

1 DAVID R. ZARO (BAR NO. 124334)
JOSHUA A. DEL CASTILLO (BAR NO. 239015)
2 NORMAN M. ASPIS (BAR NO. 313466)
ALLEN MATKINS LECK GAMBLE
3 MALLORY & NATSIS LLP
865 South Figueroa Street, Suite 2800
4 Los Angeles, California 90017-2543
Phone: (213) 622-5555
5 Fax: (213) 620-8816
E-Mail: dzaro@allenmatkins.com
6 jdelcastillo@allenmatkins.com
naspis@allenmatkins.com

7 [Proposed] Attorneys for Receiver
8 GEOFF WINKLER

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION

12 SECURITIES AND EXCHANGE
COMMISSION,

13 Plaintiff,

14 v.
15

16 RALPH T. IANNELLI and ESSEX
CAPITAL CORP.,

17 Defendants.
18

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

Date: February 14, 2019

Time: 10:00 a.m.

Ctrm: 6D

Judge: Hon. Fernando M. Olguin

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION OF RECEIVER, GEOFF
WINKLER, FOR ORDER IN AID OF
RECEIVERSHIP

[Notice of Motion and Motion and
[Proposed] Order submitted concurrently
herewith]

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION.**

3 Pursuant to this Court's December 21, 2018 Order Regarding Preliminary
4 Injunction and Appointment of a Permanent Receiver (the "Appointment Order"),
5 Geoff Winkler (the "Receiver"), the Court-appointed permanent receiver for
6 Defendant Essex Capital Corporation and its subsidiaries and affiliates (collectively,
7 the "Receivership Entities") hereby requests an order from this Court authorizing
8 and approving the terms of his engagement of Allen Matkins Leck Gamble Mallory
9 & Natsis LLP ("Allen Matkins") as his lead receivership counsel and providing for
10 the administrative and procedural relief requested herein, which relief the Receiver
11 believes is necessary and appropriate for the efficient and cost-effective
12 administration of the estate of the Receivership Entities (the "Estate"). Specifically,
13 the Receiver proposes the following:

14 **1. Employment and Compensation of Legal Counsel:** The
15 Appointment Order expressly authorizes the Receiver to engage counsel and other
16 professional personnel. (See Dkt. No. 66 at 8:21-24.) The Receiver does not have
17 in-house receivership counsel. In the Receiver's reasonable business judgment, the
18 business and financial activities of the Receivership Entities, including the
19 transactions they engaged in with their investors and third parties, along with the
20 legal issues the Receivership Entities are expected to face, support the employment
21 and compensation of well-qualified legal counsel in order to assist the Receiver in
22 administering the Receivership Entities and their estate, and satisfying his duties and
23 obligations as defined in the Appointment Order. Consistent with the Appointment
24 Order, the Receiver further proposes submitting his, Allen Matkins', and any other
25 receivership professionals' applications for payment of fees and reimbursement of
26 expenses to this Court approximately every three months, commencing on or around
27 April 15, 2019.

28

1 Accordingly, the Receiver requests that the Court formally authorize and
2 approve Allen Matkins' engagement and compensation in accordance with the terms
3 of this Motion for Order in Aid of Receivership ("Motion"). As detailed herein,
4 Allen Matkins is highly experienced in federal equity receivership matters and well-
5 qualified to assist the Receiver in this matter, as well as to provide legal advice and
6 assistance in other applicable areas of law, as necessary, including real estate,
7 litigation, employment, corporate, and tax matters.

8 **2. Privacy Protection for Investors in the Receivership Entities:** The
9 Receiver understands that approximately 160 investors invested an aggregate of at
10 least \$140,000,000 in the Receivership Entities. Given his experience in other
11 receivership matters, the Receiver anticipates that, at some point, he may file
12 materials with the Court that list or otherwise reference these investors. Consistent
13 with Local Rule 5.2-1, and in order to ensure that private investor information,
14 including tax ID numbers, social security numbers, and other personal identification
15 numbers, are protected, the Receiver proposes redacting any such information in
16 publicly filed documents and identifying individual investors in his submissions to
17 the Court by first initial and last name only.

18 **3. Website Communications:** The Receiver further proposes
19 establishing a receivership-specific website, www.essex-receivership.com, along
20 with electronic mail, to provide information about the receivership case and his
21 activities, along with copies of all materials he files with the Court. The website
22 will be updated regularly with filed materials, notices to investors, as described
23 below, and related information.

24 **4. Relieving the Receiver From the Local Rule 66-5 Requirement to**
25 **File a Schedule of Creditors:** Investor and creditor claim amounts are not known
26 at this time, and a detailed accounting will need to be completed before potential
27 investor claims can be properly identified and quantified. Additionally, based on the
28 records the Receiver has recovered and reviewed thus far, many investors appear to

1 be individuals and the Receiver submits that their personal information, including
2 their names and addresses, should not be filed publicly absent a compelling need for
3 disclosure.

4 **5. Establishing Requirements Relating to Service and Relieving the**
5 **Receiver from Local Rule 66-7 Requirements:** Consistent with the requirements
6 of due process, and as detailed below, after notifying known investors and creditors
7 of the receivership website, in writing, the Receiver proposes to provide notice to
8 interested parties of all matters requiring notice by electronic means, via the posting
9 of such notices on his website and the delivery of email notices to all interested
10 parties for whom the Receiver has a valid email address, as discussed below.

11 **6. Periodic Reports to the Court:** While the Appointment Order does
12 not specifically require the Receiver to provide the Court or interested parties with
13 updates regarding his efforts and administration of the Receivership Entities, Local
14 Rule 66-6.1 provides that, within six (6) months of appointment, and at least semi-
15 annually, the Receiver must make reports to the Court. Likewise, the Receiver
16 believes that interim reports filed with the Court will be beneficial in this matter,
17 and will provide the Court and interested parties with a means of receiving current
18 updates on the Receiver's administration of the Receivership Entities and their
19 estate, as well as permit the Receiver to highlight important issues. Accordingly, the
20 Receiver proposes preparing and filing interim reports with the Court approximately
21 every three (3) months, commencing on or around April 15, 2019.

22 **II. PROCEDURAL HISTORY AND RELEVANT FACTS.**

23 The above-captioned action was commenced on June 5, 2018, when the
24 plaintiff Securities and Exchange Commission (the "Commission") filed its
25 Complaint. (Dkt. No. 1.) The Receiver was initially appointed as a monitor for
26 Defendant Essex Capital Corporation on October 1, 2018 (see, e.g., Dkt. No. 53)
27 and, after completing an initial accounting and analysis of the business and financial
28 activities of Defendant Ralph Iannelli and the Receivership Entities, submitted his

1 Report of Preliminary Accounting of Defendant Essex Capital Corporation and
2 Recommendations of Court-Appointed Monitor (Dkt. No. 60-1) (the "Monitorship
3 Report") on December 6, 2018. Thereafter, the Court converted the monitorship
4 appointment into a permanent receivership pursuant on December 21, 2018 (Dkt.
5 No. 66).

