

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 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 RALPH T. IANNELLI and ESSEX  
16 CAPITAL CORP.,

17 Defendants.

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

SUPPLEMENT TO FIFTH INTERIM  
REPORT AND PETITION FOR  
FURTHER INSTRUCTIONS OF  
RECEIVER, GEOFF WINKLER

Date: August 27, 2020

Time: 10:00 a.m.

Ctrm: 6D

Judge Hon. Fernando M. Olguin

18  
19 **TO ALL INTERESTED PARTIES, THEIR COUNSEL OF RECORD,**  
20 **AND THIS HONORABLE COURT:**

21 **PLEASE TAKE NOTICE THAT**, Geoff Winkler (the "Receiver"), the  
22 Court-appointed permanent receiver for Defendant Essex Capital Corporation  
23 ("Essex") and its subsidiaries and affiliates (collectively, the "Receivership Entities"  
24 or "Entities"), hereby submits the following Supplement to his Fifth Interim Report  
25 and Petition for Further Instructions (the "Report") (ECF No. 174):

26 **A. Pre-Report Item Remaining Outstanding.**

27 As reflected in the Court's docket, the Court has resolved a significant number  
28 of matters outstanding prior to the submission of the Report, including with respect

1 to the Receiver's authority to prosecute specific third-party litigation, settle claims  
2 with investors and related parties, and commence his proposed claims process.

3 As of the submission of this Supplement, the only matter remaining before the  
4 Court which was pending prior to Report's submission is the March 26, 2020  
5 Stipulation to Authorize Receiver's Disgorgement Efforts and Establish  
6 Disgorgement Procedures (the "Disgorgement Stipulation") (ECF No. 157), which  
7 was prepared and submitted to the Court in consultation with the Plaintiff Securities  
8 and Exchange Commission (the "Commission"). By way of the Disgorgement  
9 Stipulation, the Receiver proposed procedures for pursuing disgorgement from those  
10 Receivership Entity investors identified as having received amounts in excess of  
11 their investments in the Receivership Entities.

12 As reflected in the Report, Mr. Iannelli opposed the Disgorgement  
13 Stipulation, alleging that it would require the Court to make a finding that the  
14 Receivership Entities had been used to operate a Ponzi-like investment scheme (see  
15 ECF No. 165). However, as reflected in the Receiver's Reply in support of the  
16 Disgorgement Stipulation (ECF No. 169), Mr. Iannelli lacks standing to oppose the  
17 Disgorgement Stipulation and, even assuming, *arguendo*, that Mr. Iannelli could  
18 establish standing, the stipulation merely requests uncontroversial, administrative  
19 relief and – contrary to Mr. Iannelli's contention – *does not* require this Court to  
20 make any substantive findings, against him or otherwise. The Receiver therefore  
21 reiterates his request that the Court enter an order approving the Disgorgement  
22 Stipulation.

23 **B. Developments Relating to 915 Elm Avenue CVL, LLC.**

24 In his Report, the Receiver noted that, at the time of filing, his Motion to  
25 Pursue Litigation Against 915 Elm Avenue CVL, LLC (the "CVL Motion") (ECF  
26 No. 125, *et seq.*) remained pending. On July 29, 2020, this Court entered a Minute  
27 Order granting the CVL Motion (see ECF No. 177). Through counsel, the Receiver  
28 is now in discussions with the management of 915 Elm Avenue CVL, LLC ("CVL")

1 in an effort to resolve his prospective claims. In the event that his efforts prove  
2 unsuccessful, he will initiate litigation against CVL, as recent authorized by the  
3 Court.

4 The Receiver also noted in his Report that, at the time of its submission, and  
5 despite multiple requests. Defendant Ralph Iannelli had failed to turn over his  
6 personal interest in CVL, which the Receiver contends was acquired with funds  
7 improperly diverted from the Receivership Entities. While Mr. Iannelli has  
8 contested the Receiver's contention, he recently executed an assignment transferring  
9 ownership of that interest to the receivership. The Receiver is optimistic that this  
10 may further advance his efforts to resolve his outstanding claims against CVL  
11 without the necessity of litigation, and will provide further updates to the Court, as  
12 warranted.

13 **C. Pending Amagansett Partners, LLC Settlement.**

14 Since the submission of the Receiver's Report, the Court has also entered its  
15 Order Granting Motion of Receiver, Geoff Winkler, for Order Approving and  
16 Authorizing Performance of Settlement Agreement (the "Grant Settlement Order")  
17 (ECF No. 178). The Grant Settlement Order having been entered, the Receiver has  
18 reached out to the settling parties to provide wire instructions for the payment due to  
19 the receivership, and expects to receive those settlement proceeds shortly.

20 **D. Post-Report Matters Submitted Or Anticipated To Be Submitted.**

21 Since the Report was filed, the Receiver filed his Motion for Authority to  
22 Prosecute Claims Against Seed Mackall LLP (the "SM Motion") (ECF No. 184, *et*  
23 *seq.*), in which he requests that the Court authorize his prosecution of civil claims  
24 against certain pre-receivership professionals. The SM Motion is currently set for  
25 hearing on September 17, 2020.

26 The Receiver has also completed his and his professionals' Fifth Interim  
27 Application for Payment of Fees and Reimbursement of Expenses (the "Fee  
28 Application"). In accordance with the Commission's billing guidelines and

1 customary practice in receivership matters, the Receiver has provided the Fee  
2 Application to the Commission for review and meet-and-confer purposes, and  
3 expects to file it once any questions raised by the Commission have been addressed.  
4

5 Dated: August 12, 2020

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

6  
7  
8 By:           /s/ Joshua A. del Castillo

9 JOSHUA A. DEL CASTILLO  
10 Attorneys for Receiver  
11 GEOFF WINKLER  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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 12, 2020**, I caused to be served on all the parties to this action addressed as stated on the attached service list the document entitled: **SUPPLEMENT TO FIFTH INTERIM REPORT AND PETITION FOR FURTHER INSTRUCTIONS OF RECEIVER, GEOFF WINKLER**

**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 12, 2020** at Los Angeles, California.

/s/ Martha Diaz

Martha Diaz

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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 LLPP  
1900 Avenue of the Stars, 7<sup>th</sup> Floor  
Los Angeles, CA 90067-4308