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7 Attorneys for Receiver
 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 vs.

16 RALPH T. IANNELLI and ESSEX
 CAPITAL CORP.,

17 Defendants.

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

RECEIVER'S SIXTEENTH INTERIM
 REPORT AND PETITION FOR
 FURTHER INSTRUCTIONS

Date: October 26, 2023
 Time: 10:00 a.m.
 Ctrm: 6D
 Judge Hon. Fernando M. Olguin

18
 19 Geoff Winkler (the "Receiver"), the Court-appointed permanent receiver for
 20 defendant Essex Capital Corporation ("Essex") and its subsidiaries and affiliates
 21 (collectively, with Essex, the "Receivership Entities" or "Entities"), hereby submits
 22 the following Sixteenth Interim Report and Petition for Further Instructions (the
 23 "Report") for the period from April 1, 2023 through June 30, 2023 (the "Reporting
 24 Period"¹), in accordance with Rule 66-6 of the Local Civil Rules of the United
 25 States District Court for the Central District of California and the Court's (a) *Order*

27
 28 ¹ While this Report largely addresses efforts undertaken during the Reporting
 Period, it necessarily makes reference to efforts or events prior to or after the
 Reporting Period.

1 *Regarding Preliminary Injunction and Appointment of a Permanent Receiver* (the
2 "Appointment Order"), ECF No. 66, entered on December 21, 2018; (b) *Order in*
3 *Aid of Receivership* (the "Order in Aid"), ECF No. 69, entered on February 1, 2019;
4 and (c) *Order Regarding Permanent Injunction* (the "Permanent Injunction"), ECF
5 No. 113, entered on September 9, 2019.

6 **I. PRELIMINARY STATEMENT**

7 During the Reporting Period, consistent with the Receiver's proposed course
8 of action set forth in his preceding *Fifteenth Interim Report and Petition for Further*
9 *Instructions* (ECF No. 262), the Receiver's efforts were largely directed at
10 identifying, recovering, and administering any available Assets of the Receivership
11 Entities (the "Receivership Assets" or "Assets"), in the hopes of completing his
12 outstanding Asset recovery efforts as expediently and efficiently as possible, and
13 making an additional distribution to holders of allowed claims against the
14 receivership estate (the "Estate") as soon as possible. This Report summarizes the
15 Receiver's efforts during the Reporting Period.

16 During the Reporting Period, the Receiver took the following actions:

- 17 • Continued the prosecution of three (3) remaining disgorgement actions
18 brought by the Receiver against alleged profiting investors, seeking to
19 recover, at face value and in the aggregate, what the Receiver has alleged to
20 be over \$3 million in fictitious profits received by those investors;
- 21 • Engaged in successful pre-litigation settlement negotiations with a third
22 party allegedly in possession of Receivership Assets, resulting in an
23 agreement reached subsequent to the close of the Reporting Period pursuant
24 to which the Receiver expects to recover an additional \$100,000.00 for the
25 benefit of the Estate;
- 26 • Conducted a further evaluation of various securities owned by the
27 Receivership Entities, and took steps to liquidating such securities in
28 accordance with the Court's prior orders, resulting in a a sale of certain

1 assets after the end of the Reporting Period which resulted in the recovery of
2 approximately \$1,500,000.00 for the benefit of the Estate;

- 3 • Continued to oversee the collection of payments from third parties pursuant
4 to earlier Court-approved settlement agreements; and
- 5 • Continued to monitor and appear, as appropriate, in all known, pre-
6 receivership litigation pending in California state courts involving or
7 implicating the Receivership Entities or their Assets.

8 In addition to the above, the Receiver has continued to administer the
9 remaining Assets of the Estate, and, as of the date of his standardized fund
10 accounting report for the Reporting Period (the "SFAR"), attached hereto as
11 **Exhibit 1**, held approximately \$2 million, in cash on-hand for the administration
12 and benefit of the Receivership Entities and the Estate.²

13 **II. RELEVANT PROCEDURAL HISTORY**

14 While the relevant filings in the instant receivership are too voluminous to
15 list, the Receiver invites the Court and all interested parties to review the following
16 filings³ for the relevant factual and procedural background relating to the subjects
17 addressed in this Report:

- 18 • Plaintiff the Securities and Exchange Commission's *Complaint*, filed on
19 June 5, 2018 (ECF No. 1);
- 20 • The Appointment Order, entered on December 21, 2018 (ECF No. 66);
- 21 • The Order in Aid, entered on February 1, 2019 (ECF No. 69);
- 22 • The Permanent Injunction, entered on September 9, 2019 (ECF No. 113);
- 23 • The Receiver's prior interim reports (ECF Nos. 78, 103, 123, 149, 174, 197,
24 206, 210, 215, 229, 236, 243, 249, 256, and 262);

25
26
27 ² This amount does not include the funds recovered, or expected to be recovered,
from the above-referenced settlement and sale of securities.

