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14 GEOFF WINKLER

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA
17 WESTERN DIVISION

18 SECURITIES AND EXCHANGE
19 COMMISSION,

20 Plaintiff,

21 v.

22 RALPH T. IANNELLI and ESSEX
23 CAPITAL CORP.,

24 Defendants.

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

DECLARATION OF RECEIVER,
GEOFF WINKLER, IN SUPPORT OF
MOTION FOR AUTHORITY TO
PROSECUTE CLAIMS AGAINST
SEED MACKALL LLP

[Notice of Motion and Motion;
Memorandum of Points and Authorities;
and [Proposed] Order submitted
concurrently herewith]

Date: September 17, 2020
Time: 10:00 a.m.
Ctm: 6D
Judge Hon. Fernando M. Olguin

25 **DECLARATION OF GEOFF WINKLER**

26 I, Geoff Winkler, declare as follows:

27 1. I am the Court-appointed permanent receiver (the "Receiver") for
28 Defendant Essex Capital Corporation ("Essex") and its subsidiaries and affiliates
(collectively, with Essex, the "Receivership Entities"). I was initially appointed as
Receiver for the Receivership Entities in the above-captioned action on
December 21, 2018, pursuant to this Court's Order Regarding Preliminary

1 Injunction and Appointment of a Permanent Receiver (the "Appointment Order")
2 (ECF. No. 66). The authority bestowed upon me by virtue of the Appointment
3 Order was subsequently reaffirmed pursuant to the Court's September 9, 2019 Order
4 Regarding Permanent Injunction (ECF No. 113). I make this Declaration in support
5 of my concurrently filed Motion for Authority to Prosecute Claims Against Seed
6 Mackall LLP (the "Motion"), by which I respectfully request that the Court enter an
7 order authorizing me to commence litigation against Seed Mackall LLP ("Seed
8 Mackall"), in a form consistent with the draft Complaint appended to the Motion as
9 **Exhibit 1**.

10 2. The facts presented in this Declaration are based on my personal
11 knowledge and conclusions, including as developed from my review of documents
12 relating to the business and financial activities of the Receivership Entities,
13 including those relating to Seed Mackall and 915 Elm Avenue CVL, LLC ("CVL"),
14 the latter of which is an entity to whom I have traced Receivership Entity funds and
15 obligations. The documents I reviewed include, but are not limited to, loans, notes,
16 bank and other financial statements, and other materials obtained pursuant to my
17 authority as Receiver from the files of the Receivership Entities and from third
18 parties, including individuals and entities who transacted with the Receivership
19 Entities.

20 3. Based upon my review of relevant records, and as previously reported
21 in my Motion for Authority to Pursue Litigation Against 915 Elm Avenue CVL,
22 LLC (ECF No. 125), I have confirmed that Essex's principal, Ralph Iannelli,
23 diverted hundreds of thousands of dollars from Essex in connection with his interest
24 in CVL and its purchase of a lumber yard operation and associated real property
25 located at 915 Elm Avenue, Carpinteria, California 93013 (collectively, the
26 "Lumber Yard"). I have also confirmed, based upon my review of relevant records,
27 that Mr. Iannelli caused Essex to incur at least \$1,500,000, plus interest, in debt in
28 the form of a loan from J&G Clay Properties, LLC and its principal, James Gally

1 (collectively, "Mr. Gally"), which was styled as a seller carryback loan (the "Gally
2 Note"), to fund a substantial part of the purchase of the Lumber Yard, more than
3 \$450,000 of which had already been repaid by Essex to Mr. Gally at the time of my
4 appointment. The records that I have reviewed relating to CVL and the Lumber
5 Yard reveal that CVL's purchase of the Lumber Yard was effectuated by more than
6 \$2 million in Essex cash and financing obligations.

7 4. As of the date of the Motion, CVL has not repaid Essex any of the
8 money it promised to repay as reimbursement for Essex's obligation on the Gally
9 Note, and Essex remains obligated to Mr. Gally in the amount of over \$1 million, to
10 say nothing of Essex's repayment obligation to investors whose funds were
11 misappropriated to facilitate CVL's purchase of the Lumber Yard.

12 5. Based upon my review of relevant records, Seed Mackall appears to
13 have served as legal counsel to both Mr. Iannelli and Essex at all times relevant to
14 the creation of CVL, its purchase of the Lumber Yard, and thereafter in connection
15 with a number of issues arising from and in connection with its purchase of the
16 Lumber Yard. Among other things, the documents that I obtained and reviewed
17 suggest that Seed Mackall represented: (1) Mr. Iannelli in connection with the
18 drafting of CVL's Operating Agreement, which representation appears to have
19 inured to Mr. Iannelli's personal and unilateral benefit; (2) Mr. Iannelli in
20 connection with a dispute with William S. Reyner, Jr., CVL's other principal, and
21 CVL, relating to Mr. Iannelli's percentage interest in CVL, during which Seed
22 Mackall appears to have offered to compromise Essex's interests in order to protect
23 Mr. Iannelli's; and (3) Mr. Iannelli and Essex in connection with their efforts to
24 collect on loans made to CVL, despite the fact that all such loans were funded
25 entirely by Essex.

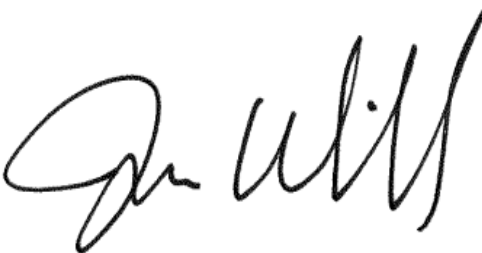
26 6. I have consulted with my counsel, Allen Matkins Leck Gamble Mallory
27 & Natsis LLP ("Allen Matkins"), and believe the legal fees and expenses for the
28 contemplated action, as set forth in the Motion, could be as low as \$50,000, in the

1 event of a prompt settlement, but may reach or exceed \$250,000, in the event of a
2 full trial. Based on the information that is presently available, I anticipate that this
3 matter should be resolved via settlement, or at summary judgment, with legal fees
4 and expenses under \$150,000. As with all matters, Allen Matkins and I will make
5 every effort to minimize administrative expenses associated with the proposed
6 action. Throughout the litigation, Allen Matkins and I will continue to monitor the
7 costs and likely net benefit to the receivership estate. In my discretion, I may
8 conduct asset investigations to aid in assessing collectability of a judgment.

9 7. After reviewing the available evidence, weighing the merits of the
10 proposed claims against Seed Mackall, and assessing the anticipated costs of
11 litigation and likelihood of success and collectability, I believe, in my reasonable
12 business judgment, that it is in the best interest of the receivership estate to pursue
13 such claims, and respectfully request the Court issue an order authorizing me to do
14 so.

15 I declare under penalty of perjury under the laws of the State of California
16 that the foregoing is true and correct.

17 Executed this 7th day of August, 2020, at Salem, Oregon.

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GEOFF WINKLER, Receiver

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 10, 2020**, I caused to be served on all the parties to this action addressed as stated on the attached service list the document entitled: **DECLARATION OF GEOFF WINKLER IN SUPPORT OF MOTION OF RECEIVER, GEOFF WINKLER, FOR AUTHORITY TO PROSECUTE CLAIMS AGAINST SEED MACKALL LLP**

- 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 10, 2020** 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

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