6 Pursuant to the terms of the Appointment Order, the Receiver is vested with
7 exclusive authority and control over the Receivership Entities, and authorized or
8 instructed to, among other things: (a) take possession of the assets of the
9 Receivership Entities ("Receivership Assets"); (b) undertake investigation and
10 discovery to locate and account for available Receivership Assets; (c) engage
11 counsel and other professionals necessary to the performance of his duties under the
12 Appointment Order; (d) complete and present an accounting to the Court of the
13 business and financial activities of the Receivership Entities; and (e) prosecute such
14 claims of the Receivership Entities as he deems appropriate. (See Dkt. No. 66 at
15 7:11-9:22.) The Receiver has already commenced the performance of his duties
16 under the Appointment Order and has determined, in his reasonable business
17 judgment, that the relief requested herein is appropriate to facilitate his
18 administration of the Receivership Entities and their Estate.

19 **III. LEGAL AUTHORITY.**

20 **A. The Court's Power To Administer The Instant Receivership**
21 **Extends To The Relief Requested Here.**

22 A district court's power to administer an equity receivership is extremely
23 broad. SEC v. Hardy, 803 F.2d 1034, 1037 (9th Cir. 1986); SEC v. Forex Asset
24 Management, LLC, 242 F.3d 325, 331 (5th Cir. 2001); SEC v. Basic Energy &
25 Affiliated Resources, 273 F.3d 657, 668 (6th Cir. 2001); SEC v. Elliot, 953 F.2d
26 1560, 1566 (11th Cir. 1992); SEC v. Wang, 944 F.2d 80, 85 (2d Cir. 1991).

27 "The power of a district court to impose a receivership or grant other forms of
28 ancillary relief does not in the first instance depend on a statutory grant of power

1 from the securities laws. Rather, the authority derives from the inherent power of a
2 court of equity to fashion effective relief." SEC v. Wencke, 622 F.2d 1363, 1369
3 (9th Cir. 1980). The "primary purpose of equity receiverships is to promote orderly
4 and efficient administration of the estate by the district court for the benefit of
5 creditors." Hardy, 803 F.2d at 1038. As the appointment of a receiver is authorized
6 by the broad equitable powers of the court, any distribution of assets must also be
7 done equitably and fairly. See Elliot, 953 F.2d at 1569. The Ninth Circuit has
8 explained:

9 A district court's power to supervise an equity
10 receivership and to determine the appropriate action to be
11 taken in the administration of the receivership is extremely
12 broad. The district court has broad powers and wide
13 discretion to determine the appropriate relief in an equity
14 receivership. The basis for this broad deference to the
15 district court's supervisory role in equity receiverships
16 arises out of the fact that most receiverships involve
17 multiple parties and complex transactions.

18 SEC v. Capital Consultants, LLC, 397 F.3d 733, 738 (9th Cir. 2005) (citations
19 omitted); see also CFTC v. Topworth Int'l, Ltd., 205 F.3d 1107, 1115 (9th Cir.
20 1999) ("This court affords 'broad deference' to the court's supervisory role, and 'we
21 generally uphold reasonable procedures instituted by the district court that serve
22 th[e] purpose' of orderly and efficient administration of the receivership for the
23 benefit of creditors"). Accordingly, this Court has broad equitable powers and
24 discretion in formulating procedures, schedules and guidelines for administration of
25 the Estate.

26 **B. The Receiver's Business Judgment Is Entitled To Deference.**

27 In the estate administration context, courts are deferential to the business
28 judgment of bankruptcy trustees, receivers, and other court-appointed fiduciaries.

1 See, e.g., Bennett v. Williams, 892 F.2d 822, 824 (9th Cir. 1989) ("[W]e are
2 deferential to the business management decisions of a bankruptcy trustee");
3 Southwestern Media, Inc. v. Rau, 708 F.2d 419, 425 (9th Cir. 1983) ("The decision
4 concerning the form of ... [estate administration] ... rested with the business
5 judgment of the trustee"); In re Thinking Machines Corp., 182 B.R. 365, 368 (D.
6 Mass. 1995) ("The application of the business judgment rule ... and the high degree
7 of deference usually afforded purely economic decisions of trustees, makes court
8 refusal unlikely") (rev'd on other grounds, In re Thinking Machines Corp., 67 F.3d
9 1021 (1st Cir. 1995)).

10 **IV. RELIEF REQUESTED.**

11 **A. Employment And Compensation Of Allen Matkins.**

12 Pursuant to Article XI of the Appointment Order, the Receiver is authorized
13 to and desires to employ Allen Matkins to assist him in the performance of his
14 duties as Receiver.

15 The Receiver is does not have in-house receivership counsel. In the
16 Receiver's reasonable business judgment, the relationships between and among the
17 Receivership Entities, and the business and financial transactions in which they
18 engaged with their investors, and third parties, along with the numerous legal issues
19 the Receivership Entities are expected to face, all militate in favor of the
20 employment and compensation of well-qualified legal counsel, to assist the Receiver
21 in, among other things: (a) recovering, preserving, managing, and appropriately
22 disposing of Receivership Assets; (b) addressing legal issues related to the
23 administration of the Receivership Entities and their business, assuming any such
24 business can continue to be operated or legitimately wound down; (c) providing
25 legal advice relating to the Receiver's investigation of the Receivership Entities'
26 financial activities, investments, and potential causes of action against third parties,
27 including undertaking the discovery authorized by the Appointment Order and
28 evaluating the strengths and weaknesses of potential claims against parties in

1 possession of Receivership Assets; (d) pursuing claims and causes of action,
2 including, where appropriate, through litigation; (e) providing legal advice relating
3 to investor and creditor claims against the Estate; (f) formulating and presenting to
4 the Court a plan for the administration of investor and creditor claims and
5 distribution of assets of the Estate, if any; and (g) preparing and submitting interim
6 reports and any other materials to this Court and other courts presiding over
7 litigation involving or relating to the Receivership Entities.

8 The Receiver respectfully requests that the Courts specifically authorize and
9 approve the employment and compensation of Allen Matkins as the Receiver's
10 general receivership counsel, pursuant to the terms described below.

11 1. Selection of Allen Matkins as Counsel.

