SEALED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ORIGINAL

UNITED STATES SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. THE HEARTLAND GROUP VENTURES, LLC; HEARTLAND PRODUCTION AND RECOVERY LLC; HEARTLAND PRODUCTION AND RECOVERY FUND LLC; HEARTLAND PRODUCTION AND RECOVERY FUND II LLC; THE HEARTLAND GROUP FUND III, LLC; HEARTLAND DRILLING FUND I, LP; CARSON OIL FIELD DEVELOPMENT FUND II, LP; ALTERNATIVE OFFICE SOLUTIONS, LLC; ARCOOIL CORP.; BARRON PETROLEUM LLC; JAMES IKEY; JOHN MURATORE; THOMAS BRAD PEARSEY; MANJIT SINGH (AKA ROGER) SAHOTA; and RUSTIN BRUNSON, Defendants, and DODSON PRAIRIE OIL & GAS LLC, et al. Relief Defendants.	§	No. 4-21CV-1310-O

FILED UNDER SEAL

PLAINTIFF UNITED STATES SECURITIES AND EXCHANGE COMMISSION'S MEMORANDUM IN SUPPORT OF ITS EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER AND EMERGENCY ANCILLARY RELIEF

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PLAINTIFF UNITED STATES SECURITIES AND EXCHANGE COMMISSION'S MEMORANDUM IN SUPPORT OF ITS EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER AND EMERGENCY ANCILLARY RELIEF

Plaintiff United States Securities and Exchange Commission respectfully submits this memorandum in support of its motion for a temporary restraining order and for emergency ancillary relief. The relief requested in this memorandum is reflected in the proposed orders attached as Exhibit 1 (proposed TRO and ancillary relief), Exhibit 2 (proposed asset freeze), and Exhibit 3 (receivership) to the SEC's motion, which has been filed contemporaneously herewith.

The SEC submits the following evidence in the appendix submitted in connection with this brief:

- The Declaration of SEC Staff Accountant Rebecca Hollenbeck, with exhibits (Tab 1 of the Appendix; A1 – A391): Ms. Hollenbeck analyzed bank account statements for several defendants, among other financial analysis.

- The Expert Submission of Petroleum Engineer J. Daniel Arthur (Tab 2; A392 – A401): Mr. Arthur conducted a site visit to several Heartland wells. He also compared certain representations in Heartland offering documents to publicly-available information about Heartland's wells on the Texas Railroad Commission's (sometimes called "TRRC") website.

- The Declaration of Brad Massey, with exhibit (Tab 3; A402 – A406): Mr. Massey is a petroleum geologist who Defendant Roger Sahota hired to draft a report. Sahota ultimately sent a doctored version of Mr. Massey's report to Heartland, which in turn distributed it to Heartland investors.

- The Declaration of Betina Gilmore, with exhibits (Tab 4: A407 – A445): Ms. Gilmore works for an oil gathering company, TransOil Marketing LLC, that bought oil from ArcoOil Corp. and Barron Petroleum, Defendant Roger Sahota's entities. As reflected in the declaration, Sahota sent doctored versions of TransOil payment receipts to Heartland.

- The Declaration of Zachary Miller (Tab 5; A446 – A448), and the transcript of the video he captured of Sahota (Tab 6; A449 – A455): Mr. Miller is a Heartland investor and a feeder fund manager who visited one of Heartland's wells, during which he videotaped Sahota making certain representations about the well.

- The Declaration of Heartland investor Scott Ostrowski, with exhibits (Tab 7; A456 – A474)

- A Certification Authenticating Certain Captures of Barron Energy's Website, with exhibits (Tab 8; A475 – A507): These captures of Barron Energy's website show Sahota's new and ongoing oil and gas offering.

- The Declaration of SEC attorney Stephanie L. Reinhart, with exhibits (Tab 9; A508 – A578): Ms. Reinhart's declaration attaches certain documents that were produced to the SEC during its investigation.

PRELIMINARY STATEMENT

This case concerns an ongoing oil and gas offering fraud. Since at least October 2018, the Heartland Defendants[1] have raised about $122 million from more than 700 investors nationwide. They did so in five debt and equity securities offerings that were unregistered.

Throughout their offerings, the Heartland Defendants made numerous material misrepresentations and omissions to investors. They told investors that certain oil wells were producing hundreds of barrels of oil a day. But as reflected in the expert submission of Dan Arthur, at the time, those wells had yet to produce a

[1] "**Heartland Entities**" means defendants The Heartland Group Ventures, LLC; Heartland Production and Recovery LLC; Heartland Production and Recovery Fund LLC; Heartland Production and Recovery Fund II LLC; The Heartland Group Fund III, LLC; Heartland Drilling Fund I, LP; Carson Oil Field Development Fund II, LP; and Alternative Office Solutions, LLC; "**Heartland Defendants**" or "**Heartland**" means the Heartland Entities and defendants James Ikey, John Muratore, Thomas Brad Pearsey, and Rustin Brunson.

single barrel of oil. The Heartland Defendants told investors that wells were being overseen by operators who have been operating oil and gas wells in Texas since 2003. But as Mr. Arthur establishes, those entities were not registered with the Texas Railroad Commission as operators until 2017, and thus could not have been Texas operators before then. Mr. Arthur establishes that the truth about the wells' lack of productivity and the operators' lack of experience was information that was readily available to the public on the Texas Railroad Commission's website.

The Heartland Defendants disclosed to investors the identity and backgrounds of many of Heartland's principals, but hid the majority ownership and control of The Heartland Group Ventures, LLC by Defendant James Ikey, who this Court convicted of conspiracy to commit wire fraud in 2014. Throughout all five of Heartland's offerings, the Heartland Defendants entrusted Ikey with the investors' financial and other personal identifying information.

As reflected in Ms. Hollenbeck's declaration, since October 2018, the Heartland Defendants have used only approximately half of the investor funds they raised for oil and gas investments. Unbeknownst to investors, the Heartland Defendants used approximately $26 million of investor proceeds to make Ponzi payments to keep their scheme afloat by concealing the failure of Heartland's oil and gas projects – which never generated more than $500,000 in oil and gas revenue.

Between at least February 2019 and October 2021, the Heartland Defendants directed a total of more than $54 million of Heartland investors' money to the Sahota

Defendants[2] – the operators of the wells – and Relief Defendant Dallas Resources Inc. The Sahota Defendants lied to Heartland and its investors about the wells' productivity and potential.

As reflected in the declaration of Betina Gilmore, the Sahota Defendants supplied certain of the Heartland Defendants with the doctored revenue receipts of an oil gathering company. The receipts reflected materially inflated or otherwise altered oil production revenues.

