servicer, Ocwen,
7 failed to cancel a trustee's sale and release the deed of trust after FREO had paid off the debt
8 and acquired the property, thereby allowing Easy Investments to purchase the property again
9 with DenSco's funds. Contrary to the allegations in the Receiver's Complaint, the FREO
10 lawsuit did not concern lien priority or double lien issues. Moreover, a review of the docket
11 reveals that Easy Investments prevailed in the FREO lawsuit when the Court granted
12 summary judgment in favor of Easy Investments and against both FREO and Ocwen (for
13 breach of its duties) on December 6, 2013.

14 Further, although Mr. Chittick forwarded a portion of the Complaint to Mr.
15 Beauchamp, Mr. Chittick did not ask Mr. Beauchamp to represent DenSco in the litigation;
16 nor did he ask Mr. Beauchamp to investigate the factual allegations in the Complaint. To
17 the contrary, he expressly stated that he merely wanted Mr. Beauchamp to "be aware" of the
18 lawsuit. Consequently, although Mr. Beauchamp ran the matter through Bryan Cave's
19 conflict system pursuant to standard firm procedure, Mr. Beauchamp did not represent
20 DenSco in the litigation and did not conduct any further investigation into its merits given
21 his client's instruction not to get involved.

22 Mr. Beauchamp did, however, explain to Mr. Chittick that this lawsuit would need to
23 be disclosed in DenSco's 2013 POM. In addition, Mr. Beauchamp advised Mr. Chittick, as
24 he had done previously, that Mr. Chittick needed to fund DenSco's loans directly to the
25 trustee or escrow company conducting the sale, rather than provide loan funds directly to the
26 borrower, to ensure that DenSco's deed of trust was protected. Mr. Chittick, however,

1 explained to Mr. Beauchamp that this was an isolated incident with a borrower, Menaged,
2 whom Mr. Chittick described in his email as someone he had “done a ton of business
3 with...hundreds of loans for several years....”

4 **D. Mr. Beauchamp leaves Bryan Cave, hears nothing from Mr. Chittick for**
5 **months.**

6 Mr. Beauchamp left Bryan Cave at the end of August 2013. Prior to his departure,
7 Mr. Beauchamp had repeatedly made clear to DenSco and Mr. Chittick that they needed to
8 update DenSco’s POM. On August 30, 2013, Mr. Beauchamp and Bryan Cave sent Mr.
9 Beauchamp’s clients, including DenSco, a joint separation letter informing them that Mr.
10 Beauchamp was joining Clark Hill effective as of September 1, 2013. The letter invited
11 those clients to either request the transition of their files to Mr. Beauchamp or affirmatively
12 request that the files remain at Bryan Cave. Mr. Chittick initially agreed to transfer a portion
13 of DenSco’s files to Clark Hill, but aside from DenSco’s authorization letter, Mr. Beauchamp
14 never heard from Mr. Chittick regarding the unfinished 2013 POM, or any other matter, until
15 December 2013.

16 **E. DenSco contacts Mr. Beauchamp in late 2013, slowly reveals scope of**
17 **Menaged issues over several months**

18 In December 2013, Mr. Chittick contacted Mr. Beauchamp for the first time in
19 months. He told Mr. Beauchamp over the phone that he had run into an issue with some of
20 his loans to Menaged, and specifically, that properties securing a few DenSco loans were
21 each subject to a second deed of trust competing for priority with DenSco’s deed of trust.
22 Mr. Beauchamp reminded Mr. Chittick that he still needed to update DenSco’s private
23 offering memorandum. After briefly discussing the allegedly limited double lien issue, Mr.
24 Chittick emphasized to Mr. Beauchamp that Mr. Chittick wanted to avoid litigation with
25 other lenders. Mr. Chittick, however, did not request any advice or help. Accordingly, Mr.
26 Beauchamp suggested that Mr. Chittick develop and document a plan to resolve the double
liens, and nothing more came of the conversation.

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

12 It seems unlikely that the issue with the Miller Lenders was a surprise to Mr. Chittick.
13 Although Mr. Chittick's business journals contain hearsay and present questions regarding
14 admissibility, they suggest that Menaged had told Mr. Chittick about the double lien issue in
15 November 2013, and had explained that the issue could affect every property Menaged had
16 purchased using DenSco funds going back as far as 2011. Further, as set forth below, Mr.
17 Chittick and Menaged had apparently already reached an agreement on how to deal with the
18 double lien issue in November 2013 as well. Mr. Chittick, however, failed to provide that
19 information to Mr. Beauchamp in December. Nor did he immediately provide Mr.
20 Beauchamp with the full scope of the problem, or reveal the procedure he had agreed to with
21 Menaged to resolve that problem, in December or early January.

22 Instead, Mr. Chittick sent the Miller letter to Mr. Beauchamp on January 6, 2014 with
23 nothing more than a sparse request for Mr. Beauchamp to "read the first two pages." The
24 next day, Mr. Chittick provided Mr. Beauchamp a more expansive, if incomplete,
25 explanation. In his email, Mr. Chittick stated that he had lent Menaged a total of \$50 million
26 since 2007 and that he'd "never had a problem with payment or issue that hasn't been

1 resolved." Mr. Chittick asserted, however, that Menaged's wife had become critically ill in
2 the past year, and that Menaged had turned the day-to-day operations of his companies over
3 to his cousin. According to Mr. Chittick, the cousin would receive loan funds directly from
4 DenSco, then request loans for the same property from another lender, including the Miller
5 Lenders. The other lenders, who had funded their loans directly to the trustee, would record
6 their deed of trust, as would DenSco, leaving DenSco in second position. The cousin,
7 unfortunately, then purportedly absconded with the funds DenSco lent directly to Menaged.
8 This "double lien" issue consequently jeopardized DenSco's secured position and its loan-
9 to-value ratios. Mr. Chittick feared that a lawsuit with the Miller Lenders would jeopardize
10 DenSco's entire enterprise.

11 According to Mr. Chittick's email, Menaged purportedly found out about his cousin's
12 scam in November and revealed the fraud to Mr. Chittick at the time. Yet rather than consult
13 legal counsel, Mr. Chittick worked out a plan to fix the double lien issue with Menaged. The
14 initial plan included DenSco paying off the other lenders. That required additional capital,
15 which Menaged and Mr. Chittick agreed would come from DenSco lending Menaged an
16 additional \$1 million and Menaged investing additional capital, including \$4-\$5 million from
17 the liquidation of other assets, as set forth in a term sheet DenSco and Menaged signed after
18 having already put their plan into effect. As the scope of the problem appeared to grow, Mr.
19 Chittick and Menaged agreed to terms of an expanded plan, which included further
20 investment from both DenSco and Menaged, who would also continue to flip and rent homes
21 to raise the necessary profits needed to pay off the other lenders.

22 Unbeknownst to Mr. Beauchamp, and according to Mr. Chittick's January 7, 2014
23 email, DenSco and Menaged had already been "proceeding with this plan since November
24 [2013]." That is corroborated by the Receiver, who asserts that Mr. Chittick lent \$1 million
25 to Menaged to further their private workout plan in December 2013. In other words, by the
26 time Mr. Chittick approached Mr. Beauchamp with a partial disclosure of the issues in late

1 2013 and early 2014, Mr. Chittick had already agreed to a business plan with Menaged to
2 work out the double lien problems, and had already advanced Menaged significant sums
3 pursuant to that agreement. As Mr. Beauchamp explained in a February 20, 2014 email to
4 his colleagues, Mr. Chittick "without any additional documentation or any legal advice...has
5 been reworking his loans and deferring interest payments to assist Borrower...When we
6 became aware of this issue, we advised our client that he needs to have a Forbearance
7 Agreement in place to evidence the forbearance and the additional protections he needs."

8 1. Mr. Beauchamp tells DenSco it cannot accept new funds or roll over
9 prior funds.

10 After receiving Mr. Chittick's January 7, 2014 email, Mr. Beauchamp was alarmed
11 that DenSco may be taking on new investors or rolling over prior investments without
12 disclosing the double lien issue or the workout to which Mr. Chittick and Menaged had
13 agreed. Mr. Beauchamp's advice to Mr. Chittick regarding disclosures Mr. Chittick had to
14 make to investors was immediate, clear, practical, consistent with his practice and
15 experience, and consistent with the standard of care: (a) DenSco was not permitted to take
16 new money without full disclosure to the investor lending the money; (b) DenSco was not
17 permitted to roll over existing investments without full disclosure to the investor rolling over
18 the money; and (c) DenSco needed to update its POM and make full disclosure to all its
19 investors. Mr. Beauchamp provided this advice to DenSco starting with his January 9, 2014
20 meeting with Mr. Chittick, and repeated it routinely over the next few months.

21 Mr. Beauchamp was also concerned about the source and use of the funds needed to
22 effectuate the Menaged-Chittick workout. Yet, as Mr. Chittick explained, the funds for the
23 \$1 million loan (which Mr. Chittick funded prior to engaging Clark Hill) and an additional
24 \$5 million loan Mr. Chittick and Menaged eventually agreed to as part of the workout, would
25 come from (a) Mr. Chittick's investment of additional funds out of his retirement account,
26 (b) Mr. Chittick's personal \$1.5 million line of credit, and (c) DenSco's working capital

1 raised as loans to other borrowers paid off. Again, and at all times Mr. Beauchamp, advised
2 Mr. Chittick that he could not obtain new investor funds or roll over prior investments
3 without full disclosure. Mr. Beauchamp also repeatedly insisted that Mr. Chittick revise his
4 out-of-date POM to provide disclosure to all his investors. Mr. Chittick, however, insisted
5 that DenSco first document the forbearance agreement so that Mr. Chittick would have a
6 plan to show his investors.

7 Further, Mr. Chittick assured Mr. Beauchamp repeatedly that he was making the
8 requisite disclosures to investors on an as needed basis, and that he had informed a select
9 group of investors as to the double lien issue and proposed workout. That would be in
10 keeping with Mr. Chittick's prior approach to business. As far as Mr. Beauchamp knew, and
11 as Mr. Chittick had previously told him, Mr. Chittick indeed had a select group of investors
12 to whom he turned for advice and approval when confronted with important business
13 decisions, such as, for example, diversifying his investments into different types of
14 properties. Mr. Chittick told Mr. Beauchamp that he was seeking such advice from what Mr.
15 Chittick described as an "advisory council." And again, while the letters Mr. Chittick
16 appears to have authored prior to his passing contain hearsay and present questions regarding
17 admissibility, they include various statements suggesting that Mr. Chittick may have
18 previously told (and received approval from) a select group of investors that he was investing
19 specifically with Menaged, that he was increasing his loan concentration with Menaged
20 above the 10-15% concentration threshold suggested in his POMs, and that his lending
21 process involved funding loans directly to borrowers, rather than a trustee or escrow account.

22 There was no reason for Mr. Beauchamp to question whether Mr. Chittick was in fact
23 providing disclosures to limited investors. Moreover, over the more than decade long strong
24 professional relationship Mr. Beauchamp had developed with Mr. Chittick, Mr. Chittick had
25 proven himself to be a trustworthy client with a strong history of sharing information and
26 making prudent decisions.

1 2. Mr. Beauchamp advises DenSco to enter into a forbearance agreement.

2 Beginning in early January, and over the course of several meetings and telephone
3 conversations with Mr. Chittick, Mr. Beauchamp convinced Mr. Chittick that if he was going
4 to keep doing business with Menaged (and Mr. Chittick never wavered from his insistence
5 on working his way out of the double lien issue with Menaged), DenSco should at least
6 document the issues and workout plan in a forbearance agreement. Entering into a
7 forbearance agreement was sound, practical advice and consistent with the standard of care,
8 particularly where Mr. Chittick and Menaged had already implemented their own workout
9 plan. As Mr. Beauchamp repeatedly explained to Mr. Chittick, the forbearance agreement
10 would, among other things, (a) clarify and set forth the facts that led to the double lien issue,
11 (b) clarify and set forth the scope of the issue with the borrower, (c) acknowledge Mr.
12 Menaged's defaults under his loan documents with DenSco, as well as the amount and
13 validity of any debt owed to DenSco, (d) obtain additional written commitments from
14 Menaged and his entities to fund the workout Mr. Chittick and Menaged had already agreed
15 to; and (e) obtain additional security and other protections from Menaged and his entities to
16 protect DenSco and its investors. Mr. Beauchamp was crystal clear with Mr. Chittick all of
17 this would need to be disclosed to DenSco's investors. Other protections Mr. Beauchamp
18 advocated for, including additional admissions of fault and fraud by Menaged to protect
19 DenSco in the event of a bankruptcy filing by Menaged or his entities, were eventually
20 stricken from the agreement at Menaged and Mr. Chittick's insistence, and over Mr.
21 Beauchamp's objections.

22 Mr. Beauchamp had previously drafted and negotiated countless forbearance
23 agreements. He reasonably anticipated that documenting DenSco's forbearance would take
24 2-3 weeks. Negotiating the forbearance agreement, however, turned out to be more difficult
25 than Mr. Beauchamp could have reasonably imagined. For one, Menaged and his counsel
26 repeatedly insisted on edits and revisions that served only to undermine DenSco's fiduciary

1 duty to its investors. Mr. Beauchamp repeatedly had to undo changes proffered by Menaged
2 or Jeff Goulder, Menaged's attorney, and often by Mr. Chittick at Menaged's direction, in
3 order to protect DenSco's investors. For example, Menaged (and Mr. Goulder) attempted to
4 restrict the type of information that could be disclosed to investors, attempted to obtain
5 releases for Menaged related to his defaults and conduct, and refused to provide additional
6 security or information regarding that additional security. Mr. Beauchamp repeatedly pushed
7 back on these efforts and advised DenSco and Mr. Chittick, both in writing and verbally, that
8 they had fiduciary duties to DenSco's investors, which included disclosure obligations. *See*
9 *e.g.*, February 4, 2014 email from Mr. Beauchamp to Mr. Chittick ("you cannot obligate
10 DenSco to further help Scott, because that would breach your fiduciary duty to your
11 investors"); February 14, 2014 email from Mr. Beauchamp to Mr. Chittick ("[Goulder]
12 clearly thinks he can force you to agree to accept a watered down agreement and give up
13 substantial rights that you should not have to give up. Unfortunately, it is not your money.
14 It is your investors' money. So you have a fiduciary duty"); March 13, 2014 email from Mr.
15 Beauchamp to Mr. Chittick ("we cannot give Scott and his attorney any time to cause further
16 delay in getting this Forbearance Agreement finished and the necessary disclosure prepared
17 and circulated").

18 In addition to Menaged and his counsel's constant revisions, the number of loans
19 affected by the double lien issue also kept growing. The number of loans Mr. Chittick
20 asserted were in issue grew from December 2013 to January 2014, and then grew again from
21 January 2014 to February 2014. This resulted in constant changes to the revised workout
22 documents, as well as to Menaged and Mr. Chittick's agreement regarding the manner in
23 which to fund the workout. Mr. Chittick, however, maintained, despite multiple inquiries
24 from Mr. Beauchamp, that he had run the calculations and projections and was confident his
25 plan with Menaged would work. Mr. Chittick also told Mr. Beauchamp that he had gone
26 over those projections with his "advisory council." As Mr. Chittick described it to Mr.

1 Beauchamp, it was a cash flow issue, not a payment issue, and that with Menaged's
2 additional investments, the workout would succeed.

3 Nevertheless, Mr. Beauchamp at one point became concerned enough at Menaged's
4 intransigence and the apparent influence he held over Mr. Chittick, that he reached out to
5 third parties in late January 2014 to inquire about Menaged. Those third parties informed
6 him that Menaged was generally someone to be distrusted and not someone to do business
7 with. Mr. Beauchamp attempted to persuade Mr. Chittick of this during several heated
8 conversations, but Mr. Chittick ignored these admonitions, explaining that while Menaged
9 could be sharp and off-putting, Menaged had always performed on DenSco's loans in the
10 past, and had stood by Mr. Chittick in tough times. Despite Mr. Beauchamp's efforts, Mr.
11 Chittick could not be convinced to cut ties with Menaged.

12 **F. Mr. Beauchamp terminates representation of DenSco and Mr. Chittick.**

13 When Mr. Beauchamp agreed to represent DenSco with respect to Menaged, Mr.
14 Beauchamp made clear that Mr. Chittick had to immediately update DenSco's POM and
15 make full disclosure to its investors regarding the double lien issues, the workout with
16 Menaged, and the potential implications thereof on DenSco's finances and the investors'
17 investments. Mr. Chittick always acknowledged that responsibility and agreed to make the
18 full disclosure once the forbearance agreement was properly documented. As the
19 forbearance neared completion, Mr. Beauchamp and his associate, Daniel Schenk, began
20 drafting the updated POM in April and May 2014. Specifically, the draft 2014 POM would
21 have: provided a description of the forbearance agreement (including all the parties' funding
22 obligations), the reason it was necessary, and its effect on DenSco's books; updated
23 DenSco's goals for intended loan-to-value ratios; updated the descriptions regarding
24 DenSco's loan funding and securitizations procedures; updated the number of loan defaults
25 triggering foreclosures; and amended the descriptions regarding DenSco's borrower base,
26 among other things. Further, Mr. Beauchamp explained that the updated POM would need

1 to be accompanied with a cover letter or other communication highlighting the major
2 material changes, including the double lien issue and resulting workout agreement, to ensure
3 that investors were fully informed. Mr. Chittick, however, refused to provide the necessary
4 information to complete the POM and refused to approve the description of the workout or
5 the double lien issue, despite his prior acknowledgement that he would need to make full
6 disclosure to all of his investors about DenSco (as he had been doing through POMs and
7 newsletters since 2003).

8 In May 2014, Mr. Beauchamp handed Mr. Chittick a physical copy of the draft POM
9 and asked him what Mr. Chittick's specific issues were with the disclosure. Mr. Chittick
10 responded that there was nothing wrong with the disclosure, he was simply not ready to make
11 any kind of disclosures to his investors at this stage. Mr. Beauchamp again explained that
12 Mr. Chittick had no choice in the matter and that he had a fiduciary duty to his investors to
13 make these disclosures. Mr. Chittick would not budge. Faced with an intransigent client
14 who was now acting contrary to the advice Mr. Beauchamp was providing, and with concerns
15 that Mr. Chittick may not have been providing any disclosures to anyone since January 2014,
16 Mr. Beauchamp informed Mr. Chittick that Beauchamp and Clark Hill could not and would
17 not represent DenSco any longer. Mr. Beauchamp also told Chittick that he would need to
18 retain new securities counsel, not only to provide the proper disclosure to DenSco's
19 investors, but to protect DenSco's rights under the forbearance agreement. Mr. Chittick
20 suggested that he had already started that process and was speaking with someone else.

21 Thereafter, Mr. Beauchamp and Clark Hill ceased providing DenSco with securities
22 advice. Mr. Chittick accepted that, but asked that Mr. Beauchamp clean up some small issues
23 with the forbearance agreement before ending the relationship entirely. Other than
24 addressing those small forbearance agreement issues in June and July, Clark Hill stopped
25 working with DenSco or Mr. Chittick in any capacity until 2016, when Mr. Chittick
26 requested that Mr. Beauchamp assist with a very limited issue involving an audit by the

1 Arizona Department of Financial Institutions - work Mr. Beauchamp had previously
2 performed for DenSco and that Mr. Chittick characteristically believed could be done most
3 cost-effectively by Mr. Beauchamp rather than by a new lawyer with no background on the
4 issue.

5 **G. Menaged continues to perpetrate fraud on DenSco, which only grows in**
6 **scale.**

7 During the time that he represented it regarding securities matters, Mr. Beauchamp (a)
8 repeatedly advised DenSco that it had to make full disclosure to its investors and then
9 terminated his relationship as securities counsel for DenSco when DenSco refused, (b)
10 explained that DenSco would need to retain new counsel after Mr. Beauchamp withdrew to
11 provide proper disclosures and monitor the forbearance, and (c) repeatedly reminded Mr.
12 Chittick that he needed to fund loans directly to a trustee or escrow company, rather than to
13 the borrower. Mr. Chittick ignored Mr. Beauchamp's advice. It is unclear if DenSco ever
14 engaged or even talked to new counsel. It appears Mr. Chittick never issued an updated POM,
15 a fact which could not have gone unnoticed by DenSco's sophisticated investors, who had
16 gotten used to regular updates from DenSco, not only through updated POMs, but through
17 monthly newsletters and periodic investor meetings. It is quite clear that Mr. Chittick
18 continued to loan funds directly to Menaged in direct contravention of Mr. Beauchamp's
19 repeated advice.

20 Nevertheless, the brazen scope of Menaged's efforts to defraud DenSco was not
21 foreseeable. After several years of bilking DenSco and others out of millions of dollars,
22 Menaged was eventually arrested. The United States Department of Justice first charged
23 Menaged with defrauding various banks through his purported furniture stores. Menaged used
24 fabricated receipts of purchases made at the furniture store to obtain credit from banks using
25 the names of, and personal identification information of, individuals who had recently died.
26 He would then incur millions of dollars in fraudulent charges on those fake

1 accounts. Incredibly, Menaged acknowledged in his plea agreement that he had perpetrated
2 the bank fraud in order to get cash to continue defrauding DenSco.

