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7 Attorneys for Defendants  
Ralph T. Iannelli and  
Essex Capital Corporation  
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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **WESTERN DIVISION**

12  
13 Securities and Exchange Commission,

14 Plaintiff,

15 v.

16 Ralph T. Iannelli and Essex Capital  
Corporation,

17 Defendants.  
18  
19

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

**DECLARATION OF  
DEFENDANT RALPH T.  
IANNELLI IN SUPPORT OF  
DEFENDANTS' OBJECTION  
AND RESPONSE TO  
MONITOR'S REPORT**

Judge: Hon. Fernando M. Olguin  
Courtroom: 6D

Trial Date: None Set

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1 I, Ralph T. Iannelli, declare pursuant to 28 U.S.C. § 1746 as follows:

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3 1. I submit this declaration in support of Defendants’ Objection and  
4 Response to Monitor’s Report and Recommendations. I have personal knowledge  
5 of the facts stated in this declaration, and if called as a witness, I could and would  
6 competently testify hereto.

7 2. I founded Essex Capital Corporation (“Essex”) in 1996, and I am its  
8 President and sole shareholder. Essex provides equipment lease financing to  
9 growing businesses, principally growing technology and biopharmaceutical  
10 companies. I have been in the equipment leasing business for over 35 years.  
11 Before founding Essex, I started RAM Capital Corporation in 1986, which  
12 provided lease financing to large industrial companies such as Chrysler and Martin  
13 Murrieta. Before 1986, I also worked with American Computer Leasing, which  
14 also provided leasing of equipment.

15 3. I have reviewed the Report of Preliminary Accounting of Defendant  
16 Essex Capital Corporation and Recommendations of Court-Appointed Monitor  
17 Geoff Winkler (the “Monitor’s Report”). The Monitor made a number of factual  
18 errors. The Monitor, however, did not provide me or anyone associated with Essex  
19 the opportunity to review the Monitor’s Report and I, therefore, did not have the  
20 opportunity to correct these factual errors or otherwise comment on the Report. In  
21 this Declaration, I address errors regarding (1) amounts that I received from Essex  
22 (2) a transaction between Essex and Geoff Grant, and (3) a transaction between  
23 Essex, me, and Paul Wolansky. I note, however, that the Monitor’s Report contains  
24 a number of other unsupported and incorrect statements that I do not address here.

25  
26 **I. CALCULATION OF AMOUNTS I RECEIVED FROM ESSEX**

27 4. Essex utilizes the QuickBooks accounting application to maintain its  
28 accounting records. Since inception, I have hired three bookkeepers and two

1 accounting firms to assist me in inputting Essex's accounting information into  
2 QuickBooks. I also have regularly reviewed reports generated from the  
3 QuickBooks application as part of my job responsibilities as the President of Essex,  
4 including balance sheets and income statements. Essex provided the Monitor and  
5 his team with direct access to QuickBooks as part of the Monitor's investigation  
6 into the assets and liabilities of Essex.

7 5. I reviewed the table included in the Monitor's Report at page 17, which  
8 purports to summarize the loan-related transactions between Essex and me from  
9 2014 through 2018. The Monitor purports to describe loans made from Essex to me  
10 as Shareholder Distributions. Essex never accounted for these loans as shareholder  
11 distributions and Essex and I have taken the consistent position that these  
12 transactions are properly loans under the relevant Internal Revenue Service rules.  
13 Therefore, I will refer to them as loans from Essex to me.

14 6. I have compared the Monitor's calculations of the amounts I received  
15 from Essex to the amounts reflected in the relevant accounts in QuickBooks.  
16 Specifically, I looked at the transactions booked in the "Due to Shareholder" and  
17 "Due from Shareholder" accounts ("Shareholder Accounts") in QuickBooks. I  
18 confirmed the accuracy of those accounts by looking directly at transactions for  
19 (1) payments made by Essex to me, or on my behalf, and (2) payments made by me,  
20 or on my behalf, to Essex.