The Sahota Defendants also sent certain of the Heartland Defendants a doctored one-page reserve report projecting $146 million worth of gas reserves for a lease, knowing Heartland intended to share it with investors – which Heartland thereafter did. As reflected by the declaration of the author, petroleum geologist Brad Massey, his actual report had no financial projections.

Defendant Manjit Singh "Roger" Sahota also lied to at least one Heartland investor about the projected productivity of certain gas wells. Zachary Miller, who videotaped Sahota making such misrepresentations, has signed a declaration, which is included in this brief's appendix. The SEC's expert, Dan Arthur, compared Sahota's videotaped statements about that well to publicly-information on the Railroad Commission's website. He concludes that the actual production from that well has been about 1% of what Sahota claimed.

The Sahota Defendants and another of Sahota's companies, Relief Defendant Dallas Resources Inc., used millions of dollars in Heartland investor fund proceeds

[2] In this complaint "**Sahota Defendants**" means defendants Manjit Singh (aka Roger) Sahota; Arcooil Corp.; and Barron Petroleum LLC.

on lavish personal expenses, including a private airplane, a helicopter, and real estate in the Bahamas. Ms. Hollenbeck details in her declaration that Sahota could not have made such purchases without Heartland investor proceeds.

These facts satisfy the SEC's burden of establishing a reasonable likelihood that the Defendants engaged in practices that violated the securities laws, and thus entitle the SEC to the injunctive and ancillary relief it seeks. The relief the SEC requests includes preliminary injunctions, the imposition of a receivership, an asset freeze, and an interim accounting, among other relief. The SEC submits that this relief is necessary to preserve the status quo and prevent the further dissipation of investor proceeds.

FACTS[3]

In **Section A** below, the SEC offers facts establishing that Heartland did not file registration statements with the SEC for any of its offerings. The exemption that Heartland purportedly availed itself of required Heartland to take "reasonable steps to verify that purchasers of securities sold in any offering… are accredited investors," 17 C.F.R. §230.506(c)(2)(ii). But Heartland did not do so, and its internal documentation reflects that it accepted over $20 million from non-accredited investors.

In **Sections B through E** below, the SEC details the Heartland Defendants' misrepresentations and omissions to investors, including about their use of investor

[3] "[A]t the preliminary injunction stage, the procedures in the district court are less formal, and the district court may rely on otherwise inadmissible evidence, including hearsay evidence." *Sierra Club, Lone Star Chapter v. F.D.I.C.*, 992 F.2d 545, 551 (5th Cir. 1993).

funds to make Ponzi payments (**Section B**), the majority ownership and control of convicted felon Defendant James Ikey (**Section C**), the productivity of its wells (**Section D**), and the experience of its operators (**Section E**).

In **Sections F through H below**, the SEC provides facts supporting Sahota's deception and misrepresentations to Heartland and its investors, including supplying Heartland with a doctored version of a geologist reserve report (**Section F**) and doctored versions of oil revenue receipts (**Section G**), and lying to Heartland and an investor about the productivity of a well during a site visit (**Section H**). In **Section I**, the SEC details how Sahota has misappropriated Heartland funds for personal purposes.

A. Heartland's Illegal Offerings

Since at least October 2018, Heartland Production and Recovery LLC ("Heartland PAR") and The Heartland Group Ventures, LLC ("Heartland Group Ventures") and their principals have raised about $122 million. (A9) Heartland filed no registration statements with the SEC as part of any of the offerings, Heartland Production and Recovery Fund LLC ("Debt Fund I"); Heartland Production and Recovery Fund II LLC ("Debt Fund II"); The Heartland Group Fund III, LLC ("Debt Fund III"); Heartland Drilling Fund I, LP ("Equity Fund I"); and Carson Oil Field Development Fund II, LP ("Equity Fund II"), as reflected in the Form D Notices of Exempt Offerings that Heartland filed with the SEC. (A511 – A537)

Heartland failed to take reasonable steps to verify accredited investor status at the time its securities were offered and sold, ultimately accepting millions of dollars from more than 100 unaccredited investors across its five offerings. Defendant

Alternative Office Solutions LLC or "AOS" managed investor accounts for Heartland, including recordkeeping related to Heartland's investors. In a September 7, 2021 email to Defendant James Ikey, an AOS employee stated: "If we have to return ALL funds for non-accredited investors, we would have to return $21,685,318.07." (A538; emphasis in original) The email references a spreadsheet identifying all of Heartland's non-accredited investors.[4] *Id.*

B. Heartland's Ponzi Payments

Overall, Heartland spent about $61.6 million, which amounts to about half of the $122 million of investor funds raised, on purported oil and gas investments. Heartland paid $54.4 million of those funds to the Sahota Defendants and Dallas Resources. (A12 – A13) It spent another $7.2 million on other oil and gas-related projects. *Id.*

Heartland received a paltry return on its oil and gas investments. Ms. Hollenbeck could only identify approximately $490,000 of potential oil and gas revenue since October 2018, including approximately $231,000 in payments from the Sahota Defendants. (A10)

The modest revenue from Heartland's oil and gas investments was insufficient to satisfy Heartland's obligations to its investors. Heartland spent significant sums of investor funds on Ponzi payments to other investors. As Ms. Hollenbeck states in her declaration: "Based on my analysis of the Heartland Defendants' bank records described herein, the Heartland Defendants did not receive sufficient funds from

[4] To protect the identities and PII of the referenced investors, the SEC has not attached the spreadsheet to the appendix.

potential oil and gas revenue or other non-investor sources of funds to make these payments to investors. Instead, at least $26.8 million of these payments to investors were made using other investor funds." (A12; ¶ 30).

The Debt Fund I and II PPMs did not disclose that investor funds would be used to make interest or principal payments to other investors. And the Debt Fund III PPM did not disclose that Debt Fund III investor funds would be used to make interest or principal payments to Debt Fund III investors, or to make interest payments to Debt Fund I and II investors, whose notes had not been repurchased by Debt Fund III.

The Heartland Defendants made additional misrepresentations that concealed from investors that Heartland's oil and gas revenues were insufficient to meet its debt service obligations. For example, the Debt Fund II PPM dated April 30, 2019 states that for its prior Debt Fund I well projects, Heartland had received "production payments adequate to service its outstanding promissory notes" for Debt Fund I. (A142)

In fact, as established by Ms. Hollenbeck, between December 2018 and February 2019, Heartland had only received approximately $227,000 in purported production payments on those projects. Those payments ceased in February 2019. Heartland received no further payments from such projects. (A10; ¶ 27(a))

Similarly, the Debt Fund III PPM dated September 27, 2019 states that the "Notes issued by the Company will be serviced from the proceeds of revenues generated by the Company from its ownership in the oil and gas interests." (A178)

At that time, however, revenues were insufficient to pay interest to prior investors. As set forth in Ms. Hollenbeck's declaration, Heartland had only received approximately $227,000 through February 2019 for its Debt Fund I well projects; payments for the Debt Fund II projects with Sahota did not begin until August 2019, when Heartland received only approximately $32,000; and all payments from the Sahota projects between August 2019 and July 2021 totaled only approximately $231,000. (A10; ¶¶ 25-27)

C. Heartland's Concealment Of Ikey's Involvement

Heartland's offering documents and marketing materials for Debt Fund III and Equity Fund II identified many of its principals and owners, including Muratore, Pearsey, and Brunson. None of those materials disclosed that James Ikey had majority ownership and control of Heartland Group Ventures beginning in September 2019.

