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 8 GEOFF WINKLER

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

12 SECURITIES AND EXCHANGE
 13 COMMISSION,

14 Plaintiff,

15 v.

16 RALPH T. IANNELLI and ESSEX
 CAPITAL CORP.,

17 Defendants.

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

**SECOND INTERIM REPORT AND
 PETITION FOR FURTHER
 INSTRUCTIONS OF RECEIVER,
 GEOFF WINKLER**

Date: September 19, 2019

Time: 10:00 a.m.

Ctrm: 6D

Judge Hon. Fernando M. Olguin

19 **TO ALL INTERESTED PARTIES AND THEIR COUNSEL OF**
 20 **RECORD, AND THIS HONORABLE COURT:**

21 **PLEASE TAKE NOTICE THAT**, in accordance with this Court's
 22 December 21, 2018 Order Regarding Preliminary Injunction and Appointment of a
 23 Permanent Receiver (ECF No. 66) (the "Appointment Order") and its February 1,
 24 2019 Order in Aid of Receivership (ECF No. 69) (the "Order in Aid"), Geoff
 25 Winkler (the "Receiver"), the Court-appointed permanent receiver for Defendant
 26 Essex Capital Corporation ("Essex") and its subsidiaries and affiliates (collectively,
 27 the "Receivership Entities" or "Entities"), hereby submits the following Second
 28

1 Interim Report and Petition for Further Instructions (the "Report") for the period
2 from April 1, 2019 through June 30, 2019 (the "Reporting Period").

3 **I. PRELIMINARY STATEMENT.**

4 As initially discussed in the Receiver's First Interim Report and Petition for
5 Further Instructions (the "First Report") (ECF No. 78), filed on April 30, 2019, and
6 as further detailed below, the Receiver has made, and continues to make, substantial
7 progress in his efforts to identify, marshal, and administer the available assets of the
8 Receivership Entities ("Receivership Assets" or "Assets"), and has now completed
9 his preliminary analysis of the business and financial activities of the Receivership
10 Entities. In addition, during the Reporting Period, the Receiver continued to
11 perform the duties required to protect and preserve the value of the Entities and their
12 Assets, as provided for in the Appointment Order, and to operate the viable portion
13 of the Entities' business as a going concern. While the Receiver's work is ongoing,
14 the status of his efforts and the preliminary conclusions¹ developed from his review
15 and analysis of materials recovered to-date are appropriate for presentation in this
16 Report.

17 By way of summary, since submitting the First Report, and during the
18 Reporting Period, the Receiver has, among other things:

- 19 • Continued to monitor all known, pre-receivership litigation in
20 California state courts involving or implicating the Receivership
21 Entities or their Assets, and advised those courts of the litigation stay
22 and self-help bar contained within the Appointment Order, as
23 necessary;
- 24 • Continued to prosecute Essex's claims in the action styled Essex
25 Capital Corp. v. Garipalli, et al., S.D.N.Y. Case No. 17-cv-06347 (the
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27 ¹ Due to the volume and nature of the information recovered, the complexity of the
28 matters and transactions to which they relate, and the potential need for further
investigation and analysis, the conclusions presented herein are preliminary. The
Receiver may modify his conclusions after additional investigation or analysis.

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"Garipalli Action"), and participated in an initial settlement conference in connection with the fraud claims alleged by Essex in the Garipalli Action;

- Completed a preliminary analysis of the business and financial activities of the Receivership Entities, including in connection with his efforts to identify and marshal additional Receivership Assets;
- Completed a preliminary inventory of known Receivership Assets, including cash on-hand, investments, receivables (including revenue from pending equipment leases), and known claims against third parties;
- Continued to execute his plan for recovering and maximizing the value of available Receivership Assets;
- Prepared a preliminary accounting, based upon his document review and analysis as it stood in late March 2019, in connection with, and participated in, a mediation of the plaintiff Securities and Exchange Commission's (the "Commission") claims against defendant Ralph Iannelli, which mediation occurred on April 4, 2019. The mediation resulted in a judgment later entered by this Court;
- Obtained significant volumes of additional documents relating to the business and financial activities of the Entities, culminating in a review of more than 455,000 pages of materials, reflecting hundreds of thousands of individual transactions;
- Completed a preliminary, global accounting, with a particular emphasis on those Receivership Entity transactions: (1) believed to relate to recoverable Assets; and (2) reflecting funds raised from and paid out to investors in, and other creditors of, the Receivership Entities, and

1 which should enable the Receiver to conduct an efficient and expedient
2 claims process later in the case²;

- 3 • Commenced a review and analysis of prospective claims against third
4 parties, including prospective disgorgement claims against parties
5 believed to be in wrongful possession of Receivership Assets; and
6 • Recovered a gross total of approximately \$2,211,780.02, in cash (with
7 a June 30, 2019 balance of cash on-hand of \$2,205,350.02), and
8 continued to administer other, non-cash Assets valued at approximately
9 \$7.4 million, for the benefit and administration of the Receivership
10 Entities.