3 The Department of Justice then also charged Menaged with money laundering with
4 respect to the DenSco fraud. In his plea agreement, Menaged admitted that from January 2014
5 through June 2016, he embezzled millions of dollars without purchasing properties with the
6 loans obtained from Densco. He explained that Densco would wire money to purchase
7 properties directly to Menaged who, in turn, would send Densco "an image of a bank cashier's
8 check and a copy of a Trustee Certificate of Sale Receipt." No sales, however, actually took
9 place. Menaged would simply redeposit the cashier's check into his account and create bogus
10 receipts for the purchase of the property. Between January 2013 and June 2016, Menaged
11 admitted he obtained 2,172 loans from DenSco totaling approximately \$734,484,440.67. Yet,
12 of the 2,712 loans made by DenSco, only 96 involved actual property transactions. Menaged
13 supposedly used the remaining 2,616 loans for personal expenses, gambling trips, and transfers
14 to his family members and associates. Menaged would also utilize new loans from DenSco to
15 pay back outstanding DenSco loans to conceal the embezzlement. Menaged was sentenced to
16 17 years in jail. As First Assistant U.S. Attorney Elizabeth Strange stated, the "lengthy
17 sentence is a fitting punishment for his egregious crimes."

18 Menaged shamelessly duped Mr. Chittick. Documents and recordings suggest that
19 Menaged never invested any money into the workout plan. He never obtained any money from
20 Israel despite purportedly making numerous trips to the country for that very purpose, blatantly
21 lied that funds that could have been used to fund the workout were tied up in his divorce
22 proceedings, and ultimately invented a non-existent investment scheme involving
23 "auction.com" which Menaged falsely claimed was retaining most of DenSco's money (to go
24 along with his fabrication of the fraudulent cousin and terminally ill wife). Sadly, Mr. Chittick
25 bought into all of Menaged's lies until his last days.

26 Discovery is continuing. Defendants may supplement.

1 **II. LEGAL THEORIES OF CLAIMS AND DEFENSES.**

2 **A. Plaintiff's claims**

3 *Legal Malpractice*

4 Receiver asserts that Defendants, in their representation of DenSco, committed
5 malpractice and breached fiduciary duties owed to DenSco. Legal malpractice requires proof
6 of the existence of a duty, breach of duty, that defendant's breach was the actual and proximate
7 cause of damages, and the "nature and extent" of those damages. *Glaze v. Larsen*, 207 Ariz.
8 26, 29 ¶ 12 83 P.3d 26, 29 (Ariz. 2004) (citations and quotations omitted).

9 Receiver cannot prove breach of duty, actual and proximate cause, or resulting damages.
10 To prove breach of duty, Receiver will need to demonstrate that Defendants deviated from the
11 professional standard of care. *Phillips v. Clancy*, 152 Ariz. 415, 418, 733 P.2d 300, 303 (App.
12 1986). Defendants' advice and conduct in representing DenSco and, in doing so, representing
13 Mr. Chittick as president of DenSco, was consistent with Defendants' practice and experience,
14 and consistent with the standard of care. Thus, Defendants did not breach their duties to
15 DenSco. Receiver will also need to prove that if Defendants had not purportedly breached the
16 standard of care, that DenSco would not have suffered injury. *Id.* Whatever harm befell
17 DenSco was not an actual or foreseeable result of the advice provided by Defendants. Thus,
18 Receiver's malpractice claim fails.

19
20 *Aiding and Abetting Breach of Fiduciary Duties*

21 Receiver asserts that Defendants aided and abetted Mr. Chittick in breaching his
22 fiduciary duties to DenSco. Claims of aiding and abetting require proof that: (1) the primary
23 tortfeasor must commit a tort that caused injury to the plaintiff; (2) the defendant must know
24 that the primary tortfeasor's conduct constitutes a breach of duty; (3) the defendant must
25 substantially assist or encourage the primary tortfeasor in the achievement of that breach and
26 (4) there must be a causal relationship between the defendant's assistance or encouragement

1 and the primary tortfeasor's commission of the tort. *Wells Fargo Bank v. Az. Laborers,*
2 *Teamsters and Cement Masons Local No. 395 Pension Trust Fund*, 201 Ariz. 474, 485 (Ariz.
3 2002); *Sec. Title Agency, Inc. v. Pope*, 219 Ariz. 480, 491 (App. 2008). Importantly, "[b]ecause
4 aiding and abetting is a theory of secondary liability, the party charged with the tort must have
5 knowledge of the primary violation." *Wells Fargo*, 201 Ariz. at 485.

6 It is unclear from the Complaint what actions the Receiver asserts constitute a breach
7 of Mr. Chittick's fiduciary duties to DenSco. In any event, as set forth above, Defendants'
8 advice and conduct in representing DenSco were consistent with the applicable standard of
9 care. Defendants did not "substantially assist or encourage" Mr. Chittick in breaching his
10 duties to DenSco, Defendants did not have knowledge of Mr. Chittick's purported "primary
11 violation," nor is there a causal relationship between Defendants' representation of DenSco
12 and Mr. Chittick's purported tortious conduct with respect to DenSco. Further, as set forth
13 above, whatever harm befell DenSco was not an actual or foreseeable result of Defendants'
14 actions or inactions.

15 **B. Affirmative Defenses**

16 *Statute of Limitations*

17 Both the legal malpractice claim and the aiding and abetting claim have a two-year
18 statute of limitations. See A.R.S. §12-542(1) (An action "[f]or injuries done to the person of
19 another" shall be commenced and prosecuted within two years after the cause of action accrues,
20 and not afterward"). Receiver, who stands in the shoes of DenSco, did not file the Complaint
21 in this action until October 16, 2017, which was well outside the statute of limitations. DenSco,
22 and potentially the Investors, could have discovered at least as of Summer 2014, that DenSco's
23 loans to Menaged (or his entities) and DenSco's lending practices with respect to Menaged,
24 could give rise to potential causes of action against Mr. Chittick or his agents. Consequently,
25 because the statute of limitations ran, at the latest, in the Summer of 2016, the Complaint is
26 barred in its entirety.

1 *In pari delicto* and *unclean hands*

2 Arizona law recognizes the doctrine of *in pari delicto*. *Brand v. Elledge*, 89 Ariz. 200,
3 205, 360 P.2d 213, 217 (1961) (quoting *Furman v. Furman*, 34 N.Y.S.2d 699, 704 (N.Y. Sup.
4 Ct. 1941), *aff'd*, 40 N.E.2d 643 (N.Y. 1942)). *In pari delicto* is an affirmative defense by which
5 a party is barred from recovering damages if his losses are substantially caused by activities
6 the law forbade him to engage in.” *Stewart v. Wilmington Trust SP Servs., Inc.*, 112 A.3d 271,
7 301–02 (Del. Ch.), *aff'd*, 126 A.3d 1115 (Del. 2015) (quotation omitted). The defense may
8 be raised against a receiver. *Id.* (“no cogent reason for sparing the innocent Receiver the effect
9 of *in pari delicto* while equally innocent stockholders or policyholders would be barred from
10 relief in the derivative context”); *Knauer v. Jonathon Roberts Fin. Grp., Inc.*, 348 F.3d 230,
11 236 (7th Cir. 2003) (affirming dismissal of the receiver’s claims against the broker dealers,
12 concluding that they were barred by the defense of *in pari delicto*).

13 Here, to the extent there are claims against the Defendants, DenSco, into whose shoes
14 the Receivers steps, bears fault for damages about which it complains. Thus, the Receiver’s
15 claims are barred by doctrine of *in pari delicto* and, to the extent it specifically seeks equitable
16 relief, by the related doctrine of *unclean hands*.

17
18 *Laches*

19 A claim is barred by *laches* when the delay in bringing the claim is “unreasonable under
20 the circumstances” given “the party’s knowledge of his or her right” and “any change in
21 circumstances caused by the delay has resulted in prejudice to the other party sufficient to
22 justify denial of relief.” *Mathieu v. Mahoney*, 174 Ariz. 456, 459, 851 P.2d 81, 84 (1993).
23 Receiver seeks to recover potentially millions of dollars in alleged damages resulting from
24 loans Mr. Chittick made to Menaged. DenSco would have been aware of the harms that could
25 befall DenSco and its investors as a result of DenSco’s loans to, and lending practices with,
26 Menaged, by Summer 2014 at the latest. DenSco’s inaction for several years, up through the

1 death of Mr. Chittick, to seek relief against any potential third party for harms suffered by
2 DenSco was unreasonable in light of DenSco's knowledge. Because the Receiver steps into
3 DenSco's shoes, the claims are barred.

4
5 *Setoff*

6 Clark Hill filed a proof of claim in the DenSco Receivership for unpaid fees incurred
7 by Clark Hill on behalf of DenSco after Mr. Chittick's death. The Receiver improperly denied
8 the claim on the basis of an alleged conflict of interest. To the extent Defendants are found to
9 owe Plaintiff anything, that debt must be reduced any sums Plaintiff owes Clark Hill.

10 **Additional defenses:**

- 11 • Third parties, including Mr. Chittick and Menaged, over whom Defendants
12 have no authority or control, are at fault for any damages suffered.
- 13 • DenSco, in to whose shoes the Receiver steps, is at fault for any damages
14 suffered.
- 15 • DenSco, in to whose shoes the Receiver steps, assumed the risk of any actions
16 taken or not taken by DenSco or Mr. Chittick. *Hildebrand v. Minyard*, 16 Ariz.
17 App. 583, 585, 494 P.2d 1328, 1330 (1972) ("A plaintiff who by contract or
18 otherwise expressly agrees to accept a risk of harm arising from the defendant's
19 negligent or reckless conduct cannot recover for such harm . . .") (*quoting*
20 Restatement (Second) of Torts § 496(B) (1965)).
- 21 • Receiver cannot demonstrate proximate cause or loss causation because
22 Defendants are not the actual or proximate cause of any damages suffered.
- 23 • Any damages suffered were the result of intervening or superseding events or
24 causes over which the Defendants had no control and were not legally
25 responsible.
- 26 • Receiver's claims are barred by doctrines of waiver and estoppel.

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Discovery is continuing. Defendants may supplement.

III. WITNESSES.

Because no discovery has taken place, Defendants have not yet identified all persons it may call as witnesses at trial, but reserves the right to call any of the following persons to testify as a witness at trial:

1. David Beauchamp
c/o Coppersmith Brockelman, PLC
2800N. Central Avenue, Suite 1900
Phoenix, Arizona 85004

Mr. Beauchamp is expected to testify regarding the allegations in the Complaint and his representation of DenSco and of Mr. Chittick in his capacity as president of DenSco.

2. Peter Davis, Receiver of DenSco Investment Corporation
c/o Osborn Maledon, P.A.
2929 N. Central Avenue, Suite 2100
Phoenix, Arizona 85012

Mr. Davis is expected to testify regarding the allegations in the Complaint; the Receiver's evaluations, analyses, and determinations regarding all aspects of DenSco's finances, including, but not limited to, DenSco's loans, lending practices, record keeping, financial transactions, and solvency; the Receiver's maintenance of any DenSco or Chittick records or property, including, but not limited to, electronic records, websites, and email communications; the Receiver's communications with third parties related to DenSco, including communications with financial institutions, investors, and accountants and other professionals; the Receiver's determinations regarding the Receiver's evaluation and analysis regarding the potential fault, liability, or culpability of any third party with respect to any losses suffered by DenSco, including, but not limited, to Chase Bank, U.S. Bank, Yomtov Menaged, Active Funding Group, LLC, and/or Gregg Seth Reichman.

- 1 3. Any witnesses disclosed by other parties.
2 4. Any witnesses that become known through discovery.
3 5. Custodian or other foundational witnesses necessary to admit exhibits.
4 Discovery is continuing. Defendants may supplement.

5 **IV. ADDITIONAL PERSONS WHO MAY HAVE RELEVANT INFORMATION.**

- 6 1. Yomtov "Scott" Menaged

7 Scott Menaged is expected to have knowledge regarding all aspects of any personal,
8 financial, or business dealings he may have had with DenSco and Mr. Chittick; all aspects of
9 the fraud(s) he perpetrated on DenSco and Mr. Chittick, either directly, or through one of his
10 entities, including, but not limited to, Easy Investments, LLC, Arizona Home Foreclosures,
11 LLC, Furniture King, LLC, and Scott's Fine Furniture; all aspects of actions or conduct
12 related to his criminal indictment, plea bargain, or sentencing in the United States District
13 Court for the District of Arizona; his communications with DenSco and Mr. Chittick; and his
14 communications with Mr. Beauchamp.

15

- 16 2. PMK Easy Investments, LLC
17 10510 East Sunnyside Drive
18 Scottsdale, AZ 85259

19 *See* Description for Scott Menaged.

20

- 21 3. PMK Arizona Home Foreclosures, LLC
22 7320 West Bell Road
23 Glendale, AZ 85308

24

25 *See* Description for Scott Menaged.

26

1 4. PMK Furniture King, LLC
2 3200 North Central Avenue
3 Suite 2460
4 Phoenix, AZ 85012

5 *See Description for Scott Menaged.*

6 5. PMK Scott's Fine Furniture

7 *See Description for Scott Menaged.*

8 6. Veronica Castro aka Veronica Gutierrez Reyes
9 c/o Thomas W. Warshaw Attorney at Law
10 33147 North 71st Way
11 Scottsdale, AZ 85266

12 Ms. Castro is expected to have knowledge regarding Menaged's personal, financial, or
13 business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on
14 DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
15 communications with DenSco and Mr. Chittick; Menaged's communications with Mr.
16 Beauchamp; the actions or conduct related to Menaged's criminal indictment, plea bargain,
17 or sentencing in the United States District Court for the District of Arizona; and Ms. Castro's
18 communications with DenSco and Mr. Chittick.

19 7. Luigi Amoroso

20 Mr. Amoroso is expected to have knowledge regarding Menaged's personal, financial,
21 or business dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on
22 DenSco and Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
23 communications with DenSco and Chittick; Menaged's communications with Mr.
24 Beauchamp; the actions or conduct related to Menaged's criminal indictment, plea bargain,
25 or sentencing in the United States District Court for the District of Arizona; and Mr.
26 Amoroso's communications with DenSco and Mr. Chittick.

1 8. Alberto Pena
2 c/o Law Office of Cameron A. Morgan
3 4356 North Civic Center Plaza
4 Suite 101
5 Scottsdale, AZ 85251

6 Mr. Pena may have knowledge regarding Menaged's personal, financial, or business
7 dealings with DenSco and Chittick; the fraud(s) Menaged perpetrated on DenSco and
8 Chittick, either directly, or through one of Menaged's entities; Menaged's communications
9 with DenSco and Mr. Chittick; and the actions or conduct related to Mr. Pena's and
10 Menaged's criminal indictment, plea bargain, or sentencing in the United States District
11 Court for the District of Arizona.

12 9. Troy Flippo
13 c/o Storrs Law Firm PLLC
14 1421 East Thomas Road
15 Phoenix, AZ 85014

16 Mr. Flippo may have knowledge regarding Menaged's personal, financial, or business
17 dealings with DenSco and Mr. Chittick; the fraud(s) Menaged perpetrated on DenSco and
18 Mr. Chittick, either directly, or through one of Menaged's entities; Menaged's
19 communications with DenSco and Chittick; and the actions or conduct related to Flippo's and
20 Menaged's criminal indictment, plea bargain, or sentencing in the United States District
21 Court for the District of Arizona.

22 10. Menaged family members, including, Joseph Menaged, Michelle Menaged,
23 Jennifer Bonfiglio, Joy Menaged, Jess Menaged

24 Menaged's family may have knowledge regarding Menaged's personal, financial, or
25 business dealings with DenSco and Chittick; the fraud(s) Menaged perpetrated on DenSco
26 and Chittick, either directly, or through one of Menaged's or his Family's entities; the use of
funds obtained from DenSco; Menaged's communications with DenSco and Chittick; and the

1 actions or conduct related to Menaged's criminal indictment, plea bargain, or sentencing in
2 the United States District Court for the District of Arizona.

3
4 11. Shawna Heuer
5 c/o Bonnett Fairbourn, PC
6 2325 E. Camelback Road
7 Phoenix, Arizona 85016

8 Ms. Heuer is expected to have knowledge regarding Mr. Beauchamp's work on behalf
9 of DenSco after Mr. Chittick's death and her communications with Mr. Beauchamp. Ms.
10 Heuer may also have knowledge regarding Mr. Chittick and DenSco's business, and Mr.
11 Chittick's communications with Mr. Beauchamp, Menaged, or DenSco's investors.

12 12. Jeff Goulder
13 Stinson Leonard Street
14 1850 North Central Avenue, Suite 2100
15 Phoenix, Arizona 85004

16 Mr. Goulder is expected to have knowledge regarding the negotiations of the
17 Forbearance Agreement. Mr. Goulder also may have knowledge regarding Menaged's
18 businesses, business practices, and finances. Mr. Goulder also may have knowledge
19 regarding Menaged's communications with Mr. Beauchamp.

20 13. David Preston
21 c/o Gammage & Burnham
22 2 N. Central Avenue, Suite 15
23 Phoenix, Arizona 85004

24 Mr. Preston is expected to have knowledge regarding DenSco and Mr. Chittick's
25 finances and tax returns. Mr. Preston is also expected to have knowledge regarding Mr.
26 Chittick's retirement plan.

1 14. DenSco Investors

2 The Investors are expected to have knowledge regarding Mr. Chittick's
3 communications to the Investors and their knowledge of DenSco's business, the status of
4 their investments, and the status of DenSco's loans at all relevant times.

5
6 15. PMK Chase Bank
7 3800 North Central Avenue
8 Suite 460
9 Phoenix, AZ 85012

10 Chase Bank is expected to have knowledge regarding Menaged's banking practices,
11 including Menaged's use of Chase Bank to perpetrate his fraud on DenSco and Chittick.

12 16. PMK US Bank
13 3800 North Central Avenue
14 Suite 460
15 Phoenix, AZ 85012

16 US Bank is expected to have knowledge regarding Menaged's banking practices,
17 including Menaged's use of Chase Bank to perpetrate his fraud on DenSco and Chittick.

18 17. Gregg Seth Reichman/Active Funding Group
19 Attention: Andrew Abraham
20 702 East Osborn Road
21 Suite 200
22 Phoenix, AZ 85014

23 Mr. Reichman may have knowledge regarding Menaged's businesses, business
24 practices, and finances; the fraud(s) Menaged perpetrated on DenSco and Mr. Chittick, either
25 directly, or through one of Menaged's entities; and Mr. Reichman or his entities' (including
26 Active Funding Group) participation in any of those fraudulent schemes (as suggested by the
Receiver's Petition No. 45).

1 18. Daniel Schenk
2 c/o Coppersmith Brockelman, PLC
3 2801N. Central Avenue, Suite 1900
4 Phoenix, Arizona 85004

5 Mr. Schenk is expected to have knowledge regarding any work he performed on
6 behalf of DenSco and Mr. Chittick in his capacity as president of DenSco. Mr. Schenk may
7 also have knowledge of Menaged's communications with Beauchamp, Menaged
8 communications with Mr. Chittick, and Mr. Beauchamp's communications with Mr. Chittick.

9 19. Robert Anderson
10 c/o Coppersmith Brockelman, PLC
11 2802N. Central Avenue, Suite 1900
12 Phoenix, Arizona 85004

13 Mr. Anderson is expected to have knowledge regarding any work he performed on
14 behalf of DenSco and Mr. Chittick in his capacity as president of DenSco.

15 **V. PERSONS WHO HAVE GIVEN STATEMENTS.**

16 None at this time. Discovery is continuing. Defendants may supplement.

17 **VI. EXPERT WITNESSES.**

18 Defendants will identify expert witnesses in accordance with the schedule ordered by
19 the Court.

20 **VII. COMPUTATION AND MEASURE OF DAMAGES.**

21 Plaintiff is not entitled to recover damages against Defendants.

22 Discovery is continuing. Defendants may supplement.

23 **VIII. EXHIBITS.**

24 Defendants have not yet identified which of the documents listed in Section IX below
25 will be used at trial, and therefore expressly reserve the right to introduce any of the listed
26 documents as exhibits at trial. Defendants may also use any documents identified in any other

1 party's disclosure statement or otherwise disclosed in this matter. By reserving the right to
2 introduce any of the listed documents as exhibits at trial, Defendants do not waive their right
3 to object to the introduction of any of these documents at the time of trial. Defendants will
4 supplement this initial disclosure statement in accordance with Arizona Rules of Civil
5 Procedure 26.1(b)(2).

6 Discovery is continuing. Defendants may supplement.

7 **IX. LIST OF RELEVANT DOCUMENTS.**

8 Defendants have not yet identified any additional relevant documents. The
9 following documents, or categories of documents, may be relevant or lead to discovery of
10 admissible evidence in this action and have already been exchanged or are being produced
11 herewith:

- 12 1. Documents previously produced by Clark Hill bates labeled CH_0000001-
13 13330.
- 14 2. Additional documents produced herewith by Clark Hill bates labeled
15 CH_0013331-13374.
- 16 3. Documents previously produced by Plaintiff including bates labeled
17 DIC000001-25330, 28634-53950 and Quickbooks backup.
- 18 4. Documents previously produced by Plaintiff including bates labeled D126751-
19 128731 and 130972-133111.
- 20 5. Documents previously produced by Bryan Cave in response to Subpoena Duces
21 Tecum bates labeled BC000001-3188.
- 22 6. Documents produced herewith by Dave Preston in response to Subpoena Duces
23 Tecum bates labeled DP000001-601.
- 24 7. Any and all documents in CR-17-00680, United States of America v. Yomtov
25 Scott Menaged, et al.
- 26 8. All documents produced by any party or third party in this litigation.