Despite his significant involvement in Heartland, however, Ikey's name is entirely absent in the PPM, dated September 27, 2019, that Heartland distributed to investors soon after he acquired his majority ownership interest in the Heartland enterprise. Rather, that PPM only mentions Brunson: "Our success is dependent on our management and key personnel. We believe that our success will depend on the continued expertise of members of management ***such as Rustin Brunson***." (A194; emphasis supplied) Nowhere is Ikey – who by then had a majority ownership interest in the enterprise – identified among Heartland's "management and key personnel."

Similarly, in a subsequent PPM, dated August 1, 2020, Heartland advised investors:

> The Heartland Group Ventures, LLC, a Texas limited liability company (the "Managing Partner"), acts as Managing Partner of the Partnership and will manage the investments made by the Partnership. The Managing Partner is controlled by ***Rustin Brunson*** as Fund Manager, along with the advise and counsel of ***Brad Pearsey*** and ***John Muratore***, collectively "Principals."

(A336; emphasis added) Nowhere does either PPM disclose Ikey or his majority ownership and control of Heartland Group Ventures.

In April 2019, Heartland PAR hosted a finder "summit" in Texas, during which Muratore, Pearsey, and Ikey promoted in a brochure the security of Heartland's data in a state-of-the-art data center in Panama. (A558 – A559) They did not disclose that the servers were controlled by Ikey.

Had Heartland advised its investors and prospective investors of Ikey's ownership and control, investors could have learned from publicly-available sources that on November 14, 2014, this Court convicted him of conspiracy to commit wire fraud, in relation to a mortgage fraud scheme, for which Ikey was sentenced to 24 months probation and ordered to pay restitution of $962,687.16. (A562 – A567)

D. <u>Heartland's Misrepresentations About The Oil and Gas Wells</u>

Petroleum engineer Dan Arthur compared Heartland's representations about its oil and gas wells with publicly available information about the wells. Based on this analysis, Mr. Arthur concludes that Heartland misrepresented the then-current productivity of its wells in the offering documentation it provided to investors.

The Debt Fund I PPM dated October 23, 2018 described the two subject wells of that offering as "highly profitable," and reported the two wells' "[c]urrent production" as 200 barrels a day. (A58) In fact, as reflected in Mr. Arthur's expert

submission, data from the Texas Railroad Commission's website confirmed that, as of the date of that PPM, neither well had ever produced any oil. (A394)

The January 7, 2019 Debt Fund II PPM made the following representation: "All 10 wells are gross 72+ BOE/day producers and have additional upside through the Sahota-Ellenburger formation, which could increase production significantly." (A99) Mr. Arthur's analysis of the publicly-available information on the TRRC website confirm that those wells, located in Palo Pinto County, Texas, had not been completed and were not producing any oil as of the date of the PPM. (A395).

More recently, in a January 1, 2021 "Stakeholder Letter" to investors about these same Schleicher County and Palo Pinto wells, Heartland touted "Monthly production is 1,801 barrels of oil and 13,625 MCF of natural oil." (A576) Regarding this representation, Mr. Arthur states in his expert submission: "The publicly-available information available on TRRC website states that the actual average monthly productivity from those wells for the three (3) months preceding this representation (October 2020-December 2020) was 462 BO with no gas production. This is approximately 26% of claimed oil production and 11% of total claimed production." (A396)

In his report, Mr. Arthur identifies more Heartland misrepresentations about the then-current productivity of the wells. (A396 – A397) He also concludes that Heartland's projections about future productivity were unreasonable and not created in good faith. (A399 – A400)

E. Heartland's Misrepresentations About The Oil and Gas Operators

Heartland's early PPMs touted Heartland's experienced operators. Its Debt Fund I PPM stated that ArcoOil Corp and Leading Edge Energy, LLC "have been engaged in workovers and drilling of oil and gas reserves in the Texas Gulf Coast Region since 2003." (A54) The April 2019 Debt Fund II PPM had identical representations, and the September 2019 Debt Fund III PPM added operator Barron Petroleum to that representation. (A137, A184)

The Texas Railroad Commission maintains a database of Texas oil and gas operators, which is available to the public. (A398) Mr. Arthur accessed that database to research the operator history of both entities identified in the aforementioned PPMs. *Id.* From that website, Mr. Arthur learned that neither entity identified in the PPMs was registered with the Railroad Commission until 2017. Thus, ArcoOil, Leading Edge, and Barron Petroleum could not have legally engaged in operator activities in Texas from 2003 through 2017.

F. Sahota's Deception: The Doctored Geologist's Report

In March 2020, Heartland's investors received a letter addressed "To the Stakeholders of the Heartland Group of Companies." (A572 – A574) In the letter, Fund Manager Brunson said he was "very proud" to attach a letter written by petroleum geologist Brad Massey. (A572) Mr. Massey's letter, in turn, was addressed to Roger Sahota at Barron Petroleum. In the letter – which is to say, in the version of the letter sent to Heartland investors – Mr. Massey apparently offered a range of "EUR" or "estimated ultimate recovery" for the Carson Leases, located in Val Verde, Texas. (A573) That version of the letter states that if the well is "less

productive," the EUR would be $36,500,000, while an "excellent productive well" could fetch $146,000,000. *Id.*

The SEC has submitted the declaration of Brad Massey in support of its motion for a TRO and emergency relief. (A402 – A406) In that declaration, Mr. Massey testifies that those financial projections were not his, and were never included in his report. (A402 – A403) To be clear, Mr. Massey ***had*** sent a letter to Sahota analyzing the geology of the area surrounding the well. *Id.* But that letter included no financial projections. *Id.* Critically, Mr. Massey states that only a "certified petroleum reservoir engineer" would have been qualified to offer EUR in terms of dollars, not a petroleum geologist like him. (A403)