11 As reflected in the Appointment Order, the Receiver is vested with exclusive
12 authority and control over the Receivership Entities and all Receivership Assets, and
13 has been authorized, empowered, and directed to, among other things: (1) take
14 exclusive authority and control over all Receivership Assets; (2) conduct such
15 investigation and discovery as necessary to identify and locate outstanding
16 Receivership Assets; (3) preserve and prevent the dissipation of Receivership
17 Assets; and (4) provide an accounting to the Court and the Commission regarding
18 the business and financial activities of the Receivership Entities. The Receiver,
19 having diligently pursued these goals since the inception of the receivership,
20 including during the Reporting Period, hereby presents his efforts, analysis,
21 preliminary conclusions, and recommendations, in detail, below.

22 **II. RELEVANT PROCEDURAL HISTORY.**

23 The Receiver invites the Court and all interested parties to review the
24 following materials³ for a general summary of the relevant facts and procedural
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27 ² The Receiver anticipates submitting an accounting report prior to or concurrently
with his next interim report.

28 ³ These materials, and others, are available on the Receiver's website, www.essex-receivership.com.

1 background underlying the above-captioned case, including the Receiver's
2 appointment and the activities of the Receiver and his professionals:

- 3 • The Commission's Complaint, filed on June 5, 2018 (ECF No. 1);
- 4 • Intervenors' Notice of Motion and Motion to Intervene and Appoint
5 Monitor, filed on July 26, 2018 (ECF No. 32);
- 6 • Essex's Answer to the Complaint, filed on August 1, 2018 (ECF
7 No. 37);
- 8 • Order Regarding Preliminary Injunction, entered on October 1, 2018
9 (ECF No. 53);
- 10 • Report of Preliminary Accounting of Defendant Essex Capital
11 Corporation and Recommendations of Court-Appointed Monitor Geoff
12 Winkler, filed on December 6, 2018 (ECF No. 60-1);
- 13 • The Appointment Order, entered on December 21, 2018 (ECF No. 66);
- 14 • Motion for Order in Aid of Receivership, filed on January 9, 2019
15 (ECF Nos. 67 and 67-1);
- 16 • Order in Aid, entered on February 1, 2019 (ECF No. 69);
- 17 • Mediation Report, filed on April 5, 2019 (ECF No. 74);
- 18 • First Report, filed on April 30, 2019 (ECF No. 78);
- 19 • Consent of Defendant Ralph T. Iannelli, filed on May 30, 2019 (ECF
20 No. 90);
- 21 • Final Judgment as to Defendant Ralph T. Iannelli, entered on June 5,
22 2019 (ECF No. 93);
- 23 • Abstract of Judgment Regarding Disgorgement, entered on June 20,
24 2019 (ECF No. 94);
- 25 • Abstract of Judgment Regarding Civil Penalty, entered on June 20,
26 2019 (ECF No. 95); and
- 27 • Order On First Interim Report, entered on July 26, 2019 (ECF No. 97).

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1 **III. RECEIVER'S ACTIVITIES AND EFFORTS SINCE THE FIRST**
2 **REPORT.**

3 Of the tasks identified above, the Receiver's most critical undertakings during
4 the Reporting Period include:

5 **A. Administration of Pre-Receivership Litigation Involving The**
6 **Receivership Entities.**

7 Since filing the First Report, at which time the Receiver had compiled an
8 inventory of all known and active state and federal actions implicating the
9 Receivership Entities, and filed Notices of Pending Receivership in those matters
10 where the Entities' Assets appeared to be implicated, the Receiver has continued to
11 participate in those actions, as appropriate and in accordance with his reasonable
12 business judgment.

13 1. Pending California State Court Litigation.

14 There are presently two matters pending before the Superior Court of
15 California, County of Santa Barbara, both of which are stayed pursuant to Article
16 XIV(A) of the Appointment Order: (1) Gabler v. Essex Capital Corp., et al., Santa
17 Barbara Super. Ct. Case No. 18CV03423 (the "Gabler Action"); and (2) Dennis, et
18 al. v. Iannelli, et al., Santa Barbara Super. Ct. Case No. 18CV03317 (the "Dennis
19 Action").

20 The plaintiff in the Gabler Action alleges that defendants Melissa Iannelli,
21 Ralph Iannelli, and Essex breached the terms of a promissory note, pursuant to
22 which the plaintiff allegedly loaned \$2.2 million to Essex. The plaintiff in the
23 Dennis Action alleges that defendants Ralph Iannelli and Essex operated a
24 fraudulent investment scheme, and seeks relief upon the following causes of action:
25 (1) negligence; (2) violation of California security laws; (3) negligence per se; (4)
26 fraud; and (5) financial elder abuse.

27 The Receiver and his counsel of record, Allen Matkins Leck Gamble Mallory
28 & Natsis LLP ("Allen Matkins"), have closely monitored the Gabler Action and the

1 Dennis Action, and have informed the courts presiding over both actions of the
2 litigation stay imposed by the Appointment Order, in order to protect the estate of
3 the Receivership Entities (the "Estate") from diminution. The Receiver will
4 continue to monitor the Gabler Action and the Dennis Action, and keep the courts
5 presiding over those actions abreast of developments in the instant action, as
6 appropriate.

7 2. The Garipalli Action.

8 At the time of the Receiver's appointment, Essex was already prosecuting the
9 Garipalli Action, in which, among other things, Essex alleges that Sequoia
10 Healthcare Services, LLC ("Sequoia") and its principals, including defendant Vivek
11 Garipalli, made fraudulent financial misrepresentations to Essex in order to induce
12 Essex into entering numerous commercial lease agreements, and later to surrender
13 certain rights in connection with defaults on those leases, all of which resulted in
14 millions of dollars in losses to Essex.