12 The Receiver selected Allen Matkins because the firm is highly qualified to
13 represent him in connection with this complex receivership, given its substantial
14 experience and expertise in federal equity receiverships, real estate, litigation,
15 employment, corporate, and tax matters. Allen Matkins has represented federal
16 equity receivers appointed in numerous cases initiated by the Commission and other
17 federal agencies. Attached hereto as Exhibit A is a list of cases where Allen
18 Matkins has represented court-appointed receivers or similar fiduciaries in federal
19 enforcement actions.

20 2. Proposed Terms of Allen Matkins Employment and
21 Compensation.

22 As reflected in Allen Matkins' engagement letter, attached hereto as
23 Exhibit B, and in addition to the cost savings and other benefits to the Estate of
24 retaining highly experienced legal counsel, Allen Matkins has agreed to discount its
25 ordinary billing rates on this matter by 10%. Likewise, Allen Matkins has agreed to
26 limit its charges for all out-of-pocket costs to those permitted by the Office of the
27 United States Trustee in bankruptcy cases in this District. (Id.) Allen Matkins
28 understands and agrees that payment of its fees and reimbursement of its expenses

1 will be made only after an application and noticed hearing, as reflected in the
2 Appointment Order. (Id.) The Receiver proposes submitting such applications
3 approximately every three (3) months, commencing on or around April 15, 2019.

4 Finally, to the extent the Receiver determines it is necessary to initiate
5 litigation to recover Estate assets or otherwise pursue claims against third parties,
6 the Receiver will file an application seeking authority to take such action, prior to
7 commencing litigation.

8 3. Anticipated Principal Receivership Team.

9 At present, the Receiver anticipates that the Allen Matkins attorneys
10 principally staffed on this matter will be Joshua A. del Castillo, David R. Zaro, and
11 Norman M. Aspis.

12 Mr. del Castillo is a bankruptcy and creditors' rights litigator at Allen
13 Matkins, with over a decade of experience representing receivers and other
14 fiduciaries appointed at the request of various federal agencies, including the
15 Commission. Mr. Zaro is likewise a bankruptcy and creditors' rights litigator at
16 Allen Matkins, with multiple decades of experience representing receivers appointed
17 at the behest of the Commission and other federal agencies. Mr. Aspis is a third-
18 year bankruptcy and creditors' rights litigation associate, with a developing practice
19 in receivership matters. Attached hereto collectively as Exhibit C are the
20 biographies of attorneys del Castillo, Zaro, and Aspis.

21 Mr. del Castillo will serve as lead receivership counsel, and will provide legal
22 advice relating to the administration of the instant receivership, including in
23 connection with all necessary discovery and Receivership Asset recovery efforts,
24 will supervise the preparation of all pleadings to be filed with the Court, and will
25 coordinate all necessary legal services. Mr. Aspis will perform many of the post-
26 engagement, day-to-day administration tasks for this matter (after an Order on this
27 Motion is entered), and will be charged with necessary research and initial briefing
28 of materials for submission to the Court, subject to recommendations and revisions

1 from Mr. del Castillo. Mr. Zaro will consult and provide senior partner-level advice
2 on matters arising in the context of the receivership case, as appropriate.

3 The discounted rates Allen Matkins proposed to charge for the
4 aforementioned Allen Matkins attorneys are as follows:

5

<u>Attorney</u>	<u>Position</u>	<u>CA Bar Number</u>	<u>Discounted Hourly Billing Rate</u>
6 Joshua A. del Castillo	Partner	239015	\$562.50
7 David R. Zaro	Partner	124334	\$742.50
8 Norman M. Aspis	Associate	313466	\$351.00

9

10 (See Ex. B.) The above-described staffing arrangement is expected to
11 maximize efficiency and minimize costs to the Estate, and reflects an effective
12 utilization of available resources. Allen Matkins has agreed not to accept
13 compensation for services rendered in this matter except in accordance with the
14 terms of this Motion and any Order entered thereon, and as stated above. Moreover,
15 the rates identified above are comparable to or less than those charged by other
16 attorneys in Southern California with similar levels of experience in receivership
17 matters, and are consistent with rates approved by courts in the Central District of
18 California for attorneys representing receivers in federal enforcement matters.

19 The Receiver therefore respectfully requests that the Court authorize and
20 approve the employment and compensation of Allen Matkins as the Receiver's legal
21 counsel in accordance with the terms described herein.

22 **B. Privacy Protections For Investors.**

23 Based on the materials obtained by the Receiver to date, the Receivership
24 Entities' investors appear to include a significant number of individual investors. In
25 accordance with Local Rule 5.2-1 and Fed. R. Civ. P. 5.2, and in order to further
26 protect the privacy of the individual investors, and to keep their information from
27 public display, the Receiver requests authority to implement the following
28 procedures:

- 1 • Whenever a certificate of service contains addresses of the investors,
2 the certificate will use only the first initial and last name of the investor,
3 and the street address will be redacted before filing with the Court;
- 4 • Any documents containing investor email information will be redacted
5 before filing with the Court;
- 6 • If and when a Proof of Claim form is devised for the filing of claims
7 by creditors in this case, including by investors, and should any claim
8 objection be filed, the Receiver will redact the last four digits of any EIN
9 (federal employer identification number), social security numbers, or other
10 identifiers. Similarly, the Receiver will redact personal account identifiers
11 and, where appropriate, the names of minor children, before any document
12 is filed with the Court.

13 The Receiver requests that the Court approve these procedures, which will
14 also apply to materials posted on his website.

15 **C. Use Of The Receiver's Website For Communications.**

16 The Receiver proposes to use his website, www.essex-receivership.com, to
17 post information about the case and his activities, along with copies of all materials
18 he files with the Court. The website will be updated regularly with materials filed in
19 the case, notices to investors, as described below, and related information.

20 **D. Relief From Local Rule 66-5.**

21 Local Rule 66-5 requires the Receiver to file a schedule of names, addresses,
22 and amounts of claims of all known creditors within five (5) days of his appointment
23 as a permanent receiver. Investor and creditor claim amounts are not known at this
24 time, and because the Receiver's investigation and analysis are incomplete, may not
25 be known for some time. The Receiver has promptly commenced his investigation
26 and discovery efforts, and will provide an update to the Court with respect to his
27 progress in his first interim report, should the Court authorize him to submit interim
28 reports. Moreover, as noted above, many investors appear to be individuals and

1 their personal information, including their names and addresses, should not be filed
2 publicly absent a compelling need for disclosure. Accordingly, the Receiver
3 requests relief from the requirement under Local Rule 66-5 to file a schedule of
4 known creditors.