G. Sahota's Deception: <u>The Doctored Oil Gathering Statement</u>

Beginning in early 2020, Sahota used a file sharing application to send Heartland monthly ACH payment receipts reflecting false revenue figures purportedly received by ArcoOil or Barron Petroleum from TransOil Marketing LLC ("TransOil"). For example, one of the purported statements showed that on January 21, 2020, TransOil had paid ArcoOil Corp. $50,420.10 for oil from the J.W. Conway #5 well. (A413)

The purported TransOil statements that Sahota sent Heartland were fake. The SEC has attached the declaration of TransOil's office manager, Betina Gilmore. (A407 – A445) The SEC supplied Ms. Gilmore with the documents that Sahota had forwarded to Heartland. (A413) Ms. Gilmore compared them to TransOil's records. She found that TransOil's actual ACH receipt for the January 21, 2020 transaction – the receipt TransOil sent Sahota – reflected payment of only $14,068.71, not

$50,420.10. (A409) Ms. Gilmore further found that the other TransOil receipts that Sahota had sent Heartland had similarly been doctored, as reflected in a comparison of TransOil's version of its receipts, (A432 – A445), with the doctored version of the receipts that Sahota gave Heartland, (A417 – A430).

Ms. Gilmore noted that the Sahota-provided documents were scrubbed of TransOil contact information that is a standard part of TransOil's ACH receipt template. (A408 – A409) Eliminating TransOil's contact information from the faked receipts reduced the likelihood that Heartland would contact TransOil to independently verify the accuracy of the information.

H. Sahota's Deception: <u>The Field Trip</u>

On April 13, 2021, several feeder fund managers traveled to Heartland's Sahota Carson 20 BU #1 "discovery" well in Val Verde County, where they met with Roger Sahota. (A398, A447 – A448) Zachary Miller operates one such feeder fund, and was one of the attendees on that site visit. Mr. Miller is also a Heartland investor, having invested $90,000 of his own money in Heartland. (A446)

Mr. Miller videotaped portions of that site visit, including the conversation with Sahota. In Mr. Miller's declaration, he explains that he videotaped Sahota "because what he had to say about the prospect of those wells was important to me." (A447) He also thought Sahota's comments would be important to past and future Heartland investors in his feeder fund, with whom he hoped to share the video. *Id.*

During that videotaped conversation, one participant asks Sahota: "So how much gas do you think you'll be able to pull [from the well]?" (A451) Sahota responds:

> So we -- right now we got about 4500 pounds of pressure on it, so we will start like 4 million MCF a day, and then of course it's going to decline. But we're thinking that maybe a million, 2 million.

(A451 – A452)

Petroleum Engineer Dan Arthur recently visited that well. He also reviewed publicly-available information about the well on the Railroad Commission's website. During his October 6, 2021 site visit, Mr. Arthur noted that the wellhead pressure was only 1,000 psig – about 20% of what Sahota had claimed the wellhead pressure to be. (A398 – A399) Further, Mr. Arthur notes in his submission that, according to TRRC records, "the two Carson I wells have produced a monthly average of 191 and 231 Mcf, or 32 & 39 BOE." *Id.* Mr. Arthur explains: "This production volume is less than 1 percent of claimed production volumes." *Id.* Mr. Arthur concludes that Sahota had no basis for his statements about the wells' productivity. *Id.*

I. Sahota's Misuse of Heartland Funds

In her declaration, Ms. Hollenbeck describes her analysis of Sahota's use of Heartland funds. During the time timeframe when he was receiving Heartland funds – ostensibly to deploy in his capacity as Heartland's oil and gas operator – Sahota bought a private jet, a helicopter, and real estate in the Bahamas. Ms. Hollenbeck establishes that Sahota could not have made such purchases without Heartland funds. (A16, ¶ 43)

ARGUMENT

The SEC approaches the Court "not as an ordinary litigant, but as a statutory guardian charged with safeguarding the public interest in enforcing the securities laws." *See SEC v. Mgmt. Dynamics, Inc.*, 515 F.2d 801, 808 (2d Cir. 1975). The

securities laws include a free-standing basis for the SEC to seek, and for this Court to grant, injunctive relief upon a "proper showing" of an ongoing violation of such laws. *See* 15 U.S.C. §§ 78(d)(1), 78aa, 77v(a); *SEC v. Int'l Swiss Inv. Corp.*, 895 F.2d 1272, 1276 (9th Cir. 1990); *SEC v. Tex. Gulf Sulphur Co.*, 446 F.2d 1301, 1307 n.8 (2d Cir. 1971).

The SEC need not establish irreparable harm or the unavailability of other remedies, since "the standards of the public interest, not the requirements of private litigation, measure the propriety and need for injunctive relief in these cases." *SEC v. Unifund SAL*, 910 F.2d 1028, 1035–36 (2d Cir. 1990) (citation omitted).

As discussed in **Section I** below (pages 18 through 25), the SEC seeks such injunctive relief in the form of a temporary restraining order—and afterward a preliminary injunction—against:

- The Heartland Defendants, for violating Section 5(a) and (c) of the Securities Act;
- All Defendants but Brunson, for violating Section 10(b) and Rule 10b-5 of the Exchange Act, and Sections 17(a)(1), (a)(2) and (a)(3) of the Securities Act; and
- Defendant Rustin Brunson, for violating Sections 17(a)(2) and (a)(3) of the Securities Act.

Besides such injunctive relief, and a conduct-based injunction prohibiting defendants from engaging in oil-and-gas offerings during the pendency of this litigation, the SEC also seeks certain emergency "ancillary" relief, as described in **Section II** below (pages 25 through 34). Courts routinely invoke their general equity powers to grant such relief at the inception of SEC enforcement actions. *Smith v. SEC*, 653 F.3d 121, 127 (2d Cir. 2011) (quoting *SEC v. Manor Nursing Ctrs., Inc.*, 458

F.2d 1082, 1103 (2d Cir. 1972)) ("It is 'well established' that Section 22(a) of the Securities Act of 1933 and Section 27 of the Securities Exchange Act of 1934 'confer general equity powers upon the district courts' that are 'invoked by a showing of a securities law violation'. . . '[O]nce the equity jurisdiction of the district court properly has been invoked, the court has power to order all equitable relief necessary under the circumstances. . . .") (citations omitted); *SEC v. Thibeault*, 80 F. Supp. 3d 288, 293 (D. Mass. 2015); *SEC v. Illarramendi,* No. 3:11cv78 (JBA), 2011 WL 2457734, at *6 (D. Conn. June 16, 2011).

Here, the emergency ancillary relief sought by the SEC includes an asset freeze (**Section II(B)**); a receiver (**Part II(C)**); an accounting (**Section II(D)**); expedited discovery (**Section II(E)**); a document preservation directive (**Section II(F)**); repatriation of foreign-based ill-gotten gains and restrictions on Sahota's foreign travel pending their compliance with the Orders of this Court (both **Section II(G)**). Such relief is necessary to prevent the further dissipation of investor proceeds and to otherwise carry out the remedial purposes underlying the federal securities laws.