15 As noted in the First Report, the Receiver has reviewed the key pleadings
16 filed to-date in the Garipalli Action, including Essex's original and amended
17 complaints, along with materials provided by Essex's special litigation counsel for
18 the matter, Locke Lord LLP ("Locke Lord"), as well as documents supporting
19 Essex's claims, and he believes the causes of action alleged by Essex in the Garipalli
20 Action to be meritorious, and worth continued prosecution. The Receiver
21 understands and believes that, if successful on summary judgment or at trial, Essex
22 could recover significant damages.

23 To that end, and as reflected in his request for Court approval of his retention
24 of Locke Lord as special counsel in the Garipalli Action, as presented in the First
25 Report, the Receiver has authorized Locke Lord to take those steps necessary to
26 preserve and prosecute Essex's claims in the Garipalli Action. Specifically, during
27 the Reporting Period, the Receiver reviewed additional documents provided by
28 Locke Lord that bolster his belief that the allegations in the Garipalli Action are

1 meritorious, and warrant continued prosecution. In addition, the Receiver instructed
2 Locke Lord to propound written discovery upon the defendants in the Garipalli
3 Action as part of his litigation effort.

4 Perhaps more importantly, while in-town, the Receiver attended a settlement
5 conference in New York on June 19, 2019. Notwithstanding the fact that the
6 settlement conference took place at Mr. Garipalli's request, Mr. Garipalli failed to
7 attend; only his counsel and another individual defendant to the Garipalli Action
8 (who lacked authority to settle on Mr. Garipalli's behalf) attended. Nonetheless, and
9 despite Mr. Garipalli's personal failure to attend or otherwise participate at the
10 settlement conference, the Receiver remains optimistic that a near-term settlement
11 of the matter is possible, and could result in a significant recovery for the
12 Receivership Entities.

13 The Receiver therefore respectfully recommends that he be authorized to
14 continue the prosecution of the Garipalli Action, including through summary
15 judgment or trial, if necessary, subject to periodic reports to this Court, which
16 reports will address the status of the Garipalli Action and the fees and costs incurred
17 by Locke Lord, which, like those of Allen Matkins, will be subject to application to
18 this Court. Given his belief that the claims alleged in the matter are meritorious, the
19 Receiver anticipates submitting a formal motion for an order approving a litigation
20 budget for the Garipalli Action under separate cover.

21 **B. Communications With Investors.**

22 In accordance with the Order in Aid, the Receiver continues to maintain a
23 receivership website for this matter (www.essex-receivership.com), which, among
24 other things, he is using as a means of communicating with Receivership Entity
25 investors. Specifically, the Receiver is posting all of his filings to the website,
26 which also includes a registration portal through which investors and other
27 interested parties may register to receive email notice of such filings. The Receiver
28 will post additional updates to the website as they become relevant and available.

1 **C. Asset Identification, Administration, Recovery, And Monetization.**

2 1. 915 Elm Avenue CVL, LLC.

3 During the Reporting Period, the Receiver continued to review transactions
4 relating to 915 Elm Avenue CVL, LLC ("CVL"), which was created on November
5 23, 2015, by and between Mr. Iannelli and another individual, in order to purchase,
6 own, and operate a hardware and building materials store in Carpinteria, California.
7 By way of background, and as noted in the First Report, the CVL acquisition was
8 partly financed by the seller, via an unsecured note in the amount of \$1.5 million,
9 issued by Essex, not CVL, despite the fact that Essex took no ownership interest in
10 CVL. Based upon his review of additional documents obtained during the
11 Reporting Period, the Receiver has confirmed that Essex incurred approximately
12 \$1.75 million in debt in connection with the purchase and sale of CVL, apparently
13 exclusively for the benefit of Mr. Iannelli and CVL, given that Essex took no
14 interest in CVL, while Mr. Iannelli's interest was taken in his individual capacity.

15 In addition to causing Essex to incur debts to acquire assets in which it took
16 no interest, the records obtained and reviewed by the Receiver further suggest that
17 Mr. Iannelli funded what purported to be his personal capital contribution to CVL
18 with funds drawn from at least one Essex bank account. In other words, Essex
19 incurred a repayment obligation of at least \$1.75 million in connection with the
20 CVL purchase, and funded what purported to be Mr. Iannelli's personal contribution
21 to CVL, yet it took no interest in CVL. The Receiver has consequently made a
22 demand that, in accordance with the turnover provisions of the Appointment Order,
23 Mr. Iannelli assign to the Receivership Entities his interest in CVL. Mr. Iannelli
24 has, through counsel, indicated that he is amenable to this request, and the Receiver
25 is presently in negotiations regarding the requested assignment.

26 Concurrently with the timing of the CVL purchase, CVL also borrowed
27 approximately \$1.6 million from Essex, memorialized by two promissory notes,
28 each of which is presently in default. CVL has, through counsel, recently

1 disclaimed its repayment obligation to Essex. Based on his review of the available
2 materials, including the relevant promissory notes and Essex's file for the CVL
3 transactions, the Receiver intends to enforce the notes against CVL. Accordingly,
4 unless CVL promptly pays the notes, the Receiver intends to pursue an action
5 against CVL (and potentially others affiliated with CVL) to enforce the CVL notes.