5 **E. Establishment Of Service Procedures To Conserve Receivership**
6 **Assets And Relieve The Receiver from The Requirements Of Local**
7 **Rule 66-7.**

8 Local Rule 66-7 requires the Receiver to provide notice, by mail, to all known
9 creditors (including investors), relating to certain petitions, reports, and applications.
10 However, Estate resources are likely to be limited and mailing notices to the
11 investors and creditors, as required by Local Rule 66-7, could impose significant
12 costs on the Estate that would further reduce the funds ultimately available for
13 distribution to investors and creditors. Notably, the Appointment Order does not
14 specify the manner in which notice must be provided.

15 In the Receiver's reasonable business judgment, notice costs may be
16 minimized here by providing electronic notice via the receivership website and
17 emails. Accordingly, and after alerting known investors and creditors of the
18 receivership website, in writing, the Receiver proposes to provide the notices
19 required under Local Rule 66-7 via the receivership website, and by way of email,
20 as the email addresses of individual investors and creditors are identified. The
21 Receiver will establish, maintain, and update a list of investor and other creditor
22 email addresses for such notices.

23 The Receiver requests that service of any such notice on investors and other
24 interested parties be expressly limited to electronic notice, via a posting on the
25 Receiver's website and email notice to parties with known email addresses,
26 wherever possible. This is in order to conserve the assets of the Estate and to reduce
27 unnecessary expenses, while still satisfying the principles of due process.

28

1 The Receiver's recommendation finds strong support in the law. Although
2 investors and creditors of the Receivership Entities are not parties to the receivership
3 case, they must be afforded adequate notice. SEC v. TLC Invs. and Trade Co., 147
4 F.Supp.2d 1031, 1034-35 (C.D. Cal. 2001); see also In re Gen. Am. Life Ins. Co.
5 Sales Practices Litig., 375 F.3d 800, 804 (8th Cir. 2004) (Addressing the importance
6 of notice in class actions, which employ a higher standard for the adequacy of
7 notice.). Naturally, the requirements of due process vary with the rights at issue.
8 Matthews v. Eldridge, 424 U.S. 319, 334 (1976) (Due process as a "flexible"
9 standard that "calls for such procedural protections as the particular situation
10 demands[.]"). While no specific standards exist regarding providing notices to
11 investors or other creditors in this context, it is undisputed that adequate notice is
12 required. Notice is adequate, and meets due process requirements, where it is
13 reasonably calculated to apprise interested parties of the pendency of an action and
14 provide them an opportunity, if appropriate, to be heard. Mullane v. Cent. Hanover
15 Bank & Trust Co., 339 U.S. 306, 413 (1950).

16 Notice by electronic means has been permitted where it is reasonably
17 calculated to apprise the recipients of the pendency of the action and provide them
18 with the opportunity to be heard. In re Int'l Telemedia Assocs., Inc., 245 B.R. 719,
19 721 (Bankr. N.D. Ga. 2000) (Approving notice via electronic mail in heightened due
20 process context of criminal proceeding); Yahoo!, Inc. v. Yahooautos.com and 1865
21 Other Domain Names, 2006 U.S. Dist. LEXIS 54902, *10 (E.D. Va. August 8,
22 2006) (Approving notice via electronic mail in context of *in rem* civil action).
23 Furthermore, "communication by ... electronic mail [has] become commonplace in
24 our increasingly global society ... [and] [t]he federal courts are not required to turn a
25 blind eye to society's embracement of such technological advances." Telemedia
26 Assocs., Inc., 245 B.R. at 721.

27 In accordance with such authorities, the Receiver proposes, based on his
28 reasonable business judgment and efforts to conserve Estate resources, to limit

1 service to the investors and other creditors so that they are noticed only by timely
2 posting notices of all filings on the Receiver's website and by email, whenever
3 possible. The electronic notice will contain all documents attached in "PDF"
4 format. As stated above, "communication by...electronic mail [has] become
5 commonplace in our increasingly global society...[and] [t]he federal courts are not
6 required to turn a blind eye to society's embracement of such technological
7 advances." Telemedia Assocs., Inc., 245 B.R. at 721.

8 Moreover, the Receiver recognizes that not all investors and creditors may
9 possess an email address, or that he may not be able to secure email addresses for all
10 affected parties. Thus, for the benefit of any investors or other interested parties for
11 whom email addresses either do not exist or cannot be found, the Receiver will also
12 post instructions on his website for how interested parties can ask to receive hard
13 copy notice.

14 In the event that any interested party makes such a request, the Receiver will
15 serve a hard copy of all Receiver notices of filings, by mail, on the party making the
16 request. Hard copy, mailed notices will provide that the operative pleadings relating
17 to each notice may be viewed and printed from the Receiver's website or the Court's
18 Pacer site. Any such notices will also provide that any interested party may further
19 request hard copies of operative pleadings and supporting documents by contacting
20 the Receiver, in writing. The Receiver respectfully submits that the recommended
21 course of action comports with the requirements of due process, while conserving
22 Estate assets.

23 **F. Submission Of Interim Reports.**

24 As noted above, Local Rule 66-6.1 requires the Receiver to provide the Court
25 with reports addressing at least: (a) the receipts and expenditures of the receivership;
26 and (b) the acts and transactions undertaken by the Receiver. The Receiver
27 recognizes the importance of his reporting obligations strongly recommends that he
28 be authorized to file interim reports approximately every three (3) months,

1 commencing on or around April 15, 2019, on essentially the same schedule as that
2 proposed herein for the Receiver's and his professionals' applications for fees and
3 reimbursement of expenses.

4 In the Receiver's experience, interim reports enable the Court and all
5 interested parties to remain abreast of material developments in the Receiver's
6 administration of the Receivership Entities and their Estate, essentially in real time.
7 This ensures that the Court remains apprised of material developments in the
8 receivership as they occur, permits interested parties to track the administration of
9 the Estate, and provides the Receiver with a means of publicly highlighting
10 important issues.

