

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
(Eastern Division)

Chapter 11 (Involuntary)
Case No. 23-10411-CJP

In re:)
)
RAYMOND C. GREEN TRUST,)
Debtor)
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)

EMERGENCY MOTION TO DISQUALIFY DEBTOR’S COUNSEL AND DEMAND FOR EVIDENTIARY HEARING OF CONFLICTS SUA SPONTE AND STAY OF PROCEEDINGS UNTIL ADJUDICATION OF DISQUALIFYING FACTORS OF ATTORNEYS OF ALLEGED DEBTOR AND TURN OVER OF BACK DOOR \$3,500,000 CASH SETTLEMENT AND 25% RECOVERY AGREEMENT BETWEEN CO-OBLIGOR OF THE PETITIONING CREDITORS PROVING A DIRECT CONFLICT AND CAUSE FOR IMMEDIATE DISQUALIFICATION

Ocean Development Partners, LLC (“ODP”); W Lofts LLC, and Ocean Vacations LLC, (“Petitioning Creditors”) by and through manager Nicholas Fiorillo, move the U.S. Bankruptcy Court to disqualify counsel for Debtor, David Reier, Nicholas Nesgos and the law firm of Arent Fox for the following reasons:

Numerous and multiple impermissible, non-waivable, and/or un-waved conflicts of interest in violation of Massachusetts Rules of Professional Conduct, Rules 1.3, 1.6, 1.7, 1.8, and 1.9 arising from their former representation, consultation(s), collaboration, potential representation(s) and numerous consultations and joint and several legal action(s) work out efforts with the Raymond C Green Companies, and the Arent Fox Law Firm. Just last week, Nicholas Nesgos and David Rieier had meetings with co-guarantors of one of the petitioning creditors, Louis Delpidio, where in fact a “back door deal” was hatched. Where now that petitioning creditor guarantor, has partnered with Raymond Green and the law firm of Arent Fox,

where he has testified, he is to receive 25% of the overall recovery of RCG's unlawful debt collection spoils. Delpidio was induced into "switch sides" by promises and assurances from Nesgos and Rier, they would foreclose on upwards of \$500,000,000 in real estate and assets of the petitioning creditors, and the spoils would be "whacked up 75%/25% less legal fees. They have kept this "secret deal" out of the prevue of this litigation and have decimated any hopes of a settlement between the Petitioning Creditors. In the last three years Nesgos had represented myself and the Debotr in the RCG Charger Street, Revere MA "Charger Street" and the self storage development site located in north of Boston

Peabody Massachusetts "Peabody". Where Nick Nesgos for the benefit of Fiorillo, Ray Green and the Ray Green Companies and George Mclaughlin, his former attorney and rebuked real estate partner. The Arent Fox Law firms conflicting prosecution of the same party in adverse positions, directly adverse parties, their prior representation of Nicholas Fiorillo and his related businesses from 2007-20023. Attorneys Nick Nesgos, George Mclaughlin, David Rier, Benjiman Greene, Nathaniel Hyman, Kevin Peters and Jeff Helman, since the onset of their now 6 collaborative debt collection law suits, they have filed in the Massachusetts and Connecticut state courts. In addition to the Federal Bankruptcy court cases that they are alleged creditors and against Nicholas Fiorillo and his development companies. The Arent Fox Attorney's continued to conspire in an unlawful and nefarious way, with Attorney Mclaughlin, Peters, Hellman Nesgos to the benefit of adverse third parties, including but not limited to Plaintiffs Samuel B. Spitalney, Jacob L. Spitalney, Stephen Quillinan, and S&Q Data, LLC ("S&Q") (collectively the "Spitalney Actors").

Petitioning Creditors bring this motions because:

1. The Arent Fox Lawyers, Raymond Green, the Spitalney Actors; Raymond C. Green, as Trustee of the Raymond C. Green Trust ("Green"); and other associated persons and entities are acting in concert and are using confidential and proprietary information that the Arent

Fox Lawyers obtained while representing Fiorillo and Gotspace Entities which they are now using in this action for their own financial benefit and to the substantial detriment of Petitioning Creditors. Such Attorney's at Arent Fox were officially noticed of such conflicts as communicated and served by Attorney Neil Kreuzer 4 different times throughout this litigation. Arent Fox has not withdrawn and purports they have no conflicts.

2. The Arent Fox Attorneys ' multiple conflicts of interest arising from its representation of both Plaintiffs and Petitioning Creditors require disqualification from this case and the related case, Suffolk Superior Court Case No. 21-2950 (the "Green Action") and their involvement in this action and coordination with Green, have so tainted this action and the Spitalny Action that there are serious questions as to whether these cases may proceed in their current form or at all and discovery and/or an evidentiary hearing are required to adequately inform the parties and the Court of the ramifications and consequences of the conduct of the Arent Fox Lawyers, The Mclaughlin Brothers, Kevin Peters, Attorney Hellman and the Spitalney Actors, and Green.

3. If Plaintiffs' are allowed to proceed in their debt illegal debt collection action and now "traitorous" alliance with a guarantor of the one of the petitioning creditors. These proceedings can not move any further with out an evidentiary hearing of this motion of disqualification , the Arent Fox Lawyers, Plaintiffs, and Green and Spitalny "bad actors" will have the unfair and impermissible advantage of leveraging ill-got confidential and proprietary information from Petitioning Creditors in support of their motions for extraordinary and oppressive preliminary relief.