- 1 9. All pleadings, filings, minute entries, orders and judgments.
- 2 10. All deposition or hearing transcripts in the above captioned litigation.
- 3 11. All transcripts from any Section 341 creditor meetings, Rule 2004 examinations,
- 4 depositions, or hearings in Yomtov Menaged's bankruptcy pending in the United
- 5 States Bankruptcy Court for the District of Arizona at 2:16-bk-04268.
- 6 12. Additional documents produced by Clark Hill bates labeled CH_000013387-
- 7 13616.
- 8 13. Documents produced by Sell Wholesale Funding in response to Subpoena Duces
- 9 Tecum bates labeled SELL000001-766.
- 10 14. Documents produced by Azben Limited, LLC in response to Subpoena Duces
- 11 Tecum bates labeled AZBEN000001-5248.
- 12 15. Documents produced by Geared Equity in response to Subpoena Duces Tecum
- 13 bates labeled GE000001-257.
- 14 16. Documents produced by Active Funding in response to Subpoena Duces Tecum
- 15 bates labeled AF000001-2448.
- 16 17. **Documents produced in Defendant Clark Hill's Responses to Plaintiff's**
- 17 **First Set of Requests for Production bates labeled CH_0013617-13623**
- 18 **(previously produced to counsel on 6/21/18).**
- 19 18. **Documents produced in Defendant David Beauchamp's Responses to**
- 20 **Plaintiff's First Set of Requests for Production bates labeled CH_0013624-**
- 21 **13946 (previously produced to counsel on 6/21/18).**
- 22 19. **Additional documents produced by Clark Hill bates labeled CH_0013947-**
- 23 **17849.**

24 Defendants reserves the right to supplement the list of documents that may be relevant
25 as information becomes available.

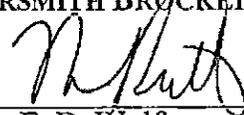
26

1 X. INSURANCE AGREEMENTS.

2 Defendants produce the insurance policies in effect during the relevant time period
3 and the November 10, 2017 correspondence from Mendes & Mount, LLP, all of which are
4 stamped "Confidential Materials."

5 DATED this 11th day of July, 2018.

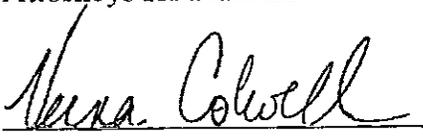
6 COPPERSMITH BROCKELMAN PLC

7
8 By: 

9 John E. DeWulf
10 Marvin C. Ruth
11 Vidula U. Patki
12 2800 North Central Avenue, Suite 1900
13 Phoenix, Arizona 85004
14 Attorneys for Defendants

12 ORIGINAL hand-delivered and emailed this
13 11th day of July, 2018 to:

14 Colin F. Campbell, Esq.
15 Geoffrey M. T. Sturr, Esq.
16 Joshua M. Whitaker, Esq.
17 OSBORN MALEDON, P.A.
18 2929 N. Central Ave., Suite 2100
19 Phoenix, AZ 85012-2793
20 Attorneys for Plaintiff

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VERIFICATION

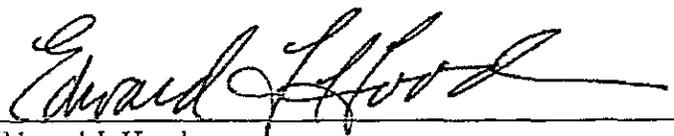
STATE OF MICHIGAN)
COUNTY OF Wayne) ss.

Edward J. Hood, being first duly sworn upon his oath, deposes and says:

I, Edward J. Hood, am General Counsel of Clark Hill PLC, a Defendant in the matter *Peter S. Davis, as Receiver for DenSco Investment Corp. v. Clark Hill PLC; David G. Beauchamp and Jane Doe Beauchamp, Maricopa County Superior Court Case No. CV2017-013832*. I am authorized to make this Verification on its behalf. I have read the foregoing Defendant's Fourth Supplemental Rule 26.1 Disclosure Statement and know its contents. The matters stated in the foregoing Fourth Supplemental Rule 26.1 Disclosure Statement are true and correct to the best of my knowledge except as to those matters that are stated upon information and belief, and as to those matters, I believe them to be true.

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

DATED this 20 day of July, 2018.



Edward J. Hood

DenSeo Investment - Clark Hill

Docs produced by Clark Hill

(CH 0013947-17849)

7/11/18

COPPERSMITH
BROCKELMAN
ATTORNEYS

12800 North Central Avenue, Suite 1200
Phoenix, Arizona 85004

1 John E. DeWulf (006850)
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4 T: (602) 224-0999
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mruth@cblawyers.com
6 vpatki@cblawyers.com

7 *Attorneys for Defendants*

8
9 **SUPERIOR COURT OF ARIZONA**
10 **COUNTY OF MARICOPA**

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

13 Plaintiff,

14 v.

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

17 Defendants.

No. CV2017-013832

**DEFENDANT DAVID BEAUCHAMP'S
RESPONSES TO PLAINTIFF'S FIRST
SET OF NON-UNIFORM
INTERROGATORIES**

18 Defendant David G. Beauchamp responds as follows to Plaintiff's First Set of Non-
19 Uniform Interrogatories dated May 15, 2018.

20 **GENERAL OBJECTIONS**

21 Each of Mr. Beauchamp's responses, in addition to any specifically stated objections,
22 are subject to and incorporate the following General Objections. The assertion of these or
23 similar objections, additional objections, or a partial response to an individual Interrogatory
24 does not waive any of Mr. Beauchamp's General Objections.

- 25 1. Mr. Beauchamp objects to these Interrogatories to the extent the Plaintiff seeks
26 information that is protected from disclosure by the attorney client privilege,

1 locate and review documents identified by Mr. Beauchamp in response to an
2 interrogatory, not Mr. Beauchamp's duty to replicate the contents of such
3 documents. Mr. Beauchamp will disregard that portion of Instruction No. 4 that
4 imposes obligations on Mr. Beauchamp that go beyond the scope of Rule 33.
5

6 **INTERROGATORY NO. 1:**

7 Defendants' Initial Disclosure Statement states, on page 5, lines 21-23, that
8 "Mr. Beauchamp repeatedly advised DenSco that an update was necessary irrespective of
9 DenSco's plans regarding the outstanding amount of its offerings, but Mr. Chittick continued
10 to delay."

11 Are you aware of any document that contains such advice or reflects that it was given?

12 **RESPONSE:**

13 Yes. Mr. Beauchamp not only repeatedly advised DenSco that an update to the Private
14 Offering Memoranda ("POMs") and related investor documents was necessary, but he
15 worked diligently to update such documents throughout his relationship with DenSco. Mr.
16 Beauchamp drafted DenSco's first POM in 2001 and updated it approximately every two
17 years between 2001 and 2011 to reflect changes in the economy and DenSco's business. For
18 example, the 2007 POM was issued in June of that year. Less than two years later, in April
19 2009, Mr. Beauchamp began updating the POM to reflect changes in "the economy and real
20 estate collapse" and the updated POM was issued in June once again. Less than a year after
21 the 2009 POM had been prepared, Mr. Beauchamp began work on the 2011 POM.

22 It is therefore unremarkable that on May 1, 2013, Mr. Beauchamp again began the
23 process of updating the POM to reflect material changes with respect to DenSco, including
24 the size of its portfolio. An invoice sent by Mr. Beauchamp to Mr. Chittick in June 2013,
25 while Mr. Beauchamp was at Bryan Cave, confirms that Mr. Beauchamp worked on the 2013
26 POM throughout May of that year and that Mr. Beauchamp met with Mr. Chittick for several

1 the double liening issue and the Forbearance Agreement, as well as updates to investors on
2 DenSco's finances. When Mr. Beauchamp presented Mr. Chittick with a draft of the updated
3 POM, however, Mr. Chittick balked at disclosing the information regarding the double liens
4 or the Forbearance Agreement and refused to proceed with the updated POM. At that point,
5 Mr. Beauchamp terminated the attorney-client relationship.

6
7 **INTERROGATORY NO. 2:**

8 If you answered "yes" to Interrogatory No. 1, please list and identify each such
9 document.

10 **RESPONSE:**

11 Mr. Beauchamp objects to this Interrogatory on the ground that is it overly broad and
12 unduly burdensome. *See, e.g., Steil v. Humana Kansas City, Inc.*, 197 F.R.D. 445 (D. Kan.
13 2000) (contention interrogatories which seek "every fact and document" to support a
14 contention are overly broad and unduly burdensome). Without waiving the foregoing
15 objection, relevant information regarding the contention identified in Interrogatory No. 1 can
16 be found in the following documents, in addition to others: DIC0000965, DIC0006068,
17 DIC0006528, DIC0006625, DIC0006656, DIC0006703, DIC0006707, DIC0006738,
18 DIC0006803, DIC0006904, DIC0008660, DIC0008802, DIC0008874, BC_000003,
19 BC_000756, BC_000296, BC_001614, BC_002005, BC_002027, BC_002082, BC_002982,
20 BC_003087, BC_003091, RECEIVER_000016, RECEIVER_000049, RECEIVER_000054.
21 Defendants reserve the right to supplement this response as discovery progresses.

22
23 **INTERROGATORY NO. 3:**

24 Defendants' Initial Disclosure Statement states, on page 6, lines 23-26, that
25 "Mr. Beauchamp advised Mr. Chittick, as he had done previously, that Mr. Chittick needed
26 to fund DenSco's loans directly to the trustee or escrow company conducting the sale, rather

1 DenSco loans to borrowers had to be sent to the Trustee or Title Company, as applicable, in
2 order to both comply with Mr. Chittick's fiduciary duty to DenSco investors and protect
3 DenSco's recording position. That advice obviously went unheeded.

4

5 **INTERROGATORY NO. 4:**

6 If you answered "yes" to Interrogatory No. 3, please list and identify each such
7 document.

8 **RESPONSE:**

9 Mr. Beauchamp objects to this Interrogatory on the ground that is it overly broad and
10 unduly burdensome. *See, e.g., Steil v. Humana Kansas City, Inc.*, 197 F.R.D. 445 (D. Kan.
11 2000) (contention interrogatories which seek "every fact and document" to support a
12 contention are overly broad and unduly burdensome). Without waiving the foregoing
13 objection, relevant information regarding the contention identified in Interrogatory No. 3 can
14 be found in the following documents, in addition to others: DIC0000965, DIC0002508,
15 DIC0004474-75, DIC0007125-26, BC_000296, CH_001511, RECEIVER_000190.
16 Defendants reserve the right to supplement this response as discovery progresses.

17

18 **INTERROGATORY NO. 5:**

19 Defendants' Initial Disclosure Statement states, on page 7, lines 17-26: "In December
20 2013, Mr. Chittick contacted Mr. Beauchamp for the first time in months. He told
21 Mr. Beauchamp over the phone that he had run into an issue with some of his loans to
22 Menaged, and specifically, that properties securing a few DenSco loans were each subject to
23 a second deed of trust competing for priority with DenSco's deed of trust. Mr. Beauchamp
24 reminded Mr. Chittick that he still needed to update DenSco's private offering memorandum.
25 After briefly discussing the allegedly limited double lien issue, Mr. Chittick emphasized to
26 Mr. Beauchamp that Mr. Chittick wanted to avoid litigation with other lenders. Mr. Chittick

1 **RESPONSE:**

2 Mr. Beauchamp objects to this Interrogatory on the ground that is it overly broad and
3 unduly burdensome. *See, e.g., Steil v. Humana Kansas City, Inc.*, 197 F.R.D. 445 (D. Kan.
4 2000) (contention interrogatories which seek “every fact and document” to support a
5 contention are overly broad and unduly burdensome). Without waiving the foregoing
6 objection, relevant information regarding the contention identified in Interrogatory No. 5 can
7 be found in the following documents, in addition to others: DIC0007135 – DIC0007143,
8 CH_0000637, CH_0000708, CH_0009800 - CH_0009809. Defendants reserve the right to
9 supplement this response as discovery progresses.

10
11 **INTERROGATORY NO. 7:**

12 Defendants’ Initial Disclosure Statement states, on page 10, lines 13-20:
13 “Mr. Beauchamp’s advice to Mr. Chittick regarding disclosures Mr. Chittick had to make to
14 investors was immediate, clear, practical, consistent with his practice and experience, and
15 consistent with the standard of care: (a) DenSco was not permitted to take new money without
16 full disclosure to the investor lending the money; (b) DenSco was not permitted to roll over
17 existing investments without full disclosure to the investor rolling over the money; and (c)
18 DenSco needed to update its POM and make full disclosure to all investors. Mr. Beauchamp
19 provided this advice to DenSco starting with his January 9, 2014 meeting with Mr. Chittick,
20 and repeated it routinely over the next few months.”

21 Are you aware of any document that contains the advice you say was given on
22 January 9, 2014 or reflects that it was given?

23 **RESPONSE:**

24 Yes. Throughout 2014, when Mr. Beauchamp was preparing the Forbearance
25 Agreement and later the updated POM that would apprise investors of the double liening issue
26 and Mr. Chittick’s plan to resolve it, Mr. Beauchamp consistently reminded Mr. Chittick of

1 Forbearance Agreement and the related documents. Under normal circumstances, this should
2 be finalized and signed before you advance all of this additional money.”

3 Then, as negotiations regarding the language of the Forbearance Agreement stretched
4 on between February and April 2014, Mr. Beauchamp consistently rejected changes to the
5 Forbearance Agreement proposed by Mr. Chittick and Mr. Menaged in favor of Mr. Menaged
6 that did not comport with Mr. Chittick’s fiduciary obligations. On February 4, 2014, for
7 instance, Mr. Beauchamp rejected proposed changes to the Forbearance Agreement by Mr.
8 Menaged’s counsel, Mr. Goulder. Mr. Beauchamp explained that those changes
9 “transfer[red] significant risk to [Mr. Chittick] and [his] investors” and that if even a portion
10 of the changes proposed were allowed to remain, the Forbearance Agreement would no longer
11 have a description of the double liening issue “that you HAVE to provide to your investors.”
12 That same day, Mr. Beauchamp reminded Mr. Chittick that he needed to be clear about what
13 he could and could not do with regards to the Forbearance Agreement “without going back
14 to all of [his] investors for approval.” Mr. Beauchamp acknowledged that while DenSco had
15 helped Mr. Menaged in the past on the double liened properties, Mr. Chittick could not
16 “OBLIGATE DenSco to further help Scott, because that would breach your fiduciary duty to
17 your investors.”

18 On February 7, 2014, Mr. Beauchamp again rejected changes proposed by Mr. Goulder
19 explaining that “the agreement needs to comply with Denny’s fiduciary obligations to his
20 investors.” Mr. Beauchamp clarified that though the parties “had intended to make the
21 document as balanced as possible,” the Forbearance Agreement needed “to set forth the
22 necessary facts for Denny to satisfy his securities obligations to his investors.” Two days
23 later, Mr. Beauchamp again reminded Mr. Chittick that his ability to force DenSco to assume
24 risk or liability related to the double liened properties in the Forbearance Agreement was
25 limited by his fiduciary duty to his investors.

26

1 work on the POM. For example, in mid-March, Mr. Beauchamp warned Mr. Chittick that he
2 was "very late in providing information to your investors about this problem and the resulting
3 material changes from your business plan. We cannot give Scott and his attorney any time to
4 cause further delay in getting this Forbearance Agreement finished and the necessary
5 disclosure prepared and circulated." Similarly on March 11th, Mr. Beauchamp discussed with
6 Mr. Chittick a cover email to the POM that would explain the double liening issue. Finally,
7 after the Forbearance Agreement was executed, Mr. Beauchamp moved swiftly to include in
8 the revised 2013 POM a detailed description of what had occurred. In the prior performance
9 section of the POM, Mr. Beauchamp explained the work out agreement, the total amount of
10 outstanding loans, and why a work out was the most beneficial approach for the investors.
11 Mr. Chittick chose to never complete the POM and Mr. Beauchamp promptly terminated the
12 attorney-client relationship.

13
14 **INTERROGATORY NO. 8:**

15 If you answered "yes" to Interrogatory No. 7, please list and identify each such
16 document.

17 **RESPONSE:**

18 Mr. Beauchamp objects to this Interrogatory on the ground that is it overly broad and
19 unduly burdensome. *See, e.g., Steil v. Humana Kansas City, Inc.*, 197 F.R.D. 445 (D. Kan.
20 2000) (contention interrogatories which seek "every fact and document" to support a
21 contention are overly broad and unduly burdensome). Without waiving the foregoing
22 objection, relevant information regarding the contention identified in Interrogatory No. 7 can
23 be found in the following documents, in addition to others: DIC0005439, DIC0005442,
24 DIC0006068, DIC0006528, DIC0006625, DIC0006656, DIC0006703, DIC0006673,
25 DIC0006803, DIC0006904, DIC0007085, DIC0008874, RECEIVER_000051. Defendants
26 reserve the right to supplement this response as discovery progresses.

1 money (whether in the form of a new investment or rollover of an existing investment). Mr.
2 Chittick appears to have informed Mr. Beauchamp that he had done so, telling him in a
3 January 12, 2014 email, shortly after the initial January 9, 2014 meeting where Mr.
4 Beauchamp first instructed Mr. Chittick that disclosures were required prior to accepting
5 additional funds, that "I've spent the day contacting every investor that has told me they want
6 to give me more money." The clear implication was that Mr. Chittick was contacting those
7 investors to make adequate disclosures.

8 In the following months, as Mr. Beauchamp worked with Mr. Chittick, Mr. Menaged,
9 and Mr. Menaged's counsel to finalize the Forbearance Agreement and POM, Mr.
10 Beauchamp continually reminded Mr. Chittick of his fiduciary obligations with respect to
11 executing the Forbearance Agreement and updating the POM, as well as his obligations to
12 keep his investors apprised of the double liening issue. For example, on January 21, 2014, as
13 Mr. Chittick continued to work out the loan issues with the other hard money lenders who
14 had threatened suit earlier in the month, Mr. Beauchamp reminded Mr. Chittick that the
15 Forbearance Agreement needed to be finalized and that he was "very concerned about the
16 payoffs getting so far ahead of the documentation. I have authorized the preparation of the
17 Forbearance Agreement and the related documents. Under normal circumstances, this should
18 be finalized and signed before you advance all of this additional money."

19 Then, as negotiations regarding the language of the Forbearance Agreement stretched
20 on between February and April 2014, Mr. Beauchamp consistently rejected changes to the
21 Forbearance Agreement proposed by Mr. Chittick and Mr. Menaged in favor of Mr. Menaged
22 that did not comport with Mr. Chittick's fiduciary obligations. On February 4, 2014, for
23 instance, Mr. Beauchamp rejected proposed changes to the Forbearance Agreement by Mr.
24 Menaged's counsel, Mr. Goulder. Mr. Beauchamp explained that those changes
25 "transfer[red] significant risk to [Mr. Chittick] and [his] investors" and that if even a portion
26 of the changes proposed were allowed to remain, the Forbearance Agreement would no longer

1 In late February 2014, while still negotiating the Forbearance Agreement, Mr.
2 Beauchamp learned that the double liening issue was much bigger than Mr. Chittick had
3 suggested initially. As noted in Mr. Chittick's corporate journal (the admissibility of which
4 is not conceded), "I told david the dollars today, he about shit a brick." Mr. Beauchamp once
5 again advised Mr. Chittick to disclose the issue to his investors. As documented in Mr.
6 Chittick's journal, Mr. Chittick recognized that "I have to tell [my investors] and hope they
7 stick with me." On February 21st, Mr. Beauchamp advised Mr. Chittick to inform his
8 investors of what he knew regarding the double liening issue at DenSco's upcoming annual
9 investors meeting on March 8th. Mr. Beauchamp encouraged Mr. Chittick to explain the issue
10 in person at the meeting, as well as provide a summary of the issue in the notice that was sent
11 to the investors before the meeting. Whether Mr. Chittick followed Mr. Beauchamp's advice
12 is unknown, as Mr. Beauchamp was expressly uninvited from the meeting that year, but Mr.
13 Beauchamp again discussed with Mr. Chittick on February 27th what Mr. Chittick should
14 include in the notice to the investors.

15 Throughout March, Mr. Beauchamp continued to be clear in his advice that Mr.
16 Chittick needed to keep his investors in the loop about the double liening issue and get to
17 work on the POM. For example, in mid-March, Mr. Beauchamp warned Mr. Chittick that he
18 was "very late in providing information to your investors about this problem and the resulting
19 material changes from your business plan. We cannot give Scott and his attorney any time to
20 cause further delay in getting this Forbearance Agreement finished and the necessary
21 disclosure prepared and circulated." Similarly on March 11th, Mr. Beauchamp discussed with
22 Mr. Chittick a cover email to the POM that would explain the double liening issue. Finally,
23 after the Forbearance Agreement was executed, Mr. Beauchamp moved swiftly to include in
24 the revised 2013 POM a detailed description of what had occurred. In the prior performance
25 section of the POM, Mr. Beauchamp explained the work out agreement, the total amount of
26 outstanding loans, and why a work out was the most beneficial approach for the investors.

1 DenSco's operations. Though the admissibility of Mr. Chittick's suicide letter to his investors
2 is not conceded, it documents the many times Mr. Chittick approached this group of investors
3 for advice on DenSco's operations. For example, the letter notes that DenSco weathered the
4 2008 housing crash by "talk[ing] to a few of you to help me make decisions on what I should
5 do. . . . Gladly after consultations from several of you, you agreed with my strategy . . ."

