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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

RALPH IANNELLI and ESSEX CAPITAL CORPORATION,

Defendants.

Case No.: 2:18-cv-05008

MEMORANDUM IN SUPPORT OF PROPOSED INTERVENOR CVL'S MOTION TO INTERVENE AND TO REMOVE CVL'S ASSETS FROM THE COURT-ORDERED FREEZE

Hearing Date: October 24, 2019
Time: 10:00 a.m.
Crtrm: 6D
Judge: Hon. Fernando M. Olguin

Complaint Filed: June 5, 2018
Trial Date: None

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I. INTRODUCTION

915 Elm Avenue CVL, LLC ("CVL") seeks to intervene in this case as a matter of right under Fed. R. Civ. P. 24(a)(2) or, alternatively, under Fed. R. Civ. P. 24(b)(1)(B). CVL owns a small hardware and building materials business that is a going concern. Although CVL is not a defendant in this enforcement proceeding or a "receiver asset," the Securities and Exchange Commission ("SEC"), Essex Capital Corporation ("Essex"), and Ralph Iannelli, Jr. ("Iannelli")[1] subjected CVL's real property, located at 915 Elm Avenue CVL, in Carpinteria, California ("Property"), to a freeze, without notice to CVL. *See* [Proposed] Order Regarding Permanent Injunction [Dkt No. 108-1] at 4:7; Order Regarding Permanent Injunction [Dkt. No. 113] ("September Order") at 4:7. They did so by representing to the Court that the property is owned by Iannelli, when they knew that was not true. It is in fact owned by CVL, as conclusively demonstrated by the deed to the Property. *See* Declaration of William S. Reyner, Jr. ("Reyner Decl.") at ¶ 8, Ex. 1.

Indeed, when CVL previously raised the ownership issue with the Receiver, he and his counsel recognized that the Property was not properly subject to a freeze. The Receiver explained, however, that the SEC did not want to alter a prior filing with the Court, and his counsel indicated that the issue could be resolved in the near future. CVL therefore did not seek to formally resolve the freeze and instead tried to work informally with the Receiver, providing detailed information to the Receiver about its operations and Iannelli's minority interest in the LLC and committing to work with the Receiver to address his concerns about Iannelli. But then, after staking out a hard position on unenforceable notes Iannelli caused CVL to enter, the Receiver, along with the SEC and Iannelli but without notice to CVL, asked the Court to place a permanent freeze on the Property. This request demonstrates that CVL cannot protect

[1] The SEC, Essex, and Iannelli are collectively referred to as the "Parties."

its rights through informal methods; it must intervene to ensure that its interests are protected.

CVL therefore requests to intervene (1) to remove the freeze on the Property, (2) to clarify that its bank accounts, over which Iannelli and Essex have no control, are not part of the freeze, and (3) to ensure that no further actions are taken related to its assets without its knowledge or an ability to be heard. [2]

II. STATEMENT OF FACTS

A. The Parties to this enforcement proceeding put CVL's assets and interests at-issue, without notice to CVL.

On June 5, 2018, the SEC filed this action against Iannelli and Essex. The Complaint, and subsequent filings by the SEC and Receiver, identify Iannelli as a "fraud recidivist," and describe in great detail his attempt, with his leasing company Essex, to perpetrate an over $80 million fraud on approximately 70 promissory note investors. *E.g.*, Complaint [Dkt. No. 1] at ¶ 4. The SEC and the Receiver obtained Judgments against Iannelli and Essex that included injunctions, the right to recover approximately $11 million from Iannelli, and the right to seek disgorgement from Essex. Final Judgment as to Defendant Ralph T. Iannelli [Dkt. No. 93]; Judgment Against Defendant Essex Capital Corporation [Dkt. No. 110].

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[2] CVL's memorandum supporting its motion to intervene fully states the legal and factual grounds for intervention. Therefore, and particularly given CVL's limited intent to protect its improperly targeted property, CVL respectfully submits that literal compliance with FRCP 24(c) (*i.e.*, submitting a pleading) is not required. *See, e.g. Beckham Indus., Inc. v. Int'l Ins. Co*., 966 F.2d 470, 474 (9th Cir. 1992) ("Courts, including this one, have approved intervention motions without a pleading where the court was otherwise appraised of the grounds for the motion."); *Shores v. Hendy Realization Co.,* 133 F.2d 738, 742 (9th Cir. 1943) (holding that although petitioner did not meet the literal terms of Rule 24, intervention was proper because he had fully stated the legal and factual grounds for intervention); *Su v. Siemens Indus.*, 2013 WL 3477202 at *2 (N.D. Cal. 2013) (where proposed intervenor provides a statement of its interest to intervene, it submission provides sufficient notice to the court and the parties to satisfy Rule 24(c)).