11 **V. CONCLUSION.**

12 For the foregoing reasons, the Receiver respectfully requests that the Court
13 enter an Order in Aid of Receivership:

- 14 1. Authorizing the Receiver to employ and compensate Allen Matkins, as
15 his general receivership counsel, in accordance with the terms described herein;
- 16 2. Authorizing and approving the Receiver's recommended privacy
17 protection procedures, including specifically that: (a) the Receiver will only use first
18 initial and last name of investors on certificates of service and will redact their street
19 addresses before filing with the Court; (b) any documents containing investor email
20 information will be redacted before filing with the Court; (c) in the case of a Proof
21 of Claim form filed with the Court, the Receiver will redact all but the last four
22 digits of any EIN, social security numbers, or other identification numbers, as well
23 as personal identifiers and names of minor children on any documents filed by the
24 Court;
- 25 3. Authorizing the Receiver to use his website, [www.essex-](http://www.essex-receivership.com)
26 [receivership.com](http://www.essex-receivership.com), to post information about the case and his activities, in
27 conjunction with or in addition to electronic notices;

28

1 4. Relieving the Receiver of the requirements of Local Rule 66-5 that the
2 Receiver file a schedule of creditors;

3 5. Relieving the Receiver of the requirements of Local Rule 66-7 and
4 establishing a procedure to provide for electronic service only on all interested
5 parties, in the form of posting notices of filings to the Receiver's website,
6 www.essex-receivership.com, and providing notice of such filings by email, where
7 available, subject to interested parties' reserving the right to receive service of
8 notices by mail, if they so request; and

9 6. Authorizing the Receiver to prepare and file interim reports with the
10 Court, approximately every three (3) months.

11
12 Dated: January 9, 2019

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
DAVID R. ZARO
JOSHUA A. DEL CASTILLO
NORMAN M. ASPIS

13
14
15 By: /s/ Joshua A. del Castillo
16 JOSHUA A. DEL CASTILLO
17 [Proposed] Attorneys for Receiver
18 GEOFF WINKLER
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RECEIVERSHIP & MONITORSHIP CASE LIST

ALLEN MATKINS LECK GAMBLE MALLORY & NATSIS LLP

YEAR	CASE NAME	VENUE
2018	SEC v. McKinley Mortgage Co. LLC, et al.,	USDC, Eastern District of California (Sacramento), No. 2:18-cv-00616-MCE-CMK
2018	SEC v. Pacific West Capital Group, Inc., et al.,	USDC, Central District of California (Los Angeles), No. 2:15-cv-02563-FMO (FFMx)
2016	SEC v. Emilio Francisco; PDC Capital Group, LLC, et al.,	USDC, Central District of California (Santa Ana), No. 8:16-cv-02257-CJC-(DFMx)
2016	SEC v. Charles Liu; Pacific Proton Therapy Regional Center, LLC, et al.,	USDC, Central District of California (Santa Ana), No. 8:16-cv-00974-CJC-AGR
2016	SEC v. BIC Real Estate Development, et al.,	USDC, Eastern District of California (Fresno), No. 1:16-cv-00344-LJO-JLT
2015	SEC v. Yang; Yanrob's Medical, Inc., et al.,	USDC, Central District of California (Los Angeles), No. 5:15-cv-02387-SVW (KKx)
2015	SEC v. Path America, LLC, et al.	USDC, Western District of Washington (Seattle), No. c-15-1350-JLR
2015	SEC v. Chen, USFIA, Inc., et al.	USDC, Central District of California (Los Angeles), No. 2:15-cv-07425-RGK-GJSx
2015	SEC v. Total Wealth Management, Inc., et al.,	USDC, Southern District of California No. 15-cv-226 BAS (DHB)
2014	SEC v. World Capital Market, Inc., et al.,	USDC, Central District of California (Los Angeles), No. 2:14-cv-02334-JFW-MRW
2013	SEC v. Yin Nan "Michael" Wang, Velocity Investment Group, Inc., et al.,	USDC, Central District of California (Los Angeles), No. 13-cv-07553-JAK (SSx)
2012	SEC v. Small Business Capital Corp.; Mark Feathers; Investors Prime Fund, LLC, et al.,	USDC, Northern District of California (San Jose), No. 5:12-cv-03237-EDJ
2012	SEC v. Louis V. Schooler; First Financial Planning Corporation dba Western Financial Planning Corporation	USDC, Southern District of California, No. 12CV2164-LAB
2010	SEC v. Advanced Money, Inc.; Moises Pacheco, et al.,	USDC, Southern District of California
2009	SEC v. Medical Capital Holdings, Inc., et al.,	USDC, Central District of California (Santa Ana)
2009	SEC v. Sunwest Management, Inc., et al.,	USDC, District of Oregon (Portland)
2008	SEC v. Robert Louis Carver; Lincoln Funds International, Inc.	USDC, Central District of California (Santa Ana)
2008	SEC v. Plus Money, Inc.; Matthew LaMadrid, et al.,	USDC, Southern District of California
2008	SEC v. Tuco Trading, LLC	USDC, Southern District of California
2008	SEC v. Safevest, LLC; John G. Ervin; John V. Slye	USDC, Central District of California (Santa Ana), No. SACV08-00473 JVS
2007	SEC v. Global Online Direct	USDC, Northern District of Georgia

YEAR	CASE NAME	VENUE
2007	SEC v. Trabulse	USDC, Northern District of California (San Francisco)
2006	SEC v. Credit First Fund	USDC, Central District of California (Los Angeles)
2006	SEC v. Charis Johnson; 12Daily Pro	USDC, Central District of California
2006	SEC v. Rhodes	USDC, District of Oregon (Portland)
2004	SEC v. Presto Telecommunication	USDC, Southern District of California
2004	SEC v. Rose Fund	USDC, Northern District of California (San Francisco)
2004	SEC v. Learn Waterhouse, Inc.	USDC, Southern District of California
2002	SEC v. Alpha Telcom; Rubera, et al.,	USDC, District of Oregon (Portland), No. 01-cv-01283-PA
2002	SEC v. Health Maintenance Centers, Inc.; Znetix, et al.,	USDC, District of Washington (Seattle)
2001	SEC v. Pinnfund USA	USDC, Southern District of California
2000	SEC v. Capital Consultants, LLC; Jeffrey Grayson	USDC, District of Oregon (Portland)

FEDERAL TRADE COMMISSION

YEAR	CASE NAME	VENUE
2018	FTC v. Impetus Enterprise, Inc., et al.,	USDC, Central District of California (Santa Ana), No. SACV-18-01987-AG (KESx)
2018	FTC v. American Home Servicing Center	USDC, Central District of California (Santa Ana), No. SACV-18-00597-JLS
2012	FTC v. Consumer Advocates Group Experts, LLC	USDC, Central District of California (Los Angeles), No.
2009	FTC v. MCS Programs, LLC, et al.,	USDC, Western District of Washington (Tacoma)
2007	FTC v. Merchant Processing, Inc., et al.,	USDC, District of Oregon

U.S. COMMODITY FUTURES TRADING COMMISSION ("CFTC")

YEAR	CASE NAME	VENUE
2008	U.S. Commodity Futures Trading Commission v. Safevest, LLC; Jon G. Ervin; John V. Slye	USDC, Central District of California (Santa Ana)

FDIC

YEAR	CASE NAME	VENUE
2018	FDIC as Receiver for AMTRUST BANK, f/k/a Ohio Savings Bank, a federal savings bank v. Rex H. Lewis, et al.,	USDC, District of Nevada, No. 2:10-cv-00439-JCM-VCF