6 2. Amagansett Partners LLC.

7 Amagansett Partners LLC ("Amagansett") was formed in 2018 as a
8 mechanism for Essex to restructure pre-existing debt obligations to an investor who
9 allegedly invested approximately \$9.3 million in Essex via various limited
10 partnerships. Pursuant to Amagansett's Operating Agreement, as amended, Essex
11 was obligated to deposit certain illiquid securities with Amagansett, and the investor
12 was to deposit outstanding promissory notes issued to Essex. Upon their respective
13 contributions, the notes were apparently cancelled, and Essex's Amagansett capital
14 account was reduced to zero. Thereafter, pursuant to Amagansett's Operating
15 Agreement, proceeds from the illiquid securities were to be split between Essex and
16 the individual investor, with the apparent intent being the repayment of Essex's prior
17 debt to the investor over time.

18 During the Reporting Period, the Receiver diligently reviewed all known
19 transactions involving Amagansett and has, through Allen Matkins, been in regular
20 contact with the associated investor's counsel. The Receiver is presently developing
21 his proposed course of action regarding Amagansett and the investor in question,
22 and will inform the Court of his recommendations as soon as they are finalized.

23 3. Receivership Entity Leases.

24 The Receivership Entities are presently parties to eight (8) active equipment
25 leases as of the date of the filing of this Report, all of which were financed by
26 Montecito Bank & Trust ("MBT"). Pursuant to its rights under its financing
27 agreements, MBT is presently acting as a *de facto* servicer for the leases, collecting
28 payments from lessees and remitting lease revenue (less funds sufficient to cover the

1 Entities' loan payments to MBT) to the Receiver. During the Reporting Period, the
2 Receiver continued to coordinate with MBT to ensure that its administrative
3 processes for loan servicing are consistent with the fiduciary nature of the Receiver's
4 appointment, including, but not limited to, MBT's preparation and production of
5 monthly reconciliations, and MBT's retention of loan payments and other funds.

6 During the Reporting Period, the Receiver also continued to administer
7 Essex's active equipment leases, which have accounted for approximately
8 \$1.7 million in income since the inception of the receivership, with an outstanding
9 value of just under an additional \$1 million. In addition, the Receiver arranged
10 buyouts of leased Assets at the termination of a number of leases, thereby generating
11 over \$500,000 in additional income for the administration and benefit of the
12 Receivership Entities. The Receiver will continue to administer the Entities' active
13 equipment leases as a going concern, and arrange buyouts, in order to collect their
14 remaining value for the benefit of the Receivership Entities.

15 **D. Mediation Of The Commission's Claims Against Mr. Iannelli.**

16 On April 4, 2019, the Receiver participated in a formal mediation of the
17 Commission's claims against Mr. Iannelli and, in connection therewith, prepared a
18 preliminary accounting, based on his document review and analysis as it stood in
19 late March 2019, of the transactions involving Mr. Iannelli, in his individual
20 capacity. The Receiver understands that his preliminary accounting for, and
21 participation in, the formal mediation was instrumental in facilitating the parties'
22 settlement of the Commission's claims against Mr. Iannelli.

23 **E. Preliminary Investigation And Accounting.**

24 1. Overview.

25 At present, the Receivership Assets generally fall into the following
26 categories: (1) cash on-hand; (2) monthly lease revenues and associated accounts
27 receivable; (3) leased equipment buyouts; (4) loans to third parties and their
28 attendant collateral, if any; (5) claims for disgorgement or damages arising from

1 pre-receivership transactions and services; and (6) partial interests in assets and
2 entities owned or controlled by third parties.

3 Pursuant to the terms of the Appointment Order, the Receiver is charged with,
4 among other things, marshaling and maximizing the value of available Receivership
5 Assets. To that end, during the Reporting Period, the Receiver completed his efforts
6 to identify available Receivership Assets, and has made meaningful progress toward
7 recovering Receivership Assets. The Receiver also continued to resolve the
8 administration of certain Assets that he has determined, in his reasonable business
9 judgment, are unnecessary to, or do not represent a net benefit in connection with,
10 the administration of the receivership estate.

11 2. Document Recovery and Review.

12 As of the date of this Report, the Receiver has served a total of twenty-one
13 (21) document subpoenas, eight (8) of which were served during the Reporting
14 Period, on third-party financial institutions believed to be in possession of
15 documents necessary to the Receiver's accounting and analysis. As a result of his
16 efforts, the Receiver has obtained or recovered, and completed his review of, more
17 than 455,000 pages of materials relating to the business and financial activities of
18 the Receivership Entities, thousands of pages of which were obtained during the
19 Reporting Period, including: (1) bank and other financial statements;
20 (2) professional records (including client files from pre-receivership professionals);
21 (3) real property records; (4) loan files; (5) lease agreements and associated
22 materials; and (6) organizational and transactional documents associated with a
23 number of subsidiary and affiliate entities used to transact Entity business or
24 putatively to address pre-receivership Entity and individual obligations.

25 3. Preliminary Accounting of the Business and Financial Activities
26 of the Receivership Entities.