On September 3, 2019, the Parties jointly asked the Court to enter an order permanently freezing certain assets of Iannelli and Essex, which the Court approved on September 9, 2019. *See* [Proposed] Order Regarding Permanent Injunction [Dkt No. 108-1] at 4:7; September Order at 4:7. That request included, however, the Property, which the Parties knew belongs to CVL, not Iannelli as they represented. The Parties did not send CVL notice of their request so that CVL could correct their representation. Declaration of David L. Cousineau ("Cousineau Decl.") at ¶ 5. The freeze order also potentially includes CVL's bank accounts, as described further below in the argument section.

B. CVL is a victim of Iannelli's and Essex's illicit activities.

In 2015, Iannelli approached William S. Reyner, Jr. about purchasing a small hardware and building materials business in Carpinteria, California ("Business"). Reyner Decl. at ¶ 8. The Business is located on the Property and the purchase included both the Business and the Property. *Id.*. Mr. Reyner had previously invested with Iannelli and has now become one of the creditors the Receiver is tasked with protecting. *Id.* at ¶ 9. At the time, Mr. Reyner, like the other 70 or so victims of Iannelli and Essex, did not know of their illicit activities. *Id.*

Mr. Reyner considered this to be a worthwhile investment, so he and Iannelli agreed to form CVL as a limited liability company to purchase the Business and Property. *Id.* at ¶ 10. Mr. Reyner and Iannelli were originally joint managers of CVL, although that would change as described below. *Id.* at ¶ 18. On January 1, 2016, Mr. Reyner and Essex entered a note for $510,000 that Mr. Reyner had loaned to Essex. *Id.* at ¶ 11. A few days later the members of CVL made their respective contributions to CVL. *Id.*[3] CVL's deed to the Property was recorded on January 15, 2016. *Id.* at ¶

[3] The members of CVL are Iannelli, who has a 39.04% membership interest in the LLC, his son (Ralph T. Iannelli, III), who has a 0.68% membership interest, The William S. Reyner, Jr. Trust (39.04% membership interest), Reyner Family Partners, L.P. (29.64% membership interest), and William S. Reyner III (one-percent

8, Ex. 1.

Iannelli was in charge of negotiating the purchase and of working with the bank, with whom he had a long-standing relationship, to get a loan for the purchase. *Id.* at ¶ 12. Disagreements arose between Mr. Reyner and Iannelli about an appropriate purchase price, and the bank refused to loan CVL as much as Iannelli had represented it would. *Id.* Iannelli was, however, determined to have CVL complete the purchase. He enticed Mr. Reyner to allow CVL to do so by committing to cover any costs above what Mr. Reyner believed CVL should incur. *Id.* at ¶ 13. They could, Iannelli stated, figure out how to address whatever amount he covered, if at all, after a sale or refinancing. *Id.* Iannelli then convinced the seller to accept a note from Essex, guaranteed by Iannelli, for $1.5 million as part of the purchase price, and then two additional notes with Essex or Iannelli, again guaranteed by Iannelli, that totaled $250,000 for a portion of the Business inventory. *Id.* at ¶ 14.

Months after the purchase, Iannelli, through his accountants, caused CVL to enter two notes with Essex totaling $1.625 million and one with Iannelli for $125,000. Specifically, in approximately March 2016, Mr. Reyner, as CVL's manager, together with CVL's bookkeeper, met with Damitz, Brooks, Nightingale, Turner & Morriset ("Damitz") to set up books and records for the Business and CVL. *Id.* at ¶ 15. Damitz was at the time also Iannelli's and Essex's accountants. *Id.* During that meeting, Damitz recommended that CVL enter a mirror note with Essex for the $1.5 million. *Id.* at ¶ 16. Mr. Reyner, following the accountants' recommendation, agreed to have CVL sign the note. *Id.* CVL later entered the smaller notes with Essex and Iannelli. *Id.* CVL specifically understood that these notes were based on the agreement between Iannelli and Mr. Reyner that the notes would be addressed at the time of a sale or refinancing. *Id.*

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membership interest). *Id.* at ¶ 4. Neither Iannelli nor anyone in his family has any control over CVL's operations or access to its property, bank accounts, or other assets. *Id.* at ¶¶ 6-7.