6 With respect to Mr. Menaged specifically, Mr. Chittick requested permission in 2012
7 from a select group of investors that he be allowed to waive the 10-15% loan cap to any one
8 borrower for Mr. Menaged. Mr. Chittick explained that after he "talked to a few of you
9 investors and got a positive response," and based on Mr. Menaged's "track record, the down
10 payments etc, the comfort level was there." Mr. Chittick's also noted that "many" of the
11 investors were aware of how DenSco was making loans directly to Mr. Menaged rather than
12 to a trustee. The letter recites that "for efficiency [sic] sake," Mr. Chittick would fund loans
13 directly to borrowers like Mr. Menaged and that "[m]any of you [investors] knew this and I
14 told you this is how I operated. Some of you that were also borrowers and investors have
15 experienced this way of doing business and know it's common." Mr. Chittick also informed
16 his investors that he may have to return some of their investments in DenSco because
17 DenSco's portfolio was reaching the \$50 million limit due to the loans made to Mr. Menaged.

18 Mr. Chittick even sought advice from individual investors regarding updates to his
19 investor offering documents. In 2011, for example, Mr. Chittick updated the POM with the
20 advice and consent of one of his investors named Warren Bush. Mr. Chittick would send to
21 Mr. Bush the revisions that Mr. Beauchamp had made and solicit Mr. Bush's opinion on those
22 changes. It was ultimately Mr. Bush that approved of the revisions to the POM, directing Mr.
23 Chittick "time to wrap it up."

24 In addition to seeking explicit advice from his investors for various company actions,
25 Mr. Chittick also kept his investors apprised of DenSco's processes and the issues with Mr.
26 Menaged specifically. Generally, Mr. Chittick met with DenSco's investors periodically to

1 **RESPONSE:**

2 After Mr. Chittick made clear in May 2014 that he would not issue a revised POM,
3 Mr. Beauchamp terminated the attorney-client relationship and no further securities work was
4 done on behalf of DenSco other than cleaning up the documents related to the Forbearance
5 Agreement that had been executed in April 2014. The Clark Hill invoices make clear that
6 Mr. Beauchamp did not take on any new work on behalf of DenSco after May 20, 2014. Once
7 a clean up of the Forbearance Agreement documents was complete in July 2014, the invoices
8 show that no further work was done for DenSco until March 2016 when the Arizona
9 Department of Financial Institutions (“ADFI”) informed Mr. Chittick that DenSco was being
10 investigated and Mr. Chittick reached back out to Mr. Beauchamp.

11 The communications between the parties corroborate that the attorney-client
12 relationship was terminated. The parties did not exchange any written communications
13 between July 2014 and March 2016, save for a few emails in March 2015, and a single email
14 exchange in September 2015 that related to spam being sent to Mr. Beauchamp from Mr.
15 Chittick’s email address. After a single meeting in March 2015, the parties did not speak for
16 nearly a year until Mr. Chittick approached Mr. Beauchamp about the ADFI investigation.
17 Though the admissibility of Mr. Chittick’s business journal is not conceded, it confirms these
18 facts.

19
20 **INTERROGATORY NO. 14:**

21 Please list and identify any document through which you conveyed to persons within
22 Clark Hill that you had “informed Mr. Chittick that Beauchamp and Clark Hill could not and
23 would not represent DenSco any longer?”

24 **RESPONSE:**

25 Mr. Beauchamp objects to this Interrogatory on the ground that is it overly broad and
26 unduly burdensome. *See, e.g., Steil v. Humana Kansas City, Inc.*, 197 F.R.D. 445 (D. Kan.

RECEIVED
OSBORN MALEDON P.A.
JUL 18 2018

Hood
EXH. NO. 705
2-8-19
Kelly S. Oglesby CR 50178

1 John E. DeWulf (006850)
Marvin C. Ruth (024220)
2 Vidula U. Patki (030742)
COPPERSMITH BROCKELMAN PLC
3 2800 North Central Avenue, Suite 1900
Phoenix, Arizona 85004
4 T: (602) 224-0999
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5 jdewulf@cblawyers.com
mruth@cblawyers.com
6 vpatki@cblawyers.com

7 *Attorneys for Defendants*

8
9 **SUPERIOR COURT OF ARIZONA**
10 **COUNTY OF MARICOPA**

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

13 Plaintiff,

14 v.

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

17 Defendants.

No. CV2017-013832

**DEFENDANT DAVID BEAUCHAMP'S
AMENDED RESPONSE TO
PLAINTIFF'S NON-UNIFORM
INTERROGATORY NO. 9**

18 **Defendant David G. Beauchamp responds as follows to Plaintiff's First Set of**
19 **Non-Uniform Interrogatories dated May 15, 2018.**

20 **INTERROGATORY NO. 9:**

21 Defendants' Initial Disclosure Statement states, on page 10, lines 13-20: "Mr.
22 Beauchamp's advice to Mr. Chittick regarding disclosures Mr. Chittick had to make to
23 investors was immediate, clear, practical, consistent with this practice and experience, and
24 consistent with the standard of care: (a) DenSco was not permitted to take new money without
25 full disclosure to the investor lending the money; (b) DenSco was not permitted to roll over
26 existing investments without full disclosure to the investor rolling over the money; and (c)

1 DenSco needed to update its POM and make full disclosure to all investors. Mr. Beauchamp
2 provided this advice to DenSco starting with his January 9, 2014 meeting with Mr. Chittick,
3 and repeated it routinely over the next few months.”

4 Are you aware of any document that contains the advice you say was **routinely** given
5 **after** January 9, 2014 or reflects that it was given?

6 **RESPONSE:**

7 Yes. Throughout 2014, when Mr. Beauchamp was preparing the Forbearance
8 Agreement and later the updated POM that would apprise investors of the double liening issue
9 and Mr. Chittick’s plan to resolve it, Mr. Beauchamp consistently reminded Mr. Chittick of
10 his fiduciary obligations to his investors, his obligation to provide full disclosure to his
11 investors (including his obligation to inform investors as to what had occurred prior to taking
12 new investor money or rolling over investor money), as well as his obligation to update the
13 2013 POM as soon as possible.

14 This is evidenced first by the fact that Mr. Beauchamp diligently worked to update the
15 2013 POM between May and August of 2013, until he was ordered to stop by Mr. Chittick.
16 Once Mr. Chittick reinitiated contact with Mr. Beauchamp in mid-December 2013 and
17 informed him of the allegedly limited double liening issue, Mr. Beauchamp immediately
18 advised Mr. Chittick of his general obligation to disclose the problem and his specific
19 obligation to disclose the problem to any investors from whom he was receiving additional
20 money (whether in the form of a new investment or rollover of an existing investment). Mr.
21 Chittick appears to have informed Mr. Beauchamp that he had done so, telling him in a
22 January 12, 2014 email, shortly after the initial January 9, 2014 meeting where Mr.
23 Beauchamp first instructed Mr. Chittick that disclosures were required prior to accepting
24 additional funds, that “I’ve spent the day contacting every investor that has told me they want
25 to give me more money.” The clear implication was that Mr. Chittick was contacting those
26 investors to make adequate disclosures.

1 In the following months, as Mr. Beauchamp worked with Mr. Chittick, Mr. Menaged,
2 and Mr. Menaged's counsel to finalize the Forbearance Agreement and POM, Mr.
3 Beauchamp continually reminded Mr. Chittick of his fiduciary obligations with respect to
4 executing the Forbearance Agreement and updating the POM, as well as his obligations to
5 keep his investors apprised of the double liening issue. For example, on January 21, 2014, as
6 Mr. Chittick continued to work out the loan issues with the other hard money lenders who
7 had threatened suit earlier in the month, Mr. Beauchamp reminded Mr. Chittick that the
8 Forbearance Agreement needed to be finalized and that he was "very concerned about the
9 payoffs getting so far ahead of the documentation. I have authorized the preparation of the
10 Forbearance Agreement and the related documents. Under normal circumstances, this should
11 be finalized and signed before you advance all of this additional money."

12 Then, as negotiations regarding the language of the Forbearance Agreement stretched
13 on between February and April 2014, Mr. Beauchamp consistently rejected changes to the
14 Forbearance Agreement proposed by Mr. Chittick and Mr. Menaged in favor of Mr. Menaged
15 that did not comport with Mr. Chittick's fiduciary obligations. On February 4, 2014, for
16 instance, Mr. Beauchamp rejected proposed changes to the Forbearance Agreement by Mr.
17 Menaged's counsel, Mr. Goulder. Mr. Beauchamp explained that those changes
18 "transfer[red] significant risk to [Mr. Chittick] and [his] investors" and that if even a portion
19 of the changes proposed were allowed to remain, the Forbearance Agreement would no longer
20 have a description of the double liening issue "that you HAVE to provide to your investors."
21 That same day, Mr. Beauchamp reminded Mr. Chittick that he needed to be clear about what
22 he could and could not do with regards to the Forbearance Agreement "without going back
23 to all of [his] investors for approval." Mr. Beauchamp acknowledged that while DenSco had
24 helped Mr. Menaged in the past on the double liened properties, Mr. Chittick could not
25 "OBLIGATE DenSco to further help Scott, because that would breach your fiduciary duty to
26 your investors."

1 On February 7, 2014, Mr. Beauchamp again rejected changes proposed by Mr. Goulder
2 explaining that "the agreement needs to comply with Denny's fiduciary obligations to his
3 investors." Mr. Beauchamp clarified that though the parties "had intended to make the
4 document as balanced as possible," the Forbearance Agreement needed "to set forth the
5 necessary facts for Denny to satisfy his securities obligations to his investors." Two days
6 later, Mr. Beauchamp again reminded Mr. Chittick that his ability to force DenSco to assume
7 risk or liability related to the double liened properties in the Forbearance Agreement was
8 limited by his fiduciary duty to his investors.

9 On February 14th, Mr. Beauchamp reminded Mr. Chittick yet again that the
10 Forbearance Agreement had to comply with Mr. Chittick's fiduciary obligations to his
11 investors. He warned Mr. Chittick explicitly that Mr. Menaged was trying to get him to accept
12 a "watered down agreement" where DenSco "give[s] up substantial rights that [DenSco]
13 should not have to give up," but that he could not do so because "it is not your money. It is
14 your investors' money. So you have a fiduciary duty." Mr. Beauchamp further admonished
15 Mr. Chittick and reminded him that his "duty and obligation [was] not to be fair to Scott, but
16 to completely protect the rights of your investors. I am sorry if Scott is hurt through this, but
17 Scott's hurt will give Scott the necessary incentive to go after his cousin. Your job is to
18 protect the money that your investors have loaned to DenSco."

19 In late February 2014, while still negotiating the Forbearance Agreement, Mr.
20 Beauchamp learned that the double liening issue was much bigger than Mr. Chittick had
21 suggested initially. As noted in Mr. Chittick's corporate journal (the admissibility of which
22 is not conceded), "I told david the dollars today, he about shit a brick." Mr. Beauchamp once
23 again advised Mr. Chittick to disclose the issue to his investors. As documented in Mr.
24 Chittick's journal, Mr. Chittick recognized that "I have to tell [my investors] and hope they
25 stick with me." On February 21st, Mr. Beauchamp advised Mr. Chittick to inform his
26 investors of what he knew regarding the double liening issue at DenSco's upcoming annual

1 investors meeting on March 8th. Mr. Beauchamp encouraged Mr. Chittick to explain the issue
2 in person at the meeting, as well as provide a summary of the issue in the notice that was sent
3 to the investors before the meeting. Whether Mr. Chittick followed Mr. Beauchamp's advice
4 is unknown, as Mr. Beauchamp was expressly uninvited from the meeting that year, but Mr.
5 Beauchamp again discussed with Mr. Chittick on February 27th what Mr. Chittick should
6 include in the notice to the investors.

7 Throughout March, Mr. Beauchamp continued to be clear in his advice that Mr.
8 Chittick needed to keep his investors in the loop about the double liening issue and get to
9 work on the POM. For example, in mid-March, Mr. Beauchamp warned Mr. Chittick that he
10 was "very late in providing information to your investors about this problem and the resulting
11 material changes from your business plan. We cannot give Scott and his attorney any time to
12 cause further delay in getting this Forbearance Agreement finished and the necessary
13 disclosure prepared and circulated." Similarly on March 11th, Mr. Beauchamp discussed with
14 Mr. Chittick a cover email to the POM that would explain the double liening issue. Finally,
15 after the Forbearance Agreement was executed, Mr. Beauchamp moved swiftly to include in
16 the revised 2013 POM a detailed description of what had occurred. In the prior performance
17 section of the POM, Mr. Beauchamp explained the work out agreement, the total amount of
18 outstanding loans, and why a work out was the most beneficial approach for the investors.
19 Mr. Chittick chose to never complete the POM and Mr. Beauchamp promptly terminated the
20 attorney-client relationship.

21 ...

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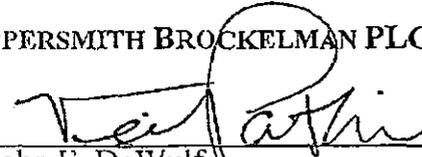
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DATED this 17th day of July, 2018.

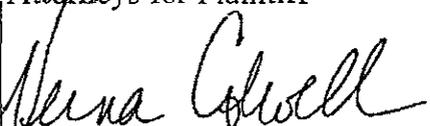
COPPERSMITH BROCKELMAN PLC

By:


John E. DeWulf
Marvin C. Ruth
Vidula U. Patki
2800 North Central Avenue, Suite 1900
Phoenix, Arizona 85004
Attorneys for Defendants

ORIGINAL mailed and emailed this
17th day of July, 2018 to:

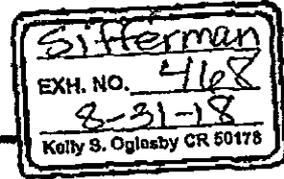
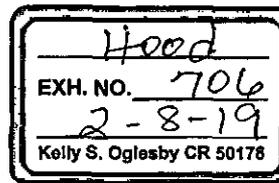
Colin F. Campbell, Esq.
Geoffrey M. T. Sturr, Esq.
Joshua M. Whitaker, Esq.
OSBORN MALEDON, P.A.
2929 N. Central Ave., Suite 2100
Phoenix, AZ 85012-2793
Attorneys for Plaintiff


Neena Colwell

○

○

○



Beauchamp, David G.

From: Kevin R. Merritt <KMerritt@gblaw.com>
Sent: Friday, September 23, 2016 4:56 PM
To: Beauchamp, David G.
Subject: RE: Ryan Anderson

OK. I'm just going to say that I don't know what or how much you're going to copy, and leave the issue open. Meetings in Ohio?

Kevin R. Merritt
602.256.4481 Direct | KMerritt@gblaw.com

From: Beauchamp, David G. [<mailto:DBeauchamp@ClarkHill.com>]
Sent: Friday, September 23, 2016 4:54 PM
To: Kevin R. Merritt
Subject: RE: Ryan Anderson

Kevin:

We should wait on that until after my meetings on Monday and Tuesday in Ohio. I will try to get some clarification on that direction.

Thanks, David

David G. Beauchamp

CLARK HILL PLC
14850 N Scottsdale Rd | Suite 500 | Phoenix, Arizona 85254
480.684.1126 (direct) | 480.684.1168 (fax) | 602.319.5602 (cell)
dbeauchamp@clarkhill.com | www.clarkhill.com

From: Kevin R. Merritt [<mailto:KMerritt@gblaw.com>]
Sent: Friday, September 23, 2016 4:51 PM
To: Beauchamp, David G.
Subject: RE: Ryan Anderson

Am I at liberty to disclose that CH has determined not to preserve a copy of the complete files (without going into detail beyond that)? Or would you prefer I didn't say anything and just played dumb?

Kevin R. Merritt
602.256.4481 Direct | KMerritt@gblaw.com

From: Beauchamp, David G. [<mailto:DBeauchamp@ClarkHill.com>]
Sent: Friday, September 23, 2016 3:47 PM
To: Kevin R. Merritt
Cc: Sifferman, Mark S.
Subject: RE: Ryan Anderson

Kevin:

I had expected to hear from Ryan after we talked to the Receiver, but I have not heard anything about the issues from my conversation with Ryan. With respect to your email, I am not sure that I am remembering Ryan's message to you from last Friday.

I just talked to Mark Sifferman, who is just back today after a couple of weeks in Italy. Mark does not want me to spend the money to digitize the files for the Receiver and he does not want me to spend the time to review all of the files for attorney-client information. He just wants me to review and make copies of the portions of the file that I need to protect against a securities claim against me and the firm. Since that is different than what you and I had discussed, I wanted to make sure that you knew what I am being told to do.

Sorry that Tony never called.

Best regards, David

David G. Beauchamp

CLARK HILL PLC

14850 N Scottsdale Rd | Suite 500 | Phoenix, Arizona 85254
480.684.1128 (direct) | 480.684.1166 (fax) | 602.319.5602 (cell)
dbeauchamp@clarkhill.com | www.clarkhill.com

From: Kevin R. Merritt [<mailto:KMerritt@qblaw.com>]
Sent: Friday, September 23, 2016 3:30 PM
To: Beauchamp, David G.
Subject: Ryan Anderson

I need to give Ryan an answer to his message from last Friday. We have handled other matters with the same understanding as to the privilege of the Estate. Just wanted to give you a heads-up. Did anything develop further after your call was cancelled last Wednesday?

Also, never heard a peep from Tony.

Kevin R. Merritt

602.256.4481 Direct | KMerritt@qblaw.com | [Profile](#)

GAMMAGE & BURNHAM

World Class Counsel. Arizona Roots.
2 North Central Ave., 15th Floor | Phoenix, AZ 85004
602.256.0566 | 602.256.4475 Fax | www.qblaw.com

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Hood
EXH. NO. 707
2-8-19
Kelly S. Oglesby CR 50178

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NEW BUSINESS INTAKE FORM

A. Select one:

- New Client
To identify related clients, please link this new client to client # _____
Is New Client an Insurance Company? If yes, Insurance Conflicts Committee member must approve this opening.
- New Matter for an Existing Client
Client Name: _____ Client #: _____

B. Client Information (ALL fields required for new clients only):

True Legal Name: Estate of Denny J. Chittick
Client name for billing (if different from true legal name): _____
Attention: _____
Address: 9400 W. Thompson Road
City: Coeur D'Alene State: Idaho Zip: 83814 Country: United States
Contact Name (A/R purposes): _____ Contact Email Address: _____
Contact Telephone No.: _____
NAICS Code: _____ Industry Description: _____
Client Originator Timekeeper:
Single originator, list name: David Beauchamp
Shared origination, list names and %: _____

C. Matter Information:

Practice Group Assigned: Personal Legal Services Matter Type: Probate *(1537)*
Nature of Assignment (Explain in sufficient detail the nature of the work):
Probate
Matter Name: Probate
Matter Contact Name and Email Address (A/R Purposes, if different from Client Contact):
Contact Name: _____ Contact Email Address: _____
Contact Telephone No.: _____
Referred By: INT - Internal Source - Provide Name Referral Name: David Beauchamp
Matter Originator Timekeeper (must be different from Client Originator if being assigned):
Single originator, list name: Michelle Tran
Shared origination, list names and %: _____
Client Responsible (Billing) Timekeeper (senior level timekeeper only):
Primary client responsible timekeeper, list name: David Beauchamp
Shared client responsible timekeepers, list names and %: _____
Supervising Timekeeper (senior level timekeeper in practice group for type of work being performed):
Single supervising timekeeper, list name: Michelle Tran
Shared supervising timekeepers, list names and %: _____
Attorney(s) Assigned to perform the work: Michelle Tran CH 0018014

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Probate

D. Billing Information:

BILLING SPECIFICS:

Estimate total fee billings for this matter (REQUIRED): \$ 2,500-3,000

Billing Arrangement: Hourly Billing Frequency: Monthly

Retainer (REQUIRED FOR ALL NEW CLIENTS), specify amount: \$ 200

If fixed fee, specify amount: \$

Will the matter be billed in .25 hour increments? Yes No

Which state will receive benefit of services performed: Other

Will the matter be billed at rates other than standard? If yes, please complete and attach the approved *Negotiated Rate Request Form*. Yes No

Does Negotiated Rate apply to all matters for this client? Yes No

Will the matter be billed electronically? Yes No

If yes, please provide the name of the ebilling system:

Task Codes Required: Yes No Activity Codes Required: Yes No

Task Code: Select One Activity Code: Select One

Are there special billing guidelines? Yes No

If yes, please attach a copy of billing guidelines.

Client Reference No.:

WHERE TO SEND INVOICE IF DIFFERENT FROM CLIENT ADDRESS IN SECTION B ABOVE:

Is this matter to be billed to an address other than the client level address? Yes No

If yes, please provide billing address and contact information. Please attach additional sheet if there are more billing addresses. (ALL fields required)

Name: _____

Attention: _____

Address: _____

City: _____ State: _____ Zip: _____ Country: _____

E-MAIL ?

Does Client want Invoice to be e-mailed? If yes, please provide e-mail address _____

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Probate

Preservation and Discovery Needs

7. Yes No Is this an investigation, a litigation matter, or a matter that has the potential to lead to litigation? If yes, the client may need to be informed of and/or assisted with specific preservation obligations. Please attach documentation sufficient to demonstrate the client's awareness of and compliance with any preservation requirements (Internal hold policies, correspondence or other communication between Clark Hill and client, etc.).

8. If no notice given, explain why: _____
 Will this matter require discovery or other document review and/or management? If yes, it is likely that electronically stored information (ESI) will need to be evaluated for preservation, collection, and production purposes. The Discovery Services Group will contact you to discuss action steps for this data.

