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2 **UNITED STATES DISTRICT COURT**  
3 **CENTRAL DISTRICT OF CALIFORNIA**  
4 **Western Division**

5  
6 SECURITIES AND EXCHANGE  
COMMISSION,

7 Plaintiff,

8 vs.

9 RALPH T. IANNELLI and ESSEX  
10 CAPITAL CORPORATION,

11 Defendants.

Case No. 2:18-cv-05008-FMO-AFM

**DECLARATION OF GEOFF  
WINKLER IN SUPPORT OF COURT-  
APPOINTED MONITOR'S 45-DAY  
REPORT**

12  
13 I, Geoff Winkler, declare pursuant to 28 U.S.C. § 1746 as follows:

14 1. On October 1, 2018, the Court appointed me as a monitor of Defendant  
15 Essex and its subsidiaries and affiliates and ordered that I conduct an investigation as  
16 may be necessary to locate and account for all of the assets and liabilities of  
17 Defendant Essex. (Dkt. No. 32.) The Court further ordered that, within forty-five  
18 calendar days of obtaining the necessary records and property, I submit to the Court,  
19 with copies to the SEC, the Defendants, and the Intervenors, a written report  
20 containing a preliminary accounting of Defendant Essex for the limited purpose of  
21 determining the assets and liabilities of Defendant Essex, and a recommendation as to  
22 whether the monitorship should be converted to a permanent receivership, whether  
23 the monitorship should continue or be expanded, or whether the monitorship should  
24 be limited or terminated (“the Report”). (*Id.*) I make this declaration in support of  
25 the Report.

26 2. I have personally prepared the Report, which I hereby adopt and  
27 incorporate by reference into my declaration as though fully set forth herein.  
28

1           3.     The information contained in the Report is based upon my personal  
2 review of documents obtained from the Defendants and other sources; my interviews  
3 of and discussions with officers, employees and third parties associated with  
4 Defendants; and my work and the work of my staff and professionals in carrying out  
5 the duties and obligations of the Monitor under the Court’s order appointing me.

6           4.     In addition, the analysis and recommendations contained in the Report  
7 are based upon my 25 years in business, including at least 12 years working on  
8 monitorship and receivership cases, my Juris Doctorate in Law, and my Master’s in  
9 Business Administration degree, as well as my certifications as a Certified Fraud  
10 Examiner by the Association of Certified Fraud Examiners and Certified Insolvency  
11 and Restructuring Advisor by the Association of Certified Insolvency and  
12 Restructuring Advisors.

13           5.     As described in detail in the Report, I believe the following key facts are  
14 present in this case and need to be addressed immediately:

- 15           a. Defendant Essex Capital Corporation (“Essex”) is currently  
16           insolvent and has been, even according to the Defendants’ own  
17           records, since at least January 1, 2013;
- 18           b. Defendant Essex has participated in Ponzi-like activity by using  
19           investor funds to make payments to other investors they were  
20           obligated to make; and
- 21           c. Defendants Essex and Iannelli have made preferential transfers to  
22           a select group of insider investors to the detriment of other  
23           investors and did so even after the Plaintiff Securities and  
24           Exchange Commission (“SEC”) filed its original motion for  
25           preliminary injunction and appointment of a receiver, and, if left  
26           unchanged, there is a potential for further dissipation of assets.

1           6.     I have conferred with the following interested parties to get their position  
2 on the Proposed Order attached to the Report appointing me as a receiver over  
3 Defendant Essex:

4           a.     Counsel for the SEC, Douglas M. Miller, stated that he consents to  
5                 the entry of the Proposed Order;

6           b.     Counsel for Defendants, Jorge deNeve, stated that he consents to  
7                 the entry Proposed Order based on Defendants’ view that the  
8                 appointment of a receiver will help Defendant Essex’s  
9                 noteholders;<sup>1</sup>