21 7. To determine the loans from Essex to me, I determined the balance as  
22 of December 31 of a particular year for the Shareholder Accounts and subtracted  
23 the balance as of January 1 of that same year. That provided me with a total  
24 amount borrowed (or repaid) for a particular year. I also reviewed each of the  
25 payments made by me to Essex from 2014 through 2018. I was able to confirm that  
26 the payments were (1) cash transfers from my or my wife's personal account to the  
27 Essex accounts, (2) payments made from my personal account to third parties based  
28 on obligations owed to those third parties by Essex, or (3) transfer of my personal

1 assets to Essex or on behalf of Essex.

2 8. Based on these calculations, I was able to conclude that in 2014, 2015,  
3 and 2016, I borrowed \$3,322,800, \$1,770,679, and \$2,131,219, respectively, from  
4 Essex. I also concluded that in 2017 and 2018, I repaid \$2,047,175 and \$6,418,334,  
5 respectively, to Essex.

6 9. I also determined that the \$6.4 million that I have repaid this year to  
7 Essex includes credits totaling \$5 million based on my wife and I providing  
8 interests in our personal real estate to certain noteholders in exchange for  
9 cancellation of their notes obligating Essex. Having read the Monitor's Report, I  
10 understand that the Monitor questions those transactions. Because of the Monitor's  
11 position, I have excluded the \$5 million credit in the table in the following  
12 paragraph. However, I believe that the noteholders have an enforceable interest in  
13 my wife's and my personal property and, therefore, it is appropriate to apply that  
14 credit to my debt to Essex.

15 10. The following table provides a comparison between the amount  
16 calculated in the Monitor's Report and the amount based on the QuickBooks  
17 records of Essex:

18 <b>Year</b>	<b>Monitor's Calculation</b>	<b>QuickBooks Calculation</b>	<b>Monitor's Error</b>
19 2014	\$1,634,500	\$3,322,800	(\$1,688,300)
20 2015	\$4,458,979	\$1,770,679	\$2,688,300
21 2016	\$4,131,219	\$2,131,219	\$2,000,000
22 2017	\$1,490,825	\$(2,047,175)	\$3,538,000
23 2018	\$519,721	\$(1,418,334)	\$1,938,055
24 <b>Totals</b>	<b>\$12,235,244</b>	<b>\$3,759,189</b>	<b>\$8,476,055</b>

25 The above table shows that the Monitor's Report overstated the amounts I received  
26 from Essex from 2014 to the present by over \$8.4 million, even excluding the  
27 \$5 million credit I should receive based on the interests in personal real estate  
28

1 property that I provided to satisfy Essex's obligations.

2 11. In March 2017, Essex received a subpoena from the SEC. Shortly  
3 thereafter, I decided that Essex would stop accepting funds from nonbank lenders.  
4 Because I voluntarily stopped accepting loans from nonbank lenders, and because  
5 Essex's banks refused to provide any further loans during the pendency of the SEC  
6 matter, Essex has not originated any new leases since June 2017.

7 12. Even though Essex has not originated any new leases since June 2017,  
8 I have attempted to ensure that Essex complies with its payment obligations as  
9 much as possible. As part of that effort, I have sold personal assets so that Essex  
10 could fulfill its obligations. My wife has even liquidated her personal \$1.3 million  
11 annuity and \$150,000 from a retirement account to assist me in my efforts to pay  
12 Essex's lenders. I also have liquidated the cash value in my life insurance policy  
13 and my retirement plans to provide proceeds of \$850,000 into Essex.

14  
15 **II. THE GRANT TRANSACTION**

16 13. Earlier this year, Essex entered into a transaction with Mr. Grant that  
17 permitted Essex to continue to make cash payments to its noteholders, and  
18 prevented any adverse action against Essex by Mr. Grant.

19 14. In April 2018, Essex entered into a transaction that permitted it to  
20 restructure \$10 million owed by Essex to Mr. Grant. The original debt was initially  
21 due in July 2017, based on an agreement that required Essex to buy out Mr. Grant  
22 and his wife from a limited partnership in July 2017 for an amount exceeding  
23 \$10 million.

24 15. Essex, however, restructured the obligation by converting the  
25 \$10 million payment into three promissory notes of \$5 million, \$2.5 million, and  
26 \$2.5 million due in July 2017, July 2018, and July 2019, respectively.