4. The Arent Fox Lawyers are in fact witnesses in these case as not only have they participated but that have witnessed the many unlawful predatroy collection activities now being investigated by trusted FBI agents and special counsel to the Inspector General. As we know, the petitioning

creditors have brought under R.I.C.O. 18 USC Ch. 96: RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT . Where such illegal collection activities, by the collection attorney's themselves are considered racketeering acts. This is the case in multiple circuits, that the lawyers that were knowingly participating in the affairs of an association enterprise in committing, aiding and abetting their illegal activities and not merely providing services to their clients are liability under RICO. Clearly in these cases, the level of misconduct and criminality of the Arent Fox Attorneys, and their incestuous conspiring with Attorney's McLaughlin, Peters, and Hellman have went way beyond the traditional acts of representing a client even one whose business was illegal. In these cases, their Plaintiffs are know convicted felons, carrier loan sharks and money launders and are now subjects of an ongoing investigation. In the Fiorillo cases, all the lawyers have witnessed, observed, participated, and conspired to collect clearly usurious sums of money and property and demand for their own legal fees, not due or owing themselves or their purported clients. With carnal knowledge of the continued extortion and threats to financially ruin and even kill Fiorillo, if he did not “turn over” or “give up” what was demanded of him by their clients and McLaughlin Peters and Helman. Clearly the hard evidence that has now been turned over to the Federal Authorities and to Arent Fox, is indisputable. Green and the Spitalny's are operating an illicit predatory “loan to own” scheme and have established a pattern of their criminal activities over many years, against Fiorillo and his development corporations.(see foot note) 4 (Feld Entertainment Inc. v. American Society for the Prevention of Cruelty to Animals, 873 F. Supp. 2d 288 (D.D.C. 2012).)Feld proved such allegations that lawyers who violate RICO be treated like racketeers

5. This is because of Arent Fox's continued demand for legal fees, on top of their

demands for the turning over of upwards of 350% in usurious interest demands, millions of dollars in property and upwards of \$500,000 in fees. In addition McLaughlin and Peters continue to conspire, where McLaughlin “is in hiding” but actively involved in the illegal activities to collect and “loan to own” Fiorillo's personal assets and real estate holdings. Not to mention the personal stake in the Swansea Mall property that is at issue in these actions, where all the attorneys stand to benefit financially at their former clients’ expense if Petitioning Creditors’ interests and actionable claims to recovery in the Swansea Mall are usurped.

6. The Arent Fox Lawyers should not be allowed to proceed as counsel for Green or their closely associated Spitalny Actors or GEFI in this action because of their disqualifying conflicts and prior representation of Petitioning Creditors.

Petitioning Creditors further request that these cases be stayed and postponed indefinitely, Petitioning Creditors be allowed 60-days to conduct discovery into the Arent Fox Lawyers’, McLaughlin, Peters and Helmans conduct and representation of both Plaintiffs and Petitioning Creditors in this action, and an evidentiary hearing scheduled soon thereafter on whether this action can proceed given that the Arent Fox Lawyers have improperly disclosed confidential information from gleaned from their prior representation of Petitioning Creditors which they are now using for the benefit of the Spitalney Actors to Petitioning Creditors’ detriment.

I. SUMMARY OF RELEVANT FACTS

Attorneys Nick Negos, III (“Negos”), David Rier (“Rier”), Benjiman Green (“Green”), Nathaniel Hyman (“Hyman”) (collectively the “Arent Fox Lawyers”) and George McLaughlin, III (“McLaughlin”), , Kevin Peters (“Peters”) Jeffery Helman (“Helman”) , have represented and advised Petitioning Creditors Nicholas Fiorillo (“Fiorillo”), Gotspace Data Equity Fund, LLC (“Gotspace

Data”), and numerous of the Reach and Apply Petitioning Creditors named in Suffolk Superior Court Case

Nos. 21-2894-H (the “Spitalney Action”) and 21-2950 (the “Green Action”) in various business transactions, deals, and business opportunities over the last several years. [Affidavit of Nicholas Fiorillo (“Fiorillo Aff.”), ¶¶ 1-3.] The Spitalney Action and the Green Action are hereinafter referred to collectively as the “Conspirators’ Lawsuits”. By way of example:

Between 2007-2015 Fiorillo, as a Plaintiff engaged, consulted, collaborated and was advised by Attorney David Reier, a partner at Arent Fox f/k/a Posternak LLP in Fiorillo's Federal RICO predatory and unlawful debt collection lawsuit, he brought against Petitioning Creditors David Massad, Marcello Mallegini, LBM Financial and Commerce Bank. Reier took many in person meetings and spent over 80 hours on the phone and reviewing all Fiorillo's confidential files, Reier requested from him. Fiorillo spent over 25 hours explaining in detail his legal strategies, confidential and privileged information and provided incriminating evidence and his detailed review of the pleadings. Fiorillo was billed over \$5000 dollars for such work and Reier worked out a hybrid contingent fee agreement on the Massad case. Over the next 10-12 years, Fiorillo continued to stay in close touch with Attorney Reier, where they often discussed the Massad pleadings and many other companion cases that Posternak was even representing other clients against the Massad Petitioning Creditors. As the legal ramblings went on for many years, Fiorillo was actually often contracted by Reier and other attorney's from Arent, when they were reviewing other potential co-plaintiffs that were harmed by Massad. Reier and Fiorillo even worked for a period of time to assemble a class of plaintiffs, with the intent to bring a “class action” against the Massad . Reier was also very interested and continued to consult and considered engaging as Fiorillo's special

counsel for Fiorillo's eventual adversary proceeding in his 2010 bankruptcy.