CONSUMER FINANCIAL PROTECTION BUREAU ("CFPB")

YEAR	CASE NAME	VENUE
2016	CFPB, et al., v. Pension Funding, LLC, et al.,	USDC, Central District of California, No. 8:15-cv-01329-JLS-JCGx

Allen Matkins

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law
865 South Figueroa Street, Suite 2800 | Los Angeles, CA 90017-2543
Telephone: 213.622.5555 | Facsimile: 213.620.8816
www.allenmatkins.com

Joshua A. del Castillo
E-mail: jdelcastillo@allenmatkins.com
Direct Dial: 213 955 5591 File Number: 110045-00136/LA1147515.01

Via Email/U.S. Mail

January 2, 2019

Geoff Winkler, JD, MBA, CFE
Managing Director
Alvarez & Marsal, LLC
100 Pine Street, Suite 900
San Francisco, CA 94111-5222

**Re: Prospective Legal Services Engagement
SEC v. Iannelli, et al., Central District of California Case No. 2:18-cv-05008**

Dear Geoff:

Thank you for considering Allen Matkins to represent you as general receiver counsel connection with the above-referenced Securities and Exchange Commission ("Commission") enforcement action, currently pending in the United States District Court for the Central District of California (the "Court"). We look forward to assisting you in fulfilling your duties as receiver.

1. Allen Matkins' Qualifications.

As you know, Allen Matkins is well qualified to serve as receiver's counsel in connection with this matter. Allen Matkins has a multi-office receiverships, lenders, and special creditor remedies practice, in five office locations throughout California, including San Diego, Orange County, Century City, and Los Angeles. Allen Matkins attorneys, including my colleague David Zaro and I, regularly serve as counsel for court-appointed receivers, and have served as receiver's counsel in dozens of enforcement and receivership actions brought by the SEC, including in District Courts throughout California.

Allen Matkins likewise has substantial experience in receivership matters involving allegations of securities fraud. Indeed, we are currently serving as receiver's or monitor's counsel in a number of enforcement actions brought by the Commission alleging various forms of securities fraud, including actions involving alleged offering frauds, Ponzi-schemes, and EB-5 investment schemes, as well as matters implicating disgorgement litigation and other complex asset recovery and disposition issues. I am currently serving as the supervising partner and lead counsel in five of these matters.

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Geoff Winkler, JD, MBA, CFE
January 2, 2019
Page 3

Until we know more about the case and the type of services needed or the extent of disputed matters, we will be unable to provide a more specific blended rate for the case. Our goal would be to maximize the use of associates over the life of the case, assuming the issues and matters do not require more experienced counsel or special expertise.

In order to further assist in controlling costs in this matter, Allen Matkins will not bill for attorney travel time to the Court, and will only charge for out-of-pocket travel costs. Allen Matkins generally reviews its hourly rates annually and, if appropriate, adjusts them effective July 1, to reflect increases in seniority, experience and other relevant factors. Those adjustments typically range from 3-5%. We generally do not send any notices of such changes in hourly rates.

You understand that it is impossible to determine in advance the amount of fees and costs needed to complete this matter. In addition to charges for legal services, you, in your capacity as receiver, will also be responsible for reimbursing Allen Matkins for costs and expenses incurred, such as filing fees, charges for transcripts, depositions, long distance telephone, computerized legal research, messenger fees, copying costs, word processing expenses and the like. These items are charged at our standard rates in effect at the time the expense is incurred. In certain cases, we will ask you to pay these expenses directly. We agree to limit our out-of-pocket costs for which we will seek reimbursement to those permitted by the Guidelines issued by the Office of the U.S. Trustee covering bankruptcy cases in the Court.

Whenever appropriate and consistent with the proper representation of our clients, we use paralegals, investigators, junior attorneys and staff members in order to minimize the impact of the hourly rates of more senior attorneys. We believe the utilization of junior attorneys, paralegals or staff members, in consultation with and under supervision of more experienced attorneys in the firm as appropriate, enables us to maintain economically and efficiently the high quality of our legal representation, while permitting us both to avoid sacrificing the quality of our work for lower fees and to avoid assigning senior attorneys to tasks which can be performed proficiently by junior attorneys, paralegals or staff members.

3. Conflicts of Interest.

We cannot, without appropriate consents, represent any party if there is a conflict of interest with any of our other clients. In order to avoid conflicts of interest among our clients, we maintain an index of relevant names. In connection with this matter, we have searched our index for the following names:

- Geoff Winkler, JD, MBA, CFE, Receiver
- U.S. Securities and Exchange Commission
- Ralph T. Iannelli
- Essex Capital Corporation

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Geoff Winkler, JD, MBA, CFE
January 2, 2019
Page 4

We have not discovered any conflict which requires further action before undertaking our representation. Please advise us, at or before the time you return the signed copy of this letter, if you know of any other individuals or entities which may be involved in this matter. In addition, please inform us at once if you learn in the future of other persons or entities who may be involved so we can make a conflict of interest search with respect to them.

4. No Guarantees.

During the course of our representation, we will endeavor to keep you fully advised as to the status and progress of this matter, including our view of your rights and potential liabilities or exposure, and our recommendations as to an appropriate course of action in view of the facts, circumstances and issues involved. Upon your request, we will also endeavor to provide you with an estimate of the future costs and fees you should anticipate incurring through the various stages of this matter. An estimate is not a fixed fee and does not constitute a commitment by Allen Matkins to perform our professional services for that amount. You will be responsible for the actual fees and costs incurred on the basis described in this Agreement.

We will send copies of all material documents generated in connection with our representation, and I ask that you call me at any time should you wish to discuss the matter, our invoices or bills, or any other aspect of this representation. If for some reason I am unavailable, another attorney in this office will generally be available and familiar with the matter sufficiently to consult with you as desired.

We must emphasize that our firm has not made and cannot make any representations or guarantees regarding the successful outcome of any representation, involving litigation or otherwise, or the actual amount of any fees or costs you will incur. For example, costs, expenses and results are often controlled by external factors beyond our control.

5. Client Representation by Allen Matkins.

For purposes of this engagement, Allen Matkins is only representing you, Geoff Winkler, in your capacity as receiver. We are not representing any of your affiliates, subsidiaries, parent companies, joint ventures, officers, directors, partners, principals, investors, or employees, unless otherwise agreed to by Allen Matkins in writing. Accordingly, Allen Matkins may be adverse to these related parties or their legal interests, unless precluded by reason of the Rules of Professional Conduct.