Other

9. Does a Firm lawyer or relative have an equity interest or management position with the client? If yes, please attach the appropriate authorization documentation. Refer to CHIPP Section 9.1

10. Is the Firm substituting for other counsel whose services have been terminated?

11. Is the Firm serving only as local counsel in this matter?

F. Approvals:

<u>David Beauchamp</u> Client Responsible Timekeeper, Signed	David Beauchamp Print Name	8/3/16 Date
<u>Scott A. [Signature]</u> Practice Group Leader or Delegate, Signed	<u>J. Thomas MacFarlane</u> Print Name	8-12-16 Date

Additional Approvals Required:

- For Contingent or Pro Bono Matters, applicable Committee Member must sign;
- For Shared Timekeeper Arrangements, Applicable PGLs and Sharing Timekeepers must sign;
- If representing entities within this Client's corporate tree (if answer to Risk Assessment Q3 is yes) GC must sign;
- If Insurance Conflicts Committee is required to review this form, member of Insurance Conflicts Committee must sign;
- For Engagement Letter Waivers, GC must sign;
- For Retainer Waivers, Financial Operations Manager and PGL/PGD must sign.

<u>[Signature]</u>	Michelle Frank Print Name	8-3-2016 Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

G. Form Completed By (print name): _____

Lopez, Leslie L.

From: MacFarlane, J. Thomas
Sent: Friday, August 12, 2016 7:27 AM
To: Lopez, Leslie L.
Subject: approved
Attachments: New Business Intake Form for Ching Ling Chang ; New Business Intake Form for Amy Avery ; New Business Intake Form for John and Laura Garcia ; New Business Intake Form for Mildred Hudrick ; New Business Intake Form for Michael and Tara Moore ; New Business Intake Form for the Estate of Denny J. Chittick ; New Business Intake Form for Keith Phillips (Credit Claim) ; New Business Intake Form for Keith Phillips (Deferred Payment)

All approved

J. Thomas MacFarlane

CLARK HILL PLC
151 S Old Woodward | Suite 200 | Birmingham, Michigan 48009
248.988.5846 (direct) | 248.988.1833 (fax) | 248.709.2136 (cell)
jmacfarlane@clarkhill.com | www.clarkhill.com

CLARK HILL

Michelle Margolies Tran
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F 480-684-1169
Email: mtran@ClarkHill.com

Clark Hill PLC
14850 N Scottsdale Road
Suite 500
Scottsdale, Arizona 85254
T 480.684.1100
F 480.684.1199
clarkhill.com

August 2, 2016

Shawna Heuer
9400 W. Thompson Road
Coeur d'Alene, ID 83814

Re: Estate of Denny J. Chittick

Dear Shawna:

I am sending you this engagement letter with the firm's billing policies and procedures. After you have reviewed it, please sign and return it to me by email, fax, or regular mail. If you mail it, please keep a copy. If making your own copy is not convenient, please let me know and I will send a copy back to you.

The hourly rates and contact information for the attorneys and legal staff in our group are listed at the end of this letter. I may also receive assistance from one or more other attorneys or legal assistants in our office. Their hourly rates vary depending on their experience and level of expertise. Legal fees as well as out-of-pocket expenses which we incur on your behalf (filing or recording fees, publication charges, any court costs, etc.), will be billed on a monthly basis and will be due upon presentment.

I suggest that we start with an initial advance of \$200.00. Upon our receipt of this amount we will apply it against our first invoice in payment of costs and attorneys' fees incurred. I assure you that we will endeavor to work efficiently to keep costs as low as possible without jeopardizing the quality of our legal services.

This letter is supplemented by our Standard Terms of Engagement for Legal Services, attached, which are incorporated in this letter and apply to this matter and other matters for which you engage us.

If you have an accountant, financial advisor, or family members with whom you would like us to be able to share information about your planning, there is also a place at the end of this letter to list those persons. If you do not wish to have us share information about your planning, then please leave that section blank. You may revoke this consent at any time.

204859865.1 09999/09999-030018

CH_0018020

In addition, by signing this engagement letter, you are confirming that the legal services that Clark Hill is providing to you in this or any future matter will not render you insolvent such that you are unable to pay any known or reasonably expected creditors. We are unable to assist you in giving away or structuring your assets in a manner that results in you having insufficient assets available to meet your legal obligations.

One year after our last communication from you in this matter we will consider your file inactive. After that time, we will be available to help you at any time you may request, but we will no longer be responsible for sending you follow up letters or reminders about outstanding issues.

We appreciate your business. If you have any questions or concerns, please do not hesitate to telephone me to discuss them.

Sincerely,

CLARK HILL PLC



Michelle Margolies Tran

Enclosure

Shawna Heuer hereby accepts and agrees to be bound by the foregoing.

Date: Aug 2nd 2016

Shawna Heuer
Signature

Optional Consent to Disclosure

Until further written notice is given, the attorneys and staff of Clark Hill PLC may discuss my estate, tax, and business planning, as well as other matters involved in my legal representation by Clark Hill, with the following persons who are acting on my behalf.

Eldon V. Chittick
Helen T. Williams

Carlene G. Chittick

2016 Hourly Rates

Attorney Darra Rayndon	390.00/hour
Attorney Michelle Tran	360.00/hour
Attorney Ely Sluder	345.00/hour
Diane Morgan	200.00/hour
Jeanne Harris	155.00/hour
Leslie Lopez	80.00/hour

Contact Information

Darra Rayndon	480.822.6746	drayndon@clarkhill.com
Michelle Tran	480.822.6745	mtran@clarkhill.com
Ely Sluder	480.822.6751	esluder@clarkhill.com
Diane Morgan	480.822.6743	dmorgan@clarkhill.com
Jeanne Harris	480.822.6747	jharris@clarkhill.com
Leslie Lopez	480.822.6748	llopez@clarkhill.com

CLARK HILL

NEW BUSINESS INTAKE FORM

Hood
EXH. NO. 708
2-8-19
Kelly S. Oglesby CR 50178

Sifferman
EXH. NO. 458
8-31-18
Kelly S. Oglesby CR 50178

A. Select one:

New Client

To identify related clients, please link this new client to client # _____

Is New Client an Insurance Company? If yes, Insurance Conflicts Committee member must approve this opening.

New Matter for an Existing Client

Client Name: DenSco Investment Corporation

Client #: 43820

B. Client Information (ALL fields required for new clients only):

True Legal Name: _____

Client name for billing (if different from true legal name): _____

Attention: _____

Address: _____

City: _____ State: _____ Zip: _____ Country: _____

Contact Name (A/R purposes): _____ Contact Email Address: _____

Contact Telephone No.: _____

NAICS Code: _____ Industry Description: _____

Client Originator Timekeeper:

Single originator, list name: _____

Shared origination, list names and %: _____

C. Matter Information:

Practice Group Assigned: Corporate

Matter Type: _____

Nature of Assignment (Explain in sufficient detail the nature of the work):

Wind down of business matters

Matter Name: BUSINESS WIND DOWN

Matter Contact Name and Email Address (A/R Purposes, if different from Client Contact):

Contact Name: _____ Contact Email Address: _____

Contact Telephone No.: _____

Referred By: N/A - Existing Client

Referral Name: _____

Matter Originator Timekeeper (must be different from Client Originator if being assigned):

Single originator, list name: _____

Shared origination, list names and %: _____

Client Responsible (Billing) Timekeeper (senior level timekeeper only):

Primary client responsible timekeeper, list name: David Beauchamp

Shared client responsible timekeepers, list names and %: _____

Supervising Timekeeper (senior level timekeeper in practice group for type of work being performed):

Single supervising timekeeper, list name: David Beauchamp

Shared supervising timekeepers, list names and %: _____

Attorney(s) Assigned to perform the work:

David Beauchamp

June 2016

CH_0017997

CLARK HILL

DenSco Investment Corporation
43820
Wind down

D. Billing Information:

BILLING SPECIFICS:

Estimate total fee billings for this matter (REQUIRED): \$ 15-20 K

Billing Arrangement: Hourly Billing Frequency: Monthly

Retainer (REQUIRED FOR ALL NEW CLIENTS), specify amount: \$ n/a existing client
If fixed fee, specify amount: \$ n/a

Will the matter be billed in .25 hour increments? Yes No

Which state will receive benefit of services performed: Other

Will the matter be billed at rates other than standard? If yes, please complete and attach the approved *Negotiated Rate Request Form*. Yes No

Does Negotiated Rate apply to all matters for this client? Yes No

Will the matter be billed electronically? Yes No
If yes, please provide the name of the ebilling system: _____

Task Codes Required: Yes No Activity Codes Required: Yes No
Task Code: Select One Activity Code: Select One

Are there special billing guidelines? Yes No
If yes, please attach a copy of billing guidelines.

Client Reference No.: _____

WHERE TO SEND INVOICE IF DIFFERENT FROM CLIENT ADDRESS IN SECTION B ABOVE:

Is this matter to be billed to an address other than the client level address? Yes No

If yes, please provide billing address and contact information. Please attach additional sheet if there are more billing addresses. (ALL fields required)

Name: _____
Attention: _____
Address: _____
City: _____ State: _____ Zip: _____ Country: _____

E-MAIL ?

Does Client want invoice to be e-mailed? If yes, please provide e-mail address n/a

CLARK HILL

43820

Wind down

PAYOR (Who will pay our invoices? List Payor name and percentage):

Payor Name:	<u>payor</u>	Percentage:	<u>100</u>
Payor Name:	_____	Percentage:	_____
Payor Name:	_____	Percentage:	_____
Payor Name:	_____	Percentage:	_____
Payor Name:	_____	Percentage:	_____
Payor Name:	_____	Percentage:	_____

INSURANCE COMPANY AS PAYOR:

Will any of the fees be paid by an insurance company, either currently or potentially in the future?

Yes No

If yes, please provide the name of the insurance company: _____

Is any portion of the fees being paid by this payor subject to any agreement that has conflict provisions that have not yet been approved by the Insurance Conflicts Committee?

Yes No

If yes, Insurance Conflicts Committee must review and approve this matter opening.

MULTIPLE REPRESENTATIONS:

If this matter is being billed as part of a multi-client representation (see User's Guide for explanation), and the Client/Matter identified on this form are the Primary, please check this box:

If Client/Matter identified on this form are not the Primary, please identify both the Primary Client Number and Primary Matter Number to which to link this new Client and Matter:

Primary Client #: _____ Primary Matter #: _____

E. Risk Assessment:

Conflicts

- | | Yes | No | |
|----|-------------------------------------|-------------------------------------|--|
| 1. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Has a check been run for any client, issue or business conflict and all involved partners using the Firm's methods?
If not, explain why: _____ |
| 2. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Is there any potential for a client, issue or business conflict? If yes, explain how they were resolved (waiver letter or other written documentation evidencing resolution of potential conflict must be attached): _____ |
| 3. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | By representing this client, does Clark Hill thereby also represent any other entity(s) within this client's corporate tree? If yes, contact General Counsel to obtain approval to proceed. |
| 4. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Is this client a party to a Joint Defense Agreement for this new matter or is such an agreement likely for this matter? If yes, please refer to the User's Guide for proper submission of conflict check with this form. |

Billing and Collection

- | | | | |
|----|--------------------------|-------------------------------------|--|
| 5. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Engagement letter attached. (REQUIRED FOR ALL NEW CLIENTS) |
| 6. | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Has an Orbis credit report been requested from Donna Kielar, reviewed and attached as applicable?
If not, explain why: <u>existing client</u> |

NOTE: An Orbis credit report is required for any new client that is a business or organization; NOT required for an individual or start up company.

CLARK HILL

DenSco Investment Corporation
43820
Wind down

Preservation and Discovery Needs

7. Yes No
Is this an investigation, a litigation matter, or a matter that has the potential to lead to litigation? If yes, the client may need to be informed of and/or assisted with specific preservation obligations. Please attach documentation sufficient to demonstrate the client's awareness of and compliance with any preservation requirements (internal hold policies, correspondence or other communication between Clark Hill and client, etc.).
If no notice given, explain why: _____
8. Yes No
Will this matter require discovery or other document review and/or management? If yes, it is likely that electronically stored information (ESI) will need to be evaluated for preservation, collection, and production purposes. The Discovery Services Group will contact you to discuss action steps for this data.

Other

9. Yes No
Does a Firm lawyer or relative have an equity interest or management position with the client? If yes, please attach the appropriate authorization documentation. Refer to CHIPP Section 9.1
10. Yes No
Is the Firm substituting for other counsel whose services have been terminated?
11. Yes No
Is the Firm serving only as local counsel in this matter?

F. Approvals:

<u>David Beauchamp</u>	David Beauchamp	8/23/2016
Client Responsible Timekeeper, Signed	Print Name	Date
<u>John Ermanni</u>	John Ermanni	
Practice Group Leader or Delegate, Signed	Print Name	Date

Additional Approvals Required:

- For Contingent or Pro Bono Matters, applicable Committee Member must sign;
- For Shared Timekeeper Arrangements, Applicable PGLs and Sharing Timekeepers must sign;
- If representing entities within this Client's corporate tree (if answer to Risk Assessment Q3 is yes) GC must sign;
- If Insurance Conflicts Committee is required to review this form, member of Insurance Conflicts Committee must sign;
- For Engagement Letter Waivers, GC must sign;
- For Retainer Waivers, Financial Operations Manager and PGL/PGD must sign.

<u>Signed</u>	<u>Print Name</u>	<u>Date</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

G. Form Completed By (print name): Lindsay Grove

Client Information

Client (True Legal) 43820 DenSco Investment Corporation

Address DenSco Investment Corporation
 Attn: Denny Chittick
 6132 W. Victoria Place
 Chandler, AZ 85226

City Chandler State AZ
 Zip 85226

Matter Information

Client Responsible 1482 Beauchamp, David G.

Matter Details

Report Type All Relationships Report Direct Conflicts Report
 Nature of Matter Wind down of business matters
 Conflict Check Type None of the above

Conflicts Found? Yes No No. of Conflicts Reports 4

ID#	Last Name/Company	Firs. Name	Affiliation	Approval	Group #
1	The William and Helena Alber Family Trust		Adverse	Accept	1
2	Brinkman Family Trust		Adverse	Accept	1
3	Craig & Tomie Brown Living Trust		Adverse	Accept	1
4	Desert Classic Investments, LLC		Adverse	Accept	1
5	Bunger	Steven G.	Adverse	Accept	1
6	Steven G. and Mary E. Bunger Estate		Adverse	Accept	1
7	Burdett	Anthony	Adverse	Accept	1
8	Burkhart	Kennen	Adverse	Accept	1
9	Bush	Warren	Adverse	Accept	1
10	Butler	Mary	Adverse	Accept	1
11	Butler	Van	Adverse	Accept	1
12	Thomas & Sara Byrne Living Trust		Adverse	Accept	2
13	Caro McDowell Revocable Trust		Adverse	Accept	2
14	Erlin Carrick Trust		Adverse	Accept	2
15	Gretchen P. Carrick Trust		Adverse	Accept	2
16	Cate, Jr.	Averill J.	Adverse	Accept	2
17	Arden & Nina Chittick Family Trust		Adverse	Accept	2
18	Mo & Sam Chittick Family Trust		Adverse	Accept	2
19	Cohen Revocable Trust		Adverse	Accept	2
20	Cohen	Eileen	Adverse	Accept	2
21	Davis	Glen	Adverse	Accept	2

22	Detota	Scott D.	Adverse	Accept	3
23	Dirks	Amy	Adverse	Accept	3
24	Dirks	Bradlay	Adverse	Accept	3
25	Dupper	Russ H.	Adverse	Accept	3
26	Todd F. Einck Trust		Adverse	Accept	3
27	Four Futures Corporation		Adverse	Accept	3
28	Grant	Stacy	Adverse	Accept	3
29	Michael & Diana Gumbert Trust		Adverse	Accept	3
30	Hafiz	Nihad	Adverse	Accept	3
31	Robert & Elizabeth Hahn Family Trust		Adverse	Accept	3
32	Hahn	Robert	Adverse	Accept	4
33	Hey	Ralph	Adverse	Accept	4
34	Hickman	Dale	Adverse	Accept	4
35	Hood	Craig	Adverse	Accept	4
36	Howze	Doris	Adverse	Accept	4
37	Imdieke Revocable Trust		Adverse	Accept	4
38	Imdieke	Brian	Adverse	Accept	4
39	Jetton	James	Adverse	Accept	4
40	Zones	Michael	Adverse	Accept	4
41	Kaiser	Ralph	Adverse	Accept	5
42	Kent	Mary	Adverse	Accept	5
43	Paul A. Kent Family Trust		Adverse	Accept	5
44	Koehler	Robert Z.	Adverse	Accept	5
45	LeRoy Kopel Revocable Living Trust		Adverse	Accept	5
46	Kopel	Jemma	Adverse	Accept	5
47	Kopel	Roy	Adverse	Accept	5
48	Howze	Lee	Adverse	Accept	4
50	Bush	Fay	Adverse	Accept	1



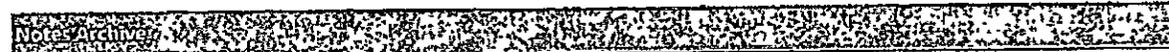
Approval History

Approver	Approval Type	Signed Date	Status
JWELCH	Conflicts	08/15/2016	Approve Conflicts
JWELCH	Conflicts	08/15/2016	Approve Senior Conflicts
DBEAUCHAMP	Attorney	08/22/2016	Approve Conflicts Report

Finalization

225752,
225753,
225754,
225755,
Search Batch ID 225756

Username	Date/Time	Action
clarkhillpic\jwelch	08/15/2016 12:43 PM	Successfully created prospective search batch (225752,225753,225754,225755,225756).



From: clarkhillpic\grove
Sent: 08/22/2016 04:02 PM
Stager: Form_Entries

All names have been pre-validated by K. Kish. Thank you.



Client Information

Client (True Legal) 43820 DenSco Investment Corporation

Address DenSco Investment Corporation
 Attn: Denny Chittick
 6132 W. Victoria Place
 Chandler, AZ 85226

City Chandler State AZ
 Zip 85226

Matter Information

Client Responsible 1482 Beauchamp, David G.

Matter Details

Report Type All Relationships Report Direct Conflicts Report
 Nature of Matter Wrap up of business
 Conflict Check Type None of the above

Conflicts Found? Yes No No. of Conflicts Reports 3

ID#	Last Name/Company	First Name	Affiliation	Approval	Group #
1	Weiskopf	Laurie A.	Adverse	Accept	1
2	Weiskopf	Thomas D.	Adverse	Accept	1
3	Wellman Family Living Trust		Adverse	Accept	1
4	Wellman	Carol	Adverse	Accept	1
5	Wellman	Michael	Adverse	Accept	1
6	B & C Wenig Family Trust		Adverse	Accept	1
7	Wenig	Brian M.	Adverse	Accept	1
8	Wenig	Carla Couch	Adverse	Accept	1
9	Wenig	Mark Alan	Adverse	Accept	1
10	Wenig	Debbie Ellen	Adverse	Accept	1
11	Zones	Michael	Adverse	Accept	2
12	Angel's Investors LLC		Adverse	Accept	2
13	Yildiz	Yusef	Adverse	Accept	2
14	BLL Capital, LLC		Adverse	Accept	2
15	Luchtal	Barry	Adverse	Accept	2
16	LJL Capital, LLC		Adverse	Accept	2
17	Luchtal	Landon	Adverse	Accept	2
18	Brinkman	Robert	Adverse	Accept	2
19	Smith	Tom	Adverse	Accept	2
20	Davis	Jack J.	Adverse	Accept	1
21	Griswold	Russell	Adverse	Accept	3

22	Smith	Branson	Adverse	Accept	2
23	Hughes	Bill Bryan	Adverse	Accept	3
24	Hughes	Judy Kay	Adverse	Accept	3
25	Locke	William F.	Adverse	Accept	3
26	Preston	David M.	Adverse	Accept	3
27	Lee	Terry	Adverse	Accept	3
28	McArdle	Jim	Adverse	Accept	3
29	Sterling	Donald E.	Adverse	Accept	3

Approval History

Approval History

Approver	Approval Type	Signed Date	Status
JWELCH	Conflicts	08/15/2016	Approve_Conflicts
JWELCH	Conflicts	08/15/2016	Approve_Senior_Conflicts
DBEAUCHAMP	Attorney	08/22/2016	Approve_Conflicts_Report

Finalization

Search Batch ID 225774,
 225775,
 225776

User Name	Date/Time	Action
clarkhillpicjwelch	08/15/2016 03:13 PM	Successfully created prospective search batch (225774,225775,225776).

Notes/Archives

From: clarkhillpicjgrove
Sent: 08/15/2016 10:57 AM
Stage: Form_Entries

Please link to NBIE60405
Parties # 1-17 have been pre-validated by K. Kirsch. Parties 18 on are new names to be conflicted.
Thank you.

From: clarkhillpicjwelch
Sent: 08/15/2016 03:10 PM
Stage: Conflicts_Clerk

NBIE60435: We were unable to validate the names Tom Smith or Jim McArdle, so they were run as is. If you later obtain more information about these parties, please submit a supplemental if necessary.

Client Information

Client (True Legal) 43820 DenSco Investment Corporation

Address DenSco Investment Corporation
 Attn: Denny Chittick
 6132 W. Victoria Place
 Chandler, AZ 85226

City Chandler State AZ
 Zip 85226

Matter Information

Client Responsible 1482 Beauchamp, David G.