Fiorillo did not move forward with such engagement, where Fiorillo was successful working with his US Bankruptcy Trustees Goldsmith and Balldigger, that where overseeing his estate, and brought such adversary proceedings under Federal RICO.

Over the last 5 years, Fiorillo has worked simultaneously with Arent Fox and Nick Nesgos directly, often collaborating on legal strategies and loan work outs for the benefit of GotSPACE (“GS”) and Raymond Green Companies (“RCG”) and loans and investments made to Ralph Caruso and his related companies that where in default. Where Nicholas Fiorillo at the direction of Attorney Nesgos and Raymond Green, invested upwards of \$400,000 in good faith deposit monies, to “seal the deal” on the RCG loan work out, that was to pave the way for GotSPACE to acquire the Charger Street self-storage facility. All such monies where then used to pay down the outstanding balance on the RCG Caruso Loans. Nick Nesgos and David Reier over the years, often gave Fiorillo legal advice, Fiorillo often confided in Arent Fox, from time to time and often shared confidential legal and financial information in Fiorillo and Greens and Mclaughlin joint efforts to complete the “work out” of the Charger Street and Peabody loans and simultaneous acquisition of the self-storage facility by GS. Nesgos, Green, Mclaughlin and Fiorillo worked diligently in the attempts of the restructuring of various “bad loans” that Raymond Green had advance to Ralph Caruso. Nesgos and Mclaughlin, both former Attorneys of the Petitioning Creditors have continued to use confidential and privileged information obtained from their representation, former representation and consultation and collaboration with Nicholas Fiorillo and his development businesses for their own benefit.

Between 2019 and 2021, Fiorillo engaged with Attorney George McLaughlin, III (“McLaughlin”), a principal and owner of the law firm The McLaughlin Brothers, P.C. (the “Firm”), to represent and advise him on several development opportunities and transactions involving his businesses, including but not limited to GotSPACE Data Equity Fund, LLC; Got Space, LLC; GS Gloucester, LLC; GS Beverly, LLC; GotSPACE Gloucester, LLC; GotSPACE Beverly, LLC; GotSPACE Equity Fund 1, LLC; GotSPACE Equity Fund I, LLC; and other related affiliates and businesses. [Fiorillo Aff., ¶ 2.]

During the fall of 2019, McLaughlin and the Firm represented and advised Fiorillo and his company, Got Space, LLC, with regard to the company’s purchase of self-storage facilities located in Miami, Florida from Storage Partners of K and P, LLC and Storage Partners of Miami. McLaughlin provided legal services to Fiorillo and Got Space, LLC in this transaction including but not limited to review of the sellers’ financials, review of written agreements, and review of purchase and sale agreements. McLaughlin travelled to Florida with Fiorillo as his personal lawyer and as counsel for Got Space, LLC. During the course and scope of his representation, Fiorillo provided confidential information to McLaughlin regarding his business strategy, personal and company finances, and other confidential matters to facilitate his representation. [Fiorillo Aff., ¶ 3(a).]

During the spring of 2019, McLaughlin represented and advised both myself and Got Space, LLC with regard to the purchase of the Swansea Mall properties located at Swansea Mall Drive, Swansea, Massachusetts, from Carlyle Swansea Partners, LLC. McLaughlin and the Firm provided comprehensive legal advice to me and Got Space, LLC with regard to the purchase and sale agreements,

financing, zoning and legal issues with the town of Swansea, and legal issues related to Walmart's interests at the mall properties, among others. During the course and scope of his representation, I provided confidential information to McLaughlin regarding my business strategy, personal and company finances, and other confidential matters to facilitate his representation. [Fiorillo Aff., ¶ 3(b).]

In late 2019 and early 2020, McLaughlin and the Firm represented and advised Fiorillo and Got Space, LLC related to the company's purchase of self-storage facilities located in Beverly and Gloucester, Massachusetts. Among other things, McLaughlin advised Fiorillo and the company with regard to the purchase and sale agreement and amendments thereto. Their representation included important legal advice warning against indemnifying the sellers of the properties for environmental issues that could arise after consummation of the deal. During the course and scope of his representation, Fiorillo provided confidential information to McLaughlin regarding his business strategy, personal and company finances, and other confidential matters to facilitate his representation. During the course and scope of his representation, McLaughlin and the Firm requested that Fiorillo and business partner Brian Sheehan each wire \$30,000 to Rising Tides, LLC. [Fiorillo Aff., ¶ 3(c).]