Iannelli also funneled money out of CVL for his benefit. Early on, Iannelli persuaded Mr. Reyner to have CVL take over Iannelli's son's animal supply business, and to pay the son a $70,000/year salary, by representing that doing so would increase CVL's profits. *Id.* at ¶ 17.[4] As it turned out, that business was never profitable and did not even cover the son's salary. *Id.* Iannelli also had CVL purchase all of the animal supply business's inventory, much of which had spoiled and had CVL purchase and modify his son's truck at a price he established. *Id.* Iannelli also took, without Mr. Reyner's knowledge, approximately $227,000 from CVL between April 2017 and April 2018, a period during which Iannelli was managing the Business largely on his own. *Id.* at ¶ 19. Mr. Reyner had removed himself from management during this period due to disagreements with Iannelli and because Iannelli committed to buy-out Mr. Reyner's membership interests in CVL; commitments Iannelli repeatedly reneged on. *Id.* at ¶ 18. By spring 2018, Mr. Reyner realized Iannelli would never purchase his membership interests and had growing concerns about Iannelli's management of CVL, so he became more actively involved. *Id.* at ¶ 20.

C. After the SEC files its complaint, CVL takes steps to ensure Iannelli and his family cannot control or use CVL.

In June 2018, after the SEC filed its complaint against Iannelli and Essex, at Mr. Reyner's request, Iannelli stepped down as Manager and President, and Mr. Reyner took over sole control of CVL's management and operations. *Id.* at ¶ 21. Neither Iannelli nor anyone in his family has any involvement whatsoever with CVL's operations or access to its property, bank accounts, or other assets. *Id.* at ¶ 7.

D. The Receiver leads CVL to believe he will address the mistake regarding CVL's property, but instead repeats his incorrect representation to the Court.

[4] The animal-supply business was originally going to be a tenant of CVL who would pay rent, thereby providing an additional, consistent source of income. *Id.* at ¶ 17.

On December 6, 2018, the Receiver submitted his Report of Preliminary Accounting of Defendant Essex Capital Corporation ("Report") and associated exhibits. Dkt. No. 60-1. As Exhibit C to that filing, he submitted a [Proposed] Order Regarding Preliminary Injunction and Appointment of a Permanent Receiver ("December Proposed Order"). The December Proposed Order sought, in part, to place an "immediate freeze" on the Property. December Proposed Order at 5:21-28. It also sought to freeze any bank accounts "held in the name of, for the benefit of, or over which account authority is held by Defendants Essex and Iannelli" and "prohibit the withdrawal, removal, transfer or other disposal of any such funds or other assets except as otherwise ordered by this Court." *Id.* at 3:26-5:20. One of the listed accounts is a former CVL account. *Id.* at 5:10. Although CVL did not use that account, it was concerned that including the account without further explanation could give the impression that all CVL's accounts fall within the scope of the freeze, which would interfere significantly and improperly with CVL's ability to conduct its business. Reyner Decl. at ¶ 22. The Court signed the December Proposed Order on December 21, 2018. Dkt. No. 66 ("December Order").

Mr. Reyner, therefore, contacted the Receiver about these concerns on December 9, 2018, and they had a number of follow-up communications. *Id.* at ¶ 23. During these communications, Mr. Reyner provided the recorded deed to the Property as proof that it did not belong to Iannelli; informed the Receiver that neither Iannelli nor his family had any rights to CVL beyond minority membership interests, and had no access to or involvement with CVL (*e.g.*, managerial role, any power over the LLC or its bank accounts, or any involvement in CVL's affairs or business); informed the Receiver that CVL employees had been instructed not to communicate with Iannelli regarding CVL's affairs; and committed to providing the Receiver with financials and other relevant information. *Id.* The Receiver recognized that the Property did not belong to Iannelli or Essex, but explained that the SEC preferred not to alter the proposed order. *Id.* at ¶ 24. He indicated, however, that he would be open to an

informal resolution. *Id.*

After the Court approved Allen Matkins Leck Gamble Mallory & Natsis LLP to represent the Receiver, counsel for CVL, in February 2019, contacted the Receiver's attorneys to address the freeze issue and to provide CVL's position that the notes were not enforceable. Cousineau Decl. at ¶ 2. Counsel for the Receiver responded that he hoped to resolve the CVL issues quickly, recognized that the Property belonged to CVL, and indicated that the freeze could be addressed. *Id.* at ¶ 3.