28 ³ These filings, as well as others, are available on the Receiver's website,
<https://essex-receivership.com/>.

- 1 • The *Stipulation for Order: (1) Establishing Claims Procedures; and*
2 *(2) Setting Claims Bar Date*, filed on April 20, 2020 (ECF No. 168) and the
3 order thereon, entered on July 31, 2020 (ECF No. 179);
- 4 • The *Motion of Receiver, Geoff Winkler, for Authority to Establish*
5 *Disgorgement Procedures and Undertake Disgorgement Efforts*, filed on
6 October 13, 2020 (ECF No. 190) and the order thereon, entered on
7 November 12, 2020 (ECF No. 195);
- 8 • The *Motion for Order: (1) Approving Proposed Distribution Plan;*
9 *(2) Approving Recommended Treatment of Claims; and (3) Authorizing*
10 *Distributions on Allowed Claims*, filed on December 21, 2021 (ECF
11 No. 220) and the order thereon, entered on April 19, 2022 (ECF No. 234);
12 and
- 13 • The *Motion of Receiver, Geoff Winkler, for Order Approving and*
14 *Authorizing Performance of Settlement Agreement*, filed on September 7,
15 2022 (ECF No. 241) and the order thereon, entered on September 19, 2022,
16 (ECF No. 246).

17 **III. THE RECEIVER'S ACTIVITIES AND EFFORTS DURING THE**
18 **REPORTING PERIOD**

19 As discussed extensively in the Receiver's prior interim reports, the Receiver
20 has been met with substantial success in his efforts to identify, marshal, administer,
21 and ultimately distribute Receivership Assets for the benefit of the Receivership
22 Entities, their Estate, and its creditors, and has continued such efforts through the
23 Reporting Period. These efforts are discussed below.

24 **A. Assets Held by Receivership.**

25 As reflected in his most recent SFAR, attached hereto as **Exhibit 1**, at the end
26 of the Reporting Period, the Receiver held a total of approximately \$2,194,664, in
27 cash, for the administration and benefit of the Receivership Entities. In addition, he
28

1 continues to hold and administer non-cash Assets, including prospective third-party
2 recoveries.

3 During the Reporting Period, the Receiver, in accordance with his existing
4 authority under the Appointment Order and Permanent Injunction, took steps to
5 evaluate certain equity investments held for the benefit of the Estate, and to identify
6 prospective buyers for such Assets, in anticipation of liquidating those investments
7 to raise additional funds for the Estate. Following the Reporting Period, these
8 efforts resulted in a sale which netted approximately \$1.5 million for the benefit of
9 the Estate.

10 **B. Recovery of Receivership Assets.**

11 As reflected in prior interim reports, the Receiver, with assistance from Allen
12 Matkins, has successfully brought and subsequently settled several a number of
13 Asset recovery actions, primarily for the disgorgement of fictitious profits. The
14 Receiver's disgorgement litigation efforts have been highly successful, resulting in
15 millions of dollars of recoveries for the Estate, and the Receiver anticipates
16 recovering additional funds as the remaining litigation is settled or proceeds through
17 trial. A brief update as to the status of the pending litigation follows:

18 (a) *Winkler v. McCloskey, et al.*, Case No. 2:21-cv-05757-
19 FMO-AFM (the "McCloskey Action").