Between 2019 and 2022, Nesgos, Reier, Peters, Greene, Hyman, Helman McLaughlin and their various law firms tortiously conspired, collaborated, intervened, filled joint and several unlawful legal papers, throughout their 6 different predatory debt collection actions against Fiorillo and Gotspace Development, LLC and its affiliates. Their consorted and tactical efforts to collect usurious sums of money and property under the threats of financial and physical harm, that Peters and McLaughlin have individually made directly to Fiorillo and his counsel physical, Peters threats to "blow up", "bomb" "kill" and

financially ruin Fiorillo is despicable. All along, Nesgos and Arent Fox have continued to aid and abett their clients continued extortion, embezzlement and threats to “shoot with guns”, “kill”, and “blow up”and foreclose on Fiorillo's Family home, as they have “sat on their hands”. Now they themselves have threatened criminal prosecution of Fiorillo in an attempt to gain a civil settlement of money and demand of upwards of \$6,800,000 not due or owing, is criminal. There is no question the millions of dollars this group of Attorneys are seeking to collect by illegal means of embezzle and extortion is illegal. Their attempts to usurp tens of millions of dollars in cash and real estate on top of such 350% usurious interest and their incestuous demand for their very own legal fees pushed the effective rates of usurious interest upwards of 450% collectively, not due or owing themselves or their Plaintiffs, is illegal. Peters and Mclaughlin continue to stay in daily contact and “work from behind the scenes with each other ” with both Attorney's, Nesgos, Hyman and Hellman to financially ruin Fiorillo. As they continue as a criminal group to tortiously interfere with Fiorillo's multiple other self-storage developments. Where both Peters and Mclaughlin continue to conspire with the Spitalny “bad actors”, convicted felon, Peter Spitalny and Raymond Green, Thomas Quinn and Suart Borstien, this clearly criminal group. Where they are in constant contact with Bluevista Capital, Prime Group Financial, Lifestorage and Cubesmart and Brady Sullivan and others in their efforts to complete their predatory “loan to own” scheme against Fiorillo. Where they, as a group, have continued to purport to be in control or actual “owners” of such self-storage facilitates and data campus sites throughout New England and other real estate opportunities/transactions that Fiorillo has underway in Connecticut, Massachusetts and Rhode Island. During the course and scope of

their collective representation of Fiorillo, over the many years they had all worked for and on the behalf of Fiorillo. He provided highly confidential strategies, legal theories, potential claims and privileged and confidential information to the Arent Fox Attorneys, Nesgos, Reier, Greene, Peters, Hellman and McLaughlin regarding his business strategy, personal and company finances, and many other attorney client confidential matters to facilitate his representation. [Fiorillo Aff., ¶ 3(d).]

No later than the summer and early fall of 2021, McLaughlin and the Firm was representing several parties directly adverse to Fiorillo, Got Space, LLC and its affiliates; Gotspace Data Development, LLC and its affiliates; and Gotspace Equity Fund I, LLC; Gotspace Equity Fund 1, LLC1, including but not limited to the Spitalney Actors. [Fiorillo Aff., ¶ 4.] On his own behalf and on the behalf of Spitalney Actors and other parties involved in Fiorillo's businesses, Arent Fox and McLaughlin and others in this criminal group sent threatening correspondence to Fiorillo and his attorneys and took various actions to make it difficult and/or impossible for Fiorillo to operate his businesses and/or raise capital as part of their concerted effort extort additional equity in Fiorillo's businesses. [Fiorillo Aff., ¶ 5.]

Notwithstanding the Arent Fox Lawyers' prior representation of Fiorillo, Gotspace Data Equity Fund, LLC, Got Space, LLC; Gotspace Data's affiliates and associated companies, and other of Fiorillo's businesses, McLaughlin filed the Spitalney Action against Fiorillo, Gotspace Data and the Reach and Apply Petitioning Creditors²

on December 21, 2021. In the Spitalney Action, the Arent Fox Lawyers purport to indirectly represent Samuel B. Spitalney, Jacob L. Spitalney, Stephen Quillinan, and S&J Bros Storage, LLC (collectively the "Spitalney Actors") against Fiorillo, Gotspace Data, and the Reach and Apply Petitioning Creditors. In the Spitalney Action , with

Kevin Peters as merly a Front for Mclaughlon, the Arent Fox Lawyers have named Gotspace Equity Fund I and Gotspace Equity Fund 1 (collectively “GEFI”) as Reach and Apply Petitioning Creditors. [Spitalney Action Dkt. No. 1, Complaint.]

Undeterred by the obvious disqualifying conflict arising from both suing and representing the same party in closely related actions arising from similar nexuses of facts, on January 11 and later in 2022 the Arent Fox Lawyers and McLaughlin/Peters filed notices of appearance in the Green Action purporting to be counsel for GEFI – the very same entity it is prosecuting as a Petitioning Creditors in the Spitalney Action. [Green Action Dkt., January 4, 2022 Arent Fox Lawyers’

Notices of Appearance.] On January 12, 2022, McLaughlin filed an Emergency Opposition to Plaintiff’s Motion for Writ of Attachment in the Green Action contending that they will be harmed if Plaintiff in the Green Action, Raymond C. Green, Inc. as Trustee of the Raymond C. Green Trust, is allowed to obtain an attachment prior to them obtaining a preliminary injunction – still purporting to be counsel for GEFI. [[Green Action Dkt. No. 6.] However, as Peters/McLaughlin now concedes in its prior Emergency Opposition,