Based on these representations, CVL forewent intervening in the proceeding to address the freeze, and focused instead on trying to make the business profitable and resolving questions the Receiver had about the notes. Reyner Decl. at ¶ 26. After some back-and-forth, the Receiver provided its position on the notes. Initially, it stated simply that it did not agree with CVL's position. Cousineau Decl. at ¶ 4, Ex. 1. After CVL explained that it could not assess the Receiver's position unless he provided more details, the Receiver provided some details about his position. *Id.* Before CVL had an opportunity to respond, it learned that the SEC, the Receiver, and Iannelli had all jointly agreed to ask the Court to maintain the freeze on the Property they knew belonged to CVL. Cousineau Decl. at ¶ 5.

E. CVL meets and confers with the Parties.

CVL contacted the Parties on September 10, 2019 about its intent to intervene to address the freeze of its property and to protect its interests. *Id.* at ¶ 6. CVL and the Parties had a phone conference on September 12, 2019 and follow-up communications during the following weeks, but were not able to address their differences informally. *Id.* at ¶ 7.

III. ARGUMENT

A. CVL is entitled to intervene to protect its interests.

1. Courts construe broadly the requirements for intervention, in favor of granting intervention.

Federal Rule of Civil Procedure 24 allows non-parties to intervene in pending

actions either as a matter of right or permissively. These forms of intervention have different requirements that are discussed in detail below. The common thread for all these requirements is that they are to be construed liberally in favor of intervention to ensure that the proposed intervenor's interests are protected. *Southwest Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 818 (9th Cir. 2001 (citing *Forest Conservation Council v. United States Forest Serv.*, 66 F.3d 1489, 1493 (9th Cir. 1995); *see also United States v. City of Los Angeles*, 288 F.3d 391, 397 (9th Cir. 2002).

2. CVL satisfies the requirements to intervene as a matter of right.

Under Federal Rule of Civil Procedure 24(a), on timely motion, a court "must permit anyone to intervene who: * * * claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest. FRCP 24(a). The rule is broadly construed in favor of intervention. *Cabazon Band of Mission Indians v. Wilson*, 124 F.3d 1051, 1061 (9th Cir. 1997), cert denied 524 U.S. 926 (1998).

The Ninth Circuit applies a four-part test to asses intervention as a matter of right: (1) the application for intervention must be timely; (2) the applicant must have a "significantly protectable" interest relating to the property or transaction that is the subject of the action; (3) the applicant must be so-situated that the disposition of the action may, as a practical matter, impair or impede the applicant's ability to protect the interest; and (4) the applicant's interest must not be adequately represented by the existing parties in the lawsuit." *Araki v. Cayetano*, 324 F.3d 1078, 1083 (9th Cir. 2003). CVL satisfies each of these requirements:

CVL's motion is timely. Timeliness depends on: "(1) the stage of the proceeding at which an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the reason for and length of delay." *United States v. Alisal Water Corp.*, 370

F.3d 915, 921 (9th Cir. 2004). Here, after CVL learned that its property was incorrectly frozen, it sought to resolve the issue informally. It was only when CVL learned that the Parties had requested on September 3, 2019 that the Property remain frozen that CVL realized its interests could only be protected through intervention. CVL contacted the Parties to meet and confer about its intervention on September 10, 2019, the parties had an initial phone conference on September 12, 2019, and follow-up communications over the following week. Moreover, CVL does not seek to alter any prior orders that impact the Parties. CVL only seeks to protect its interests. The requested intervention will not delay the proceeding in any way, and there is no conceivable prejudice to any party.

CVL has a legally protectable interest in the subject of the dispute. The interest test is not a "bright-line rule." *United States v. Alisal Water Corp*., 370 F.3d 915, 919 (9th Cir. 2004). A party has a sufficient interest for intervention purposes if it will "suffer a practical impairment of its interest as a result of the pending litigation." *Cal. Ex rel. Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006). Here, the Parties have frozen the Property, which belongs to CVL and have potentially created problems for CVL's bank accounts. These decisions, and other future decisions that impact CVL's assets, have a direct impact on CVL and should not be made without CVL's involvement. There can therefore be no doubt that CVL has a protectable interest in this litigation.