27 On the basis of his review of the materials obtained to-date, the Receiver has
28 developed a summary accounting for the receivership estate, which accounting

1 includes details regarding the Receivership Assets and the Entities' use of funds,
2 including funds derived from investors. The preliminary accounting is complete,
3 but may be supplemented as to specific issues as the Receiver continues his
4 investigation of the business and financial activities of the Receivership Entities.

5 As of the date of this Report, the Receiver has developed the following
6 preliminary conclusions regarding the business and financial activities of the
7 Receivership Entities:

8 (a) *The Receivership Entities' accounts were more extensive*
9 *than initially believed.*

10 At the time of the Receiver's appointment, the books and records made
11 available to him were limited to hard copy files associated with thirty-nine (39) of
12 the accounts identified in the Appointment Order and the QuickBooks files of
13 Essex, which included operations as of January 2007. Since his appointment, and in
14 addition to locating another eight (8) significant QuickBooks files, the Receiver
15 identified over 125 checking and brokerage accounts relating to the Receivership
16 Entities. The documents obtained from these accounts, along with the other
17 materials he obtained and reviewed during the Reporting Period, enabled him to
18 conduct an extensive review of the Receivership Entities' operations for the period
19 from 1995 through 2018, with a focus on the period from 2010 through 2018. Of
20 the more than 62,000 bank transactions audited, more than 43% were identified as
21 relating to the business operations of Essex. In order to complete an accurate
22 accounting of the Entities' operations, investments, and financing, the Receiver
23 requested substantiating documentation from more than a dozen financial
24 institutions, recovering thousands of additional documents in response. The
25 materials obtained by the Receiver were used to create a standardized transaction list
26 in order to perform the analyses and accounting described herein, and to establish
27 the foundation for what the Receiver expects to be an expedited investor and
28 creditor claims process.

1 (b) *The Receivership Entities were not profitable.*

2 The Receiver has concluded that, at least for the period from 2009 through
3 2017, at which point the Entities ceased aggressively soliciting new investment, the
4 Entities operated at a loss, and their operations would likely have terminated absent
5 their receipt of significant additional funding from new investment.

6 Essex's net cash from operations for the period from 2010 through 2018 is
7 summarized in the simplified income statement attached hereto as **Exhibit A**.
8 Essex's principal business operation was generating capital equipment leases, which
9 accounted for 78% of Essex's gross receipts during this period. Notably, Essex
10 collected more than \$116 million for lease operations during this period, but netted
11 only \$2,255,020 after paying its cost of goods sold, as a consequence of, among
12 other things, substantial losses incurred in connection with multiple lessee
13 bankruptcies, and millions in uncollectible lease receivables.

14 Essex's secondary business related to Mr. Iannelli's brokerage and private
15 equity investments, which generated gross receipts of more than \$29 million, and
16 accounted for approximately 20% of Essex's total receipts over the 2010-2018
17 period. In all, these investments netted approximately \$16 million over this period.

18 However, Essex also faced substantial costs over this period, including but
19 not limited to: (1) nearly \$9 million in bank loan interest, paid primarily to MBT;
20 (2) more than \$3.6 million in legal fees; and (3) approximately \$2.7 million in
21 personnel-related expenses, including nearly \$1 million paid to Essex's then Chief
22 Financial Officer. All told, the after-tax operating expenses and associated cash
23 outflows during this period exceeded \$19 million.

24 Ultimately, and inclusive of all of its operations and financial activities, Essex
25 operated at a net loss of over \$2.5 million for the period from 2010 through 2018.

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1 (c) *The Receivership Entities' operations were financially*
2 *unsustainable.*

3 Essex's statement of equity is attached hereto as **Exhibit B**. Notably, by the
4 end of 2009, Mr. Iannelli appears to have taken out more than \$7 million from Essex
5 than he had put in. By the end of 2018, this figure grew by over \$8 million to more
6 than \$15 million. When considered in the context of Essex's operational difficulties,
7 as described above, its overall assets in excess of liabilities dropped by more than
8 \$18 million from December 2009 to December 2016, leaving Essex at risk of being
9 unable to repay its investors.

10 This deficiency would likely have rendered Essex incapable of sustaining its
11 operations had it continued to pay out more to investors than it took in via funding
12 from new investors, as was the case in late 2009, at which point Essex had paid out
13 nearly \$1 million more than it had taken in. In 2010, however, this began to change
14 and, by the end of 2016, Essex had taken in nearly \$38 million more than it paid out
15 to investors.

16 Essex's simplified investor cash flows over the period from 2019 to 2018 are
17 attached hereto as **Exhibit C**. Through 2009, Essex took in at least \$49 million in
18 funds from investors. By the end of 2018, this figure grew to nearly \$220 million.
19 The investments offered by Essex to its investors were typically characterized as
20 "promissory notes" and sometimes also offered a percentage of the residual lease
21 Asset sale proceeds at the end of an associated lease. Generally, Essex would issue
22 notes with a 36-month term, but would not return the principal when its notes came
23 due. Instead, the notes would be "rolled over," continuing to accrue (and sometimes
24 pay) interest beyond their original terms. The effect of this practice was that, by the
25 end of 2016, Essex had only paid out \$168 million to investors but had incurred
26 investor liabilities in excess of \$334 million. Notably, Essex's balance sheet appears
27 to have mischaracterized these liabilities. By way of example, promissory notes
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1 payable in 2016 totaled approximately \$165 million, but Essex reported these
2 liabilities at the substantially reduced amount of approximately \$93 million.