Fiorillo owns a 65% controlling interest in GEFI, a Massachusetts Limited Liability. [Id.] And while Peters/McLaughlin alleges that their client S&Q, is the Manager of GEFI and they are GEFI’s counsel, in reality, it is indisputable that: (1) Fiorillo is the actual Manager of GEFI; (2) in his capacity as Manager, Fiorillo never hired McLaughlin to represent GEFI in the Green Action or otherwise consented to such representation; and (3) even assuming that McLaughlin was at some point counsel for GEFI – which they were not – Fiorillo has terminated any such representation, but now Peters is just a new face of Mclaughlin as they continue even up and until this moment to conspire with each other to financial ruin and physically harm Fiorillo. [Fiorillo Aff., ¶¶ 6-12, and Ex. 1 thereto (Mass SOS. Entity Summary).] Accordingly, Arent Fox and McLaughlin, which both have previously represented Fiorillo, Gotspace Data and its affiliates,

other of Reach and Apply Petitioning Creditors and Fiorillo's businesses, is attempting to both prosecute

claims against GEFI in the Spitalney Action in position adverse to GEFI's sole manager and controlling owner, while simultaneously defending GEFI as a reach and apply Petitioning Creditors in the Green Action.

The Peters, Nesgos, Reier, Hellman and McLaughlin Lawyer's web of disqualifying conflicts does not end there. Not only did McLaughlin and Nesgos represent and advise Fiorillo in the aforementioned deals, transactions, and business opportunities, McLaughlin simultaneously obtained stakes in Fiorillo's businesses without: (1) providing Fiorillo with written explanation of the potential or actual conflicts arising from such competing relationships; (2) without ensuring that Fiorillo and his businesses were represented by separate counsel in entering into such conflicting arrangements; and (3) without obtaining Fiorillo's informed written consent – to the extent Fiorillo could have even given such consent. [Fiorillo Aff., ¶¶ 15-16.] Specifically, McLaughlin and Nesgos and Reier continue to exploit the confidential information they have learned from their representation of Fiorillo and his businesses and used a deceptive scheme to collect millions of dollars in real estate, usurious interest, legal fees and intellectual property and McLaughlin's rebuked 18% ownership of the Swansea Mall he stole from Fiorillo. As McLaughlin, has a personal interest in the Swansea Mall he attempted to hide from the court. All along, this criminal group continues to collude with Ray Green, Peter Spitalny, Thomas Quinn and Stuart Borstien and the other bad actors, including but not limited to orchestrating and prosecuting multiple illegal debt collection actions against Fiorillo and the GotSPACE Entities as part of this group's deceptive scheme to "loan to own" Fiorillo. Where they have effectively halted Petitioning Creditors' ability to conduct business or raise money, and freeze Fiorillo's ability to repay

this criminal group. So then they can claim defaults on their illicit debts, and then convert Petitioning Creditors' ownership interests as their own. Given that McLaughlin, Peters, Hellman and Arent Fox have continued to demand legal fees from Fiorillo directly and Mcla and Peters existing interest in the Swansea Mall where they stand to benefit financially if Petitioning Creditors are disemboweled of their claims to ownership interests that was extorted from Fiorillo – which will thus allow them to increase their personal stake, McLaughlin Peters, Reier, Hellman and Nesgos effectively all have a personal interest in this litigation. And given their involvement in this criminal predatory “loan to own” enterprise, their demand for legal fees and Mclaughlin and Peters usurping of the Swansea Mall deal, not just as conflicted counsel to various adverse parties, but as a part owner, they are in fact witness in this case. Notably, in conversations and email demands for legal fees, tacked on to their sometimes, as much as 350% usurious rates of interest demands. Where Mclaughlin Hellman Peters and Nesgos , had demanded from Fiorillo, extorted him into paying them upwards of “\$500,000 in legal fees, as part of their illegal collection activities”, and demands to turn over millions of property and money, or else loose ownership interest in properties or be financially ruined or even killed. Where Fiorillo's life could be in danger if he did not comply with such expressionistic demands. [Fiorillo Aff., ¶ 16.] At no time in Fiorillo’s individual capacity or as manager and/or controlling owner of the GotSPACE Entities did he ever consent to the Arent Fox Lawyers representation any of the Green or Spitalney Actors against him or his companies. Indeed, if he were to do so, he would be in breach of his fiduciary duties to the GotSPACE Entities and their other investors and owners. [Fiorillo Aff., ¶ 17.] At no time through the present have the Arent Fox Lawyers contacted Fiorillo to request my informed, written consent to allow them to represent or work with the Spitalney Actors or anyone else in a position adverse to me or the GotSPACE Entities. [Fiorillo

Aff., ¶ 18.]