20 In the McCloskey Action, the Receiver calculated the defendants' net profits
21 to be in excess of \$1.2 million. As discussed in prior reports, the Court denied the
22 defendants' motion to compel arbitration, which they subsequently appealed to the
23 Ninth Circuit (Case No. 22-55856). Prior to the Reporting Period, the Receiver filed
24 his Ninth Circuit Answering Brief. Shortly thereafter, and during the Reporting
25 Period, the Receiver filed motions attendant to his Answering Brief, reviewed the
26 defendant-appellants' Reply Brief, and worked with his counsel to develop and
27 pursue parallel settlement efforts intended to resolve the McCloskey Action in a
28 manner intended to limit additional expenditure of receivership funds. The Receiver

1 presently remains engaged, through counsel, in settlement discussions in the hopes
2 of resolving the underlying disgorgement dispute.

3 (b) *Winkler v. Nicholson*, Case No. 2:21-cv-07458-FMO-
4 AFM (the "Nicholson Action").

5 In the Nicholson Action, the Receiver calculated the defendant's profits to be
6 more than \$1.5 million. Due to a health-related emergency, a status conference
7 scheduled for April 20, 2023, was continued to September 12, 2023. Additionally,
8 the Receiver, through counsel, continued to engage in settlement discussions with
9 Defendant Nicholson's counsel, endeavoring to develop mutually agreeable
10 settlement parameters. While a settlement agreement has not yet been reached, the
11 Receiver believes substantive progress has been made towards a settlement.

12 (c) *Winkler v. Grimm, et al.*, Case No. 2:22-cv-05736-FMO-
13 AFM (the "Grimm Action").

14 In the Grimm Action, the Receiver calculated the defendants' profits to be in
15 excess of \$1.1 million. During the Reporting Period, the Receiver, with his counsel,
16 attended a May 24, 2023 mandatory settlement conference before Magistrate Judge
17 MacKinnon. Although the conference did not result in a settlement, the Receiver is
18 confident that the conference was productive, and the parties continue to engage in
19 substantive settlement discussions.

20 During the Reporting Period, the Receiver attended to numerous outstanding
21 discovery obligations in the Grimm Action, finalizing his discovery requests to the
22 defendants, and preparing his responses to the discovery propounded by the
23 defendants.

24 (d) Profiting Investor Turnover Demand.

25 During the pendency of the receivership, and in an effort to minimize the
26 expense to the Estate, the Receiver has pursued his Asset recovery efforts against
27 alleged profiting investors first via written demand letters and discussion, resorting
28 to litigation only where pre-litigation settlement discussions have proved

1 unproductive. During the Reporting Period, and as he developed an improved
2 understanding regarding a handful of transactions in his accounting summary not
3 previously tie to particular investors, the Receiver successfully identified another
4 investor as a profiting investor. Thereafter, he immediately transmitted a turnover
5 demand to the investor, and engaged in productive settlement discussions
6 throughout the Reporting Period, which discussions culminated (just after the close
7 of the Reporting Period) in a signed settlement agreement which, when performed,
8 should yield a \$100,000 recovery for the benefit of the Estate.

9 **C. Attending to Pre-Receivership Litigation Matters.**

10 At the time of the Receiver's appointment, the action captioned as *Dennis v.*
11 *Iannelli, et al.* and bearing Case No. 18CV03317 (the "Dennis Action") was pending
12 before the Superior Court of California, County of Santa Barbara. Pursuant to the
13 Permanent Injunction, the Dennis Action was stayed. The Receiver and his counsel
14 have continued to monitor the Dennis Action and have previously informed the
15 court presiding over that action of the litigation stay imposed by the Appointment
16 Order and maintained by the Permanent Injunction, in order to protect and preserve
17 the Estate from diminution. During the Reporting Period, the Receiver's counsel
18 attended a status conference and informed the presiding court that the litigation stay
19 imposed by the Permanent Injunction remains in place. The Receiver will continue
20 to monitor and, through counsel, make necessary appearances and keep the court
21 presiding over the Dennis Action abreast of developments in the instant action, as
22 appropriate.

23 **D. Communications with Investors and Other Interested Parties.**

24 In accordance with the Order in Aid, the Receiver continues to maintain a
25 receivership website for this matter, which, among other things, he uses as a means
26 of communicating with investors in the Receivership Entities. Specifically, the
27 Receiver posts all of his filings to the website, which also includes a portal through
28 which investors and other interested parties may register to receive email notice of

1 such filings. The Receiver will continue to post additional updates to the website as
2 they become relevant and available. Additionally, the Receiver and his staff
3 respond to investor inquiries when such inquiries are made.