I. DEFENDANTS SHOULD BE TEMPORARILY RESTRAINED AND PRELIMINARILY ENJOINED FROM FURTHER VIOLATIONS OF THE SECURITIES LAWS

A. The Low Standard for Injunctive Relief in SEC Enforcement Actions.

The SEC establishes the need for a TRO or a preliminary injunction through a "proper showing" that there is a "reasonable likelihood that the defendant[s] [are] engaged or about to engaged in practices that violate the securities laws." 15 U.S.C. § 78u(d)(1); 15 U.S.C. § 77t(b); *SEC v. First Fin. Grp. of Texas*, 645 F.2d 429, 434 (5th

Cir. 1981); *SEC v. Faulkner,* No. 3:16-CV-1735-D, 2017 WL 4238705, at *2 (N.D. Tex. Sept. 25, 2017); *SEC v. AmeriFirst Funding, Inc.*, No. 3:07-CV-1188-D, 2007 WL 2192632, at *2 (N.D. Tex. July 31, 2007). Such a showing is typically made with proof of past substantive violations that show by a preponderance of the evidence a reasonable likelihood of future substantive violations. *First Fin. Grp. of Texas*, 645 F.2d at 434; *Faulkner,* 2017 WL 4238705, at *2-3; *AmeriFirst Funding, Inc.*, 2007 WL 2192632, at *2-3.

The SEC needn't prove the risk of irreparable injury, establish the unavailability of other remedies, or establish that the balance of equities favor its position. *See Unifund SAL*, 910 F.2d at 1036 ("In our earliest encounters with injunction requests by the Commission, we relieved the Commission of the obligation, imposed on private litigants, to show risk of irreparable injury, or the unavailability of remedies at law.") (citations omitted); *SEC v. Youmans*, 729 F.2d 413, 415 (6th Cir. 1984); *Mgmt. Dynamics, Inc.*, 515 F.2d at 808 ("The appellants' crucial error on this score is their assumption that SEC enforcement actions seeking injunctions are governed by criteria identical to those which apply in private injunction suits. Unlike private actions, which are rooted wholly in the equity jurisdiction of the federal court, SEC suits for injunctions are 'creatures of statute.' '(P)roof of irreparable injury or the inadequacy of other remedies as in the usual suit for injunction' is not required.") (citations omitted); *Illarramendi*, 2011 WL 2457734, at *6 ("However, '[u]nlike a private litigant, the SEC need not show risk of irreparable injury' . . . .") (citation omitted); *SEC v. Prater*, 289 F. Supp. 2d 39, 49 (D. Conn. 2003) ("The explicit statutory authorization of a preliminary injunction in this

context frees the SEC of the responsibility usually imposed on those requesting a preliminary injunction of showing the risk of irreparable injury or the unavailability of remedies at law.").

B. Defendants' Ongoing Violations of the Securities Laws

The SEC easily meets this low burden.

Violations of Section 5 of the Securities Act.

Section 5(a) of the Securities Act prohibits the direct or indirect sale of securities through the mail or interstate commerce unless a registration statement has been filed and is in effect. Similarly, Section 5(c) of the Securities Act prohibits the offer to sell securities through the mail or interstate commerce unless a registration statement has been filed. To establish a prima facie case under these provisions, the Commission must prove that: (1) no registration statement was in effect or had been filed as to the offering; (2) the defendants, directly or indirectly, sold or offered to sell the securities; and (3) the offer or sale was made through use of interstate facilities or the mails. *SEC v. Spence & Green Chem. Co.*, 612 F.2d 896, 901-02 (5th Cir. 1980). Scienter is not an element of a Section 5 violation. *Swenson v. Engelstad*, 626 F.2d 421, 424 (5th Cir. 1980). "A defendant may be liable as a participant in a Section 5 violation if the defendant's role in the transaction is significant." *SEC v. Blackburn*, 156 F. Supp. 3d 778, 797 (E.D. La. 2015). "A defendant plays a significant role when he is both a 'necessary participant' and a 'substantial factor' in the sales transaction." *Id.*

Pearsey, Muratore, Ikey, and Brunson engaged in steps necessary to the distribution of the securities at issue, as they received, approved, and/or distributed

the PPMs, dictated how the securities would be offered and sold, and served as co-managers at different points during the offerings. "Any person who 'engaged in steps necessary to the distribution' of the unregistered security is liable under Section 5." *SEC v. Tecumseh Holding Corp.*, No. 03 Civ. 5490(SAS), at *3 (S.D.N.Y. Dec. 22, 2009); *see also SEC v. Stack*, No. 1:21-CV-00051-LY, 2021 WL 4777588, at *9 (W.D. Tex. Oct. 13, 2021) (defendant liable for Section 5 violation because he was the sole officer and director during the offering, reviewed and approved the PPM and subscription agreements, and signed resolutions authorizing the issuance of shares).

Once a prima facie violation is established, defendants must prove that the securities offerings qualified for a registration exemption. *SEC v. Ralston Purina Co.*, 346 U.S. 119, 126 (1953). "Exemptions are narrowly construed to further the purpose of the Act, which is to provide full and fair disclosure of the character of the securities, and to prevent frauds in the sale thereof." *SEC v. Kahlon*, 141 F. Supp. 3d 675, 679 (E.D. Tex. 2015), *aff'd*, 873 F.3d 500 (5th Cir. 2017) (cleaned up).

For all five offerings, Heartland filed Form Ds with the Commission claiming exemptions under Rule 506(c) of Regulation D. This exemption was unavailable because for each offering, Heartland sold securities to non-accredited investors and failed to take reasonable steps to verify the purchasers' accredited status. Feeder funds formed to invest in one of the Heartland securities offerings would not qualify as an accredited investor in those offerings unless all of the feeder fund's equity owners were themselves accredited investors. Here, that was not the case, and Heartland took no reasonable steps to verify the accredited status of the feeder funds. Further, no other exemption to Section 5's registration requirements applied.

The Fraud-Based Claims. Section 17(a) of the Securities Act prohibits, in the offer or sale of securities: (1) "employ[ing] any device, scheme or artifice to defraud"; (2) "obtain[ing] money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading"; and (3) "engag[ing] in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser." 15 U.S.C. § 77q(a).

Section 10(b) of the Exchange Act prohibits fraud "in connection with the purchase or sale" of securities. 15 U.S.C. § 78j(b). Section 10(b) and Rule 10b-5 prohibit: (a) using any device, scheme, or artifice to defraud; (b) making material misstatements of fact or omitting a material fact necessary to make a statement made not misleading; or (c) engaging in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person. *Id.*; 17 C.F.R. § 240.10b-5.