Starting in September 2021, Attorney Neil Kruezer, counsel for Fiorillo, GotSPACE Data and the other GotSPACE affiliates (including GEFI), have sent numerous Disqualification Notices to the Arent Fox Lawyers: (1) advising of their numerous conflicts arising from their representation of Fiorillo in the aforementioned business transactions, deals, and opportunities and their current representation of the Green and Spitalney Actors matters (and now litigation) directly adverse to Fiorillo and the GotSPACE entities; (2) advising that they are impermissibly using confidential and proprietary information obtained from Fiorillo in their representation of him and his businesses for their own benefit and for the benefit of their adverse clients, such as the Green and the Spitalney Actors; and (3) demanding that they cease and desist from continuing to take any positions adverse to Fiorillo, the GotSPACE entities, and any other of Fiorillo's businesses. Fiorillo Aff., ¶ 13, and Ex. 2 thereto (Disqualification Notices).] The Arent Fox Lawyers have and continue to refuse to comply with the Disqualification Notices, have denied any conflicts, and rather have dug in their heels by continuing to represent the Green Entities and Spitalney Actors and prosecuting this action against their former clients. [Id., at 14; Spitalney Action, Dkt. No. 1.]

II. ARGUMENT

A. A Lawyer's Duties to His Client

"A lawyer should represent a client zealously within the bounds of the law" and "act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf." MRPC R. 1.3 (Diligence), and cmt 1. This means that the lawyer must use all information available to him or which may be lawfully discovered to advance his client's position and interests. A lawyer also may not disclose a client's confidential information related to the representation if such disclosure would harm the client and only if and when the lawyer has the client's consent to do so unless an exception to Rule 1.6 applies. MRPC R. 1.6

(Confidentiality of Information).

A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent or as otherwise permitted by these Rules, the lawyer must not reveal confidential information relating to the representation. See Rule 1.0(f) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship.

MRPC R. 1.6 (Confidentiality of Information), cmt 2.

The lawyer-client relationship "is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. MRPC R. 1.7 (Conflicts of Interest), cmt. 12. "Loyalty and independent judgment are essential elements in the lawyer's relationship to a client." MRPC R. 1.7, cmt 1; see *Hilti, Inc. v. HML Development Corp.*, 2007 WL 809792, 26 (Mass.Super. 2007) (unless consent is provided, "an attorney may not simultaneously represent differing interests that are adverse to one another.") and *Inverness Medical Switzerland GMBH v. Acon Laboratories, Inc.*, 2005 WL 1491233, 7-8 (D.Mass 2005) (quoting MRPC 1.7, Comment 4) ("[T]he focus of the court [in conflicts analysis] must be on whether the lawyer's loyalty to the client is threatened...[or whether] 'the likelihood that a conflict will eventuate and, if it does, whether it will materially interfere with the lawyer's independent professional judgment in considering alternatives or foreclose courses of action that reasonably should be pursued on behalf of the client.'").

The duties of loyalty and confidentiality survive the termination of the lawyer-client relationship. MRCP R. 1.9(a)-(c) and cmt. 2; *Bays v. Theran*, 418 Mass. 685, 691 (1994). Thus, if a lawyer represents Client A in certain business transactions and then later represents Client B in matters arising from those same transactions in position adverse to Client A, the lawyer will not be able to fulfill his ongoing duty of loyalty and confidentiality to Client A while simultaneously fulfilling his duty of loyalty and zealous representation to Client B because he

will be both prohibited from disclosing Client A's confidential information Client B by Rule 1.6 and bound to disclose and use Client A's confidential information for the benefit of Client B pursuant to Rule 1.3. MRCP R. 1.9(a)-(c) and cmt. 2; MRCP R. 1.3 and cmt. 1; MRCP R. 1.6. Thus, absent informed written consent, "[a] lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client..." MRPC R. 1.9(a).

B. David Reier and Nick Nesgos and Arent Fox's Prior Representation of Fiorillo and his other development companies, and the GotSPACE Entities, with identical predatory lending claims and actions against other "loan sharks" that Fiorillo clearly was a victim of and the more recent Same Type Business Transactions, Deals, and Opportunities that Are at Issue in this Litigation that mirror the Caruso Issues, Prohibit them from Taking Any Adverse Position to Fiorillo and/or the GotSPACE Entities Because Any Such Representation Is Explicitly Prohibited by Rule 1.9 and Would Require Them to Violate Their Ongoing Duties of Loyalty and Confidentiality to Their Former Clients Fiorillo and GotSPACE – the Arent Fox Lawyers Must Be Disqualified

As set forth above, the Arent Fox Lawyers advised and represented Fiorillo and GotSPACE Entities with regard several business transactions and deals related to the purchase development properties including but not limited the Got Space, LLC's purchase of self-storage facilities in Revere and Peabody and the collective collection efforts that are ongoing of Swansea Mall recovery and the sale of the Beverly and Gloucester self-storage facilities. [Fiorillo Aff., ¶¶ 2-4, 13-16 and Exs. 1-3, 5-6.] In this action, they represent the Greens and the Spitalney Actors with regard to alleged promissory notes which related to the financing of the Connecticut Data Deal, Newton Deal, Revere Deal, Newport Beach Club Deal, the Beverly and Gloucester Deal and the

Swansea Mall deal, which the Greens and the Spitalney Actors all contend are in default thus entitling them to Fiorillo and GotSPACE Storage and Data's ownership interests in these properties.