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

5 Assuming that the Court accepts this Report and authorizes the Receiver to
6 undertake the actions recommended herein, as well as to continue those actions
7 provided for in the Appointment Order, Order in Aid, and Permanent Injunction, the
8 Receiver proposes to submit a further interim report to this Court, addressing his
9 progress, findings, conclusions, and additional recommendations, in approximately
10 90 to 120 days.

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

- 13 1. Accepting this Report;
- 14 2. Authorizing the Receiver to continue to administer the Receivership
15 Entities and their Estate in accordance with the terms of the Appointment Order,
16 Order in Aid, and Permanent Injunction;
- 17 3. Authorizing the Receiver to undertake the recommendations presented
18 herein; and
- 19 4. Providing such other and further relief as the Court deems necessary
20 and appropriate under the circumstances.

21
22 Dated: September 21, 2023

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
DAVID R. ZARO
JOSHUA A. DEL CASTILLO
MATTHEW D. PHAM

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25 By: /s/ Matthew D. Pham

MATTHEW D. PHAM
Attorneys for Receiver
GEOFF WINKLER

EXHIBIT 1

STANDARDIZED FUND ACCOUNTING REPORT for SEC v. Essex Capital Corporation

Receivership; Civil Docket No. 18-cv-05008-FMO-AFM

Reporting Period from 01/01/2023 to 03/31/2023

FUND ACCOUNTING (See instructions)				
		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 04/01/2023):	\$ 1,972,676.88		
	Increases in Fund Balance:			
Line 2	Business Income	\$ 34,484.84		
Line 3	Cash and Securities (in transit)	-		
Line 4	Interest/Dividend Income	6,477.95		
Line 5	Business Asset Liquidation	-		
Line 6	Personal Asset Liquidation	-		
Line 7	Third-Party Litigation Income	365,250.00		
Line 8	Miscellaneous - Uncleared	-		
	Total Funds Available (Lines 1 - 8):		\$ 406,212.79	\$ 2,378,889.67
	Decreases in Fund Balance:			
Line 9	Disbursements to Investors	-		
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	(184,225.49)		
Line 10b	Business Asset Expenses	-		
Line 10c	Personal Asset Expenses	-		
Line 10d	Investment Expenses	-		
Line 10e	Third-Party Litigation Expenses	-		
	1. Attorney Fees	\$ -		
	2. Litigation Expenses	-		
	Total Disbursements for Receivership Operations		\$ (184,225.49)	
Line 10f	Tax Administrator Fees and Bonds		-	
Line 10g	Federal and State Tax Payments		-	
	Total Disbursements for Receivership Operations			\$ (184,225.49)
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):			\$ (184,225.49)
Line 13	Ending Balance as of 06/30/2023			\$ 2,194,664.18
Line 14	Ending Balance of Fund - Net Assets:			
Line 14a	Cash & Cash Equivalents		2,194,664.18	
Line 14b	Investments		1,320,331.33	
Line 14c	Other Assets or Uncleared Funds		5,802,316.00	
	Total Ending Balance of Fund - Net Assets			\$ 9,317,311.51

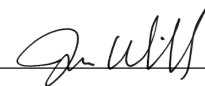
STANDARDIZED FUND ACCOUNTING REPORT for SEC v. Essex Capital Corporation

Receivership; Civil Docket No. 18-cv-05008-FMO-AFM

Reporting Period from 01/01/2023 to 03/31/2023

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	-		
	<i>Total Plan Development Expenses Not Paid by the Fund</i>		\$ -	
<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	-		
	<i>Total Plan Implementation Expenses Not Paid by the Fund</i>		\$ -	
<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>	<i># of Claims Received This Reporting Period</i>	0		
<i>Line 18b</i>	<i># of Claims Received Since Inception of Fund</i>	75		
Line 19	No. of Claimants/Investors:			
<i>Line 19a</i>	<i># of Claimants/Investors Paid This Reporting Period</i>	0		
<i>Line 19b</i>	<i># of Claimants/Investors Paid Since Inception of Fund</i>	64		

Receiver: **Geoff Winkler**

By: 

Geoff Winkler
(printed name)

Chief Executive Officer
American Fiduciary Services LLC
Receiver, Essex Capital Corporation, et al.

Date: **July 31, 2023**