Establishing a primary violation of Section 17(a)(1) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 requires proof of scienter. *See Aaron v. SEC*, 446 U.S. 680, 695-97 (1980). Scienter is "a mental state embracing intent to deceive, manipulate, or defraud." *Ernst & Ernst v. Hochfelder,* 425 U.S. 185, 193 n.12 (1976). A company's scienter can be imputed from management and individuals who control it. *See, e.g., SEC v. Manor Nursing Ctrs., Inc.,* 485 F.2d 1082, 1089, n.3 (2d Cir. 1972); *Southland Sec. Corp. v. INSpire Ins. Solution, Inc.*, 365 F.3d 353, 366 (5th Cir. 2004).

The SEC satisfies the scienter requirement by alleging, at a minimum, "severe recklessness," which involves a present danger of misleading buyers or sellers of securities that is either known to the defendant or is so obvious the defendant must have been aware of it. *SEC v. Sethi,* 910 F.3d 198, 206 (5th Cir. 2018) (*citing Broad v. Rockwell, Int'l Corp.,* 642 F.2d 929, 961 (5th Cir. 1981)).

Sections 17(a)(2) and (3) of the Securities Act can be violated with negligent conduct. *See SEC v. Aaron*, 446 U.S. 680, 701-02 (1980). In this context, negligence is defined as "the failure to exercise reasonable care." *See Beck v. Dobrowki*, 559 F.3d 680, 682 (7th Cir. 2009). A misstatement or omission is considered material if there is "a substantial likelihood that a reasonable shareholder would consider it important in making an investment decision." *TSC Indus., Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976).

The facts set forth in support of the SEC's motion for a TRO and a preliminary injunction establish defendants' violations of these fraud-based claims:

- Defendants Heartland Entities, Muratore, Pearsey, Ikey, and Brunson failed to disclose that investor funds would be, and were, used to make **Ponzi payments**.
- These same defendants misrepresented the productivity of **Heartland's wells and the experience of its operators**.
- Defendants Heartland PAR, Debt Fund II, Heartland Group Ventures, Muratore, Pearsey, Ikey, and Brunson misrepresented that Heartland had **received production payments sufficient to service its outstanding notes**.
- Heartland Group Ventures, Ikey, and Brunson misrepresented that Debt Fund III **notes would be serviced from proceeds of revenues generated by Heartland from its ownership in the oil and gas interests**;

- All of the Heartland Defendants concealed **Ikey's involvement** with Heartland, instead disclosing only Brunson, Muratore, and/or Pearsey as control persons.
- The Sahota Defendants gave Heartland **altered reserve reports** falsely showing $146 million worth of gas reserves for the Carson lease.
- The Sahota Defendants gave Heartland **altered gathering statements** that inflated oil production revenue.
- Roger Sahota misrepresented the **productivity of the first Carson well** during a field trip to the Carson lease.

C. The Risk of Defendants' Future Violations is High

The Fifth Circuit has held that "The critical question in issuing the injunction… is whether defendant's past conduct indicates that there is a reasonable likelihood of further violations in the future." *SEC v. v. Blatt*, 583 F.2d 1325, 1334 (5th Cir. 1978). Here, the scope and systemic nature of the violations bespeak the likelihood of future violations. The Heartland Defendants have engaged in a prolonged, wide-ranging scheme spanning five offerings, lulling investors with Ponzi payments to keep their money-losing enterprise afloat, which they have disguised as oil and gas revenue; by lying to investors about its wells' productivity and its operator's experience; all the while concealing the identify of a felon who is co-running the enterprise.

Heartland has not recognized its own culpability or come clean to its investors. On the contrary, it disclosed the existence of the SEC investigation in a letter to investors – not in order to own-up to its misdeeds, but only to tamp down widespread rumors among its investors, while using the SEC investigation as a pretext for defaulting on its obligations to its debtholders. (A577 – A578)

Further, while Heartland has stopped accepting new investor proceeds, absent the emergency relief sought here, there is nothing stopping it from initiating yet another offering. Indeed, Heartland recently admitted to investors that the reason it was not accepting subscriptions – that is, fresh investor proceeds – was only because of the ongoing SEC investigation. (A577)

As for the Sahota Defendants, the egregiousness and repetition of their malfeasance is reason enough to assume that they will continue to engage in such misconduct going forward. Indeed, Barron is soliciting its own investors, as reflected in an offering on its website. (A484 – A486) Its web-based marketing material is littered with lies, including their claim that Baron has "created a 4 billion dollar portfolio" and "has invested over 200 Million dollars of its own money in acquiring oil and gas properties and in drilling discovery wells to discover and prove up new oil & gas fields in Texas." (A478)

II. EMERGENCY ANCILLARY RELIEF IS NECESSARY AND APPROPRIATE

Courts recognize that a disgorgement and penalties order for ill-gotten gains as part of a final judgment will often be rendered meaningless unless the Court imposes ancillary relief before the entry of final judgment. *See, e.g.*, *Kemp v. Peterson*, 940 F.2d 110, 114 (4th Cir. 1991); *Int'l Controls Corp. v. Vesco*, 490 F.2d 1334, 1347 (2d Cir. 1974); *SEC v. Vaskevitch*, 657 F. Supp. 312, 315 (S.D.N.Y. 1987); *Gen. Refractories Co.*, 400 F. Supp. at 1259; *Faulkner,* 2017 WL 4238705, at *3; *AmeriFirst Funding, Inc.*, 2007 WL 2192632, at *2.

A. The Low Standard for Emergency Ancillary Relief Sought by the SEC in its Enforcement Actions.

The SEC's burden for emergency ancillary relief is lower than what it must prove for a TRO. *See SEC v. Harris,* No. 3:09-CV-1809-B, 2010 WL 11617972, at *3 (N.D. Tex. June 24, 2010) ("The Commission's burden is lower with regards to an asset freeze, receivership and other ancillary relief than with a traditional injunction."); *SEC v. Cavanagh,* 155 F.3d 129, 132 (2d Cir. 1998) (ancillary relief requires "a lesser showing" than for injunctive relief); *SEC v. Compania Internacional Financiera S.A.*, No. 11 Civ. 4904(DLC), 2011 WL 3251813, at *11 (S.D.N.Y. July 29, 2011) ("[A]n ancillary remedy may be granted, even in circumstances where the elements required to support a traditional SEC injunction have not been established.") (citation omitted).