During the course and scope of the Arent Fox and McLaughlin Lawyer's representation of Fiorillo and GotSPACE Entities, Connecticut Data Deal, Newton Deal, Revere Deal and the Beverly Gloucester deal, Bluevista deal and in the Swansea Mall transactions, Fiorillo provided the lawyers with substantial confidential and proprietary information regarding his personal and company finances, his business strategy, and his concerns and potential legal exposure. Earlier on David Reier, then later Nick Nesgos and now Peters and McLaughlin advised him with regard to the same. As such, the Arent Fox Lawyers are privy to and in possession of substantial confidential information belonging to Fiorillo, and his identical predatory lending claims against Massad he consulted for months with Attorney Reier and the GotSPACE Entities which they are bound to keep confidential for the benefit of Petitioning Creditors on the one hand, and simultaneously obligated to use and disclose in furtherance of their representation of the Green and the Spitalney Actors against Petitioning Creditors in this action. Fiorillo has not, cannot, and will not give consent to the Arent Fox Lawyers to take adverse positions against him and the GotSPACE Entities and the Arent Fox Lawyers have never approached Fiorillo and sought his consent. Accordingly, the Arent Fox Lawyers' representation of the Green and Spitalney Actors in this action and/or the Green Action constitutes clear, ongoing, egregious, and sanctionable violation of Rules of Professional Conduct 1.3, 1.6, and 1.9. Such conduct mandates the disqualification of the Arent Fox Lawyers in this action and the Spitalney Action and they should be prohibited from taking any further adverse positions against Petitioning Creditors.

C. Arent Fox and McLaughlin and the Firms that represented Fiorillo and the

GotSPACE Entities While Taking Ownership Interests in Fiorillo's Businesses in Violation of MRCP Rule 1.8(a)-(b) and Are Pursuing This Action Against on Behalf of Plaintiffs in Part for Their Own Financial Gain and to Petitioning Creditors' Detriment

MRPC Rule 1.8(a) prohibits a lawyer from "entering into a business transaction with a client or knowingly acquiring an ownership, possessory, security, or other pecuniary interest adverse to a client unless: (1) the terms are fair and reasonable to the client and are fully disclosed and provided in writing in a manner that can be understood by the client; (2) the client is advised of the desirability of seeking and is given a reasonable opportunity to secure the advice of independent counsel; and (3) the client gives written informed consent to the essential terms, the lawyer's role, and whether the lawyer is representing the client. MRPC Rule 1.8(b) prohibits a lawyer from using confidential information related to his representation of a client for the lawyer's own advantage or the advantage of a third party unless the client gives informed consent as set forth in subsection (a) and MRPC Rule 1.0(f).

Here, it is clear that Arent Fox and Helman, McLaughlin, Peters and their Firms represented and advised Petitioning Creditors in the aforementioned transactions and that McLaughlin has obtained a 18% stake in the Swansea Mall property by extortion. By way of this action, which he purports to bring on behalf of the Green and the Spitalney Actors, McLaughlin and Peters will personally benefit if Fiorillo and the GotSPACE entities are stripped of their ownership interests in the Mall because it will allow him to remove a perceived enemy and potentially increase his ownership stake in what all parties can agree is a lucrative development opportunity. Regardless, undeterred by the obvious conflicts which often arise when a lawyer takes an ownership interest in a client's business venture or property by way of a demand of legal fees or demand of property not due or owing, Arent Fox, McLaughlin and Peters have brazenly failed to take any action to

comply with MRCP Rule 1.8(b) – he has not sought or requested Petitioning Creditors’ informed, written

consent to their assumptions of demand for over \$500,000 in legal fees on top of demands of upwards of 350% in usurious interest. Petitioning Creditors have not and will not provide any such consent because it would cause them clear harm. Indeed, McLaughlin’s and Peters ownership interest is resulting in the precise outcome Rule 1.8 is designed to prevent – they continue to use confidential information obtained from their attorney-client relationship with their prior clients – Petitioning Creditors – to not only represent the Greens and the Spitalney Actors against Petitioning Creditors in

an obviously related matter, but in a way that will result in pecuniary personal gain for themselves and substantial harm to Petitioning Creditors if they are successful. Moreover, given Arent

Fox, Peters, Hellmans and McLaughlin’s demands for legal fees as they carry out their duties to “collect at all costs” the criminal groups ill gotten and clearly usurious gains, they have a direct personal involvement and ownership stake in the successes of the criminal groups collection activities and McLaughlin and Peter's Swansea Mall deal, they are not only conflicted counsel to various adverse parties, but also a fact witness in this case.

Therefore, Arent Fox, Peters, Hellman and Mr. McLaughlin’s demands of legal fees from Fiorillo and his entities and coupled with the illegal usurping of an ownership interest in the Swansea Mall, and McLaughlin's failure to obtain informed written consent from his now former clients, and the other attorney prosecution of this action which, if successful, will likely result in financial gain for them while wiping out their prior clients’ interests in their real estate selfstorage and data assets and family home and the Swansea Mall rights of redemption , is a clear violation of Rule 1.8 which requires immediate dismissal.

D. The Arent Fox Lawyers’ Concurrent Representation of the Greens Against

GEFI in the Spitalney Action and Purported Representation of the GEFI in the Green Action is a Prohibited and Disqualifying Concurrent Conflict of Interest in Violation of MRPC Rule 1.7(a)

As set forth above, the Arent Fox Lawyers represent Green in this action against Fiorillo, Gotspace Data, and reach and apply Petitioning Creditors GEFI and by way of their complaint and motion for preliminary injunction, they seek to effectively enjoin GEFI from conducting business and to freeze its assets. And yet, contrary to their adverse position to GEFI in this action, they also purport to represent GEFI as a reach and apply Petitioning Creditors in the SpitalnyAction.