Matter Parties

Report Type All Relationships Report Direct Conflicts Report
 Nature of Matter Wrap up of business
 Conflict Check Type None of the above

Conflicts Found? Yes No No. of Conflicts Reports 4

ID	Last Name/Company	First Name	Affiliation	Approval	Group #
1	Lawson	Robert F.	Adverse	Accept	1
2	Wayne J Ledet Revocable Trust		Adverse	Accept	1
3	Ledet	Wayne J.	Adverse	Accept	1
4	The Lee Group, Inc.		Adverse	Accept	1
5	Lent	Lillian	Adverse	Accept	1
6	Lent	Manuel A.	Adverse	Accept	1
7	Locke	Jean	Adverse	Accept	1
8	James & Lesley McCoy Trust		Adverse	Accept	1
9	The Marvin G Miller & Pat S Miller 1989 Trust		Adverse	Accept	1
10	LF Fund Marvin Miller & Pat S Miller		Adverse	Accept	1
11	Moss Family Trust		Adverse	Accept	2
12	Moss	Kaylene	Adverse	Accept	2
13	Muscat Family Trust		Adverse	Accept	2
14	Muscat	Vincent I.	Adverse	Accept	2
15	Muscat	Sharry M.	Adverse	Accept	2
16	Non-Lethal Defense, Inc.		Adverse	Accept	2
17	Dubay	David Karl	Adverse	Accept	2
18	Odenthal	Brian	Adverse	Accept	2
19	Odenthal	Janice	Adverse	Accept	2
20	Page	Jolene	Adverse	Accept	2
21	Paxton	Valerie	Adverse	Accept	3

22	Pearce	Marlene	Adverse	Accept	3
23	Dori Ann Davis Living Trust		Adverse	Accept	3
24	Phalen Family Trust		Adverse	Accept	3
25	Phalen	Jeffrey J.	Adverse	Accept	3
26	Preston Revocable Living Trust		Adverse	Accept	3
27	Rzonca	Peter A.	Adverse	Accept	3
28	Saifre, LLC		Adverse	Accept	3
29	Sherriff	Stewart W.	Adverse	Accept	3
30	Sherriff	William Stewart	Adverse	Accept	3
31	Sanders	JoAnn	Adverse	Accept	4
32	Schloz	Mary	Adverse	Accept	4
33	Schloz	Stanley	Adverse	Accept	4
34	Schloz Family Trust		Adverse	Accept	4
35	GB 12 LLC		Adverse	Accept	4
36	Scroggin	Annetta	Adverse	Accept	4
37	Scoggin	Michael	Adverse	Accept	4
38	Siegford	Judith E.	Adverse	Accept	4
39	Siegford	Gary D.	Adverse	Accept	4
40	Caryn Smith Trust		Adverse	Accept	4
41	McKenna Smith Trust		Adverse	Accept	4
42	Branson & Sandra Smith Trust		Adverse	Accept	4
43	Swirtz	Nancy	Adverse	Accept	5
44	Long Time Holdings, LLC		Adverse	Accept	5
45	Swirtz	William	Adverse	Accept	5
45	Thompson	Coralee	Adverse	Accept	5
47	Thompson	Gary	Adverse	Accept	5
48	Trainer	James R.	Adverse	Accept	5
49	Tuttle	Stephen	Adverse	Accept	5
50	Underwood	Wade	Adverse	Accept	5

Approval

Approval History

Approver	Approval Type	Signed Date	Status
JWELCH	Conflicts	08/15/2016	Approve Conflicts
JWELCH	Conflicts	08/15/2016	Approve Senior Conflicts
DBEAUCHAMP	Attorney	08/22/2016	Approve Conflicts Report

Finalization

Search Batch ID 225762, 225763, 225764, 225765, 225766

Username	Date/Time	Action
clarkhillpicjwelch	08/15/2016 02:02 PM	Successfully created prospective search batch (225762,225763,225764,225765,225766).

Notes/Archive

From: clarkhillpic@grove
 Sent: 08/15/2016 10:36 AM
 Stage: Form Entries

All parties pre-validated by K. Kisch.
 Link to NB1E60405.
 There will be another conflict check to follow with additional names as well.





Hood
EXH. NO. 709
2-8-19
Kelly S. Oglesby CR 50178

Sifferman
EXH. NO. 459
8-31-18
Kelly S. Oglesby CR 50178

Message

From: Tran, Michelle M. [/O=CLARKHILL/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MTRAN]
Sent: 8/10/2016 8:06:50 AM
To: Beauchamp, David G. [dbeauchamp@clarkhill.com]
Subject: Fwd: Estate of Chittick
Attachments: Tran_Ltr.pdf
Importance: High

Lesley, please print the attachment twice, one for me and one for David. Deliver David's copy to him. I can't get it open. Thanks!!!

Sent from my Verizon 4G LTE smartphone

----- Original message -----

From: "Scott A. Swinson" <scott@swinsonlawaz.com>
Date: 8/9/16 12:23 PM (GMT-07:00)
To: "Tran, Michelle M." <MTran@ClarkHill.com>
Cc: Rob Brinkman <rbrinkman@yahoo.com>
Subject: Estate of Chittick
Ms. Tran

Please see attached letter and Request for Notice regarding the above referenced estate.

Scott A. Swinson
SCOTT A. SWINSON, P.A.
2400 E. Arizona Biltmore Circle
Suite 1300
Phoenix, AZ 85016
602-957-6740 Office
602-522-3946 Fax

This e-mail, including any attachments, may contain confidential and/or proprietary information. If the reader of this e-mail is not the intended recipient, or his or her authorized agent, the reader is hereby notified that any dissemination, distribution or copying of this e-mail is prohibited. If you have received this e-mail in error, please notify the sender by replying to this message, followed by deleting this message immediately.

SCOTT A. SWINSON, P.A.
A PROFESSIONAL ASSOCIATION

FILE NO. 1139.00

SENT VIA E-MAIL TO MTRAN@CLARKHILL.COM

August 9, 2016

Michelle Tran, Esq.
CLARK HILL, P.C.
14850 N. Scottsdale Road
Suite 500
Phoenix, AZ 85254

Re: DenSco Investment Corporation, Inc.

Dear Ms. Tran:

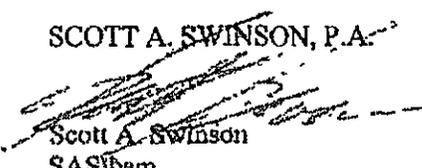
I represent Rob Brinkman as an investor/creditor of DenSCO Investments Corporation. He has forwarded to me the various e-mails regarding DenSCO generated by Mr. Beauchamp. From some of the statements Mr. Beauchamp has made in his e-mails, it sounds as though your firm represented either Mr. Chittick and/or DenSCO prior to Mr. Chittick's death.

If this is in fact the case, I would appreciate a confirmation from your firm that you have considered the potential of a conflict of interest in your representation of the Chittick estate and your determination that no conflict exists.

If you have any questions regarding this matter, please do not hesitate to contact me.

Respectfully,

SCOTT A. SWINSON, P.A.


Scott A. Swinson
SAS\dam

Enclosures

2400 E. ARIZONA BILTMORE CIRCLE, SUITE 1300 • PHOENIX, ARIZONA 85016-2195
(602) 957-6740 • FAX (602) 522-3946
E-MAIL: SWINSONSA@AZBAR.ORG

CH_0009220

1 Scott A. Swinson (Bar No. 9321)
SCOTT A. SWINSON, P.A.
2 2400 E. Arizona Biltmore Circle
Suite 1300
3 Phoenix, Arizona 85016
(602) 957-6740
4 swinsonsa@azbar.org
Attorney for Rob Brinkman
5

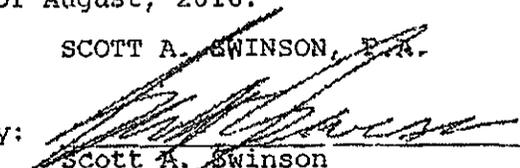
6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

7 In the matter of the estate of,)
8 DENNY J. CHITTICK,) NO. PB2016-051754
9 Deceased.) REQUEST FOR NOTICE

10 NOTICE IS HEREBY GIVEN pursuant to A.R.S. §14-3204 that ROB
11 BRINKMAN, by and through his attorney undersigned, having a
12 financial or property interest in the above referenced estate,
13 requests notice of any order or filing pertaining to the estate be
14 sent to her/his undersigned attorney.

15 DATED this 9th day of August, 2016.

16 SCOTT A. SWINSON, P.A.

17
18 By: 

19 Scott A. Swinson
20 2400 E. Arizona Biltmore Circle
Suite 1300
21 Phoenix, Arizona 85016-2195
Attorney for Rob Brinkman

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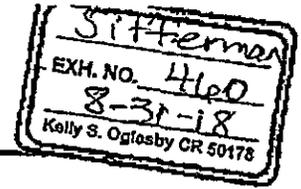
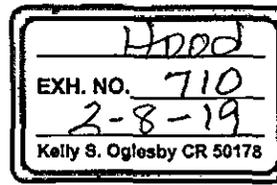
1 A COPY of the foregoing
2 MAILED this 5th day of
3 August, 2016, to:

4 Michelle Tran, Esq.
5 CLARK HILL, P.C.
6 14852 N. Scottsdale Road
7 Suite 500
8 Phoenix, AZ 85254
9 Attorney for Personal Representative

10 

11 (C:\Contract\1139.00\Not-Req.pro)

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Message

From: Tran, Michelle M. [/O=CLARKHILL/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=MTRAN]
Sent: 8/10/2016 11:46:47 AM
To: Scott A. Swinson [scott@swinsonlawaz.com]
CC: Rob Brinkman [rbrinkman@yahoo.com]; Beauchamp, David G. [dbeauchamp@clarkhill.com]
Subject: RE: Estate of Chittick

Scott,

Thank you for your letter. We are in the process of addressing this concern. Our immediate objective was to open the probate so that there would be a party in place as Personal Representative with authority to act on behalf of the Estate. I recommend that you file your Demand for Notice with the probate court so that subsequent counsel for the Estate, if and when that change occurs, is aware of and bound by your demand as well.

Michelle Margolies Tran

CLARK HILL PLC

14850 N Scottsdale Rd | Suite 600 | Scottsdale, Arizona 85254
480.822.6745 (direct) | 480.684.1169 (fax)

mtran@clarkhill.com | blo | www.clarkhill.com



Birmingham • Chicago • Detroit • Grand Rapids • Lansing • Philadelphia •
Phoenix • Pittsburgh • Princeton • Washington DC • Morgantown • Wilmington

From: Scott A. Swinson [mailto:scott@swinsonlawaz.com]
Sent: Tuesday, August 09, 2016 12:24 PM
To: Tran, Michelle M.
Cc: Rob Brinkman
Subject: Estate of Chittick

Ms. Tran

Please see attached letter and Request for Notice regarding the above referenced estate.

Scott A. Swinson
SCOTT A. SWINSON, P.A.
2400 E. Arizona Biltmore Circle
Suite 1300
Phoenix, AZ 85016
602-957-6740 Office
602-522-3946 Fax

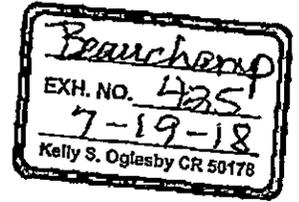
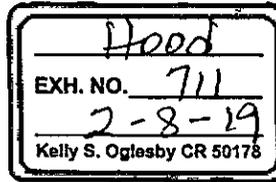
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CLARK HILL



Ryan J. Lorenz
T 480.684.1167
F 480.684.1167
Email: rlorenz@clarkhill.com

Clark Hill PLC
14850 N. Scottsdale Road
Suite 500
Scottsdale, AZ 85254
T 480.684.1100
F 480.684.1199

clarkhill.com

June 22, 2017

*Delivered via Certified Mail, return receipt requested,
and First Class Mail*

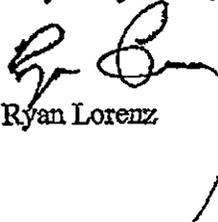
Peter S. Davis
DenSco Receiver
Simon Consulting, LLC
3200 N. Central Avenue, Ste. 2460
Phoenix, AZ 85012

Re: *Arizona Corporation Commission v. DenSco Investment Corporation,*
Maricopa County Superior Court Case No. CV2016-014142

Mr. Davis:

Enclosed are two proofs of claims filed with your office as permitted by the court's order granting petition no. 19 in the above-reference litigation in which you are appointed receiver. We have sent these proofs of claims to you by certified mail, return receipt and first class mail. On the assumption that you receive both of these mailings, please mail us back the copies sent via first class mail bearing a file-stamp of some kind for your office. We are including a SASE for that purpose.

Very Truly Yours,



Ryan Lorenz

RJL:slo
Encl.

PROOF OF CLAIM

DenSco Investment Corporation Receivership

Case No. CV 2016-014142

Peter S. Davis, Receiver

This claim is being solicited pursuant to Petition No. 19. A claimant is a person entitled to assert a right of payment or claim against DenSco Investment Corporation or against any Receivership Asset. For additional information, please access the Receiver's website at denscoreceiver1.godaddy.com or denscoinvestment.com, or contact the Receiver in writing at the address below.

Check here if this Claim: Replaces Amends Supplements
A previously filed claim dated: _____

Claimant Information:

Name: CLARK HILL PLO
Address: 65 Ryan Lorenz
Mesa Rd. Scottsdale Rd. Ste. 500
Scottsdale, AZ 85254
Email: RLorenz@ClarkHill.com
Telephone: 480-684-1107

*** URGENT MATTER ***
CLAIM FORM MUST BE PROVIDED
TO THE RECEIVER ON OR BEFORE
JUNE 30, 2017

NON-INVESTOR CLAIM

A Non-Investor Claim is a claim that does NOT arise from the placement or loan of the Claimant's own funds with DenSco Investment Corporation pursuant to Confidential Private Offering Memoranda.

Basis for Your Claim:

- Administrative Claim related to costs or expenses incurred on or after August 18, 2016 on behalf of the Receiver or DenSco Investment Corporation (other than Administrative Claims of the Receiver or the Receiver's agents)
- Goods Purchased
- Services Performed
- Money Loaned
- Wages, Salaries, and Compensation
- Other Form of Contract
- Other Type of Claim

Details of Your Claim:

Relevant Dates: From: June 1, 2016 To: August 17, 2016

Is Your Claim Secured? A Secured Claim is secured by a property perfected lien on Receivership Assets. An Unsecured Claim is a Claim against DenSco Investment Corporation or a Receivership Asset other than an Investor Claim.

I have a Secured Claim (Attach Evidence of Security). Secured Claim Amount: \$ _____
 I have an Unsecured Claim. Unsecured Claim Amount: \$ 53,820.00

Description: Please provide below all relevant details regarding the basis for your claim, such as the type of goods purchased or services performed, the purpose of the loan, the nature of the contract, etc.:

Clark Hill provided legal services to DenSco Investment Corp. in June, July, August, September 2016. The work performed is documented by the firm's invoices. These are attached to this proof of claim with an affidavit of Ryan Lorenz. The services provided to DenSco Investment Corp. on and after August 18, 2016 are a separate administrative claim.

Documentation of Your Claim:

Please attach copies of all documents in support of this claim, such as invoices, statements, contracts, notes, guarantees, judgments, evidence of security, or any other documents establishing the indebtedness of DenSco Investment Corporation or the Receivership Estate to you. Do not file original documents with your Claim. If a supporting document is not available, you must attach an explanation as to why the document is not available.

CLAIMANT OATH

I have personal knowledge of the facts set forth above and I declare, under the penalty of perjury, that the above information is true and correct.

Name (Print): Ryan J. Lorenz Signature: [Signature] Date: June 21, 2017
Name (Print): _____ Signature: _____ Date: _____

Provide your completed and signed Proof of Claim and copies of all documents supporting your claim to the Receiver on or before **June 30, 2017**.

PLEASE MAIL TO: DenSco Receiver
Simon Consulting, LLC
3200 North Central Avenue, Suite 2460
Phoenix, Arizona 85012

Affidavit of Ryan Lorenz

STATE OF ARIZONA)
) ss.
Maricopa County)

Ryan Lorenz, first duly sworn, upon his oath, deposes and states as follows:

1. I am over the age of nineteen years, am competent to give sworn testimony, and have personal knowledge of all matters set forth in this affidavit.

2. I am a 1999 graduate of Creighton University School of Law and was admitted to practice before courts of the state of Arizona in 1999.

3. In 2002, I was admitted to practice before the courts of the state of Nevada. I have also been admitted to practice before the United States District Court for the Districts of Arizona, Nevada and Colorado; the United States Court of Appeals for the Ninth Circuit; the United States Supreme Court; and a dozen tribal courts in Arizona.

4. I have never had my privilege to practice suspended or terminated. I have never been subject to discipline by any court.

5. I am familiar with the requirement of reasonableness of attorneys' fees as provided by ER 1.5, Rule 42, Arizona Rules of the Supreme Court. I am also familiar with hourly rates, billing practices, and the requirement to document and communicate accurately and completely the amount an attorney is billing and justification for such billing.

6. I am a member in the firm of Clark Hill PLC ("Firm") and have been with the Firm since 2009. David Beauchamp is a member of the Firm in its corporate practice group and has been with the firm since 2013. Mr. Beauchamp has been admitted to practice in Arizona since 1981.

7. In 2016 and earlier, the Firm represented DenSco Investment Corporation ("DenSco"). The subject matter of the Firm's work for DenSco was general business advice and representation.

8. The Firm accrued unpaid attorneys' fees for work performed by Mr. Beauchamp. These fees were documented by invoices attached to this affidavit and reflect the time and effort expended by Mr. Beauchamp. The Firm is owed \$2,300 for 5.0 hours of attorney time at \$460/hour, for its invoices reflecting services in June and July 2016.

9. After the death of DenSco's principal, Denny Chittick, in July 2016, the Firm transitioned the subject matter of its work to advice and guidance to DenSco to assist it in winding down its business. Through August 17, 2016, Mr. Beauchamp expended 112.0 hours on intensive daily work to support and advise DenSco. At \$460/hour, the Firm accrued \$51,520 in billing. Prior to August 18, 2016, the total of unpaid fees remaining owing is \$53,820.

10. On and after August 18, 2016, the Firm continued to provide services to DenSco, but at a reduced level of intensity, due to the appointment of a receiver to manage its affairs, and the retention by the receiver of separate counsel. During the remainder of August 2016, Mr. Beauchamp expended 48.8 hours at \$460/hour for a total of \$22,448 in fees.

11. In September 2016, Mr. Beauchamp expended 3.1 hours in further assisting and advising DenSco. However, Mr. Beauchamp marked 1.8 hours as "no charge", thereby reducing the amount of fees incurred to 1.3 hours at \$460/hour, for a total of \$598. Between August 18 and September 30, 2016, the Firm accrued \$23,046.

12. Between pre-August 18, 2016, and post-August 17, 2016 fees, the Firm's outstanding balance for work performed by Mr. Beauchamp is \$76,866.

13. For purposes of asserting a claim against DenSco's receivership estate, the Firm has bifurcated these amounts into \$53,820 for pre-August 18, 2016 and \$23,046 for post-August 17, 2016 fees. The Firm claims that the latter fees were incurred on behalf of DenSco and are, therefore, administrative in nature.

14. Based upon my review of the time entries documented and discussed above, it is my opinion, based upon my knowledge, experience and interaction with other attorneys of similar or greater experience that the time quantities and hourly rate are reasonable. It is my further opinion that the fee amounts discussed above are reasonable and incurred for DenSco's pre- and post-receivership benefit.

Further affiant sayeth naught.

Dated this 21 day of June 2017.

CLARK HILL PLC


Ryan Lorenz
Its Member

SUBSCRIBED AND SWORN TO before me this 21 day of June 2017, by Ryan Lorenz,
as a member of Clark Hill PLC.