Disposition of this action may impair CVL's ability to protect its interests. An intervenor satisfies this requirement if the action may "as a practical matter impair or impede the movant's ability to protect its interest." *Cunningham v. David Special Commitment Ctr.*, 158 F.3d 1035, 1038 (9th Cir. 1998). Although CVL is not a defendant in this proceeding or a receivership asset, the Parties are clearly taking actions directed at CVL's assets. Any decisions from this Court, whether interim or final, could impair CVL's ability to protect its interests, especially where the Court is being asked to make decisions based on incorrect information.

CVL's interests are not adequately protected. CVL only has to make a "minimal" showing that the representation of its interests by existing parties "may be inadequate." *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003). The Supreme Court has stated that the burden of making a showing of inadequacy should be treated as "minimal." *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972). To determine whether the original party to a private action will adequately represent the intervenor's interest, the Court considers (1) whether the interests of the present party are such that it will make all the arguments the intervenor would make; (2) whether the present party is capable of and willing to make such arguments; and (3) whether the intervenor would offer a necessary element to the proceedings that the other parties would neglect. *California v. Tahoe Reg'l Planning Agency*, 792 F.2d 775, 778 (9th Cir. 1986).

By asking the Court to freeze assets essential to CVL's continued viability, the Parties have clearly shown that they do not adequately represent CVL's interests. The SEC and Receiver are seeking to recover as many assets as possible and have demonstrated that they are taking an adverse position to CVL. Similarly, Iannelli's interests are not aligned with CVL. He does not own CVL's assets and, as demonstrated by his participation in the freeze request, is not seeking to protect CVL's assets. Because CVL's interests may differ from all other parties, intervention as a matter of right is proper.

3. Alternatively, CVL is entitled to intervene permissively.

CVL should also be permitted to intervene under Fed. R. Civ. P. 24(b). Permissive intervention is appropriate where (1) the moving party has a claim or defense which shares a common question of law or fact with the main action; (2) the motion is timely; and (3) the court has an independent basis for jurisdiction over the applicant's claims. *Donnelly v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998).

Common Question. The existence of a common question is liberally construed in favor of intervention. *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1108-

1109 (9th Cir. 2002); 7C Wright, Miller & Kane, *Federal Practice and Procedure* § 1911, 357-63 (3d ed. 1986). This element is satisfied as long as there is a single common question of either fact or law. *Meyer Goldberg, Inc., of Lorain v. Fisher Foods, Inc*., 823 F.2d 159, 164 (6th Cir. 1987). Based on the September Order and the positions taken by the Parties, the existing action involves questions related to the Receiver's ability to access CVL's assets and the named defendants' interest in CVL's assets. This nexus is sufficient to satisfy the minimal burden of showing one common question of either law or fact.

Timeliness. As set forth above, CVL's Motion is timely.

Jurisdiction. The SEC's and Receiver's claims to CVL's assets are based on their powers under the federal Securities Act and the Exchange Act. Therefore, any attempt by CVL to protect its assets from such claims and clarify the proper scope of the SEC's and Receiver's rights to its assets are based on federal jurisdiction. Granting the requested intervention does not disturb jurisdiction.

B. CVL's assets are not properly subject to a freeze.

1. Neither Iannelli nor Essex have any direct ownership or control over CVL's assets, and those assets are not available to satisfy Iannelli's or Essex's debts.

Essex is not a member of CVL. *See* Reyner Decl. at ¶ 4 (listing members). Although Iannelli is a member of CVL, his interest in the company is limited solely to his "membership interests." The law regarding a member's, or his creditors', rights to LLC assets is clear and well established.

A limited liability company is distinct from its members. Cal. Corp. Code § 17701.04(a); *Grigoryan v. Experian Info. Solutions, Inc.*, 84 F.Supp.3d 1044, 1079 (C.D. Cal. 2014). Therefore, members of a limited liability company have no direct ownership in the company's assets. *Grigoryan*, 84 F.Supp.3d at 1079. Rather, each member's interest is limited to their transferable interest (*i.e.*, right to receive distributions), their right, to the extent provided for in the Operating

Agreement, to vote or participate in management, and any rights granted for access to information regarding the company. Cal. Corp. Code § 17701.02(r), (aa). Iannelli's status as a member of CVL gives him no direct ownership over any of CVL's assets. Indeed, CVL could have a claim against Iannelli for assets he took from CVL.