10          c.     Counsel of record for the investors, Brian Miller, who the Court  
11                 allowed to intervene in this matter on behalf of several investors  
12                 for the limited purpose of being heard on the topics of any asset  
13                 freeze and any Receivership/monitor over Defendant Essex,  
14                 stated that he is unable to express a position on the Proposed  
15                 Order until after he has had the opportunity to review my Report,  
16                 but it was unclear to me whether Brian Miller still represents all of  
17                 the investors the Court ordered be allowed to intervene on October  
18                 1, 2018, or if he only continues to represent investors G. Grant  
19                 and B. Wheatly; and  
20

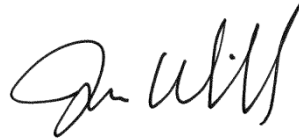
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22           <sup>1</sup> Mr. deNeve also stated the following in connection with his clients’ consent to the  
23 Proposed Order: “Defendants were not provided an opportunity to review the  
24 Monitor’s report prior to its submission to the Court and, therefore, Defendants’  
25 consent to the order should not be deemed as acceptance of any of the statements  
26 contained in the monitor’s report. Defendants further reserve their rights to respond  
27 to the report to address any inaccuracies, erroneous statements, or other matters in the  
28 report. Further, to the extent that plaintiff proposes to rely on any statement in the  
report at any hearing or trial, Defendants reserve the right to object or present expert  
testimony or other evidence to rebut any such statement.”

1 d. Counsel for Granger Management LLC and Daniel Investment  
2 Associates, Michael Present and Greg Van Wyk, respectively,  
3 both stated that they support the Proposed Order, as evidenced by  
4 their letters attached to the Report as Exhibits D and E.<sup>2</sup>

5 7. Due to the short timelines to pursue potential recovery of these  
6 preferential transfers and the potential for further dissipation of assets, I strongly  
7 recommend that the Court review and approve the Proposed Order Regarding  
8 Preliminary Injunction and Appointment of a Permanent Receiver (the “Proposed  
9 Order”), which I attached to my Report as Exhibit C.

10 I declare under penalty of perjury under the laws of the United States of  
11 America that the foregoing is true and correct.

12 Executed this 6th day of December 2018 in Salem, Oregon.

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16 \_\_\_\_\_  
17 Geoff Winkler

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27 <sup>2</sup> Daniel Investment Associates served as the investment adviser for at least 11 of the  
28 investors the Court allowed to intervene on in its October 1, 2018, who are ostensibly  
still represented by Brian Miller.

**PROOF OF SERVICE**

I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION,  
444 S. Flower Street, Suite 900, Los Angeles, California 90071  
Telephone No. (323) 965-3998; Facsimile No. (213) 443-1904.

On December 6, 2018, I caused to be served the document entitled **DECLARATION OF GEOFF WINKLER IN SUPPORT OF COURT-APPOINTED MONITOR’S 45-DAY REPORT** on all the parties to this action addressed as stated on the attached service list:

**OFFICE MAIL:** By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency’s practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

**PERSONAL DEPOSIT IN MAIL:** By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

**EXPRESS U.S. MAIL:** Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

**HAND DELIVERY:** I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

**UNITED PARCEL SERVICE:** By placing in sealed envelope(s) designated by United Parcel Service (“UPS”) with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

**ELECTRONIC MAIL:** By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

**E-FILING:** By causing the document to be electronically filed via the Court’s CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

**FAX:** By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

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

Date: December 6, 2018

/s/ Douglas M. Miller  
DOUGLAS M. MILLER

1                    ***SEC v. Ralph T. Iannelli and Essex Capital Corporation***  
2                    **United States District Court—Central District of California**  
3                    **Case No. 2:18-cv-05008-FMO-AFM**

4                    **SERVICE LIST**

5                    Steven J. Olson  
6                    O’Melveny and Myers LLP  
7                    400 South Hope Street  
8                    Los Angeles, CA 90071-2899  
9                    213-430-6000  
10                    Fax: 213-430-6407  
11                    Email: solson@omm.com

12                    J. Jorge deNeve  
13                    O’Melveny and Myers LLP  
14                    400 South Hope Street  
15                    Los Angeles, CA 90071  
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19                    *Counsel for Defendants*  
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