27 16. Around April 2018, I had further discussions with Mr. Grant about  
28 these promissory notes and the upcoming payment due in July 2018. Mr. Grant

1 agreed to exchange the \$5 million note due on July 19, 2018, for an interest in a  
2 limited liability corporation (the “LLC”) that would hold certain illiquid, privately-  
3 held securities owned by Essex. A true and correct summary of these privately-  
4 held assets is attached as **Exhibit A**.

5 17. The value of the illiquid assets, as of December 31, 2017, was  
6 \$4,467,686. We also recognized that a current sale of those assets would generate  
7 significantly less than \$4.5 million because the assets were privately held and  
8 illiquid.

9 18. Under the agreement, Essex owns 51% of the LLC and Mr. Grant  
10 owns the rest. Any proceeds from the assets (by sale, for example) exceeding  
11 \$5 million will be split 75% to Essex and 25% to Mr. Grant. Mr. Grant also agreed  
12 to restructure the remaining \$5 million in notes. The restructured note will carry a  
13 5% interest rate (whereas the current notes have an 8% interest rate) and repayment  
14 will not be due until July 19, 2021.

15 19. After entering into the deal, Essex was unable to transfer two of the  
16 assets that it intended to transfer: Cogito Can and Kate Farms. As a result, the  
17 value of the assets transferred, as of December 31, 2017, was only \$3,830,186.  
18 Mr. Grant, however, has not requested that Essex provide substitute assets to make  
19 up the difference and has not requested cancellation of the deal.

20 20. For all these reasons, I believed the transaction, which resulted in  
21 protecting liquid assets, performing assets, and cash, was beneficial to Essex.

### 22 23 **III. THE WOLANSKY TRANSACTION**

24 21. In June 2018, I began negotiating with Mr. Wolansky to address an  
25 obligation that was coming due to him from Essex. We reached an accord that  
26 prevented any action against Essex by Mr. Wolansky. The agreement included  
27 providing Mr. Wolansky an interest in my wife’s and my New York apartment.

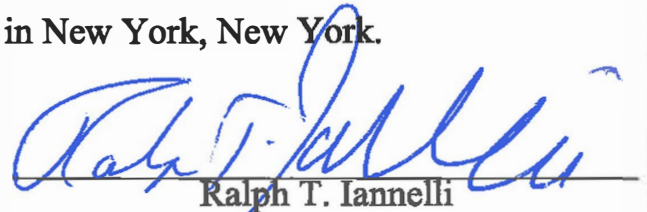
28 22. The Monitor’s Report asserts that “[i]n September 2018, Defendants

1 transferred 83,333 shares of Neos Therapeutics stock to a transfer agent to hold as  
2 additional security” for Mr. Wolansky. Those shares are held in the name of KF  
3 Leasing Partners, an entity for which Essex Capital is the general partner. Although  
4 I discussed those shares with Mr. Wolansky, the shares have never been transferred  
5 to, or served as additional security for, Mr. Wolansky.

6 23. The Monitor’s Report also claims that Mr. Wolansky “is entitled to as  
7 much as \$9.60 per [Neos] share with anything above that going back to Essex.”  
8 That statement is false. Mr. Wolansky has never been entitled to any portion of the  
9 Neos shares held by Essex or KF Partners and I have never discussed such an  
10 arrangement with Mr. Wolansky.

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

14 Executed this December 14, 2018, in New York, New York.

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16   
17 Ralph T. Iannelli

# **Exhibit A**



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**Private Equity Assets Related to Grant Transaction  
(value as of 12/31/17)**

<b>Asset</b>	<b>Valuation</b>
Arroweye Solutions	\$257,000
Bio Q Pharma	\$500,000
Cephea Valve Techonologies	\$143,000
Chow Now	\$379,186
Cogito Can	\$487,500
Electro Core	\$117,000
Essex Woodlands Healthcare Partners Fund Number 1	\$1,934,000
Femasys	\$250,000
Giddy dba Boxed	\$250,000
Kate Farms	\$150,000
<b>Value of Assets (as of 12/31/17)</b>	<b>\$4,467,686</b>

Exhibit A