3 Based on his accounting and his present understanding of the Entities' pre-
4 receivership liabilities, the Receiver estimates that, out of the one hundred and fifty-
5 six (156) total investors in the Entities, and in the event that the Receiver proposes
6 (and the Court approves) an investor and creditor claims process, at least seventy-
7 nine (79) investors may seek to file reimbursement claims for "benefit-of-the-
8 bargain"⁴ losses against the Estate. Of these prospective claimants, the Receiver
9 believes that at least sixty-four (64) investors suffered an actual "money-in / money-
10 out"⁵ or net cash loss from their investments in the Receivership Entities. As of the
11 date of this Report, the Receiver believes that aggregate losses may exceed
12 \$43 million.

13 (d) *Some Receivership Entity investors profited on their*
14 *investments.*

15 The Receiver has identified numerous Receivership Entity investors whom he
16 believes profited from their investments in the Entities. The aggregate amount of
17 profit actually paid out to these investors, on a net cash basis, exceeds \$41 million.
18 Of these suspected profiting investors, the Receiver has identified fifteen (15)
19 investors who, in the aggregate, received profits in excess of \$23 million, and whose
20 individual net winnings were at least \$500,000. Should the Receiver determine that
21 any portion of these payments are subject to disgorgement to the Receiver, he will
22 petition the Court for authority to pursue disgorgement claims by way of separate
23 motion.

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25 _____
26 ⁴ "Benefit-of-the-bargain" refers to a claim methodology whereby claimants seek
27 reimbursement for losses including principal, interest, and other promised
28 contractual benefits.

⁵ "Money-in / money-out" refers to a claim valuation methodology whereby claims
are limited to actual, net out-of-pocket losses, and do not include an interest,
contractual, or other damages component.

1 4. Receivership Estate Accounting.

2 Of course, in addition to developing a detailed accounting of the business and
3 financial activities of the Receivership Entities, the Receiver has likewise
4 maintained a running accounting and valuation of the Assets he presently holds, or
5 expects to recover. As reflected in his Standardized Fund Accounting Report
6 ("SFAR") for the Reporting Period, appended hereto as **Exhibit D**, he has recovered
7 approximately \$1 million in additional cash since the submission of his First Report.

8 In addition, the Receiver has updated his valuation of the other personal
9 property Assets in his possession, summarized as follows:

<u>Asset</u>	<u>Estimated Value</u>
Loans Receivable	\$1,853,750
Marketable Securities (near-term)	\$120,442
Net Lease Receivables	\$962,657
Private Equity Investments	\$2,817,855
Leased Assets Sale Value (projected)	\$1,651,053
<u>TOTAL:</u>	\$7,405,757

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18 In other words, inclusive of the cash on-hand reported in the SFAR, at the end
19 of the Reporting Period, the Receiver held Assets valued at approximately
20 \$9.6 million for the administration and benefit of the Estate and the Receivership
21 Entities' investors and creditors, **not including** projected recoveries from the
22 Garipalli Action, Assets subject to claw-back (to be addressed in detail in later
23 submissions), or potential disgorgements from profiting investors.

24 **IV. CONCLUSION AND PETITION FOR FURTHER INSTRUCTIONS.**

25 Assuming the Court authorizes the Receiver to undertake the actions
26 recommended herein, as well as to continue those actions provided for in the
27 Appointment Order and the Order in Aid, the Receiver proposes to submit a further
28

1 interim report to this Court, addressing his progress, findings, final conclusions, and
2 additional recommendations, in approximately 90 days.

3 Accordingly, and based on the foregoing, the Receiver respectfully requests
4 that the Court enter an order:

- 5 1. Accepting this Report;
- 6 2. Authorizing the Receiver to continue to administer the Receivership
7 Entities and their Estate in accordance with the terms of the Appointment Order;
- 8 3. Authorizing the Receiver to undertake the recommendations presented
9 herein; and
- 10 4. Providing such other and further relief as the Court deems necessary
11 and appropriate.

12
13 Dated: August 14, 2019

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

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16 By: /s/ Joshua A. del Castillo

JOSHUA A. DEL CASTILLO
Attorneys for Receiver
GEOFF WINKLER

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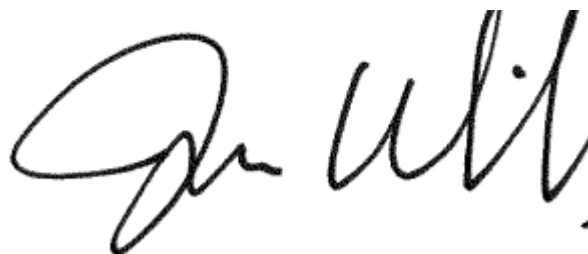
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VERIFICATION

I have read the foregoing SECOND INTERIM REPORT AND PETITION FOR FURTHER INSTRUCTIONS OF RECEIVER, GEOFF WINKLER, and know its contents.

I am the Receiver appointed in the above-entitled action. I believe the matters stated in the foregoing document are true, to the best of my knowledge.

Executed on August 14, 2019, at Salem, Oregon.