There can be no greater conflict than representing and suing the same client at the same time in related actions and such representation is clearly proscribed by Rule 1.7(a).

Moreover, Fiorillo has corporate controlling interest in GEFI and Ocean Development companies, is presently its sole manager, and has not given any informed consent to Arent Fox, McLaughlin and Peters or permission to represent GEFI and Ocean – much less simultaneously represent and sue the company. Indeed, even if Fiorillo were to attempt to give any such informed consent pursuant to Rule 1.7(b) – which he cannot – he would be in clear breach of his fiduciary duties to the company because he would authorizing the company’s retention of lawyers who are actively engaged in taking its assets and enjoining it from conducting business. For this reason alone, the Arent Fox Lawyers should be disqualified from representing any parties in this action.

III. CONCLUSION

For the foregoing reasons, and because such Attorney's at Arent Fox where officially noticed of such conflicts as communicated and served by Attorney Neil Kreuzer, 4 different times throughout this litigation. Arent Fox has not withdrawn and purports they have no

conflicts. Petitioning Creditors respectfully request that the hearing on Petitioning Creditors motion to disqualify may have 60-days to conduct discovery into the Arent Fox Lawyer's aforementioned conflicts; that the Court set a schedule an evidentiary hearing so that the parties may examine witnesses with relevant knowledge of the conflict issues; and/or the Court schedule a motion hearing on Petitioning Creditors' motion to disqualify as soon as practicable after the 60-day discovery period.

Respectfully Submitted,

Petitioning Creditors Nicholas Fiorillo, pro

se

/s/ Nicholas Fiorillo
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Mr. Reir has multiple impermissible, non-waivable, and/or un-waved conflicts of interest, in violation of Massachusetts Rules of Professional Conduct, Rules 1.3, 1.6, 1.7, 1.8, and 1.9 arising from former representation, consultation(s), collaboration, potential representation(s) and numerous consultations and joint and several legal action(s) work out efforts on behalf of some of the creditors, against principals of self storage development sites in Massachusetts. The ArentFox law firm also has a conflicting interest, based upon their prior representation of Nicholas Fiorillo and his related businesses (now creditors), between 2007 and 20021.

The ArentFox attorneys' multiple conflicts of interest arising from representation of both Debtor and Creditors require disqualification from this case. Their involvement in this action and coordination with Green have so tainted this action, that serious questions are raised as to whether this action may proceed. The ArentFox attorneys including Mr. Reier are now Petitioning Creditors in a civil RICO action in the District of Rhode Island, brought under R.I.C.O. 18 USC Ch. 96: RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT .

The ArentFox attorneys must not be permitted to continue in their representation of the Raymond C. Green Trust, their disqualifying conflicts and prior representation of petitioning creditors. This, given the fact that the Arent Fox Lawyers have improperly disclosed confidential information gleaned from their prior representation of petitioning creditors, which they are now using for the benefit of the Debtor. In further support of conflicting interests directly relevant to Reier, Mr. Fiorillo submits that:

- Between 2007-2015 Fiorillo, as a Plaintiff engaged, consulted, collaborated and was advised by Attorney David Reier, a partner at Arent Fox f/k/a Posternak LLP, in Fiorillo's Federal RICO predatory and unlawful debt collection lawsuit, he brought against Petitioning Creditors David Massad, Marcello Mallegini, LBM Financial

and Commerce Bank. Mr. Reier took many in person meetings and spent over 80 hours on the phone and reviewing all Fiorillo's confidential files, Reier requested from him. Fiorillo spent over 25 hours explaining in detail his legal strategies, confidential and privileged information and provided incriminating evidence and his detailed review of the pleadings.

- Over the next 7-10 years, Fiorillo continued to stay in close touch with Attorney Reier, where they often discussed the Massad pleadings and many other companion cases that Posternak was even representing other clients against the Massad Petitioning Creditors. As the legal ramblings went on for many years, Fiorillo was actually often contracted by Reier and other attorney's from ArentFox, when they were reviewing other potential co-plaintiffs that were harmed by Massad. Attorney Reier and Mr. Fiorillo even worked for a period of time to assemble a class of plaintiffs, with the intent to bring a “class action” against Massad . Reier was also very interested and continued to consult and considered engaging as Fiorillo's special counsel for Fiorillo's eventual adversary proceeding in his 2010 bankruptcy.

CONCLUSION

For the foregoing reasons, and because the attorneys at the ArentFox firm have been officially noticed of these conflicts of interest, as communicated and served by Attorney Neil Kreuzer, on at least four separate occasions. Despite such due notice, Mr. Reier and the Arent Fox firm have not withdrawn from representation of this Debtor and others involved in litigation with Fiorillo, and fraudulently purport that they have no conflicts.

WHEREFORE, Ocean Development Partners, LLC (“ODP”); W Lofts LLC, and Ocean Vacations LLC, by and through manager Nicholas Fiorillo, move the U.S. Bankruptcy Court to disqualify attorney David Reier and the ArentFox law firm.

Dated: April 6, 2023

Respectfully submitted,

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