6. Consent to Electronic Communications.

In order to maximize efficiency in this matter, we intend to use state of the art communications devices to the fullest extent possible (e.g., E-Mail, document transfer by computer, cellular telephones, and facsimile transfers). The use of such devices under current technology may place your confidences and privileges at risk. However, we believe the effectiveness involved in

Allen Matkins Leck Gamble Mallory & Natsis LLP
Attorneys at Law

Geoff Winkler, JD, MBA, CFE
January 2, 2019
Page 5

use of these devices outweighs the risk of accidental disclosure. By signing this letter, you acknowledge your consent to the use of these devices.

7. **Confirmation of Agreement.**

Please confirm your agreement to the terms of this engagement letter by signing this letter and returning it to us.

We will endeavor to represent you promptly and efficiently, and we hope for a long and mutually satisfactory relationship. We very much appreciate the opportunity of working with you, again.

Very truly yours,

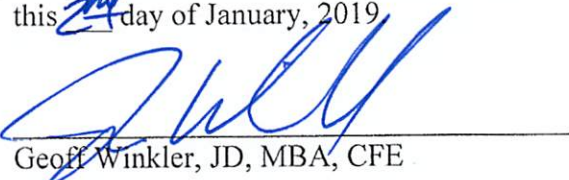


Joshua A. del Castillo

JAD:jad
Enclosures

cc: David R. Zaro, Esq.
(via email only)

APPROVED, ACCEPTED AND AGREED TO
this 2nd day of January, 2019



Geoff Winkler, JD, MBA, CFE

Allen Matkins

CHALLENGE. OPPORTUNITY. SUCCESS.



DAVID R. ZARO
Partner
Los Angeles

(213) 955-5518

(213) 620-8816 (fax)

dzaro@allenmatkins.com

INDUSTRIES
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Construction Law
Receiverships, Lenders & Special Creditor Remedies

BIOGRAPHY

David R. Zaro is a partner in our Los Angeles office, where his practice focuses upon litigation with an emphasis upon creditors' rights, bankruptcy litigation, and state and federal receiverships. David represents a wide range of clients including banks and other institutional lenders, developers, landlords, receivers, examiners, secured and unsecured creditors, and other business enterprises.

David has extensive experience as a bankruptcy lawyer as well as a trial lawyer in federal and state courts in California and several other jurisdictions. His experience in the field of insolvency, creditors' rights, and bankruptcy litigation includes out-of-court workouts and restructurings, federal and state court receiverships, and bankruptcy reorganization proceedings. David also advises residential and commercial lenders and others regarding all aspects of commercial law with regard to commercial and residential mortgage litigation, bank regulatory disputes, and collection actions.

David's representative cases include the representation of Court Appointed Receivers in a \$1.2 billion fraud action brought by the Securities and Exchange Commission in connection with the sale of TIC and other interests in 300 assisted living facilities; and a \$750 million ponzi-like scheme involving the purchase of medical related receivables and related lending transactions; representation of lender in workout of mezzanine financing on a multi-building office park; defense of actions in bankruptcy by junior lienholder and debtor against lender on an industrial park; and structure lease termination and modifications for commercial and retail tenants both in and out of bankruptcy.

David has lectured on matters regarding residential and commercial mortgage litigation and workouts, creditors' rights, construction law, and other real property remedies.

MEMBERSHIPS

- Financial Lawyers Conference
- American Bankruptcy Institute
- Turnaround Management Association

ACCOLADES

- Awarded Turnaround Management Association's Transaction of the Year- Large Turnaround Award (2011)

EDUCATION

David received his B.A. from Stanford University and obtained his J.D. from the University of California Hastings College of The Law.

BAR ADMISSIONS

- California

COURT ADMISSIONS

- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California
- U.S. District Court, District of Arizona
- California Supreme Court
- U.S. Ninth Circuit Court of Appeals
- U.S. Supreme Court

EVENTS

[The State Bar of California-Real Property Section - 28th Annual Retreat](#)

5/15/2009

Speakers: [Thomas W. Henning](#) and [David R. Zaro](#)

3/13/2009

Speakers: David R. Zaro

REPRESENTATIVE MATTERS

- **Residential and Commercial Bank.** Represented bank in achieving a favorable published decision by the Ninth Circuit in Chapter 12 bankruptcy case. The appeal involved an attempt by a debtor in bankruptcy, and self-described family farmer, to leverage a discharge of personal debt in a prior chapter 7 bankruptcy case into subsequent eligibility under chapter 12 of the Bankruptcy Code, which could have enabled her to avoid foreclosure or strip down the value of the bank's security in the subject property. The Ninth Circuit did not agree with the debtor. The debtor sought an en banc review of the Ninth Circuit's decision which was subsequently denied.
- **SEC Receiver.** Representing SEC Receiver in securities fraud case in connection with the raising of \$120 million via the EB-5 program for the development of two large real estate developments in Seattle and neighboring Everett. We are prosecuting claims to recover investor funds from third-party borrower.
- **Residential and Commercial Bank.** Represented a residential and commercial bank in defending several thousand lawsuits throughout California and managed local counsel in 20 other states. The lawsuits concern allegations of mortgage fraud, wrongful foreclosure, violations of TILA, RESPA, HOSPA, and other statutory and regulatory issues.
- **SEC Receiver.** Represented SEC Receiver in securities fraud case involving losses to investors of over \$40 million.
- **Residential and Commercial Lender.** Represented a residential and commercial lender in the workout and collection of a portfolio of commercial loans exceeding \$1 billion.
- **Residential and Commercial Lender.** Represented a residential and commercial lender as to the workout and collections of a portfolio of construction loans. Some loans involving completed projects as well as those in progress.

JOSHUA A. DEL CASTILLO

BIOGRAPHY

MATTERS

PUBLICATIONS

SPEAKING ENGAGEMENTS



JOSHUA A. DEL CASTILLO PARTNER

LOS ANGELES

(213) 955-5591

(213) 620-8816 (fax)

jdelcastillo@allenmatkins.com

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[Receiverships, Lenders & Special Creditor Remedies](#)

[Commercial Finance](#)

EDUCATION

J.D., USC Gould School of Law

M.A., University of Michigan

B.A., *cum laude*, University of Southern California

BIOGRAPHY

Joshua A. del Castillo is a litigation, creditors' rights, and regulatory compliance attorney practicing in the Firm's Receiverships, Lenders & Special Creditor Remedies; Restructuring, Insolvency & Bankruptcy; and Corporate Finance practice groups. Joshua's practice includes general business litigation, receiverships and bankruptcy, and regulatory compliance. Joshua represents a range of clients including banks and other institutional lenders, receivers, monitors, secured and unsecured creditors, developers, and other business enterprises.