Geoff Winkler, Receiver

Essex Capital Corporation	
Simplified Cash Basis Income Statement	
(\$000's)	
Operations and Other Revenue	<u>2010 - 2018</u>
Lease Operations	
Revenue from Leases	116,507
Cost of Goods Sold	<u>(114,251)</u>
Net Lease Operations	2,255
Investment Operations	
Cash from Private Equity/Investments	29,908
Cost of Investments	<u>(19,538)</u>
Net Investment Operations	10,370
Other Revenue	
Interest Income	150
Other Revenue	<u>3,702</u>
Total Other Revenue	3,852
Total Operations and Other Revenue	<u>16,477</u>
Interest Expense and Other Outflows	
Bank Loans (interest Expense)	
Cash from Bank Loans	58,005
Cash to Banks for Loans	<u>(66,838)</u>
Net Bank Loans (Interest Expense)	(8,833)
Expenses and Other Outflows	
Legal	(3,612)
Employees/Contractors/Consultants	(2,700)
Office Rent Expense	(1,451)
Other Operating Expenses	(903)
Accounting	(595)
Taxes	(587)
Consulting	(150)
Bank Fees	(126)
IT Support	(117)
Other Miscellaneous Flows	18
Expenses and Other Outflows	<u>(10,225)</u>
Total Outflows	<u>(19,058)</u>
All Revenues and Outflows	<u><u>(2,581)</u></u>

Essex Capital Corporation										
Simplified Cash Basis Statement of										
Equity (\$000's)										
	<u>Dec-09</u>	<u>Dec-10</u>	<u>Dec-11</u>	<u>Dec-12</u>	<u>Dec-13</u>	<u>Dec-14</u>	<u>Dec-15</u>	<u>Dec-16</u>	<u>Dec-17</u>	<u>Dec-18</u>
Net Shareholder Paid-In-Capital	(7,616)	(9,219)	(10,972)	(12,828)	(11,445)	(14,224)	(15,938)	(17,868)	(16,783)	(15,853)
Retained Earnings (1995 Forward)	7,613	7,549	5,907	2,879	4,381	(3,535)	5,482	5,630	(7,617)	(3,728)
Net Income	(64)	(1,642)	(3,028)	1,502	(7,916)	9,017	148	(13,247)	3,889	4,328
Shareholder and Operations Equity	(67)	(3,312)	(8,093)	(8,448)	(14,980)	(8,743)	(10,307)	(25,485)	(20,511)	(15,253)
Investors Net MIMO Cash	(932)	2,020	7,876	7,963	17,545	14,421	32,500	37,920	14,788	2,594
Total Equity	(999)	(1,292)	(217)	(484)	2,565	5,678	22,193	12,435	(5,723)	(12,659)

Essex Capital Corporation**Simplified Investor Cash Flows (\$'000's)**

<u>Date</u>	<u>Cumulative Investors Inflows</u>	<u>Total Investors Payable Liability¹</u>	<u>Cumulative Paydown of Payable Liability</u>	<u>Year-End Balance of Payable Liability²</u>
12/31/2009	49,142	79,496	(50,074)	29,422
12/31/2010	62,109	100,474	(60,090)	40,384
12/31/2011	78,983	127,770	(71,107)	56,663
12/31/2012	89,012	143,993	(81,048)	62,945
12/31/2013	107,130	173,304	(89,585)	83,718
12/31/2014	130,413	210,968	(115,992)	94,976
12/31/2015	172,705	279,384	(140,205)	139,178
12/31/2016	206,565	334,158	(168,645)	165,513
12/31/2017	217,706	352,180	(202,918)	149,262
12/31/2018	219,519	355,113	(216,925)	138,188

Notes

1: Total Investors Payable Liability is estimated using a factor of 1.618688252.

This is composed of the average observed term of 5.3 years and interest rate of 8.5%, as well as an 1% premium to estimate the investor's share of residual asset sales.

2: New Investor Inflows slowed significantly in the spring of 2017 after the SEC's investigation began, resulting in a decreasing liability balance after that point in time.

STANDARDIZED FUND ACCOUNTING REPORT for SEC v. Essex Capital Corporation
 Receivership; Civil Docket No. 18-cv-05008-FMO-AFM
 Reporting Period from 04/01/2019 to 06/30/2019