Notary Public



SHONDA LEE ORDONEZ
Notary Public - Arizona
Maricopa County
Expires 08/04/2018

CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500
Scottsdale, AZ 85254
Telephone (480) 684-1100
Fed ID # 33-0425840

INVOICE

Invoice # 663658

DenSco Investment Corporation
Attn: Denny Chittick
6132 W. Victoria Place
Chandler, AZ 85226

July 22, 2016
Client: 43820
Matter: 170145

=====
RE: Business Matters

FOR SERVICES RENDERED through June 30, 2016

Total Services:	\$1,886.00
INVOICE TOTAL	\$1,886.00
TOTAL AMOUNT DUE	<u>\$1,886.00</u>

PAYABLE UPON RECEIPT IN U S DOLLARS

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Matters
July 22, 2016
INVOICE # 663658
Page 2

DETAILED DESCRIPTION OF SERVICES

06/02/16	DGB	Review and respond to emails; prepare, work on and revise detailed response to ADFI and send to D. Chittick for approval; work on information to submit to ADFI.	2.60
06/03/16	DGB	Review and respond to several emails concerning supplemental filing with ADFI; attach exhibits and file response.	.80
06/24/16	DGB	Review and respond to email from D. Chittick; review document.	.30
06/28/16	DGB	Review and respond to email from D. Chittick; review documents and HUD-1; email questions regarding HUD-1.	.40

\$1,886.00

TIMEKEEPER SUMMARY

DGB	David G. Beauchamp	4.10 hours at \$460.00 =	\$1,886.00
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CLARK HILL PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500
Scottsdale, AZ 85254
Telephone (480) 684-1100
Fed ID # 38-0425840

INVOICE

Invoice # 666138

DenSco Investment Corporation
Attn: Denny Chittick
6132 W. Victoria Place
Chandler, AZ 85226

August 10, 2016
Client: 43820
Matter: 170145

=====
RE: Business Matters

FOR SERVICES RENDERED through July 31, 2016

Total Services:			\$414.00
INVOICE TOTAL			\$414.00
07/22/16	663658	\$1886.00	
Outstanding Balance:			<u>\$1,886.00</u>
TOTAL AMOUNT DUE			<u>\$2,300.00</u> =====

PAYABLE UPON RECEIPT IN U.S. DOLLARS

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Matters
August 10, 2016
INVOICE # 666138
Page 2

DETAILED DESCRIPTION OF SERVICES

07/30/16	DGB Telephone call with R. Koehler and S. Heuer regarding transition after death of D. Chittick; review records and obligations.	.10
07/31/16	DGB Review and respond to several emails concerning meeting and questions; review and respond to emails from S. Heuer regarding notice to investors.	.80

\$414.00

TIMEKEEPER SUMMARY

DGB	David G. Beauchamp	0.90 hours at \$460.00 =	\$414.00
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CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N Scottsdale Road, Suite 500
Scottsdale, Arizona 85254
Telephons (480) 684-1100
Fed.ID # 98-0425840

INVOICE

DenSco Investment Corporation
Attn: Peter Davis, Receiver
Simon Consulting
3200 N. Central Avenue
Suite 2460
Phoenix, AZ 85012

Invoice# 670634
September 12, 2016
Client: 43820
Matter: 307376

=====

RE: Business Wind Down

FOR SERVICES RENDERED through August 31, 2016

Total Services:	\$73,968.00
INVOICE TOTAL	\$73,968.00

PAYABLE UPON RECEIPT IN U S DOLLARS

CLARK HILL P.L.C.

DenSCO Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 2

DETAILED DESCRIPTION OF SERVICES

08/01/16 DGB	Review emails, documents, information and chronology of events; telephone call with R. Koehler; several telephone calls with S. Heuer; prepare for and meeting with S. Heuer and R. Koehler regarding events, issues, procedure and requirements; review documents and information; outline follow up and procedure; review email instructions from D. Chittick; outline issues and follow up; review information from DenSCO's files; work on follow up.	8.10
08/02/16 DGB	Review, work on and respond to several emails and text messages; review notes, information from S. Heuer and work on information; meeting with S. Heuer and review documents and information; review Managed Bankruptcy Docket information and requirements; work on information for status email to Investors; outline email and research information for email; work on requirements and outline procedure for compliance; several telephone calls with S. Heuer regarding information and procedure; telephone call with office of R. Koehler.	6.70
08/03/16 DGB	Review, work on and respond to several emails and text messages; review notes and information from S. Heuer and R. Koehler regarding information for update to Investors; work on and prepare detailed update to Investors; extended telephone call with G. Clapper at AZ Securities Division; several telephone calls with R. Koehler; several telephone calls with S. Heuer regarding updated email to Investors, issues and procedure; review message from Y. Fielding; telephone call with Y. Fielding regarding Investor information; work on and revise detailed update to Investors; transmit detailed update.	7.80

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 3

08/04/16	DGB	Review, work on and respond to several emails and text messages; extended telephone call with S. Heuer regarding new information from Investors and AZ Securities Division; work on information for Investors, procedure and requirements; review message from K. Johnson; telephone call with K. Johnson regarding status of Statutory Agent, notices and requirements; review correspondence from W. Coy of AZ Securities Division; work on information from DenSco files; work on information from Investors; outline questions to address.	8.80
08/05/16	DGB	Review, work on and respond to several emails and text messages; review documents and work on issues and information; several telephone calls with W. Coy regarding background information, requirements, procedure and status of Menaged Bankruptcy, issues and procedure; extended telephone call with S. Heuer regarding DenSco documents, files and information; telephone call with W. Ledut regarding status and procedure for investors; prepare detailed status email to all Investors; work on and revise email; transmit same.	8.40
08/06/16	DGB	Review, work on and respond to several emails and text messages; review messages; review documents and information from Investors; review DenSco files; relay information to Investors from DenSco files.	2.40
08/07/16	DGB	Review, work on and respond to several emails and text messages; review messages; review documents and information from Investors; review information from DropBox.	2.90
08/08/16	DGB	Review, work on and respond to several emails and text messages; review several messages; several telephone calls with L. Shultz and other investors concerning procedure to take action against S. Menaged; review Subpoena from AZ Securities Division; forward Subpoena to required parties; review Subpoena and outline information and sources to obtain information for Subpoena; prepare for and extended telephone call with W. Coy regarding Subpoena,	9.60

CLARK HILL P.L.C.

Densco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 4

Wednesday meeting, issues and procedure;
prepare detailed email update to Investors to
respond to questions and provide update.

- 08/09/16 DGB Review, work on and respond to several emails and text messages; prepare for meeting with AZ Securities Division; work on issues and outline follow up; review messages; review detailed message from C. Gorman regarding selection of Receiver, Menaged Bankruptcy; extended telephone call with C. Gorman regarding possible Receivership; several telephone calls with K. Merritt; telephone call with P. Erbland; work on questions from Investors and respond to Investors via email; work on information and questions to discuss concerning Subpoena with AZ Securities Division; review files and information. 7.80
- 08/10/16 DGB Review, work on and respond to several emails and text messages; review several messages; prepare for and meeting with S. Heuer regarding preparations for meeting with AZ Securities Division; prepare and transmit letter to W. Coy regarding response to Subpoena; review messages from S. Heuer; several telephone calls with S. Heuer regarding Densco boxes and procedure, issues for meeting and schedule; meeting with S. Heuer; meeting with W. Coy, G. Clapper and B. Woerner (with S. Heuer on phone) to discuss issues, background, Receivership, cash, interim instructions, Subpoena and procedure; review and work on boxes; review filings from Menaged Bankruptcy. 9.50
- 08/11/16 DGB Review, work on and respond to several emails and text messages; review documents and information for loan payoffs; review files, documents and work on information for response to Subpoena; conference call with S. Heuer, J. Polese and K. Merritt regarding documents, privilege log and procedure; telephone call with R. Koehler regarding information for loan payoff, procedure and requirements for Densco boxes in possession of R. Koehler; review Menaged Bankruptcy docket and issues; review documents from Bankruptcy affecting Densco; review messages for loan payoffs.. 7.90

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 5

08/12/16 DGB Review, work on and respond to several emails and text messages; review documents and information; review message from W. Coy; telephone call with W. Coy regarding procedure for Receiver, issues and requirements; conference call with J. Polese and K. Merritt regarding procedure with DenSco boxes, response to Subpoena from AZ Securities Division, possible receivables and requirements and status of Investor files; review message from G. Clapper; review message from B. Edwards of MainStar Trust; telephone call with office of B. Edwards; review detailed message from K. Merritt; review message from office of J. Polese; telephone call with office of K. Merritt; coordinate and work with the transfer of DenSco boxes; review correspondence from J. Polese; review and respond to questions from Investors via email; work on loan payoff information. 8.90

08/13/16 DGB Review email; telephone call with K. Merritt regarding delivery of D. Chittick's computer, additional files, DenSco mail and documents; review information and outline follow up. .50

08/14/16 DGB Review, work on and respond to several emails; work on information concerning loan payoffs; review several emails from Investors and respond to same. .90

08/15/16 DGB Review, work on and respond to several emails and text messages; review and work on documents and information; review messages and information concerning loan pay-offs; several telephone conversations with borrowers, escrow agents and real estate agents; work on information for loan pay-offs; review files and documents; work on information and issues for response to subpoena from AZ Securities Division; review message from K. Merritt; telephone call with office of K. Merritt; arrange for transfer of D. Chittick's computer; review message from G. Clapper; telephone call with G. Clapper regarding Forbearance Agreement; arrange for copy for G. Clapper. 5.90

CLARK HILL P.L.C.

DenSCO Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 6

08/16/16 DGB Review, work on and respond to several emails and text messages; review messages; several telephone conversations with escrow agents, title officers, real estate agents and borrowers; review files and documents; work on information and issues for response to Subpoena from AZ Securities Division; telephone call with office of R. Koehler regarding payoff calculation; review question from investor and respond; review notes and information from B. Luchtel; telephone call with B. Luchtel. 4.20

08/17/16 DGB Review, work on and respond to several emails and telephone messages; review messages; several telephone calls with escrow agents, borrowers and real estate agents; work on and revise Declaration; review POM and file documents to confirm information for Declaration; sign and transmit Declaration; several telephone calls with G. Clapper and W. Coy; conference call with J. Polesa and K. Merritt RE; motion for and hearing to appoint receiver; review documents; work on issues and information concerning response to subpoena from AZ Securities Division; review message from L. Schultz; several telephone calls with L. Schultz regarding loan payoffs, issues and procedure; follow up with emails; review messages from B. Edwards; telephone call with office of B. Edwards; review message from M. Blackbird regarding loan payoffs; several telephone calls with M. Blackbird regarding loan payoffs; telephone call with R. Koehler regarding loan payoffs; review message from P. Crawford; telephone call with K. Merritt regarding loan payoffs and information; telephone call with P. Crawford regarding Deeds of Release and documentation for release. 11.70

08/01/2016 -
08/17/2016

Subtotal:

112.0 hrs @
\$460/hr =

\$51,520

08/18/16 DGB Review, work on and respond to several emails and text messages; review messages; several telephone calls with W. Coy and G. Clapper regarding information for hearing; travel to and attend hearing; work with G. Clapper concerning loan files; discuss issues and procedure with W. Coy; meeting with K. Merritt to discuss attorney-client privilege log and response to subpoena from AZ Securities Division; work on issues and 12.50

08/18/2016 -
08/31/2016

Subtotal:

48.8 hrs @
\$460/hr =

\$22,448

CLARK HILL P.L.C.

DenSCO Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 7

information for response to subpoena; several telephone calls with T. Hall regarding documentation for release of loan escrow; review loan files; insert loan payoff information from R. Koehler and transmit payoff information; review documents and information from W. Coy.

08/19/16	DGB	Review, work on and respond to several emails from Investors, borrowers and third parties; review several messages; several telephone calls with escrow agents, borrowers and real estate agents concerning loan payoffs, issues and procedure; review files and documents; work on information concerning response to subpoena from AZ Securities Division; telephone call with R. Anderson regarding representation of Receiver; prepare email with introduction to R. Koehler and to escrow agents; work on loan payoff information for escrows to close; telephone call with office of K. Merritt; review files for information for K. Merritt and W. Coy.	6.80
08/20/16	DGB	Review, work on and respond to several emails; review files and documents; work on information concerning response to subpoena from AZ Securities Division; work on information concerning borrower loans.	2.60
08/21/16	DGB	Review, work on and respond to several emails; work on information concerning response to Subpoena from AZ Securities Division; work on information concerning borrower loans.	1.60
08/22/16	DGB	Review, work on and respond to several emails; review several messages; telephone calls with Escrow Agents, Real Estate Agents, borrowers and Title Company staff regarding loan pay offs, issues and procedure; review files and documents; work on information concerning response to Subpoena from AZ Securities Division; review several messages from M. Blackford; several telephone calls with M. Blackford; review message from D. Woods;	5.60

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 8

telephone call with office of D. Woods;
telephone call with D. Woods regarding loan pay
offs for DenSco; review message from K.
Merritt; work on loan pay offs information;
telephone call with office of D. Jackman; work
on documents from files for K. Merritt.

08/23/16 DGB Review, work on and respond to several 6.60
emails; review several messages; several
telephone calls with Escrow Agents, borrowers
and real estate agents regarding loan pay
offs, issues and procedure; review file and
documents; work on information requested by
Receiver, other attorneys and for response to
Subpoena from AZ Securities Division;
telephone call with D. Jackman regarding loan
pay off procedure; review several messages
from D. Woods; telephone call with D. Woods;
review message from M. Blackford; telephone
call with M. Blackford; review message from
Sara (Simon Consulting) regarding pick up of
boxes; coordinate same; forward loan pay off
requests to C. Schmidt; review files to
confirm information requested.

08/24/16 DGB Review, work on and respond to several 1.60
emails; review messages from borrowers,
escrow agents and real estate agents; send
emails to direct them to office of Receiver's
counsel; review and work on notes concerning
response to Subpoena from AZ Securities
Division.

08/25/16 DGB Review, work on and respond to several 2.20
emails; review messages; several telephone
calls with borrowers, escrow agents and real
estate agents; review and work on files and
information to respond to Subpoena from AZ
Securities Division.

08/26/16 DGB Review, work on and respond to several 3.80
emails; review draft pleadings and proposed
order from R. Anderson; review messages;
review and work on files, documents and
information for Receiver and to respond to
Subpoena from AZ Securities Division.

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 9

08/27/16	DGB	Review email and information concerning police report and information for Receiver; review information concerning 341 Hearing.	.40
08/29/16	DGB	Review telephone message from borrower; review, work on and respond to emails; forward borrower information to C. Schmidt; review, work on and respond to several emails; review correspondence and pleadings from R.. Anderson; review information form J. Polese and K. Merritt; review emails and questions from Investors.	2.10
08/30/16	DGB	Review messages from Stewart Title regarding loan payoff; telephone call with K. Wettering regarding loan payoff issues and procedure; review email and forward to C. Schmidt; review message from K. Merritt; telephone call with office of K. Merritt; work on files for transmittal to Receiver; discuss issues and procedure with M. Sifferman; review, work on and respond to several emails; telephone call with K. Merritt regarding email, issues and procedure for privilege log; review Proposed Administrative Procedure Order; review emails and forward links to K. Merritt regarding Active Funding Group and partners of S. Managed.	2.10
08/31/16	DGB	Review message from title company concerning loan payoff; telephone call with T. Hall regarding same; work on information for file transition.	.90

\$73,968.00

TIMEKEEPER SUMMARY

DGB David G. Beauchamp 160.80 hours at \$460.00 = \$73,968.00

CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500
Scottsdale, AZ 85254
Telephone (480) 684-1100
Fed ID # 33-0425840

INVOICE

Invoice # 677709

DenSco Investment Corporation
Attn: Peter Davis, Receiver
Simon Consulting
3200 N. Central Avenue
Suite 2450
Phoenix, AZ 85012

October 18, 2016
Client: 43820
Matter: 307376

=====
RE: Business Wind Down

FOR SERVICES RENDERED through September 30, 2016

Total Services: \$598.00

INVOICE TOTAL \$598.00

09/12/16 670634 \$73968.00

Outstanding Balance: \$73,968.00

TOTAL AMOUNT DUE \$74,566.00
=====

PAYABLE UPON RECEIPT IN U.S. DOLLARS

CLARK HILL P.L.C.

DensCo Investment Corporation
Business Wind Down
October 18, 2016
INVOICE # 677709
Page 2

DETAILED DESCRIPTION OF SERVICES

09/05/16	DGB	Review and work on files for transition (1.8 no charge); telephone call with K. Merritt regarding Common Sense Agreement; attorney-client review of documents and procedure (0.5 no charge).	.10
09/08/16	DGB	Work on information and procedure for transition of files to Receiver; discuss issues and procedure with M. Sifferman (2.8 no charge).	.10
09/09/16	DGB	Review and respond to emails from M. Blackford and escrow agent (0.3); review and work on files for file transition (1.7 no charge).	.30
09/10/16	DGB	Review and respond to email from M. Blackford regarding loan payoff (0.1); review and work on files for transition (2.1 no charge).	.10
09/12/16	DGB	Review and respond to email from S. Beretta in Receiver's office (0.2); review and respond to email from K. Merritt regarding files for review; several telephone calls with K. Merritt regarding regarding files for review for attorney-client information; work on file transition (3.2 no charge).	.20
09/13/16	DGB	Review files and confirm information of Receiver; review and respond to email from S. Beretta in Receiver's Office.	.70
09/13/16	DGB	Work on files for transition (2.1 no charge).	.10
09/14/16	DGB	Conference call with S. Beretta in office of P. Davis (0.1 no charge); extended conference call with K. Merritt regarding attorney-client issues and procedure with Clark Hill files; prepare for conference call with P. Davis and work on file transition (1.5 no charge).	.10

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
October 18, 2016
INVOICE # 677709
Page 3

09/15/16 DGB Review files information and work on transfer .10
of files (3.2 no charge).

09/16/16 DGB Review emails and correspondence; telephone .10
call with R. Anderson regarding issues
concerning requirements for transmittal of
files and prior obligations under AZ
Securities Division subpoena; review emails
concerning Common Sense Agreement and
Attorney-Client issues (1.6 no charge).

09/23/16 DGB Review and respond to several emails concerning 1.20
procedure for Attorney-Client review of files
(1.2 no charge).

\$598.00

TIMEKEEPER SUMMARY

DGB	David G. Beauchamp	1.80 hours at	\$0.00 =	\$0.00
DGB	David G. Beauchamp	1.30 hours at	\$460.00 =	\$598.00

PROOF OF CLAIM

DenSCO Investment Corporation Receivership
Case No. CV 2016-014142
Peter S. Davis, Receiver

This claim is being solicited pursuant to Petition No. 19. A claimant is a person entitled to assert a right of payment or claim against DenSCO Investment Corporation or against any Receivership Asset. For additional information, please access the Receiver's website at denSCOREceiver1.godaddy.com or denSCOinvestment.com, or contact the Receiver in writing at the address below.

Check here if this Claim: Replaces Amends Supplements
A previously filed claim dated: _____

Claimant Information

Name: CLARK HILL FLO
Address: do Ryan Lorenz
14950 N Scottsdale Rd Ste 500
Scottsdale, AZ 85254
Email: rlorenz@clarkhill.com
Telephone: 480-684-4107

*** URGENT MATTER ***
CLAIM FORM MUST BE PROVIDED
TO THE RECEIVER ON OR BEFORE
JUNE 30, 2017

NON-INVESTOR CLAIM

A Non-Investor Claim is a claim that does NOT arise from the placement or loan of the Claimant's own funds with DenSCO Investment Corporation pursuant to Confidential Private Offering Memoranda.

Basis for Your Claim:

Administrative Claim related to costs or expenses incurred on or after August 18, 2016 on behalf of the Receiver or DenSCO Investment Corporation (other than Administrative Claims of the Receiver or the Receiver's agents)

Goods Purchased
 Services Performed
 Money Loaned
 Wages, Salaries, and Compensation
 Other Form of Contract
 Other Type of Claim

Details of Your Claim:

Relevant Dates: From: August 18, 2016 To: September 30, 2016

Is Your Claim Secured? A Secured Claim is secured by a property perfected lien on Receivership Assets. An Unsecured Claim is a Claim against DenSCO Investment Corporation or a Receivership Asset other than an Investor Claim.

I have a Secured Claim (Attach Evidence of Security). Secured Claim Amount: \$ _____
 I have an Unsecured Claim. Unsecured Claim Amount: \$ 23,046.00

Description: Please provide below all relevant details regarding the basis for your claim, such as the type of goods purchased or services performed, the purpose of the loan, the nature of the contract, etc.:

Clark Hill provided legal services to DenSCO Investment Corp. in June, July, August, September 2016. The work performed is documented by the firm's invoices. These are attached to this proof of claim with an affidavit of Ryan Lorenz. The services provided to DenSCO Investment Corp. on and before August 18, 2016, are a separate unsecured claim.

Documentation of Your Claim:

Please attach copies of all documents in support of this claim, such as invoices, statements, contracts, notes, guarantees, judgments, evidence of security, or any other documents establishing the indebtedness of DenSCO Investment Corporation or the Receivership Estate to you. Do not file original documents with your Claim. If a supporting document is not available, you must attach an explanation as to why the document is not available.

CLAIMANT OATH

I have personal knowledge of the facts set forth above and I declare, under the penalty of perjury, that the above information is true and correct.

Name (Print): Ryan J. Lorenz Signature: [Signature] Date: June 21, 2017
Name (Print): _____ Signature: _____ Date: _____

Provide your completed and signed Proof of Claim and copies of all documents supporting your claim to the Receiver on or before June 30, 2017.

PLEASE MAIL TO: DenSCO Receiver
Simon Consulting, LLC
3200 North Central Avenue, Suite 2460
Phoenix, Arizona 85012

Affidavit of Ryan Lorenz

STATE OF ARIZONA)
) ss.
Maricopa County)

Ryan Lorenz, first duly sworn, upon his oath, deposes and states as follows:

1. I am over the age of nineteen years, am competent to give sworn testimony, and have personal knowledge of all matters set forth in this affidavit.

2. I am a 1999 graduate of Creighton University School of Law and was admitted to practice before courts of the state of Arizona in 1999.

3. In 2002, I was admitted to practice before the courts of the state of Nevada. I have also been admitted to practice before the United States District Court for the Districts of Arizona, Nevada and Colorado; the United States Court of Appeals for the Ninth Circuit; the United States Supreme Court; and a dozen tribal courts in Arizona.

4. I have never had my privilege to practice suspended or terminated. I have never been subject to discipline by any court.

5. I am familiar with the requirement of reasonableness of attorneys' fees as provided by ER 1.5, Rule 42, Arizona Rules of the Supreme Court. I am also familiar with hourly rates, billing practices, and the requirement to document and communicate accurately and completely the amount an attorney is billing and justification for such billing.

6. I am a member in the firm of Clark Hill PLC ("Firm") and have been with the Firm since 2009. David Beauchamp is a member of the Firm in its corporate practice group and has been with the firm since 2013. Mr. Beauchamp has been admitted to practice in Arizona since 1981.