Joshua regularly serves as general litigation counsel for institutional lenders and administrators of securitized trusts throughout the state and federal court systems in California, including in connection with contract matters, actions challenging the enforceability of security instruments, and actions alleging regulatory violations for which private remedies exist. He also frequently represents creditors in related bankruptcy proceedings and oversees local counsel in creditor matters nationwide.

Joshua also serves as counsel for court-appointed permanent receivers in enforcement actions brought by the Securities and Exchange Commission, Federal Trade Commission, and other federal agencies. Joshua's receiver clients are regularly tasked with taking over the entities used to perpetrate a fraud or other unlawful conduct, conducting necessary forensic accountings, documenting (for the benefit of the appointing court) the unlawful conduct itself, and recovering available proceeds for distribution, where possible. Joshua also maintains an active real property receivership practice, advising lender and receiver clients on the propriety of a receivership for a given circumstance and on the management and disposition of receivership estate property. In this context, Joshua has secured the appointment of receivers in hotly contested real property disputes and assisted real property receivers with the administration and sale of environmentally compromised and other unusual commercial properties.

Joshua further maintains a growing regulatory compliance practice, with a focus on federal and state financial services regulations. Joshua has successfully represented lenders and other business enterprises in litigation alleging regulatory violations, as well as provided regulatory compliance and analysis advice to lenders, investment and telecommunications companies, public interest organizations, and others.

An advocate for social and economic justice, Joshua sits on the board of the Wage Justice Center, a public-interest organization that collaborates with community groups, workers' centers and legal services providers to advance low-income workers' rights, educate workers, and advocate for the collection of unpaid wages. He has also served as a *pro bono* law clerk for the ACLU of Southern California, and *pro bono* counsel to Public Counsel, one of the nation's largest public interest law firms.

Joshua has represented clients before state and federal courts throughout California, including the California Court of Appeal, the United States Bankruptcy Appellate Panel of the Ninth Circuit, and the Ninth Circuit Court of Appeals.

MEMBERSHIPS

- Financial Lawyers Conference
- California Receivers Forum
- Hispanic National Bar Association
- National Association of Federal Equity Receivers

ACCOLADES

- *Pro Bono* Award, Wage Justice Center (2009)
- Selected for inclusion in *Super Lawyers' Southern California Rising Stars* (2012 - 2015)



EDUCATION

Joshua received his B.A. in economics, *cum laude*, from the University of Southern California in 1996. He received his M.A. in anthropology, with a subspecialty in economic anthropology and development, from the University of Michigan in 1998, and advanced to Ph.D. candidacy in 2000. In 2005, Joshua received his J.D. from USC Gould School of Law.

In law school, Joshua was awarded an Olin Foundation/USC Center for Law, Economics, and Organization scholarship, and was selected as a member of the inaugural class of USC Law School Summer Fellows. In addition, Joshua was a member of the law school's Hale Moot Court Honors Program, and later served as an editor on the Hale Moot Court Board and a member of the USC National Moot Court team.

BAR ADMISSIONS

- California

COURT ADMISSIONS

- All California state courts
- U.S. District Court, Northern District of California (including Bankruptcy Court)
- U.S. District Court, Eastern District of California (including Bankruptcy Court)
- U.S. District Court, Central District of California (including Bankruptcy Court)
- U.S. District Court, Southern District of California (including Bankruptcy Court)
- Ninth Circuit Court of Appeals
- United States Bankruptcy Appellate Panel of the Ninth Circuit
- Supreme Court of the United States



BIOGRAPHY

Norman helps clients maximize their goals and objectives in litigation related to creditors' rights, bankruptcy, and state and federal receiverships. He is a valued team member who provides a high level of attention to detail, sound judgment, and responsive service.

Working alongside Allen Matkins litigation partners, Norman is known for his ability to flesh out creative angles and craft persuasive arguments to win in a broad array of proceedings both inside and outside the courtroom.

Prior to joining Allen Matkins, Norman was an associate in the commercial litigation department at Dentons US LLP. There, he worked on litigation matters involving government contracts law, international trade regulations, insurance coverage, employment disputes, and environmental issues. He is a former intern at the United States Attorney's Office for the Central District of California, the District of Massachusetts, and the House of Commons of the United Kingdom.

NORMAN M. ASPIS

Associate

Los Angeles

(213) 955-5621

(213) 620-8816 (fax)

naspis@allenmatkins.com

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Restructuring, Insolvency & Bankruptcy

EDUCATION

Norman earned a Bachelor of Science degree in political science from Northeastern University, graduating *summa cum laude*. He received his Juris Doctor degree from the University of Virginia School of Law, where he served as a senior articles editor of the *Virginia Law & Business Review*.

PROOF OF SERVICE

Securities and Exchange Commission v. Ralph T. Iannelli and Essex Capital Corporation
USDC, Central District of California – Case No. 2:18-cv-05008-FMO-AFM

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 865 S. Figueroa Street, Suite 2800, Los Angeles, California 90017-2543.

A true and correct copy of the foregoing document(s) described below will be served in the manner indicated below:

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION OF RECEIVER, GEOFF WINKLER, FOR
ORDER IN AID OF RECEIVERSHIP**

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")** – the above-described document will be served by the Court via NEF. On **January 9, 2019**, I reviewed the CM/ECF Mailing Info For A Case for this case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- **J Jorge DeNeve**
jdeneve@omm.com
- **Gary Y Leung**
leungg@sec.gov,chaj@sec.gov,longoa@sec.gov,larofiling@sec.gov,irwinma@sec.gov
- **Michael O Mena**
michael.mena@akerman.com
- **Brian P Miller**
brian.miller@akerman.com
- **Douglas M Miller**
millerdou@sec.gov,caseview.ECF@usdoj.gov,usacac.criminal@usdoj.gov,longoa@sec.gov,irwinma@sec.gov
- **Yolanda Ochoa**
ochoay@sec.gov,ochoay2009@lawnet.ucla.edu
- **Steven J Olson**
solson@omm.com
- **Mark Riera**
mark.riera@akerman.com,helen.serrano@akerman.com

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2. **SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):** On _____, I served the following person(s) and/or entity(ies) in this case by placing a true and correct copy thereof in a sealed envelope(s) addressed as indicated below. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U.S. postal service on that same day in the ordinary course of business. I am aware that on motion for party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 (one) day after date of deposit for mailing in affidavit. Or, I deposited in a box or other facility regularly maintained by FedEx, or delivered to a courier or driver authorized by said express service carrier to receive documents for overnight delivery paid or provided for.

I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on **January 9, 2019** at Los Angeles, California.

/s/ Martha Diaz
Martha Diaz