FUND ACCOUNTING (See instructions)				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 04/01/2019):	\$ 1,236,777.83		
	Increases in Fund Balance:			
Line 2	Business Income	\$ 974,502.16		
Line 3	Cash and Securities (in transit)	-		
Line 4	Interest/Dividend Income	500.03		
Line 5	Business Asset Liquidation	-		
Line 6	Personal Asset Liquidation	-		
Line 7	Third-Party Litigation Income	-		
Line 8	Miscellaneous - Other	-		
	Total Funds Available (Lines 1 - 8):		\$ 975,002.19	\$ 2,211,780.02
	Decreases in Fund Balance:			
Line 9	Disbursements to Investors			
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	-		
Line 10b	Business Asset Expenses	(6,430.00)		
Line 10c	Personal Asset Expenses	-		
Line 10d	Investment Expenses	-		
Line 10e	Third-Party Litigation Expenses	-		
	1. Attorney Fees	\$ -		
	2. Litigation Expenses	-		
	Total Third-Party Litigation Expenses		\$ (6,430.00)	
Line 10f	Tax Administrator Fees and Bonds		-	
Line 10g	Federal and State Tax Payments		-	
	Total Disbursements for Receivership Operations			\$ (6,430.00)
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator.....	\$ -		
	Independent Distribution Consultant (IDC).....	-		
	Distribution Agent.....	-		
	Consultants.....	-		
	Legal Advisers.....	-		
	Tax Advisers.....	-		
	2. Administrative Expenses	-		
	3. Miscellaneous	-		
	Total Plan Development Expenses		\$ -	
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator.....	-		
	IDC.....	-		
	Distribution Agent.....	-		
	Consultants.....	-		
	Legal Advisers.....	-		
	Tax Advisers.....	-		
	2. Administrative Expenses	-		
	3. Investor Identification:			
	Notice/Publishing Approved Plan.....	-		
	Claimant Identification.....	-		
	Claims Processing.....	-		
	Web Site Maintenance/Call Center.....	-		
	4. Fund Administrator Bond	-		
	5. Miscellaneous	-		
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses	-		
	Total Plan Implementation Expenses		\$ -	
	Total Disbursements for Distribution Expenses Paid by the Fund			\$ -
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees	\$ -		
Line 12b	Federal Tax Payments	-		
	Total Disbursements to Court/Other:		\$ -	
	Total Funds Disbursed (Lines 9 - 11):			\$ (6,430.00)
Line 13	Ending Balance (As of 06/30/2019):			\$ 2,205,350.02
Line 14	Ending Balance of Fund - Net Assets:			
Line 14a	Cash & Cash Equivalents		2,205,350.02	
Line 14b	Investments		120,442.00	
Line 14c	Other Assets or Uncleared Funds		15,051,059.00	
	Total Ending Balance of Fund - Net Assets			\$ 17,376,851.02

STANDARDIZED FUND ACCOUNTING REPORT for SEC v. Essex Capital Corporation
 Receivership; Civil Docket No. 18-cv-05008-FMO-AFM
 Reporting Period from 04/01/2019 to 06/30/2019

OTHER SUPPLEMENTAL INFORMATION:		Detail	Subtotal	Grand Total
Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
<i>Line 15a</i>	<i>Plan Development Expenses Not Paid by the Fund</i>			
	1. Fees:			
	Fund Administrator	\$ -		
	IDC	-		
	Distribution Agent	-		
	Consultants	-		
	Legal Advisers	-		
	Tax Advisers	-		
	2. Administrative Expenses	-		
	3. Miscellaneous	-		
	Total Plan Development Expenses Not Paid by the Fund		\$ -	
<i>Line 15b</i>	<i>Plan Implementation Expenses Not Paid by the Fund:</i>			
	1. Fees:			
	Fund Administrator	\$ -		
	IDC	-		
	Distribution Agent	-		
	Consultants	-		
	Legal Advisers	-		
	Tax Advisers	-		
	2. Administrative Expenses	-		
	3. Investor Identification:			
	Notice/Publishing Approved Plan	-		
	Claimant Identification	-		
	Claims Processing	-		
	Web Site Maintenance/Call Center	-		
	4. Fund Administrator Bond	-		
	5. Miscellaneous	-		
	6. FAIR Reporting Expenses	-		
	Total Plan Implementation Expenses Not Paid by the Fund		\$ -	
<i>Line 15c</i>	<i>Tax Administrator Fees & Bonds Not Paid by the Fund</i>			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-
Line 16	Disbursements to Court/Other Not Paid by the Fund			
<i>Line 16a</i>	<i>Investment Expenses/CRIS Fees</i>		\$ -	
<i>Line 16b</i>	<i>Federal Tax Payments</i>		-	
	Total Disbursements to Court/Other Not Paid by the Fund:			\$ -
Line 17	DC & State Tax Payments			\$ -
Line 18	No. of Claims:			
<i>Line 18a</i>	# of Claims Received This Reporting Period	0		
<i>Line 18b</i>	# of Claims Received Since Inception of Fund	0		
Line 19	No. of Claimants/Investors:			
<i>Line 19a</i>	# of Claimants/Investors Paid This Reporting Period	0		
<i>Line 19b</i>	# of Claimants/Investors Paid Since Inception of Fund	0		

Receiver: **Geoff Winkler**

By: 

Geoff Winkler
 (printed name)

Managing Director, Alvarez & Marsal Disputes and
 Investigations, LLC
 Receiver, Essex Capital Corporation, et al.

Date: August 07, 2019

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.

On **August 14, 2019**, I caused to be served the document entitled: **SECOND INTERIM REPORT AND PETITION FOR FURTHER INSTRUCTIONS OF RECEIVER, GEOFF WINKLER** 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 the firm'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.

OVERNIGHT DELIVERY: I deposited in a box or other facility regularly maintained by express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelope(s) or package(s) designed by the express service carrier, addressed as indicated on the attached service list, with fees for overnight delivery paid or provided for.

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

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 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 **August 14, 2019** at Los Angeles, California.

/s/ Martha Diaz
Martha Diaz

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SERVICE LIST

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

Mark Riera, Esq.
Jeffer Mangels Butler & Mitchell LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067-4308

Via First Class Mail