7. In 2016 and earlier, the Firm represented DenSco Investment Corporation ("DenSco"). The subject matter of the Firm's work for DenSco was general business advice and representation.

8. The Firm accrued unpaid attorneys' fees for work performed by Mr. Beauchamp. These fees were documented by invoices attached to this affidavit and reflect the time and effort expended by Mr. Beauchamp. The Firm is owed \$2,300 for 5.0 hours of attorney time at \$460/hour, for its invoices reflecting services in June and July 2016.

9. After the death of DenSco's principal, Denny Chittick, in July 2016, the Firm transitioned the subject matter of its work to advice and guidance to DenSco to assist it in winding down its business. Through August 17, 2016, Mr. Beauchamp expended 112.0 hours on intensive daily work to support and advise DenSco. At \$460/hour, the Firm accrued \$51,520 in billing. Prior to August 18, 2016, the total of unpaid fees remaining owing is \$53,820.

10. On and after August 18, 2016, the Firm continued to provide services to DenSco, but at a reduced level of intensity, due to the appointment of a receiver to manage its affairs, and the retention by the receiver of separate counsel. During the remainder of August 2016, Mr. Beauchamp expended 48.8 hours at \$460/hour for a total of \$22,448 in fees.

11. In September 2016, Mr. Beauchamp expended 3.1 hours in further assisting and advising DenSco. However, Mr. Beauchamp marked 1.8 hours as "no charge", thereby reducing the amount of fees incurred to 1.3 hours at \$460/hour, for a total of \$598. Between August 18 and September 30, 2016, the Firm accrued \$23,046.

12. Between pre-August 18, 2016, and post-August 17, 2016 fees, the Firm's outstanding balance for work performed by Mr. Beauchamp is \$76,866.

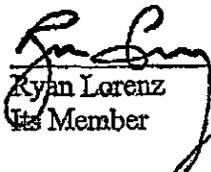
13. For purposes of asserting a claim against DenSco's receivership estate, the Firm has bifurcated these amounts into \$53,820 for pre-August 18, 2016 and \$23,046 for post-August 17, 2016 fees. The Firm claims that the latter fees were incurred on behalf of DenSco and are, therefore, administrative in nature.

14. Based upon my review of the time entries documented and discussed above, it is my opinion, based upon my knowledge, experience and interaction with other attorneys of similar or greater experience that the time quantities and hourly rate are reasonable. It is my further opinion that the fee amounts discussed above are reasonable and incurred for DenSco's pre- and post-receivership benefit.

Further affiant sayeth naught.

Dated this 21 day of June 2017.

CLARK HILL PLC



Ryan Lorenz
Its Member

SUBSCRIBED AND SWORN TO before me this 21 day of June 2017, by Ryan Lorenz,
as a member of Clark Hill PLC.



SHONDA LEE ORDONEZ
Notary Public - Arizona
Maricopa County
Expires 08/04/2018



Notary Public

CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500
Scottsdale, AZ 85254
Telephone (480) 684-1100
Fed ID # 38-0425840

INVOICE

Invoice # 663658

DenSco Investment Corporation
Attn: Denny Chittick
6132 W. Victoria Place
Chandler, AZ 85226

July 22, 2016
Client: 43820
Matter: 170145

=====

RE: Business Matters

FOR SERVICES RENDERED through June 30, 2016

Total Services:	\$1,886.00
INVOICE TOTAL	\$1,886.00
TOTAL AMOUNT DUE	\$1,886.00 =====

PAYABLE UPON RECEIPT IN U S DOLLARS

CLARK HILL P.L.C.

Densco Investment Corporation
Business Matters
July 22, 2016
INVOICE # 663658
Page 2

DETAILED DESCRIPTION OF SERVICES

06/02/16	DGB	Review and respond to emails; prepare, work on and revise detailed response to ADFI and send to D. Chittick for approval; work on information to submit to ADFI.	2.60
06/03/16	DGB	Review and respond to several emails concerning supplemental filing with ADFI; attach exhibits and file response.	.80
06/24/16	DGB	Review and respond to email from D. Chittick; review document.	.30
06/28/16	DGB	Review and respond to email from D. Chittick; review documents and HUD-1; email questions regarding HUD-1.	.40

\$1,886.00

TIMEKEEPER SUMMARY

DGB	David G. Beauchamp	4.10 hours at \$460.00 =	\$1,886.00
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CLARK HILL PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500
Scottsdale, AZ 85254
Telephone (480) 684-1160
Fed ID # 58-8425840

INVOICE

Invoice # 666138

DenSCO Investment Corporation
Attn: Denny Chittick
6132 W. Victoria Place
Chandler, AZ 85226

August 10, 2016
Client: 43820
Matter: 170145

=====

RE: Business Matters

FOR SERVICES RENDERED through July 31, 2016

Total Services:			\$414.00
INVOICE TOTAL			\$414.00
07/22/16	663658	\$1886.00	
Outstanding Balance:			<u>\$1,886.00</u>
TOTAL AMOUNT DUE			<u>\$2,300.00</u> =====

PAYABLE UPON RECEIPT IN U.S. DOLLARS

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Matters
August 10, 2016
INVOICE # 666138
Page 2

DETAILED DESCRIPTION OF SERVICES

07/30/16	DGB Telephone call with R. Koehler and S. Heuer regarding transition after death of D. Chittick; review records and obligations.	.10
07/31/16	DGB Review and respond to several emails concerning meeting and questions; review and respond to emails from S. Heuer regarding notice to investors.	.80

\$414.00

TIMEKEEPER SUMMARY

DGB	David G. Beauchamp	0.90 hours at \$460.00 =	\$414.00
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CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N Scottsdale Road, Suite 500
Scottsdale, Arizona 85254
Telephone (480) 684-1100
Fed.ID # 38-0425840

INVOICE

DenSco Investment Corporation
Attn: Peter Davis, Receiver
Simon Consulting
3200 N. Central Avenue
Suite 2460
Phoenix, AZ 85012

Invoice # 670634
September 12, 2016
Client: 43820
Matter: 307376

=====

RE: Business Wind Down

FOR SERVICES RENDERED through August 31, 2016

Total Services:	\$73,968.00
INVOICE TOTAL	\$73,968.00

PAYABLE UPON RECEIPT IN U S DOLLARS

CLARK HILL P.L.C.

Densco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 2

DETAILED DESCRIPTION OF SERVICES

08/01/16 DGB Review emails, documents, information and chronology of events; telephone call with R. Koehler; several telephone calls with S. Heuer; prepare for and meeting with S. Heuer and R. Koehler regarding events, issues, procedure and requirements; review documents and information; outline follow up and procedure; review email instructions from D. Chittick; outline issues and follow up; review information from Densco's files; work on follow up. 8.10

08/02/16 DGB Review, work on and respond to several emails and text messages; review notes, information from S. Heuer and work on information; meeting with S. Heuer and review documents and information; review Managed Bankruptcy Docket information and requirements; work on information for status email to Investors; outline email and research information for email; work on requirements and outline procedure for compliance; several telephone calls with S. Heuer regarding information and procedure; telephone call with office of R. Koehler. 6.70

08/03/16 DGB Review, work on and respond to several emails and text messages; review notes and information from S. Heuer and R. Koehler regarding information for update to Investors; work on and prepare detailed update to Investors; extended telephone call with G. Clapper at AZ Securities Division; several telephone calls with R. Koehler; several telephone calls with S. Heuer regarding updated email to Investors, issues and procedure; review message from Y. Fielding; telephone call with Y. Fielding regarding Investor information; work on and revise detailed update to Investors; transmit detailed update. 7.80

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 3

08/04/16	DGB	Review, work on and respond to several emails and text messages; extended telephone call with S. Heuer regarding new information from Investors and AZ Securities Division; work on information for Investors, procedure and requirements; review message from K. Johnson; telephone call with K. Johnson regarding status of Statutory Agent, notices and requirements; review correspondence from W. Coy of AZ Securities Division; work on information from DenSco files; work on information from Investors; outline questions to address.	8.80
08/05/16	DGB	Review, work on and respond to several emails and text messages; review documents and work on issues and information; several telephone calls with W. Coy regarding background information, requirements, procedure and status of Menaged Bankruptcy, issues and procedure; extended telephone call with S. Heuer regarding DenSco documents, files and information; telephone call with W. Ledut regarding status and procedure for investors; prepare detailed status email to all Investors; work on and revise email; transmit same.	8.40
08/06/16	DGB	Review, work on and respond to several emails and text messages; review messages; review documents and information from Investors; review DenSco files; relay information to Investors from DenSco files.	2.40
08/07/16	DGB	Review, work on and respond to several emails and text messages; review messages; review documents and information from Investors; review information from DropBox.	2.90
08/08/16	DGB	Review, work on and respond to several emails and text messages; review several messages; several telephone calls with L. Shultz and other investors concerning procedure to take action against S. Menaged; review Subpoena from AZ Securities Division; forward Subpoena to required parties; review Subpoena and outline information and sources to obtain information for Subpoena; prepare for and extended telephone call with W. Coy regarding Subpoena,	9.60

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 4

Wednesday meeting, issues and procedure;
prepare detailed email update to Investors to
respond to questions and provide update.

- 08/09/16 DGB Review, work on and respond to several emails and text messages; prepare for meeting with AZ Securities Division; work on issues and outline follow up; review messages; review detailed message from C. Gorman regarding selection of Receiver, Menaged Bankruptcy; extended telephone call with C. Gorman regarding possible Receivership; several telephone calls with K. Merritt; telephone call with P. Erbland; work on questions from Investors and respond to Investors via email; work on information and questions to discuss concerning Subpoena with AZ Securities Division; review files and information. 7.80
- 08/10/16 DGB Review, work on and respond to several emails and text messages; review several messages; prepare for and meeting with S. Heuer regarding preparations for meeting with AZ Securities Division; prepare and transmit letter to W. Coy regarding response to Subpoena; review messages from S. Heuer; several telephone calls with S. Heuer regarding DenSco boxes and procedure, issues for meeting and schedule; meeting with S. Heuer; meeting with W. Coy, G. Clapper and B. Woerner (with S. Heuer on phone) to discuss issues, background, Receivership, cash, interim instructions, Subpoena and procedure; review and work on boxes; review filings from Menaged Bankruptcy. 9.50
- 08/11/16 DGB Review, work on and respond to several emails and text messages; review documents and information for loan payoffs; review files, documents and work on information for response to Subpoena; conference call with S. Heuer, J. Polese and K. Merritt regarding documents, privilege log and procedure; telephone call with R. Koehler regarding information for loan payoff, procedure and requirements for DenSco boxes in possession of R. Koehler; review Menaged Bankruptcy docket and issues; review documents from Bankruptcy affecting DenSco; review messages for loan payoffs.. 7.90

CLARK HILL P.L.C.

Densco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 5

08/12/16	DGB Review, work on and respond to several emails and text messages; review documents and information; review message from W. Coy; telephone call with W. Coy regarding procedure for Receiver, issues and requirements; conference call with J. Polese and K. Merritt regarding procedure with DenSco boxes, response to Subpoena from AZ Securities Division, possible receivables and requirements and status of Investor files; review message from G. Clapper; review message from B. Edwards of MainStar Trust; telephone call with office of B. Edwards; review detailed message from K. Merritt; review message from office of J. Polese; telephone call with office of K. Merritt; coordinate and work with the transfer of DenSco boxes; review correspondence from J. Polese; review and respond to questions from Investors via email; work on loan payoff information.	8.90
08/13/16	DGB Review email; telephone call with K. Merritt regarding delivery of D. Chittick's computer, additional files, DenSco mail and documents; review information and outline follow up.	.50
08/14/16	DGB Review, work on and respond to several emails; work on information concerning loan payoffs; review several emails from Investors and respond to same.	.90
08/15/16	DGB Review, work on and respond to several emails and text messages; review and work on documents and information; review messages and information concerning loan pay-offs; several telephone conversations with borrowers, escrow agents and real estate agents; work on information for loan pay-offs; review files and documents; work on information and issues for response to subpoena from AZ Securities Division; review message from K. Merritt; telephone call with office of K. Merritt; arrange for transfer of D. Chittick's computer; review message from G. Clapper; telephone call with G. Clapper regarding Forbearance Agreement; arrange for copy for G. Clapper.	5.90

CLARK HILL P.L.C.

Densco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 6

08/16/16 DGB Review, work on and respond to several emails and text messages; review messages; several telephone conversations with escrow agents, title officers, real estate agents and borrowers; review files and documents; work on information and issues for response to subpoena from AZ Securities Division; telephone call with office of R. Koehler regarding payoff calculation; review question from Investor and respond; review notes and information from B. Luchtel; telephone call with B. Luchtel. 4.20

08/17/16 DGB Review, work on and respond to several emails and telephone messages; review messages; several telephone calls with escrow agents, borrowers and real estate agents; work on and revise Declaration; review POM and file documents to confirm information for Declaration; sign and transmit Declaration; several telephone calls with G. Clapper and W. Coy; conference call with J. Polese and K. Merritt RE: motion for and hearing to appoint receiver; review documents; work on issues and information concerning response to subpoena from AZ Securities Division; review message from L. Schultz; several telephone calls with L. Schultz regarding loan payoffs, issues and procedure; follow up with emails; review messages from B. Edwards; telephone call with office of B. Edwards; review message from M. Blackbird regarding loan payoffs; several telephone calls with M. Blackbird regarding loan payoffs; telephone call with R. Koehler regarding loan payoffs; review message from P. Crawford; telephone call with K. Merritt regarding loan payoffs and information; telephone call with P. Crawford regarding Deeds of Release and documentation for release. 11.70

08/01/2016 -
08/17/2016

Subtotal:

112.0 hrs @
\$460/hr =

\$51,520

08/18/16 DGB Review, work on and respond to several emails and text messages; review messages; several telephone calls with W. Coy and G. Clapper regarding information for hearing; travel to and attend hearing; work with G. Clapper concerning loan files; discuss issues and procedure with W. Coy; meeting with K. Merritt to discuss attorney-client privilege log and response to subpoena from AZ Securities Division; work on issues and 12.50

08/18/2016 -
08/31/2016

Subtotal:

48.8 hrs @
\$460/hr =

\$22,448

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 7

information for response to subpoena; several telephone calls with T. Hall regarding documentation for release of loan escrow; review loan files; insert loan payoff information from R. Koehler and transmit payoff information; review documents and information from W. Coy.

08/19/16	DGB	Review, work on and respond to several emails from Investors, borrowers and third parties; review several messages; several telephone calls with escrow agents, borrowers and real estate agents concerning loan payoffs, issues and procedure; review files and documents; work on information concerning response to subpoena from AZ Securities Division; telephone call with R. Anderson regarding representation of Receiver; prepare email with introduction to R. Koehler and to escrow agents; work on loan payoff information for escrows to close; telephone call with office of K. Merritt; review files for information for K. Merritt and W. Coy.	6.80
08/20/16	DGB	Review, work on and respond to several emails; review files and documents; work on information concerning response to subpoena from AZ Securities Division; work on information concerning borrower loans.	2.60
08/21/16	DGB	Review, work on and respond to several emails; work on information concerning response to Subpoena from AZ Securities Division; work on information concerning borrower loans.	1.60
08/22/16	DGB	Review, work on and respond to several emails; review several messages; telephone calls with Escrow Agents, Real Estate Agents, borrowers and Title Company staff regarding loan pay offs, issues and procedure; review files and documents; work on information concerning response to Subpoena from AZ Securities Division; review several messages from M. Blackford; several telephone calls with M. Blackford; review message from D. Woods;	5.60

CLARK HILL P.L.C.

Densco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 8

telephone call with office of D. Woods;
telephone call with D. Woods regarding loan pay
offs for Densco; review message from K.
Merritt; work on loan pay offs information;
telephone call with office of D. Jackman; work
on documents from files for K. Merritt.

08/23/16 DGB Review, work on and respond to several 6.60
emails; review several messages; several
telephone calls with Escrow Agents, borrowers
and real estate agents regarding loan pay
offs, issues and procedure; review file and
documents; work on information requested by
Receiver, other attorneys and for response to
Subpoena from AZ Securities Division;
telephone call with D. Jackman regarding loan
pay off procedure; review several messages
from D. Woods; telephone call with D. Woods;
review message from M. Blackford; telephone
call with M. Blackford; review message from
Sara (Simon Consulting) regarding pick up of
boxes; coordinate same; forward loan pay off
requests to C. Schmidt; review files to
confirm information requested.

08/24/16 DGB Review, work on and respond to several 1.60
emails; review messages from borrowers,
escrow agents and real estate agents; send
emails to direct them to office of Receiver's
counsel; review and work on notes concerning
response to Subpoena from AZ Securities
Division.

08/25/16 DGB Review, work on and respond to several 2.20
emails; review messages; several telephone
calls with borrowers, escrow agents and real
estate agents; review and work on files and
information to respond to Subpoena from AZ
Securities Division.

08/26/16 DGB Review, work on and respond to several 3.80
emails; review draft pleadings and proposed
order from R. Anderson; review messages;
review and work on files, documents and
information for Receiver and to respond to
Subpoena from AZ Securities Division.

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
September 12, 2016
INVOICE # 670634
Page 9

08/27/16 DGB Review email and information concerning .40
police report and information for Receiver;
review information concerning 341 Hearing.

08/29/16 DGB Review telephone message from borrower; 2.10
review, work on and respond to emails;
forward borrower information to C. Schmidt;
review, work on and respond to several
emails; review correspondence and pleadings
from R. Anderson; review information from J.
Polese and K. Merritt; review emails and
questions from Investors.

08/30/16 DGB Review messages from Stewart Title regarding 2.10
loan payoff; telephone call with K. Wettering
regarding loan payoff issues and procedure;
review email and forward to C. Schmidt;
review message from K. Merritt; telephone
call with office of K. Merritt; work on files
for transmittal to Receiver; discuss issues
and procedure with M. Sifferman; review, work
on and respond to several emails; telephone
call with K. Merritt regarding email, issues
and procedure for privilege log; review
Proposed Administrative Procedure Order;
review emails and forward links to K. Merritt
regarding Active Funding Group and partners
of S. Menaged.

08/31/16 DGB Review message from title company concerning .90
loan payoff; telephone call with T. Hall
regarding same; work on information for file
transition.

\$73,968.00

TIMEKEEPER SUMMARY

DGB David G. Beauchamp 160.80 hours at \$460.00 = \$73,968.00

CLARK HILL

PLC

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500
Scottsdale, AZ 85254
Telephone (480) 684-1100
Fed ID # 33-0425840

INVOICE

Invoice # 677709

DenSco Investment Corporation
Attn: Peter Davis, Receiver
Simon Consulting
3200 N. Central Avenue
Suite 2460
Phoenix, AZ 85012

October 18, 2016
Client: 43820
Matter: 307376

=====

RE: Business Wind Down

FOR SERVICES RENDERED through September 30, 2016

Total Services: \$598.00

INVOICE TOTAL \$598.00

09/12/16 670634 \$73968.00

Outstanding Balance: \$73,968.00

TOTAL AMOUNT DUE \$74,566.00

PAYABLE UPON RECEIPT IN U.S. DOLLARS

CLARK HILL P.L.C.

Densco Investment Corporation
Business Wind Down
October 18, 2016
INVOICE # 677709
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DETAILED DESCRIPTION OF SERVICES

09/05/16	DGB	Review and work on files for transition (1.8 no charge); telephone call with K. Merritt regarding Common Sense Agreement; attorney-client review of documents and procedure (0.5 no charge).	.10
09/08/16	DGB	Work on information and procedure for transition of files to Receiver; discuss issues and procedure with M. Sifferman (2.8 no charge).	.10
09/09/16	DGB	Review and respond to emails from M. Blackford and escrow agent (0.3); review and work on files for file transition (1.7 no charge).	.30
09/10/16	DGB	Review and respond to email from M. Blackford regarding loan payoff (0.1); review and work on files for transition (2.1 no charge).	.10
09/12/16	DGB	Review and respond to email from S. Beretta in Receiver's office (0.2); review and respond to email from K. Merritt regarding files for review; several telephone calls with K. Merritt regarding regarding files for review for attorney-client information; work on file transition (3.2 no charge).	.20
09/13/16	DGB	Review files and confirm information of Receiver; review and respond to email from S. Beretta in Receiver's Office.	.70
09/13/16	DGB	Work on files for transition (2.1 no charge).	.10
09/14/16	DGB	Conference call with S. Beretta in office of P. Davis (0.1 no charge); extended conference call with K. Merritt regarding attorney-client issues and procedure with Clark Hill files; prepare for conference call with P. Davis and work on file transition (1.5 no charge).	.10

CLARK HILL P.L.C.

DenSco Investment Corporation
Business Wind Down
October 18, 2015
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09/15/16 DGB Review files information and work on transfer .10
of files (3.2 no charge).

09/16/16 DGB Review emails and correspondence; telephone .10
call with R. Anderson regarding issues
concerning requirements for transmittal of
files and prior obligations under AZ
Securities Division subpoena; review emails
concerning Common Sense Agreement and
Attorney-Client issues (1.6 no charge).

09/23/16 DGB Review and respond to several emails concerning 1.20
procedure for Attorney-Client review of files
(1.2 no charge).

\$598.00

TIMEKEEPER SUMMARY

DGB	David G. Beauchamp	1.80 hours at	\$0.00 =	\$0.00
DGB	David G. Beauchamp	1.30 hours at	\$460.00 =	\$598.00

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