The SEC establishes that such ancillary relief is warranted by providing some basis for inferring a violation of the federal securities laws. *See, e.g.*, *Harris,* 2010 WL 11617972, at *3 ("the Second Circuit has found ancillary relief to be appropriate where there was a 'basis to infer' securities law violations by the defendant"); *Smith*, 653 F.3d at 128 ("Where an asset freeze is involved, the SEC 'must show either a likelihood of success on the merits, or that an inference can be drawn that the party has violated the federal securities laws.'") (citation omitted).

B. An Asset Freeze is Necessary

This Court is empowered to freeze defendants' assets to preserve the status quo and prevent dissipation of ill-gotten gains so that they remain available to fund subsequent disgorgement orders and civil penalties. *Faulkner,* 2017 WL 4238705, at *3; *AmeriFirst Funding, Inc.*, 2007 WL 2192632, at *2.

An order freezing assets may be properly directed to non-defendant parties who hold funds on a defendant's behalf. *Smith*, 653 F.3d at 128 ("The plenary powers of a federal court to order an asset freeze are not limited to assets held solely by an alleged wrongdoer, who is sued as a defendant in an enforcement action. Rather, '[f]ederal courts may order equitable relief against a person who is not accused of wrongdoing in a securities enforcement action where that person: (1) has received ill-gotten gains; and (2) does not have a legitimate claim to those funds.'") (citation omitted).

An asset freeze order can properly extend to misappropriated assets located offshore. *Illarramendi*, 2011 WL 2457734, at *4 ("Since *Morrison* [*v. Nat'l Austl. Bank, Ltd.*, 561 U.S. 247 (2010)] does not limit the Commission's authority to seek equitable extraterritorial relief to protect investors who are victims of the U.S.-based securities law violations, Section 21 of the Exchange Act provides proper authority for the relief sought by the Commission to protect and preserve misappropriated investor assets located in offshore accounts of the Highview Funds.").

An order may properly freeze assets approximating both potential disgorgement and potential civil penalties. *Unifund SAL*, 910 F.2d at 1041 (affirming a freeze order "in an amount sufficient to cover not just the profits that might have to be disgorged but the civil penalty, equal to three times the profits, that the Commission may recover under section 21A of the Exchange Act upon proof of a violation."); *Compania Internacional Financiera S.A.*, 2011 WL 3251813, at *12 (freezing assets approximating potential disgorgement and civil penalties).

An asset freeze should be imposed over the assets of over defendants The Heartland Group Ventures, LLC; Heartland Production and Recovery LLC; Heartland Production and Recovery Fund LLC; Heartland Production and Recovery Fund II LLC; The Heartland Group Fund III, LLC; Heartland Drilling Fund I, LP; Carson Oil Field Development Fund II, LP; Alternative Office Solutions, LLC; Arcooil Corp[.]; Barron Petroleum LLC; Manjit Singh Sahota (aka Roger Sahota); and relief defendants Dodson Prairie Oil & Gas LLC; Panther City Energy LLC; Encypher Bastion, LLC; Barron Energy Corporation; Dallas Resources INC[.]; Leading Edge Energy, LLC; Sahota Capital LLC, which is also known as Sahota Capital Corporation or Sahota Capital Inc.; and 1178137 BC LTD.

C. <u>This Court Should Appoint A Receiver</u>.

A receivership is a remedy that federal courts routinely enlist to carry out the remedial purposes of the securities laws. "The appointment of a receiver is a well-established equitable remedy available to the SEC in its civil enforcement proceedings for injunctive relief. The district court's exercise of its equity power in this respect is particularly necessary in instances in which the corporate defendant, through its management, has defrauded members of the investing public; in such cases, it is likely that, in the absence of the appointment of a receiver to maintain the status quo, the corporate assets will be subject to diversion and waste to the detriment of those who were induced to invest in the corporate scheme and for whose benefit, in some measure, the SEC injunctive action was brought." *First Fin. Grp. of Texas*, 645 F.2d at 438 (citations and footnotes omitted). *See also SEC v. Evolution Capital Advisors, LLC,* No. H-11-2945, 2011 WL 6754070, at *5 (S.D. Tex.

Dec. 22, 2011) ("In fact, upon a showing of fraud and mismanagement, appointment of a receiver 'becomes a necessary implementation of injunctive relief.'") (citing *First Financial Group*); *SEC v. Amerifirst Funding, Inc.*, 3:07-CV-1188, 2007 WL 2192632, at *3 (N.D. Tex. July 31, 2007) (same).

As the Seventh Circuit held while affirming the appointment of a receiver:

> The prima facie showing of fraud and mismanagement, absent insolvency, is enough to call into play the equitable powers of the court. It is hardly conceivable that the trial court should have permitted those who were enjoined from fraudulent misconduct to continue in control of [the corporate defendant's] affairs for the benefit of those shown to have been defrauded. In such cases the appointment of a trustee-receiver becomes a necessary implementation of injunctive relief.

SEC v. Keller Corp., 323 F.2d 397, 403 (7th Cir. 1963).

Here, a receivership over the Heartland entities and the Sahota entities, and their assets, is warranted given Heartland's fraud and Sahota's fraud and the resulting harm to investors. The receivership will seek to gather, manage, and liquidate receivership assets ultimately for the benefit of harmed investors. Short term, the focus of the receivership will be on: (1) evaluating what (if anything) can be done to create or preserve value in the oil and gas properties; (2) monetizing assets not necessary for operations of the oil and gas assets including equipment, aircraft, vehicles, sports tickets, and real estate; (3) protection of documents, data, technology, and other sources of information; and (4) identifying those employees necessary for the operations, including appropriate compensation levels.

Longer term, the receivership will also focus on: (1) tracing of funds; (2) asset recovery; (3) disposition of oil and gas assets; and (4) evaluation and prosecution of potential litigation. Generally, claims may exist against persons or entities that

directly or indirectly received funds or other assets from a Receivership Defendant. Claims may also exist against persons or entities that directly or indirectly were involved in the solicitation of funds which were paid to Receivership Defendants.

Given the flow of funds from the Heartland Entities to the Sahota Defendants, a single receiver for all of the proposed Receivership Defendants avoids the delay and costs associated with forcing a receiver for the Heartland entities to engage in formal discovery against the Sahota Defendants entities and then filing suit against them. A single receivership also mitigates against the risk that assets will be moved beyond the jurisdiction of this Court while formal judicial proceedings are pending.