Because CVL's assets are distinct from Iannelli's, CVL's assets are also not available to pay his debts. Any judgment against Iannelli can be enforced against his transferable interest (right to distributions) in CVL, but the creditor, like Iannelli or any other person to whom he transfers his interests in CVL, cannot interfere with the management and activities of the LLC. *See* Cal Code Civ. P. § 708.310; Cal. Corp. Code §§ 17705.02, 17705.03; *La Jolla Bank, FSB v. Tarkanian*, 2013 U.S. Dist. LEXIS 97846, *3-4 (E.D. Cal. 2013); Comments to Revised Uniform Limited Liability Company Act (July 6-12, 2013) at 127 (creditor cannot "interfere with the management and activities of the limited liability company").[5]

Therefore, even if the Receiver requires Iannelli to transfer his membership interests to the Receiver or any other entity, or otherwise takes control of Iannelli's membership interests, the transferee will receive no right to access CVL's assets, to manage CVL, or to interfere with its business. *See* Cal. Corp. Code § 17705.02(a)(3)(A) (transfer does not entitle transferee to "vote or otherwise participate in the management or conduct of the activities of a limited liability company."), 17705.03 (court can order charging order against "transferable interest of the judgment creditor," which requires the limited liability company to pay the judgment creditor "any distribution that would otherwise be paid to the judgment debtor.")

CVL's assets therefore belong to CVL, not Iannelli or Essex, and should not be

[5] Available at https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=59420093-1faf-c04e-5649-8a70f657a1c1&forceDialog=0

part of any freeze of property belonging to Iannelli or Essex.

2. The real property at 915 Elm Avenue is owned by CVL, not Iannelli, and should therefore not be subject to the freeze.

The Property does not, as the Parties represent, belong to Iannelli. *See* Dkt. No. 108-1 at 4; Dkt. No. 113 at 4. As the recorded deed for the Property, of which the Parties are well aware, conclusively proves, the Property is owned by CVL. *See* Reyner Decl. ¶ 8, Ex. 1. Therefore, it was frozen based on incorrect information and should be removed from the freeze.

3. CVL's accounts over which neither Iannelli nor Essex have any authority should not be frozen either directly or by implication.

The September Order continues the freeze originally instituted in the December Order over bank accounts that are "held in the name of, for the benefit of, or over which account authority was held by Defendants Essex and Iannelli on or before the entry of the [December Order]." September Order [Dkt. No. 113] at 3:16-25. That language should not be deemed to encompass CVL's accounts because Essex and Iannelli lack any authority over those accounts. However, the December Order includes an incomplete list of covered bank accounts, which includes account no. xxxxx8411, described as "915 Elm Avenue CVL LLC." December Order [Dkt. No. 66] at 5:10. Although CVL does not use that account, including it without further explanation could give the impression that all CVL's accounts fall within the scope of the freeze. If an account associated with CVL is considered part of the freeze, then some entities may, understandably but incorrectly, believe that all CVL's accounts are subject to the freeze. CVL's other accounts are, however, its assets, not Iannelli's and Essex's, and should not be frozen.

Furthermore, as a manager-managed LLC, CVL's members have limited rights over the management. Cal. Corp. Code § 17703.01(b). As specific to CVL, its sole manager, Mr. Reyner, has exclusive rights to manage CVL's business, property, and

affairs. As Mr. Reyner confirms, neither Iannelli, nor his family, nor Essex have any control over or access to the accounts that CVL uses. CVL has no intention to make any distributions to or to convey any other property to Iannelli, his family, or Essex. Reyner Decl. at ¶ 27. CVL is further willing to enter an agreement that (1) precludes it from transferring anything of value to Iannelli, his family, or Essex and (2) requires it to provide the Receiver with reasonable documentation demonstrating that it is not conveying anything of value to Iannelli, his family, or Essex. *Id.* at ¶ 28 CVL has, indeed, been providing financial statements monthly to the Receiver. *Id.* at ¶29.

The Receiver can therefore achieve the necessary protections over Iannelli's membership interests in CVL without infringing CVL's rights.

IV. CONCLUSION

For the foregoing reasons, CVL respectfully requests that the Court allow it to intervene (1) to remove the freeze on the Property, (2) to clarify that its bank accounts, over which Iannelli and Essex have no control, are not part of the freeze, and (3) to ensure that no further actions are taken related to its assets without its knowledge or an ability to be heard.

DATED: September 25, 2019

By: */s/ David L. Cousineau*

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