D. Defendant and Relief Defendants Should Be Ordered to Provide an Accounting.

To accurately determine the scope of a fraud and defendants' ability to disgorge illicit proceeds, courts frequently require defendants to provide an accounting of funds or property procured by malfeasance, and to fully disclose their current financial assets. *See, e.g.*, *Int'l Swiss Invs. Corp.*, 895 F.2d at 1276 ("If a court can order an overseas person to disgorge money, *a fortiori*, it can order such a person to perform an accounting the purpose of which is to identify assets subject to disgorgement."); *SEC v. Mattera*, No. 11 Civ. 8323(PKC), 2012 WL 4450999, at *10–11 (S.D.N.Y. Sept. 26, 2012) (holding defendant in contempt for violating accounting provisions); *SEC v. Quan*, Civil No. 11–723 ADM/JSM, 2011 WL 1667985, at *9 (D. Minn. May 3, 2011) (ordering accounting contemporaneous with TRO). *Cf. SEC v. Lowrance*, No. 11–CV–03451–EJD, 2012 WL 2599127, at *7 (N.D.

Cal. July 5, 2012) ("The Court has the equitable authority to order an accounting to identify assets when dealing with overseas defendants.").

This Court has routinely ordered an accounting as an ancillary remedy at the start of an SEC enforcement action. *See, e.g.*, *SEC v. AriseBank*, No. 3:18-CV-186-M, 2018 WL 10419828, at *4 (N.D. Tex. Mar. 9, 2018); *SEC v. Stanford Int'l Bank, Ltd.*, No. 3-09CV0298-L, 2009 WL 9123278, at *1 (N.D. Tex. Feb. 17, 2009); *SEC v. Tyler*, No. CIV.A.3:02 CV 0282 P, 2002 WL 32538418, at *8 (N.D. Tex. Feb. 21, 2002). An accounting should be ordered against all defendants and relief defendants.

E. Expedited Discovery is Appropriate and Necessary.

Expedited discovery is authorized in some cases by Rules 26(d), 30(a), 33(b), and 34(b) of the Federal Rules of Civil Procedure. Fed. R. Civ. P. §§ 26(d), 30(a), 33(b), 34(b). District courts typically grant expedited discovery when "good cause" is shown, such as in anticipation of preliminary injunction hearings. *See* Advisory Committee Notes to the 1993 amendments to Rule 26(d) ("[Expedited discovery] will be appropriate in some cases, such as those involving requests for a preliminary injunction."). Courts routinely grant the SEC leave to take expedited discovery in anticipation of such a hearing. *See, e.g.*, *Mattera*, 2012 WL 4450999, at *10–11 (holding defendant in contempt for violating expedited discovery provisions); *Quan*, 2011 WL 1667985, at *9–10 (ordering expedited discovery in anticipation of a preliminary injunction); *SEC v. Universal Consulting Res. LLC*, No. 10–cv–2794–JLK–KLM, 2010 WL 4873733, at *5–6 (D. Colo. Nov. 23, 2010) (same).

This Court has regularly ordered expedited discovery as part of the ancillary relief to a TRO in SEC enforcement actions. *See, e.g.*, *AriseBank*, 2018 WL 10419828,

at *2; *SEC v. Blackwell,* No. 3:11-CV-0234-L, 2011 WL 13129084, at *2 (N.D. Tex. Feb. 11, 2011); *Stanford Int'l Bank, Ltd.*, 2009 WL 9123278, at *1.

Here, the SEC seeks to depose witnesses, subpoena bank and brokerage records and other documents, and take other discovery on an expedited basis before a preliminary injunction hearing. Such expedited discovery will both focus and streamline such a hearing and will assist the SEC to properly carry out any Order entered by this Court freezing ill-gotten assets.

F. An Order Mandating Preservation of Documents is Appropriate and Necessary.

The SEC seeks an order preventing the alteration or destruction of documents and other information. This Court grants such orders at the start of SEC enforcement actions to protect the integrity of litigation. *See, e.g.*, *SEC v. Provident Royalties, LLC*, No. 3-09CV1238-L, 2009 WL 10678557, at *1 (N.D. Tex. July 2, 2009); *Tyler*, 2002 WL 32538418, at *8. *See also SEC v. Credit First Fund, LP*, No. CV05-8741 DSF (PJWx), 2006 WL 4729240, at *15 (C.D. Cal. Feb. 13, 2006) ("Because the permanent receiver requires access to Defendants' records and files in order to make an accurate reporting and secure the remaining funds, the Court orders an accounting and prohibits the destruction of any related documents.").

G. A Repatriation Order and a *Ne Exeat* Order Are Appropriate and Necessary.

The SEC seeks an order requiring defendant Sahota to surrender his passport to the Clerk of the Court, and to prohibit him from leaving the United States pending a complete accounting and full responses to expedited discovery.

Repatriation orders are an appropriate use of the Court's equitable powers to preserve the status quo. *See Illarramendi*, 2011 WL 2457734, at *6 ("[W]here the Court has the authority to order equitable relief such as an asset freeze in order to preserve particular funds in anticipation of potential future disgorgement, it also has the authority to order repatriation of assets to effectuate that freeze order."); *SEC v. Aragon Capital Advisors, LLC*, No. 07 Civ. 919(FM), 2011 WL 3278642, at *10 (S.D.N.Y. July 26, 2011) ("Finally, the Defendants have not controverted the Commission's assertion that these assets held abroad are necessary to satisfy the monetary relief it seeks in this case[.] In these circumstances, a repatriation order is warranted.") (citations omitted); *Compania Internacional Financiera*, 2011 WL 3251813, at *13 ("'[O]nce the equity jurisdiction of the district court properly has been invoked, the court has the power to order all equitable relief necessary under the circumstances.' Therefore, an order to bring assets to the United States is appropriate if needed to make effective an asset freeze and preserve assets for potential future relief.") (citation omitted).

There is also much precedent for this Court to prohibit defendants in SEC enforcement actions from fleeing the United States pending compliance with orders like the one sought by the SEC. *See, e.g.*, *AriseBank*, 2018 WL 10419828, at *5 ("Defendant Ford shall surrender his passport to the Clerk of the Court and is barred from traveling outside the United States, until further Order of this Court."); *Blackwell*, 2011 WL 13129084, at *2 ("There is good cause to believe that Blackwell may seek to leave the United States in order to avoid responsibility for the fraudulent acts alleged herein. An order requiring Blackwell to surrender his passport is

necessary to ensure the efficacy of whatever relief might ultimately be granted.");

SEC v. Reynolds, No. 3:08-CV-438-B, 2011 WL 903395, at *7 (N.D. Tex. Mar. 16, 2011) ("Further, in order to ensure that he does not flee the jurisdiction of this Court, Reynolds is directed to surrender his passport to the Clerk of Court within 48 hours. Failure to surrender the passport in the required time frame will result in the Court issuing a warrant for Reynold's arrest.").

CONCLUSION

For these reasons, plaintiff United States Securities and Exchange Commission asks the Court to issue the proposed order attached as Exhibits 1 through 3 to the SEC's motion, and grant any other relief the Court deems just and proper.

Dated: December 1, 2021

Respectfully submitted,

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

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